

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



Administrative Issuance: CFSA-08-10

TO: All-staff
FROM: Ronnie Charles, Senior Deputy Director for Administration
DATE: October 3, 2008
RE: Whistleblower Protection Act

In the event that an employee of the Child and Family Services Agency (CFSA) witnesses and then reports governmental misconduct, the District of Columbia Whistleblower Protection Act (DWPA)¹ protects the reporting employee from reprisal or retaliation by superiors and/or colleagues. Every employee of the District government is required to make protected disclosures as soon as the employee becomes aware of the violation or misuse of resources. Protected disclosures are conveyed to a supervisor or public body, and must relate to fraud, waste, abuse of authority, violations of law, or a substantial and specific danger to the public health and safety.

This administrative issuance provides clearly-defined guidelines in compliance with DWPA for supervisors and for the Director of this Agency to handle disclosures of governmental misconduct. *The issuance is effective as of November 1st, 2008*, and applies to all CFSA employees (current and former, as well as applicants) who report improper governmental activity. To ensure the protection entitled by DWPA, CFSA employees, supervisors, managers, and the Director of CFSA shall comply with the following guidelines:

Disclosure of Government Misconduct

Employees (as defined above) may disclose misconduct to a variety of federal or District government officials, including any supervisor of CFSA, the City Administrator or the Office of the Inspector General. As an option, a whistleblower may also report misconduct directly to the Director of CFSA at any time. When an employee discloses to his or her CFSA supervisor, the Agency shall take all reasonable steps to maintain confidentiality and to protect the identity of the whistleblower. An employee may report the misconduct to CFSA's Employee Fraud and Abuse telephone number (202) 727-2061, managed by the Office of Risk Management. Once a complaint is reported through the CFSA Employee Fraud and Abuse telephone number, the complaint is recorded as an unusual incident and immediately forwarded to the Office of the Director. The DWPA requires any person who receives information related to the handling or investigation of a protected disclosure to request written permission from the individual providing the protected information prior to further disclosure. In certain limited circumstances, information may be provided without written permission (e.g., to a law enforcement agency that may be conducting a criminal investigation).

**It should be noted that anonymity may impede both the investigation and the prosecution of any reported misconduct.*

Receiving the Disclosure

When a CFSA supervisor or manager learns, either directly or indirectly, that an employee has made a disclosure alleging governmental misconduct, including any violation of federal or District laws, the supervisor (or designee) shall prepare an unusual incident report for the matter and relay the information to the Director of

¹ The District of Columbia Comprehensive Merit Personnel Act of 1978 (CMPA), as added by the Whistleblower Protection Act of 1998, effective October 7, 1998, D.C. Law 12-160, D.C. Official Code § 1-615.51 *et seq.* (2006).

CFSA. A supervisor who receives a report alleging his or her own misconduct should immediately forward the report to the next level supervisor for further action and submission to the Director of CFSA.

Evaluating the Disclosure

The Director of CFSA shall evaluate and/or investigate any alleged misconduct that could be considered (1) a violation of federal or District laws, rules or regulations; (2) a violation of a term of contract between the District government and a government contractor; (3) gross mismanagement; (4) gross misuse or waste of public resources or funds; (5) abuse of authority in connection with the administration of a public program or the execution of a public contract; and/or (6) a substantial and specific danger to public health and safety. Disclosures may be evaluated in the order they are received with disclosures of danger to public health and safety receiving highest priority. Such misconduct shall be reported immediately by the CFSA Director to the D.C. Office of the Inspector General.

In general, CFSA shall conduct investigations in accordance with the following process:

1. Within three (3) business days of the disclosure, the Director of CFSA shall decide whether to investigate the allegation of misconduct. The Director may, at his or her discretion, decide not to investigate allegations of trivial matters or those that are merely disagreements over policy decisions.
2. All investigations should be completed within ten (10) business days from the initial receipt of the disclosure. If the investigation is not completed within 10 business days, the investigation may continue for up to another 10 business days with the approval of the next-level supervisor. Any additional extensions should be approved only by the Director of CFSA. In the event that the Director is the whistleblower or the Director is the subject of the whistleblower report, the City Administrator (or the City Administrator's designee) shall approve the additional extension.
3. If an employee asks a supervisor or manager whether his or her disclosure warrants protection under the DWPA, the supervisor shall advise the employee that only a court of law can make such a determination.

Protecting the Employee

All investigations must be strictly confidential. A supervisor or manager should take all feasible measures to protect the identity of the employee who made the disclosure.

The employee shall continue to perform his or her assigned tasks with no change to his or her employment status. If it becomes clear that the employee is facing a hostile work environment or is otherwise at risk as a result of his or her disclosure, the Agency may transfer the employee to an equivalent position or temporary placement on paid administrative leave. Such action may be taken when it is in the best interest of the employee and with the employee's written consent.

Rule against Discipline because of Disclosure of Misconduct

An employee who has disclosed governmental misconduct cannot be disciplined for doing so if he or she reasonably believes that the disclosure is truthful. If, however, there is an independent basis for disciplining an employee who has disclosed governmental misconduct, that employee shall be subject to the same disciplinary measures as any other employee so long as the supervisor's motivation towards disciplining the employee is not guided by the employee's disclosure. In any event, the supervisor or manager should discuss the matter in a meeting with the Director of CFSA and the CFSA General Counsel prior to taking any disciplinary action.

1. If the employee's disclosure contributes in any way to a supervisor's or manager's decision to impose discipline, the discipline shall be prohibited.
2. If a court of law finds that the employee's protected disclosure was a contributing factor of improper action against that employee (e.g., harassment, retaliation, or adverse employment consequence up to and including termination of employment or threats of such action), the involved supervisor or manager shall be disciplined, up to removal, by CFSA and/or by the court. The supervisor or manager shall also be subject to a court-imposed fine of up to \$1,000.