

Office of the Executive Director

September 1, 2015

WHISTLEBLOWER PROTECTION

I. Introduction

The Port Authority seeks to enlist employees in efforts to maintain an ethical workplace. One means by which the agency tries to ensure that its ethical standards are upheld is to provide protection for those who report conduct which they know or reasonably believe involves wrongdoing.

II. Policy

Protection for Port Authority employees who report wrongdoing is required by the March 19, 2015 Board of Commissioners' "Port Authority Whistleblower Policy," which states in part:

"* * *[I]t is the policy of the Port Authority to encourage Port Authority employees to disclose wrongdoing by the Port Authority and its employees acting in connection with their employment, without fear of employer retaliation * * *."

III. Definitions

For purposes of this Administrative Instruction, the following terms shall have the indicated meaning:

A. "Adverse personnel action" shall include any material alteration to existing terms, conditions and privileges of employment including, without limitation, dismissal, demotion, suspension, compulsory leave, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space or equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected employee.

B. "Remedial action" means an appropriate action to restore the employee to his or her former status, which may include one or more of the following:

1. reinstatement or redeployment of the employee to a position the same as or comparable to the position the employee held or would have held if not for the adverse personnel action; or, as appropriate, to an equivalent position;
 2. reinstatement of full seniority rights;
 3. payment of lost compensation which includes both wages and benefits; and
 4. other remedial measures necessary to effectuate a “make whole” remedy that addresses the effects of the adverse personnel action.
- C. “Inspector General” shall mean the Inspector General of the Port Authority.
- D. “Officer” shall mean the following officers of the Port Authority: the Executive Director, Chief Financial Officer, Comptroller, General Counsel, Secretary and the Treasurer.
- E. “Public body” means:
1. the United States Congress, any State legislature, or any popularly-elected local governmental body, or any member or employee thereof;
 2. any federal, State or local judiciary, or any member or employee thereof, or any grand or petit jury;
 3. any federal, State, or local regulatory, administrative or public agency or authority, or instrumentality thereof;
 4. any federal, State or local law enforcement agency, prosecutorial office, or police or peace officer;
 5. any federal, State or local department of an executive branch of government; or
 6. any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs.

- F. “Executive Director” means the Executive Director of the Port Authority or his/her successor in duties.

IV. Whistleblower Protection Policy

- A. No Commissioner, officer or employee of the Port Authority shall take or participate in an adverse personnel action with respect to an officer or employee of the Port Authority solely as a result of, or in retaliation for, his or her: (i) making a truthful report (regardless of motivation) of information concerning conduct which he or she knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement, gross waste of funds or abuse of authority by another Port Authority officer or employee, which concerns his or her office or employment, or by persons dealing with the Port Authority (collectively, “misconduct”) to the Inspector General; (ii) objection to, and/or refusal to participate in misconduct; or (iii) cooperation with an investigation by a public body, including provision of truthful information or testimony with respect to misconduct. If a reporting officer or employee wishes to disclose his or her identity, the officer or employee may do so. If a reporting officer or employee does not wish to disclose his or her identity, the officer or employee may report on an anonymous basis, and such anonymous reporting shall not adversely impact on such officer’s or employee’s eligibility for coverage under this Whistleblower Protection Policy, to the extent that such officer’s or employee’s identity is subsequently disclosed. The confidentiality of the identity of the officer or employee submitting the report or complaint will be maintained to the fullest extent possible, consistent with the need to conduct an adequate investigation. In the course of any investigation, the Inspector General or his/her designee may find it necessary to share information with others on a “need to know” basis.
- B. An officer or employee of the Port Authority who believes that a Commissioner or another officer or employee of the Port Authority has taken or participated in an adverse personnel action in violation of this Whistleblower Protection Policy may report such action to the Inspector General in accordance with the procedures established by the Office of Inspector General. As part of such procedures, the Office of Inspector General shall establish and maintain a “hotline” to facilitate reporting on either an anonymous or confidential basis under this Whistleblower Protection Policy.

- C. Upon receipt of a report of an adverse personnel action in violation of this Whistleblower Protection Policy, the Inspector General shall conduct an inquiry to determine whether an adverse personnel action has been taken in violation of this Whistleblower Protection Policy. To the extent that the Inspector General determines that the officer or employee making the report of the prohibited adverse personnel action, while acting in good faith (regardless of motivation, and based on actual knowledge or reasonable belief of the existence of misconduct), failed to follow one of the procedural elements set forth in this Whistleblower Protection Policy, but as an equitable matter should otherwise qualify for protection under this Whistleblower Protection Policy, the Inspector General shall not take into account such procedural failure in making a determination under this Whistleblower Protection Policy.
- D. Within fifteen days after receipt of a report of a prohibited adverse personnel action, the Inspector General shall provide a written acknowledgement to the officer or employee making the report at the last known address reflected in official Port Authority records or any other address expressly provided in writing to the Inspector General by the officer or employee that the report has been received. Such notice shall include the name of the person in the Office of Inspector General who shall serve as a contact with the officer or employee making the allegation.
- E. Upon the completion of an investigation initiated under this Whistleblower Protection Policy, the Inspector General shall provide a written summary of the final determination to the officer or employee who reported the prohibited adverse personnel action. The summary shall include the Inspector General's recommendations, if any, for remedial action, or shall state that the Inspector General has determined to dismiss the complaint and terminate the investigation. The Inspector General shall report any final determination to dismiss a complaint and terminate an investigation to the Governance and Ethics Committee. The Governance and Ethics Committee will, as warranted, recommend such action, if any, as it deems appropriate under the circumstances to the Board of Commissioners.
- F. Upon a determination that a prohibited adverse personnel action has been taken, the Inspector General shall without undue delay report his or her findings and, if appropriate, recommendations to (i) the Governance and Ethics Committee and (ii) the Executive Director, except to the extent set forth below. The Executive

Director shall, except to the extent set forth below, without undue delay (i) determine the remedial action to be taken and (ii) report such determination on remedial action to the Governance and Ethics Committee in writing, with a copy sent to the Inspector General. The Governance and Ethics Committee will, as warranted, recommend such action, if any, as it deems appropriate under the circumstances to the Board of Commissioners. In the event the Inspector General determines that the Executive Director participated in such prohibited adverse personnel action, the Inspector General's report shall be made solely to the Governance and Ethics Committee, which shall determine the remedial action to be taken.

- G. An officer or employee of the Port Authority found to have violated the principles set forth in this Whistleblower Protection Policy may be disciplined in the manner provided in the rules and regulations of the Port Authority. The Governance and Ethics Committee will, as warranted, recommend such action as it deems appropriate under the circumstances to the Board of Commissioners, with respect to any Commissioner found to have violated the principles set forth in this Whistleblower Protection Policy.
- H. Nothing in this Whistleblower Protection Policy shall be construed to limit the rights of any officer or employee of the Port Authority with regard to any administrative procedure or judicial review; provided, that an officer or employee who is the subject of a report of misconduct shall not participate in any adverse personnel action pertaining to the officer or employee reporting such misconduct, other than to provide factual information in the proceedings pertaining to such adverse personnel action.
- I. The Inspector General shall conduct ongoing educational efforts to inform Commissioners, officers and employees of the Port Authority of the principles set forth in this Whistleblower Protection Policy. The Port Authority shall conspicuously display, and annually publish written or electronic notices with respect to the principles set forth in this Whistleblower Protection Policy.
- J. On a quarterly basis, the Inspector General shall prepare and forward to the Executive Director and the Governance and Ethics Committee a report with respect to the administration of this Whistleblower Protection Policy during the preceding quarter. The report shall include, but not be limited to, the number of complaints received, and a summary of each complaint and its disposition.

V. Reporting Misconduct

- A. In order to facilitate reporting, the agency has launched the Voice of the Employee (“VOICE”) helpline, hosted by an independent third party, to provide Port Authority and PATH employees with another confidential avenue, in addition to the Inspector General, in which to report any issues or concerns 7 days a week, 24 hours a day, 365 days a year via phone, email or online, anonymously if they so chose.
- B. Through its adoption of the Whistleblower Protection Policy, the Port Authority has made it easier for whistleblowers to report suspicion of misconduct without fear of retaliation. An officer or employee of the Port Authority who does not make a report concerning conduct which he or she knows or reasonably believes to involve wrongdoing may be disciplined in the manner provided in the rules and regulations of the Port Authority.

DISCLAIMER

Although issued in revised format, the information contained in these Administrative Instructions (AIs) reflects the content of previously issued Administrative Policy Statements (APs) and, in certain limited instances, Port Authority Instructions (PAIs). The rules set forth in these AIs will remain in effect until changing conditions require their revision. This body of instructions is not intended to be exhaustive with respect to all the responsibilities of employees and it does not constitute a contract. These AIs will be updated from time to time to reflect changes or additions as appropriate, at the direction of the Executive Director.