

**Item:** WLS Whistle-Blower Protection Policy Revision

**Background:** New York recently enacted [legislation](#) expanding whistleblower protections under Section 740 of the New York Labor Law. The amendments to the law provide employees, former employees, and independent contractors a wider range of claims to pursue against companies, especially as related to threats of retaliation. The amended law went into effect on January 26, 2022.

**Status:** The Governance Committee met on March 15<sup>th</sup> to review this new legislation and discuss WLS's current Whistle-Blower Protection Policy (Policy #9). A draft revision of the policy is attached with notations.

Per regular procedure, these revisions are being presented one meeting in advance as an Information Item with official approval to be sought at the next regularly scheduled Board meeting, which will be held in April 2022.

Any questions can be directed to Cathy Draper, Chair of the Governance Committee.

March 29, 2022

**D R A F T March 2022**

**Marked to show changes from existing policy**

**WESTCHESTER LIBRARY SYSTEM**

**POLICY #9**

**Subject:** Whistle-Blower Protection

**Application:** Trustees, employees, independent contractors and volunteers

***Introduction***

Westchester Library System (WLS) requires its trustees, officers, employees (which term, as used in this policy, shall include former employees and individual- independent contractors), volunteers and representatives to observe high standards of business and personnel ethics in the conduct of their duties and responsibilities. Trustees, officers, employees, volunteers and representatives of WLS must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws, regulations and policies.

Each member of the WLS community has the responsibility to report actions that such individual reasonably believes is in violation of any ~~violate~~ laws, regulations, and/or Code of Ethics, or that such individual reasonably believes poses a substantial and specific danger to public health or safety. In keeping with WLS's commitment to fostering a community of integrity and staff support, employees are expected to report concerns they may have relating to such violations.

Matters which should be reported under this policy include suspected fraud, theft, embezzlement, accounting or auditing irregularities, bribery, kickbacks, misuse of WLS's assets, harassment or suspected regulatory compliance violations.

The WLS Executive Director shall be responsible for the administration of this policy and shall provide a copy of this policy to all trustees, officers and ~~employees~~, and to all volunteers who provide substantial services to WLS. A notice describing the protections, rights and obligations under this policy shall be posted conspicuously in easily accessible areas frequented by employees and applicants for employment.

**Reporting Infractions**

An employee who suspects wrongdoing by a colleague should first reach out to his/her supervisor to address the matter directly. If the matter cannot be resolved at this level, or if for some reason the employee is uncomfortable with bringing the matter to his/her supervisor's attention, the employee should contact the WLS Executive Director or, if necessary, the Chairperson of the WLS Board of Trustees' Audit Committee. Trustees or

other volunteers may report suspected wrongdoing directly to the Chairperson of the WLS Board of Trustees' Audit Committee.

### **Investigation**

Ordinarily, the Executive Director or the Chair of the Audit Committee of the Board of Trustees will conduct, or will appoint an individual to conduct, a preliminary investigation. During the preliminary investigation, such investigator will discuss the complaint with the manager responsible for the department named in the complaint. If the preliminary investigation shows no justification for a complaint, the complaint will be closed and the complainant will be notified of this decision.

If the preliminary investigation reveals potential wrongdoing, the investigator will pass on the complaint to the Audit Committee of the Board of Trustees. They, in turn, will decide how the investigation is to be carried out, in consultation with the Executive Director. The complainant will receive general information on the progress of the investigation and its outcome, unless doing so would jeopardize the investigation. The Executive Director and/or Chairperson of the Audit Committee will present the results of all investigations and settlement of all complaints to the Board of Trustees in a timely fashion.

### **Reporting Infractions**

### **Confidentiality**

All reports made under this policy, and investigations relating thereto, shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. Disclosure of such reports to individuals not involved in the investigation will be viewed as a serious disciplinary offense.

### **Retaliatory Actions Prohibited**

WLS shall not take any retaliatory action against an employee because such individual (i) discusses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of WLS that such individual reasonably believes is in violation of any law, rule or regulation, or that such individual reasonably believes poses a substantial and specific danger to the public health or safety; (ii) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by WLS; or (iii) objects to, or refuses to participate in any such activity, policy or practice.

~~A trustee, officer, employee, volunteer or representative who makes a report is protected from~~Prohibited retaliatory actions include any intimidation, discrimination, harassment, victimization or other retaliation, and, in the case of employees,including (A) adverse employment- actions or threats to takeeonsequence that results from making the report. actions against an employee in the terms or conditions of employment, including but not limited to discharge, suspension, and demotion; (B) actions or threats to take actions that

would adversely affect a former employee's current or future employment; or (C) contacting or threatening to contact immigration authorities or otherwise reporting or threatening to report the suspected citizenship or immigration status of an employee or member of an employee's family or household.

The protection against retaliatory action provided above, to the extent it pertains to disclosure to a public body, shall not apply to an employee unless such employee has made a good faith effort to bring the activity, policy or practice to the attention of a supervisor and has afforded WLS a reasonable opportunity to correct such activity, policy or practice. Such notification is not required where (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in the destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct it.

~~Managers must ensure that the procedures are available and known to all employees and that all employees have easy access to the mechanism for making a report.~~

~~All reports made under this policy, and investigations relating thereto, shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. Disclosure of such reports to individuals not involved in the investigation will be viewed as a serious disciplinary offense.~~

~~An employee who suspects wrongdoing by a colleague should first reach out to his/her supervisor to address the matter directly. If the matter cannot be resolved at this level, or if for some reason the employee is uncomfortable with bringing the matter to his/her supervisor's attention, the employee should contact the WLS Executive Director or, if necessary, the Chairperson of the WLS Board of Trustees' Audit Committee. Trustees or other volunteers may report suspected wrongdoing directly to the Chairperson of the WLS Board of Trustees' Audit Committee.~~

### ***Investigation***

~~Ordinarily, the Executive Director or the Chair of the Audit Committee will direct the Controller to conduct a preliminary investigation. During the preliminary investigation, the Controller will discuss the complaint with the manager responsible for the department named in the complaint. If the preliminary investigation shows no justification for a complaint, the complaint will be closed and the complainant will be notified of this decision.~~

~~If the preliminary investigation reveals potential wrongdoing, the Executive Director will pass on the complaint to the Audit Committee of the Board of Trustees, if the situation warrants. They, in turn, will decide how the investigation is to be carried out, in consultation with the Executive Director. The staff person making the complaint will~~

~~receive general information on the progress of the investigation and its outcome, unless doing so would jeopardize the investigation. The Executive Director and/or Chairperson of the WLS Board Audit Committee will present the results of all investigations and settlement of all complaints to the Board of Trustees in a timely fashion.~~

~~Last approved: May 26, 2015, \_\_\_\_\_, 2022~~