

**Cherokee National Historical Society
CNHS Policies and Procedures**

WHISTLEBLOWER PROTECTION POLICY

Effective Date: 11/28/11

PURPOSE

To encourage and protect the reporting of wrongful activities and deter retaliation against employees for reporting those activities.

DEFINITIONS:

Retaliatory action: Discharge, suspension, demotion, harassment, blacklisting or the refusal to hire an employee, or other adverse employment action taken against an employee in the terms and conditions of employment, or other actions which interfere with an employee's ability to engage in protected activity set forth in Section A of tis policy, as a result of the employee's engagement in a protected activity.

Supervisor: Any individual who has the authority to direct and control the work performance of the affected employee or who has authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.

A. PROCEDURE FOR REPORTING WRONGFUL ACTIVITIES:

If a complaint falls within the purview of the Whistleblower Protection Policy, a written statement of facts may be submitted to the Executive Director. The Executive Director authorizes a full investigation of the allegations. Anonymous complaints will not be accepted.

Should the actions of the Executive Director be in question by an employee, a written factual statement should be presented to the attention of the President of the Board of Trustees for further reference to general counsel of the Board of Trustees.

B. INVESTIGATION

A thorough investigation will be conducted. Investigations will be handled in a confidential manner and will not be discussed with individuals that do not have a need to know. A written report will be forwarded to the Executive Director. The Executive Director or written designee will respond to the complainant within 20 work days.

C. PROTECTED ACTIVITY

Retaliatory action shall not be taken against an employee because the employee does any of the following:

1. Discloses, threatens to disclose or is about to disclose to a supervisor or to the President of the Board of Trustees an activity, policy or practice of the CHC or a co-worker, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law;

2. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated by the CHC or another employee;
3. Discloses, threatens to disclose or is about to disclose to a supervisor or to the President of the Board of Trustees or any law enforcement agency, an activity, policy or practice of the CHC, or a co-worker, that the employee reasonably believe is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment;
4. Assist, or participates in a proceeding to enforce the provision of the Whistleblower Protection Policy;
5. Objects to, opposes or refuses to participate in any activity, policy or practice which the employee reasonably believes:
 - a. is in violation of a law, or a rule or regulation promulgated by CHC
 - b. is fraudulent or criminal; or
 - c. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

D. BURDEN OF PROOF

A violation of a policy or practice occurs only if the employee demonstrates by a preponderance of the evidence that any behavior described in the procedure section above was a contributing factor in the retaliatory action alleged in the complaint by the employee. However, relief may not be ordered if the CHC demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action (retaliatory action) in the absence of such behavior.

E. EXCEPTIONS

This policy does not prohibit disciplinary action of an employee who discloses information that the employee knows is false, that the employee knowingly and willfully discloses with reckless disregard for its truth or falsity, or that the employee knows is confidential pursuant to law.

F. RETALIATION AGAINST EMPLOYEE

Any supervisor, official or employee who maliciously retaliates or takes reprisal action against another employee or official for performance covered under “protected activities” in violation of the act is guilty of a crime, and may be prosecuted.

Employee Acknowledgement

Date