

**Cuyahoga County Division of Children and Family Services
(CCDCFS)
Policy Statement**

Policy Chapter: Management
Policy Number: 10.05.01
Policy Name: Reporting Misconduct

Original Effective Date: 05/06/2008
Revision Date(s): 01/01/2015
Current Revision Date: 01/01/2018
Approved By: Cynthia G. Weiskittel

PURPOSE: To establish a process by which individuals can report misconduct involving the staff of Cuyahoga County Division of Children and Family Services (DCFS).

SCOPE: This policy applies to all DCFS employees and others involved with DCFS.

POLICY

- I. DCFS expects all of its employees, whether classified or unclassified, to adhere to the Cuyahoga County Ethics Ordinance and Personnel Policies and Procedures Manual. This means employees will be honest and ethical in their conduct; comply with applicable government laws, policies, and regulations; deal fairly with other employees, clients, customers, volunteers, and business associates; and protect and ensure the proper use of Cuyahoga County assets.

PROCEDURES

I. Definitions

"Good Faith Disclosure" means disclosure of work-related misconduct, made with a belief in the truth of the disclosure by a reasonable person in the reporter's situation, based upon the facts. An employee or other person making the disclosure shall make a reasonable and good faith effort to determine the accuracy of any information. If the employee or other person who makes a report fails to make such an effort, the employee may be subject to disciplinary action, including suspension or removal, for reporting information without a reasonable basis while others who disclose may be subject to other penalties as allowed by law.

"Work-related misconduct" includes any activity by a DCFS employee or volunteer, or by those contracting with DCFS, which is undertaken in the performance of the employee's official duties, whether or not such action is within the scope of the individual's employment, and that is a violation of any state or federal law or regulation, Cuyahoga County regulation or policy, or DCFS regulation or policy. This includes, but is not limited to, corruption, bribery, theft of DCFS property, fraudulent claims, fraud, coercion, conversion of DCFS assets, discrimination, sexual harassment, and violations of civil rights.

"Reporting Misconduct" means good faith reporting of real or perceived County or DCFS-related misconduct.

"Reporter of Misconduct" means anyone, who, in good faith, reports real or perceived County or DCFS-related misconduct.

"Retaliation" means any adverse action or creditable threat of an adverse action taken by DCFS, or member thereof, in response to a Reporter of Misconduct's good faith disclosure of County or DCFS-related misconduct.

"Whistleblower" means anyone who reports possible crimes or violations within the County's Code of Ethics Standards.

II. Reporting Misconduct

DCFS encourages its staff and others to make "good faith" reports of work-related misconduct by its staff. Internal and external reporting opportunities are available to all employees and others. Per Cuyahoga County's Ethics Ordinance, reporting misconduct is required:

- A. If an employee becomes aware in the course of employment of a violation of state or federal statutes, rules or regulations or the misuse of public resources and the employee's supervisor or agency appointing authority has authority to correct the violation or misuse, then
 - 1. Employee files a report identifying the violation or misuse with their supervisor, appointing authority or the office of internal auditing.
- B. If an employee or member of the general public reasonably believes that a violation or misuse of Title 4 (Ethics) of the County Code exists and there is reasonable cause that an employee has committed or is in the process of committing a wrongful act or omission, the following is adhered to:
 - 1. Within five (5) business days of the event in question, an employee or other reports a violation of Ohio Revised Code (ORC) 124.341 (A) of which they have knowledge to the County Agency of Inspector General (AIG) in writing or via the County Whistleblower Hotline (216) 698-2999.

2. When filing a complaint, include the following information:
 - a. Who is engaging in misconduct?
 - b. Which agency is involved?
 - c. What wrongdoing occurred?
 - d. When did the wrongdoing occur?
 - e. Whether there are/were witnesses to the misconduct?
 3. Employees are not, however, required to report a violation that has already been reported.
- C. If the employee or member of the general public reasonably believes the violation or misuse described in paragraph (b) is also a violation of Chapter 102, section 2921.42, or section 2921.43 of the ORC, the employee or other may report it to the appropriate ethics commission.

III. Retaliation Prohibited

DCFS may not retaliate against anyone who reports misconduct or acts as a witness in a subsequent investigation of the report. Retaliation includes threats of action, or action taken, with the intent or impact of adversely affecting the terms or conditions of employment of the reporter or witness. Anyone who violates this anti-retaliation policy is subject to disciplinary action per the applicable County personnel manual.

Bargaining Employees

- A. County employees who are a member of a bargaining unit should consult their collective bargaining agreement with the County to determine whether it provides for final and binding arbitration of grievances. If the collective bargaining agreement provides for final and binding arbitration of grievances, the employee should file all whistleblower retaliation complaints in accordance with the grievance outlined in the collective bargaining agreement as referenced in ORC 4117.10. If the collective bargaining agreement does not provide final and binding arbitration of grievances, the employee should adhere to the whistleblower retaliation complaint guidelines for non-bargaining County employees as noted in section (II - B) below.

Non-Bargaining Employees

- B. The “sole and exclusive remedy” for whistleblower retaliation for County employees who are not a member of a bargaining unit is to file a whistleblower appeal with the County Personnel Review Commission (PRC), per Ethics Ordinance Article VI, Section 7 and Article VII, Sections 17-20. This right, though, is predicated upon the existence of all of the following conditions.

1. The original whistleblower complaint alleges a violation of state or federal statutes, rules, or regulations or the misuse of public resources;
2. The original whistleblower complaint is filed with the (AIG) either in writing or via the AIG Whistleblower Hotline;
3. The County employee's appointing authority takes disciplinary or retaliatory action against the employee as a result of the employee having filed the whistleblower complaint with the (AIG); and
4. The County employee files the appeal with the Personnel Review Commission (PRC) within thirty (30) days after receiving actual notice of the appointing authority's action.

Other Individuals – Persons Served

- C. Anyone who believes that they have been retaliated against by a DCFS employee can report their concerns to DCFS Community Relations Unit via email CustomerServiceCCDCFS@jfs.ohio.gov or at (216) 432-CARE (2772) for immediate attention.

IV. Internal Reporting Avenues

Internal avenues for reports and complaints include the following:

- Reports of alleged misconduct toward employees, clients or visitors that is harassing or discriminatory in nature can be made to the Cuyahoga County's Human Resources Department, DCFS Community Relations Unit, or DCFS Director's office.
- Complaints on any matter that alleges a violation of federal law, state law, governmental regulations, Cuyahoga County regulations, or DCFS Policy can be made to the Cuyahoga County's Office of Internal Auditing or DCFS Director's office.
- Reports or complaints about inappropriate workplace behavior or work conduct, or violence related to the workplace can be made to the Cuyahoga County's Human Resources Department, Protective Services Department at (216) 443-2141, and/or the appropriate law enforcement (911) if an employee or visitor is creating or communicating a threat of violence.
- Complaints about fiscal matters, fraud, conflict of interest, or other concerns about the mismanagement of DCFS resources can be made to the Cuyahoga County's Office of Internal Auditing, Agency of Inspector General Office website <http://inspectorgeneral.cuyahogacounty.us/> and/or Whistleblower Hotline (216) 698-2999, or the DCFS Director's Office.
- Allegations of criminal conduct that occurs within the geographic jurisdiction of DCFS should be reported to the Cuyahoga County Sheriff's Department, local law enforcement official, Human Resources Department or the DCFS Director's Office.

V. External Reporting Avenues

External avenues for reports and complaints include the following:

- The Ohio Ethics Commission
- The Ohio Inspector General
- The Ohio Civil Rights Commission
- The United States Equal Employment Opportunity Commission
- The United States Department of Labor
- The Ohio Department of Job and Family Services, Bureau of Civil Rights
- The United States Department of Health and Human Services, Office of Civil Rights
- Federal Bureau of Investigation

SEE ALSO:

Cuyahoga County Ethics Ordinance

Article IV – The Ohio Ethics Law: Chapter 2921.42 of the Ohio Revised Code

Article V – The Ohio Ethics Law: Chapter 2921.43 of the Ohio Revised Code

Article VI – Other Ohio Revised Code Included in Ordinance: Section 7

Article VII – Cuyahoga County Provisions: Sections 17-20

Article VIII – Personnel Review Commission

Cuyahoga County Personnel and Procedures Manual

Section 3 – Code of Ethics

Section 4 – Equal Employment Opportunity

Section 17 – Employee Complaint Procedures

Cuyahoga County and AFSCME 1746 Collective Bargaining Agreement

Article XI – Grievance Procedure