

Boston Cyclists Union

www.bostoncyclistsunion.org

Employee Protection (Whistleblower) Policy and Procedure

Purpose: The purpose of this policy is to outline the procedure for an employee or volunteer making a whistleblower complaint, and for staff handling any such complaint, and to provide a framework for a consistent approach for all parties involved in responding to complaints. The procedure for processing, investigating and following up on a complaint is designed to be used by Executive Director, board officers and/or an ad hoc committee of board members tasked with investigating a whistleblower complaint.

It is the intent of the Boston Cyclists Union to adhere to all laws and regulations that apply to the organization and the underlying purpose of this policy is to support the organization's goal of legal compliance. The support of all employees and volunteers is necessary to achieving compliance with various laws and regulations. Employees and volunteers are encouraged to report any activity, policy or practice of the Union that the employee or volunteer reasonably believes is in violation of the law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare or protection of the environment. This includes but is not limited to: ethics violations, suspected violations of law such as a complaint of discrimination or harassment, or suspected fraud, waste or abuse, or suspected violation of any regulation governing the operations of the Boston Cyclists Union. ~~Employees and volunteers are protected from retaliation only if they bring the alleged unlawful activity, policy or practice to the attention of the Boston Cyclists Union and provide the Union with a reasonable opportunity to investigate and correct the alleged unlawful activity.~~

Anti-Retaliation: The Boston Cyclists Union will not retaliate against an employee or volunteer who, in good faith, has made a complaint against some practice of the Boston Cyclists Union, or of another individual or entity with whom the Union has a business relationship, on the basis of a reasonable belief that the practice is in violation of the law, or is in clear mandate of public policy concerning the health, safety, welfare or protection of the environment.

Terms and Definitions:

- **Discrimination:** Treating an individual differently or unfavorably on the basis of their race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, national origin, genetic information, or any other characteristic protected by law.
- **Harassment:** Verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, or that of his or her relatives, friends or associates,

and that: a) has the purpose or effect of creating an intimidating, hostile or offensive work environment, b) has the purpose or effect of unreasonably interfering with an individual's work performance, or c) otherwise adversely affects an individual's employment opportunities.

- **Financial Fraud:** Intentional acts or omissions resulting in a loss of money or resources by the BCU, and/or financial or other material gain by the perpetrator.
 - **Examples:** Falsifying financial records to conceal theft; theft or misuse of BCU funds, resources, or equipment; intentionally altering the cost of goods/services provided; accepting a bribe or kickback; falsifying payroll information.
- **Waste:** Reckless or careless spending, consumption or mismanagement of resources, whether intentional or unintentional. Waste can also be a product of unnecessarily inefficient practices.
 - **Examples:** Overspending on supplies or equipment; replacing major resources or equipment prematurely, or before it is reasonably warranted.
- **Abuse:** Intentional manipulation, diversion or misuse of BCU financial resources, or the excessive use of resources so as to abuse one's position or authority.
 - **Examples:** Receiving favors for using certain vendors; misusing position for personal gain; extravagant travel arrangements; creating unnecessary overtime.

Making a Complaint:

A written report detailing the alleged misconduct should be submitted to the Executive Director or Board President. While the Boston Cyclists Union encourages staff and volunteers to report issues directly to the Union so that corrective action can be taken, complaints can also be made to the Office of the Attorney General (617-727-2200). Additionally, if a staff person or volunteer suspects illegal activity is taking place, or if it constitutes an emergency or imminent threat to public health or safety, it should be reported immediately to the appropriate law enforcement agency.

Processing Complaints:

1. **Written reports:** All whistleblower reports must be received in writing and should include:
 - Alleged misconduct
 - Individuals involved
 - Specific information regarding the alleged misconduct, including surrounding circumstances, time/date and place the misconduct occurred.
 - **Note:** All documents related to the complaint should be maintained in a secure area of the BCU office, or if obtained electronically, should be in a secure location with appropriate access controls in place.
2. **Determine nature of the complaint:**
 - **Illegal acts:** If the complaint indicates illegal acts, they should be reported immediately to the appropriate law enforcement entity (Boston Police, District Attorney, etc). Internal investigation and follow-up may still be appropriate.
 - **Financial Fraud:** If the complaint indicates financial fraud, an internal audit should take place to determine the validity of the accusations and identify any internal financial

controls that are weak, need to be changed, and/or allowed for the instance of fraud, waste or abuse to occur.

3. Investigation: If the complaint appears to be made in good faith, an investigation into the incident should be launched. An investigation may include the following components:

- Depending on the nature of the complaint, the investigation may be performed by the Executive Director, board officers or an ad hoc committee formed for the purpose of investigating the complaint. Such an ad hoc committee may include individuals with specialized knowledge, for example members of the Finance and Operations Committee.
- Interview potential witnesses and document information gathered
- Identify contributing factors/circumstances
- Gather evidence (review financial records, payroll statements, bank statements, credit card records, emails, computer hard drives/cloud storage)

4. Confidentiality:

- The identity of the complainant, the person against whom the complaint was made (if applicable) and of any associated person should be kept confidential.
- All complaints and associated materials, including information gathered during an investigation, should be treated as confidential at all times. Information may be shared on a “need to know” basis as required to perform a sufficient investigation.
- Reports may be issued following investigation of substantiated complaints. Brief or general reports of unsubstantiated complaints may be shared with staff or board members for the purpose of reviewing internal policies and controls.

5. Malicious Complaints:

- A complaint made in bad faith or that is determined to have been made to cause harm or obtain personal gain can result in disciplinary and/or legal action.
- Complaints that are deemed to have been mistaken or erroneous are not considered malicious.

6. Follow-up:

- The whistleblower who made the complaint should receive feedback stating the matter has been received.
- The processing of the complaint should be documented in writing, describing the initial notification, summary of investigations and a report of findings/conclusions. Note the requirement to keep individual identities confidential.
- Conclusions should include recommended follow-up actions such as the evaluation and/or updating of internal policies/procedures.
- The whistleblower who made the complaint, and if applicable, the person who has been accused of misconduct, should receive feedback, regardless of the outcome of the investigation.