



## Policy

<b>SECTION: HUMAN RESOURCES</b>	<b>POLICY #019-A12</b>	<b>PAGE 1 OF 7</b>
<b>TITLE: Whistleblower Policy</b>	<b>EFFECTIVE DATE: TBD</b>	
<b>APPROVED BY:</b>	<b>REPLACES: N/A</b>	

**PURPOSE:** The purpose of this whistle-blower policy is to formalize the Worknet Pinellas, Inc., dba CareerSource Pinellas standard operating procedures that encourage an individual to report a violation of any federal, state or local law, rule or regulation committed by an independent contractor, training vendor, a CareerSource staff, a volunteer at CareerSource, an intern, or DEO staff located in CareerSource offices which:

- creates a substantial and specific danger to the public's health, safety or welfare; and/or
- is an act of gross mismanagement, malfeasance, misfeasance, fraud, or is a gross waste of public funds or a gross neglect of duty.

This policy also sets forth procedures to be followed when investigating such a report, prohibits retaliatory action against an individual who reports such a violation and provides CareerSource the opportunity to correct the activity, policy or practice if it finds during the investigation that an actual violation has occurred.

Customers, independent contractors and other individuals wishing to report a violation of any federal, state or local law, rule or regulation committed by an independent contractor of CareerSource, a CareerSource staff or DEO staff located in CareerSource offices shall follow the procedures within the CareerSource Grievance policy.

Note, even though all CareerSource Pinellas staff are employed by WorkNet Pinellas, Inc., throughout this policy those employees shall be referred to as staff of CareerSource.

**BACKGROUND:** The stated intent of Florida's Whistle-blower's Act (Fla. Statute. Sections 112.3187 through 112.31895) is to "prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee." The Florida Whistle-blower's Act does not protect employees or persons who report/disclose information that they know is false.

The Federal Sarbanes-Oxley Act provides protections for whistle-blowers and criminal penalties for actions taken in retaliation against whistle-blowers. The Act protects whistle-blowers who risk their careers by reporting suspected illegal activities in the organization. It is illegal for a corporate entity—for-profit and nonprofit alike—to punish the whistle-blower in any manner.

Florida's Department of Economic Opportunity's (DEO) policy on reporting violations as defined and described in this policy requires CareerSource to immediately inform their Office of Inspector General (OIG) of any such alleged violations. The Department's OIG is responsible for satisfying the Workforce Innovation and Opportunity Act's requirement to report such alleged incidents to the USDOL.

**POLICY:** All directors, officers, staff, volunteers, interns contractors and training vendors are expected to act in accordance with all applicable laws and regulations, and with the policies of CareerSource at all times, and to assist in ensuring that CareerSource conducts its business and affairs accordingly.

It is the policy of CareerSource that CareerSource staff, DEO staff located in CareerSource offices, volunteers, interns, contractors or training vendors who have knowledge of and reasonably believe an unlawful activity, misfeasance, malfeasance, gross mismanagement, gross neglect of duty or gross waste of public funds as defined and described in this policy has occurred, has an obligation to and shall report this information to either the President and CEO of CareerSource, or, if the allegation concerns the President, to the Board Chair, for investigation and corrective action.

In order to encourage reporting of such information without fear of reprisal, it shall also be the policy of CareerSource to prohibit and redress adverse action taken against an individual for making such a protected disclosure unless the individual knowingly gives a false report.

**APPLICABILITY:** This whistle-blower policy applies to all CareerSource staff, DEO staff located within the CareerSource offices, volunteers, interns, program contractors and training vendors.

**RESULTS OF FAILURE TO COMPLY WITH POLICY:** Failure of any individual identified under “Applicability” above to comply with this whistle-blower policy may result in disciplinary action in accordance with the Personnel Handbook. If a program contractor or training vendor fails to comply with this policy the contract or agreement may be cancelled.

## **PROCEDURE**

Following are details and processes/procedures that pertain to this policy. CareerSource’s internal controls and operating procedures are intended to detect, prevent or deter improper activities. However, even the best systems of control cannot provide absolute safeguards against irregularities. Intentional and unintentional violations of laws, regulations, policies and procedures may occur and may constitute improper activities as defined within this policy.

### **A. Reporting Whistle-blower Information**

Any director, officer, staff or consultant who has engaged in, or who reasonably suspects any other director, officer, staff or consultant or grantee of engaging in any violation of the law, regulations, ethical rules or any policy of CareerSource must report such activity as soon as possible. Such activity may include, but is not limited to, financial wrongdoing (including circumvention of internal controls or violation of the accounting policies of CareerSource), fraud, harassment, or any other illegal or unethical conduct.

Knowledge by staff of unlawful activity, misfeasance, malfeasance, gross mismanagement, gross neglect of duty or gross waste of public funds shall be reported in writing directly to the CareerSource President and CEO at the address or email shown below using the attached form. As a decision about whether to initiate an investigation must be based on what appears in the attached whistle-blower form, the information provided must show there is sufficient evidence available for an investigation to confirm that what is being alleged is true. The whistle-blower must therefore identify specific witnesses, documents, and other sources of information that the President and CEO may examine to find support for an allegation.

**CEO**  
**13805 58th Street N**  
**Suite 2-140**  
**Clearwater, FL 33760**  
**[jbrackney@careersourcepinellas.com](mailto:jbrackney@careersourcepinellas.com)**

The CEO shall be responsible for reviewing the allegation, making the required notifications to Florida’s Department of Economic Opportunity, investigating the

allegation if warranted, and reporting to the Board and other appropriate authorities at the conclusion of any investigation arising from any disclosure covered under this policy.

In the event the whistle-blower information concerns the CEO or the adverse personnel action is alleged to have been committed by the CEO, the report shall be submitted in writing on the attached form to the Board Chairperson and addressed to:

**Chairperson of the Board of Directors  
c/o EEO Officer  
13805 58th Street N  
Suite 2-140  
Clearwater, FL 33760**

The Chairperson of the Board shall be responsible for reviewing the allegation, investigating the allegation if warranted and reporting to the appropriate authorities at the conclusion of any investigation arising from any disclosure covered under this policy and otherwise performing the duties of the CEO as provided herein.

#### **B. Investigating a Whistle-Blower Allegation**

When an individual alleges unlawful activity, misfeasance, malfeasance, gross mismanagement, gross neglect of duty or gross waste of public funds in writing to the President and CEO by submitting the attached form, the President and CEO shall notify the Board of Directors and the Office of Inspector General within Florida's Department of Economic Opportunity of the allegation and then determine within 20 business days whether an investigation is warranted based on:

1. Whether the information disclosed is the type of information described in this policy.
2. Whether the information disclosed demonstrates reasonable cause to suspect that an independent contractor, a CareerSource staff, or a DEO employee located in one of the CareerSource offices has:
  - a. violated any federal, state, or local law, rule or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or
  - b. committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

If the CEO determines that the information disclosed is not the type of information described in this policy or that the information disclosed does not demonstrate reasonable cause to suspect a violation as described in this policy has occurred, the CEO shall then:

- In writing, inform the individual who made the disclosure of the specific reasons why an investigation is not necessary and why the disclosure will not be acted on further; and

- Inform the CareerSource Board of Directors in writing of the allegation(s) and the reasons why an investigation is not necessary.

If the CEO determines that the information disclosed is the type of information described in this policy and that the information disclosed demonstrates reasonable cause to suspect that a violation as described in this policy has occurred, the President and CEO shall then determine if an investigation is warranted.

The CEO does not automatically investigate every complaint received. Each complaint is evaluated carefully to determine whether it has enough potential merit to warrant the expenditure of resources to conduct an investigation. For purposes of determining whether an investigation is warranted, the President and CEO shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is necessary:

- The gravity of the disclosed information compared to the time and expense of an investigation;
- The potential for an investigation to yield recommendations that will make CareerSource more efficient and effective;
- The benefit to CareerSource to have a final report on the disclosed information;
- Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative; or
- The time that has elapsed between the alleged event and the disclosure of the information.

If an investigation is warranted, the CEO shall determine the most effective and efficient means to conduct the investigation.

### **C. Final Reporting of a Whistle-blower's Allegation**

Following the investigation, the CEO shall:

1. Notify the appropriate legal authority if the investigation produces evidence of a criminal violation;
2. Notify DEO of the results of the investigation; and
3. Submit to the whistle-blower within 60 business days after the date on which a decision to conduct an investigation was made, a final written report that sets forth the findings, conclusions, and recommendations and notify the whistle-blower that the whistle-blower may submit to the CEO comments on the final report within 20 business days of the date of the report and that such comments will be attached to the final report.

Final reports must be signed by the CEO, distributed to each CareerSource Board member and must include:

- A summary of the information with respect to why the investigation was initiated;
- A description of the conduct of the investigation;
- A summary of any evidence obtained from the investigation;
- A listing of any violation or apparent violation of any law, rule or regulation; and
- A description of any action taken or planned as a result of the investigation, such as:
  - A change in a CareerSource policy or procedure.
  - The restoration of an aggrieved employee as provided for in this policy.
  - Any disciplinary action taken against an employee found at fault.
  - The referral to the Department of Law Enforcement or other legal authority of any evidence of a criminal violation.

Any time period set forth in this policy may be extended in writing by the CEO or the Board of Directors for good cause.

#### **D. Acting in Good Faith**

Anyone reporting information as described in this policy must act in good faith and have reasonable grounds for believing the information disclosed indicates an unlawful activity, misfeasance, malfeasance, gross mismanagement, gross neglect of duty or gross waste of public funds. Making allegations that prove to be unsubstantiated and that prove to have been made maliciously, recklessly, or with the foreknowledge that the allegations are false will be viewed as a serious disciplinary offense and will result in discipline, up to and including dismissal from employment. Such conduct may also give rise to other actions, including civil lawsuits.

#### **E. Confidentiality**

All information received by the CEO or information produced or derived from the investigation is confidential and exempt from public access under Section 119.07(1) Florida Statutes, provided the information is being received or derived from allegations as set forth in this policy and an investigation is active.

During the investigation, the name or identity of any individual who discloses in good faith to the CEO information in accordance with this policy shall not be disclosed to anyone other than determined by the CEO without the written consent of the individual unless the CEO determines that:

1. The disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety or welfare, or to prevent the imminent commission of a crime; or
2. The disclosure is unavoidable and absolutely necessary during the course of the investigation.

#### **F. Employees and Persons Protected**

This policy protects a CareerSource staff or DEO staff located in CareerSource offices from adverse action if he/she discloses information on their own initiative in a written and signed statement in accordance with this policy; who are requested to participate in an investigation, hearing, or other inquiry conducted by CareerSource, any state agency, or federal government entity; who refuse to participate in any adverse action prohibited by this policy; or who are otherwise protected by the Florida Whistle-blower's Act.

No remedy or other protection provided by this policy shall be available when the whistle-blower makes allegations that prove to be unsubstantiated and that prove to have been made maliciously, recklessly, or with the foreknowledge that the allegations are false or if the whistle-blower has committed or intentionally participated in committing a violation or suspected violation for which protection under this policy is being sought.

The fact that an adverse action was based on grounds other than what was raised in a disclosure under this policy and would have been taken absent the whistle-blower's exercise of rights protected by this policy shall be an affirmative defense to any such complaint brought under this policy.

#### **G. Remedies for Adverse Personnel Action**

Notwithstanding any other grievance or complaint procedure that may be applicable, an individual who believes that he or she has been subjected to adverse personnel action as a result of engaging in activity protected by this policy may file a complaint with the CareerSource CEO. This complaint must be made in writing and must be filed with the CEO within twenty (20) business days of the alleged adverse action. Upon receipt of an adverse personnel action complaint or upon referral of a grievance that contains allegations of whistle-blower retaliation the CEO shall conduct an investigation of the complaint of retaliation. The CEO shall complete such investigation within thirty (30) business days of the receipt of the complaint.

Upon completion of the investigation, the CEO shall present the Chairperson of the Board of Directors with written findings as to whether or not there are reasonable grounds to believe that a prohibited personnel action under this policy

has occurred or is occurring and where appropriate, make recommendations to remedy the adverse personnel action.

The CEO shall thereafter render a decision as to the relief to be afforded which shall be the final stage of this procedure. In the event, the complaint pertains to the CEO, the Board's Chairperson shall present the Board of Directors with the written findings of the investigation and the Board of Directors shall then render a decision as to the relief to be afforded.

### **ACTION STEPS REQUIRED:**

Following are the action steps that must be taken by each CareerSource staff and DEO staff located within a CareerSource office.

- A. Each staff must review this policy directive. If the staff has a question about anything contained herein, it is his/her responsibility to immediately bring the question to the attention of his/her supervisor. If not resolved, the supervisor will contact the individual named under "Inquiries" below.
- B. It is the responsibility of each individual to immediately report any breach of this policy to the attention of the person named below.
- C. CareerSource contract managers and appropriate Directors shall provide this policy to all partner agencies located in a CareerSource facility, Program Contractors and Training vendors and require that each submit a letter stating that this policy was provided to all appropriate staff and that the partner or contractor shall abide by this policy or submit their own to HR for review.
- D. Customers, independent contractors and other individuals wishing to report a violation of any federal, state or local law, rule or regulation committed by an independent contractor of WorkNet, a CareerSource staff or DEO staff located in CareerSource offices shall be immediately directed to the CareerSource EEO Officer.
- E. Each supervisor, manager, and director is responsible for informing employees of this policy.
- F. Each individual must replace previous whistleblower policies with this policy reissuance.

### **POLICY AMENDMENTS OR REVOCATION:**

Notwithstanding any of the foregoing, CareerSource reserves the right to revise or revoke this policy at any time.

This policy is written to establish local procedures and is not intended to supersede any applicable laws or regulations. Failure by CareerSource to adhere strictly to the steps

outlined within this policy shall not be construed as a violation of any rights or administrative procedures.

### **INQUIRIES:**

Any question about this policy should be directed to the CareerSource EEO Officer.

**DEFINITIONS:** Following are definitions that pertain to this policy.

**Active Investigation:** An ongoing investigation, inquiry or collection of information and evidence that is continuing with a reasonable, good faith anticipation of resolution in the foreseeable future or all or a portion of the matters under investigation or inquiry is an active criminal investigation as defined in Section 119.011, Florida Statutes.

An investigation ceases to be active when the final written report is sent to the CareerSource Board of Directors or it is determined by the President and CEO or Board that an investigation is not necessary.

**Adverse action:** The discharge, suspension, transfer or demotion of any staff, the reduction in salary or benefits or any other adverse action taken against a staff within the terms and conditions of employment by CareerSource Pinellas or DEO, for those DEO staff located in CareerSource offices.

**Fraud:** Fraud is an intentional distortion of the truth in an attempt to obtain something of value. Types of fraud include embezzlement, forgery, theft, solicitation and receipt of bribes (kickbacks), falsification of records and claims (i.e., knowingly enrolling ineligible participants), etc.

**Gross Mismanagement:** Defined as a continuous pattern of managerial abuses, management ineptitude or lack of oversight, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which lead to a major violation of policy, regulations, or contract provisions and/or which severely hampers accomplishment of program goals and which may result in a loss of funding. Examples include unauditible financial records, highly inaccurate fiscal and/or program reports, payroll deductions not paid to the Internal Revenue Service, the lack of internal control procedures, etc.

**Independent contractor:** A person or company engaged in any business and who enters into a contract, including a training provider agreement, with CareerSource.

**Malfeasance:** Defined as an individual intentionally and knowingly taking an action that is illegal and may be harmful to others. For example, a city manager putting his brother on the city payroll at a wage the manager knows is above that allowed and letting him file false time cards is malfeasance.

**Misfeasance:** Defined as an individual who takes inappropriate, negligent action or gives incorrect advice in error that may result in harm to another. The wrongful, careless, or irresponsible exercise of authority. For example, it is misfeasance if a city manager puts his brother on the city payroll which, unknown to him, is a violation of the City's anti-nepotism personnel policy.

**Whistle-blower:** A whistle-blower is a CareerSource staff, DEO staff located in CareerSource offices, or an independent contractor who has made a protected disclosure of information (a report of unlawful activity, misfeasance, malfeasance, gross mismanagement, gross neglect of duty or gross waste of public funds) in accordance with this policy, or an employee who claims to be subjected to adverse action as a result of making such a protected disclosure of information. The role of the whistle-blower is to report alleged improper activities; he/she is not an investigator nor does the whistle-blower determine the appropriate corrective or remedial action that may be warranted.