

## **RESOLUTION NO. 370**

### **UPDATING A WHISTLEBLOWER EMPLOYEE/AGENT PROTECTION POLICY FOR ALBANY COUNTY EMPLOYEES AND AGENTS**

Introduced: 9/13/10  
By Mr. Higgins:

WHEREAS, Our public employees, on both the State and local level are an integral part of the workforce in New York State, and

WHEREAS, The Civil Service Law currently provides protection from retaliatory employment actions to employees who disclose certain information to governmental bodies, and

WHEREAS, Our public employees are in need of information related to whistleblower protections so that they will be encouraged to take a positive step to report and remedy improper and/or unlawful conduct in government, now, therefore be it

RESOLVED, That the Albany County Legislature adopts the following Whistleblower Employee/Agent Protection Policy (the "Policy") updates for Albany County Employees/Agents:

#### **1. GENERAL STATEMENT OF POLICY:**

- 1.1 It is the policy of Albany County (hereinafter referred to as "the County"), to comply with all applicable federal, state and local laws and regulations, both civil and criminal.
- 1.2 It is also the policy of the County to require employees to comply with the Albany County Ethics and Disclosure Law.
- 1.3 This Policy is intended to provide the employees of Albany County with information about important federal and state laws. The provisions, standards and requirements of the Policy and these laws will be reviewed with each new employee and provided to all employees.

#### **2. SCOPE:**

- 2.1 This Policy applies to all employees of Albany County.
- 2.2 This Policy also applies to all consultants and agents (hereinafter

referred to as “Agents”) who furnish or authorize services on behalf of the County.

### **3. POLICY PROCEDURE:**

- 3.1 Each employee or Agent of the County will strive to act in accordance with the provisions of any applicable federal, state and local laws, and the Albany County Ethics and Disclosure Law, and will encourage other employees and/or Agents to act the same.
- 3.2 No employee or Agent of the County has authority to act contrary to the provisions of any applicable laws or the Ethics and Disclosure Law or to authorize, direct or condone such action by any other employee or Agent.
- 3.3 Any employee or Agent of the County who has direct knowledge of activities that he or she believes, in good faith, may violate a law, rule or regulation, has an obligation, promptly after learning of such activities, to report the matter to the Albany County Director of Human Resources (hereinafter, the “ Director”), the commissioner of his or her respective department and to the Majority and Minority Leaders of the Albany County legislature and in the case of an Agent, to the supervisor of the department that contracted for the Agent’s services. However, if any employee feels that there exists a potential conflict, then in that event that person shall have no duty to report such information to the Director or respective Commissioner but shall report said information to a County Official as otherwise designated by the County Executive. The supervisor will promptly forward such Agent’s report to the Director. Reports may be made anonymously and employees and Agents will not be penalized for reports made in good faith. Failure to report known violations by Agents may result in termination of their services contract.
- 3.4 The County will take steps to communicate this Policy to all employees and Agents by disseminating information that explains in a practical manner what is required. The policy shall be publicly posted in  
a conspicuous area with each respective county department.
- 3.5 After improper and/or unlawful conduct has been reported, the Director may conduct his/her own investigation or refer the matter to the appropriate official for a more complete, detailed investigation of the allegations. In conducting an investigation, the Director shall use best efforts to keep confidential the identity of the person

providing the information that initiated the investigation, unless the Director determines the information was provided other than in good faith. The result of any investigation shall be reported to such other authority as the Director deems appropriate. The Director will take whatever additional reasonable steps he or she deems necessary to respond appropriately and to prevent further similar violations, including proposing any necessary modifications to this Policy to prevent and detect violations of law.

3.6 All members of the County workforce as well as Agents shall be provided with information regarding important federal and state laws that are designed to prevent and detect waste, fraud and abuse. In addition, individuals who, in good faith, report suspected non-compliant behavior shall be advised that they are protected by both federal and state law.

3.7 All Agents who furnish or authorize services on behalf of the County are required to communicate this Policy to their employees,

and, be it further

RESOLVED, That it shall hereinafter be the Policy of Albany County that in addition to the protections afforded by Section 75-b of the Civil Service Law as well as the Federal and New York State False Claims Acts, public employees of Albany County shall not be subject to any retaliatory personnel action by disclosing, in good faith, any improper and/or unlawful conduct to the Director or hazardous working conditions, and, be it further

RESOLVED, That the current Albany County Whistleblower policy, including amendments made to such law by Resolution No. 284 for 2007 is hereby modified and updated by this resolution, and, be it further

RESOLVED, That it shall also hereinafter be the Policy of Albany County that in any action by a public employee of Albany County who claims to have been the subject of a retaliatory personnel action in violation of Section 75-b of the Civil Service Law or of the Policy established herein with respect to any such disclosure to the Personnel Director, a court may order the relief provided for in Section 740.5(a)-(e) of the Labor Law as well as under the New York False Claims Act and all other relevant NYS and Federal statutes so as to protect the employee or Agent.

*Referred to Personnel Committee. 9/13/10*