Office of the Commissioner
Protocol for Reporting Concerns of Unsafe or Illegal Conditions or Practices

Policy #: DHHS-01-20
Issue Date: May 13, 2020

I. SUBJECT

Protocol for reporting concerns of illegal or unsafe conditions or practices.

II. POLICY STATEMENT

It is the intent of the Maine Department of Health and Human Services ("DHHS") to adhere to all laws and regulations that apply to its activities. All employees are expected to assist the DHHS in meeting this goal by the timely reporting of any suspected or actual illegal or improper activity, or any activity that poses a risk to the health or the safety of any person. Employees are expected to report their concerns to their immediate supervisor or to any supervisor in their chain of command. Employees may also report these concerns to their Human Resources Manager, EEO Coordinator, or to the Commissioner's office. In the same manner, employees may make reports in good faith to any public body as permitted by federal or state law, consistent with privacy laws.

III. RATIONALE

It is the intent of the Department to welcome staff to express differences of opinion in a respectful and responsible manner, regardless of whether the report pertains to illegal or unsafe work conditions, violations or practices. When differences of opinion arise, a resolution reflecting a culture of two-way communication should be applied. Different opinions will be heard, acknowledged, and considered. The resolution of those differences will be communicated to the employee(s) involved, whenever possible, in a timely manner, consistent with applicable confidentiality requirements in accordance with federal and state laws and regulations.

IV. PROCEDURE STATEMENT

Allegations of illegal, unsafe or improper activity are taken seriously. Any report to a supervisor will be promptly reported to the Office Director who will take immediate action to investigate the concern in collaboration with the Human Resources Service Center. Supervisors within the Department understand their obligation to respond to allegations in response to this policy.

If a complainant does not provide his/her name or other information, such as witnesses or documents that support the concerns raised, the Department may not be able to investigate or take other appropriate action, if action is required. Complaints may or may not be investigated, based upon the information provided by the complainant.
Should a complaint result in an investigation of a current or former employee's activities or actions, the investigation is treated as a personnel matter. By law, the complainant is not entitled to information regarding the disposition of a personnel matter unless the result of the matter is final discipline.

The confidentiality of a complainant making a report will be maintained to the extent possible. If the Department is unable to maintain confidentiality due to its legal responsibilities, then the Department will attempt to inform the complainant of its need to disclose identifying information prior to doing so. Additionally, the identity of the complainant may be revealed to appropriate law enforcement agencies conducting a criminal investigation.

An individual is protected from retaliation if they, in good faith, bring an allegation of unlawful and/or unsafe work conditions, violations or practices to the attention of the Department, and provides the Department with a reasonable opportunity to correct the violation, condition or practice.

A report to the Department is not required prior to reporting to a public body in those instances where the employee has a specific, credible reason to believe that reports to the Department will not result in prompt corrective action.

For more information regarding the protections for individuals who report a violation of law or safety concern, please refer to the Department's Policy Prohibiting Harassment and the Department's poster relating to the Whistleblower Protection Act.

This protocol is not intended to apply to concerns relating to workplace harassment. Please refer to the Department's Policy Prohibiting Harassment for the procedure for reporting concerns relating to workplace harassment.

V. FILING A COMPLAINT WITH THE MAINE HUMAN RIGHTS COMMISSION

If an employee has a specific, credible reason to believe that reports to the Department will not result in prompt corrective action, then the employee may complete an intake form and file it with the State of Maine Human Rights Commission via their website or mail. Following the completion of the intake form, an Intake Officer will either type a complaint of discrimination and send it to the employee for review and notarized signature or, if the information is insufficient, call the employee to further discuss the allegations. Complaints must be received by the commission within three hundred (300) days of the alleged act of discrimination.

VI. DEFINITIONS

Public body. For the purposes of this policy, the definition of public body is consistent with title 26 M.R.S. sec 833(4), which defines public body as follows:
"Public body" means all of the following:

A. A state officer, employee, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State Government;
B. An agency, board, commission, council, member or employee of the legislative branch of State Government;
C. A county, municipal, village, intercounty, intercity or regional governing body, a council, school district or municipal corporation, or a board, department, commission, council, agency or any member or employee thereof;
D. Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body;
E. A law enforcement agency or any member or employee of a law enforcement agency; and
F. The judiciary and any member or employee of the judiciary.

For purposes of this protocol, a public body also includes any federal officer, employee, agency, department, division, bureau, board, commission, council, authority, member, or agency authorized to receive complaints by federal law or regulation.

VII. DISTRIBUTION

All Department employees via e-mail and posting on the DHHS intranet.

5 - 15 - 20__
Date

Jeanne Lambrew, Ph.D.
Commissioner