

POLICY ESTABLISHING PROCEDURES FOR REPORTING IMPROPER GOVERNMENTAL CONDUCT AND PROHIBITING RETALIATION AGAINST WHISTLEBLOWERS

I. PROHIBITION ON RETALIATION AGAINST WHISTLEBLOWERS

In keeping with its Policy of maintaining the highest standards of conduct and ethics, the Village of Long Grove (“**Village**”) will investigate and take appropriate action related to suspected violations of federal, State, or local laws or rules. In furtherance of this effort, it is the Village’s Policy to prohibit any Retaliation against an Employee or contractor who (1) reports an Improper Governmental Action under this Policy; (2) cooperates with an investigation by an Auditing Official related to a report of Improper Governmental Action; or (3) testifies in a proceeding or prosecution arising out of an Improper Governmental Action (“**Whistleblowing Activities**”). This Policy is in addition to, and applies to the extent that it does not conflict with, the rights and procedures provided by the Whistleblower Act, 740 ILCS 174/1 *et seq.*, the Public Officer Prohibited Activities Act, 50 ILCS 105/4.1, the Illinois Human Rights Act, 775 ILCS 5/6-101, the State Officials and Employees Ethics Act, 5 ILCS 430/15-10, and any other applicable federal or State law related to Whistleblowing Activities (“**Whistleblowing Laws**”).

Every Employee shall receive a complete copy of this Policy and Section 4.1 of the Public Officers Prohibited Activities Act, a copy of which is attached hereto as **Exhibit A**, upon commencement of employment and at least once each year of employment.

II. DEFINITIONS

This Policy adopts the definitions of the following terms as stated in the Public Officers Prohibited Activities Act:

“**Employee**” means anyone employed by the Village, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. “Employee” also includes members of appointed boards or commissions, whether or not paid. “Employee” also includes persons who have been terminated because of any report or complaint submitted under this Policy.

“**Improper Governmental Action**” means any action by a Village employee, an appointed member of a board, commission, or committee, or an elected official of the Village that is undertaken in violation of a federal, State, or Village law or rule; is an abuse of authority; violates the public’s trust or expectation of his or her conduct; is of substantial and specific danger to the public’s health or safety; or is a gross waste of public funds. The action need not be within the scope of the employee’s, elected official’s, board member’s, commission member’s, or committee member’s official duties to be subject to a claim of “Improper Governmental Action.” “Improper Governmental Action” includes Retaliation. “Improper Governmental Action” does not include a Village personnel actions, including, but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, reprimands, or violations of collective bargaining agreements, except to the extent that the action amounts to Retaliation.

“**Retaliation**” means any adverse change in an Employee’s employment status or the terms and conditions of employment that results from an Employee’s protected activity under this Policy.

“Retaliatory action” includes, but is not limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under this Section.

“**Auditing Official**” means the Village Manager or, if the Village Manager is the person performing the Improper Governmental Action, then the Village President.

III. PROCEDURE FOR REPORTING SUSPECTED IMPROPER GOVERNMENTAL ACTION

The Village adopts the procedures described herein insofar as they do not conflict with the Public Officer Prohibited Activities Act or any other Whistleblowing Law. To invoke the protections of this Policy, an Employee shall make a written report of Improper Governmental Action to the appropriate Auditing Official (a “**Report**”). Any Report (including any Report by an Employee who believes he or she has been Retaliated against in violation of this Policy) must be filed with the Auditing Official within 90 days after the Employee gains knowledge of the Improper Governmental Action or Retaliatory Action. Documentation of any Improper Governmental Action may be submitted to the Auditing Official, including, but not limited to, written records such as letters, notes, memos, and telephone messages.

An Employee witnessing what he or she believes to be Improper Governmental Action must not assume that the Auditing Official is aware of the conduct. If the Employee fails to file a Report of an alleged Improper Governmental Action to the Auditing Official, the Auditing Official will not be presumed to have knowledge of the conduct.

The Auditing Official may develop forms for filing a Report and may also promulgate additional rules to improve the processes of filing and investigating Reports.

All Reports of Improper Governmental Action will be accepted and investigated regardless of the manner or form that such Report is filed with the Auditing Official. Because of the serious implications regarding, and the difficulties associated with the investigation of, any Report of Improper Governmental Action, as well as the questions of credibility involved with investigating Reports, Employees’ willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

IV. INVESTIGATION OF ALLEGATIONS OF IMPROPER GOVERNMENTAL ACTION

A. The Auditing Official shall manage, investigate, and dispose of Reports of Improper Governmental Action filed under this Policy. The Auditing Official (or a licensed attorney designated by the Auditing Official) shall conduct a thorough and comprehensive investigation of such Reports, which may include interviewing witnesses, gathering documents, hiring outside counsel, preserving evidence, and taking other reasonable steps to ensure a full and fair investigation. The Auditing Official’s processes and procedures for investigating Reports shall be governed by this Policy and the nature and scope of the complained of conduct. Upon conclusion of an investigation, the Auditing Official shall issue written “**Findings**.” If an Auditing Official’s Findings conclude that an Improper Governmental Action has taken place or concludes that the Village, or any of its departments, officials, or Employees have hindered the Auditing Official's

investigation into the Report, the Auditing Official shall notify in writing the Village President and/or any other individual or entity the Auditing Official deems necessary under the circumstances.

B. The Auditing Official may transfer a Report to another Auditing Official or a designated licensed attorney (including without limitation the State's Attorney) for investigating such Report and preparing Findings, if the Auditing Official deems it appropriate.

C. To the extent allowed by law, the identity of an Employee making a Report shall be kept confidential unless the Employee waives confidentiality in writing. Auditing Officials may take reasonable measures to protect Employees who reasonably believe they may be subject to bodily harm for making a Report.

D. The following remedies are available to Employees subjected to Retaliation:

1. Auditing Officials may reinstate, reimburse for lost wages or expenses incurred, promote, or provide some other form of restitution.
2. In instances where an Auditing Official determines that restitution will not suffice, the Auditing Official may make his or her Findings available for the purposes of aiding in that Employee or the Employee's attorney's effort to make the Employee whole.

V. *CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON RETALIATION*

In addition to any penalties available under the Whistleblower Laws, any person who engages in Retaliation under this Policy may be subject to suspension without pay, demotion, or discharge.

VI. *CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT*

A false report is a Report made to an Auditing Official with the knowledge at the time of the Report that there is no reasonable ground for believing that the Improper Governmental Action had occurred, but does not include a Report made in good faith which cannot be proven. Any Employee or appointed Village official who makes a false Report shall be subject to discipline or discharge pursuant to applicable Village policies, employment agreements, procedures, employee handbooks, and/or collective bargaining agreements.

Exhibit A

Section 4.1 of the Public Officers Prohibited Activities Act

§ 4.1. Retaliation against a whistleblower.

(a) It is prohibited for a unit of local government, any agent or representative of a unit of local government, or another employee to retaliate against an employee or contractor who:

(1) reports an improper governmental action under this Section;

(2) cooperates with an investigation by an auditing official related to a report of improper governmental action; or

(3) testifies in a proceeding or prosecution arising out of an improper governmental action.

(b) To invoke the protections of this Section, an employee shall make a written report of improper governmental action to the appropriate auditing official. An employee who believes he or she has been retaliated against in violation of this Section must submit a written report to the auditing official within 60 days of gaining knowledge of the retaliatory action. If the auditing official is the individual doing the improper governmental action, then a report under this subsection may be submitted to any State's Attorney.

(c) Each auditing official shall establish written processes and procedures for managing complaints filed under this Section, and each auditing official shall investigate and dispose of reports of improper governmental action in accordance with these processes and procedures. If an auditing official concludes that an improper governmental action has taken place or concludes that the relevant unit of local government, department, agency, or supervisory officials have hindered the auditing official's investigation into the report, the auditing official shall notify in writing the chief executive of the unit of local government and any other individual or entity the auditing official deems necessary in the circumstances.

(d) An auditing official may transfer a report of improper governmental action to another auditing official for investigation if an auditing official deems it appropriate, including, but not limited to, the appropriate State's Attorney.

(e) To the extent allowed by law, the identity of an employee reporting information about an improper governmental action shall be kept confidential unless the employee waives confidentiality in writing. Auditing officials may take reasonable measures to protect employees who reasonably believe they may be subject to bodily harm for reporting improper government action.

(f) The following remedies are available to employees subjected to adverse actions for reporting improper government action:

(1) Auditing officials may reinstate, reimburse for lost wages or expenses incurred, promote, or provide some other form of restitution.

(2) In instances where an auditing official determines that restitution will not suffice, the auditing official may make his or her investigation findings available for the purposes of aiding in that employee or the employee's attorney's effort to make the employee whole.

(g) A person who engages in prohibited retaliatory action under subsection (a) is subject to the following penalties: a fine of no less than \$500 and no more than \$5,000, suspension without pay, demotion, discharge, civil or criminal prosecution, or any combination of these penalties, as appropriate.

(h) Every employee shall receive a written summary or a complete copy of this Section upon commencement of employment and at least once each year of employment. At the same time, the employee shall also receive a copy of the written processes and procedures for reporting improper governmental actions from the applicable auditing official.

(i) As used in this Section:

“Auditing official” means any elected, appointed, or hired individual, by whatever name, in a unit of local government whose duties are similar to, but not limited to, receiving, registering, and

investigating complaints and information concerning misconduct, inefficiency, and waste within the unit of local government; investigating the performance of officers, employees, functions, and programs; and promoting economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the municipality. If a unit of local government does not have an "auditing official", the "auditing official" shall be a State's Attorney of the county in which the unit of local government is located within.

"Employee" means anyone employed by a unit of local government, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. "Employee" also includes members of appointed boards or commissions, whether or not paid. "Employee" also includes persons who have been terminated because of any report or complaint submitted under this Section.

"Improper governmental action" means any action by a unit of local government employee, an appointed member of a board, commission, or committee, or an elected official of the unit of local government that is undertaken in violation of a federal, State, or unit of local government law or rule; is an abuse of authority; violates the public's trust or expectation of his or her conduct; is of substantial and specific danger to the public's health or safety; or is a gross waste of public funds. The action need not be within the scope of the employee's, elected official's, board member's, commission member's, or committee member's official duties to be subject to a claim of "improper governmental action". "Improper governmental action" does not include a unit of local government personnel actions, including, but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, reprimands, or violations of collective bargaining agreements, except to the extent that the action amounts to retaliation.

"Retaliate", "retaliation", or "retaliatory action" means any adverse change in an employee's employment status or the terms and conditions of employment that results from an employee's protected activity under this Section. "Retaliatory action" includes, but is not limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under this Section.

50 ILCS 105/4.1