

ORDINANCE NO. 22-07

**AN ORDINANCE ADOPTING A
WHISTLEBLOWER REPORTING AND ANTI-RETALIATION POLICY**

WHEREAS, the County of Kendall, Illinois (“County”) is a unit of local government, organized and operating pursuant to the Constitution and laws of the State of Illinois; and

WHEREAS, the County previously adopted an Employee Handbook (“Handbook”) to provide County employees with information about working conditions, employee benefits, and other policies regarding their employment; and

WHEREAS, the Illinois General Assembly recently amended the Public Officer Prohibited Activities Act requiring the County to designate an auditing official and to establish written processes and procedures for employees to report alleged improper governmental actions, as defined 50 ILCS 105/4.1; and

WHEREAS, the Kendall County Board desires to approve the Whistleblower Reporting and Anti-Retaliation Policy attached hereto as Exhibit A and to incorporate it as a new Section 3.8 to the County’s existing Handbook (the “Policy”);

NOW, THEREFORE, BE IT ORDAINED by a majority vote of the Kendall County Board, as follows:

SECTION 1. RECITALS.

The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

SECTION 2. THE POLICY.

The Kendall County Board hereby approves and adopts the Policy attached hereto as Exhibit A as a new Section 3.8 to be added to the Handbook. The Policy shall be applicable to all employees of the County, whether in a permanent or temporary position, including full-time, part-

time, and intermittent workers, and members of appointed boards or commissions, whether or not paid. The Kendall County Office of Administrative Services or their designee shall distribute the Policy to all County employees and have such employees acknowledge receipt thereof within the next thirty (30) days and on an annual basis each year thereafter pursuant to 50 ILCS 105/4.1(h).

SECTION 3. AMENDMENTS.

The Handbook is not a contract with employees of the County and the County Board retains the right to make changes to the Handbook and this Policy from time to time, as the County Board deems prudent and necessary.

SECTION 4. EFFECTIVE DATE.

This Ordinance and the Policy shall be in full force and in effect immediately upon approval by a majority vote of the Kendall County Board.

SO ORDAINED this 15 day of February, 2022 in Kendall County, Illinois.

COUNTY OF KENDALL, ILLINOIS



Scott R. Gryder, Chairman

Attest:


Debbie Gillette, County Clerk & Recorder



Section 3.8 WHISTLEBLOWER REPORTING AND ANTI-RETALIATION POLICY

It is the policy of the County of Kendall, Illinois (County) to act in accordance with Section 4.1 of the Illinois Public Officer Prohibited Activities Act regarding retaliation against whistleblowers. *See* 50 ILCS 105/4.1. Thus, the County prohibits retaliation against its employees and contractors who: (1) report an improper governmental action; (2) cooperate with an investigation by an auditing official related to a report of improper governmental action; or (3) testify in a proceeding or prosecution arising out of an improper governmental action.

For purposes of this Policy, “improper governmental action” is defined as:

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 a 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.

50 ILCS 105/4.1. “Improper governmental action” does *not* include the following:

[A] unit of local government’s 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.

Id.

For purposes of this Policy, retaliation means any adverse change in an employee’s employment status or the terms and conditions of employment that result from an employee’s protected activity under this Policy and/or the Public Officer Prohibited Activities Act. Retaliation can include, but is not limited to, any of the following: 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 the employee’s protected activity under this Policy and the Public Officer Prohibited Activities Act.

Any report of retaliation shall promptly be reported to the County’s Auditing Official for review pursuant to the complaint procedures set forth in this Policy. All employees are responsible for reporting improper government activities as well as reporting any retaliatory conduct resulting therefrom pursuant to the complaint procedures set forth in this Policy. Failure to do so may result in disciplinary action up to and including termination of employment.

THE COUNTY’S AUDITING OFFICIAL:

The County’s Auditing Official is responsible for receiving, registering, and investigating complaints and information concerning misconduct, inefficiency, and waste within the County based upon the prohibitions set forth in this Policy. The County’s appointed Auditing Official is:

Kendall County Inspector General
Kendall County Sheriff’s Office
1102 Cornell Lane,
Yorkville, Illinois 60560
(630) 553-7500

In the event there is a vacancy in the Auditing Official’s position, the Kendall County State’s Attorney shall assume the Auditing Official’s duties pursuant to Section 4.1(i) of the Public Officer Prohibited Activities Act.

COMPLAINT AND INVESTIGATION PROCEDURES:

All reports of alleged improper governmental activities and retaliation in violation of the Public Officer Prohibited Activities Act shall promptly be reported to the County’s Auditing Official in writing within sixty (60) days of notice of the alleged act. All complaints received pursuant to this Policy will be promptly and thoroughly investigated by the Auditing Official or their designee in accordance with Section 4.1 of the Public Officer Prohibited Activities Act.

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. The Auditing Official may take reasonable measures to protect employees who reasonably believe they may be subject to bodily harm for reporting improper government action. 50 ILCS 105/4.1(e).

At the conclusion of the investigation, the Auditing Official will decide whether the complaint has merit or whether the complaint does not have merit. If the Auditing Official determines the complaint has no merit, the Auditing Official can dismiss the complaint. If the Auditing Official concludes that an improper governmental action has taken place or concludes the applicable department/elected office, board member, or supervisory officials have hindered the Auditing Official’s investigation, the Auditing Official shall notify in writing the Kendall County Board Chairman and any other individual or entity the Auditing Official deems necessary in the circumstances. If the Auditing Official deems it appropriate, the Auditing Official may transfer a report of improper governmental action to the Kendall County State’s Attorney or local law enforcement agency for further investigation.

REMEDIES:

In the event the Auditing Official determines the complaint has merit, the Auditing Official has the authority to exercise any or all remedies as set forth in Section 4.1 of the Public Officers Prohibited Activities Act. Such remedies can include, but are not limited to the following:

reinstatement, reimbursement for lost wages or expenses incurred, promotion, and/or providing some other form of restitution to the complainant who was subjected to retaliation in violation of this Policy.

Any person who engages in any violation of Section 4.1 of the Public Officer Prohibited Activities Act may also be subject to a monetary fine of no less than \$500 and no more than \$5,000 per violation; appropriate employment action (including, but not limited to suspension without pay, demotion, or discharge), civil or criminal prosecution, or any combination of these penalties.

DISTRIBUTION OF THIS POLICY

The County shall provide a copy of this Policy to every employee upon commencement of employment and on an annual basis thereafter to ensure employees understand their rights and the process in which they can report retaliation pursuant to this Policy.

ACKNOWLEDGEMENT OF RECEIPT

By signing my name below, I hereby acknowledge receipt of the Whistleblower Reporting and Anti-Retaliation Policy set forth in Section 3.8 of the Kendall County Employee Handbook. By signing my name below, I affirm that I have read and agree to abide by all provisions set forth in this Policy.

Printed Name: _____

Date: _____

Signature: _____