

MEMORANDUM

TO: Board of Trustees

FROM: Ray Tulloch

SUBJECT: Review, discuss and possibly approve the implementation of the Whistleblower policy as developed by the Audit Committee in accordance with item 2.8 of Board Policy 15.1.0

STRATEGIC

PLAN REFERENCE(S): Transparency and Fiscal responsibility

DATE: January 11, 2023

I. RECOMMENDATION

That the Board shall review discuss and possibly approve the Whistleblower policy as developed by the Audit Committee in accordance with Board Policy 15.1.0 and as originally presented to the Board, at the August 10, 2021 Board meeting.

II. BACKGROUND

Under Board Policy 15.1.0 the Audit Committee is charged at item 2.8 to:

2.8 To annually review and refine as necessary the whistleblower procedures for the receipt, retention, and treatment of complaints received by the District, from the public or anonymous submissions by employees of the District, regarding accounting, internal accounting controls, auditing matters, or suspected fraud for recommendation to the board of trustees for consideration and possible approval.

2.8.1 Review and refine as needed the procedures for educating employees on their individual role in ensuring the District's financial integrity.

2.8.2 Ensure employees of the District have an anonymous method for concerns to be submitted

When the Audit Committee was initially formed in July 2020 there was no Whistleblower policy in existence. Subsequently at several meetings during

2020 and 2021 the Audit Committee reviewed discussed and developed a Whistleblower Policy for the District (attached as Appendix A).

This draft Policy was agendized for the Board meeting of August 10, 2021. At this meeting, the Policy was removed from the agenda at the request of a Board member who wished to see Board Policy 15.1.0 further revised and approved by the Board prior to the Board reviewing the proposed Whistleblower policy.

Subsequently Board Policy 15.1.0 has been subject to several revisions by the Board but the Whistleblower policy has not to date been discussed, reviewed or implemented by the Board. As a result, there remains a weakness in the District's internal controls, as there is no provision for, or protection of, whistleblowers.

While further review of the draft Whistleblower policy is on the Audit Committee long term agenda, there is no specific date for this action.

Consequently, it is proposed that the Board shall review, discuss and possibly implement the Whistleblower Policy as previously submitted and also instruct the Audit Committee to further review the Policy and make recommendations for further modification of the policy where necessary. In this way, the District can make timely improvements to its internal control provisions.

III. FINANCIAL IMPACT AND BUDGET

By ensuring the District has an appropriate and effective Whistleblower policy in place the District will improve its internal controls, reduce risk of fraudulent transactions and ensure appropriate protection for whistleblowers is implemented.

IV. ALTERNATIVES

That the District continue with no Whistleblower policy and the associated risk and weakness in Internal Controls.

V. BUSINESS IMPACT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

Appendix A

Draft Whistleblower policy

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT WHISTLEBLOWER PROCEDURE

General

The Incline Village General Improvement District (IVGID) expects its employees, Trustees, and volunteers to observe high standards of business and professional ethics in the conduct of their duties and responsibilities. Employees and representatives of IVGID must practice honesty and integrity in fulfilling their responsibilities and comply with all IVGID Policies, Practices, Resolutions and Ordinances and other applicable laws and regulations. Moreover, IVGID is committed to transparency and fostering a “speak up” culture. This Whistleblower Procedure implements Board of Trustees Policy 15.1.0(2.8).

In addition, IVGID encourages its employees, volunteers, other stakeholders of the District, and the public to share their questions, concerns, suggestions, or complaints with their supervisor, Venue Manager, Trustees, General Manager, or the Audit Committee Chair.

The Whistleblower Procedure includes the following:

- The methods for submission of suspected Misconduct may be reported by employees, Trustees, volunteers, other stakeholders of the District, and the public on a confidential and anonymous basis to the extent permitted by applicable law.
- The process to be followed when a submission of concern is received.
- The receipt, retention, and treatment of suspected Misconduct submissions received by the Audit Committee regarding IVGID Policies, Practices, Resolutions, Ordinances and other applicable laws and regulations. The protection of employees, Trustees, volunteers, other stakeholders of the District, and the public reporting concerns from retaliatory actions.

Reporting

It is the responsibility of all employees, Trustees, and volunteers to report Misconduct and/or reasonable suspicions of Misconduct in accordance with this Whistleblower Procedure. Other stakeholders of the District and the public may also report Misconduct in accordance with this Whistleblower Procedure.

“Misconduct” means (a) questionable or improper accounting or auditing matters, (b) violations and suspected violations of federal, state, local laws, and (c) violations and suspected violations of IVGID Ordinances, Policies, Practices and Resolutions. “Misconduct” does not include minor, immaterial matters or routine workplace complaints or disciplinary matters which shall be processed under

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applicable Human Resources policies and/or applicable Memorandum of Understanding.

Trustees, employees and volunteers have the following options for reporting concerns that involve Misconduct and/or or reasonable suspicions of Misconduct:

- A. Discuss any suspected Misconduct with their **immediate supervisor**.
- B. Report the suspected Misconduct to the **Director of Human Resources**.
 - a. If the Misconduct was reported verbally to the Director of Human Resources, the reporting individual, with assistance from the Director of Human Resources, shall reduce the Misconduct to writing.
- C. Report the suspected Misconduct to the **Chair of the Board of Trustees**.
 - a. Should the suspected Misconduct implicate one or both of the General Manager or the Chair of the Audit Committee, this is the recommended reporting option.
- D. Report the suspected Misconduct to the **Chair of the Audit Committee**.
- E. Report the suspected Misconduct to any other **Trustee**. It is recommended that if a Trustee receives a report it is copied to the Chair of the Audit Committee – unless the Chair of the Audit Committee is implicated - to be investigated in accordance with the procedure described in the section **Receipt, Retention, and Treatment – Role of the Audit Committee Chair**.
- F. Submit concerns of suspected Misconduct anonymously using the IVGID website. Such submittals will automatically be routed to the Audit Committee Chair with a copy to the General Counsel.

The public may also submit suspected Misconduct and/or or reasonable suspicions of Misconduct to:

- A. The Audit Committee Chair by email at AuditCommittee@ivgid.org.
- B. Anonymously using the IVGID website. All anonymous allegations of Misconduct will be sent directly to the Chair of the Audit Committee with a copy to the General Counsel.
- C. Mail to 893 Southwood Blvd. to the attention of the Audit Committee Chair, Strictly Confidential – Addressee only, Incline Village NV 89451

Upon receipt of suspected Misconduct, the receiving party shall take swift action which shall include investigating or referring it to Human Resources if it is not subject to this procedure. Investigations may include an independent third party reviewer, the Human Resources department and/or legal counsel, as applicable.

No Retaliation

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This Whistleblower Policy is intended to encourage and enable Trustees, volunteers, stakeholders of the District, the public and employees to report Misconduct and/or reasonable suspicions of Misconduct within IVGID for investigation and appropriate action. With this goal in mind, no Trustee, volunteer, member of the public, employee or other stakeholder of the District who, in good faith, reports Misconduct shall be subject to retaliation, harassment or public disclosure except to the extent required by applicable law or, in the case of an employee, adverse employment consequences. Moreover, any volunteer, Trustee or employee who retaliates, directly or indirectly, in violation of this procedure, against someone who has reported Misconduct and/or or reasonable suspicions of Misconduct in good faith is subject to discipline up to and including removal from the volunteer position, or termination of employment, or being censured as a Trustee.

Acting in Good Faith

Anyone raising concerns of Misconduct and/or reasonable suspicions of Misconduct must be acting in good faith and have reasonable cause for believing the information disclosed indicates Misconduct. Any allegations that prove to be made maliciously or knowingly false will be viewed as a serious disciplinary offense. For employees, this may result in termination. "Good faith" does not mean that the reporting person must be positive that their report is correct, but rather that the person is providing all of the information they have and that they believe it to be true at the time of reporting.

Confidentiality

To the extent permitted by applicable law, reports of Misconduct or suspected Misconduct will be kept confidential on a "need-to-know" basis, consistent with the need to conduct an adequate investigation. To the extent permitted by applicable law, the party leading the investigation shall make every reasonable effort to ensure the identity of the reporter is not disclosed if such reporter wishes to remain confidential. If an internal investigation could materially increase the risk of confidentiality being compromised, the use of an independent third party to conduct the investigation is recommended. Improper or unauthorized disclosure of reports of Misconduct or resulting investigations will be viewed as a serious offense and will result in applicable disciplinary procedures being followed, up to and including termination of employment if provided under such procedures.

Receipt, Retention, and Treatment – Role of the Audit Committee Chair

The Audit Committee Chair will track and provide quarterly reports on the following statistics:

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1. The number of reported concerns regarding Misconduct received through the IVGID website or direct reporting to the Audit Committee Chair, or passed to the Audit Committee Chair for investigation by another party receiving a report.
2. The average time to resolve or respond to those concerns.
3. The number of repeated concerns regarding Misconduct submitted.

The Audit Committee Chair will review all concerns under the whistleblower procedure s/he receives. The following are potential, but not exclusive, options of action for the Audit Committee Chair which shall be determined in consultation with General Counsel, unless the Counsel is implicated in which case the Chair shall consult with the Chair of Board of Trustees:

1. Delegate the investigation to the General Manager when the submission is outside the Audit Committee responsibilities as defined in Board Policy 15.1.0, Section 2.0.
2. Engage an external independent resource to investigate and provide recommended corrective actions.
3. Delegate the investigation to the General Manager or General Counsel.

If a concern under the whistleblower procedure is delegated to the General Manager, s/he is expected to take immediate action while keeping the Audit Committee Chair informed of the status of the investigation and corrective action taken. To ignore a concern under the whistleblower procedure will result in action pursuant to applicable disciplinary procedures, up to and including termination for inaction. The Audit Committee Chair shall retain ultimate responsibility to ensure that allegations of Misconduct under the whistleblower procedure are investigated and resolved in a timely fashion. The Audit Committee Chair has the authority to take additional action as s/he deems appropriate should s/he deem the investigation and corrective action is not being dealt with in a timely manner.

Receipt, Retention, and Reporting – Role of the General Manager

The General Manager will track and provide quarterly reports to the Audit Committee chair on the following statistics:

1. The number of reported concerns under the whistleblower procedure regarding Misconduct received through direct reporting to the General Manager or Human Resources Director, or passed to the General Manager for investigation by another party receiving a report.
2. The average time to resolve or respond to those concerns.
3. The number of repeated concerns regarding Misconduct submitted.