

Whistleblower Policy

The whistleblower provisions of the American Competitiveness and Corporate Accountability Act of 2002 (a.k.a. Sarbanes-Oxley Act) provide whistleblower protections to individuals who report complaints about questionable ethical, accounting, or auditing matters. The Community Foundation of Elkhart County (the "Community Foundation") is committed to ensuring that an environment exists for directors, employees, volunteers, and friends of the foundation to report suspected violations of the law or fraud. The Community Foundation has set up a mechanism to ensure that complaints are investigated in a timely manner and an individual bringing a complaint is free from retaliation.

The Community Foundation is dedicated to the fair and accurate accounting of the financial matters of the Community Foundation and expects all directors, employees, and volunteers to act in accordance with the highest ethical standards in the performance of their duties on behalf of the Community Foundation. The Community Foundation relies on all of its directors, employees, and volunteers to abide by the intent and spirit of this policy and to report any suspected violations of this policy (questionable ethical, accounting, or auditing matters) or potential legal violations of state and/or federal laws, without fear of retaliation. Likewise, the Community Foundation also relies on friends of the foundation to report any suspected violations of this policy or potential legal violations of state and/or federal laws, without fear of retaliation. The success of the Community Foundation depends upon public confidence, credibility, and broad public support. The actions of the Community Foundation's directors, employees, and volunteers directly impact the Community Foundation's standing in the community.

Definition: "Friend of the Foundation"; any individual (a donor or any general member of the community) with an interest in the Community Foundation.

The Community Foundation has established the following procedures for the reporting of concerns or complaints, whether openly, confidentially, or anonymously, by directors, employees, volunteers and friends of the foundation regarding questionable ethical, accounting, or auditing matters. These procedures reflect the practices and principles of behavior the Community Foundation considers crucial to maintaining its success and standing within the community.

- **Filing a Complaint**

Any director, employee, volunteer, or friend of the foundation who has complaints or concerns with respect to all ethical behavior, accounting controls, general business, operating, auditing matters or violations of state or federal laws is strongly encouraged to report such a complaint or concern (i.e., to act as a "whistleblower"). A whistleblower is an individual who, in good faith, informs management about an activity relating to the Community Foundation which that individual believes to be fraudulent or dishonest. A whistleblower may be a director, employee, volunteer, or friend of the foundation.

To file a complaint or concern, an individual may report it openly, confidentially, or anonymously, by contacting the board chairperson either with a written letter or via phone. Contact information for the board chairperson is available on the Community Foundation website at www.InspiringGood.org or by calling the Foundation at 574.295.8761. Any written submission must be sent in a sealed envelope marked "Confidential" and "to be opened only by the Board Chairperson."

As many details as possible should be included in any complaint, such as a description of the questionable activity, the names of the individuals involved, the names of possible witnesses, dates, times, places, and any other available details. The Community Foundation encourages any director, employee, volunteer or friend of the foundation to come forward with information. Retaliation is prohibited against the individual bringing the complaint or concern to the audit committee. Any individual should feel free to report the complaint anonymously and confidentially. In some circumstances,

however, it may be more difficult or impossible for the Community Foundation to thoroughly investigate complaints that are made anonymously.

- **Scope of Matters covered by these Procedures**

This whistleblower policy relates to all questionable ethical, accounting, general business, operating or auditing matters. Examples of fraudulent or dishonest conduct as well as unethical behavior are listed below.

Fraudulent or Dishonest Conduct: a deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Examples of such conduct include, but are not limited to:

- forgery or alteration of documents;
- unauthorized alteration or manipulation of computer files;
- fraudulent, intentionally misleading, or improper financial reporting;
- pursuit of benefit or advantage in violation of the Community Foundation's Conflict of Interest Policy;
- misappropriation or misuse of the Community Foundation's resources, such as funds, supplies, internet access, e-mail accounts, or other assets;
- authorizing or receiving compensation for goods not received or services not performed;
- authorizing or receiving compensation for hours not worked;
- improper destruction of records;
- theft

Unethical Behavior: Actions or conduct in which one intentionally circumvents or thwarts the moral duty or obligation expected by the Community Foundation in serving the community and the Community Foundation's constituency. Examples of such conduct include, but are not limited to:

- actions that result in noncompliance with laws and regulations that apply to the Community Foundation;
- failure to act upon or inform management or the board of relevant facts that could result in noncompliance with applicable laws and regulations;
- actions that violate community foundation and professional standards (e.g., American Institute of Certified Public Accountants, Association of Fundraising Professionals);
- intentional noncompliance with internal controls;
- transactions or actions that would compromise the Community Foundation's integrity

Responsibilities after a report has been made (outlined below):

- **Management's Responsibility**

Managers and supervisors are required to report questionable ethical, accounting, or auditing matters to the executive committee chair prior to taking action. The board chairperson has the authority and responsibility for undertaking the investigation.

Managers and supervisors are responsible for maintaining a system of management controls to detect and deter questionable ethical, accounting, or auditing matters. Failure by a manager or supervisor to establish management controls or report misconduct within the scope of this policy may result in adverse personnel action against the manager or supervisor, up to and including dismissal. The associate director is available to assist management in establishing management systems and recognizing improper conduct. Reasonable care should be taken in dealing with suspected misconduct to avoid the following:

- baseless allegations;
- premature notice to persons suspected of misconduct and/or disclosure of suspected misconduct to others not involved with the investigation;
- violations of a person's rights under law.

Due to the important yet sensitive nature of the suspected violations, effective professional follow up is critical. Managers should not perform any investigative steps on their own. Accordingly, a manager who becomes aware of suspected misconduct should act as follows:

- do not contact the person suspected to further investigate the matter or demand restitution;
- do not discuss the case with anyone other than the President, the executive committee chair or the audit committee chair;
- do not report the case to an authorized law enforcement officer without first discussing the case with the audit committee chair.

- **Responsibility with Respect to Media or Outside Attorney**

Any director, employee, or volunteer of the Community Foundation contacted by an attorney or member of the media with respect to potential fraudulent or dishonest conduct, has an immediate responsibility to inform the Board Chairperson.

- **Whistleblower's Responsibility**

For their truth or falsity). People making such allegations may be subject to disciplinary action by the Community Foundation, and/or legal claims by individuals accused of such conduct.

Investigating a Complaint

The board chairperson will oversee the intake of and response to complaints. The board chairperson will fully evaluate and investigate the allegations of misconduct as expeditiously as possible. Individuals should not engage in any activity that is either unlawful or unreasonable and should not make any false statements. If the board chairperson and the executive committee determine the complaint is outside the

scope of the executive committee's responsibility, it will refer the complaint to an appropriate party for investigation. The board chairperson will communicate complaints to the entire board as necessary.

Responding to a Complaint

Complaints will be addressed in a timely manner, and the individual, if identified, bringing a complaint before the audit committee will receive a response. The board chairperson will maintain a record of all such complaints and concerns, along with the investigative outcomes, on a confidential basis, except as provided below. Individuals bringing a complaint should in good faith participate in any subsequent procedures necessary to investigate the complaint.

Protection of Whistleblowers

To the extent practicable, the identity of any director, employee, volunteer or friend of the foundation who makes a report openly pursuant to this policy shall not be revealed to persons within the Community Foundation other than the board chairperson, executive committee and management. The Community Foundation will make good faith efforts to protect the confidentiality of any individual making a complaint; provided, however, the Community Foundation or its directors, employees, and agents shall be permitted to reveal the reporting individual's identity and confidential information to the extent necessary to permit a thorough and effective investigation, or as required by law or court proceedings. In addition, the Community Foundation will not tolerate any effort made by any other person or group to ascertain the identity of any person who makes a good faith complaint anonymously.

The Community Foundation will not retaliate or take part in any form of reprisal against an individual who, in good faith, brings a complaint or who takes part in any investigation. Any such retaliation is prohibited. A director, employee, or volunteer who knowingly and recklessly makes statements or disclosures that are not made in good faith may be subjected to discipline, up to and including discharge or removal. Individuals who believe they may have been subject to retaliation should report such suspected retaliation to the executive committee in the same manner described above for the purpose of reporting questionable activity. Nothing in this policy pre-empts applicable state or federal statutes or regulations governing whistleblowers.

Record

The Community Foundation shall retain all complaints and reports under this policy for a minimum of two years.

Contacts

Any questions related to the interpretation of this policy should be directed to the executive committee chair, executive director, or associate director. See the following page for contact information for individuals noted in this policy.