

**[DSWD MEMORANDUM CIRCULAR NO. 03, S.
2009, February 28, 2009]**

**AMENDMENT TO MEMORANDUM CIRCULAR NO. 02, S. OF 2007
RE: RULES ON INTERNAL WHISTLEBLOWING AND REPORTING**

I. R ATIONALE

The Department of Social Welfare and Development (DSWD) is committed to uphold the highest ethical standards among its officials and employees, and to promoting good governance at all levels of the Organization. Towards this end, the Department recognizes that an internal whistleblowing and reporting policy is necessary to encourage honest and excellent public service that will deter undesirable and corrupt practices. This involves the reporting of operational and management inefficiencies, ineffectiveness, commission of corrupt, illegal, or fraudulent acts, wrongdoings, misdeeds and/or irregularities that have an adverse or negative effect on the delivery of the Department's public service.

To establish an effective and efficient internal disclosure, or early warning system, it is necessary to formulate internal rules and standards that would, impress upon employees and officials their bounden duties as law-abiding citizens and responsible public servants. This shall also encourage and protect whistleblowers from any form of retaliation or reprisal.

This Circular, therefore, provides policies and procedures to safeguard the whistleblower's rights and privileges, and shall likewise define the conditions for protected communications so as to deter frivolous and false disclosures.

II. SCOPE AND COVERAGE

These Rules cover reporting of undesirable and corrupt practices and protecting the whistleblower that shall apply to all officials and employees of the Department

III. LEGAL BASES

a. Art. IX, Section 3 of the Philippine Constitution provides that public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, competence and efficiency, and act with patriotism and justice, and lead modest lives.

b. Administrative Code of 1987

- Book IV, Chapter 2, Section 7(c) provides that the Secretary shall exercise disciplinary powers over officers and employees under the Secretary in accordance with law, including their investigation and the designation of a committee or officer to conduct such investigation.

- Book V, Rule IV, Section 32 provides that the Secretary shall have jurisdiction to investigate and decide on matters involving disciplinary

action against officers and employees under their jurisdiction;

c. Republic Act (RA) 6713 - An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees

- Section 2 - Declaration of Policies
- Section 3 - Definition of Terms
- Section 4 - Norms of Conduct of Public Officials and Employees

d. RA 3019 - Anti-graft and Corrupt Practices Act

- Section 1 - Statement of Policy
- Section 3 - Corrupt Practices of Public Officers
- Section 4 - Prohibition on Private Individuals
- Section 8 - Prima Facie Evidence of and Dismissal due to Unexplained Wealth
- Section 9 - Penalties for Violations
- Section 12 - Termination of Office
- Section 14 - Exception

e. RA 6981 - Witness Protection and Benefit Act and its Implementing Rules and Regulations.

- **Section 3 - Admission into the Program**
- **Section 5 - Memorandum of Agreement with the Person to be Protected**
- **Section 6 - Breach of Memorandum of Agreement**
- **Section 7 - Confidentiality of Proceedings**
- **Section 14 - Compelled Testimony**
- **Section 15 - Perjury or Contempt**

IV. DEFINITION OF TERMS

a. "Whistleblower" refers to an employee or group of employees who makes protected disclosure/s to his/her/their immediate supervisor, the Integrity Development Committee, the Resident Ombudsman, or the Secretary and/or his/her duly authorized/designated representative.

b. "DSWD officials and employees" are those personnel in DSWD Central and Field Offices including its **Attached Agency, the Inter-Country Adoption Board (ICAB)** and Centers and Institutions.

c. "Protected disclosures" refers to the protection of a deliberate and voluntary giving of information whether written or verbal by an employee of an actual, or suspected inefficiency, ineffectiveness, wrongdoing, misdeed and/or irregularity by any DSWD official, employee, group of DSWD officials and/or employees, or organizational unit, subject to the other conditions set forth in Section 6 of these Rules.

d. "Retaliatory Action" pertains to negative or obstructive responses or reactions to a disclosure of misconduct or wrongdoing taken against the whistleblower and/or those employees supporting him/her, or any of the whistleblower's relatives within the **second civil degree of consanguinity or affinity**. It includes, but is not limited to, civil, administrative or criminal proceedings commenced or pursued against the whistleblower and/or those officials and employees supporting him/her,

or any of the whistleblower's relatives within the fourth civil degree either by consanguinity or affinity, by reason of the disclosure made under these Rules. It also includes reprisals or threats against the whistleblower and/or those employees supporting him, or any of his relatives within the fourth civil degree either by consanguinity or affinity, such as forcing or attempting to force any of them to resign, to retire and/or transfer; negative performance appraisals; fault-finding, undue criticism; alienation; blacklisting; and other similar acts.

V. GENERAL POLICIES AND RULES

SECTION 1. Reporting -

1.1. A whistleblower may report/complain about acts or omissions that are:

1.1.1 Contrary to laws, rules or regulations and office policies;

1.1.2 Unreasonable, unjust, unfair, oppressive or discriminatory;

1.1.3 Undue or improper exercise of authority and prerogatives; or

1.1.4 Others such as but not limited to dishonesty, impropriety, procedural loopholes, systems weaknesses, among others.

1.2 A staff may discuss any time with his/her immediate supervisor or to the Integrity Development Committee or to the Resident Ombudsman or to the Secretary and/or his/her duly authorized/designated representative, his/her concern regarding any malpractice/s witnessed within the Department.

1.3 A prescribed reporting form (Annex 1) shall be accomplished either by the whistleblower or by the person whom the incident is being reported to for documentation purposes.

1.4 The report shall be treated with utmost confidentiality and must be promptly and properly investigated.

SECTION 2. Rights of Whistleblowers -

2.1 *Protection Against Retaliatory Actions* - No administrative action shall be entertained against a whistleblower involving a protected disclosure.

2.2 *No Breach of Duty of Confidentiality* - A whistleblower that has an obligation by way of oath, rule or practice to maintain confidentiality of information shall not be deemed to have committed a breach of such duty if he/she/they make/s a protected disclosure of such information.

SECTION 3. Confidentiality - At all times during and after the protected disclosure, and throughout and after any proceeding taken thereon, the whistleblower, subject to the condition in Section 4 hereof shall be entitled to confidentiality as to his/her/their identity.