

[BUCOR SPECIAL ORDER NO. 128, S. 2008, March 05, 2008]

RULES ON INTERNAL WHISTLEBLOWING AND REPORTING

I. PURPOSE

As the government institution mandated to safekeep and rehabilitate National offenders, the Bureau of Corrections exercises a catalytic role in promoting high standards of integrity, honesty and responsibility.

For this reason, the Bureau of Corrections has to formulate internal rules and standards that would impress upon its officials and employees that it is their bounded duty as law-abiding citizens and responsible public servants to disclose wrongdoings/misdeeds on the part of their co-officials and employees encourage its officials and employees to disclose any corrupt, illegal, improper or fraudulent act of their co-officials and employees; protect whistleblowers from any form of retaliation or reprisal; and encourage greater confidence in reporting any wrongdoing committed by its officials and employees.

These Rules shall serve as safeguards to the whistleblowers' right and shall correspondingly define the conditions for protecting whistleblowers so as to deter frivolous and false disclosures.

II. SCOPE

These Rules shall apply to all officials and employees of the Bureau of Corrections.

III. DEFINITION OF TERMS

a. *Protected disclosure* - refers to the deliberate and voluntary disclosures by an official or employee who has relevant information of an actual, suspected or anticipated wrongdoing by an official or employee, or by any BUCOR organizational unit.

b. *Whistleblower*- refers to any official or employee who makes protected disclosures to his immediate supervisor, other superior officers and the Internal Affairs Board (IAB).

c. *Retaliatory Action* - pertains to negative or obstructive responses or reactions to a disclosure of misconduct or wrongdoing taken against the whistleblower and/or those officials and employees supporting him, or any of the whistleblower's relatives within the fourth civil degree either by consanguinity or affinity. It includes but not limited to, civil, administrative or criminal proceedings commenced or pursued against the whistleblower and/or those officials and employees supporting him, 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 against the whistleblower and/or those officials and employees supporting him, or any of his relatives within the fourth civil degree 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 such other similar acts.

IV. POLICIES AND RULES

SECTION 1. A whistleblower may complain on or report acts or omissions that are:

- a. Contrary to laws, rules and regulations;
- b. Unreasonable, unjust, unfair, oppressive or discriminatory; or
- c. Abuse of authority in the exercise of powers and prerogatives, provided that it will be under oath and must have the following information:
 - Full name and position of the person complained of;
 - Specific charge or offense committed;
 - Relevant and material facts; and
 - Evidence that supports the charge.

SECTION 2. Rights of Whistleblowers:

2.1 Protection Against Retaliatory Actions - No criminal, administrative or civil action shall be entertained against a whistleblower involving a protected disclosure he has made.

2.2 Defense of Privileged Communication - A whistleblower has the defense of absolute privileged communication in any action against him arising from a protected disclosure he has made.

2.3 No Breach of Duty of Confidentiality- A whistleblower who 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 makes a protected disclosure of such information.

SECTION 3. Confidentiality - At all times during and after the protected disclosure, whistleblower is entitled to confidentiality as to:

- a. his/her identity and personal circumstances;
- b. the subject matter of his/her disclosure; and
- c. the person to whom such disclosure was made.

SECTION 4. Necessity for Testimony- Notwithstanding the provisions in the immediately preceding section, the whistleblower may be compelled to testify if his/her testimony is necessary or indispensable to the successful prosecution of any charge arising from the protected disclosure.

SECTION 5. Confidential Information - Any official or employee to whom a protected disclosure has been made or referred shall not disclose any information that may

identify or tend to identify the whistleblower or reveal the subject matter of such disclosure, except only in the following instances:

- a. The whistleblower consents in writing prior to the disclosure of the information;
- b. The disclosure of the information is indispensable and essential, having regard to the necessary proceedings to be taken after the disclosure; or
- c. The disclosure or referral of the information is made pursuant to an obligation under these Rules.

The prohibition on disclosure under this Section shall apply to any official or employee who has become privy to any confidential information, whether officially or by other means.

SECTION 6. Protection Against Retaliatory Actions - A whistleblower who has made or is believed or suspected to have made protected disclosure under these Rules shall not be liable to disciplinary action for making such disclosure. No retaliatory action by the Head of the Agency and/or the person subject of the whistleblowing shall be taken against a whistleblower or any of his relatives within the fourth degree by consanguinity or affinity such as, but not limited to, discriminatory action, including those made under the guise of policy and procedural determination, designed to avoid claims of victimization; reprimand, transfer in the guise of the interest of the service but in reality punitive in nature; referral to a psychiatrist or counselor; undue poor performance reviews; obstruction of the investigation; withdrawal of essential resources; adverse reports, attachment of adverse notes in the personnel file; ostracism; questions and attacks on motives; accusations of disloyalty and dysfunction; public humiliation; and the denial of work necessary for promotion.

Any official or employee who refuses to follow orders to perform an act that would constitute a violation of this Section shall likewise be protected from retaliatory actions.

Any official or employee who does, causes or encourages retaliatory actions, as defined in these Rules, against whistleblower, or persons believed or suspected to be one, and/or those officials and employees supporting him, or any of his relatives within the fourth degree by consanguinity or affinity, shall be immediately subjected to administrative Proceedings, and in appropriate cases be immediately placed under preventive suspension.

SECTION 7. Conditions for Protected Disclosure - Whistleblowers shall be entitled to the benefits under these Rules, provided that all the following requisites concur:

- a. The disclosure is made voluntarily, in writing and under oath with the documentary evidence/s already attached together with affidavit/s of the witnesses;
- b. The disclosure pertains to a matter not yet the subject of a complaint already filed with, or investigated by the Internal Affairs Board (IAB) or by any other concerned committee created for the purposes, unless, the disclosures are necessary for the effective and successful prosecutions, or essential for the acquisitions of material evidence not yet in its possession;
- c. The whistleblower assists and participates in proceedings commenced