

Nelson A. Rockefeller Empire State Plaza Performing Arts Center Whistleblower Policy

This Whistleblower Policy has been adopted by the Nelson A. Rockefeller Empire State Plaza Performing Arts Center (a/k/a “The Egg”) pursuant to Not-For-Profit Corporation Law Section 715-b and New York State Public Authorities Law, Sections 2824.1.e and 2857.

1. Purpose

1. It is the policy of The Egg to afford certain protections to individuals who in good faith report violations of The Egg’s Code of Conduct or other instances of potential wrongdoing at The Egg. The Whistleblower Policy is set forth below are intended to encourage and enable employees to raise concerns in good faith without fear of retaliation or adverse employment action.

2. Definitions

1. *Good Faith*: Information concerning potential wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.
2. *Trust Employee*: All board members, and officers and staff employed at The Egg whether full-time, part-time, employed pursuant to contract, employees on probation and temporary employees.
3. *Whistleblower*: Any employee (as defined herein) who in good faith disclosed information concerning wrongdoing by another Egg employee, or concerning the business of The Egg itself.
4. *Personnel Action*: Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

3. Reporting Wrongdoing

1. All Egg employees who discover or have knowledge of potential wrongdoing concerning Board members, officers, or employees of The Egg; or a person having business dealings with The Egg; or concerning operations of The Egg itself shall report such activity in accordance with the following procedures:
 1. Information concerning wrongdoing shall be disclosed to The Egg Executive Director and, in the case of Board members, additionally to the suspected Board member's appointing authority. Ethics complaints may also be filed with the State Inspector General’s office.
 2. Reports of wrongdoing shall be made in a prompt and timely manner.
 3. The individual to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to an appropriate law enforcement agency or other agency when applicable.

4. Employees, officers, and Board members may file complaints anonymously and are protected from retaliation by the policies adopted by The Egg. While complainants are not required to identify themselves, identification is encouraged in the event additional questions arise during the course of the investigation. Complainants' identities will be protected, unless they consent to disclosure or unless disclosure is compelled by law or pursuant to a court order.
5. To file an anonymous report of wrongdoing:
 1. For complaints concerning employees and officers, other than The Egg Executive Director, contact The Egg Executive Director, PO Box 2065, Albany, NY 12220; 518-473-1061.
 2. For complaints concerning The Egg Executive Director a confidentially marked envelope should be mailed to: Board Chair, Nelson A Rockefeller Empire State Plaza Performing Arts Center, PO Box 2065, Albany, NY 12220.
 3. For complaints concerning a Board member of The Egg, contact should be made with the Executive Director or the Board member's appointing authority.
 4. Should an employee of The Egg believe in good faith that disclosing information pursuant to Section 3.A. above, would likely subject him or her to adverse personnel action or be wholly ineffective, The Egg employee may instead disclose the information to the office of the State Inspector General.

4. Retaliation or Interference

1. No employee of The Egg shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no employee of The Egg shall interfere with the right of any other employee of The Egg by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited and:
 1. No employee of The Egg who in good faith discloses potential violations of The Egg's Code of Conduct or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action.
 2. All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by The Egg.
 3. Any employee of The Egg who retaliates against or had attempted to interfere with any individual for having in good faith disclosed potential violations of The Egg's Conduct or other instances of potential wrongdoing is subject to discipline, which may include termination of employment.
 4. Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

5. Other Legal Rights Not Impaired

1. The Whistleblower Policy set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.
 1. Specifically, the Whistleblower Policy are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the “False Claims Act”), and Executive Law § 55(1).
 2. With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).

Adopted: Sept 2016
Updated: June 2018