

DECISION PAPER



**Establishment
Of
TDA Board of Directors
Administrative Resolution 2016-6,
Whistleblower Protection Policy**

June 24, 2016

Issue: The Finance Committee, at the direction of the Board and in accordance with the Association’s commitment to review and update resolutions every five years, determined during the review and update of the Fraud Prevention Policy that there was a need to establish a Whistleblower Protection Policy. A final draft of the new policy entitled Administrative Resolution 2016-6, Whistleblower Protection Policy is at TAB A.

Background:

Resolution 2016-6 was established to provide policies and processes that protect directors, officers, employees and volunteers that report concerns regarding suspected illegal or unethical acts or actions that violate the Association’s policies or Code of Conduct from retaliatory actions. The Finance Committee determined that adopting a Whistleblower Protection Policy was required to comply with federal and state laws as well as IRS regulations. Providing protections for whistleblowers also improves corporate governance and sends a strong message regarding “tone at the top” and the Association’s intolerance of illegal and/or unethical activities.

Several sources were utilized to develop the Whistleblower Protection Policy including sample policies from the AICPA and the National Council of Non-Profits. The Association’s legal counsel also provided feedback on the Whistleblower Protection Policy.

Key Provisions

1. The “WHEREAS” AND “THEREFORE” provisions describe the federal, state and IRS regulations and the Association requirements that dictate adoption of the Whistleblower Protection Policy.
2. The “SCOPE AND PURPOSE” section describes the intent, objectives and scope of the Policy.
3. “REPORTING RESPONSIBILITY” defines director, officer, employee and volunteer responsibilities related to reporting suspected irregular, illegal or unethical activities.
4. The “ACTING IN GOOD FAITH” and “NO RETALIATION” provisions describe the requirements for reporting a suspected irregular, illegal or unethical activity and the protections afforded to those that report a suspected violation in good faith.

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5. The “REPORTING PROCESS” and “HANDLING OF REPORTED VIOLATIONS” sections describe the process for reporting suspected violations and the responsibilities and processes for handling a reported violation.
6. The “CONFIDENTIALITY” section describes the confidentiality requirements and the consequences for violating confidentiality requirements.

Options:

- A. Approve new Resolution and review in 5 years (TAB A).
- B. Reject updated Resolution and provide further guidance.
- C. Disapprove adoption of a new Whistleblower Protection Policy.

Recommendation: To approve the new Resolution, Option A.

Prepared By: Finance Committee, Resolution Review Subcommittee-John Dundas, Michael Eyton-Lloyd, Meghan McShannic, Corey Leibow and Mike Salmon, Director Finance & Accounting, June 24, 2016.

Approved By: Finance Committee, June 9, 2016

Board Meeting Date: June 24, 2016

General Manager Approval to Place on the Agenda: _____



**TAHOE DONNER ASSOCIATION
BOARD OF DIRECTORS**

ADMINISTRATIVE RESOLUTION 2016-6

WHISTLEBLOWER PROTECTION POLICY

WHEREAS, Section 1107 of the Sarbanes-Oxley Act of 2002 makes it a crime to knowingly, with the intent to retaliate, take any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense; and,

WHEREAS, California Labor Code Section 1102.5 prohibits retaliation against an employee who reports a suspected violation of federal, state or local law internally, to a supervisor or other employee with authority to investigate or correct, or externally, to a government official, law enforcement agency or public body conducting an investigation; and,

WHEREAS, IRS Form 990, Part VI, Section B, Line 13 requires disclosure regarding whether the corporation maintains a written whistleblower policy [that] encourages staff and volunteers to come forward with credible information on illegal practices or violations of adopted policies of the organization, specifies that the organization will protect the individual from retaliation, and identifies those staff or board members or outside parties to whom such information can be reported; and,

WHEREAS, Tahoe Donner Association (“Association”) has adopted a Code of Conduct (the “Codes”) that requires directors, officers and employees of the Association comply with all applicable laws and regulations and observation of high standards of business and personal ethics in the conduct of their duties and responsibilities; and,

WHEREAS, the Board of Directors of the Association (“Board”) is responsible for assuring that the business of the Association is conducted in a legal and efficient manner that also reflects the highest ethical and moral standards;

WHEREAS, the following constitutes the policy regarding whistleblower protection for the Association;

NOW, THEREFORE, BE IT RESOLVED that the Board approves and adopts the following Whistleblower Protection Policy:

SCOPE AND PURPOSE

This Whistleblower Protection Policy is intended to promote an ethical and open work environment by encouraging and enabling directors, officers, employees and volunteers to raise serious concerns about the occurrence of illegal or unethical actions.

The objectives of this Whistleblower Protection Policy are to establish policies and procedures for:

- Reporting and handling concerns regarding suspected illegal or unethical acts or actions that violate the Association’s policies, its Code of Conduct or any federal, state or local law or regulation by employees, directors, officers, and volunteers on a confidential basis;
- Protecting directors, officers, employees and volunteers that report concerns regarding suspected illegal or unethical acts or actions that violate the Association’s policies or Code of Conduct from retaliatory actions.

Nothing contained in this Whistleblower Protection Policy provides any Association director, officer, employee or volunteer with any additional rights or causes of action not otherwise available under applicable law.

REPORTING RESPONSIBILITY

All Association directors, officers, employees and volunteers have a responsibility to report, in accordance with this Whistleblower Protection Policy, any action or suspected action taken within the Association that may be illegal, unethical or that may violate the adopted policies of the Association, including the Association’s Code of Conduct (“Violation”).

ACTING IN GOOD FAITH

Anyone reporting a concern regarding a Violation must act in good faith, without malice to the Association or any individual in the Association, and have reasonable grounds for believing that the information disclosed indicates that a Violation has occurred. A person who makes a report does not have to prove that a Violation has occurred.

Individuals that report allegations that prove to be unsubstantiated and prove to have been made maliciously, recklessly, or with the foreknowledge that the allegations were false are subject to disciplinary action up to and including termination of employment or volunteer status.

NO RETALIATION

No Association director, officer, employee or volunteer who in good faith reports a concern regarding a Violation or cooperates in the investigation of a Violation, shall suffer

harassment, retaliation or adverse employment or volunteer consequences.

Any Association director, officer, employee or volunteer who retaliates against someone who has reported a concern regarding a Violation in good faith or cooperated in an investigation of a Violation is subject to disciplinary action up to and including termination of employment or volunteer status.

REPORTING PROCESS

The Association has an open door policy and employee concerns regarding a Violation should be submitted directly to the person within the Association who can most properly address those concerns, typically the employee's direct supervisor or the General Manager. Employees may submit concerns anonymously through the Association's Fraud Hotline, however the Association encourages employees to identify themselves when making a report, in order to facilitate the investigation. Any concerns regarding a Violation by the General Manager or other Senior Management should be reported directly to the President of the Board.

Directors, officers and other volunteers should submit concerns directly to the President of the Board of Directors unless the concern involves the President, in which case, the concern should be reported to any other director not involved in the matter.

HANDLING OF REPORTED VIOLATIONS

The General Manager and Board President are responsible for promptly investigating all reported concerns about Violations and, if warranted by the investigation, for causing appropriate corrective action to be taken. The General Manager will advise the Board of reported concerns and their resolution and will also report at least quarterly to the Board on compliance activity relating to accounting or alleged financial improprieties.

The Board is responsible for addressing all concerns about Violations related to corporate accounting practices, internal controls or auditing. The General Manager must immediately notify the Board of Directors of any such reported concern.

The General Manager will acknowledge receipt of a report of concerns about a Violation, within 5 business days if possible, to the extent the reporting individual's identity is disclosed.

CONFIDENTIALITY

Reports of Violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and subject to disclosures as may be required by law. Unauthorized disclosure of reports of Violations to individuals not involved in the investigation is subject to disciplinary action, up to and including termination of employment or volunteer status.

APPROVAL

Approval of the Policy regarding Whistleblower Protection and any changes, amendments or modifications thereafter, may only be accomplished through Board action at a properly noticed meeting of the Board.

ACCEPTED AND DATED: June 24, 2016

Steve Miller, President

Jim Stang, Vice President

Jeff Bonzon, Treasurer

Courtney Murrell, Secretary

Ron Wulff, Director