



EARTHRIGHTS INTERNATIONAL POLICY

FRAUD WHISTLEBLOWER

June 2020

I. FRAUD POLICY

PURPOSE

It is the policy of EarthRights International to abide by all applicable laws and regulations, and for its employees and Board members to observe high standards of organizational and personal ethics in conducting their duties and exercising their responsibilities. Violations of legal provisions and ethical standards can taint the credibility of the entire Organization and cause the Organization, its Board, and its employees to be subjected to adverse publicity and distrust by the public, our partners, and the government. We take seriously our obligation to prevent these kinds of violations, and this policy is intended to encourage Board members, staff, volunteers, and others to report suspected or actual violations of EarthRights International policies, practices, activities or conduct that violate applicable law or ethical obligations, without retribution.

This fraud policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against EarthRights International. It is the intent of EarthRights to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

This policy applies to any irregularity, or suspected irregularity, involving employees as well as Board members, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with EarthRights.

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to EarthRights.

A. Policy

Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional, false representation, or concealment of a material fact, for the purpose of inducing another to act upon it to his or her injury, or to the perpetrator's advantage. Each supervisor or staff member responsible for authorizing

expenditures or responsible for budgetary oversight will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

Any irregularity that is detected or suspected must be reported immediately to the EarthRights Executive Director and General Counsel, who coordinates all investigations, both internal and external. If the alleged violation involves the conduct of the Executive Director or General Counsel, the violation should be reported in writing to the Chair(s) of the Board.

B. Actions Constituting Fraud

The terms defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

- Any dishonest or fraudulent act.
- Misappropriation of funds, securities, supplies, or other assets.
- Impropriety in the handling or reporting of money or financial transactions.
- Profiteering as a result of insider knowledge of organizational activities.
- Disclosing confidential and proprietary information to outside parties.
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to EarthRights. Exception: Gifts less than \$50 in value.
- Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment; and/or
- Any similar or related irregularity.

C. Investigation Responsibilities

The General Counsel has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. In pursuit of this, the General Counsel will establish an *ad hoc* Fraud Investigation Team. If the investigation substantiates that fraudulent activities have occurred, the General Counsel will issue reports to appropriate personnel and, if appropriate, to the Board of Directors through the Finance Committee.

If the General Counsel is the subject of the investigation, the Chairperson of the Board of Directors will have primary responsibility for the investigation.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

D. Confidentiality

The Fraud Investigation Team will treat all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the General Counsel immediately, and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act (see Reporting Procedure section below). Any employee who suspects the General Counsel has undertaken any dishonest or fraudulent activity will notify the Executive Director.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect EarthRights from potential civil liability.

E. Authorization for Investigating Suspected Fraud

Members of the Fraud Investigation Team will have:

- Free and unrestricted access to all organizational records and premises, whether owned or rented; and
- The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.

F. Reporting Procedures

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is underway.

An employee who discovers or suspects fraudulent activity will contact the Executive Director and General Counsel immediately by email with an all caps subject header: FRAUD REPORT or submit a paper document with this heading to the General Counsel. If a submission is not acknowledged in a week, it should be resent. If the employee considers the General Counsel to be involved in that activity s/he will contact the Executive Director. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Fraud Investigation Team. No information concerning the status of an investigation will be given out. The proper response to any inquiries is, "I am not at liberty to discuss this matter."

Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual should be informed of the following:

- a. Do not contact the suspected individual in an effort to determine facts or demand restitution.
- b. Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the General Counsel or the Fraud Investigation Team.

G. Protection for Whistleblowers

EarthRights will keep the employee reporting under this Policy's identity confidential consistent with EarthRights's obligation to conduct a full and fair investigation. Reporting employees shall be entitled to the protections of the EarthRights Whistleblower Policy.

H. Termination

If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the Executive Director, Regional Program Director and the individual's supervisor, and, if necessary, by outside counsel, before any such action is taken.

The Fraud Investigation Team does not have the authority to terminate an employee. The decision to terminate an employee is made by the Executive Director, based on the results of the review mentioned in the paragraph above.

The General Counsel is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed annually and revised as needed.



WHISTLEBLOWER POLICY

Adopted November 2011

Updated June 2020

A. Reporting Responsibility

It is the responsibility of all Board members, officers, volunteers and employees to promptly report violations or suspected violations of law or ethical obligations in accordance with this Whistleblower Policy. Any person who makes a report of such violation or suspected violation is a “Whistleblower.”

B. No Retaliation

No Board member, officer, volunteer, or employee who in good faith reports a violation or suspected violation pursuant to this policy, or who participates in good faith in an investigation of a violation pursuant to this policy, shall suffer harassment, retaliation or adverse employment consequence. Anyone who retaliates against a Whistleblower who reported a violation in good faith, or retaliates against anyone who participated in an investigation in good faith may be subject to discipline, up to and including suspension and termination of Board or employee status.

Any employee who has reason to believe that he or she has been subject to retaliation for making a report or participating in an investigation under this Policy should immediately report such alleged retaliation to the General Counsel or if the employee considers the General Counsel to be involved in retaliation s/he will contact the Executive Director. Any employee who retaliates against another employee for making a report or participating in an investigation under this Policy will be subject to disciplinary action, up to and including termination of employment.

C. Reporting Violations

The Whistleblower should promptly report the suspected or actual violation of law or ethics to his/her supervisor. If the Whistleblower would be uncomfortable or otherwise reluctant to report to his/her supervisor or if that action is taken but does not correct the perceived violation, the report, preferably in writing, should be made by the Whistleblower to the Human Resources, General Counsel, or the Executive Director with

the specific information that the Whistleblower knows, so that an investigation may be undertaken. If the alleged violation involves the conduct of the Executive Director, the violation should be reported in writing to the Chair(s) of the Board. Board members acting as Whistleblowers should report to the Board Chair(s) unless the alleged violation involves the conduct of the Chair(s), in which case the Board member should report to any member of the Executive Committee.

Reports should be made to the relevant individuals by email with an all caps subject header: WHISTLEBLOWER REPORT, or made by submitting a paper document with this heading to the same individual(s). If a submission is not acknowledged in a week, it should be resent.

D. Acting in Good Faith

In reporting violations or suspected violations, responding to allegations of violations, and providing information in an investigation, all individuals should act in good faith. Acting in good faith means that the individual has reasonable grounds for believing a violation of the policy has occurred and has not made unsubstantiated reports or statements maliciously or knowing them to be false. Anyone not acting in good faith may be subject to discipline, up to and including suspension or termination of the Board or employee relationship, or other legal means to protect the reputation of the Organization.

E. Confidentiality

Reports of violations or suspected violations shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

F. Handling of Reported Violations

All reports will be promptly investigated and appropriate corrective action shall be taken if warranted by the investigation. Any employee or Board member who is determined, after an investigation, to have violated applicable legal or ethical standards shall be subject to discipline, up to and including suspension and termination of Board or employee status. Any report pursuant to this policy shall be brought to the attention of the Board Chair(s) (unless it involves the Board Chair(s), in which case another member of the Executive Committee shall be informed).