



The City of New York
Department of Investigation

JOCELYN E. STRAUBER
COMMISSIONER

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October 31, 2022

BY ELECTRONIC MAIL

Honorable Eric Adams
Mayor
City of New York
City Hall
New York, New York 10007

Honorable Adrienne Adams
Speaker
New York City Council
City Hall
New York, New York 10007

Re: Whistleblower Law Complaints for Fiscal Year 2022

Dear Mr. Mayor and Madam Speaker:

The New York City Department of Investigation (DOI) is submitting this report pursuant to Section 12-113 of the New York City Administrative Code, the City's "Whistleblower Protection Law." Section 4, Subdivision (i) of the law provides that, "[n]ot later than October thirty-first of each year, the commissioner [of investigation], in consultation with the special commissioner of investigation [for the New York City School District] and the corporation counsel, shall prepare and forward to the mayor and the council a report" on the complaints governed by this section for the preceding Fiscal Year. The following is DOI's report to the Mayor and the City Council for Fiscal Year 2022.¹

The Whistleblower Protection Law prohibits retaliation against New York City employees, as well as certain employees of City contractors and subcontractors, for reporting corruption,

¹ The Special Commissioner of Investigation for the New York City School District (SCI) and the Corporation Counsel have prepared separate reports with respect to whistleblower complaints; those reports are attached hereto.

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criminal activity, conflict of interest, gross mismanagement or abuse of authority in City government to DOI. The law protects such a report of information whether the employee makes a formal complaint to DOI or reports information to DOI as a witness in an already pending investigation.²

The City Council has periodically amended and expanded the categories protected by the Whistleblower Protection Law over the last 15 years. A 2007 amendment expanded the scope to include complaints concerning risk of harm to the health, safety or educational welfare of children. In 2012, the Law was amended to extend protection to officers and employees of vendors who have contracts with the City valued at \$100,000 or more. Further amendments to the law in 2021 added SCI as one of the designated entities for receipt of a complaint of retaliation, expanded the data DOI includes in its annual fiscal year report, and required DOI to send written notification every 90 days to a whistleblower complainant regarding the status of an open investigation.

Under 1978's Mayoral Executive Order 16 (MEO 16), all public officers and employees have an affirmative obligation to report corruption, fraud and other wrongdoing; penalties for failure to do so include termination.³ MEO 16 operates in tandem with the Whistleblower Protection Law, with the latter providing essential protections to individuals who step forward as part of their 'duty to report' and suffer adverse actions as a result. Public servants who report wrongdoing are vital to DOI's mission to root out corruption, instill public confidence in government, promote integrity, and ensure that City services and operations are not undermined by misconduct, fraud, or waste.

To increase awareness among the City workforce about corruption risks, and to ensure City employees understand their obligations to report corruption and wrongdoing, and the associated protections for those who report, DOI has continued to educate the City's workforce with corruption prevention and whistleblower protection. In Fiscal Year 2022, DOI conducted 66 corruption prevention and outreach lectures to 3,083 City employees. An additional 24,013 employees completed on-line anti-corruption training via the Citywide E-Learning module.

² The Law also protects reports of information made to a member of the City Council, the Public Advocate, the City Comptroller, or the Special Commissioner of Investigation for the New York City School District (SCI), each of whom has a duty to refer the information to DOI unless (1) the conduct is within the jurisdiction of SCI, in which case the complaint shall be referred to SCI, or (2) the conduct is alleged to have been committed by the DOI Commissioner, the SCI Commissioner, or a DOI Deputy Commissioner, in which case the complaint must be referred to the corporation counsel.

³ Mayoral Executive Order 16, Section 4(d) states, "Every officer and employee of the City shall have the affirmative obligation to report, directly and without undue delay, to the Commissioner or an Inspector General any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity or conflict of interest, (i) by another City officer or employee, which concerns his or her office or employment, of (ii) by persons dealing with the City, which concerns their dealings with the City. The knowing failure of any officer or employee to report as required above shall constitute cause for removal from office or employment or other appropriate penalty."

DOI is providing the following information in accordance with the 2021 amendments to Section 12-113 of the City’s Administrative Code:

- In Fiscal Year 2022, DOI logged 2,008 complaints from City employees alleging corruption, criminal activity, conflict of interest, gross management or abuse of authority. Over 302 of those complaints resulted in investigations, preliminary investigations, or were merged into existing investigations. Additional City employees may have made complaints anonymously or without identifying their employment status. Many City employees provided valuable information in the course of DOI investigations, even if those investigations did not originate with an employee complaint.
- In Fiscal Year 2022, DOI logged 14 complaints from employees of contractors. Additional employees of contractors may have made complaints to their contracting agency, or to DOI without identifying their employment status.
- In Fiscal Year 2022, DOI did not log any complaints regarding the “risk of harm to the health, safety or educational welfare of a child.” Most such complaints would be made in the first instance to DOE, ACS, or another law enforcement agency other than DOI.
- DOI currently has more than 300 Inspectors General, attorneys, and investigators, whose duties include conducting whistleblower investigations.

In Fiscal Year 2022, DOI received 11 complaints from individuals who specifically alleged job-related retaliation or sought protection for reporting misconduct in City government. From those complaints, DOI opened eight investigations. The remaining three complaints were handled as follows, depending on the allegations and supporting facts: (a) referred to another agency for appropriate action (one complaint); or (b) filed for intelligence purposes (two complaints). Broken down by the complaints’ employer-agencies, the whistleblower retaliation complaints DOI received in Fiscal Year 2022 are as follows:

Agency	Number of Complaints
Administration of Citywide Administrative Services	1
Department of Information Technology and Telecommunications	1
Health + Hospitals	4
New York City Housing Authority	1
Department of Transportation	1
Department of Veterans’ Services	1
Department of Youth and Community Development	1
School Construction Authority	1

Of the eight complaints that were opened as whistleblower investigations in Fiscal Year 2022, DOI completed and closed seven; one remained open and under investigation as of the end of the reporting year. In total, DOI closed 16 investigations in Fiscal Year 2022, including 9

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investigations opened in a prior fiscal year. Three investigations remained open at the end of the fiscal year, including two that had been opened in a prior reporting period. As of the end of fiscal year 2022, one investigation had been open between 90 and 179 days, one between 365 and 730 days, and one more than 730 days (a median number of 538 days).

With respect to the 16 investigations closed in the reporting year, none of the investigations resulted in a finding that the complainant was entitled to protection under the City's Whistleblower Protection Law. However, even when a complainant is found not to have met the requirements for protection under the Law, DOI will still make recommendations to an agency to redress any problematic conduct or issues, where warranted. For instance, in two whistleblower investigations, DOI made referrals to agencies to address issues raised by the complainants as the agencies deem appropriate.

With respect to the three complaints filed for intelligence purposes or referred to other agencies, DOI interviewed the complainant in one matter, determined the complainant did not have a claim for entitlement to protection under the Law, and notified the complainant by letter. In another matter, DOI interviewed the complainant, determined the complaint did not make out a claim for protection, and made a referral to the agency so it could review the issues raised in the complaint. In the third instance, DOI previously investigated the complainant's retaliation allegation, and the complainant's new complaint did not raise new information.

The New York City Whistleblower Protection Law is fundamental to the work of DOI and supports the mandate that City employees report corruption when they see it, and provides protections when they do step forward. It is good government in action, holding public servants accountable and protecting them when they do the right thing, fostering a culture that does not tolerate corruption, fraud, abuse of authority or waste of public funds. DOI is committed to continuing its efforts to ensure the effectiveness and public awareness of this Law.

Sincerely,



Jocelyn E. Strauber

Encl.

City of New York
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT
80 Maiden Lane, 20th Floor
New York, New York 10038

Anastasia Coleman
Special Commissioner

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VIA ELECTRONIC MAIL

October 11, 2022

Honorable Jocelyn E. Strauber
Commissioner
New York City Department of Investigation
180 Maiden Lane
New York, NY. 10038

Re: **SCI Whistleblower Complaints and
Statistics for Fiscal Year 2022**

Dear Commissioner Strauber:

The Special Commissioner of Investigation for the New York City School District (“SCI”) submits this report detailing complaints and statistics related to the New York City Whistleblower Law to the Commissioner of the New York City Department of Investigation (“DOI”) in furtherance of the DOI Commissioner’s obligation to report annually to the Mayor and the New York City Council the number and disposition of complaints under the statute.¹

The New York City Administrative Code § 12-113, commonly known as the Whistleblower Law, relates to employees of an agency of the City, or employees of vendors conducting business with the City, who report information concerning conduct which they know or reasonably believe to involve corruption, criminal activity, conflict of interest, gross mismanagement, or abuse of authority in City government to the DOI commissioner, the New York City Public Advocate, the New York City Comptroller, or a member of the New York City Council. In matters where the underlying claim includes allegations stemming from a report regarding the physical or educational welfare of a child, the statute includes reports made to the Mayor or to the head of an agency or that agency’s designee.²

¹ This report will also be made available publicly on the SCI website at www.nycsci.org.

² For the purposes of reports regarding the New York City Department of Education, the “head of agency” title refers to the Chancellor or a deputy chancellor.

For the purposes of SCI’s review of Whistleblower complaints, New York City Department of Education (“DOE”) employees are considered employees of a City agency. The Whistleblower Law prohibits another employee from taking any adverse personnel action against the reporting employee in retaliation for making such a report. If an employee believes they have been the subject of such retaliatory adverse personnel action, they may report such conduct to the Commissioner of DOI or, in the case of complaints regarding the DOE, the Special Commissioner, who maintains the powers conferred upon a deputy to the DOI Commissioner.

The Board of Education (“BOE”) Whistleblower Resolution (1992) prohibits adverse personnel actions against an officer or employee of the DOE who reports information concerning conduct, which they know or reasonably believe to involve corrupt or other criminal activity, conflicts of interest, unethical conduct or misconduct by another officer or employee of the City School District, or by persons dealing with the City School District, to SCI.³ SCI will then conduct an investigation into the matter. If SCI finds that an adverse personnel action was taken in retaliation for making such a report, the employee will be accorded protection and, if necessary, remedial relief, under the Whistleblower Law and the BOE resolution (together, the “WB Statutes”).

In Fiscal Year (“FY”) 2022, SCI received four complaints from individuals alleging retaliation for having previously reported official wrongdoing. Two of those matters were investigated and closed within the FY with no further action. The chart below breaks down the complaints received by statutory subsection in FY 2022:

§2 (b)(1)	§2 (b)(2)	§2 (b)(5)
1	0	3

In addition, seven complaints received by SCI during previous FY, were closed without further action in FY 2022, after findings that the complainants were not entitled to protection under the WB Statutes.

Four cases being evaluated under the WB Statutes remain open and under investigation by SCI that commenced in FY 2022 or earlier. The chart below breaks down the total open investigations under the WB Statutes by number of days active at the close of FY 2022:⁴

90 – 179 Days	180 – 364 Days	365 – 729 Days	730 or greater
4	0	0	0

³ The Board of Education is now referred to as the Panel for Educational Policy of the Department of Education.

⁴ Pursuant to local law, the officer or employee who initiated the complaints in these open matters have received written notice of the status of their claim by SCI personnel at least once in every 90-day period.

Finally, pursuant to New York City Administrative Code § 12-113, Section 4 (i)(5)(f), SCI currently employs approximately 22 full-time field investigators. Of those, seven investigators are assigned to a select team who solely investigate matters involving sexual or other inappropriate conduct by DOE employees or those doing business with the DOE. Those investigators would likely not be assigned an investigation involving a potential violation of the WB Statutes. The remaining 15 field investigators would all be eligible to investigate allegations of retaliation under the WB Statutes, and may be assigned those investigations on a rotating basis.

Sincerely,



ANASTASIA COLEMAN
Special Commissioner of Investigation
for the New York City School District

AC:DS:lr

cc: Andrew Brunsten – Deputy Commissioner/General Counsel
Carol Strickland – Special Investigator



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

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October 28, 2022

Jocelyn Strauber
Commissioner
Department of Investigation
City of New York
180 Maiden Lane
New York, NY 10038

Re: Whistleblower Complaints for Fiscal Year 2022

Dear Commissioner Strauber:

The Office of the Corporation Counsel (hereinafter "Law Department") submits this report detailing complaints and statistics related to the New York City Whistleblower Law to the Commissioner of the New York City Department of Investigation ("DOI") in furtherance of the DOI Commissioner's obligation to report annually to the Mayor and the New York City Council the number and disposition of complaints under the statute. The New York City Administrative Code § 12-113, also known as the Whistleblower Law, relates to employees of an agency of the City, or employees of vendors conducting business with the City, who report information concerning conduct which they know or reasonably believe to involve corruption, criminal activity, conflict of interest, gross mismanagement, or abuse of authority in City government to the DOI commissioner, the New York City Public Advocate, the New York City Comptroller, or a member of the New York City Council.

The Law Department's review of Whistleblower complaints is limited to complaints raised by DOI employees. The Whistleblower Law prohibits any adverse personnel action against a reporting employee in retaliation for whistleblower activity. In Fiscal Year 2022, the Law Department received two complaints from individuals alleging retaliation for having previously reported official wrongdoing. Both of those investigations have been concluded and the matters closed with no further action. One of those matters was investigated and closed during the Fiscal Year 2022 within 90 days of receipt. The second matter was still pending at the end of Fiscal Year 2022 and was closed within a year of receipt.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Goode-Trufant".

Muriel Goode-Trufant