

WHISTLEBLOWER PROTECTIONS

(1) Federal False Claims Act (31 U.S.C. §3730(h))

The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include but are not necessarily limited to reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

(2) New York State False Claim Act (State Finance Law §191)

The New York State False Claim Act also provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include but are not necessarily limited to reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

(3) New York State Labor Law, Section 740

An employer may not take any retaliatory action against an employee if the employee, whether or not within the scope of the employee's job duties, discloses information about the employer's policies, practices, or activities to a regulatory, law enforcement or other similar agency or public official.

This law offers protection to an employee who:

- discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy, or practice of the employer that the employee reasonably believes is in violation of law, rule, or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;
- provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy, or practice by the employer; or
- objects to, or refuses to participate in any such activity, policy, or practice.

The employee's disclosure is protected under this law only if the employee has made a good faith effort to notify his or her employer by bringing the activity, policy, or practice to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy, or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor

would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

The law allows employees who are the subject of a retaliatory action to bring a suit in state court within two years after the alleged retaliatory action for (a) an injunction to restrain continued violation of this section; (b) reinstatement to the same, or an equivalent position, or front pay in lieu thereof; (c) the reinstatement of full fringe benefits and seniority rights; (d) the compensation for lost wages, benefits and other remuneration; (e) the payment by the employer of reasonable costs, disbursements, and attorney's fees; (f) a civil penalty of an amount not to exceed \$10,000.00; and/or (g) the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.

(4) New York State Labor Law, Section 741

Under this law, an employer may not take any retaliatory action against an employee if the employee discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy or practice of the employer or agent information about the employer's policies, practices or activities that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; or objects to, or refuses to participate in any activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

The employee's disclosure is protected under this law only if the employee has brought the improper quality of patient care or improper quality of workplace safety to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy or practice, unless the improper quality of patient care or improper quality of workplace safety described therein presents an imminent threat to the public health or safety or to the health of a specific patient or specific health care employee and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action. If the employer takes a retaliatory action against the employee, the employee may seek enforcement as outlined in New York Labor Law § 740, as set forth under Section 3, above.

(5) New York Not-for-Profit Corp. Law § 715-b

No director, officer, employee, or volunteer of SCHC who in good faith reports any action or suspected action taken by or within SCHC that is illegal, fraudulent or in violation of any adopted policy of SCHC shall suffer intimidation, harassment, discrimination, or other retaliation or, in the case of employees, adverse employment consequence.