

# Procedure - Reporting Improper Governmental Action (Whistleblower Protection)

## I. Definitions:

As used in this policy and procedure, the following terms will have the meanings indicated.

- A. "Improper governmental action" means any action by a district officer or employee:
  - 1. That is undertaken in the performance of the officer or employee's official duties, whether or not the action is within the scope of the employee's employment; and
  - 2. That (i) is in violation of any federal, state, or local law or rule, (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety, or (iv) is a gross waste of public funds.
  - 3. Improper governmental action does not include personnel actions including, but not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapters 41.56 and 41.59 RCW.
- B. "Retaliatory action" means (a) any adverse change in an employee's employment status or the terms and conditions of employment, including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or (b) hostile actions by another employee towards a local government employee that were encouraged by a supervisor or senior manager or official.
- C. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

Employees are encouraged to report instances which they believe constitute improper governmental action.

## II. Reporting:

Employees who become aware of actions that they believe in good faith constitute improper governmental action should raise the issue first with their supervisor. Where the employee reasonably believes the improper governmental action involves his or her supervisor, the employee may raise the issue directly with the superintendent or the person whom the superintendent has designated to receive reports of improper governmental action. If requested by the supervisor or superintendent/designee, the employee will submit a written report to the supervisor or superintendent/designee, stating in detail the basis for the employee's belief that an improper governmental action has occurred.

In case of an emergency where the employee believes that damage to persons or property may result if change is not taken immediately, or where the employee has a legal obligation to report (for instance, where child abuse is suspected), the employee will report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

District employees who fail to make a good faith attempt to follow this policy and procedure in reporting improper governmental action will not be eligible for the protection outlined.

## III. Response:

The employee's supervisor, the superintendent or the superintendent's designee will take prompt action to see that the report of improper governmental action is properly investigated.

District officers and employees involved in the investigation will keep the identity of reporting employees confidential to the extent possible under law, unless the employees authorize the disclosure of their identities in writing.

After an investigation has been completed, the reporting employee will receive a summary of the investigation results, except to the extent that resulting personnel actions must be kept confidential. If a reporting employee reasonably believes that an adequate investigation was not done by the district, that insufficient action has been taken, or that the improper governmental action is likely to recur, the employee may report information about the improper governmental action directly to the appropriate government agency.

#### **IV. Retaliation:**

Employees who believe that they have been retaliated against for reporting an improper governmental action in good faith should advise their supervisor, the superintendent or the superintendent's designee. Appropriate action to investigate and address complaints of retaliation will be taken.

If the complaint cannot be informally resolved, the employee will provide written notice to the superintendent/designee that specifies (i) the alleged retaliatory action and (ii) the relief requested by the employee. The written complaint must be delivered no later than thirty days after the occurrence of the alleged retaliation. The district will respond to the complaint within thirty days of receiving the written notice.

If the employee alleging retaliation receives no response from the district within thirty days or objects to the district's response, the employee may request a hearing to establish a retaliatory action occurred and to obtain appropriate relief before a state administrative law judge. The request for a hearing must be delivered in writing to the superintendent/designee either within fifteen days of delivery of the district's response, or 45 days after the complaint was filed, if there was no response.

The district will apply for a hearing within five working days to:

Office of Administrative Hearings  
P.O. Box 42489

Olympia, Washington 98504-2489  
(360) 407-2700

The district will consider any recommendation provided by the administrative law judge that an employee found to have retaliated against an employee who reported improper governmental action be suspended with or without pay or dismissed.

#### **V. Intimidation Prohibited:**

A district officer or employee may not use his or her official authority or influence, directly or indirectly, to threaten, intimidate, or coerce an employee for the purpose of interfering with that employee's right to report or disclose information concerning an improper governmental action.

#### **VI. Administration:**

A summary of this policy and procedure will be permanently posted where all employees will have reasonable access to it, the policy and procedure will be made available to any employee who requests them, and the policy and procedure will be given to all new employees.

The following is a list of agencies responsible for enforcing federal, state, and local laws and investigating issues involving potential improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact their supervisor, the superintendent or designee.

Burlington City Police Dept.  
311 Cedar Street  
Burlington, WA 98233

Skagit County Environmental Health Office  
1800 Continental Place  
Mount Vernon, WA 98272

Washington Attorney General's Office  
Consumer Protection Division  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
(800) 551-4636

Washington Auditor's Office  
Insurance Building  
Capitol Campus  
P.O. Box 40021  
Olympia, Washington 98504-0021  
(564) 999-0950

Washington Department of Ecology  
300 Desmond Drive SE or P.O. Box 47600  
Lacey, Washington 98504-7600  
(360) 407-6000

Washington Human Rights Commission  
711 South Capitol Way, Suite 402  
Olympia, Washington 98504-2490  
(800) 233-3247

Washington Dept. of Labor & Industries  
P.O. Box 44000  
Olympia, Washington 98504-4000  
(800) 547-8367

Washington Department of Natural Resources  
1111 Washington St. SE or MS 47000  
Olympia, Washington 98504-7000  
(360) 902-1000

Washington Superintendent of Public Instruction  
Old Capitol Building  
600 Washington Street SE or P.O. Box 47200  
Olympia, Washington 98504-7200  
(360) 725-6000

Skagit County Prosecutor's Office  
Courthouse Annex  
605 S. Third  
Mount Vernon, WA 98273

Skagit County Public Health  
301 Valley Mall Way, Suite 110  
Mount Vernon, WA 98273

U.S. Department of Education  
Office of the Inspector General

400 Maryland Avenue, S.W.  
Washington, D.C. 20202-1500  
Audits: (800) MIS-USED

U.S. Environmental Protection Agency  
Washington Operations Office  
300 Desmond Dr., Suite 102  
Lacey, WA 98503  
(360) 753-9437

U.S. Equal Employment Opportunity Commission  
909 First Avenue, Suite 400  
Seattle, WA 98104-1061  
(800) 669-4000

Federal Emergency Mgmt. Agency (FEMA)  
130 228th Street SW  
Bothell, WA 98021-9796  
(425) 487-4600

U.S. Department of Labor  
Occupational Safety and Health

20425 72nd Avenue, Suite 150 A  
Kent, WA 98032-2388  
(206) 757-6677

National Transportation Safety Board  
Washington, DC  
429 L'Enfant Plaza, SW  
Washington D.C., DC 20594  
(202) 314-6000

U.S. Department of Commerce  
Office of Inspector General  
1401 Constitution Avenue N.W.  
Washington, DC 20230  
(800) 424-5197