



Reporting Improper Governmental Action

Policy: POL-9000-HR • Effective Date: July 1, 2023 • Res. # 086948
Cancels: • Reference: None

1. Purpose:

In compliance with the Local Government Employee Whistleblower Protection Act, RCW 42.41.050, this policy is created to encourage employees to disclose in good faith, improper governmental action taken by County officials or employees without fear of retaliation. This policy also safeguards legitimate employer interests by encouraging complaints to be made first to the County, with a process provided for speedy dispute resolution.

2. Definitions:

- **Improper Governmental Action:** any action by a County Officer or employee that is:
 - 1. undertaken in the performance of the official's or employee's official duties, whether or not the action is within the scope of the employee's employment, and
 - 2. in violation of any federal, state or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or 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, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, reprimands, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations or any action that may be taken under Chapter 41.14 or 41.56 RCW.

- **Retaliatory Action:** any adverse change in the terms, status and conditions of a Whitman County employee's employment.

- **Emergency:** a circumstance that if not immediately changed may cause damage to persons or property.

- **Good Faith:** the individual providing the information or report of improper governmental activity has a reasonable basis in fact for reporting or providing the information. An individual who

knowingly provides or reports, or who reasonably ought to know he or she is providing or reporting, malicious, false or frivolous information, or information that is provided with reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.

3. Procedure for Reporting Improper Government Action:

1. Report the issue with his/her immediate supervisor. The supervisor shall request the employee to submit a written report to the Elected Official/Department Head stating in detail the basis for the employee's belief that an improper governmental action has occurred. Where the employee reasonably believes the improper governmental action involves his/her supervisor, elected official or department head, the employee may raise the issue directly with the Human Resources Director. If the employee believes that the Human Resources Director is involved, he or she shall inform the County Commissioners directly.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

2. The Human Resources Department or Commissioners shall report the report to the Prosecuting Attorney. The County shall investigate and respond to the report of improper government action, within thirty (30) days of the employee's report. The employee shall be advised of the County's response.

The identity of a reporting employee shall be kept confidential to the extent possible under the law, unless the employee authorizes the disclosure of their identity in writing.

An employee who fails to make a good faith effort to follow this policy shall not be entitled to the protection of this policy against retaliation, pursuant to RCW 42.41.030.

3. Employees may report information about improper governmental action directly to an outside agency if the employee reasonably believes that an adequate investigation was not undertaken by the County to determine whether an improper government action occurred, or that insufficient action was taken by the County to address the improper action, or that for other reasons the improper action is likely to recur.

4. Protection Against Retaliation:

Whitman County officials and employees are prohibited from taking retaliatory action because an employee, in good faith, provided information that improper government action occurred. Employees who believe they have been retaliated against for reporting an improper government action shall:

1. Provide a written complaint to the Human Resources Director within thirty (30) days of the occurrence of the alleged retaliatory action. The written charge shall: a. specify the alleged retaliatory action; and b. specify the relief requested.

2. The Human Resources Director shall investigate and respond in writing within thirty (30) days of receipt of the written charge.

3. If the investigation result is not satisfactory, the employee may gain protection under this policy by providing a written notice to the Whitman County Board of County Commissioners that: a. specifies the alleged retaliatory action; and b. specifies the resolution requested.

The notice shall be provided to the Human Resources Director no later than thirty (30) days after the receiving Human Resources initial determination.

4. The Human Resources Director provide the complaint to the Board of County Commissioners and give a determination with thirty (30) days of its receipt.

5. After receiving the County's response, the employee may elect a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief under the law. The request for hearing must be delivered to Human Resources within the earlier of either fifteen (15) days of receipt of the County's response to the charge of retaliatory action or forty-five (45) days of receipt of the charge of retaliation to the County for response.

6. Within five (5) working days of receipt of a request for hearing the County shall apply to the State Office of Administrative Hearing's for an adjudicative proceeding before an administrative law judge. At the hearing, the employee must prove that a retaliatory action occurred by a preponderance of the evidence in the hearing. The administrative law judge shall issue a final decision not later than forty-five (45) days after the date of the request for hearing, unless an extension is granted.

5. Responsibilities for Implementation:

The Human Resources Department is responsible for implementing these policies and procedures. This includes posting the policy where all employees may access it, making the policy available to any employee upon request, and providing the policy to all newly hired employees.

All department officers, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility.

6. Prohibition on intimidation of whistleblower – Nondisclosure of protected information:

County officials and employees are prohibited from using their 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 disclose information concerning an improper governmental action in accordance with the provisions of this policy. Violations of this policy may result in discipline up to and including termination.

7. Contacts:

Whitman County:

All Whitman County Department: whitmancounty.org

Board of County Commissioners: 509-397-5240; 400 N Main Street, Colfax, WA 99111

Whitman County Human Resources: 509-397-6205; 400 N Main Street, Colfax, WA 99111

Whitman County Prosecutor's Office: 509-397-6250; P.O. Box 30, Colfax, WA 99111

Whitman County Public Health: 509-397-6280; N 310 Main, Colfax, WA 99111

Whitman County Sheriff: 509-397-6266; P.O. Box 470, Colfax, WA 99111

State:

Attorney General's Office: atg.wa.gov; service ATG@atg.wa.gov

Department of Labor & Industries: lni.wa.gov; tumwater@lni.gov; 360-902-5799; P.O. Box 44000, Olympia, WA 98504-4000

Washington Human Rights Commission: hum.wa.gov; 1-800-233-3247; 13330 N Washington St, Suite 2460, Spokane, WA 99201

Washington State Auditor's Office: sao.wa.gov; whistleblower@sao.wa.gov; P.O. Box 40031, Olympia, WA 98504-0031

Washington State Department of Natural Resources: 509-925-8510; southeast.region@dnr.wa.gov; 713 Bowers Road, Ellensburg, WA 98926

Washington State Department of Ecology: 509-329-3400; ecology.wa.gov; 4601 N Monroe, Spokane, WA 99205-1295

Washington State Department of Social and Health Services: dshs.wa.gov; 1-800-737-0617; P.O. Box 45131, Olympia, WA 98504-5131

Washington State Department of Health: doh.wa.gov; 1-800-525-0127; River View Corporate Center, Ste 1500, 16201 E Indiana Ave, Spokane Valley, WA 99216

Federal:

Department of Justice: justice.gov; 202-514-2000; U.S. Department of Justice, 950 Pennsylvania Ave, NW, Washington, DC 20530-0001

Department of Labor: dol.gov; 1-866-487-9243

Dept. of Agriculture Bureau of Alcohol, Tobacco, Firearms Office of Inspector General and Explosives: W Jamie Whitten Bldg. M Room 117 Law Enforcement Office 1400 Independence Avenue SW Spokane Field Office Washington, D.C. 20250 1313 N Atlantic St. Suite 4100 (202) 720-8001 Spokane, WA 99201 (509) 324-7866

Dept of Agriculture Office of Audit Department of Interior: W Jamie Whitten Bldg., Room 117 US Fish & Wildlife Service 1400 Independence Avenue SW 1103 E Montgomery Drive Washington, DC 20250 Spokane Valley, WA 99206 (202) 720-6945 (509) 891-6839

Dept of Agriculture Department of Labor (OSHA) Office of Investigations Safety and Health Administration: W Jamie Whitten Bldg., Room 117 Regional Office 1400 Independence Avenue SW 300 Fifth Avenue Suite 1280 Washington, DC 20250 Seattle, WA 98104 (202) 720-3306 (206) 757-6700

Department of Justice Department of Justice Drug Enforcement Administration Federal Bureau of Investigation Seattle Division: 1110 3rd Avenue 400 2nd Avenue W. Seattle, WA 98101-2904 Seattle, WA 98119 (206) 622-0460 (206) 553-5443

Environmental Protection Agency Securities & Exchange Commission: Region 10 100 F Street NE 1200 Sixth Avenue Suite 900 Washington, DC 20549 Seattle, WA 98101 (202) 942-8088 (800) 424-4372

Equal Employment Opportunity Comm. Department of Transportation Seattle Field Office of Inspector: General Federal Office Bldng. 1200 New Jersey Avenue SE, 7 th Floor 909 First Avenue Suite 400 Washington, DC 20590 Seattle, WA 98104-1061 (202) 366-1959 (800) 669-4000

General Service Administration Dept. of Veterans Affairs Northwest Region Office of Inspector General: 400 15th Street SW, Bldg. 819 810 Vermont Avenue NW Auburn, WA 98001-6599 Washington, DC 20420 (253) 931-7711 (800) 488-8244

US Dept Health & Human Services US Dept Health & Human Services Office of Inspector: General Office for Civil Rights Room 5541 Cohen Building 2201 Sixth Avenue – M/S: RX-11 330 Independence Avenue SW Seattle, WA 98121-1831 Washington, D.C. 20201 (206) 615-2290 (202) 619-1343