

**THIS SAMPLE POLICY WAS PREPARED FOR THE WASHINGTON FIRE COMMISSIONERS ASSOCIATION BY SNURE LAW OFFICE, PSC FOR INFORMATIONAL PURPOSES ONLY**

**BEFORE ADOPTING THIS POLICY LEGAL COUNSEL SHOULD BE CONSULTED.**

**REPORTING IMPROPER GOVERNMENTAL ACTION AND  
PROTECTING EMPLOYEES AGAINST RETALIATION  
POLICY**

It is the policy of the District (1) to encourage reporting by its Members of improper governmental action taken by District officers or Members and (2) to protect District Members who have reported improper governmental actions in accordance with the District's policies and procedures. This policy is established to meet the intent of the Local Government Whistleblower Act, chapter 42.41 RCW.

**Definitions**

As used in this policy, the following terms shall have the meanings indicated:

1. "Improper governmental action" means any action by a District Member:
  - a. That is undertaken in the performance of the officer's or Member's official duties, whether or not the action is within the scope of Member's employment; and
  - b. 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.

"Improper governmental action" does not include personnel actions, including Member grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.
2. "Retaliatory action" means any adverse change in the terms and conditions of a District Member's employment.
3. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.
4. "Member" means an elected official, employee (part or full time) or volunteer of the District.

## **Procedures for Reporting**

District Members who become aware of improper governmental actions should raise the issue first with the Fire Chief. If requested by the Fire Chief, the Member shall submit a written report to the Fire Chief, or to some person designated by the Fire Chief, stating in detail the basis for the Member's belief that an improper governmental action has occurred.

Where the Member reasonably believes the improper governmental action involves the Fire Chief of the District, the Member may raise the issue directly with the Board of Commissioners of the District or such person as may be designated by the Board of Commissioners to receive reports of improper governmental action. To raise the issue with the Board of Commissioners the Member shall submit the written report to the Secretary of the Board of Commissioners.

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

The Fire Chief or the Fire Chief's designee, as the case may be, shall take prompt action to assist the District in properly investigating the report of improper governmental action. District officers and Members involved in the investigation shall keep the identity of reporting Members confidential to the extent possible under law, unless the Member authorizes the disclosure of his or her identity in writing.

After an investigation has been completed, the Member reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

Members may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the District Member reasonably believes that an adequate investigation was not undertaken by the District to determine whether an improper governmental action occurred, or that insufficient action has been taken by the District to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

Members who fail to make a good-faith attempt to follow the District's procedures in reporting improper governmental action shall not receive the protections provided by the District in these procedures or the protections provided by chapter 42.41 RCW.

## **Protection From Retaliatory Actions**

Members are prohibited from taking retaliatory action against a Member because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

Members who believe that they have been retaliated against for reporting an improper governmental action should advise the Fire Chief or the Fire Chief's designee. Where the Member reasonably believes the retaliation action involves the Fire Chief of the District, the Member may report the issue directly to the Board of Commissioners of the District or such person as may be designated by the Board of Commissioners to receive reports of improper governmental action. To report the retaliation to the Board of Commissioners the Member shall submit the written report to the Secretary of the Board of Commissioners.

The District shall take appropriate action to investigate and address complaints of retaliation.

If the Fire Chief, or the Fire Chief's designee as the case may be, does not satisfactorily resolve a Member's complaint that he or she has been retaliated against in violation of this policy, or if the complaint is initially directed to the Board, the Member may obtain protection under this policy and pursuant to state law by providing a written notice to the District Board of Commissioners that:

- a. Specifies the alleged retaliatory action and
- b. Specifies the relief requested.

District Members shall provide a copy of their written charge to the Board of Commissioners no later than thirty (30) days after the occurrence of the alleged retaliatory action. The Board shall respond within thirty (30) days to the charge of retaliatory action.

After receiving either the response of the Board of Commissioners or thirty days after the delivery of the charge to the Board, the District Member may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. A Member seeking a hearing should deliver the request for hearing to the District Secretary within the earlier of either fifteen (15) days of delivery of the Board's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the Board for response.

Upon receipt of request for hearing, the District Secretary shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings  
P.O. Box 42488  
Olympia, WA 98504-2488

(360) 407-2700  
(360) 664-8721 (Fax)

The Board of Commissioners will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

### **Responsibilities**

The Chief or the Chief's designee is responsible for implementing the District's policies and procedures (1) for reporting improper governmental action and (2) for protecting Members against retaliatory actions. This includes ensuring that this policy and these procedures (1) are permanently posted where all Members will have reasonable access to them, (2) are made available to any Member upon request and (3) are provided to all newly-hired Members. Officers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including dismissal.

### **List of Agencies**

#### **LIST CURRENT AS OF 2014**

#### **CONTACT INFORMATION SHOULD BE UPDATED AT TIME OF POLICY ADOPTION**

Following is a list of agencies responsible for enforcing federal, state and local laws and investigating other issues involving improper governmental action. Members having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the Chief.

#### **[county] COUNTY**

[county] County Ombudsman  
(General Complaints)  
[county ombudsman address]  
[county ombudsman phone]

[county] Environmental Division  
Code Enforcement  
[county envir. div. address]  
[county envir. div. phone]

[county] County Health Center  
Chemical and Physical Hazards Line  
[county health ctr address]  
[county health ctr phone]

[county] County Prosecuting Attorney  
[county attny address]  
Criminal Division, [criminal div phone]  
Fraud Division, [fraud div phone]  
Civil Division, [civil div phone]

[county] County Health Services Hazardous Waste  
[county health haz waste address]  
[county health haz waste phone]

## **STATE OF WASHINGTON**

Attorney General's Office  
1125 Washington St SE  
Olympia, WA 98501  
(360) 753-6200

State Department of Ecology  
3190 160th S.E.  
Bellevue, WA 98008-5852  
(206) 649-7000

State Department of Health  
Health Consumer Assistance  
P.O. Box 4789  
Olympia, WA 98504-7891  
(800) 525-0127

State Liquor Control Board  
Enforcement Customer Service  
(360) 664-9878  
Email:EnfCustomerService@liq.wa.gov

Puget Sound Water Quality Authority  
P.O. Box 40900  
Olympia, WA 98504  
(206) 493-9300

## **UNITED STATES**

Department of Agriculture  
Office of Inspector General  
915 Second Avenue  
Seattle, WA  
Supervisor Auditor  
(206) 553-8290  
Supervisor Special Agent Investigation  
(206) 553-8286

Washington State Auditor's Office  
ATTN: Hotline  
P.O. Box 40021  
Olympia WA 98504-0031  
866) 902-3900

Human Rights Commission  
402 Evergreen Plaza Bldg., FJ-41  
711 South Capitol Way  
Olympia, WA 98504-2490  
(888) 811-5974

Department of Labor & Industries  
Fraud Prevention and Compliance  
P.O. Box 44278  
Olympia, WA 98504-4278  
(888) 811-5974

Department of Natural Resources  
P.O. Box 68  
Enumclaw, WA 98022  
(206) 825-1631

Department of Social & Health Services  
Special Investigation Office  
5200 Southcenter Blvd., Suite 23  
Tukwila, WA  
(206) 764-4048  
Fraud Complaints - (800) 562-6906

Alcohol Tobacco & Firearms  
Criminal Enforcement  
915 Second Avenue  
Seattle, WA  
(206) 553-4485

Consumer Product Safety Commission  
Hot Line  
(800) 638-2772

U.S. Attorney - Seattle, WA  
800 Fifth Avenue  
Seattle, WA  
(206) 553-7970

U. S. Customs Service  
Office of Enforcement  
909 First Avenue  
Seattle, WA  
(206) 553-7531

Department of Commerce  
Office of Inspector General  
Office of Audits  
915 Second Avenue  
Seattle, WA  
(206) 553-0801

Equal Employment Opportunity Commission  
2815 Second, Suite 500  
Seattle, WA  
(206) 553-0968

Government Accounting Office  
Fraud Hot Line  
800-424-5454

U. S. Department of Education  
Office of Inspector General  
915 Second Avenue  
Seattle, WA  
Audits - (206) 553-0657  
Investigations - (206) 553-1482

Environmental Protection Agency  
Criminal Investigations  
1200 Sixth Avenue  
Seattle, WA  
(206) 553-8306

Federal Trade Commission  
915 Second Avenue  
Seattle, WA  
(206) 553-4656

Federal Emergency  
Management Agency  
130 228th Street S.W.  
Bothell, WA  
(206) 487-4600

Department of Health & Human Services  
Food & Drug Administration  
22201 23rd Drive S.E.  
Bothell, WA  
Trade Complaints - (206) 483-4949

General Services Administration  
915 Second Avenue  
Seattle, WA  
Office of Inspector General  
Audits - (206) 931-7650  
Investigations - (206) 931-7654  
Law Enforcement - (206) 553-0290

Office of the Regional Secretary  
General Counsel's Office,  
Inspector General  
Audits - (206) 553-0452  
Investigations - (206) 553-0229

Department of Housing &  
Urban Development  
Office of Counsel  
1321 Second Avenue  
Seattle, WA  
(206) 553-4976

Interstate Commerce Commission  
915 Second Avenue, Room 1894  
Seattle, WA 98174  
(206) 553-5421

Office of Inspector General  
Audits - (206) 553-0270  
Investigations - (206) 553-0272