

330 Reporting Improper Governmental Action

The ESD 112 Board of Directors encourages the reporting of improper governmental actions by ESD employees and will protect employees against retaliatory employment actions for reporting improper governmental actions when the reports are made in compliance with this policy and related procedure. The Board of Directors encourages employees to pursue all avenues of the ESD complaint process prior to reporting allegations of improper governmental conduct to other government agencies.

ESD employees are prohibited from taking retaliatory action against an employee because the employee has in good faith reported alleged improper governmental action in accordance with this policy and related procedure.

The Superintendent shall establish procedures for receiving and acting on employee reports of improper governmental actions and responding to allegations of retaliation.

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R330.1 Definitions

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

R330.1a "Improper governmental action" means any action by an employee:

- 1) That is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's job; and
- 2) That is 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.

R330.1a1 Improper governmental action does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, or demotions.

R330.1b "Retaliatory action" means:

- (a) action against an employee by an ESD employee that causes an adverse change in the terms and/or conditions of employment of an employee, and
- (b) that is taken because that employee provides information under this policy in good faith.

R330.1c "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

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- R330.2 Reporting
- An employee who becomes aware of actions that he/she believes constitute improper governmental action should notify his/her supervisor in writing of that improper action within ten (10) working days of the time the employee becomes aware of the action.
- R330.2a Where the employee reasonably believes the improper governmental action involves his/her supervisor, the employee may direct the issue in writing to the Superintendent or the Administrator for Human Resources.
- R330.2b If the issue involves the Superintendent, it shall be directed in writing to the President of the ESD 112 Board of Directors.
- R330.2c If requested by the individual receiving the complaint, the employee shall submit a written report stating in detail the basis for the employee's belief that an improper governmental action has occurred. (Formerly R330.2b)
- R330.2d When an employee reasonably believes that improper governmental action may result in damage to person or property unless he/she acts immediately (emergency) or where the employee has a legal obligation to report the improper governmental action (e.g., suspected child abuse), the employee shall report the improper governmental action directly to the appropriate government agency with responsibility for investigating the alleged action.
- R330.2d1 An employee who makes a report under R330.2d shall notify the ESD Superintendent in writing within two working days after the report is made.
- R330.2e Prior to providing information to a person or an entity who is not a public official or a person employed by government agencies listed in R330.6, an employee must provide a written report describing the improper governmental action to the Superintendent, Administrator for Human Resources, or President of the Board of Directors .
- R330.2e1 An employee who fails to make a good faith attempt to follow R330.2e shall not receive the protections of this policy.

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- R330.3 Investigating Reports of Improper Governmental Actions
- All complaints received under this policy shall be investigated in a prompt manner.
- R330.3a The Administrator for Human Resources or any supervisor receiving a complaint under this policy shall notify the Superintendent of that receipt within twenty-four (24) hours.
- R330.3b The Superintendent or the President of the Board of Directors will appoint an investigation team which may include, but not be limited to, the Administrator for Human Resources and the appropriate Division administrator.
- R330.3c Persons involved in the investigation shall keep the identity of the reporting employee confidential to the extent possible under law, unless the employee authorizes the disclosure of his/her identity in writing.
- R330.3d Results of the investigation and recommendations for resolution of the complaint will be submitted to the Superintendent or President of the Board of Directors by the investigating team.
- R330.3e After an investigation has been completed, the reporting employee shall receive a summary of the investigation results, except to the extent that resulting personnel actions must be kept confidential. The employee will have the opportunity to meet with the Superintendent or designee to review the investigation results.
- R330.3f If a reporting employee reasonably believes that an adequate investigation was not done by the ESD, 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.

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R330.4 Retaliation

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor, the Superintendent, or the Administrator for Human Resources in writing. Appropriate action to investigate and address complaints of retaliation shall be taken.

R330.4a If the complaint cannot be informally resolved, the employee shall provide written notice to the Superintendent that specifies the alleged retaliatory action and the relief requested by the employee.

R330.4a1 The written complaint must be filed within thirty (30) days of the alleged retaliation.

R330.4a2 The district will respond to the complaint within thirty (30) days of receiving the written notice.

R330.4b If the employee alleging retaliation receives no response from the ESD or objects to the ESD's response, the employee may request a hearing before a state administrative law judge.

R330.4b1 The request for a hearing must be delivered in writing to the Superintendent either fifteen (15) days following the ESD's response, or forty-five (45) days after the written complaint was filed, if there was no response. The ESD will apply for a hearing within five (5) working days to:

Office of Administrative Hearings  
Rowe Six, Bldg. 1  
4224 - 6th SE  
PO Box 42488  
Lacey, WA 98504-2488  
(206) 459-6353.

R330.4b2 Hearing proceedings shall comply with RCW 34.05.410-598.

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R330.5 This policy and administrative regulations will be permanently posted where all employees have reasonable access to the policy. The policy will be distributed to all employees, made available to any employee who requests it, and given to all new employees.

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R330.6 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 the Administrator for Human Resources:

Local City Policy Department or County Sheriff's Office

Local County Prosecutor's Office

Local City or County Health Department

Local City or County Environmental Protection Office

Washington Attorney General's Office

Fair Practices Division

Washington Human Rights Commission

Washington Auditor's Office

Washington Department of Ecology

Washington Department of Labor & Industries

Washington Department of Natural Resources

Washington Superintendent of Public Instruction

U.S. Department of Education

Office of the Inspector General

Environmental Protection Agency

Criminal Investigations

Equal Employment Opportunity Commission

Federal Emergency Management Agency

U.S. Department of Labor

Occupational Safety and Health

National Transportation Safety Board

U.S. Department of Transportation

Office of Inspector General

Legal reference: Chapter 42.41 RCW