

Procedure - Reporting Improper Governmental Action (Whistleblower Protection)

Definitions:

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

- A. "Improper governmental action" means any action by an ESD 112 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 (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 civil service laws, alleged labor agreement violations, or reprimands.
- B. "Retaliatory action" means any adverse change in the terms and conditions of a staff member's employment.
- 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 governmental misconduct.

Reporting:

Employees who become aware of actions that they believe 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, the employee will submit a written report to the supervisor or Superintendent, stating in detail the basis for the employee's belief that an improper governmental action has occurred.

In case of emergency where the employee believes that damage to persons or property may result if action 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.

ESD 112 employees who fail to make a good faith attempt to follow this policy and procedure in reporting improper governmental conduct will not be eligible for the protection outlined.

Response:

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

ESD 112 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.

Retaliation:

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor or the Superintendent. 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 that specifies the alleged retaliatory action and the relief requested by the employee. The written complaint must be filed within thirty days of the alleged retaliation. ESD 112 will respond to the complaint within thirty days of receiving the written notice.

If the employee alleging retaliation receives no response from ESD 112 or objects to the ESD's response, the employee may request a hearing before a state administrative law judge. The request for a hearing must be delivered in writing to the Superintendent either fifteen days following the ESD's response, or 45 days after the complaint was filed, if there was no response.

ESD 112 will apply for a hearing within five working days to:

Office of Administrative Hearings
P. O. Box 42488
919 Lakeridge Way SW
Olympia, Washington 98504-2488
(360) 407-2700

ESD 112 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.

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 or the Superintendent.

Local City Police Dept. or County Sheriff's Office

Local County Prosecutor's Office

Local City or County Environmental Protection Office

Local or County Health Department

WA. Attorney General's Office
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
1-800-551-4636

Washington Auditor's Office
Insurance Building
Capitol Campus
P.O. Box 40021
Olympia, Washington 98504-0021
(360) 902-0370

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

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

WA. Dept. of Labor & Industries
P.O. Box 44000
Olympia, Washington 98504-4400
(800) 547-8367

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

U. S. Department of Education
Office of the Inspector General
915 - 2nd Ave., Seattle, WA 98174
Audits: (800) MIS-USED

Environmental Protection Agency
Criminal Investigations
300 Desmond Dr. Ste. 102
Lacey, WA 98503
(360) 753-9437

Equal Employment Opportunity Comm.
(EEOC) 909 First Ave., #400
Seattle, WA 98104-1061
(800) 669-4000

Federal Emergency Mgmt. Agency (FEMA)
130 - 228th Street, Southwest
Bothell, WA 98021-8627
(425) 487-4600

U S Department of Labor
Occupational Safety and Health
1111 3rd Ave # 715
Seattle, WA 98101-3216
(206) 553-5930

National Transportation Safety Board
Washington, DC
429 L'Enfant Plaza SW
Washington D.C., DC 20024
(202) 314-6000

U S Department of Transportation
Office of Inspector General
Complaint Intake Unit, Mail Stop 7886
1401 Constitution Avenue, N.W.
Washington, DC 20230
(800) 424-5197

WA Superintendent of Public Instruction
Old Capitol Building
P O Box 47200
Olympia, Washington 98504-7200
(360) 725-6000