

RESOLUTION NO. 27-16
AMENDING PERSONNEL POLICY CHAPTER 8.3 REPORTING IMPROPER GOVERNMENTAL
ACTION POLICY

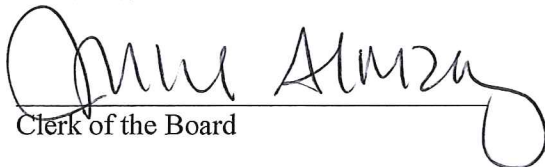
WHEREAS, in compliance with the Local Government Employee Whistleblower Protection Act, Chapter 42.41 RCW, this policy is created to encourage employees to disclose in good faith, improper governmental action taken by County officials or employees without fear of retaliation. This policy also safeguards legitimate employer interests by encouraging complaints to be made first to the County, with a process provided for speedy dispute resolution.

WHEREAS, by amending Chapter 8.3 of the Mason County Personnel Policy it will clarify and outline the steps in the procedures for reporting improper government action as outlined in Chapter 42.41 RCW. ; - Attachment A

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners does hereby revise Mason County's Personnel Policy Chapter 8.3 Reporting Improper Governmental Action Policy.

DATED this 24 day of May, 2016.

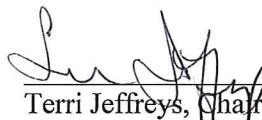
ATTEST:


Clerk of the Board

APPROVED AS TO FORM:


Tim Whitehead, Chief DPA

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Terri Jeffreys, Chair


Tim Sheldon, Commissioner


Randy Neatherlin, Commissioner

8.3 REPORTING IMPROPER GOVERNMENTAL ACTION

General Policy:

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.

Key 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: means any (a) adverse change in a local governments 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 actions; or (b) hostile actions by other employees toward a local government employee that were encouraged by a supervisor or senior manager or official.

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

Procedure for Reporting Improper Government Action: County employees who become aware of improper governmental action shall follow this procedure:

1. Bring the matter to the attention of the Board of County Commissioners or the Prosecuting Attorney, in writing, stating in detail the basis for the employee's belief that an improper action has occurred. This shall be done as soon as the employee becomes aware of the improper action.
2. The Board of County Commissioners or the Prosecuting Attorney, or their designee, shall 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.

3. The identity of a reporting employee shall be kept confidential to the extent possible under the law, unless the employee authorizes the disclosure of his or her 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.

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 bypass the above procedure and report the improper action directly to the appropriate government agency responsible for investigating the improper action.

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.

Protection Against Retaliation: It is unlawful for a local government to take 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 follow this procedure:

Procedure for Seeking Relief Against Retaliation:

1. Employees shall provide a written complaint to the Board of County Commissioners within thirty (30) days of the occurrence of the alleged retaliatory action.
 - a. The written charge shall specify the alleged retaliatory action; and
 - b. Specifies the relief requested.
2. The Board of County Commissioners or their designee shall respond in writing within thirty (30) days of receipt of the written charge.
3. After receiving the County's response, the employee may request 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 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 Board of County Commissioners for response.
4. 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. The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court.

Policy Implementation: The Board of County Commissioners is responsible for implementing these policies and procedures. This includes posting the policy on County bulletin boards, making the policy available to any employee upon request, and providing the policy to all newly hired employees. Elected Officials, department heads, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility.

Prohibition on intimidation of whistleblower – Nondisclosure of protected information: County Elected Officials or employees 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 disclose information concerning an improper governmental action in accordance with the provisions of this policy.