

Washington State Center for Childhood Deafness & Hearing Loss

POLICY: 5219

Adopted: June 11, 2010

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SUBJECT: **Whistleblower Program**

Approved by:

  
Pat Clothier, Chair, Board of Trustees

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**PURPOSE:**

The Whistleblower Act, enacted by the Washington State Legislature in 1982 and amended in 1999 and 2008, provides an avenue for state employees to report suspected improper governmental action. The state's Whistleblower Program is managed by the Washington State Auditor's Office.

The Center recognizes the importance of sharing information about the Whistleblower Act and how to access information about the state's Whistleblower Program on a regular basis. The Center will provide information about the Whistleblower Act to new employees within the first week of hire and to all active employees on an annual basis.

**POLICY:**

The State Auditor's Office investigates and reports on assertions of improper governmental action and the Human Rights Commission has sole responsibility for investigating asserted retaliatory actions. Each agency has a designee authorized to take Whistleblower assertions. The designee at the Center is the Human Resources Manager.

A designee is defined as someone who is in the position to pass the assertion on to the State Auditor's office and act with discretion and in a non-retaliatory fashion. If a state employee reports an assertion to the agency designee, the designee is required to share the assertion with the State Auditor's office within 15 calendar days of receipt. The State Auditor's office has the sole responsibility to determine whether assertions warrant an investigation.

An employee who is contacted by the State Auditor's Office during an investigation of an allegation is expected to cooperate fully in the investigation and is prohibited from destroying any evidence during the course of the investigation.

The identity or identifying characteristics of any person who in good faith provides information in an investigation is confidential at all times, unless the person consents to disclosure by written waiver or by acknowledging his or her identity as a witness who provides information in an investigation.

## DEFINITIONS:

**Improper governmental action**, as defined by RCW 42.40.020, is any action by an employee undertaken in the performance of the employee's official duties which:

- Is a gross waste of public funds or resources.
- Is in violation of a federal or state law or rule, if the violation is not merely technical or of a minimum nature.
- Is of substantial and specific danger to the public health or safety.
- Is gross mismanagement.
- Prevents dissemination of scientific opinion or alters technical findings.

"Improper governmental action" does not include personnel actions, for which other remedies exist, 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 the state civil service law, alleged labor agreement violations, reprimands, claims of discriminatory treatment, or any action which may be taken under chapter RCW 41.06.

**A whistleblower** is defined as any employee who in good faith reports alleged improper governmental action to the auditor or other public official initiating an investigation by the auditor under RCW 42.40.040; or an employee who is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official initiating an investigation by the auditor.

"Whistleblower" also means an employee who in good faith provides information to the auditor or other public official, in connection with a whistleblower investigation and an employee who is believed to have reported asserted improper governmental action to the auditor or public official, or to have provided information in connection with a whistleblower investigation but who, in fact, has not reported such action or provided such information. A whistleblower is also an employee, who in good faith, identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have done so, but who in fact, has not done so.

**Good faith** means 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.

**Public official** refers to the Attorney General's designee or designees; the State Auditor's Office, the agency director; an individual designated to receive whistleblower reports by the head of each agency; or the executive ethics board.

**A whistleblower assertion** is a report of improper governmental action.

**The Whistleblower Reporting Form** is the form an employee should use to file a written assertion, or report, of suspected improper governmental action and includes the below elements. The form is found on the State Auditor's website at <https://www.sao.wa.gov/EN/Investigations/Whistleblower/Pages/default.aspx>.

- A detailed description of the improper governmental action.
- The name(s) of the employee(s) involved.
- The agency and location of where the action(s) occurred.
- Date(s) of the improper governmental action(s) must be provided to the State Auditor's Office within one year after the occurrence of the action.
- Details that may be important for the investigation – witnesses, documents, and evidence.
- If known, the specific law or regulation that has been violated.
- *Optional* for whistleblower: provide name, home address, and phone number.

**Note: Whistleblower assertions may be filed anonymously.**

The Whistleblower Reporting Form may be submitted to the agency designee or directly to the State Auditor's Office using any of the following methods:

- Link to Whistleblower Reporting Form:  
<https://www.sao.wa.gov/EN/Investigations/Whistleblower/Pages/default.aspx>
- Fax: (360) 586-3519
- Email: [whistleblower@sao.wa.gov](mailto:whistleblower@sao.wa.gov)
- Mail: Washington State Auditor's Office  
Attn: State Employee Whistleblower Program  
P.O. Box 40031  
Olympia, WA 98504-0031

**Retaliation** against whistleblowers and/or whistleblower witnesses is against the law. A whistleblower who reports "improper governmental actions" in good faith is entitled to protection from reprisal or retaliatory action. Retaliatory action may include, but is not limited to, the following:

- Denial of adequate staff to perform duties;
- Frequent staff changes;
- Frequent and undesirable office changes;
- Refusal to assign meaningful work;
- Unwarranted and unsubstantiated disciplinary action or unsatisfactory performance evaluations;
- Denial of employment;
- A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower;
- A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish; or
- Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by RCW 42.40 or compared to other employees who have not engaged in conduct protected by RCW 42.40.

Complaints of retaliation should be submitted to the Human Rights Commission. Employees who need information about how to file a complaint of retaliation, should visit the Human Rights Commission website <http://www.hum.wa.gov>.