

Reporting Improper Government Action - Procedure

Scope. These procedures are adopted pursuant to and in accordance with the Local Government Whistleblower Protection Act, 1992 Washington Laws, Chapter 44 (the "Act") and Board Policy 6815 (the "Policy"), and are designed specifically to protect such conduct and provide such remedies as are set forth in the Act.

Definitions. As used in these procedures, the following terms shall have the meanings indicated:

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

"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, bargaining and civil service laws, alleged labor agreement violations, reprimands, or any other personnel action taken under authority of state law.

2. "Retaliatory action" means any adverse change in a district employee's employment status or in the terms and conditions of an employee's employment.
3. "Emergency" means a circumstance that if not immediately changed, may cause damage to persons or property.

Procedures

1. Reporting Improper Governmental Action:
 - a. District employees who become aware of improper governmental actions should raise the issue first with their supervisor, the superintendent or designee, or the appropriate government agency responsible for investigating such improper action as listed on the attached list. If requested by the supervisor or the superintendent or designee, the employee shall submit a written report to the district stating in detail the basis for the employee's belief that an improper governmental action has occurred.
 - b. In the case of an emergency, the employee may report the improper governmental action directly to a person or entity who is not the employee's supervisor, the

superintendent or designee, or a government agency specified in the attached list. In all other cases, the employee must first follow the reporting procedure outlined in paragraph a., above.

c. District employees who fail to make a good faith attempt to follow these procedures in reporting improper governmental action shall not receive the protections provided under the Policy, these procedures, or the Act.

2. District Response: The supervisor or the superintendent or 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, administrators, supervisors, and employees involved in the investigation shall keep the identity of the reporting employee(s) confidential to the extent possible under the law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential unless disclosure is required by law.

3. Protecting Employees From Retaliation:

a. District officials, administrators, supervisors, and employees are prohibited from taking retaliatory action against an employee because he or she has in good faith reported an improper governmental action in accordance with these procedures.

b. Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor or the superintendent or designee. District officials, administrators, and supervisors shall take appropriate action to investigate and address complaints of retaliation.

c. If the supervisor or the superintendent or designee, as the case may be, does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of the Policy and these procedures, the employee may obtain protection under the Policy, these procedures and pursuant to state law by providing in accordance with paragraph d., below, a written notice to the Board of Directors specifying:

(1) the alleged retaliatory action; and

(2) the relief requested.

d. Employees shall submit a copy of their written notice to the Board of Directors no later than thirty (30) calendar days after the occurrence of the alleged retaliatory action. The district shall respond within thirty (30) calendar days to the charge of retaliatory action.

e. After receiving the response of the district or thirty (30) calendar days after the delivery of the written notice to the district, the employee 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. An employee seeking such a hearing should deliver the request for hearing to the superintendent within the earlier of [i] fifteen (15) calendar days after delivery of the district's response to the charge of retaliatory action, or [ii] forty-

five (45) calendar days after delivery of the employee's written notice to the Board of Directors.

f. Upon receipt of a request for hearing, the district shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge. Under state law, the employee must prove his or her claim by a preponderance of the evidence in the hearing. The administrative law judge will issue a final decision no later than forty-five (45) calendar days after the date the request for hearing is delivered to the district, unless an extension of time is granted. The administrative law judge has the authority to grant the employee reinstatement to his or her job position, with or without back pay, and injunctive relief. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party. In addition to these remedies, the administrative law judge may impose a civil penalty personally upon the retaliator of up to \$3,000. The district will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

4. Implementation: The superintendent or designee is responsible for implementing Policy and these procedures. This includes ensuring that the Policy and these procedures are permanently located where all employees will have reasonable access to them and that the Policy and these procedures are made available to any employee upon request. District officers, administrators, and supervisors are responsible for ensuring that the Policy and these procedures are fully implemented within their areas of responsibility. Violations of the Policy or these procedures may result in appropriate disciplinary action, up to and including dismissals.

Legal References: RCW 42.41
 RCW 34.12.038
 RCW 34.05.010(2)

Edmonds School District
Adopted: 10.10.17