

**OLYMPIC ESD 114 ADMINISTRATIVE PROCEDURE  
REPORTING IMPROPER GOVERNMENTAL ACTIONS  
(WHISTLEBLOWER ACTION)**

**5271P**

**DEFINITIONS**

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

1. **"Improper governmental action"** means any action by an OESD employee that:
  - A. 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
  - B. 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; suspensions; demotions; violations of collective bargaining or civil service laws; and/or alleged violations of labor agreements or reprimands.

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

**REPORTING**

OESD employees are encouraged to report instances which they believe constitute government misconduct as defined above.

OESD believes that it is desirable for information about alleged actions that may be considered improper governmental action to be handled initially internally by the agency and solved informally, preferably directly by the parties involved.

Employees who become aware of actions that they believe constitute improper governmental action should raise the issue first with their immediate supervisor. So that appropriate action can be taken, communications should occur in a timely manner. If requested by the supervisor, the employee shall submit a written report to the supervisor, stating in detail the basis for the employee's belief that an improper governmental action has occurred.

Where the employee reasonably believes the improper governmental action involves his or

her supervisor, department head, or Superintendent, the employee may raise the issue directly with the Director of Human Resources.

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 shall report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

OESD 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, the Superintendent, the Superintendent's designee, or the Chairman of the Board of Directors shall take prompt action to see that the report of improper governmental action is properly investigated.

Persons involved in the investigation shall keep the identity of reporting employee(s) confidential to the extent possible under law, unless the employee(s) authorize the disclosure of their identities in writing.

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.

If a reporting employee reasonably believes that an adequate investigation was not done by the OESD, 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, the Superintendent, or the Director of Human Resources. Appropriate action to investigate and address complaints of retaliation will be taken.

If the complaint of alleged retaliation 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 (30) days of the alleged retaliation. OESD will respond to the complaint within thirty (30) days of receiving the written notice.

If the employee alleging retaliation receives no response from OESD or objects to OESD'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 (15) days following the OESD's response, or forty-five (45) days after the complaint was filed, if there was no response.

OESD 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

OESD 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.

## RESOURCES

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 designee.

Local City Police Dept. or County Sheriff's Office

Local County Prosecutor's Office

Local or County Health Department

Local City or County Environmental Protection Office

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

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

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

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

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

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

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

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