

RESOLUTION NO. 9-96

ADOPTING A MASON COUNTY
WHISTLEBLOWER POLICY

WHEREAS, RCW 36.32.110(6) states that the Board of County Commissioners have responsibility for the management of county business;

WHEREAS, RCW 42.41.030(2) requires that each local government adopt a policy which provides a mechanism for employees to report improper governmental action and;

WHEREAS, RCW 42.41.040 makes it unlawful for a local government official to take retaliatory action against an employee who in good faith reported improper governmental action;

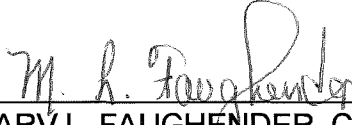
NOW, THEREBY, BE IT RESOLVED, the Board of County Commissioners does hereby establish the Mason County Whistleblower Policy

SIGNED this 16th day of January, 1996.

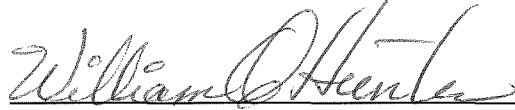
BOARD OF COUNTY COMMISSIONERS

Absent 1/16/96

MARY CADY, CHAIRPERSON

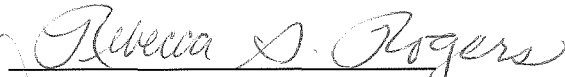


MARV L. FAUGHENDER, COMMISSIONER



WILLIAM O. HUNTER, COMMISSIONER

ATTEST:



REBECCA S. ROGERS, CLERK OF THE BOARD

REVIEWED AS TO FORM:



Michael Cliff, Chief Deputy Prosecuting Attorney

c: Elected Officials
Department Heads

MASON COUNTY WHISTLEBLOWER POLICY

General Policy:

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

Key Definitions:

Improper Governmental Actions: 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, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.14 or 41.56 RCW.

Retaliatory Action: "Retaliatory action" means: (a) Any adverse change in a local government 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 another employee towards 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.

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Procedure for Reporting Improper Government Action: County employees who become aware of improper governmental action should 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 should be done as soon as the employee becomes aware of the improper action.
- (2) The Board of County Commissioners or their designee, or the Prosecuting Attorney shall promptly investigate the report of improper government action. After the investigation is completed (within thirty (30) days of the employee's report), the employee shall be advised of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

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 should follow this procedure:

Procedure for Seeking Relief Against Retaliation:

- (1) Employees shall provide a written complaint to the Board of County Commissioners or Prosecuting Attorney within thirty (30) days of the occurrence of the alleged retaliatory action. The written charge shall specify the alleged retaliatory action and the relief requested.

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- (2) The Board of County Commissioners or their designee, or the Prosecuting Attorney shall investigate the complaint and 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 (ALJ) 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 ALJ will issue a final decision not later than forty-five (45) days after the date of the request for hearing, unless an extension is granted.

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

Violations of this policy and these procedures may result in appropriate disciplinary action.