

**KITSAP COUNTY WHISTLEBLOWER PROTECTION POLICY**

**SECTION 1. DEFINITIONS.** As used in this chapter, the following terms shall have the meanings indicated:

(A) “Emergency” means a circumstance that if not immediately changed may cause damage to persons or property.

(B)(1) “Improper governmental action” means any action by an official or employee of Kitsap County:

(a) That is 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

(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.

(2) “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, alleged violations of labor agreements, reprimands or any action that may be taken under Chapter 41.08, 41.12, 41.14, 41.56, 41.59 or 53.18 RCW, or RCW 54.05.170 and 54.04.180.

(C) “Retaliatory action” means:

(1) 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 action; or

(2) Hostile actions by another employee towards a local government employee that were encouraged by a supervisor or senior manager or official.

**SECTION 2. PROHIBITIONS**

(A) Elected officials, department heads, and employees of Kitsap County may not, directly or indirectly, 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 this policy.

(B) Elected officials, department heads, and employees of Kitsap County are prohibited from taking retaliatory action against an employee because the employee has, in good faith, reported

alleged improper governmental action in accordance with Kitsap County policies and procedures.

(C) Nothing in this policy authorizes an employee to disclose information prohibited from disclosure by law.

### SECTION 3. PROCEDURES FOR REPORTING IMPROPER GOVERNMENTAL ACTION.

(A) Persons or officials to whom reports should be made.

(1) Kitsap County employees who become aware of improper governmental actions should raise the issue first with their department head or elected official.

(2) Where the employee reasonably believes the improper governmental action involves his/her department head or elected official, the employee may submit the issue directly with the Kitsap County Human Resources Director, the County board of commissioners, or the County prosecuting attorney. Reports shall be submitted in writing stating in detail the basis for the employee's belief that an improper governmental action has occurred.

(3) In the case of an emergency, where the employee reasonably believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the sheriff or prosecuting attorney.

(4) County employees may report improper governmental actions directly to an appropriate government agency other than Kitsap County provided that a written report has been submitted in accordance with Section 3(A)(2) of this policy and the employee reasonably believes that an adequate investigation was not undertaken to determine whether improper governmental action occurred, or insufficient action has been taken to address the improper governmental action. All attempts to resolve the improper governmental action through County procedures should be exhausted before reporting the improper governmental action to an outside agency. Attached is a list of some of the agencies responsible for enforcing federal, state, and local laws and investigating issues involving improper governmental action. The Human Resources Director will update the list periodically for completeness and accuracy.

(B) Timelines for Reporting Retaliatory Action.

(1) Employees who believe that they have been retaliated against for reporting an improper governmental action shall provide written notice of the charge of retaliatory action to the Kitsap County Human Resources Director, the Chair of the County Board of Commissioners, or the County Prosecuting Attorney no later than thirty days after the occurrence of the alleged retaliatory action.

(2) The written notice shall state:

(a) The specific retaliatory action(s); and

(b) The specific relief requested.

(3) The County shall respond to the written notice no later than thirty days after receipt of the notice of the charge of retaliatory action.

(C) Administrative Hearing.

(1) Upon receipt of either the County's response to the charge of retaliatory action or after the last day upon which the County could respond, the employee may request an adjudicative hearing before an administrative law judge.

(2) The request for an administrative hearing shall be delivered to the Board of County Commissioners within fifteen days of delivery of the County's response to the charge of retaliatory action, or within fifteen days of the last day on which the County could respond.

(3) Upon receipt of the request for a hearing, the County shall apply within five working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge.

(4) Except as otherwise provided in this policy, administrative proceedings shall comply with RCW 34.05.410 through 34.05.598.

(5) The employee must prove his/her claim by a preponderance of the evidence.

(6) The final decision of the administrative law judge is subject to judicial review.

(7) Relief ordered by the administrative law judge may be enforced by petition to superior court.

(D) An employee who fails to make a good faith attempt to follow this policy for reporting improper governmental actions shall not receive the protections of this policy or chapter 42.41 RCW.