

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-15-37 LGL 2005-0064
TITLE: <b>WHISTLEBLOWER PROTECTION</b> EFFECTIVE DATE: January 2, 1993 REVISION EFFECTIVE DATE: October 16, 2015	

1.0 GENERAL

1.1 This policy implements Washington State's Local Government Whistleblower Protection Act.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City divisions and departments.

3.0 REFERENCES

RCW 42.41

4.0 DEFINITIONS

- 4.1 "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.
- 4.2 "Improper governmental action" means any action by a local government officer or employee: City officer" means every individual elected, appointed, hired or otherwise selected to an office or position with the City, or any subdivision, agency, committee or board thereof, whether such individual is paid or unpaid.

- a. that is undertaken in the performance of the officer's or employee's official duties, whether or not 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. The phrase does not include any personnel or labor actions.

4.3 "Retaliatory action" means:

- a. any adverse change in an 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
- b. hostile actions by another employee towards the employee that were encouraged by a supervisor or senior manager or official.

5.0 POLICY

- 5.1 It is the policy of the City of Spokane to encourage employees to report information concerning any allegedly improper action by the City's officers or employees. It is further the policy of the City to prevent retaliation against any employee who in good faith reports such allegedly improper action. Employees who feel they have been retaliated against may appeal to the Hearing Examiner.

6.0 PROCEDURE

6.1 Reporting Allegedly Improper Action

- 6.1.1 Every City employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.

6.1.2 Any City employee who desires to report allegedly improper governmental action shall first report in writing such action to one of the following persons:

- a. The hearing examiner, or;
- b. Human Resources Director, or;
- c.. County Prosecuting Attorney.

It is the responsibility of the receiving official to forward the information on to the Whistleblower Panel comprised of a representative from the human resources department, the office of the city attorney, the city council office selected by the city council, the finance department and the employee's bargaining unit representative. A member of the Whistleblower Panel who is also the subject of a complaint shall recuse themselves from the investigation.

6.1.3 The Whistleblower Panel shall investigate the received complaint (to include the hiring of outside investigators, if needed) and make a final report to the complainant and the Human Resources Director. The Panel shall endeavor to have a final report within ninety (90) working days of convening. A copy of the report shall be provided to the Human Resources Director and the complainant upon completion. If the Panel fails to complete its report within ninety days, the Panel shall provide an explanation to the complainant for the delay and an estimated completion date.

6.1.4 Except in the case of an emergency, an employee shall NOT provide information of an improper governmental action to a person or an entity who is not a public official or person listed in subsection 6.1.2 above. An employee who fails to make a good faith attempt to follow this procedure shall not receive the protections of the policy or the State Whistleblower Protection Act.

6.1.5 The City *shall* keep confidential the identity of the person reporting to the extent possible under law, unless the employee authorizes in writing the disclosure of his or her identity.

## 6.2 Retaliatory Action Forbidden

6.2.1 No City official or employee may take retaliatory action against a City employee because the employee provided information in good faith in accordance with the provisions of this policy that an improper governmental action occurred.

- 6.2.2 If an employee believes she or he has been retaliated against in violation of this policy, the employee must provide a written notice of the charge or retaliatory action to the Hearing Examiner of the City. The notice must specify the alleged retaliatory action, and the relief requested.
- 6.2.3 The charge must be delivered to the Hearing Examiner no later than sixty (60) calendar days after the occurrence of the alleged retaliatory action or the date the employee reasonably should have been aware that retaliation has taken place. The City will then have thirty (30) calendar days to respond to the charge and the request for relief.
- 6.2.4 Upon receipt of either the response by the City or after the lapse of the thirty (30) calendar days, the employee may request a hearing to determine whether a retaliatory action has occurred and to obtain appropriate relief. The request for a hearing must be made within fifteen (15) calendar days of receipt of the response by the City or the lapse of the City's thirty (30) calendar day response time. Requests must be in writing and made to the City Hearing Examiner.
- 6.2.5 If the claimant has met all the time requirements, the Hearing Examiner will hold a hearing. The burden of proof is on the employee to prove his or her claim by a preponderance of the evidence. The Hearing Examiner will issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five (45) calendar days following the request for hearing. The Hearing Examiner may grant extensions of time upon the request of either party upon a showing of good cause or on his or her own motion.
- 6.2.6 The Hearing Examiner may grant the following relief, as appropriate: reinstatement, with or without back pay, and injunctive relief as may be necessary to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The Hearing Examiner may award costs and reasonable attorneys' fees to the prevailing party. The Hearing Examiner may also impose a civil penalty of up to five thousand dollars (\$5,000) payable by each person found to have retaliated against the employee and may recommend to the City that the person found to have retaliated be suspended or discharged.
- 6.2.7 Either party may appeal to Superior Court from an adverse determination by the Hearing Examiner. The Hearing Examiner's decision is subject to judicial review under the arbitrary and capricious standard.

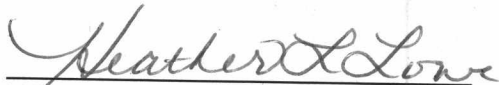
7.0 RESPONSIBILITIES

The Human Resources Department shall administer this policy.

8.0 APPENDICES

Whistleblower Complaint Form  
Whistleblower Retaliation Complaint Form

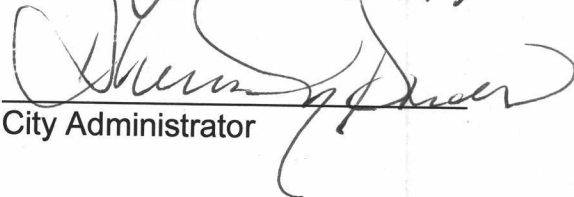
APPROVED BY:

  
\_\_\_\_\_  
HR Director

9.24.15  
Date

  
\_\_\_\_\_  
City Attorney (ASSISTANT)

9/24/15  
Date

  
\_\_\_\_\_  
City Administrator

10/1/2015  
Date

CITY OF SPOKANE HUMAN RESOURCES DEPARTMENT  
FOURTH FLOOR MUNICIPAL BUILDING  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WA. 9901-3327  
(509) 625-6233-VOICE; (509) 625-6689-TDD; (509) 625-6379-FAX

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## Whistleblower Complaint

*Please review the City of Spokane Whistleblower Protection policy – ADMIN 0620-15-37 before completing this complaint form.*

*Pursuant to the Whistleblower Protection policy, I am reporting what I believe to constitute improper governmental action.*

**Name, position, and department of person(s) I believe to have engaged in improper governmental action:**

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### **Type of Improper Governmental Action:**

Which type of improper governmental action do you believe has occurred? Check all that apply. If you know the particular law that has been violated, please provide it.

\_\_\_\_\_ Violation of federal or state law or City ordinance or policy; or

\_\_\_\_\_ Abuse of authority, or

\_\_\_\_\_ Substantial or specific danger to the public health or safety, or

\_\_\_\_\_ Gross waste of public funds.

### **Basis for reporting:**

How do you know the information you are reporting?

\_\_\_\_\_ Personal or direct knowledge

\_\_\_\_\_ Others have told me about the situation

\_\_\_\_\_ Other (please explain)

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**Allegation of Improper Governmental Action:**

Describe in as much detail as possible, the alleged improper governmental action. Attach an additional piece of paper, if necessary.

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**Date, time, frequency of alleged improper governmental action:**

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**Where did the alleged improper governmental action occur?**

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**Names and positions of the persons who may have witnessed the event:**

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**Evidence or documentation**

Please list any evidence or documentation that would support your allegation of improper governmental action. Indicate whether you can personally provide that information.

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**Waiver of Confidentiality**

Policy ADMIN 0620-15-37 provides that: The City *shall* keep confidential the identity of the person reporting to the extent possible under law, unless the employee authorizes in writing the disclosure of his or her identity.

If you do not wish to have your name kept confidential, please sign below.

I hereby waive the confidentiality provision of Policy ADMIN 0620-15-37, Section 6.1.5

\_\_\_\_\_  
Date

\_\_\_\_\_  
Complainant's signature



**Complainant Declaration**

I declare under penalty of perjury of the laws of the State of Washington that the above complaint is true and correct to the best of my knowledge.

\_\_\_\_\_   
Date

\_\_\_\_\_   
Complainant's Signature

\_\_\_\_\_   
Date and Place (e.g. City, State)

\_\_\_\_\_   
Name (please print):

\_\_\_\_\_   
Address:

\_\_\_\_\_   
Phone Number(s):

**Complaint Reporting Selection**

Policy ADMIN 0620-15-37, Section 6.1.2 provides that: Any City employee who desires to report allegedly improper governmental action shall first report in writing such action to ONE of the following persons: (a) the hearing examiner, or (b) Human Resources Director, or (c) County Prosecuting Attorney.

Submit the above complaint form to ONE of the following:

The City Hearing Examiner  
Room 605, City Hall, 808 West Spokane Falls Blvd., Spokane, WA 99201  
Phone: (509) 625-6010  
Fax: (509) 625-6059  
Email: hearingexaminer@spokanecity.org

The City Human Resources Director  
Fourth Floor Municipal Bldg., 808 West Spokane Falls Blvd., Spokane, WA 99201  
Phone: (509) 625-6233  
TDD: (509) 625-6689  
Fax: (509) 625-6379  
Email/website:

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The County Prosecuting Attorney

Public Safety Building, 1100 West Mallon, Spokane, WA 99260

Phone: (509) 477-3662

Website: [www.spokanecounty.org/Prosecuting/content.aspx?c=1181](http://www.spokanecounty.org/Prosecuting/content.aspx?c=1181)

CITY OF SPOKANE HUMAN RESOURCES DEPARTMENT  
FOURTH FLOOR MUNICIPAL BUILDING  
808 W. SPOKANE FALLS BLVD.  
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## Whistleblower Retaliation Complaint

*Please review the City of Spokane Whistleblower Protection policy –ADMIN 0620-15-37 before completing this complaint form.*

*Pursuant to the Whistleblower Protection policy, I am reporting retaliation for having previously reported improper governmental action.*

**Name, position, and department of person(s) who has/have committed act(s) of retaliation:**

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**Initial Report of Improper Governmental Action:**

A. What improper governmental action did you report?

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B. To whom did you make your report of improper governmental action?

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C. Date of report of improper governmental action:

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D. Was your complaint made in writing? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, provide a copy of your report.

Whistleblower Retaliation Complaint Page 2

**Allegation of retaliation:**

- A. Describe in as much detail as possible, the alleged retaliation. Attach an additional piece of paper, if necessary.

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- B. State the date, time, and frequency of the act of retaliation. (Retaliation must be reported within 30 days):

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- C. Where did the alleged retaliation occur?

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- D. Names and positions of those who may have witnessed the event:|:

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Whistleblower Retaliation Complaint Page 3

E. Please list any evidence or documentation that would support your allegation of retaliation. Indicate whether you can personally provide that information.

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**Relief from Retaliation:**

Please state what you believe should happen to resolve your complaint.

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**Waiver of Confidentiality**

Policy ADMIN 0620-15-037 provides that: The City *shall* keep confidential the identity of the person reporting to the extent possible under law, unless the employee authorizes in writing the disclosure of his or her identity.

If you do not wish to have your name kept confidential, please sign below.

I hereby waive the confidentiality provision of Policy ADMIN 0620-15-37, Section 6.1.5

\_\_\_\_\_  
Date

\_\_\_\_\_  
Complainant's signature

**Complainant Declaration**

I declare under penalty of perjury of the laws of the State of Washington that the above complaint is true and correct to the best of my knowledge.

\_\_\_\_\_   
Date

\_\_\_\_\_   
Complainant's Signature

Date and Place (e.g. City, State)

\_\_\_\_\_   
Name (please print):

\_\_\_\_\_   
Address:

\_\_\_\_\_   
Phone Number(s):

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