

RESOLUTION NO. 989

A RESOLUTION of the City of Camas adopting a policy for reporting improper governmental action and protecting employees against retaliation.

WHEREAS, the Legislature of the State of Washington has adopted the Local Government Whistleblower Protection Act, RCW Chapter 42.41, and

WHEREAS, said act requires local governments to develop and implement a policy and procedures for reporting improper governmental actions and protecting employees who report improper governmental actions from retaliation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAMAS that the City of Camas policy for reporting improper governmental action and protecting employees against retaliation attached hereto be and the same is hereby adopted, replacing all previously adopted policies.

ADOPTED at a regular meeting of the Council of the City of Camas this

23rd day of August, 2004.

SIGNED: Paul Dennis
Mayor

ATTEST: John M. Augin
Clerk

APPROVED as to form:
[Signature]
City Attorney

CITY OF CAMAS

EMPLOYEE CODE OF ETHICS AND POLICY FOR REPORTING IMPROPER
GOVERNMENTAL ACTION AND PROTECTING EMPLOYEES AGAINST
RETALIATION (WHISTLE BLOWER)

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1.01 Purpose

- A. The city finds that the proper operation of government requires that employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this policy to establish ethical standards of conduct for all employees of the city; to set forth those acts that are incompatible with such standards; to require disclosure by such employees of private financial or other interests in matters affecting the city; and to provide effective means for enforcement thereof. This policy is not to be construed so as to impair the ability of city employees to participate in ceremonial, representational or informational functions in the pursuit of their official duties.
- B. This policy shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for city employees.
- C. This policy shall be interpreted and applied to allow inadvertent minor violations to be corrected and cured without disciplinary action and in conformance with the spirit and purpose of this policy.

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1.02 Policy Statement

It is the policy of the City of Camas (1) to encourage reporting by its employees of improper governmental action taken by City of Camas officers or employees and (2) to protect City of Camas officers and employees who have reported improper governmental actions in accordance with the City of Camas's policies and procedure(s).

1.03 Definitions

As used in this policy, the following terms shall have the meanings indicated:

- A. "City agency" means every department or any subdivision thereof.
- B. "City employee" or "employee" means every position of employment in any city agency and any elected or appointed City officer.
- C. "Person" means individual, association, corporation, or other legal entity.
- D. "Subject" means the person to whom the whistleblower alleges responsibility.
- E. "Improper governmental action" means any action by a City of Camas employee:
 - 1. That is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and
 - 2. That (i) is in violation of any federal, state, or local law or rule, (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety or (iv) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.

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F. "Retaliatory action" means any adverse change in the terms and conditions of a City of Camas employee's employment.

G. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

1.04 Prohibited Conduct

No current city employee shall:

A. Improper Use of Official Position.

1. Use his or her official position for a purpose that is, or would to a reasonable person appear to be primarily for the private benefit of the employee, rather than primarily for the benefit of the city; or to achieve a private gain or an exemption from duty or responsibility for the employee or any other person;
2. Use or permit the use of any person, funds, or property under his or her official control, direction, or custody, or of any city funds or city property, for a purpose which is, or to a reasonable person would appear to be, for other than a city purpose; provided, that nothing shall prevent the private use of city property which is available on equal terms to the public generally (such as the use of library books or tennis courts), the use of city property in accordance with city policy for the conduct of official city business (such as the use of a city automobile), if in fact the property is used appropriately; or the use of city property for participation of the city in activities of associations of governments or governmental officials;
3. Except in the course of official duties, assist any person in any city transaction where such city employee's assistance is, or to a reasonable person would appear to be, enhanced by that employee's position with the city; provided that this subsection shall not apply to: any employee appearing on his or her own behalf or representing himself or herself as to any matter in which he or she has a proprietary interest, if not otherwise prohibited by ordinance;

B. Accept Gifts or Loans.

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1. Solicit or receive any retainer, gift, loan, entertainment, favor, or other thing of monetary value from any person or entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by such employee in his or her official capacity.

C. Disclose Privileged Information.

1. Disclose or use any privileged or proprietary information gained by reason of his or her official position for the immediate or anticipated personal gain or benefit of the employee or any other person or entity; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

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1.05 Prohibited Conduct After Leaving City

A. No former employee shall, during the period of one (1) year after leaving city office or employment:

1. Disclose or use any privileged or proprietary information gained by reason of his/her city employment for his/her gain or anticipated gain, or for the gain or anticipated gain of any person, unless the information is a matter of public knowledge or is available to the public on request;
2. Assist any person in proceedings involving the agency of the city with which he/she was previously employed, involving a matter in which he or she was officially involved, participated or acted in the course of duty;
3. Represent any person as an advocate in any matter in which the former employee was officially involved while a city employee;
4. Participate as a competitor in any competitive selection process for a city contract in which he or she assisted the city in determining the project or work to be done or the process to be used.

B. The prohibitions of Sections 1.05 A2 and 1.05 A3 shall not apply to former employees acting on behalf of a governmental agency unless such assistance or representation is adverse to the interest of the city.

1.06 Procedures for Reporting Improper Governmental Actions

In order to be investigated, an assertion of improper governmental action must be provided to the City within one year after the occurrence of the asserted improper governmental action.

City of Camas employees who become aware of improper governmental actions should file a report through the City Administrator or such other person as may be designated by the City Administrator to receive reports of improper governmental action.

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

The City Administrator or the City Administrator's designee, as the case may be, shall take prompt action to assist the City of Camas in properly investigating the report of improper governmental action. City of Camas officers and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under 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 a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

City of Camas employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the employee reasonably believes that an adequate investigation was not undertaken by the City of Camas to determine whether an improper governmental action occurred, or that insufficient action has been taken to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

City of Camas employees who fail to make a good-faith attempt to follow the City's procedures in reporting improper governmental action shall not receive the protections provided by the city in these procedures.

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1.07 Complaints, Investigations, Review and Enforcement

- A. Any person may file a complaint alleging a violation of this policy, as set forth in Section 1.06 Procedures for Reporting.
- B. The complaint shall be in writing and shall, except as described in section C below, be signed by the complainant. The written complaint should state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and name of the person(s) charged with the violation(s). To facilitate the reporting requirements the City will provide a Whistleblower Reporting Form. The complaint shall be filed with the City Administrator who shall provide a copy to the person charged with a violation. The complainant shall provide the City Administrator with all available documentation or other evidence to demonstrate a reason for believing that a violation has occurred.
- C. This policy is intended to protect employees who choose to come forward in good faith with complaints about governmental actions and conduct of City of Camas employees.

Anonymous complaints have the potential to subject the person who is the subject of the complaint to an investigation that may, at the least, cause stress and embarrassment, and may, at most, result in discipline or termination of employment. The City is reluctant to begin an investigation based on an anonymous complaint due to the fact that evidence will be difficult to obtain and verify, and it will be impossible to assess the complainant's credibility. Complainants and whistleblowers have protection from retaliation under City policy, and a thorough investigation of such complaints is the City's goal. It is not possible to conduct a thorough investigation when a complainant remains anonymous. Therefore, the City reserves the right to decline to investigate any complaint that is provided anonymously.

If a complaint is received anonymously it shall be referred to the City Attorney for a recommendation on the processing of the complaint. Upon review of the complaint, the City Attorney will make a recommendation to the City Administrator. Such a recommendation will be made within ten (10) days of receipt of the complaint, if possible. Upon receipt of the City Attorney's recommendation, the City Administrator shall make the final determination on whether or not to investigate the matter.

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- D. Within thirty (30) days after receipt of a complaint, the City Administrator or another person appointed by the City Administrator shall conduct a preliminary investigation. If the City Administrator is implicated in the complaint, the City Attorney will determine who will conduct the City's investigation. Criminal allegations will be referred to the proper law enforcement agency.
- E. If the City Administrator determines, after preliminary investigation, that there are no reasonable grounds to believe that a violation has occurred, the City Administrator shall dismiss the complaint. If the City Administrator does so dismiss the complaint, he or she shall do so in writing, setting forth a summary of the facts and provisions of law upon which the dismissal is based, and shall provide a copy of the written dismissal to the complainant and to the person charged with the violation.
- F. The City Administrator shall take final action on the complaint after the preliminary investigation, unless the complaint has been dismissed or the City Administrator has determined that the violation was inadvertent and minor and was or is being satisfactorily corrected and cured.
- G. Final action upon a complaint shall occur within sixty (60) days after receipt of a complaint. The City Administrator shall issue a written determination stating whether the policy has been violated and setting forth a summary of the facts and the provisions of law upon which this determination is based. A copy of said determination shall be delivered to the complainant, to the person charged with a violation, and, where appropriate, to the person's supervisor.
- H. If the City Administrator determines that an employee has violated the provisions of this policy, the City Administrator may subject the employee to disciplinary action. In addition to any other penalty herein or otherwise provided by law, a violation shall be cause for suspension, discharge, or removal from employment, or such other disciplinary action as may, by the mayor, be deemed necessary and proper, and consistent with city administration and personnel ordinances and rules; provided, that this section shall not derogate from employee rights under any collective bargaining agreement or city administration and personnel ordinances, or rules promulgated thereunto.

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1.08 Protection Against Retaliatory Actions

City of Camas officials 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 policies and procedures.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise in writing their supervisor, the City Administrator or the City Administrator's designee. City of Camas officials and supervisors shall take appropriate action to investigate and address complaints of retaliation.

If the employee's supervisor, the City Administrator, or the City Administrator's 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 this policy, the employee may obtain protection under this policy and pursuant to state law by providing a written notice to the City of Camas's City Council that:

- a. Specifies the alleged retaliatory action and
- b. Specifies the relief requested.

City of Camas employees shall provide a copy of their written charge to the City Administrator no later than thirty (30) days after the occurrence of the alleged retaliatory action. The City of Camas shall respond within thirty (30) days to the written charge of retaliatory action.

After receiving either the response of the City of Camas or thirty days after the delivery of the charge to the City of Camas, 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 a hearing should deliver the request for hearing to the City Administrator within the earlier of either fifteen (15) days of delivery of the City of Camas's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the City of Camas for response.

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Upon receipt of request for hearing, the City of Camas shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings
PO Box 42488, (919 Lakeridge Way SW 2nd Floor)
Olympia, WA 98502- 6026
Voice (360) 664-8717 Fax (360) 664-8721

The City of Camas will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

1.09 Responsibilities

The City Administrator is responsible for implementing the City of Camas's policies and procedures (1) for reporting improper governmental action and (2) for protecting employees against retaliatory actions. This includes ensuring that this policy and these procedures (1) are permanently posted where all employees will have reasonable access to them, (2) are made available to any employee upon request and (3) are provided 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, up to and including dismissal.

1.10 List of Agencies

Following is a list of agencies responsible for enforcing federal, state and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the City Administrator.

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LOCAL AGENCIES

City of Camas
City Administrator
616 N.E. Fourth Avenue
Camas, WA 98607
(360) 834-6864

Clark County
Prosecuting Attorney's Office
1200 Franklin Street
P.O. Box 5000
Vancouver, WA 98668
(360) 699-2261

STATE AGENCIES

Office of the Attorney General
Antitrust Division
900 Fourth Avenue, Suite 2000
MS TB 14
Seattle, WA 98164-1012
(206) 464-7744

Office of the Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
(360) 753-6200

State Auditor's Office
Attn: ED
PO Box 40021
Olympia, WA 98504-0021
(360) 902-0370

State Department of Ecology
Mailing Address:
PO Box 47775
Olympia, WA 98504-7775
Location: 300 Desmond Drive
Lacey, WA 98503
(360) 407-6300

State Department of Health
Health Consumer Assistance
PO Box 4789
Olympia, WA 98504-7891
(800) 525-0127

Human Rights Commission
711 South Capitol Way, #402
PO Box 42490
Olympia, WA 98504-2490
(360) 753-6770 or (800) 233-3247

Department of Labor & Industries
Mailing Address:
PO Box 44850
Olympia, WA 98504-4850
Location: 7273 Linderson Way SW
Camas, WA 98501-5414
(360) 902-5799

Liquor Control Board
3000 Pacific Avenue SE
Olympia, WA 98504-3080
(360) 664-1600

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Department of Natural Resources
1111 Washington Street SE
PO Box 47000
Olympia, WA 98504-7000
(360) 902-1000

Department of Commerce
Office of Inspector General
915 Second Avenue
Room 3062
Seattle, WA 98174
(206) 220-7970

Puget Sound Water Quality Action Team
PO Box 40900
Olympia, WA 98504
(360) 407-7300

Consumer Product Safety Commission
1301 Clay Street, Suite 610-N
Oakland, CA 94612-5217
(510) 637-4050

Dept. of Social & Health Services
Director's Office
4450 10th Avenue SE
Mail Stop 45840
Lacey, WA 98503
(360) 902-8400

Customs Service
P.O. Box 55700
Portland, OR 97238-5700
(503) 326-7625
Location:
8337 NE Alderwood Road, Room 200
Portland, OR 97220

FEDERAL AGENCIES
Department of Agriculture
Office of Inspector General
75 Hawthorne Street, Suite 200
San Francisco, CA 94105-3920
(415) 744-2851

Department of Education
Jackson Federal Building
915 2nd Avenue, Room 3362
Seattle, WA 98174-1099
(206) 220-7800

Bureau of Alcohol, Tobacco & Firearms
Seattle Field Division
915 2nd Avenue, Room 790
Seattle, WA 98174-1093
(206) 389-5800

Environmental Protection Agency
1200 Sixth Avenue
Seattle, WA 98101
(206) 553-1200

Attorney's Office
1201 Pacific Avenue, Suite 700
Tacoma, WA 98402-4305
(253) 428-3800

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Equal Employment Opportunity Commission
Federal Office Building
909 First Avenue, Suite 400
Seattle, WA 98104-1061
(206) 220-6883 or (800) 669-4000
Seattle, WA
(206) 220-6883; (800) 368-9331

Federal Emergency Management Agency
Federal Regional Center
130 228th Street SW
Bothell, WA 98021-9796
(425) 487-4600

Federal Trade Commission
2896 Federal Building
915 Second Avenue
Seattle, WA 98174
(877) 382-4357

General Services Administration
400 15th Street SW
Auburn, WA 98001
(253) 931-7500

Dept. of Health & Human Services
1200 Sixth Avenue, Room 1930
Seattle, WA 98101
(206) 553-1049

Housing and Urban Development
Seattle Federal Office Building
909 First Avenue, Suite 200
Seattle, WA 98104-1000
(206) 220-5101 or (877) 741-3281

Nuclear Regulatory Commission
Region IV
611 Ryan Plaza, Suite 400
Arlington, TX 76011-8064
(800) 695-7403

Securities and Exchange Commission
Pacific Regional District Office
44 Montgomery Street, Suite 1100
San Francisco, CA 94104
(415) 705-2500

Social Security
402 Yauger Way SW
Olympia, WA 98502
(800) 772-1213

Department of Transportation
Washington Division Office
711 South Capitol Way, Suite 501
Mail Stop: 40943
Olympia, WA 98501
(360) 753-9480

National Transportation Safety Board
19518 Pacific Highway South
Suite 201
Seattle, WA 98188
(206) 870-2200

Department of Treasury
Internal Revenue Service (Local Office)
404 Legion Way
Olympia, WA 98501
(360) 570-5410

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Department of Interior
Western WA Fish and Wildlife
510 Desmond Drive SE, Suite 102
Lacey, Washington 98503
(360) 753-9440

Department of Treasury
Financial Management Service
San Francisco Financial Center
P.O. Box 193858
San Francisco, CA 94119
(415) 817-7300

Department of Justice
Drug Enforcement Administration
400 2nd Avenue West
Seattle, WA 98119
(206) 553-5443

Department of Veterans Affairs
Veterans Benefits Administration
Federal Building
915 2nd Avenue
Seattle, WA 98174
(800) 827-1000

Department of Labor
Occupational Safety & Health (OSHA)
1111 Third Avenue, Suite 715
Seattle, WA 98101-3212
(206) 553-5930
Office of Inspector General Audits
1111 Third Avenue, Suite 780
Seattle, WA 98101-3212
(206) 553-4880

Veterans Health Administration
4916 Center Street, Suite E
Tacoma, WA 98409
(253) 565-7038

Office of Women's Bureau
1111 Third Avenue, Suite 885
Seattle, WA 98101-3212
(206) 553-1534

Mine Safety & Health Admin.
3633 136th Place, SE, Room 206
Bellevue, WA 98006
(206) 553-7037