

4.20.800 Policy -- Purpose.

~~Unless prohibited by state law, City employees are encouraged to report by City Employees of an improper governmental action to the appropriate City or other government official, depending on the nature of the improper governmental action. To provide City Employees with a process for reporting improper governmental action, to provide an independent review process for reports for the purpose of informing City government, to assist such reporting and to implement Sections 42.41.030 and 42.41.040 of the Revised Code of Washington ("RCW"), Sections 4.20.800 through 4.20.860 provide protect City Employees from retaliatory action for City employees a process for reporting improper governmental action, provide non-exclusive remedies to address retaliation and to provide for the assessment of penalties for those who retaliate against a City Employee who acts in accordance with this chapter, and to implement RCW 42.41.050, and protection from retaliatory action for reporting and cooperating in the investigation and/or prosecution of improper governmental action in good faith in accordance with this subchapter.~~

(Ord. 117039 Section 1(part), 1994; Ord. 116368 Section 90, 1992; Ord. 116005 Section 9, 1991; Ord. 115464 Section 1(part), 1990.)

SMC 4.20.810 Reporting improper governmental action -- Employee protection.

A. **Right.** Every City employee shall have the right to report, in good faith and in accordance with this subchapter, ~~to a City official or another government official or member of the public~~ information concerning an improper governmental action.

B. Limitations.

~~1. This section does not authorize a~~ City employee ~~is not authorized~~ to report information ~~otherwise protected by law or that is~~ subject to an applicable privilege against disclosure at law (e.g., RCW 5.60.060 privileged communications), unless ~~either the privilege is waived, or disclosure is necessary to substantiate the whistleblower report and is made to the appropriate official listed in SMC 4.16.XXX. Any information provided under the authority of this subsection shall not be further disclosed, to make disclosure where prohibited at law. The only purpose of this subchapter is to protect and encourage employees who know or in good faith believe improper governmental action has occurred to report those actions in good faith and in accordance with this~~

4.20.800 Policy -- Purpose.

It is the purpose of this ordinance to:

- A. Encourage good faith reporting by City Employees of improper governmental action to the appropriate City or other government official;
- B. Provide Employees with a process for reporting improper governmental action;
- C. Provide for a independent review of reports for the purpose of informing City government;
- D. Protect City Employees from retaliatory action for reporting improper governmental action and provide non-exclusive remedies to address retaliation;
- E. Provide for the assessment of penalties for those who retaliate against a City Employee who acts in accordance with this chapter, and,
- F. Implement RCW 42.41.050.

SMC 4.20.XXX Reporting improper governmental action -- Employee Rights, Responsibility, Limitations and Protected Conduct.

A. Employee Rights.

- **Right to Report:** Every City employee shall have the right to report in good faith and in accordance with this subchapter, information concerning an improper governmental action.
- **Freedom from Retaliation:** Every City Employee who makes a good faith report pursuant to this subchapter or **makes a good faith report to a member of the public in accordance with subsection SMC 4.20.XXX, or** cooperates in an investigation or prosecution based on a good faith report, shall be free from retaliation. **The protections afforded to City Employees under this subchapter are in addition to those protections which may be otherwise available by law.**
- **Confidential Reporting:** The identity of a City Employee who reports improper governmental action or who cooperates in an inquiry or investigation initiated by the report **shall not be disclosed** unless:
 - the City Employee in writing waives confidentiality and consents to disclosure,
 - **The City employee waives confidentiality through a claim of**

~~subchapter.~~

~~2 Except in cases of Reporting in an emergency where the employee believes in good faith that substantial damage to persons or property will result, to any to person who the employee believes can prevent the damage to persons or property, unless a report is made immediately to person or a person or entity who is not the appropriate auditing official listed in Section 4.20.850 A, an employee shall, before making a report to a person who is not the appropriate auditing official, first make a written report of the improper governmental action to the appropriate auditing official.~~ No emergency under this subsection exists where prompt attention and reporting under this subchapter by the employee could have avoided the perceived need to report immediately to a person not the appropriate auditing official.

- [Protected behavior] Reporting to a member of the general public if the report to the public is made thirty days after the employee has provided a signed written report of the alleged improper governmental conduct to the Executive Director of the Seattle Ethics and Elections Commission.

a.

~~An employee making a written report as required by this subsection is encouraged to wait at least thirty (30) days from receipt of the written report by the appropriate auditing official before reporting the improper governmental action to a person who is not an appropriate auditing official.~~

An employee's reporting of his or her own improper action does not grant an employee immunity from discipline or termination under SMCection 4.04.230 or 4.08.100 insofar as his or her improper action would be cause for discipline.

C. Employee Protections and Protected Conduct.

1. The following conduct by employees is protected if carried out in good faith under this subchapter:

- a. Reporting sexual harassment to the employee's supervisor, EEO officer, department head, or other government official as set out in the City's adopted procedure for reporting sexual harassment complaints; reporting violations of the Fair Employment Practices ordinance to the Office for Civil Rights; reporting police misconduct to the Police Department's Internal Investigation Section; reporting violations of the Code of Judicial Conduct by Municipal Court judges to the Washington State Commission on Judicial Conduct;

retaliation based on the reporting of improper governmental conduct or due to the cooperation in an investigation based on a report, or

- **a State or Federal court of general jurisdiction, after hearing from the Executive Director, orders the Executive Director or other auditing official, in the interest of justice, to divulge the identity of the reporting or cooperating employee.**

Employee responsibilities:

- An employee reporting improper governmental action shall provide a written statement **at the time of the report or a soon as practical after the initial report. This written statement shall include a statement of the facts reported, the date of the initial report and the signature of the City Employee making the report.**

B. Limitations.

- A City employee is not authorized to report information otherwise protected by law or subject to an applicable privilege against disclosure unless the applicable privilege is waived or **disclosure is necessary to substantiate the whistleblower complaint and is made to the appropriate official listed in SMC 4.20.XXX. Any information provided under the authority of this subsection shall not be further disclosed.**
- An employee's reporting of his or her own improper action does not result in the employee being free from discipline or termination under SMC 4.04.230 or 4.08.100 insofar as his or her improper action would be cause for such actions.

C. Protected Employee Conduct - Reporting

The following conduct by City employees is protected if carried out in good faith and in accordance with this subchapter:

- **Reporting any assertion of improper government action to the Executive Director including but not limited to a violation of the City Ethics, Lobbying or Election codes;**
- Cooperating in an investigation resulting from a report of "improper governmental action"; and/or testifying in a proceeding or prosecution arising out of an "improper governmental action."
- **Reporting to a member of the general public if the report to the public is made thirty days after the employee has provided a signed**

reporting violations of criminal laws to the appropriate county prosecuting attorney; and reporting any assertion of improper government action to the Executive Director including but not limited to, a violation of the City Ethics, Lobbying or Election codes, reporting violations of the Elections Code or the Ethics Code, and any actions for which no other appropriate recipient of a report is listed in this subsection, to the Executive Director of the Seattle Ethics and Elections Commission;

b. Cooperating in an investigation resulting from a report of by an "auditing official" related to "improper governmental action"; and/or testifying in a proceeding or prosecution arising out of an "improper governmental action."

D. Notice of Report to Executive Director

Any employee supervisor, EEO officer, department head, manager, or other City employee who receives a report of alleged improper government action shall, within fifteen days of receiving the initial report, contact the Executive Director and divulge the nature of the allegation and the name of the reporting person. The individual receiving the initial report shall also make available any documentation or other evidence submitted by the City employee making the report if requested by the Executive Director.

e- Testifying in a proceeding or prosecution arising out of an "improper governmental action."

2. No City officer or employee shall directly or through use of their official authority to influence, retaliate against any employee because that employee proceeded or is proceeding in good faith in accordance with this subchapter.

D. Penalty. Any City officer or employee who engages in prohibited retaliatory action is subject to discipline by suspension without pay, demotion or discharge or, pursuant to Section 4.20.840, a civil fine up to (\$500.00), or both discipline and a fine.

E. Annual Restatement. Upon entering City service and at least once each year thereafter, every City officer and employee shall receive a written summary of this chapter, the procedures for reporting improper governmental actions to auditing officials, the procedures for obtaining the protections extended, and the prohibition against retaliation in this section. The Executive Director of the Ethics and Elections Commission shall ensure

written report of the alleged improper governmental conduct to the Executive Director of the Seattle Ethics and Elections Commission.

- Reporting in an emergency where the employee believes in good faith that substantial damage to persons or property will result, to any person who the employee believes can prevent the damage to persons or property. No emergency under this subsection exists where prompt attention and reporting under this subchapter by the employee could have avoided the perceived need to report immediately to a person not the appropriate auditing official.
- Reporting where the City Employee believes in good faith that a crime is about to be committed or has been committed to any supervisor, manager or head of a department.

The following conduct by City employees is also protected if carried out in good faith and in accordance with this subchapter:

- Reporting sexual harassment to the employee's supervisor, EEO officer, department head, or other government official as set out in the City's adopted procedure for reporting sexual harassment complaints;
- Reporting violations of the Fair Employment Practices ordinance to the Office for Civil Rights;
- Reporting police misconduct to the Police Department's Internal Investigation Section;
- Reporting violations of the Code of Judicial Conduct by Municipal Court judges to the Washington State Commission on Judicial Conduct;
- Reporting violations of criminal laws to the appropriate county prosecuting attorney;
- Reporting violations of the Elections Code to the Executive Director.

D. Notice of Report to Executive Director

Any employee supervisor, EEO officer, department head, manager, or other City employee who receives a report of alleged improper government action shall, within fifteen days of receiving the initial report, contact the Executive Director and divulge the nature of the allegation and the name of the reporting person. The individual receiving the initial report shall also make available any documentation or other evidence submitted by the City employee making the report if requested by the Executive Director.

that such summaries are distributed and that copies are posted where all employees will have reasonable access to them.

(Ord. [118392](#) Section 20, 1996; Ord. 117039 Section 1(part), 1994; Ord. 116368 Section 91, 1992; Ord. 116005 Section 10, 1991; Ord. 115464 Section 1(part), 1990.)

SMC 4.20.820 Confidentiality. ~~To the extent allowed by law, the~~The identity of an employee reporting information about an improper governmental action shall be kept confidential unless **Confidential Reporting: The identity of a City Employee who reports improper governmental action or who cooperates in an inquiry or investigation initiated by the report shall not be disclosed unless:**

- the City Employee in writing waives confidentiality and consents to disclosure,
- The City employee waives confidentiality through a claim of retaliation based on the reporting of improper governmental conduct or due to the cooperation in an investigation based on a report, or
- A State or Federal court of general jurisdiction, after hearing from the Executive Director, orders the Executive Director or other auditing official, in the interest of justice, to divulge the identity of the reporting or cooperating employee.

of

Reporting in an emergency where the employee believes in good faith that substantial damage to persons or property will result, to any to person who the employee believes can prevent the damage to persons or property, unless a report is made immediately to person or a person or entity who is not the appropriate auditing official listed in Section 4.20.850 A, an employee shall, before making a report to a person who is not the appropriate auditing official, first make a written report of the improper governmental action to the appropriate auditing official. No emergency under this subsection exists where prompt attention and reporting under this subchapter by the employee could have avoided the perceived need to report immediately to a person not the appropriate auditing official.

(Ord. 117039 Section 1(part), 1994; Ord. 115464 Section 1(part), 1990.)

SMC 4.20.810 -

SMC 4.20.XXX – Prohibited Actions

- No City officer or employee shall retaliate against any City employee because that employee undertakes any action protected by this subchapter.
- **No City officer or employee shall retaliate against any employee because that employee is perceived by the officer or employee to have engaged in conduct protected by this subchapter;**
- **No City officer or employee may use his or her official authority or influence, to 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, cooperate in an investigation based on a report of improper governmental conduct or testify in any proceeding.**

2. No City officer or employee shall retaliate against any employee because that employee undertakes any action protected by this subchapter

- No City officer or employee shall retaliate against any employee because that employee is perceived by the officer or employee to have engaged in conduct protected by ~~proceeded or is proceeding in good faith in accordance with~~ this subchapter.

- No City officer or employee may use his or her official authority or influence, to 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, cooperate in an investigation based on a report of improper governmental conduct.