

SPOKANE VALLEY FIRE DEPARTMENT
Board of Fire Commissioners
Policy for Reporting Governmental Action
and Protecting Employees from Retaliation #004

Purpose:

It is the policy of Spokane Valley Fire Department (1) to encourage reporting by its employees of improper governmental action taken by Department officers or employees and (2) to protect Department employees who have reported improper governmental actions in accordance with the Department's policies and procedures. (RCW 42.41.010)

Authority:

RCW 42.41.010
RCW 42.41.030
RCW 42.41.040
RCW 42.41.045
RCW 42.41.050

Policy:

Definitions:

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

1. "Improper governmental action" means any action by a Department officer or employee:
 - A. That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of employee's employment; and
 - B. 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, and reductions in pay, dismissals, suspensions, demotions, and violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.

2. "Retaliatory action" means any adverse change in the terms and conditions of a Department employee's employment.

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

I. Reporting

A. Employee

In accordance with RCW 42.10.030, "Every local government employee has the right to report to the appropriate person or person's information concerning an alleged improper government action".

Department employees who become aware of improper governmental actions should raise the issue first with their supervisor. If requested by the supervisor, the employee shall submit a written report to the supervisor, or to some person designated by the supervisor, stating in detail the basis for the employee's belief that an improper governmental action has occurred. Where the employee reasonably believes the improper governmental action involves his or her supervisor, the employee may raise the issue directly with the Chief or such other person as may be designated by the Chief to receive reports of improper governmental action.

B. Chief

Where the employee reasonably believes the improper governmental action involves the Chief of the Department, the employee may raise the issue directly with the Board of Commissioners of the department or such person as may be designated by the Board of Commissioners to receive reports of improper governmental action. To raise the issue with the Board of Commissioners the employee shall submit the written report to the Chairman of the Board of Commissioners.

C. Emergency

In the event 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.

II. Confidentiality

The identity of an employee making a report shall be kept confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. (RCW 42.41.030)

III. Investigation

A. Department

The supervisor, the Chief or the Chief's designee, as the case may be, shall take prompt action to assist the Department in properly investigating the report of improper governmental action. Department 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.

B. Government

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

IV. Protection against Retaliatory Actions

A. Retaliation Actions

In accordance with RCW 42.41.040, Department officials and employees are prohibited from taking retaliatory action against a Department employee because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

B. Reporting

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

C. Intimidation

RCW 42.41.045 prohibits a government official or employee to use their authority directly or indirectly to threaten, intimidate, interfere, or coerce an employee with the employee's right to disclose information about improper actions.

D. Appeal

1. If the employee's supervisor, the Chief, or the Chief's designee, as the case may be, does not satisfactorily resolve a Department employee's complaint that he or she has been retaliated against in violation of this policy, the Department employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Department Board of Commissioners that:

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

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

3. After receiving either the response of the Board of Commissioners or thirty days after the delivery of the charge to the Board, the Department 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 Department Secretary within the earlier of either fifteen (15) days of delivery of the Board's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the Board for response.

4. Upon receipt of request for hearing, the Department Secretary 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
P.O. Box 42488,
Olympia, WA 98504-2488
(360) 664-8717
(360) 664-8721 FAX

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

E. Good Faith Attempt

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

IV. Responsibilities

A. Chief

The Chief is responsible for implementing the Department's policies and procedures.

1. Reporting improper governmental action.
2. Protecting employees against retaliatory actions.
3. Making the policy and procedures available to any employee upon request and providing them to all newly hired employees.
4. Permanently posting policies and procedures where all employees will have reasonable access to them.

B. Implementation

Officers 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.

V. List of Agencies

Following is a list of some 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 Chief.

- Spokane County Law Department
- Spokane County Health Department
- Spokane County Air Pollution Control Authority
- Spokane County Sheriff's Department
- Attorney General's Office
- State Department of Ecology
- State Department of Health
- State Liquor Control Board
- Department of Agriculture
- Consumer Product Safety Commission
- U.S. Customs Service
- U.S. Department of Education
- Equal Employment Opportunity Commission
- Federal Trade Commission
- Department of Health & Human Services
- Interstate Commerce Commission
- Department of Justice
- Mine Safety & Health Administration

- Nuclear Regulatory Commission
- Department of Transportation
- Department of Treasury

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