

RESOLUTION NO. 93-04-14-272

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3 A RESOLUTION of the Board of Commissioners of
4 Water District No. 125, King County, Washington,
5 establishing policies and procedures to encourage
6 District employees to report improper governmental
7 action and to protect District employees who have
8 reported improper governmental action in accordance
9 with the District's policies and procedures.

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11 WHEREAS, the State of Washington has adopted a "Local
12 Government Whistleblower Protection Act," Wash. Laws 1992, Ch. 44
13 (R.C.W. 42.41) requiring local governments to adopt policies and
14 procedures to encourage employees to report improper governmental
15 action and to protect employees who report alleged improper
16 governmental action; and

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18 WHEREAS, the public interest is served by adopting such
19 policies and procedures.

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21 NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners
22 of Water District No. 125, King County, Washington, as follows:

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24 A. District Policy Statement. Every District employee
25 has the right, duty and obligation to report to the appropriate
26 person(s) or entity hereinafter set forth, information concerning
27 alleged improper governmental actions and the right to do so free
28 from retaliatory action. District officials, including officers,
29 commissioners and employees are prohibited from taking any
30 retaliatory action against any District employee because he or she
31 reported, in good faith, an alleged improper governmental action
32 in accordance with the policies and procedures set forth in this
33 resolution.

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35 B. District Policy. It is the District's policy to:
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1 1. Encourage District employees to report alleged
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3 improper governmental actions taken by District officers, commis-
4 sioners or employees; and
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7 2. Protect District employee(s) who have reported,
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9 in good faith, alleged improper governmental actions in accordance
10 with the District's policies and procedures.
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13 C. Definitions. As used in these policies and proce-
14 dures, unless the context clearly requires otherwise, the defini-
15 tions in this section shall apply throughout this Resolution
16 providing for Whistleblower Policy and Procedures.
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19 1. "Improper governmental action" means any action
20 by a local governmental officer, commissioner or employee under-
21 taken in the performance of the officer's, commissioner's or
22 employee's official duties, whether or not within the scope of the
23 employee's employment, that is allegedly in violation of any law
24 or rule, is an abuse of authority, is of substantial and specific
25 danger to the public health or safety, or is a gross waste of
26 public funds. "Improper governmental action" does not include
27 personnel actions.
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29 2. "Retaliatory action" means any adverse change
30 in an employee's employment status, or the terms and conditions of
31 employment, including denial of adequate staff to perform duties,
32 frequent staff changes, frequent and undesirable office changes,
33 refusal to assign meaningful work, unwarranted and unsubstantiated
34 letters of reprimand or unsatisfactory performance evaluations,
35 demotion, transfer, reassignment, reduction in pay, denial of
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1 promotion, suspension, dismissal, or any other disciplinary
2 action.
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5 3. "Emergency" means a circumstance that if not
6 immediately changed, may cause damage to persons or property.
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9 D. Procedures for Reporting an Alleged Improper Action.

10 District employees who become aware of improper governmental
11 action shall submit a written report of such to the Superintendent
12 of the District. If the Superintendent is the subject of the
13 report, then the report should be made to the President of the
14 Board of Commissioners or, in the President's absence, to any
15 board member. In addition, an employee may report alleged
16 improper governmental action to the King County Prosecuting
17 Attorney, the King County Executive, or any member of the King
18 County Council. The King County Prosecuting Attorney's address,
19 as well as the names and addresses of other federal, state and
20 local agencies which may investigate improper governmental actions
21 are attached hereto. Except in the case of an emergency, before
22 an employee provides information of an alleged improper governmen-
23 tal action to a person who is not a public official or a person
24 listed in the District's policy, the employee shall submit a
25 written report to the Superintendent. An employee who fails to
26 make a good faith attempt to follow this policy shall not receive
27 the protection of the state whistleblower law. The Superintendent
28 shall promptly investigate the report of improper governmental
29 action. District officers, commissioners and employees involved
30 in the investigation of such shall keep the identity of reporting
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1 employee(s) confidential to the extent possible under law, unless
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3 the employee authorizes the disclosure of his or her identity in
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5 writing. Following the completion of an investigation, the em-
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7 ployee reporting the alleged, improper governmental action shall
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9 be advised of the results of the investigation and any actions
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11 taken by the Superintendent or Board of Commissioners with respect
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13 to such report. However, any personnel actions taken as a result
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15 of the investigation may be kept confidential.

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17 E. The Superintendent and the Commissioners of the
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19 District may grant the following relief:

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21 1. May place a letter of reprimand in the file of
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23 the violator.

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25 2. May suspend the violating individual(s) with or
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27 without pay for a period not to exceed 30 days.

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29 3. Terminate the employment of the violating
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31 individual.

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33 4. May choose not to take any action because of
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35 failure or proof or some other valid reason stated in writing.
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37 However, a written report to the Board of Commissioners and to the
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39 reporting employee shall be made regardless of the conclusion of
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41 the Superintendent.

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43 5. If the violating person is a Commissioner or
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45 officer, then the Superintendent shall request a hearing before
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47 the administrative law judge and shall not issue any type of
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49 relief.

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51 6. The final decision of the Superintendent may be
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1 appealed to the Board of Commissioners by the reporting employee
2 on a de novo basis. The Board will set a hearing within ten days
3 of receipt of the employee's notice of appeal. The hearing date
4 shall be set within 45 days from the date of the employee's notice
5 of appeal. The Board shall make a decision within ten days after
6 the hearing is concluded and shall advise the employee in writing
7 of their decision.
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14 F. Dissemination and Posting of District Policies and
15 Procedures. A copy of this resolution containing the District's
16 policies and procedures for reporting alleged improper govern-
17 mental action, and to protect District employees reporting such,
18 shall be provided to all existing and new District employees and a
19 copy of this resolution shall be permanently posted in a place at
20 the District office where all employees will have reasonable
21 access to it. In addition, a copy of this resolution shall be
22 made available to any employee upon request.
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33 G. Procedures to Obtain Protection from Retaliatory
34 Actions. An employee who believes that he/she has been the
35 subject of retaliatory action for reporting alleged improper
36 governmental action shall obtain relief as follows:
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41 1. Provide the Board of Commissioners a written
42 notice of the charge of retaliatory action specifying: (a) the
43 alleged retaliatory action, and (b) the relief requested, no later
44 than thirty (30) days after the occurrence of the alleged
45 retaliatory action. The District shall respond in writing to the
46 charge and request for relief within thirty (30) days from date of
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1 receipt of written allegations from the employee.
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3 2. Within fifteen (15) days of the delivery of the
4 Board's response to the employee or within fifteen (15) days of
5 the last day on which the District could respond, the employee may
6 request, in writing, a hearing to establish that a retaliatory
7 action occurred and to obtain relief.
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12 3. Within five (5) working days of receipt of the
13 employee's request for hearing, the District shall apply to the
14 State Office of Administrative Hearings for an adjudicative pro-
15 ceeding before an administrative law judge. The employee must
16 prove his or her claim by a preponderance of the evidence. The
17 administrative law judge shall issue a final decision no later
18 than forty-five (45) days after the date the request for hearing
19 was delivered to the local government, unless such time period is
20 extended by the administrative law judge. The final decision of
21 the administrative law judge is subject to judicial review under
22 the arbitrary and capricious standard. Relief ordered by the
23 administrative law judge may be enforced by petition to Superior
24 court.
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39 H. Relief by Administrative Law Judge. The administra-
40 tive law judge may grant the following relief:
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42 1. Reinstatement with or without back pay;
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44 2. Injunctive relief to return the employee to the
45 position he or she held before the retaliatory action and to
46 prevent any recurrence of retaliatory action;
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50 3. Award fees and/or costs including but not
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1 limited to, service of process, filing fees, costs of discovery,
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3 costs of travel and or lodging and meals cost, if any, and actual
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5 costs which the District is responsible to pay for services of an
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7 administrative judge, court reporters, employees of judge such as
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9 bailiff, clerk, etc., and reasonable attorneys' fees to the
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11 prevailing party;
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13 4. The imposition of a civil penalty personally
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15 upon the retaliator of up to three thousand dollars (\$3,000.00),
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17 payable by each person found to have retaliated against the em-
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19 ployee, and a recommendation to the District that any person found
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21 to have retaliated against the employee be suspended with or
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23 without pay or dismissed, EXCEPT a commissioner found to have
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25 retaliated against an employee can only be fined by the
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27 administrative judge. Any penalties collected shall be paid to
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29 the local government administrative hearing account created in
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31 R.C.W. 42.41.060.
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33 I. Miscellaneous. If any provision of this policy and
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35 procedure or its application to any person or circumstance is held
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37 invalid, the remainder of the policy or procedure or the
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39 application of the provisions to other persons or circumstances is
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41 not affected and shall remain in full force and effect.
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43 J. Service of Process. Where, in this policy, notice is
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45 indicated, such notice may be provided by personally serving the
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47 individual or the entity as is authorized under state statutes on
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49 personal service, or by means of posting in the United States
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51 mail, properly addressed, postage prepaid. Service by mail is
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complete upon deposit in the United States mail.

ADOPTED by the Board of Commissioners of Water District No. 125, King County, Washington, at a regular open public meeting thereof held on the 14th day of April, 1993.

WATER DISTRICT NO. 125, KING COUNTY

GARY JOHNSON, President

C. H. Walmer

C. H. WALMER, Secretary

Tarolyn Scott

TAROLYN SCOTT, Commissioner

ATTEST:

C. H. Walmer

C. H. WALMER, Secretary