

**WALLA WALLA COMMUNITY COLLEGE
WHISTLEBLOWER PROTECTION
ADMINISTRATIVE POLICY 5675**

I. POLICY BACKGROUND/PURPOSE

The Whistleblower Act, set out in Chapter 42.40 RCW, encourages employees to disclose improper governmental actions and protects the rights of the employees to make such disclosures. The objective of this Policy is to provide information regarding the reporting of suspected improper governmental action(s).

II. AUTHORITY

Chapter 42.40 RCW

III. SCOPE OF POLICY

This policy applies to all employees of the college.

IV. PROCEDURE

- A. Any current Washington State employee may report a suspected improper governmental action through the Whistleblower Program. This includes temporary employees, classified and exempt civil service employees. RCW 42.40.020(2) & (6)(b)
- B. Whistleblowers must make a reasonable attempt to ascertain the correctness of their complaint and file assertions in good faith. Employees cannot knowingly report false, malicious or frivolous information, recklessly disregard the truth or omit relevant information in order to report in good faith. RCW 42.40.020(3)
- C. The identity of a whistleblower or any person who provides information in an investigation is confidential at all times unless the whistleblower or other person consents to disclosure or unless the state auditor determines the information has been provided other than in good faith. Filing a tort claim, lawsuit or complaint with the Human Rights Commission may waive whistleblower confidentiality. RCW 42.40.040
- D. All College employees must cooperate fully in any investigation and shall take appropriate action to preclude the destruction of any evidence during the course of an investigation.
- E. No employee shall directly or indirectly use or attempt to use their official authority or influence for the purpose of or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to disclose to the state auditor or college representative or other public official, information concerning improper governmental action. RCW 42.40.030
- F. No employee shall directly or indirectly use or attempt to use their official authority or influence for the purpose of or attempting to engage in, support or ignore reprisal or retaliatory action against a whistleblower, perceived whistleblower, or any witness or perceived witness who provided information during the investigation.

V. REPORTING

- A. Whistleblowers are to submit their assertions of suspected improper governmental action on the State of Washington Whistleblower Reporting Form.
- B. Whistleblowers are allowed to file their State of Washington Whistleblower Reporting Form through the following:

1. College Public Officials:
Chad Hickox, President
Brooke Marshall, Vice President of Human Resources

The designated College official will forward the assertions to the State Auditor's Office within fifteen (15) calendar days of receipt.

2. State Auditor's Office:

Washington State Auditor's Office
Attention: State Employee Whistleblower Program
P.O. Box 40031
Olympia, WA 98504-0031
Facsimile: (360) 586-3519
E-Mail: whistleblower@sao.wa.gov
Website: <https://portal.sao.wa.gov/saoportal/public/Whistleblower>

- C. Whistleblower assertions may be submitted anonymously.
- D. For an improper governmental action to be investigated by the State Auditor's Office, it must be provided to the state auditor within one (1) year after occurrence of the action. RCW 42.40.040(1)(a)
- E. The State Auditor's Office can be contacted directly at (360) 902-0378 or more detailed information about the Whistleblower Act and Program can be found at the State Auditor's website referenced above.

VI. PROTECTION

- A. Whistleblowers are entitled to protection from reprisal or retaliatory action as a result of their status as whistleblowers. If you feel you are being retaliated against as a result of filing an assertion, providing information during an investigation, or are believed to have filed a whistleblower report or provided information, you may file a claim with the Washington State Human Rights Commission at the following address:

711 South Capitol Way, Suite 402
Olympia, WA 98504-2490
Website: <http://www.hum.wa.gov>

- B. Whistleblowers have two (2) years in which to file a whistleblower retaliation complaint. RCW 49.60.230(2)

VII. NOTIFICATION

The Human Resources department is responsible to ensure:

- A. A written summary of the Whistleblower law and procedures is provided to each new employee of the College.
- B. Employees are notified each year of the procedures and protections. The annual notice shall include a list of College officials authorized to receive whistleblower reports.
- C. The list of College officials authorized to receive whistleblower reports is prominently displayed along with other required employment related postings. RCW 42.40.070.

VIII. DEFINITIONS

- A. Improper Governmental Action – **means** any action by an employee undertaken in the performance of the employee's official duties, which:
1. Is a gross waste of public funds or resources;
 2. Is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature;
 3. Is of substantial and specific danger to the public health or safety;
 4. Is gross mismanagement; or,
 5. Prevents the dissemination of scientific opinion or alters technical findings without scientifically valid justification, unless state law or a common law privilege prohibits disclosure. RCW 42.40.020(6)(a)
- B. Improper Governmental Action – **does not** include personnel actions for which other remedies exist; including but not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, claims of discriminatory treatment, or any action that may be taken under Chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030. RCW 42.40.020(6)(a).
- C. Good Faith – means the individual providing the information or report of improper governmental activity has a reasonable basis in fact for reporting or providing the information. An individual who knowingly provides or reports or who reasonably ought to know he or she is providing or reporting malicious, false, or frivolous information, or information that is provided with reckless disregard for the truth, or who knowingly omits relevant information, is not acting in good faith. RCW 42.40.020(3)
- D. Gross Mismanagement – means the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation. RCW 42.40.020(4)
- E. Public Official – means the attorney general's designee or designees; the director or equivalent in the agency where the employee works [at WWCC, this is the College President]; an appropriate number of individuals designated to receive whistleblower reports by the head of each agency [at WWCC, these individuals are identified in section III. B. above]; or the Executive Ethics Board. RCW 42.40.020(7)
- F. Reprisal or Retaliatory Action – means, but is not limited to, any of the following:
1. Denial of adequate staff to perform duties;
 2. Frequent staff changes;
 3. Frequent and undesirable office changes;
 4. Refusal to assign meaningful work;
 5. Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
 6. Demotion;
 7. Reduction in pay;
 8. Denial of promotion;
 9. Suspension;
 10. Dismissal;
 11. Denial of employment;
 12. A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower;

13. A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;
 14. Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with the prior practice; or,
 15. Any other action that is inconsistent compared to actions taken before the employee engaged in protected conduct, or compared to other employees who have not engaged in protected conduct.
- G. Whistleblower – means:
1. An employee, who in good faith, reports alleged improper governmental action to the auditor or other public official, initiating an investigation by the auditor;
 2. An employee who is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official, initiating an investigation by the auditor RCW 42.40.020(10)(a); or,
 3. Relating to reprisals and retaliatory action, whistleblower also includes employees who have in good faith or who are perceived to have provided information in connection with an investigation or reported asserted improper governmental action.

IX. ASSOCIATED RESOURCES (4)

- A. [Whistleblower Program Flyer \(1 page\)](#)
- B. Whistleblower Posting (RCW 42.40.070) (1 page)
- C. [Whistleblower Program Frequently Asked Questions \(5 pages\)](#)
- D. [State of Washington Whistleblower Reporting Form \(4 pages\)](#)

X. AUTHORITY

The authority for this Administrative Policy comes from the Board of Trustees Delegation of Authority Policy approved April 20, 2005. Approved by Administrative Council on April 13, 2009, updated 11/2010, 12/2011, 1/2014, 1/2015, 1/2016, 1/2018, 12/2021

Policy Contact: <u>VP of Human Resources</u>
Approved by (Department/Body): <u>Dr. Chad Hickox, President</u>
Date Originally Approved: <u>April 13, 2009</u>
Last Reviewed/Revised on: <u>December 7, 2021</u>

State employees

BLOW the **WHISTLE** on **ABUSE**

Report improper actions in state government



State law
protects you
from retaliation

Submit a report at www.sao.wa.gov

**WALLA WALLA COMMUNITY COLLEGE
WHISTLEBLOWER PROTECTION ACT RCW 42.40**

The Whistleblower Act set out in Chapter 42.40 RCW encourages employees to disclose improper governmental actions and protects the rights of employees to make such disclosures. The State Auditors Office is responsible for the management of the Whistleblower Program and the investigation of complaints.

Improper governmental action means any action by an employee undertaken in the performance of the employee's official duties which:

- 1) Is a gross waste of public funds or resources;
- 2) Is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature;
- 3) Is of substantial and specific danger to the public health or safety;
- 4) Is gross mismanagement; or,
- 5) Prevents the dissemination of scientific opinion or alters technical findings without scientifically valid justification, unless state law or a common law privilege prohibits disclosure.

Improper governmental action does not include personnel actions for which other remedies exist.

Whistleblowers are allowed to file their State of Washington Whistleblower Reporting Form through the following College officials who will forward the assertions to the State Auditor's Office within fifteen (15) calendar days of receipt:

Chad Hickox, President
Jessica Clark, Vice President of Instruction
Graydon Stanley, Vice President of Student Services
Peggy Lauerman, Vice President of Business Services
Denise Kammers, Dean of Corrections Education, CRSS
Brent Caulk, Dean of Corrections Education, WSP
Chad Miltenberger, Dean of Clarkston Campus
Sherry Hartford, Vice President of Human Resources

Reports may also be submitted directly to the State Auditor's Office:

Washington State Auditor Office
Attention: State Employee Whistleblower Program
P.O. Box 40031
Olympia, WA 98504-0031
Facsimile: (360) 586-3519
E-Mail: whistleblower@sao.wa.gov
Web: <https://portal.sao.wa.gov/saoportal/public/Whistleblower>

Whistleblower complaints may be submitted anonymously. They must be submitted within one (1) year of occurrence of the action and they must be in writing. Whistleblowers must make a reasonable attempt to ascertain the correctness of their complaint and file assertions in good faith. The identity of a Whistleblower or any person who provides information in an investigation is confidential. Filing a tort claim, lawsuit or complaint with the Human Rights Commission may waive whistleblower confidentiality. Whistleblowers and others who participate in investigations are protected from reprisal or retaliatory action. All College employees must cooperate fully in any investigation.

Additional information regarding Whistleblower protection can be found in the College Administrative Policy located on the College website www.wbcc.edu or on the website of the Washington State Auditor's Office <https://sao.wa.gov/report-a-concern/how-to-report-a-concern/whistleblower-program/>. You may also contact the College's Vice President of Human Resources, Sherry Hartford in person, by email at sherry.hartford@wbcc.edu or by phone (509) 527-4382.



Whistleblower Program

Frequently Asked Questions

1. What is the Whistleblower Program?

The Whistleblower Act, enacted by the Washington State Legislature in 1982, and amended most recently in 2017, provides an avenue for state employees to report suspected improper governmental action (Chapter 42.40 RCW).

The Legislative intent is to encourage state employees to report improper governmental actions. The law makes retaliation against people whose assertions result in a whistleblower investigation unlawful and authorizes remedies should it occur. The State Auditor's Office is responsible for investigating and reporting on assertions of improper governmental action.

2. What is improper governmental action?

Improper governmental action (RCW 42.40.020(6)(a)), is defined as any action by an employee undertaken in the performance of the employee's official duties which:

- Is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature
- Is a gross waste of public funds or resources
- Is of substantial and specific danger to the public health or safety
- Is gross mismanagement
- Prevents dissemination of scientific opinion or alters technical findings
- Violations of the Administrative Procedures Act

3. What are the most common assertions of improper governmental action that are referred to the Whistleblower program?

- Failing to competitively bid contracts
- Conducting union business on state time
- Using a job position for special privileges
- Using state time for personal reasons

4. Can the State Auditor's Office investigate personnel matters?

No. The Whistleblower Act specifically states that improper governmental action does not include personnel matters, for which other remedies exist. These types of actions include, but are not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of state civil service laws, labor agreement violations, reprimands or other disciplinary actions.

The following government agencies and labor organizations may assist state employees in dealing with personnel matters:

Agency	Issues
Washington State Personnel Resources Board Olympia (360) 664-0388 www.dop.wa.gov/more/DirectorsReviewsAppeals/PRBAppeals/Pages/default.aspx	<ul style="list-style-type: none">• Conducts hearings and makes decisions to resolve state employee appeals and to assure the fair and efficient administration of the civil service laws and rules.• Employees who are members of a union should contact their collective bargaining unit.
Washington State Human Rights Commission Olympia 1-800-233-3247 TTY 1-800-300-7525 www.hum.wa.gov	<ul style="list-style-type: none">• Discrimination because of race, creed, color, national origin, sex, marital status, age or disability.• Sexual harassment.• Whistleblower workplace reprisal or retaliatory action.
Public Employment Relations Commission Olympia (360) 570-7300 www.perc.wa.gov	<ul style="list-style-type: none">• Unfair labor practices.• Interference with rights to form or join employee labor organizations and rights to bargain collectively.

6. Who can file a Whistleblower assertion?

Any current Washington state employee may report a suspected improper governmental action to the State Auditor's Office. This includes temporary employees, classified and exempt civil service employees and elected officials (RCW 42.40.020(2) and (8)).

Under certain circumstances, an employee of a local government can report improper governmental actions to the State Auditor's Office. The Local Government Whistleblower Act (Chapter 42.41 RCW) requires each local government to have a policy in place that establishes an appropriate person to receive and investigate reports of improper governmental action. If the local government has failed to follow state law by not establishing a whistleblower policy, the whistleblower can submit a report to the county prosecutor's office. If the local government hasn't established a policy and if an employee of the county prosecutor's office is named as the subject of improper governmental action, the employee may file a report with the State Auditor's Office (RCW 42.41.030(6)).

7. Can contractors of the state file an assertion with the Whistleblower program?

No. Only current state employees may file with the Whistleblower Program. Contractors' may report concerns about the handling of public funds to the State Auditor's Citizen Hotline at (866) 902-3900 or on the State Auditor's website at www.sao.wa.gov.

8. What are the procedures for filing complaints against judicial branch employees?

Whistleblower assertions against judicial officers of the Supreme Court and the Court of Appeals, including judges and court commissioners, are under the jurisdiction of the Commission on Judicial Conduct. Assertions can be filed with the Commission, which has authority to investigate complaints, decide the merits of the allegations, and impose appropriate sanctions and remedies. Assertions against judicial branch employees of the Supreme Court, Court of Appeals, the Administrative Office of the Courts, the Office of Civil Legal Aid, the Office of Public Defense, and the Washington State Library who are not judicial officers can be filed with the State Auditor's Office.

For more information, visit www.courts.wa.gov/whistleblower.

9. How do I file a complaint with the Whistleblower program?

Reports of improper governmental action must be filed in writing with the State Auditor's Office. An online submission form can be found on our website at: www.sao.wa.gov/investigations/Pages/Whistleblower.aspx

Reporting forms can be mailed to:

State Auditor's Office
Attention: State Employee Whistleblower Program
P.O. Box 40031
Olympia WA 98504-0031

Forms can also be emailed to whistleblower@sao.wa.gov

Reports may also be filed with a public official or designee, defined as someone who is in a position to pass the assertion on to the State Auditor's Office and act with discretion and in a non-retaliatory fashion.

10. If I file a complaint with the Whistleblower program, will my identity be kept confidential?

Yes. The identity of any state employee who files a whistleblower complaint will be kept confidential.

11. Can I file my complaint anonymously?

Yes. Assertions of improper governmental action may be filed anonymously.

12. Is there a specific time frame in which to report improper governmental actions?

Assertions of improper governmental action must be reported to the State Auditor's Office within one year of the alleged improper governmental action (RCW 42.40.040(1)(a)).

13. How do I document improper governmental actions?

Reports of improper governmental action should include the following information:

- A detailed description of the alleged improper governmental action
- The name of the employee(s) involved
- The agency, division, and location where the action(s) occurred
- Date(s) of when the action(s) occurred
- If you know it, the specific law or rule that has been violated

Supplying detailed information contributes to a more efficient investigation. Avoid generalizations such as “Bob is always wasting public resources.” By providing specific details about how and when public resources are being wasted, whistleblowers will help focus the investigation. For example, “Bob used his state computer to keep accounting records for his home business on state time. This has been going on for a year.”

14. What do I do after I file an assertion?

Within 15 working days of filing a complaint you will be contacted in writing by the State Auditor’s Office. If you are notified that an investigation will be initiated into your assertion of improper governmental action, we recommend you not discuss the investigation with others, including family, friends or coworkers. Unneeded discussions could jeopardize your confidentiality and hamper the investigation.

15. What should I do if I feel I have been retaliated against?

The State Auditor’s Office has no authority to investigate claims of retaliation against whistleblowers.

A retaliatory action is any adverse change that affects your employment. Retaliation can take many forms, such as frequent job changes, office changes, unwarranted letters of reprimand, or unsatisfactory performance evaluations. State law (RCW 49.60) provides remedies for whistleblowers, or anyone who provides information during a whistleblower investigation, who have been retaliated against.

Claims regarding retaliatory actions must be filed with the State Human Rights Commission. You may also wish to contact a private attorney for legal advice. More information is available at the Human Rights Commission’s website at www.hum.wa.gov.

16. What if the alleged improper action was committed by an employee of the State Auditor’s Office?

If you wish to file an assertion of improper governmental action concerning the State Auditor’s Office, you may do so with the State Attorney General’s Office, per RCW 42.40.100.

Patricia D. Todd
State Attorney General’s Office
MS 40126
Olympia WA 98504-0126
(360) 586-6308

Please mark any Whistleblower correspondence “Confidential.”

Contact information

The State Auditor's Office business hours are Monday through Friday, 8 a.m. to 5 p.m.

Jeana Gillis, Whistleblower Coordinator, (360) 902-0374, gillisj@sao.wa.gov

Information about the Whistleblower Program

Online at <https://www.sao.wa.gov/report-a-concern/how-to-report-a-concern/whistleblower-program/>

Americans with Disabilities

In accordance with the Americans with Disabilities Act, this document will be made available in alternative formats.

Please email Communications@sao.wa.gov for more information.



Office of the Washington State Auditor

Pat McCarthy

State of Washington Whistleblower Reporting Form

The State Auditor's Office investigates and reports on assertions of improper governmental action. The Legislative intent is to encourage state employees to report improper governmental actions. The law makes retaliation against people who file whistleblower assertions unlawful and authorizes remedies should it occur.

Before filling out this form, please read the following:

- Improper governmental action cannot be related to personnel matters. These include grievances, appointments, promotions, reprimands, suspensions, dismissals, harassment and discrimination.
- The issue you are concerned about must have occurred within the past year.
- You must be a current employee of the State of Washington to file whistleblower assertions.
- Reports must be submitted in writing on this form, or attached electronically by e-mail at whistleblower@sao.wa.gov. If you wish to mail the form, please send to this address:

Washington State Auditor's Office
ATTN: State Employee Whistleblower Program
P.O. Box 40031
Olympia, WA 98504-0031
whistleblower@sao.wa.gov

How do we contact you?

First name

Last name

Date

Mailing address

E-mail address

Day phone

Night phone

How would you prefer we contact you?
(check all that apply)

- ☐ Day phone
 - ☐ Night phone
 - ☐ Regular mail
 - ☐ Email
-

State of Washington

Whistleblower Reporting Form

Subject's contact information:

Please file a separate form for each state employee or officer who you believe has engaged in improper governmental action.

First name

Last name

Agency

Division

Position

City

Subject's supervisor(s)

Supervisor's position(s)

Supervisor's phone

1. Describe what happened in detail?

State of Washington

Whistleblower Reporting Form

Describe what happened in detail (continued)

*Improper governmental action **cannot** be related to personnel matters.*

State of Washington

Whistleblower Reporting Form

2. Where can we find additional information to support your complaint?

3. Are there other witnesses? If so, please provide their contact information.

4. If you know what state law has been violated, please cite below: