



# 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 <a href="http://www.dop.wa.gov/more/DirectorsReviewsAppeals/PRBAppeals/Pages/default.aspx">www.dop.wa.gov/more/DirectorsReviewsAppeals/PRBAppeals/Pages/default.aspx</a>	<ul style="list-style-type: none"><li>• 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.</li><li>• Employees who are members of a union should contact their collective bargaining unit.</li></ul>
Washington State Human Rights Commission Olympia 1-800-233-3247 TTY 1-800-300-7525 <a href="http://www.hum.wa.gov">www.hum.wa.gov</a>	<ul style="list-style-type: none"><li>• Discrimination because of race, creed, color, national origin, sex, marital status, age or disability.</li><li>• Sexual harassment.</li><li>• Whistleblower workplace reprisal or retaliatory action.</li></ul>
Public Employment Relations Commission Olympia (360) 570-7300 <a href="http://www.perc.wa.gov">www.perc.wa.gov</a>	<ul style="list-style-type: none"><li>• Unfair labor practices.</li><li>• Interference with rights to form or join employee labor organizations and rights to bargain collectively.</li></ul>

## 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](http://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](http://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](http://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](mailto: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](http://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.

Nicholas Ulrich  
Section Chief – Torts, Spokane  
Washington Attorney General’s Office  
1116 W. Riverside, Suite 100  
Spokane, WA 99201  
Phone: 509-456-6390  
Email: [Nicholas.Ulrich@atg.wa.gov](mailto:Nicholas.Ulrich@atg.wa.gov)

Please mark any Whistleblower correspondence “Confidential.”

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## 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](mailto:gillisj@sao.wa.gov)

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## 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

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