

Great Rivers Behavioral Health Administrative Services Organization

Policy Title:	Whistleblower	Policy No. 9021.00
Category:	Employment Policy Manual	Date Adopted: 04/09/2021 Date Revised:
Reference:		

Purpose & Scope

- 1.1. This policy implements and affirms Washington State RCW Title 42 with respect to the rights and protections of employees from retaliatory actions for employees who in good faith report what they believe to be improper actions of government entities. This policy also implements procedures to follow for reporting improper governmental action.
- 1.2. This policy encourages employees to put their names to allegations, because appropriate follow-up inquiry and investigation may not be possible unless the source of the information is identified. Concerns expressed anonymously will be investigated based on the availability of information, but consideration will be given to:
 - 1.2.1. Seriousness of the issue raised;
 - 1.2.2. Credibility of the concern; and
 - 1.2.3. Likelihood of corroborating the allegations from other sources.

Definitions

- 2.1. Improper Governmental Action
 - 2.1.1. An improper governmental action is any action by a Great Rivers Behavioral Health Administrative Services Organization (Great Rivers BH-ASO) employee 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 that person's employment, and that is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.
 - 2.1.2. Improper governmental action does not include Personnel/Human Resources actions, including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, reprimands, or any action that may be taken under applicable chapters under RCW Title 41.
- 2.2. Retaliatory Action
 - 2.2.1. Retaliatory action means any adverse change in an employee's employment status or the terms and conditions of employment, including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action, or hostile actions by another employee toward an employee that were encouraged by a supervisor or senior manager.

Reporting Improper Governmental Actions

- 3.1. Every Great Rivers BH-ASO employee has the right to report to the appropriate person or entity information concerning an alleged improper governmental action. An employee may make such a report to any of the following:
 - 3.1.1. The employee's Supervisor;
 - 3.1.2. Human Resources Representative;
 - 3.1.3. To any member of the Great Rivers BH-ASO leadership or the Chief Executive Director (CED);
 - 3.1.4. The Great Rivers BH-ASO Governing Board;
 - 3.1.5. The County Prosecuting Attorney;
 - 3.1.6. The State Attorney General;
 - 3.1.7. The State Auditor
- 3.2. Except in the case of an emergency (a circumstance that if not immediately changed, may cause damage to persons or property), the employee will submit a written report to one of the Great Rivers BH-ASO representatives listed above before the employee provides information of an improper governmental action to a person or an entity who is not a public official or who is one of the non-Great Rivers BH-ASO individuals listed above. An employee who fails to make a good faith attempt to follow this policy will not receive the protection of RCW 42.41.
- 3.3. An employee making a report of alleged improper governmental action should describe in detail the basis for their belief that improper governmental action has taken place or is about to take place. Any Great Rivers BH-ASO representative listed above who receives a report will initiate an appropriate fact-finding investigation and will establish and lead and/or delegate the fact-finding plan and actions.
- 3.4. Alternatively, a Great Rivers BH-ASO representative receiving such a report may suggest, when appropriate, that the employee submit a report with a law enforcement agency or some other appropriate agency. The results of an investigation undertaken by or under the direction of any such Great Rivers BH-ASO representative shall, to the extent appropriate, be communicated to the employee who filed the report. The identity of a reporting employee shall be kept confidential to the extent possible under law, subject to the necessary scope of the fact-finding, unless the employee authorized the disclosure of their identity in writing.
- 3.5. It is unlawful for Great Rivers BH-ASO or any of its representatives or employees to take retaliatory action against a Great Rivers BH-ASO employee because the employee provided information in good faith, and in accordance with the provisions of RCW 42.41 and this policy, that an improper governmental action occurred.

Reporting Retaliatory Action

- 4.1. The employee shall provide a written notice of the charge of retaliatory action to the Great Rivers BH-ASO Human Resources representative or any member of the leadership or the Great Rivers BH-ASO Governing Board. The notice must specify the alleged retaliatory action and the relief requested. When the employee reasonably believes that the improper governmental action may involve the immediate supervisor or where the corrective action is beyond the authority of the supervisor, the employee may report the improper action or retaliation allegations with the next appropriate level of management, a manager in another department, or the Human Resources representative.
- 4.2. The notice of charge must be delivered no later than 30 days after the occurrence of the alleged retaliatory action. The recipient of the charge will coordinate with Human Resources and other leadership members to conduct the necessary fact-finding and issue a response to the charge of retaliatory action and request for relief within 30 days from the receipt of the charge. Within 15 days of the response, the employee may request a hearing to establish that a retaliatory action has indeed occurred and to obtain appropriate relief.

4.3. Within five working days of receipt of the request for hearing, the CED shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge.

Office of Administrative Hearings
2420 Bristol Court SW, 1st Floor
PO Box 42488
Olympia, WA 98504
(360) 407-2700

- 4.4. The employee, as the initiating party, must prove their claim of retaliation by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the Executive Team. The administrative law judge may grant specific extensions of time beyond this period for rendering a decision at the request of either party upon a showing of good cause, or upon their own motion.
- 4.5. Relief that may be granted by the administrative law judge consists of reinstatement, with or without back pay, and such injunctive relief as may be found to be necessary to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.
- 4.6. If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account.

POLICY SIGNATURE

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Vickie L. Raines
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Vickie Raines, Chair
Great Rivers BH-ASO Governing Board

6/11/2021

Date