

## Rule 3-32

### REPORTING IMPROPER GOVERNMENTAL CONDUCT

§§:

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#### § 3-32-010 PREAMBLE

Multnomah County strives to uphold the highest possible standards of ethical, moral and legal conduct. Consistent with this commitment, this policy provides an avenue for employees to report concerns regarding improper governmental conduct including suspected misconduct, dishonesty, non-compliance with laws, or fraud without fear of retaliation.

#### § 3-32-015 DEFINITONS

For the purpose of this policy and procedures the following definitions shall apply:

**ABUSE OF AUTHORITY** To deliberately exceed or make improper use of delegated or inherent authority or to employ it in an illegal manner.

**DISCIPLINARY ACTION** Any adverse action including dismissal, demotion, transfer, reassignment, supervisory reprimand, warning of possible dismissal, or withholding of work, whether or not the action affects or will affect employee compensation.

**DISCLOSURE** Formal or informal internal or extra-agency communication, not including a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee providing the disclosure reasonably believes that the disclosure evidences:

- (A) A violation of any federal or state law, rule, or regulation by the County;
- (B) Mismanagement;
- (C) Gross misuse or waste of public resources or funds;
- (D) Abuse of authority in connection with the administration of a public program or the execution of a public contract; or

(E) A substantial and specific danger to public health or safety resulting from the County's actions.

**EMPLOYEE** For purposes of this rule, any person who is serving the county as an employee, volunteer or agent, irrespective of compensation, when an alleged violation of ORS Chapter 659A.200 to 659A.224 or this rule occurs.

**FRAUD** Dishonest and deliberate course of action that results in the obtaining of money, property, or an advantage to which County employees or officials committing the action would not normally be entitled. Fraud includes the intentional misleading or deceitful conduct that deprives the County of its resources or rights. Examples include but are not limited to falsifying financial records to cover up theft; theft or misuse of County money, equipment, supplies, or materials; intentionally misrepresenting the costs of goods or services provided; falsifying payroll information; use of County equipment or property for personal gain; submitting false claims for reimbursement; soliciting or accepting a bribe or a kickback; intentional use of false weights or measures.

**GROSS WASTE OF FUNDS** A needless, careless, or extravagant expenditure of County funds, incurring of unnecessary expenses, or mismanagement of County resources or property. Gross waste of funds is almost always significantly out of proportion to the benefit expected to accrue to the agency and is more than a debatable expenditure. Examples include but are not limited to purchase of unneeded supplies or equipment; purchase of goods at inflated prices; failure to reuse or recycle major resources or reduce waste generation.

**MISAPPROPRIATION OF ASSETS** Theft of an entity's assets that causes the financial statements not to be presented in conformity with generally accepted accounting principles. Misappropriation of assets includes false or misleading records or documents, possibly created by circumventing controls. Examples include but are not limited to embezzling funds; theft of assets; causing an entity to pay for goods and services that have not been received; skimming revenues; payroll fraud.

**MISMANAGEMENT** Serious misconduct having the effect of actually or potentially undermining the County's ability to fulfill its public mission.

**REPORTING EMPLOYEE** An employee who reasonably believes they have evidence of improper governmental conduct.

**SUBSTANTIAL AND SPECIFIC DANGER** A specified risk of serious injury, illness, peril or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

### **§ 3-32-020 PURPOSE**

It is the purpose of this policy to ensure a workplace culture where all employees are encouraged to raise concerns, in good faith, of any activity by a County department or employee that may constitute any of the following:

(A) A violation of state or federal law

- (B) Abuse of authority
- (C) Fraud
- (D) Gross waste of funds
- (E) Misappropriation of assets
- (F) Mismanagement
- (G) A substantial and specific danger to the employee's or public's health and safety.
- (H) Any other form of fraud or malfeasance

### **§ 3-32-025 POLICY**

In keeping with the policy of maintaining the highest standards of conduct and ethics, the County will investigate any suspected improper governmental conduct including any violation of law, regulation, or policy by employees, board members, consultants, or volunteers. Employees are encouraged to promptly report any concerns they have about the County's compliance with any law, regulation or policy to any responsible County representative.

Pursuant to ORS 659A.200, the county has authority to provide the below procedures and provisions outlined in this rule. This rule shall apply to all reports of improper governmental conduct received through the Good Government Hotline, from County officials and employees, and from members of the public. Possible violations of this policy discovered during an investigation, which have not been independently reported, may be investigated and result in discipline in accordance with the applicable collective bargaining agreement or the county's Personnel Rules.

This policy applies to all regular, temporary, classified, executive, and contract employees, applicants for employment, contractors, and specified volunteer positions.

Employees who violate this rule are subject to disciplinary action, up to and including termination.

### **§ 3-32-030 REPORTING**

(A) Employees are encouraged to promptly report suspected improper governmental conduct or violations as outlined in this rule.

(B) Complaints may be submitted orally or in writing. A complainant may also include a suggested method of resolution.

(C) Suspected improper governmental conduct or violation as outlined in this policy may be reported to:

- (1) Any supervisor or manager;
- (2) Department human resources manager;
- (3) Multnomah County Chief Human Resources Officer (CHRO);
- (4) Multnomah County Auditor; or
- (5) Multnomah County Good Government Hotline

(D) Anyone filing a written complaint concerning improper governmental conduct or suspected violation of any law, rule, regulation, or policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

(E) All complaints will be thoroughly and promptly investigated. Confidentiality will be maintained to the extent permitted by the circumstances.

(F) A reporting employee who, in good faith, discloses information that the employee reasonably believes is evidence of improper governmental conduct shall not be subjected to or threatened with disciplinary action for the disclosure. Retaliation will not be tolerated.

(G) An employee's objectively reasonable and good-faith belief that the County has committed improper governmental conduct including a violation of law, rule, regulation, or policy is an affirmative defense to civil or criminal charges related to the disclosure of information about the alleged violation, including information that is exempt from disclosure under Oregon's public records law, if the following conditions are met:

- (1) The information was lawfully accessed in the first instance;
- (2) The information was disclosed in confidence to a manager, a law enforcement or public regulatory agency, or an Oregon-licensed attorney and not disclosed or redisclosed to any other party by the employee or any person at the employee's direction;
- (3) The information was not contained in an exclusive commercial negotiating agreement or commercial nondisclosure agreement (unless the agreement is related to the employee's employment with the County);
- (4) The information disclosed was not related to the representation of a client, if the disclosing employee is an attorney or is employed, retained, supervised, or directed by an attorney; and
- (5) The disclosure was made consistent with federal law regarding the disclosure of that kind of information.

(H) In addition to or in lieu of these reporting procedures, a reporting employee may disclose any allegation, concern, or complaint of improper governmental conduct by

(1) Utilizing the County's Good Government Hotline;

(2) To the County Auditor, in accordance with the Auditor's responsibilities set forth in the County Charter; and/or

(3) By reporting an allegation, concern, or complaint of improper governmental conduct that may also be a violation of the State Code of Ethics (ORS Chapter 244) to the Oregon Government Ethics Commission

### **§ 3-32-035 RETALIATION**

The county will not tolerate retaliation against any individual who reports, in good faith, any improper governmental conduct in accordance with these policies and procedures. However, employees may be subjected to discipline if the information disclosed by the employee is known by the employee to be false, if the employee discloses the information with reckless disregard for its truth or falsity, or if the information disclosed relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority, or endangerment of the public health or safety. Examples of retaliation towards an individual include demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment related decisions, assigning the individual the least desirable jobs, etc.

### **§ 3-32-040 WHISTLEBLOWER PROTECTION (ORS 659A.200 AND 659A.203)**

Employees who identify themselves and make a good faith report of suspected fraud, waste, or abuse are protected from retaliation, in accordance with the Oregon State Whistleblowers Protection Law (ORS 659A). (ER 375)