

RESOLUTION NO. 402

WHISTLEBLOWER POLICIES AND PROTECTION OF WHISTLEBLOWERS

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3 ESTABLISHING POLICIES AND PROCEDURES TO ENCOURAGE DISTRICT EMPLOYEES TO  
4 REPORT ALLEGED IMPROPER GOVERNMENTAL ACTION AND TO PROTECT DISTRICT  
5 EMPLOYEES WHO HAVE REPORTED ALLEGED IMPROPER GOVERNMENTAL ACTION IN  
6 ACCORDANCE WITH THE DISTRICT'S POLICIES AND PROCEDURES.

7 WHEREAS, The State of Washington has adopted through Substitute Senate  
8 Bill 6321, known generically as the "Whistleblower Protection Act."  
9 requiring local governments to adopt policies and procedures to encourage  
10 employees to report improper governmental action and to protect employees  
11 who report alleged improper governmental action; and

12 WHEREAS, the act defines Local government to mean "any governmental  
13 entity other than the state, federal agencies, or operating systems under  
14 Chapter 43.52 RCW". "Local government includes cities, counties, school  
15 districts and special purpose district."

16 WHEREAS, the act defines "Improper governmental action: to mean "any  
17 action by a local governmental officer or employee that is undertaken in the  
18 performance of the officers or employees' official duties, whether or not  
19 the action is within the scope of the employee's employment; and that is in  
20 violation of any law or rule, is an abuse of authority, is of substantial  
21 and specific danger to the public health or safety, or is gross waste of  
22 public funds".

23 WHEREAS, the act requires each local government to adopt policy and  
24 procedures to follow for reporting information concerning alleged improper  
25 governmental actions; SSB 6321, Section 3; and

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

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1           NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of East  
2 Wenatchee Water District, Douglas County, Washington, as follows:

3           A. District Policy Statement. Every District employee has the right,  
4 duty and obligation to report to the appropriate person(s) or entity  
5 hereinafter set forth, information concerning alleged improper governmental  
6 actions and the right to do so free from retaliatory action. District  
7 officials, including officers, commissioners and employees are prohibited  
8 from taking any retaliatory action against any District employee because he  
9 or she reported, in good faith, an alleged improper governmental action in  
10 accordance with the policies and procedures set forth in this resolution..

11           B. District Policy. It is the District's policy to:

12           1. Encourage District employees to report alleged improper  
13 governmental actions taken by District officers, commissioners or employees;  
14 and

15           2. Protect District employee(s) who have reported, in good faith,  
16 alleged improper governmental actions in accordance with the District's  
17 policies and procedures.

18           C. Definitions. As used in these policies and procedure, unless the  
19 context clearly requires otherwise, the definitions in this section shall  
20 apply throughout this Resolution providing for Whistleblower Policy and  
21 Procedures.

22           1. "Improper Governmental Action, means any action by a local  
23 governmental officer, commissioner or employee undertaken in the performance  
24 of the officers, commissioners or employees' official duties, whether or not  
25 within the scope of the employee's employment that is allegedly in violation  
26

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1 of any law or rule, is an abuse of authority, is of substantial and specific  
2 danger to the public health or safety, or is a gross waste of public funds.  
3 "Improper governmental action" does not include personnel actions.

4 2. "Retaliatory Action" means any adverse change in an employee's  
5 employment status, or the terms and conditions of employment, including  
6 denial of adequate staff to perform duties, frequent staff changes, frequent  
7 and undesirable office changes, refusal to assign meaningful work,  
8 unwarranted and unsubstantiated letters of reprimand or unsatisfactory  
9 performance evaluations, demotion, transfer, reassignment, reduction in pay,  
10 denial of promotion, suspension, dismissal, or any other disciplinary  
11 action.

12 3. "Emergency" means a circumstance that if not immediately  
13 changed, may cause damage to persons or property.

14 4. "Time Frames" as established and/or used in this District  
15 Resolution, happen to fall on a weekend or a legal holiday, the period of  
16 time for action shall be extended to the next lawful workday of the  
17 District.

18 5. "Food Faith" means honesty or lawfulness of purpose.

19 D. Procedures for Reporting an alleged Improper Action.

20 District employees who become aware of improper governmental action shall  
21 submit a written report of such allegations to the General Manager of the  
22 District. If the General Manager is the subject of the report, then the  
23 report should be made to the President of the Board of Commissioners or, in  
24 the President's absence to any board member.

25 E. The General Manager and the Commissioners of the District may  
26 grant the following relief:

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

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

4           3. Terminate the employment of the violating individual.

5           4. May chose not to take any action because of failure of proof or  
6 some other valid reason stated in writing. However, a written report to the  
7 Board of Commissioners and to the reporting employee shall be made  
8 regardless of the conclusion of the General Manager.

9           5. If the violating person is a Commissioner or officer then the  
10 General Manager shall request a hearing before the administrative law judge  
11 and shall not issue any type of relief.

12           6. The final decision of the District Manager may be appealed to  
13 the Board of Commissioners by the reporting employee on a de novo basis.  
14 The Board will set a hearing within ten days of receipt of the employees  
15 notice of appeal. The hearing date shall be set within 45 days from the  
16 date of the employees notice of appeal. the Board shall make a decision  
17 within ten days after the hearing is concluded and shall advise the employee  
18 in writing of their decision.

19           F. Dissemination and Posting of District Policies and Procedures. A  
20 copy of this resolution containing the District's policies and procedures  
21 for reporting alleged improper governmental action, and to protect District  
22 employees reporting such, shall be provided to all existing and new District  
23 employees a copy of this resolution shall be permanently posted in a place  
24 at the District office where all employees will have reasonable access to  
25 it. In addition, a copy of this resolution shall be made available to any  
26 employee upon request.

1           G. Procedures to Obtain Protection from Retaliatory Actions. An  
2 employee who believes that he/she has been the subject of retaliatory action  
3 for reporting alleged improper governmental action shall obtain relief as  
4 follows:

5           1. Provide the Board of Commissioners a written notice of the  
6 charge of retaliatory action specifying: (a) the alleged retaliatory action,  
7 and (b) the relief requested, no later than thirty (30) days after the  
8 occurrence of the alleged retaliatory action. The District shall respond in  
9 writing to the charge and request for relief within thirty (30) days from  
10 date of receipt of written allegations from the employee.

11           2. Within fifteen (15) days of the delivery of the Boards response  
12 to the employee or within fifteen (15) days of the last day on which the  
13 District could respond, the employee may request, in writing a hearing to  
14 establish that a retaliatory action occurred and to obtain relief.

15           3. Within five (5) working days of receipt of the employee's  
16 request for hearing, the District shall apply to the State Office of  
17 Administrative Hearings for an adjudicative proceeding before an  
18 administrative law judge. The employee must prove his or her claim by a  
19 preponderance of the evidence. The administrative law judge shall issue a  
20 final decision no later than forty five (45) days after the date the request  
21 for hearing was delivered to the local government. The final decision of  
22 the administrative law judge is subject to judicial review under the  
23 arbitrary and capricious standard. Relief ordered by the administrative law  
24 judge may be enforced by petition to Superior court.

25           H. Relief by Administrative Law Judge. The administrative law judge  
26 may grant the following relief.:

1           1. Reinstatement with or without back pay;

2           2. Injunctive relief to return the employee to the position he or  
3 she held before the retaliatory action and to prevent any recurrence of  
4 retaliatory action;

5           3. Award fees and/or costs including but not limited to, service  
6 of process, filing fees, costs of discovery, costs of travel and or lodging  
7 and meals cost, if any and actual costs which the District is responsible to  
8 pay for services of an administrative judge, court reporters, employees of  
9 judge such as bailiff, clerk etc., and reasonable attorneys' fees to the  
10 prevailing party;

11           4. The imposition of a civil penalty personally upon the  
12 retaliator of up to three thousand dollars (\$3,000.00) payable by each  
13 person found to have retaliated against the employee, and a recommendation  
14 to the District that any person found to have retaliated against the  
15 employee be suspended with or without pay or dismissed, **EXCEPT** a  
16 Commissioner found to have retaliated against an employee can only be fined  
17 by the administrative judge. Any penalties collected shall be paid to the  
18 local government administrative hearing account.

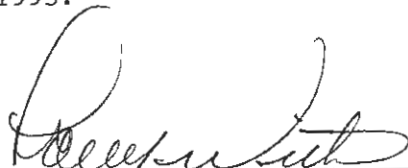
19           I. Miscellaneous. If any provision of this policy and procedure or  
20 its application to any person or circumstance is held invalid, the remainder  
21 of the policy or procedure of the application of the provisions to the  
22 persons or circumstances is not affected and shall remain in full force and  
23 effect.

24           J. Service of Process; Where, in this policy, notice is indicated,  
25 such notice may be provided by personally serving the individual or the  
26 entity as is authorized under state statutes on personal service, or by


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1 means of posting in the United States mail, properly addressed, postage  
2 prepaid. Service by mail is complete upon deposit in the United States  
3 mail.

4 ADOPTED by the Board of Commissioners of the EAST WENATCHEE WATER  
5 DISTRICT, Douglas County, Washington, at a regular meeting thereof, held  
6 this 10th day of March 1993.

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Larry D. Witte, President

10 ATTEST:

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13 Paul W. Blanchard, Secretary  
14 /sr  
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