

WHISTLEBLOWER POLICY & STATE OMBUDSMAN OFFICE

It is the purpose of this policy to provide employees and county officials with a means by which to report improper governmental action, to protect those employees and officials who make good-faith reports to appropriate governmental bodies and to ensure that there will be no retaliation for having made such reports.

It is the policy of the County that all employees and officials are encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of any County. Every employee and official has the right to report to the appropriate person, information concerning an alleged improper governmental action.

“Improper governmental action” is any action by any employee or official that:

- Is undertaken in the performance of his/her duties, whether or not the action is within the scope of the employee’s or official’s employment; and
- 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

“Improper governmental action” does not include personnel actions, 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 applicable collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any other personnel action taken under authority of state law.

“Abuse of authority” means intentional misuse of power or position by any County employee or official for an improper purpose.

“Emergency” means a circumstance that, if not immediately changed, may cause damage to persons or property.

“Good faith” means action taken after a reasonable investigation of facts available, and after due consideration and with an honestly held belief that there was improper conduct.

“Gross waste” means a significant or recurring intentional misuse of public funds, and does not include unintentional errors.

“Retaliatory action” means any adverse change in an employee or official’s employment status or in the terms and conditions of employment based on the reporting by the employee or official of improper governmental actions.

Reporting Procedures For Improper Governmental Action

An employee or official who becomes aware of improper governmental actions shall raise the issue first with his/her supervisor. If the action involves an elected official, then the report shall be made to the County attorney. The employee or official shall submit a written report to the

supervisor or to some person designated by the supervisor, stating in detail the basis for his/her belief that an improper governmental action has occurred. Where the employee or official reasonably believes the improper governmental action involves his/her supervisor or for some other reason does not feel comfortable making a report to his/her supervisor, then the employee or official shall submit the written report to the County Attorney or State Ombudsman. If a meeting is requested as a part of the investigation, then the reporting employee or official may be accompanied by another person of his/her choice to such meeting.

Employees and officials involved in any investigation shall keep the identity of the reporting employee or official confidential to the extent possible under law, unless the employee or official authorizes the disclosure of his/her identity in writing.

In case of an emergency where the employee or official believes that damage to persons or property may result if action is not taken immediately, the employee or official may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action and shall also report the action to the County attorney.

In the absence of an emergency, employees or officials reporting improper governmental action who fail to make a good-faith effort to follow the procedures set forth in this policy shall not receive the protection provided by this policy or state law. Employees or officials who make false reports may be subject to disciplinary procedures.

The supervisor, the County attorney, or another official that receives a report of improper governmental action, shall take prompt action to notify the State Ombudsman regarding the report of improper governmental action and work with the State Ombudsman to coordinate a proper investigation, either through internal means or independently by the State Ombudsman's office. An investigator may be appointed and the reporting employee or official shall be advised that a prompt investigation is occurring. Emergency situations shall receive appropriate expedited response. Non-emergency situation shall receive serious, prompt attention.

After the investigation has been concluded, the results will be shared with the County Attorney and Board of Supervisors, who shall decide

(1) the appropriate action that should be taken to address the reported improper governmental action and

(2) what, if any, personnel action is required. If the investigation involved a Board of Supervisors member, the results would be shared with the County Attorney only. If the investigation involved the County Attorney, the results would be shared with the Board of Supervisors.

A copy of the written complaint, the investigation report, and the proposed action will be prepared.

After an investigation has been completed, the reporting employee or official shall be provided a summary of the result of the investigation. However, personnel actions taken as a result of the investigation shall be kept confidential. There shall be no time limit on reporting improper governmental action.

After an investigation has been completed and the reporting employee or official has been provided with a summary of the results, the employee or official may report information about

improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the employee or official reasonably believes that an adequate investigation was not undertaken by the County to determine whether an improper governmental action occurred, or that insufficient action has been taken by the County to address the improper governmental action, or that for other reasons the improper governmental action is likely to recur.

Protection Against Retaliatory Actions

The County is prohibited from taking retaliatory action against an employee or official because he/she has, in good faith, and in accordance with this policy, reported an improper governmental action.

An employee or official who believes he/she has been retaliated against for reporting an improper governmental action shall first raise the issue with his/her supervisor. If the action involves the supervisor or an elected official, then the report shall be made to the County attorney. The employee or official shall submit a written report to the supervisor or to some person designated by the supervisor, stating in detail the basis for his/her belief that he/she has been retaliated against for reporting an improper governmental action.

The following steps shall be followed if an employee or official feels he/she has been retaliated against for reporting improper governmental action:

1. The employee or official must provide written notice to the appropriate person as designated above, within thirty (30) days of the alleged retaliatory action. The written notice shall specify the alleged retaliatory action and the relief requested.
2. The responsible person, as designated above, will respond to the allegation within thirty (30) calendar days.
3. The employee or official, after receiving the County's response or after the County's 30-day response period has expired, the employee or official may, within fifteen (15) calendar days, request a hearing.
4. If a hearing is requested, the County shall apply for a hearing before an administrative law judge licensed in the State of Iowa. Such request for a hearing shall be made within five (5) working days.

Responsibilities

The County Attorney or his or her designee, is responsible for implementing the County's policies and procedures for (1) reporting improper governmental action, and (2) protecting employees and officials from retaliatory actions. This includes ensuring that:

1. This policy is provided where all employees and officials will have reasonable access to it;
2. To the extent practical, training and education is provided to all current employees and officials on this policy;
3. This policy be made available to any employee or official upon request; and
4. This policy is provided to all new hires.

Officials, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and the procedures specified therein may result in disciplinary action, up to and including termination.

The County Attorney is responsible for keeping an accurate log of all submissions made under this policy. This information shall be reviewed annually with the Board of Supervisors. This information shall also be disclosed during external audits.

In addition to the Whistleblower Policy, employees and officials may contact the State Ombudsman with reports of improper governmental action. Pursuant to the Iowa Ombudsman Act, Iowa Code Chapter 2C, the State Ombudsman's Office has authority to investigate complaints about improper action or inaction taken by governmental entities. The State Ombudsman's Office is a non-partisan agency and may be reached at 1-888-426-6283.

Adopted by the Jones County Board of Supervisors August 13, 2019.