	<p><b>Title:</b> Whistleblower Protection</p> <p><b>Number:</b> 305</p> <p><b>Effective:</b> October 20, 2015</p> <p><b>Updated:</b> September 15, 2020</p> <p><b>Prepared by:</b> LeeAnn McNulty, Administrative Services Manager</p> <p><b>Approved by:</b> Board Authority Resolution No. 2015-23</p>
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## **POL-305 WHISTLEBLOWER PROTECTION**

This policy applies to all Mason Transit Authority (MTA) employees.

### **1.0 Purpose**

To encourage employees to disclose improper governmental actions committed by MTA and provide protection against retaliation. To also safeguard MTA's legitimate interests by encouraging complaints be made first to MTA internally and by providing means for speedy dispute resolution.

### **2.0 Reference**

Washington State Local Government Whistleblower Protection Act, Chapter 42.41 RCW.


### **3.0 Definitions**

Improper governmental action: Any action by a MTA officer, manager, or employee:

- A. That is undertaken in the performance of that individual's official duties, whether or not it is within the scope of employment; and
- B. That is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and a specific danger to the public health or safety, or is a gross waste of public funds.

An improper governmental action does not include personnel actions as defined by RCW 42.41.020(b). In addition, employees are not free to disclose matters that would affect a person's right to legally protected confidential communications. Nothing in this Policy authorizes an individual to disclose information prohibited by law

Retaliatory action: Any adverse change in a MTA employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory

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performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action ; or (b) hostile actions by another employee towards a MTA employee that were encouraged by a supervisor or senior manager or official taken as a result of protected whistleblower activity.

Emergency: A circumstance that if not immediately changed may cause damage to persons or property.


**4.0 Reporting Process**

MTA officials and employees may not use his or her official authority or influence, directly or indirectly, to threaten, intimidate, or coerce an employee for the purpose of interfering with that employee's right to disclose information concerning an improper governmental action in accordance with the provisions of this chapter.

An employee who suspects that MTA is committing an improper governmental action should raise the issue first with his/her manager. If required by the manager, the employee shall submit a written statement detailing the employee's belief that an improper governmental action has occurred to the Administrative Services Manager. Where the employee believes the improper action involves his or her supervisor, the employee may raise the issue directly with the Administrative Services Manager first. If the employee believes the improper action involves the General Manager or Administrative Services Manager, the employee may raise the issue directly with the Board Chair.

In the case of an emergency, the employee may report the improper governmental action directly to the appropriate governmental agency with responsibility for investigating the improper action. In the absence of an emergency, however, an employee who fails to make a good faith attempt to report to MTA will not receive the protections of Chapter 42.41 RCW.

The employee himself/herself, not another party, must provide information regarding the improper government action in written form.

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MTA will promptly investigate the report of improper governmental action. MTA will endeavor to keep the identity of a reporting employee or witness confidential to the extent possible under the law, unless the employee authorizes disclosure of his/her identity in writing.

After an investigation has been completed, the employee reporting the improper action shall be advised of the results of the investigation, except for confidential personnel actions taken as a result of the investigation.

**5.0 Protection Against Retaliation**

MTA, its officials and employees, shall not take any retaliatory action against an employee because the employee provided information in good faith in accordance with the provision of Chapter 42.41 RCW that an improper governmental action occurred.


**6.0 Complaints of Retaliation**

Any employee who believes that retaliation has occurred shall provide a written notice of the charge of retaliatory action to the MTA Board that:

- (a) Specifies the alleged retaliatory action; and
- (b) Specifies the relief requested.

The charge shall be delivered to the Board Chair no later than 30 days after the occurrence of the alleged retaliatory action. MTA has 30 days to respond to the charge of retaliatory action and request for relief.

Upon receipt of either the response of MTA or after the last day upon which MTA could respond, the employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in RCW 42.41.040. The request for a hearing shall be delivered to MTA within 15 days of delivery of the response from MTA, or within 15 days of the last day on which the MTA could respond.

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Within five working days of receipt of the request for hearing, MTA shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge. Except as otherwise provided in this section, the proceedings shall comply with RCW 34.05.410 through 34.05.598.

Any hearing held under this policy shall comply with RCW 42.41.040. The employee has the burden of establishing retaliation by a preponderance of evidence.

**7.0 Posting Requirements**

This policy will be permanently posted, will be made available to any employee upon request, and will be provided to all new employees.