



Deschutes County Administrative Policy No. GA-14
Effective Date: May 6, 2020

WHISTLEBLOWER REPORTING

STATEMENT OF POLICY

This policy is intended to provide a mechanism for employees, volunteers, vendors, and contractors to report actionable concerns of government misconduct without fear of retaliation or retribution.

It is the policy of Deschutes County to comply with ORS 297.760 - .765, governing local government waste hotlines, as well as ORS 659A.200 - .221, governing whistleblower protections in public employment. Nothing in this policy is intended to, or should it be interpreted, as abridging any rights, which exist under law, rule, regulation, or applicable collective bargaining agreement. This policy does not operate to waive any right which may not be legally waived.

APPLICABILITY

This policy applies to all elected officials, officers, employees, and agents of Deschutes County, and also to those affiliated with the 9-1-1 County Service District. It also applies to all officers, employees, and agents of entities, committees, and commissions over which County has authority to impose general policies. This policy does not apply to Sunriver Service District, Black Butte Ranch Service District, OSU Extension/4H, or road districts.

In terms of reporting misconduct including fraud, waste, , abuse , etc.; this policy also applies to the contractors, subcontractors, agents, intermediaries, and others transacting business with the County, and any affiliated entities, committees, or commissions.

POLICY AND PROCEDURES

A. In General

The County shall review all reports of fraud, waste, abuse, or other types of misconduct listed in ORS 297.760 (collectively, "covered misconduct"), and if such reports are supported by evidence they will be investigated. Investigations conducted will not consider the position, title, or length of service of any party named in the report. In circumstances where there is a potential crime, the appropriate law enforcement agency will be involved prior to any investigation. The estimated monetary value of any loss will be considered in utilizing resources to investigate reports (*for example, a missing \$2 pen might not warrant a significant investigation*).

Reports of employment-related concerns, such as reports of employment-related harassment, retaliation, or discrimination should continue to be reported to Human Resources or other channels in accordance with the County's Non-Harassment and Non-Discrimination Policy, HR-10. Any of these types of reports made to the hotline will be forwarded to Human Resources. These reports may be entered into the hotline management system for statistical reporting and will not be handled or reported under this policy. While such reports are not technically governed by this policy, legitimate reports made to the County in good faith are likely covered by the whistleblower protections found in 659A.200 - .221,

Concerns reported outside of covered misconduct may be handled at the discretion of the County Internal Auditor or County Administrator. Concerns not involving Deschutes County or its affiliated entities will be forwarded to the appropriate entity.

B. Responsibilities – Employees

Anyone with a legitimate, good faith concern that covered misconduct has occurred or is occurring is encouraged to use the hotline. In addition to using the hotline, employees may report such concerns to their immediate supervisor, manager, department head, or to the County Counsel, County Administrator, or County Internal Auditor. Any employee who is notified of alleged covered misconduct by another employee or member of the public shall immediately report such allegations to the County Internal Auditor or County Administrator.

C. Whistleblower Hotline

The Deschutes County Whistleblower Hotline is operated by a specialty vendor that provides confidential hotline services on a 24/7/365 basis. Reporting options include a toll-free phone number, website, email, and fax.

The Whistleblower Hotline will provide a unique case number for all callers to allow for follow-up on their report. Persons making a report to the hotline will be asked to provide as much detail as possible. Persons making a report to the hotline will have the ability to remain anonymous if they choose. The identity of callers who make reports to the hotline will be protected to the fullest extent practicable.

Notices containing the means of contacting the Whistleblower Hotline will be distributed to County departments, offices, and affiliated entities, and will be prominently displayed.

Instead of making a report to the Whistleblower Hotline (or in addition to), a person may report an incident to the Oregon Government Waste Hotline operated by the Oregon Secretary of State at 1-800-336-8218.

D. Confidentiality/Anonymity

Confidentiality of persons making reports will be protected to the fullest extent practicable. If the reporting party chooses to remain anonymous, the County's ability to conduct an internal investigation may be limited. Employees who remain anonymous are not afforded the protections provided under Oregon whistleblower law. Also, anonymity cannot be expected if a criminal investigation results from the report and the County may not be able to take corrective action if persons reporting covered misconduct choose to remain anonymous.

The County Internal Auditor and all participants in an investigation shall treat all information received as confidential to the extent allowed by law. Internal Audit investigations will not be disclosed or discussed with anyone other than those who have a legitimate business need to know.

All public records requests with respect to reports under this policy or associated investigations shall be directed to the County Internal Auditor and County Counsel. While reports submitted in confidence under this policy and reports and other materials produced as part of internal investigations relating to allegations of covered misconduct may be afforded some protection against disclosure under Oregon law, such protections against disclosure cannot be guaranteed.

E. Investigations and Report Handling

1. A “report” is any concern of alleged covered misconduct reported to the Whistleblower Hotline.
2. Oregon Statutes govern operation of local government hotlines. This policy describes generally how the County’s hotline works. The County Internal Auditor should be consulted if there is a question about this policy.
3. All reports are considered as made to the independent County Internal Auditor.
4. Investigating Reports - upon receiving a report, the County Internal Auditor will consult with the County Administrator and relevant parties at Deschutes County to determine whether adequate evidence exists to conduct an investigation.
 - a. If it is determined that adequate information has not been received in a report to proceed with an investigation, the person who submitted the report may be asked for additional information. If additional information is not provided, the County Internal Auditor may decide to close the case and notify the person who submitted the report of the decision.
 - b. Special situations -
 - i. Where the report involves alleged covered misconduct by a member of the Board of County Commissioners, another elected County official, the County Administrator, or the County Counsel; the County Internal Auditor will conduct an initial review or contract out the review to an independent auditor, investigator, or certified fraud examiner, and report the results to highest and most independent management not named in the report or involved in the allegations made in the report.
 - ii. Where the report involves the County Internal Auditor, the Chair of the Audit Committee, County Counsel, and County Administrator will conduct an initial review or contract out the review to an independent auditor, investigator, or certified fraud examiner.
5. If sufficient information exists to require an investigation, the County Internal Auditor, in consultation with the County Administrator, will determine who will investigate the report. The County Internal Auditor can seek input from relevant County parties. The County Internal Auditor will be responsible for ensuring, conducting, or overseeing investigations.
 - a. Regardless of whom they concern, reports involving potential criminal activity will be immediately brought to the attention of law enforcement. The County Internal Auditor may assist law enforcement in any ensuing investigation, if requested. No internal County investigations will occur until the criminal investigation has been completed.
 - b. The County Internal Auditor may delegate or share investigations with appropriate department management staff or outside independent contractors depending on the nature and scope of the concern and on a strictly need-to-know basis based upon the business needs of the County.
6. The County Internal Auditor has primary responsibility for monitoring the investigation of all reports except as identified in the special situation investigations section for a report concerning allegations of covered misconduct against the County Internal Auditor. Investigations will be independent, impartial, and fact-based. Within the scope of the investigation and as required by law, the County Internal Auditor (or designee) will have:

- a. Free and unrestricted access to all relevant County records, data, employees, and premises, whether owned or rented - except information that is protected under state statute (such as records associated with a pending criminal investigation). The County Internal Auditor has significant access authority provided by County Code 2.14.060; and
 - b. The authority to examine, copy, or remove all or any portion of the contents of files, desks, cabinets, and other County property without prior knowledge or consent of any individual who might use or have custody of any such items.
7. The department head/elected official whose department/office is involved with the report may appeal the investigatory approach. Department heads may appeal to the County Administrator and elected officials to the Board of County Commissioners. Any discussions on appeals with the Board of County Commissioners should be held in executive session.
8. With regard to any reports made under this policy, the County Internal Auditor will be responsible for:
- a. Communicating in a timely manner with the person who submitted the report and asking relevant follow up questions, if necessary.
 - b. Maintaining the integrity of the report process to ensure that reports are treated with seriousness, kept confidential to the extent practicable, investigated thoroughly, and resolved in a timely manner.
 - c. Preserving information that is received by the County Internal Auditor's Office concerning investigations and work performed pursuant to this policy.
 - d. Ensuring that any potential ethical violations under ORS 244 are reported to the Ethics Commission.
 - e. Ensuring that any criminal activity is reported as soon as possible to the appropriate law enforcement agency.
9. The County Internal Auditor will also provide periodic statutorily required reports to the County Administrator, Board of County Commissioners and the Audit Committee. When developing the annual internal audit work plan, the County Internal Auditor will consider the concerns raised in reports and/or the results of investigations. The County Internal Auditor can initiate an audit based on a report even if it was initially referred to another department or law enforcement for investigation.
10. Once an investigation is completed, the County Internal Auditor is responsible for providing a written determination of any investigations completed and include:
- a. the nature of the report,
 - b. whether the report was founded or unfounded, and
 - c. Any applicable recommendations concerning appropriate resolution of the concerns arising in the report.

The written determination is a public record. While such a determination may be exempt from disclosure under Oregon public records law, such exemption cannot be guaranteed.

Upon conclusion of an investigation, recommendations may be made to department management where appropriate to minimize future risk. Management is responsible for implementing sufficient and appropriate controls to prevent reoccurrence.

DEFINITIONS AND EXAMPLES

The following definitions and examples are meant to provide some guidance as to the nature and type of ethical concerns. However, reports can include any type of concern.

1. Abuse - the intentional, wrongful, improper use, or destruction of County resources. Abuse can include the excessive or improper use of an employee's or official's position in a manner other than its rightful or legal use.
2. Fraud - at its most basic definition, fraud is the act of using dishonesty for personal gain. In the context of this policy, the definition includes any misuse of, or attempt to misuse, a County asset for personal gain, or for purposes unrelated to County business. There are three main categories of fraud: financial statement fraud, misappropriation of assets, and corruption. Examples include, but are not limited to:
 - a. Stealing or removing County assets;
 - b. Using County equipment, facilities, supplies, or funds for purposes unrelated to County business;
 - c. Obtaining County funds or compensation through dishonesty;
 - d. Falsifying financial records;
 - e. Theft or misuse of County money, services, equipment, supplies, or other materials;
 - f. Intentionally misrepresenting the costs of goods or services provided;
 - g. Falsifying payroll information;
 - h. Submitting false claims for reimbursements;
 - i. Soliciting or accepting a bribe or kickback; and
 - j. Falsifying weights or measures.
3. Ethics –Ethical complaints for public officials under Oregon Government Ethics law in ORS Chapter 244, include:
 - a. Use of public office for personal financial gain;
 - b. Conflicts of interest;
 - c. Nepotism;
 - d. Prohibited gifts; or
 - e. Failure to report statements of economic interest.

Violations of the County's Code of Ethics found in Deschutes County Code 3.28.010.

4. Waste: The needless, careless, or extravagant expenditure of County funds, incurring of unnecessary expenses, or mismanagement of County resources or property on a significant scale. Waste does not necessarily involve private use or personal gain, but usually signifies poor management decisions, practices, or controls.

5. Examples - the following are some of the types of concerns that may be reported:

Concern Type	Description/Example
Abuse of Benefits	Improper or deceiving actions, including falsification of records or physical conditions related to benefit plans including paid time off programs.
Accounting, Auditing, and Internal Financial Controls	Questionable procedures relating to accounting, auditing, or financial controls. (Examples include misstatement of financial reports, violations of Generally Accepted Accounting Principles, billing issues, information security, and financial concerns).
Compliance and Regulation Violations	Violations of a rule, policy, regulation, law, operating procedure, past practice, or protocol.
Conflict of Interest	Actions that influence the exercise of one's job duties. Examples include inappropriate vendor relations, bribery, nepotism, and exploitation of confidential information.
Embezzlement	Fraudulent appropriation of assets by an individual to whom such property has been entrusted.
Falsification of Contracts or Records	Altering, fabricating, destroying, misrepresenting, or forging contracts or documents.
Health record miscoding or up-coding	Purposely miscoding a client's health record or up-coding. Up-coding is purposely using a billing code that does not match the procedure performed and results in a higher billing rate.
Improper Giving or Receiving of Gifts	Giving, receiving or solicitation of valuables, which could be interpreted as an effort to influence a business relationship or decision.
IT Security Concerns	Violations of information security policies, conduct that results in potentially compromising the County's network or technology resources.
Sabotage	Interference in order to cripple, shut down, or reduce the output of an operation.
Vandalism	The deliberate and willful destruction of, or damage and impairment to, equipment or property.
Theft of Property	Stealing property belonging to the County or another.
Time Abuse	The act of falsifying one's own or other's work hours, excessive personal internet or computer use.
Unusual or Suspicious Activities	Irregular activities that raise a concern which warrants an investigation.

Areas that should be reported to Human Resources, include employment-related concerns, such as reports of employment-related harassment, retaliation, supervisor disputes, grievances, and discrimination.

INTERPRETATION AND IMPLEMENTATION

Any questions concerning the intent or application of this policy should be directed to the County Internal Auditor or designee who is delegated the responsibility for the interpretation and implementation of this policy.

Approved by the Deschutes County Board of Commissioners on May 6, 2020.



Tom Anderson,
County Administrator