

POLICY 214: WHISTLEBLOWING

ADOPTED: JUNE 20, 2017

Policy:

The Florida public-sector Whistle-Blower law protects employees who report, to specific authorities and in a specific way, certain types of misconduct by public officials and employees. The County has established an initial administrative process for employees who allege that they have been retaliated against in response to activity protected by the law.

214:1 General Provisions

Florida's public-sector Whistle-Blower law protects a County employee from retaliation when he or she has reported the following information, in a written and signed complaint, to a state or local agency, or federal government entity, having the power to investigate or take action:

1. Violation(s) of law on the part of an employee, official, or independent contractor of the County that create a substantial and specific danger to the public's health, safety, or welfare; or
2. Improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of a County employee, official, or independent contractor.

The law also protects a County employee who is asked to participate, as a witness or otherwise, in an investigation, hearing, or other inquiry into the above, or who refuses to retaliate against an employee who has made a protected complaint.

The law does not protect a County employee who reports information that the employee knows to be false, or who has committed or participated in the conduct forming the basis of the report.

For reports alleging misconduct by the County's employees, officers, or independent contractors, the employee must report the information, in a written and signed complaint, to the County Manager, or to any other County official with the authority to investigate or take action, in order to be covered by the Whistle-Blower law. (Please note that, pursuant to the County's Charter, the Board of County Commissioners, or any individual commissioner, is not an appropriate local official to whom a report can be made.) This reporting may be the employee's only form of complaint, or it may be supplemented by a further complaint to outside authority.

An anonymous letter, e-mail, or text is not a "written and signed complaint."

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ADMINISTRATIVE REMEDY

This policy establishes an initial administrative remedy for a Lee County employee who, after making a complaint, believes that he or she has been subjected to retaliation in violation of the Whistle-Blower law, as follows:

1. Within sixty (60) days of the alleged retaliatory action, the employee must file a complaint with the County's Human Resources Department.
2. Upon receipt of the complaint by the Human Resources Department, the County promptly shall contract with the Florida Division of Administrative Hearings ("DOAH") to schedule and conduct an evidentiary hearing, pursuant to the Florida Administrative Procedure Act, on the complaint before a neutral DOAH hearing officer. During the hearing, the employee may be represented by legal counsel and shall have the right to present and cross-examine witnesses.
3. The hearing officer shall make written findings of fact and conclusions of law, and shall recommend a remedy, if appropriate.
4. The hearing officer's findings, conclusions and recommendation shall be transmitted to the County Manager, who shall make a final decision choosing to accept or reject them in whole or in part, and shall communicate the same in writing to the employee.
5. If the employee does not agree with the County Manager's final decision, he or she may proceed with legal action as allowed by the Whistle-Blower law.