



ADMINISTRATIVE REGULATIONS

Subject/Topic:	Whistleblower Policy
Topic Category:	Human Resources
Department Lead:	Office of the County Manager
Last Revised:	05-20-15 06-25-24

Summary: To provide protection for employees who file or make a Report, as defined in this policy, of a suspected instance of financial fraud, waste or abuse that has or could have a significant detrimental impact on County resources or assets (FFWA). This policy outlines the criteria to which those complaints should adhere in order to qualify the employee for whistleblower protection- against retaliation for making a complaint about FFWA to the County's hotline or to specified County staff members. This policy also provides access to the County's grievance process to those whistleblowers.

Employees are encouraged to review this policy carefully to ensure that they follow the right steps to secure whistleblower protection and to determine whether an action later taken by management was punishment for lodging such a Report and thus an appropriate remedy can be requested through the County's grievance process.

Purpose: This policy is to implement the protections afforded to employees pursuant to Virginia Code Section 2.2-3009, et seq., the Virginia Fraud and Abuse Whistle Blower Protection Act, and to encourage employees with a reasonable belief of suspected instance(s) of FFWA to report it and to provide a method for employees to communicate to the County reliable information to enable the County to conduct an objective, fair and comprehensive investigation of such complaints to take appropriate corrective action, and to deter any future misconduct. For qualified Reports, this policy is intended to afford protection to employees against Retaliation for bringing these matters to the attention of the County.

Scope: Applies to all employees of the County Manager in Competitive Service, as defined in [Administrative Regulation 2.7, Chapter 1, Table 1-1](#).

Policy Detail: It is the responsibility of County employees to report through the official channels (as indicated in the "Reporting Financial Fraud, Waste, and Abuse" section of this policy) suspected instances of FFWA. This policy is limited to whistleblower protection and is not intended to discourage anonymous complaints of FFWA.

In order to secure whistleblower protection and possible access to the County's grievance process if the retaliation prohibition outlined in this policy is violated, the complaint generally must: identify the name of the person making the complaint; follow the procedures listed in this policy; and, relate information that involves conduct or omissions of possible or actual FFWA, which has or could have a significant financial impact on County operations. The policy provides further details below.

Definitions The definitions below are intended to help clarify the areas that are covered by this policy; however, examples provided in one definition may also be applicable to other definitions. In order to qualify for whistleblower protection, complaints must involve matters that have or could have a significant financial effect on County operations (resources or assets).



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- **Financial Fraud, Waste, and Abuse (FFWA)** - A suspected instance of financial fraud, waste or abuse that has or could have a significant detrimental impact on County resources or assets.
- **Fraud** – Intentional deception or misrepresentation made by an employee with the knowledge that the deception could result in some unauthorized tangible or intangible benefit to themselves or others or could cause significant financial detriment to the County.

For purposes of this policy, fraud also includes conduct prohibited by the [Virginia Conflicts of Interest Act](#) and the acceptance or solicitation of bribes, kickbacks, illegal gratuities; taking or assessing a commission or payment for County work; assessing or collecting unauthorized user fees or charges; forgery; falsification of applications or records; and unauthorized alteration of records (e.g., altering invoices or timekeeping records).

- **Waste** – Improper expenditure of funds, or the intentional or unintentional, thoughtless or careless consumption, mismanagement, or squandering of resources owned or operated by the County to the detriment or potential significant financial detriment of the County.

Examples of waste include, but are not limited to the following: the abuse, misuse, damage or destruction of County resources or property that is neither accidental nor incidental; incurring unnecessary costs because of inefficient or ineffective practices, systems or controls; personal charges on a County-issued purchase card; improperly disposing of County property; failure to follow accounting or money handling procedures; using County service contracts for work outside of the scope or intent of the contract; improperly using County physical facilities for personal benefit; failing to follow the County's Purchasing Resolution and processes resulting, for example, in the payment of inflated prices for goods or services or the purchasing of unnecessary goods or services; failing to provide proper oversight of reimbursements or change orders; or negligent oversight in timekeeping management.

- **Abuse** – Excessive or improper use of authority or position for personal financial gain or for the personal financial gain of those with whom an employee has a personal or professional relationship, including former employers. Abuse is also the intentional destruction, diversion, manipulation, misapplication, maltreatment or misuse of resources owned or operated by the County or the extravagant or excessive use so as to abuse an employee's position or authority to the significant financial detriment of the County.

Examples of abuse include, but are not limited to the following: the misappropriation of County resources for an unauthorized purpose or contrary to their purpose; accounting irregularities; failure to follow money handling procedures; reimbursement or reimbursement request irregularities; inappropriate change orders; procurement irregularities; failure to adhere to or enforce loan or grant terms; failure to make appropriate financial disclosures or meet reporting requirements; irregularities with a County-issued purchase card; theft; and the improper receipt of gifts. **Oversight Committee** – The committee, appointed by the County Manager with representation from senior County Management, including Human Resources and Management & Finance, that is charged with providing oversight, guidance, and checks and balances



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to the Review Committee.

- **Retaliation/Retaliate** – As a result of making a Report, as defined in this policy, of a suspected instance of FFWA, an employee suffers a materially adverse employment action within twelve (12) months from the date of the incident being reported. Department leadership shall not retaliate against any Whistleblower who makes a Report or an employee who cooperates, gives testimony, or participates in a review, investigation, proceeding, or hearing related to a FFWA complaint.
- **Report** - A Report is a complaint of a suspected instance of FFWA made through the methods outlined in this policy and meeting the criteria set out in this policy, including the requirement that the employee disclose his or her name and contact information when making that complaint.
- **Review Committee** – The Committee, appointed by the County Manager, that is charged with reviewing all complaints and Reports of suspected instances of FFWA. The Review Committee will determine next steps in investigating or otherwise resolving complaints and Reports, with the concurrence of the Oversight Committee.
- **Whistleblower** – An employee who witnesses or has evidence of wrongdoing or abuse and who makes or demonstrates by clear and convincing evidence that he is about to make a good faith report, or testifies or is about to testify to, the wrongdoing or abuse to one of the employee's superiors, an agent of the employer, or an appropriate authority. **Whistleblower Protection** – Protection against Retaliation for making a Report of suspected FFWA.
- **Wrongdoing** – means a violation, which is not of a merely technical or minimal nature, of a federal or state law or regulation, County ordinance, the County Code of conduct or policy designed to protect the interests of the public or employee.

Protecting Employees Who Report Possible FFWA and/or participate in the investigation of FFWA

- Employees shall not retaliate against any Whistleblower who makes a Report or an employee who cooperates, gives testimony, or participates in a review, investigation, proceeding or hearing related to a FFWA complaint.
- Whistleblower Protection does not shield an employee from criminal prosecution or from discipline arising from his or her later discovered wrongdoing, participation in a non-criminal act of fraud, waste, or abuse or when a complaint is made for an improper purpose, such as harassment, intimidation or to influence an employment or other County decision.
- While the County strongly encourages all employees to use the County's Fraud, Waste and Abuse Hotline or to otherwise report such matters, Whistleblower Protection cannot be extended to anonymous complaints even if later investigation reveals the identity of the employee or to complaints of FFWA that do not meet the Report Criteria set out later in this policy. Employees making anonymous complaints, may qualify for protection by application of other portions of this policy.



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Reporting Financial Fraud, Waste and Abuse

- **County's Employee Fraud, Waste and Abuse Hotline** – Please click [here](#).
- **Internal Reporting Methods**- County employees who have knowledge of, either directly or indirectly, or have reason to suspect that any financial fraud, waste or abuse (FFWA) has occurred should immediately disclose the situation to one or more of the following (in no particular order though following the chain of command is preferred when possible):
 1. Employee's supervisor;
 2. Employee's Unit Manager or Employee's Bureau/Division Chief;
 3. Employee's Department Director or the Department Director where the suspected misconduct is occurring;
 4. Department of Management and Finance (DMF); or
 5. Department of Human Resources Employee Relations Office.

Whistleblower Protection Criteria A complaint which entitles an employee to Whistleblower Protection (a "Report") shall meet the following criteria:

1. Be made by the employee himself/herself and the employee discloses his/her name when making the complaint;
 2. Be made with the reasonable belief that the suspected instance of FFWA (financial fraud, waste or abuse) has occurred and the impact on County operations is or could be significant. A complaint cannot be made for an improper purpose, such as harassment, intimidation or to influence an employment action or decision;
 3. Meet the definition of "Whistleblower" defined above.
 4. Provide sufficient detail and be recent enough (e.g. within 90 days) to render the suspected instance of FFWA capable of investigation; and
 5. Be capable of objective corroboration, even if the allegation is ultimately determined to be unfounded or cannot be acted upon.
- The Review Committee will determine whether the complaint meets the criteria of a Report, thereby qualifying the employee for Whistleblower Protection status, with the concurrence of the Oversight Committee. This determination on Whistleblower Protection is final and is not grievable.

Responsibilities of Departments, County Review and Oversight Committees Department Directors, Department management, Review Committee, and Oversight Committee, members shall:

- Adhere to the provisions of this policy.
- Protect the privacy of employees who make Reports, to the greatest extent possible, and not disclose the employee's name to anyone other than the Review Committee except on a strict need to know basis; if disclosure becomes unavoidable during the investigation; disclosure is necessary for the safety of the reporting party or others; or as required by law
- Not seek to identify the source of anonymous complaint, unless compelled to do so by a court or for criminal investigative purposes.



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- Protect the integrity of the reporting process and, with regard to departmental personnel, not disclose the information contained in a complaint/report to anyone other than as required to transmit the information to the Review Committee, or not take any action that may destroy evidence or influence witnesses.
- Ensure that all Department supervisors and managers will abide by the prohibition against Retaliation.
- Provide appropriate training to all Department supervisors and managers.

Timely transmit to the Review Committee FFWA complaints, plus any supporting materials provided by an employee.

Grievance Rights Any Whistleblower who believes he or she has been subjected to Retaliation for making a Report may file a grievance by following the procedures contained in Administrative Regulation 2.7, Chapter 18, Grievances.

Related Information:

- [Additional Resources \(Phone Numbers, Contact Information\)](#)
- [Administrative Regulation 2.7, Chapter 18, Grievances](#)
- [Arlington County Purchasing Manual](#)
- [Arlington County Purchasing Resolution](#)
[Arlington County Ethics and Hotline Program](#)
- Virginia Code Section 2.2-3009, et seq., the Virginia Fraud and Abuse Whistle Blower Protection Act
- [State and Local Government Conflict of Interests Act, Va. Code Ann. § 2.2-3100-3131](#)
- [Virginia Public Procurement Act, Va. Code Ann. § 2.2-4300-4377](#)

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 Mark J. Schwartz, County Manager Date