



2. *Applicability of State Whistleblower Act.* The Whistleblower Act applies to the judicial entities identified in section 1 as follows:

- a. *Complaints Against Judicial Officers.* Jurisdiction for whistleblower complaints filed against judicial officers of courts identified in section 1 rests exclusively with the Commission on Judicial Conduct, which shall evaluate complaints under the standards of the Code of Judicial Conduct. The Commission has authority to investigate complaints, decide the merits of the allegations, and impose appropriate sanctions and remedies. The procedures governing these complaints shall be as set forth in the Whistleblower Act and in the Commission's own rules and procedures. Where there is a conflict between the Whistleblower Act and the Commission's rules or procedures, the Commission's rules and procedures shall control.
- b. *Complaints Against Employees.* Whistleblower complaints against employees of section 1 entities who are not judicial officers shall be filed with the Washington State Auditor's Office in accordance with the procedures set forth in RCW 42.40.040. Such complaints shall be governed in all respects by the provisions of Chapter 42.40 RCW, except that reports from the State Auditor that would otherwise be submitted to the Governor or Legislature under Chapter 42.40 RCW are to be submitted instead to the Supreme Court's Chief Justice.
- c. *Exemption for Commission on Judicial Conduct's Confidential Investigations.* Jurisdiction for complaints filed against Commission on Judicial Conduct members, employees, and contractors relating to the conduct of its confidential investigations shall rest with the Commission on Judicial Conduct, to be conducted in accordance with its own Rules of Procedures and Policies. Other whistleblower complaints against Commission members, employees, and contractors shall be handled in accordance with the procedures set forth in subsection 2(b) above.

3. *Claims of Workplace Reprisal or Retaliatory Action.*

- a. *Protection.* Whistleblowers who file a complaint under this policy are protected from workplace reprisal or retaliatory action.
- b. *Applicability of Statutory Procedures and Remedies.* Except as set forth in subsection (3)(c), a whistleblower's claim of workplace reprisal or retaliatory action is to be governed by RCW 42.40.050 of the Whistleblower Act. The statute provides that the remedies for reprisal or retaliatory action are those available under Chapter 49.60 RCW. Chapter 49.60 RCW in turn authorizes the Human Rights Commission to investigate claims and negotiate settlements and authorizes an administrative law judge to adjudicate claims and impose statutory remedies.

- c. *Limitation of Remedies Against a Judicial Officer.* The Human Rights Commission and administrative law judges are not authorized to impose sanctions against a judicial officer. Under the Washington State Constitution, the authority to sanction judicial officers rests exclusively with the Commission on Judicial Conduct. Accordingly, if a judicial officer is the subject of a whistleblower's reprisal or retaliation claim, the administrative law judge may award the whistleblower applicable remedies under RCW 49.60.250 that serve to compensate a wronged whistleblower (e.g., restoration of benefits or back pay), but not those that serve to sanction a judicial officer (e.g., suspension or reprimand). Remedies awarded will not be compensated by individual judicial officers, but by their employing entity.

4. *Information about Whistleblower Policy.* The Administrative Office of the Courts ("AOC") is responsible for informing, and periodically reminding, the employees and judicial officers of the entities covered by section 1 above as to the procedures and protections against retaliation that are available under this policy. Detailed information shall be made easily accessible on the AOC's websites and any websites maintained by the entities listed in section 1 above. General information shall be displayed in workplace areas in all entities listed in section 1 above. Reminder notices shall be sent, at least annually, to each of the employees and judicial officers of the entities covered by section 1.

5. *Definitions.* For purposes of this policy, the following terms shall have the following definitions:

- a. The term "judicial officer" means a judge or court commissioner, as well as any other magistrates, special masters, or referees for whom the Code of Judicial Conduct applies. See the Code of Judicial Conduct's introductory section entitled "Application of the Code of Judicial Conduct."
- b. The term "employee" means a state judicial branch employee other than a judicial officer.

6. *Savings clause.* This policy shall not be construed to affect judicial immunity. Nothing in this policy affects the operation of GR 5 or GR 32.

7. *Reservation of rights.* The Supreme Court reserves the right to invoke the separation of powers doctrine and re-assert exclusive jurisdiction over any complaint involving allegations about fundamental judicial functions that should not be subject to oversight by another branch of government.

DATED at Olympia, Washington, this 15<sup>th</sup> day of September, 2010.

Johnny  
Alexander, J.  
Chamber, J.

Madsen, C. J.  
Over, J.  
Fairhurst, J.  
J. M. [unclear]  
Stephens, J.