



Policy No. 7.12
Adopted by Council: May 9, 2011

WHISTLE BLOWER POLICY, 2011

The Corporation of the District of Sooke is committed to creating and maintaining a work environment where high standards of business and personal ethics are observed.

Purpose:

The purposes of this policy are:

- to create and maintain a work environment with high standards of business and personal ethics;
- to inform all employees of their responsibility to report serious misconduct;
- to prevent retaliation against those who, in good faith, report serious misconduct;
- to provide procedures for the internal reporting and investigation of serious misconduct.

Procedure:

1. Application

This policy applies to all officers and employees of the District of Sooke.

2. Definitions

In this policy:

“baseless allegation” means an allegation of serious misconduct made in bad faith, with malice, or without having reasonable and objective grounds for believing an allegation of serious misconduct is true;

“District” means the Corporation of the District of Sooke;

“employee” includes managers, supervisors, and union and non-union staff employed by the District;

“informant” means a person who reports an allegation of serious misconduct;

“officer” includes the Chief Administrative Officer, Financial Officer, Corporate Officer, and other officers appointed by Council pursuant to the *Community Charter*, S.B.C. 2003, c. 26, as amended from time to time;

“retaliation” includes, in relation to an allegation, report, investigation or disciplinary measure made under this policy, harassment, punitive work

assignments, negative impacts on salary or wages, or job loss;

“serious misconduct” includes:

- a) the forging of documents;
- b) the unauthorized alteration or manipulations of computer files;
- c) manipulating District accounting or audit records or destroying any accounting or audit-related records except as otherwise permitted under applicable legislation and District policy;
- d) serious violations of District policies or violations of applicable Acts, regulations or bylaws;
- e) misappropriation, misdirection or misuse of funds;
- f) misdirection, misappropriation or misuse of District assets, corporate information or District facilities;
- g) actions likely to cause serious harm to persons, public safety, property or the environment;
- h) actions resulting in the District being exposed to liability or financial loss;
- i) the failure to take reasonable steps to report or rectify actions, or both, that may impact negatively on the District’s reputation and would result in the public losing confidence in the District’s ability to deliver services;
- j) the manipulation of District resources for any illegal, improper or unethical purpose including fraud, theft, embezzling funds, or accepting kickbacks or bribes;
- k) authorizing or receiving compensation for goods not received or services not performed;
- l) authorizing or receiving compensation for hours not worked;
- m) the unauthorized release of in camera or confidential information; or
- n) deliberately concealing information relating to any of the above.

3. Reporting Serious Misconduct

3.1 A person who, in good faith, is aware of serious misconduct must report it in accordance with this policy and in the following manner:

	If the subject of the alleged serious misconduct involves:	the alleged serious misconduct should be reported to:
a.	a departmental colleague	the informant’s direct supervisor
b.	a supervisor	the informant’s department head or manager
c.	a department head or manager	the Chief Administrative Officer
d.	the Chief Administrative Officer	the Mayor

- 3.2 The Chief Administrative Officer may report serious misconduct to a Council member, the Mayor, or to another officer of the District.
- 3.3 All reports of alleged serious misconduct must be made in writing. A person may be permitted to report serious misconduct verbally if the person to whom they are reporting makes a written record of the allegation and confirms the accuracy of that record with the informant. Anonymous allegations cannot be investigated by the District because the good faith of those allegations cannot be ascertained.
- 3.4 If a person is not comfortable reporting his or her concern to the person indicated in section 3.1 then they may approach another supervisor, manager, or department head to report their concerns and that supervisor, manager, or department head must then report the matter to the Chief Administrative Officer or the Mayor.
- 3.5 A person who reports their own serious misconduct under this policy will not be exempt from disciplinary measures, but their self reporting will be given consideration when determining such disciplinary measures.

4. Investigation

- 4.1 A person identified in section 3.1 who receives a report of alleged serious misconduct must provide the informant with written confirmation within 10 working days that the report has been received and will be investigated in accordance with this policy.
- 4.2 A person identified in section 3.1 who receives a report of alleged serious misconduct must advise the Chief Administrative Officer. If the allegation of serious misconduct involves the Chief Administrative Officer, then the report must be made to the Mayor.
- 4.3 The Chief Administrative Officer (or Mayor) will determine the appropriate level of investigation and response and will advise the Financial Officer of any allegation of fraud or theft. The Financial Officer must determine whether the matter should be reported to the District's auditors.
- 4.4 All allegations will be investigated in an impartial and timely manner. The Chief Administrative Officer (or Mayor, if a report is made to the Mayor) has the authority to investigate the allegation or to designate an appropriate internal or external investigator to conduct the investigation. The investigator will interview the informant and may take any other steps he or she thinks necessary to make a fair determination of whether serious conduct has occurred or may occur.
- 4.5 Where the investigation reveals that serious misconduct has occurred, the District's response may include:
 - a) education and training for the person who committed the serious misconduct;

- b) review and modification of District policies, procedures and practices, if necessary, to ensure that the District better address or prevent future serious misconduct;
 - c) notification of Council, the District's auditors and appropriate law enforcement authorities or other oversight bodies;
 - d) disciplinary action, up to and including dismissal.
- 4.6 In all cases, corrective or preventative action will be appropriate to the situation. When determining appropriate action, factors that may be considered include:
- a) the nature and seriousness of the serious misconduct;
 - b) whether the serious misconduct was a single or repeated act; and
 - c) the personnel record of the employee who committed the serious misconduct.

5. Protection against Retaliation

- 5.1 Any form of retaliation, discrimination or reprisal against an employee or officer who, in good faith, reports serious misconduct or acts as a witness or otherwise participates in an investigation of serious misconduct is a violation of this policy.
- 5.2 Informants who believe they have been retaliated against may report this in writing to the Chief Administrative Officer. If the informant believes the retaliation involves the Chief Administrative Officer, they may report to the Mayor.
- 5.3 A report of retaliation will result in an investigation, and, if proven, may result in disciplinary action, including responses listed in section 4.5 of this policy.

6. Baseless Allegations

- 6.1 The District recognizes that not every report will reveal serious misconduct and determining whether serious misconduct has occurred requires a full investigation to obtain relevant information that may not be available to an informant.
- 6.2 Informants must avoid making baseless allegations of serious misconduct as they can have serious, negative effects on innocent parties.
- 6.3 If, after investigating an allegation, the Chief Administrative Officer or a designated investigator determines that it is a baseless allegation, then it may be investigated as serious misconduct and disciplinary action may be taken against the informant.

7. Confidentiality

- 7.1 Confidentiality extends to all records relating to reports of alleged serious misconduct, including reports, meetings, interviews and investigation results.
- 7.2 Personal information, including the identity of the informant, will be protected in accordance with the *Freedom of Information and Protection of Privacy Act*.

- 7.3 Persons making a report of alleged serious misconduct, investigators, witnesses and individuals against whom a report has been made must maintain confidentiality.
- 7.4 Breaches of confidentiality may be regarded as serious misconduct under this policy.
- 7.5 Records relating to reports made under this policy will be retained according to applicable legal requirements and in accordance with the District's standard records management procedures.
- 7.6 Information may be subject to legal disclosure requirements during a court proceeding, arbitration or other legal proceedings, and to circumstances where affected persons have consented in writing to be identified.

8. Exceptions

- 8.1 This policy does not provide reporting procedures for the serious misconduct of elected officials of the District. In that situation, a person may report the serious misconduct to the appropriate law enforcement or oversight body, or to Council if the serious misconduct would not normally be addressed by a law enforcement or oversight body, and anyone who does so in good faith will be afforded the protections against retaliation provided by this policy.

9. Posting Of This Policy

- 9.1 This policy will be posted in visible and accessible locations within the Municipal Hall and on the District's website.

10. General

- 10.1 In the event that any portion of this policy is inconsistent with a binding District collective agreement or federal or provincial legislation, that portion and only that portion of this policy will have no application to the extent of that inconsistency and all other portions of the policy will continue in full force and effect.
- 10.2 This policy is to be read in conjunction with other applicable District policies as they are amended from time to time.
- 10.3 Any questions related to the interpretation of this policy should be directed to the Chief Administrative Officer or designate.