

RCW 42.40.050 Retaliatory action against whistleblower—

Remedies. (1)(a) Any person who is a whistleblower, as defined in RCW 42.40.020, and who has been subjected to workplace reprisal or retaliatory action is presumed to have established a cause of action for the remedies provided under chapter 49.60 RCW.

(b) For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to, any of the following:

- (i) Denial of adequate staff to perform duties;
- (ii) Frequent staff changes;
- (iii) Frequent and undesirable office changes;
- (iv) Refusal to assign meaningful work;
- (v) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- (vi) Demotion;
- (vii) Reduction in pay;
- (viii) Denial of promotion;
- (ix) Suspension;
- (x) Dismissal;
- (xi) Denial of employment;
- (xii) A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower;
- (xiii) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;
- (xiv) Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with prior practice; or
- (xv) Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by this chapter, or compared to other employees who have not engaged in conduct protected by this chapter.

(2) The agency presumed to have taken retaliatory action under subsection (1) of this section may rebut that presumption by proving by a preponderance of the evidence that there have been a series of documented personnel problems or a single, egregious event, or that the agency action or actions were justified by reasons unrelated to the employee's status as a whistleblower and that improper motive was not a substantial factor.

(3) Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator). [2008 c 266 § 6; 1999 c 283 § 1; 1992 c 118 § 3; 1989 c 284 § 4; 1982 c 208 § 5.]

Findings—Intent—2008 c 266: See note following RCW 42.40.020.