

# City Commission Policy 181

## WHISTLE-BLOWER

---

**DEPARTMENT:** Office of the Inspector General

**DATE ADOPTED:** December 8, 2021

**DATE OF LAST REVISION:** December 8, 2021

**181.01** **AUTHORITY:** City Commission

**181.02** **PURPOSE:** To establish a policy to prevent retaliatory action being taken against a city employee who reports unlawful activity, misfeasance, malfeasance, gross waste of public funds, gross neglect of duty, or gross mismanagement committed by a city employee or independent contractor.

**181.03** **STATEMENT OF POLICY:** This policy applies to all city employees and independent contractors of the city.

It is the policy of the City of Tallahassee to encourage employees to report unlawful activity which creates and presents a substantial and specific danger to the public's health, safety, or welfare, misfeasance, malfeasance, gross waste of public funds, gross neglect of duty, or gross mismanagement committed by a city employee or independent contractor. Employees should report this information to the Office of Inspector General (OIG) for investigation or corrective action without fear of reprisal or retaliation.

The City shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information related to the violations described above. Additionally, the City will not take any adverse action which affects the rights or interests of an employee in retaliation for the employee's disclosure of the violations described above. These protections do not apply if the employee has participated in committing the violations or provides information, they know to be false.

The State of Florida has adopted a Whistle-blower's Act in Sections 112.3187-112.31895, Florida Statutes. The Whistle-blower's Act provides for the adoption of local procedures for administrative enforcement, the City intends this policy to be interpreted consistently with the Whistle-blower's Act, as it may be amended from time to time.

**181.04** **DEFINITIONS:**

- Employee – a person who performs services for, and under the control and direction of, the City for wages or other remuneration.
- Independent contractor – a person other than a federal, state, or local government entity, engaged in any business and who contracts with the City for the provision of goods and services.

- The terms reprisal, retaliation, or adverse personnel action mean the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses or raises, reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by the City.
- Misfeasance –improper doing of an act which a person may lawfully do (i.e., a party has the lawful authority to perform the action but is doing so in an improper or illegal way.
- Malfeasance – a wrongful act in which the actor (doer) has no legal right to perform.
- Gross mismanagement – a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.
- Waste of public funds –an act or instance of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.
- Neglect of duty – when a public officer has done things to endanger the welfare of the public.

## 181.05

### **ACTION SECTIONS:**

- A. **Office of Inspector General:** The Inspector General is considered the “appropriate local official” of the City for purposes of whistle-blower protections. Protections may be granted by the Inspector General based on criteria defined in Sections 112.3187-112.31895, Florida Statutes.

The OIG has primary responsibility to investigate complaints of misfeasance, malfeasance, mismanagement, waste of public funds, and neglect of duty. Alleged violations of criminal law will be referred to the appropriate law enforcement agency. Upon receipt of a written and signed complaint, the OIG shall conduct a preliminary investigation to determine whether criteria defined in the Whistle-blower Act have been met.

The OIG will maintain the confidentiality of the name or identity of any individual who discloses in good faith violations described above unless disclosure is necessary to prevent a substantial and specific danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime. Under these circumstances, the OIG may disclose this information only to persons who are in a position to prevent the danger to the public’s health, safety, welfare, or to prevent the imminent commission of a crime based on the disclosed information.

- B. **City Employees:** Employees are required to report known or suspected instances of unlawful activity, misfeasance, malfeasance, waste of public funds, neglect of duty, or mismanagement.

Acting in Good Faith Anyone filing a written complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Anyone making allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be subject to disciplinary action(s).

**181.06**

**ADMINISTRATION:** The Office of the Inspector General is responsible for the administration of this policy. Any substantial changes, additions, or deletions to this policy shall be approved by the City Commission.

**181.07**

**SUNSET PROVISION:** This policy is also subject to sunset review by the City Commission no later than five (5) years from the date of adoptions. Subsequent reviews by the City Commission are to occur no later than five (5) years from the date of the prior review. Revisions will become effective immediately upon City Commission approval.

**181.08**

**EFFECTIVE DATE:** December 8, 2021

**REVISIONS:**