

## Ann Clark

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**From:** Patty Gambill  
**Sent:** Monday, August 31, 2020 8:39 AM  
**To:** Ann Clark; Barbara McCoy  
**Cc:** Adam Stumb; Danny Houck  
**Subject:** item for September 8 agenda  
**Attachments:** Ashe Whistleblower draft.docx

Ann/Barabara,

Please place the attached Whistleblower policy on the September 8<sup>th</sup> BOC agenda to be presented by Danny Houck. It has been reviewed and revised by the Personnel Policy Committee.

Thanks,  
Patty

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# WHISTLEBLOWER POLICY

## Purpose

Ashe County is committed to the highest standards of behavior by its employees, administrators, and elected officials. The purpose of this policy is to encourage reporting of dishonest acts, fraudulent activity, activities that place others at risk and other improper actions; to advise employees, administrators, and elected officials of their responsibility to report such activity to the appropriate county office; and to protect county employees who have reported improper actions in accordance with Ashe County's policies and procedures. In addition, this policy assigns responsibility for the development of adequate internal controls and performance of investigations relating to fraud.

## Scope of Policy

This applies to any improper action, fraud, or suspected fraud, involving employees, administrators, and elected officials, as well as consultants, vendors, contractors, outside agencies, and/or any other parties having a business relationship with Ashe County. This policy also applies to employees of local boards, agencies and commissions over which the Board has authority to require general policies to be followed.

## Policy

Ashe County Administration and all levels of management are responsible for the prevention and detection of fraud, misappropriations, and other inappropriate conduct. Fraud is defined in this policy as a willful or deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Improper action as used in this policy means any action undertaken in the performance of the employee's official duties, or within the scope of a business transaction with the county that is in violation of any federal, state, or local law or rule; is an abuse of authority; or is of substantial and specific danger to health or safety.

Any fraud or improper action that is detected or suspected will be reported immediately to the Ashe County Manager, who will conduct an objective and impartial investigation into the fraudulent or improper activity, along with other applicable departments and/or law enforcement agencies, as deemed necessary or appropriate. Should the allegations be against the County Manager then it should be reported to the Sheriff or his/her designee who will conduct the investigation. Any individual found to have engaged in fraudulent or improper activity, as defined by this policy, is subject to disciplinary action by Ashe County, which may include dismissal, as well as prosecution by appropriate law enforcement authorities and any other civil remedies allowed by law.

## Actions Constituting Fraud

As used in this policy, the term "fraud" includes, but is not limited to, the following:

- Any dishonest or fraudulent act;
- Forgery or alteration of a check, bank draft, or any other financial document or account;
- Misappropriation of funds, securities, supplies, or other assets;
- Impropriety in the handling or reporting of money or financial transactions;
- Accepting or seeking anything of material value from vendors, contractors, or other persons providing services/materials to Ashe County. Material value is defined as anything over \$25;
- Accepting any gift, gratuity, loan, present, fee or service if it may be inferred that the person, business, or organization is seeking to influence an official action or to affect the discharge of an official duty.

- Discipline, suspend, or threaten to discipline or suspend an employee;
- Impose any penalty upon an employee, to include unwarranted and unsubstantiated letters of reprimand, unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, or denial of promotion;
- Intimidate or coerce an employee
- Adversely change the terms or condition of the employee's employment status
- Take any other retaliatory or hostile action

because the employee has acted in accordance with the requirements of this policy. However, it shall also be a violation of this policy for any informant to make a baseless allegation of fraudulent activity that is made with reckless disregard for truth and that is intended to be disruptive or to cause harm to another individual. Any violation of this section will result in disciplinary action which may include dismissal.

Employees who believe they have been retaliated against for reporting fraud or an improper activity shall advise their department head, the county manager, or the Sheriff or his/her designee. The complaint of retaliation shall be investigated and addressed by the county manager or the Sheriff or his/her designee. If the county manager or Sheriff or his/her designee does not satisfactorily resolve an employee's complaint that they have been retaliated against in violation of this policy, the employee may obtain protection under this policy and pursuant to state and federal law by providing a written notice to the Ashe County Board of Commissioners that specifies the alleged retaliatory action and specifies the relief requested.

## **Investigative Procedures**

The County Manager has the primary responsibility for investigating the reported fraudulent or improper activity; however, the County Manager may contact other individuals (such as a department head, committee, etc) as deemed appropriate to establish a team to investigate the suspected fraudulent or improper activity. Members of the investigative team will have:

- Free and unrestricted access to all county records and premises, whether owned or rented, as permitted by law; AND
- The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

In the instances where the investigation indicates possible criminal activity, the investigation will be turned over to the appropriate law enforcement agency.

The results of a fraud investigation will be communicated orally and/or in writing to the County Manager, the Board of Commissioners, the Human Resources Director, and the audit firm engaged to perform Ashe County's annual audit (if fraud is involved), and/or other appropriate designated personnel.

## **Confidentiality**

All participants in the investigation shall keep the details and results of the investigation confidential. Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know, in order to protect the reputations of persons suspected of fraudulent or improper activity but subsequently found innocent of wrongdoing and to protect Ashe County from potential civil liability. Notwithstanding the above paragraph, after the investigation, the employee reporting the fraud or improper action shall be advised of a summary of the investigation results except that personnel actions taken as a result of the investigation may be kept confidential.

## Media Issues

Any person contacted by the media with respect to an investigation into fraudulent activity shall refer the media to the County Manager. The suspected fraud, audit investigation or improper action shall not be discussed with media by any person other than the County Manager.

## Sanctions

- Employees

Employees suspected of participating in fraudulent or improper activity may be suspended without pay during the course of the investigation, in accordance with policies as established by Ashe County's Personnel Policy.

Employees found to have participated in fraudulent activity will be subject to disciplinary action up to and including termination from employment and probable criminal prosecution or civil action.

If disciplinary action is warranted, such action will be taken after consultation between the County Manager, the Sheriff or his/her designee, and other offices as deemed necessary and/or appropriate.

- Consultants, vendors, contractors, outside agencies, and/or any other parties having a business relationship with Ashe County

The relationship of individuals or entities associated with Ashe County found to have participated in fraudulent or improper activity as defined by this policy will be subject to review, with the possible consequence of modification or termination of the relationship. If such action is warranted, the Sheriff or his/her designee, the County Manager and/or other appropriate offices will be consulted prior to the action being taken. Criminal or civil action may be taken against such individuals or entities.

Adopted by Ashe County Board of Commissioners on ..... and effective immediately.

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Todd McNeill,  
Chair, Ashe County Board of Commissioners

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Date