

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 either the County Manager, County Attorney, or one of the Commissioners, who will conduct, or cause to be conducted, 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 criminal then the employee also has the option of reporting it to the District Attorney. 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.

- Using Ashe County funds to make unauthorized purchases;
- Authorizing or receiving compensation for hours not worked;
- Any similar or related inappropriate conduct.

Actions Constituting Improper Actions

- Any action that puts lives at risk or constitutes a serious safety violation;
 - Any action that is undertaken in the performance of an official's or employee's official duties, whether or not the action is within the scope of the employee's employment; and that is in violation of any federal, state, or local law; is an abuse of authority; or is of substantial and specific danger to the public health or safety.
- Improper action does NOT include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, dismissals, suspensions, demotions or reprimands.

Other Inappropriate Conduct

Suspected improprieties concerning an employee's moral, ethical, or behavioral conduct should be resolved by department heads and/or the County Manager. If there is a question as to whether an action constitutes fraud, contact the County Attorney or his/her designee for guidance.

Duties and Responsibilities

Employees, supervisors, department heads and administrators at all levels are responsible for setting the appropriate tone of intolerance for fraudulent or improper acts by complying with all laws, rules, regulations and policies. Department heads, supervisors, and elected officials should be aware of the types of fraud or improper acts that could occur within their area of responsibility and should be alert for any indication of such acts. Department heads, supervisors, and elected officials are responsible for establishing and maintaining proper internal controls that will provide for the security and accountability of the resources entrusted to them.

Reporting Procedures

Any employee of Ashe County who has a reasonable basis for believing a fraudulent or improper act has occurred, or is occurring, has a responsibility to promptly notify their supervisor and/or department head. Supervisors, elected officials, and/or department heads have a responsibility to immediately notify the County Manager of fraudulent or improper activity reported to them by employees. Reporting options are as follows: (1) via anonymous reporting to the supervisor, department head, County Manager, County Attorney, or a County Commissioner (2) via signed written notice sent to the attention of the supervisor, department head, County Manager, County Attorney, or a County Commissioners or (3) if the activity is criminal, the employee has the option of reporting it to the District Attorney. The identity of reporting employees shall be kept confidential to the extent possible under the law, unless the employee authorizes the disclosure of his or her identity in writing.

Persons reporting suspected fraudulent or improper activity should refrain from confrontation with the suspect and should not discuss the matter with others unless specifically asked to do so by the individual to whom it was reported. The Individual to whom the act was reported will notify the Board of Commissioners.

Protection Against Retaliatory Action

No person acting on behalf of the County shall:

- Dismiss, or threaten to dismiss, any employee;
- 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, County Attorney or the board of Commissioners. The complaint of retaliation shall be investigated and addressed by the County Manager, County Attorney or board of Commissioners. If the County Manager, County Attorney or board of Commissioners 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, County Attorney or Ashe County Board of Commissioners have the primary responsibility for investigating the reported fraudulent or improper activity; however, these entities 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 or County Attorney. The suspected fraud, audit investigation or improper action shall not be discussed with media by any person other than the County Manager or County Attorney.

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.

Todd McNeill,
Chair, Ashe County Board of Commissioners

Date