



Delivering Excellence Every Day

EMPLOYEE PROTECTION COMPLAINTS

LEGISLATIVE INTENT OF THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS

In 1994, The Board of County Commissioners approved the Employee Protection Ordinance Number 94-107 to ensure protection of employees who disclose specified information regarding unlawful activity, misfeasance or malfeasance by the County or independent contractors to the appropriate authorities for investigation and corrective action.

In order to encourage employees to report such information without fear of reprisal, County policy prohibits adverse action against an employee for disclosing such information to an appropriate official or agency. The Employee Protection Ordinance also provides for monetary awards to employees when the information they disclose leads to the County's recovery of public funds.

SECURING PROTECTION

The Ordinance protects employees who:

- File a written and signed complaint with the County Manager; or
- Participate in an investigation, hearing, or other inquiry conducted by the County, any state agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; or
- Refuse to participate in any adverse action prohibited by this Ordinance.

To ensure protection it is important that employees be proactive and report in writing, the specific information of wrongdoing before the employee suffers retaliation.

NATURE OF INFORMATION DISCLOSED

- (1) Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the County or independent contractor which creates and presents a substantial and specific danger to the public's health, safety or welfare; or
- (2) Any act or suspected act of gross mismanagement, malfeasance (misconduct or wrongdoing), misfeasance (lawful action performed in an illegal or improper manner), gross waste of public funds, or gross neglect of duty committed by an employee or agent of the County or an independent contractor.

The Ordinance is intended to encourage the disclosure of serious violations of County rules and procedures. It is not intended to address routine personnel disputes and other disagreements, which are covered by other County procedures. Complaints involving such things as breach of a collective bargaining agreement, employment discrimination and violations of the Personnel Rules continue to be governed by other existing procedures applicable to such matters.

Because of the serious nature of these disclosures, employees should describe their concern in sufficient detail with supporting documentation in order for a proper investigation to be conducted. The County Manager will determine the appropriate jurisdiction for conducting the investigation. Employees should also provide their name, mailing address, telephone number, pager or e-mail, so that they can be contacted about their disclosure.

WHAT IF RETALIATION OCCURS?

Under the Employee Protection Ordinance, employees who are suspended; demoted or terminated and have the right to file an appeal under Section 2-47, also have the right to have the Hearing Examiner consider the issue of whether the adverse action was in violation of the Employee Protection Ordinance. Employees must file such appeal within fourteen (14) calendar days to the Director of the Employee Relations Department. The request for appeal must state that the employee is appealing both the disciplinary action under Section 2-47 and the adverse action under the Employee Protection Ordinance. There will be only one appeal hearing.

Employees who do not have the right to file an appeal under Section 2-47 may file a written request for a hearing within sixty (60) calendar days after the adverse personnel action to the Employee Relations Department Director.

In either case the employee's request for a hearing must include:

- (1) An explanation of how the disclosed information, or the participation in an investigation, or the refusal to participate in any adverse action, was in fact a substantial or motivating factor in the alleged retaliation. Supporting documentation should be included.
- (2) The dates of the disclosure to ensure that such disclosure preceded the alleged retaliation.
- (3) A copy of the written and signed complaint to the County Manager.

If frivolous complaints are filed, employees may be directed to pay the cost of the hearing, including the County's attorney's fees.

Based on the Hearing Examiner's findings, conclusions, and recommendations, the County Manager' may sustain, reverse or modify the adverse action and may provide relief such as reinstatement or compensation.

WHAT IS AN ADVERSE PERSONNEL ACTION?

An adverse personnel action is a materially adverse change in the employee's working conditions. It includes such things as terminations, demotions, suspensions, and undesirable reassignments. It does not include minor adjustments in assignments, purely lateral transfers, satisfactory evaluations or other matters which do not materially affect an employee's working conditions. Such adverse actions may consist of undue harassment, demeaning or degrading treatment that is contrary to the reasonable authority vested with the management of a department.

APPLICATION FOR MONETARY AWARDS

The Employee Relations Department, in conjunction with the Investigating agency, will notify the employee of the results of the investigation and issue a close out letter with an application for a monetary award, if applicable. Employees who report information which results in the County's recovery of public funds are eligible to request an award of up to ten percent (10%) of the net amount recovered or one hundred thousand dollars (\$100,000), whichever is less. The County Manager selects a panel of three County Administrators to conduct an informal hearing for the purpose of recommending whether an award should be granted and the amount of the award. The panel's written recommendation is submitted to the County Manager who makes the final decision.

<http://www.miamidade.gov/emprel/>

**Questions? Call or write,
Employee Relations Department
Labor Management & Employee Appeal Division
111 NW 1st Street, Suite 2140
Miami, Florida 33128-1907
(305) 375-4171**