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Whistleblower Policy

75-2973. Communication by state employees with legislators, legislative committees and others; prohibiting certain acts by supervisors and appointing authorities; appeal to state civil service board; posting copy of act; disciplinary action defined; officers and employees in unclassified service may bring civil action for relief.

(a) This section shall be known and may be cited as the Kansas Whistleblower Act.

(b) As used in this section:

(1) Auditing agency means the (a) Legislative Post Auditor, (b) any employee of the division of post audit, (c) any firm performing audit services pursuant to a contract with the post auditor, or (d) any state agency or federal agency or authority performing auditing or other oversight activities under authority of any provision of law authorizing such activities.

(2) Disciplinary action means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work.

(3) State agency and firm have the meanings provided by K.S.A. 46-1112 and amendments thereto.

(c) No supervisor or appointing authority of any state agency shall prohibit any employee of the state agency from discussing the operations of the state agency or public concern, including matters relating to the public health, safety and welfare, either specifically or generally, with any member of the legislature or any auditing agency.

(d) No supervisor or appointing authority of any state agency shall:

(1) Prohibit any employee of the state agency from reporting any violation of state or federal law or rules and regulations to any person, agency or organization; or

(2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

(e) This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative auditing agency requests for information to the state agency or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the state agency;

(2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before legislative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;

(3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) Prohibiting disciplinary action of an employee who discloses information which:

(a) the employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity, (b) the employee knows to be exempt from required disclosure under the open records act or (c) is confidential or privileged under statute or court rule.

(f) Any officer or employee of a state agency who is in the classified service and has permanent status under the Kansas civil service act may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee in violation of this act.

The appeal shall be filed within 90 days after the alleged disciplinary action. Procedures governing the appeal shall be in accordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments thereto and K.S.A. 75-2929d through 75-2929g and amendments thereto. If the board finds that disciplinary action taken was unreasonable, the board shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this act, it may require as a penalty that the violator be suspended on leave without pay for not more than 30 days or, in the cases of willful or repeated violations, may require that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years.

The board may award the prevailing party all or a portion of the costs of the proceedings before the board, including reasonable attorneys fees and witness fees. The decision of the board pursuant to this subsection may be appealed by any party pursuant to law. On appeal, the court may award the prevailing party all or a portion of the costs of the appeal, including reasonable attorney fees and witness fees.

(g) Each state agency shall prominently post a copy of this act in locations where it can reasonably be expected to come to the attention of all employees of the state agency.

(h) Any officer or employee who is in the unclassified service under the Kansas civil service act who alleges that disciplinary action has been taken against such officer or employee in violation of this section an action may bring pursuant to the act for judicial review and civil enforcement of agency actions within 90 days after the occurrence of the alleged violation. The court may award the prevailing part in the action all or a portion of the costs of the action, including reasonable attorney fees and witness fees.

(i) Nothing in this section shall be construed to authorize disclosure of any information or communication that is confidential or privileged under statute or court rule.

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