

Crook County Statement on Whistleblower Protection (ORS 659A.200 and 659A.203).

No individual covered under ORS 659A.200 and 659A.203 will be prohibited from discussing, in response to an official request, either specifically or generally with any member of the Legislative Assembly, legislative committee staff acting under direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district, the activities of the state or any agency or political subdivision in the state; or any person authorized to act on behalf of the state or any agency or political subdivision in the state.

No individual covered under ORS 659A.200 and 659A.203 will be disciplined or threatened with discipline for disclosing any information that the covered individual reasonably believes is evidence of: (1) A violation of any federal or state law, rule or regulation by the state, agency or political subdivision; (2) Mismanagement, gross waste of funds or abuse of authority or substantial and specific danger to public health and safety resulting from action of the state, agency or political subdivision; or (3) Subject to ORS 659A.212(2), the fact that a person receiving services, benefits or assistance from the State or agency or subdivision, is subject to a felony or misdemeanor warrant for arrest issued by the state of Oregon, any other state, the federal government, or any territory, commonwealth governmental instrumentality of the United States.

No individual covered under ORS 659A.200 and 659A.203 will be required to give notice prior to making any disclosure of the type described in the first two paragraphs of this Whistleblower Protection statement, except as limited by ORS 659A.206(1).

No individual covered under ORS 659A.200 and 659A.203 will be discouraged, restrained, dissuaded, coerced, prevented or otherwise interfered with when making disclosures or engaging in discussions of matters protected in the first two paragraphs of this section.

Affirmative Defense. An individual who may be covered under ORS 659A.200 and 659A.203 who has a good faith and objectively reasonable belief of a violation of federal, state or local law, rule or regulation by Crook County may present that as an affirmative defense to a civil or criminal charge related to the disclosure by the covered individual of lawfully accessed information related to the violation, including information that is exempt from disclosure as provided in ORS 192.338, 192.345 and 192.355, or by Crook County policy, if the information is provided to:

- A. A state or federal regulatory agency;
- B. A law enforcement agency;
- C. A manager employed by the County;
- D. An attorney licensed to practice law in the state of Oregon if a confidential communication is made in connection with the alleged violation described in this Affirmative Defense paragraph and in furtherance of the rendition of legal services to the employee that are subject to ORS 40.225.

An individual covered by ORS 659A.200 and 659A.203 may not assert the affirmative defense described above if the information:

- A. Is disclosed or re-disclosed by the covered individual or at the individual's direction to a party other than the parties listed in the Affirmative Defense paragraph;
- B. Is stated in a commercial exclusive negotiating agreement with Crook County, provided that the agreement is not related to the covered individual's employment or engagement with Crook County; or
- C. Is stated in a commercial nondisclosure agreement with Crook County, provided that the agreement is not related to the covered individual's employment or engagement with Crook County.

The affirmative defense described above is available to an individual covered by ORS 659A.200 and 659A.203 who discloses information related to an alleged violation by a coworker or supervisor described in the Affirmative Defense paragraph if the disclosure relates to the course and scope of employment or engagement of the coworker or supervisor.

The affirmative defense may not be asserted by an individual covered under ORS 659A.200 and 659A.203 who is an attorney or by an individual covered under ORS 659A.200 and 659A.203 who is not an attorney but who is employed, retained, supervised or directed by an attorney if the information disclosed pursuant to the Affirmative Defense paragraph is related to the representation of a client.

Disclosures made under this Whistleblower Protection section are subject to the rules of professional conduct established pursuant to ORS 9.490.

Subject to the rules of professional conduct established pursuant to ORS 9.490, an individual covered under ORS 659A.200 and 659A.203 who is an attorney may report to the Attorney General the covered individual's knowledge of a violation of federal, state or local law, rule or regulation by Crook County.

Disclosure of information pursuant to the Affirmative Defense paragraph does not waive the attorney-client privilege or affect the applicability of any exemption from disclosure of a public record under applicable law.

Notwithstanding the affirmative defense discussed above, information protected from disclosure under federal law, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), may be disclosed only in accordance with federal law.

Any individual covered by ORS 659A.200 and 659A.203 who feels that the County has acted in contravention of this Whistleblower Protection policy may file a grievance as permitted by any applicable collective bargaining agreement, or the process described in the employee handbook, or may file any grievance, objection, or complaint as may be permitted by applicable law including but not limited to ORS 659A.215.