

WHISTLEBLOWER PROTECTION

References: *Education Code Sections 87160-87164;*
 Government Code Section 53296;
 Labor Code Section 1102.5;
 Private Attorney General Act of 2004 (Labor Code Section 2698)
 Affordable Care Act (29 U.S.C. 218C)

Individuals are encouraged to report suspected incidents of unethical, unprofessional and/or unlawful activities by College District employees in the performance of their duties. Reports of such activities will be investigated promptly and appropriate remedies applied. Employees who, in good faith, report such activities and/or assist the College District in the investigation will be protected from retaliation.

This procedure sets out the processes for responding to and investigating reports of unlawful activities, as defined in District Policy No. 7700 BP "Whistleblower Protection," and addressing complaints of retaliation for making such reports.

Filing a Report of Suspected Unlawful Activities

Any person may report allegations of suspected unethical, unprofessional and/or unlawful activities. Knowledge or suspicion of such activities may originate from academic personnel, staff, or administrators carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, customers, vendors, students, or other third parties.

Anonymous reports will be investigated to the extent possible. However, employees are strongly encouraged not to report anonymously because doing so impedes the College District's ability to thoroughly investigate the claim and take appropriate remedial measures. As set forth fully below, retaliation against individuals who report suspected unlawful activities will not be tolerated.

Normally, allegations made by a College District employee of suspected unlawful activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit. However, if the report involves or implicates the direct supervisor or others in the operating unit, the report may be made to the Vice President for Human Resources. When the alleged unlawful activity involves the Superintendent/President, the report should be made to the President of the Governing Board. When the alleged unlawful activity involves the Governing Board or one of its members, the report should be made to the Superintendent/President, who will confer with the President of the Governing Board and/or legal counsel on how to proceed.

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Allegations of suspected unlawful activities should be made in writing so as to assure a clear understanding of the issues raised, but may be made orally. Such reports should be factual and contain as much specific information as possible. The receiving supervisor or administrator should elicit as much information as possible. If the report is made orally, the receiving supervisor or administrator shall reduce it to writing and make every attempt to get the reporter to confirm by his/her signature that it is accurate and complete.

Once the receiving supervisor or administrator has received and/or prepared a written report of the alleged unlawful activity, he/she must immediately forward to the Vice President for Human Resources. However, if this process would require submitting the report to an employee implicated in the report, the receiving supervisor or administrator should follow the reporting options outlined above. The Vice President for Human Resources, Superintendent/President or Governing Board member who receives the written report pursuant to this paragraph is responsible for ensuring that a prompt and complete investigation is made by an individual with the competence and objectivity to conduct the investigation, and that the assistance of counsel and/or an outside investigator is secured if deemed necessary.

In the course of investigating allegations of unlawful conduct, all individuals who are contacted and/or interviewed shall be advised of the College District's no-retaliation policy. Each individual shall be: a) warned that retaliation against the reporter(s) and/or others participating in the investigation will subject the employee to discipline up to and including termination; and b) advised that if he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.

In the event that an investigation into alleged unlawful activity determines that the allegations are accurate, prompt and appropriate corrective action shall be taken.

Protection from Retaliation

When a person makes a good-faith report of suspected unlawful activities to an appropriate authority, the report is known as a protected disclosure. College District employees and applicants for employment who make a protected disclosure are protected from retaliation.

Any employee who believes he/she has been (1) subjected to or affected by retaliatory conduct for reporting suspected unlawful activity, or (2) for refusing to engage in activity that would result in a violation of law, should report such conduct to the appropriate supervisory personnel (if such supervisory personnel is not the source of or otherwise involved in the retaliatory conduct). Any supervisory employee who receives such a report, or who otherwise is aware of retaliatory conduct, is required to advise the Vice President for Human Resources. If the allegations of retaliation, or the underlying

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allegations of unlawful conduct involve the Vice President for Human Resources, the supervisor shall report to the highest level administrator and/or Governing Board member who is not implicated in the reports of unlawful activity and retaliation.

All allegations of retaliation shall be investigated promptly and with discretion, and all information obtained will be handled on a "need to know" basis. At the conclusion of an investigation, as appropriate, remedial and/or disciplinary action will be taken where the allegations are verified and/or otherwise substantiated.

Employees can contact the State Personnel Board with complaints of retaliation resulting from whistleblower activities. The State Personnel Board hotline is (916) 653-1403.

Other Remedies and Appropriate Agencies

In addition to the internal complaint process set forth above, any employee who has information concerning allegedly unlawful conduct may contact the appropriate government agency.