

**BOARD POLICY 7700 WHISTLEBLOWER PROTECTION**

The Chancellor shall establish procedures regarding the reporting and investigation of suspected unlawful activities by district employees, and the protection from retaliation of those who make such reports in good faith and/or assist in the investigation of such reports. For the purposes of this policy and any implementing procedures, "unlawful activity" refers to any activity—intentional or negligent—that violates state or federal law, local ordinances, or District policy.

The procedures shall provide that individuals are encouraged to report suspected incidents of unlawful activities without fear of retaliation, that such reports are investigated thoroughly and promptly, remedies are applied for any unlawful practices and protections are provided to those employees who, in good faith, report these activities and/or assist the District in its investigation.

Furthermore, District employees shall not:

- retaliate against an employee or applicant for employment who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order;
- retaliate against an employee or applicant for employment because the employee or applicant is a family member of a person who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order; or
- directly or indirectly use or attempt to use the official authority or influence of his or her position for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the District. The District will not tolerate retaliation, and will take whatever action may be needed to prevent and correct activities that violate this policy, including discipline of those who violate it up to and including termination.

**Reference:**

Education Code Sections 87160-87164;  
Labor Code Section 1102.5;  
Government Code Section 53296;  
Private Attorney General Act of 2004 (Labor Code Section 2698)  
Affordable Care Act (29 U.S.C. 218C)  
Administrative Procedure 3700

**New Policy**

Approved by the Board of Trustees: May 8, 2012

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Revised and approved by the Board of Trustees: November 15, 2016

**ADMINISTRATIVE PROCEDURE 7700 WHISTLEBLOWER PROTECTION**

Individuals are encouraged to report suspected incidents of unlawful activities by District employees in the performance of their duties. Reports will be investigated promptly and appropriate remedies applied. Employees who, in good faith, reported such activities and/or assist the 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 BP 7700 titled Whistleblower Protection, and addressing complaints of retaliation for making such reports.

**I. Filing a Report of Suspected Unlawful Activities**

- A. Any person may report allegations of suspected unlawful activities. Knowledge or suspicion of such unlawful 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.
- B. Anonymous reports will be investigated to the extent possible. However, employees are strongly encouraged not to report anonymously because doing so impedes the District's ability to thoroughly investigate the claim and take appropriate remedial measures. In the case that an anonymous report cannot be substantiated in any way, a record of the report should still be kept by the receiving administrator in the event that subsequent information reopens the investigation. As set forth fully below, retaliation against individuals who report suspected unlawful activities will not be tolerated.
- C. Normally, a report by a District employee of allegations of a suspected unlawful activity should be made to the reporting employee's supervising President or Vice Chancellor. However, if the report involves or implicates the supervising President or Vice Chancellor, the report may be made to any another District official whom the reporting employee believes to have either responsibility over the affected function or the authority to review the alleged unlawful activity on behalf of the District. The report may also be made directly to the Chancellor and/or Peralta Police Services. When the alleged unlawful activity involves the Chancellor, the report should be made to the President of the Board of Trustees. When the alleged unlawful activity involves the board of trustees or one of its members, the report should be made to the Chancellor, who will confer with the president and/or vice-president of the board of trustees and/or legal counsel on how to proceed.
- D. 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.
- E. Once the receiving administrator has received and/or prepared a written report of the alleged unlawful activity, he/she must immediately forward the report to the president of the college where the alleged activity has occurred or to the appropriate Vice Chancellor if the activity involves the district. However, if this process would require submitting the report to an employee implicated in the report, the receiving administrator should follow the reporting options outlined, above. Finally, the results of the initial investigation should be forwarded to the Chancellor. The highest-level administrator or trustee 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.
- F. In the course of investigating allegations of unlawful conduct, all individuals who are contacted and/or interviewed shall be advised of the District's no-retaliation policy. Each individual shall be:

1. 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
  2. advised that if he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.
- G. In the event that an investigation into alleged unlawful activity determines that the allegations are accurate, prompt and appropriate corrective action shall be taken.

## **II. Protection from Retaliation**

- A. When a person makes a good-faith report of suspected unlawful activities to an appropriate authority, the report is known as a protected disclosure. District employees and applicants for employment who make a protected disclosure are protected from retaliation. A district employee or applicant whose family member makes a protected disclosure is also protected from retaliation.
- B. Any employee who believes he/she has been either subjected to or affected by retaliatory conduct for reporting suspected unlawful activity, or refuses to engage in activity that would result in a violation of law, should report such conduct to the Vice Chancellor Human Resources and other supervisory management personnel (if such management personnel is not the source of or otherwise involved in the retaliatory conduct). Any management employee who receives such a report, or who otherwise is aware of retaliatory conduct, is required to advise the Vice Chancellor Human Resources. If the allegations of retaliation, or the underlying allegations of unlawful conduct involve the Vice Chancellor, the manager shall report to the highest level administrator and/or trustee who is not implicated in the reports of unlawful activity and retaliation.
- C. 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.

## **III. Whistleblower Contact Information**

Employees who have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees should contact the California Community Colleges Chancellor's Office or the District's Board of Trustees. Employees can contact the State Personnel Board with complaints of retaliation resulting from whistleblower activities. The State Personnel Board hotline is (916) 653-1403.

## **IV. Other Agencies**

In addition to the process set forth above, any employee or supervising manager who has information concerning allegedly unlawful conduct involving federal or state grant funds, shall report the information to the Vice Chancellor Educational Services in order that the proper communication will take place with the granting agency.

### 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)

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