

Chapter 7 – Human Resources

BP 7700 Whistleblower Protection

References:

Education Code Sections 87160-87164; California 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)

The College President/CEO shall establish procedures regarding the reporting and investigation of suspected unlawful activities by College employees, and the protection from retaliation of those who, in good faith, oppose, report, and/or assist in the investigation of such activities. For the purposes of this policy and any implementing procedures, “unlawful activity” refers to any activity—intentional or negligent—that involves gross misconduct or misuse of funds or violates State or Federal law, local ordinance, or College policy.

The procedures shall encourage individuals to report suspected incidents of unlawful activities without fear of retaliation. Such reports shall be investigated thoroughly and promptly with remedies applied for any unlawful practices and protections provided to those employees who, in good faith, oppose, report these activities, or assist the College in its investigation.

Specifically, the College prohibits retaliation against any person who, in good faith, has or is believed to have: (1) opposed unlawful activities; (2) made a protected disclosure; (3) assisted someone in opposing unlawful activities or making protected disclosure; or (4) assisted or participated in an investigation. Employees are prohibited from directly or indirectly using or attempting to use the official authority or influence of their position for the purpose of interfering with the right of any individual to make a protected disclosure to the College. Protected Disclosure¹ means a good faith communication that discloses or demonstrates an intention to disclose information that may indicate unlawful activity or any condition that may significantly threaten the health and/or safety of any person or the public for the purpose of remedying the condition. The College will not tolerate retaliation and will take appropriate action as needed to prevent and correct activities that violate this policy.

Retaliation² means an individual was subjected to an Adverse Action because the individual made or was perceived to have made a protected disclosure; opposed unlawful activities or assisted someone in opposing unlawful or making a protected disclosure; or assisted or participated in an investigation.

Adverse Action³ is an action that has substantial and material adverse effect on an individual employment or ability to participate in a College program or activity. Minor or trivial actions or conduct that is not reasonably likely to do more than anger or upset an employee cannot constitute an adverse employment action.

¹ Cal. Gov. Code 8547.2(e)

² Judicial Council of California Civil Jury Instructions (2018 edition) CACI No. 2505

³ Judicial Council of California Civil Jury Instructions (2018 edition) CACI No. 2509

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