

Chapter 7 – Human Resources

AP 7700 Whistleblower Protection

References:

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)

Individuals are encouraged to report suspected incidents of unlawful activities. Reports will be investigated promptly and appropriate remedies applied. Those who, in good faith, oppose or report such activities and/or assist the College 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 and addressing complaints of retaliation for making such reports.

When a report of retaliation is related to a complaint of, opposition to, or participation in an investigation of discrimination or harassment, then AP 3435, Discrimination and Harassment Investigations, shall be the appropriate procedure for addressing such a report of retaliation.

Filing a Report

Any person may report knowledge or suspicion of suspected unlawful activities involving a member of the campus community. Anonymous reports will be investigated to the extent possible. However, individuals are strongly encouraged not to report anonymously because doing so impedes the College'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.

When the activity involves unlawful discrimination, harassment, sexual misconduct, dating violence, domestic violence, or stalking, the reporting party must report such activities directly to the Director of Equal Employment Opportunity (EEO) Programs/Title IX Coordinator, or designee.

Otherwise, a report by a College employee of allegations of a suspected unlawful activity should be made to the reporting employee's immediate supervisor or any College official whom the reporting employee believes to have either responsibility over the affected area or the authority to review the alleged unlawful activity on behalf of the College. When the alleged unlawful activity involves the College President/CEO, 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 College President/CEO who will confer with the President of the Board of Trustees and/or legal counsel on how to proceed.

Allegations of suspected unlawful activities may be made orally, but written reports are preferred so as to assure a clear understanding of the issues raised. The College has established an anonymous reporting mechanism for unlawful activities: (<https://secure.ethicspoint.com/domain/media/en/gui/54937/index.html>)

Such reports should be factual and contain as much specific 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 with their signature that it is accurate and complete.

Complaints of fraud and waste shall be forwarded to the Chief Compliance and College Budget Officer. All other allegations shall be forwarded to the Director, EEO Programs. They shall ensure 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. When the alleged unlawful activity involves the Chief Compliance and College Budget Officer or the Director, EEO Programs, the report shall be made to the College President/CEO who will confer with the President of the Board of Trustees and/or legal counsel regarding how to proceed.

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

Protection from Retaliation

In the course of investigating allegations of unlawful activity, all individuals who are contacted or interviewed shall be advised of BP 7700, which includes a prohibition of retaliation. Each individual shall be: (1) warned that retaliation against the reporter(s) and/or others participating in the investigation will subject to discipline; and (2) advised that if he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.

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 employees, students, and third parties who make a protected disclosure are protected from retaliation.

Any employee subjected to or affected by retaliatory conduct for (1) reporting suspected unlawful activity, or (2) opposing an activity that would result in a violation of law, should report such conduct.

All allegations of retaliation shall be investigated within 90 days and with discretion, and all information will only be shared with individuals who have a legitimate business need to know. The College shall take reasonable steps to protect the reporting party and other participants from retaliation as a result of communicating the reported incident or assisting with a review of the reported or retaliation incident. At the conclusion of an investigation, appropriate action will be taken if the allegations are verified or otherwise substantiated.

Informal Resolution of Retaliation Complaints

Upon receiving notification of a retaliation complaint, the Vice President, Human Resources, or designee, shall undertake efforts to uniformly and informally resolve the reported incident. Such resolution may include, but is not limited to, mediation, rearrangement of work/academic

schedules, obtaining apologies, providing informal counseling and/or training, or other informal action that brings resolution to the reported incident. In addition, the Vice President, Human Resources, or designee shall determine whether further review is necessary to ensure resolution of the matter.

Formal Resolutions of Retaliation Complaints

If informal resolution of a retaliation complaint is not appropriate or if the incident cannot be resolved informally, the Vice President, Human Resources, or designee, shall formally review the incident. Such review will include:

1. An analysis of the reporting party's written account of the incident;
2. Interviews with other relevant involved parties, as needed;
3. An analysis of the incident as it relates to applicable Board Policies;
4. A recommended course of action to the appropriate Vice President, or designee; and
5. A written notification to the reporting party that the retaliation complaint has been addressed.

Disciplinary action, if any, against employees and students will conform to all relevant statutes, regulations, Board Policies, and Administrative Procedures, including the provisions of any applicable collective bargaining agreement.

Requirement to Post Whistleblower Hotline

The College shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws referenced in this procedure. The list shall include the telephone number of the California State Auditor whistleblower hotline, (800) 952-5665, for 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.

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