
Kern Community College District
Administrative Procedure
Chapter 7 – Human Resources

AP 7700 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);
29 U.S. Code Section 218C (Affordable Care Act)

NOTE: This procedure is **legally advised**.

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, report 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 for addressing complaints of retaliation for making such reports.

1. Filing a Report of Suspected Unlawful Activities

- a) Any person may report allegations of suspected unlawful activities. Knowledge of 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. 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 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 any other District 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 District. When the alleged unlawful activity involves the College President, the report should be made to the Chancellor. 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 of the Board and/or legal counsel on how to proceed. 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 or her signature that it is accurate and complete.

d) Once the receiving supervisor or administrator has received and/or prepared a written report of the alleged unlawful activity, he or she must immediately forward to the President of the college where the alleged activity has occurred. 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 high-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.

e) 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.

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

2. 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.

b) Any employee who believes he or she has been (1) subjected to or affected by retaliatory conduct for reporting suspected unlawful activities, 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 College President, the Chancellor/designee. If the allegations of retaliation or the underlying allegation of unlawful conduct involve the College President or the Chancellor/designee, the supervisor 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.

3. Requirement to Post Whistleblower Hotline

a) The District 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 a telephone number of the whistleblower hotline for employees who have information regarding possible violations of state or federal statutes, rules or regulations, or violations of fiduciary responsibility by a cooperation or limited liability company to its shareholders, investors, or employees.

4. Other Remedies and Appropriate Agencies

a) 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.