

Human Resources

1 AP 7700 WHISTLEBLOWER PROTECTION

2 References:

- 3 Education Code, Sections 87160-87164;
- 4 Labor Code, Section 1102.5;
- 5 Government Code, Section 53296;
- 6 Private Attorney General Act of 2004 (Labor Code, Section 2698)
- 7 Affordable Care Act (29 U.S.C. 218C)

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

12 This procedure sets out the processes for responding to and investigating reports of
13 unlawful activities, as defined in BP 7700 and addressing complaints of retaliation for
14 making such reports.

15 Filing a Report of Suspected Unlawful Activities

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

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

25 Normally, a report by a District employee of allegations of a suspected unlawful activity
26 should be made to the reporting employee's immediate supervisor or other appropriate
27 administrator or supervisor within the operating unit. However, if the report involves or
28 implicates the direct supervisor or others in the operating unit, the report may be made to
29 any another District official whom the reporting employee believes to have either
30 responsibility over the affected area or the authority to review the alleged unlawful activity
31 on behalf of the District. When the alleged unlawful activity involves the
32 President/Superintendent, the report should be made to the President of the Board of
33 Trustees. When the alleged unlawful activity involves the Board of Trustees or one of its
34 members, the report should be made to the President/Superintendent who will confer with
35 the President of the Board of Trustees and/or legal counsel on how to proceed.

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

42 Once the receiving supervisor or administrator has received and/or prepared a written
43 report of the alleged unlawful activity, he or she must immediately forward it to the
44 President/Superintendent. However, if this process would require submitting the report
45 to an employee implicated in the report, the receiving supervisor or administrator should
46 follow the reporting options outlined, above. The high-level administrator or trustee who
47 receives the written report pursuant to this paragraph is responsible for ensuring that a
48 prompt and complete investigation is made by an individual with the competence and
49 objectivity to conduct the investigation, and that the assistance of counsel and/or an
50 outside investigator is secured if deemed necessary.

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

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

59 **Protection from Retaliation**

60 When a person makes a good-faith report of suspected unlawful activities to an
61 appropriate authority, the report is known as a protected disclosure. District employees
62 and applicants for employment who make a protected disclosure are protected from
63 retaliation. A District employee or applicant whose family member makes a protected
64 disclosure is also protected from retaliation.

65 Any employee who believes he or she has been subjected to or affected by retaliatory
66 conduct (1) for reporting suspected unlawful activity, or (2) for refusing to engage in
67 activity that would result in a violation of law, should report such conduct to the appropriate
68 supervisory personnel (if such supervisory personnel is not the source of or otherwise
69 involved in the retaliatory conduct). Any supervisory employee who receives such a
70 report, or who otherwise is aware of retaliatory conduct, is required to advise the
71 President/Superintendent or the President/Superintendent's designee. If the allegations
72 of retaliation or the underlying allegations of unlawful conduct involve the
73 President/Superintendent, the supervisor shall report to the highest level administrator
74 and/or trustee who is not implicated in the reports of unlawful activity and retaliation.

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

79 **Other Remedies and Appropriate Agencies**

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

83 Office of Primary Responsibility: Vice President, Human Resources

Date Approved: December 10, 2008

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