AR_____ Whistleblower Protection

The Santa Monica Community College District encourages individuals to report improper activities. ***Improper activity*** is defined as any activity, intentional or negligent, that violates state or federal law, local ordinances, or District policy, and may include, but are not limited to, theft of District or other public property, coercion, willful omission to perform duty, mismanagement, fraud, waste and abuse of public resources, a condition that may significantly threaten health or safety, and legal infractions or unlawful activities by District officials and/or employees. Serious or substantial violations of District policy may be determined to constitute improper activities. Individuals should use the guidance outlined by this Administrative Regulation for reporting allegations of suspected improper activities. This Administrative Regulation sets out the processes pursuant to which the District is to respond to and investigate reports of improper activities, pursuant to the **Board Policy on Whistleblower Protection**.

A ***whistleblower complaint*** is a report about a suspected improper activity made to the District. A ***whistleblower*** is an individual or entity who makes a whistleblower complaint. A whistleblower complaint may be made by any District official or employee, an applicant for employment, a student, a vendor, a contractor, an internal or external auditor, a law enforcement officer, or a member of the public, who during the course of his, her, or its interaction with the District comes to learn of a suspected improper activity.

When a whistleblower makes a good-faith whistleblower complaint to an appropriate authority, the complaint is known as a ***protected disclosure***. This Administrative Regulation should be used if an individual believes he, she, or it was retaliated against for making a protected disclosure.

I. Reporting Guidelines for the Whistleblower

A whistleblower complaint, whether in verbal or written form, may be made to:

- the reporting employee's immediate supervisor;
- an appropriate District administrator;
- a District official whom the whistleblower may reasonably expect to have either responsibility over the affected area or the authority to review the alleged improper activity on behalf of the District;
- the Executive Vice-President;
- the California State Attorney General Hotline at 1-800-952-5665.

Written whistleblower complaints may be made using the District whistleblower complaint form, if desired. Verbal whistleblower complaints may be made in person or by phone. Whistleblower complaints may be reported anonymously. Whistleblowers are encouraged to make whistleblower complaints as promptly as possible. To the best extent possible, whistleblower complaints should include specific and relevant information about the alleged improper activity, including the first and last names of any individuals mentioned as witnesses or potential witnesses, their contact information, the location or address at which the improper activity has occurred or is occurring, and the approximate time period when the improper activity occurred.

II. Internal Reporting and the Investigation Process

Supervisors who receive a whistleblower complaint shall ensure that the matter is reported promptly to an appropriate member(s) of the District's Senior Staff, taking into account the potential for conflicts of interest.

To the best extent possible, within the limitations of law and policy, as well as the need to conduct a competent investigation, the District shall try to maintain the confidentiality of whistleblowers, as well as the confidentiality of the respondents, witnesses, and other participants to whistleblower complaint

investigations. However, whistleblowers and the respondents, witnesses, and other participants to whistleblower complaint investigations should be cautioned that their identity might become known in the course of the investigation.

Senior staff members who receive a whistleblower complaint will forward the complaint to the Executive Vice President, and the Executive Vice President will apprise the Superintendent/President about the complaint. The Executive Vice-President or Superintendent/President may enlist legal, accounting or other advisors to conduct any investigation of whistleblower complaints. Whistleblower complaints will be investigated promptly and with discretion. The information obtained during whistleblower complaints will be handled on a "need to know" basis.

Appropriate action, including, but not limited to, any necessary remedial and/or disciplinary action, will be taken if the whistleblower complaint is verified and/or otherwise substantiated.

This policy does not fundamentally change the responsibility for conducting investigations but provides a framework for investigations of whistleblower complaints. It is the duty of the investigator assigned to investigate a report or complaint to handle the report or complaint, including whistleblower complaints, under the guidelines of the board policies, administrative regulations, other District policies and procedures, or agreements most applicable and relevant to the grievance or complaint at hand. If a whistleblower complaint is made but there is no other regulation, policy, procedure, or agreement applicable or relevant to the alleged improper activity, the District shall follow the procedures set forth in this Administrative Regulation. In all instances, the District retains the responsibility to determine when circumstances warrant an investigation and to determine the procedures that are most applicable and the investigative process to be employed.

Anyone who files a complaint in which he, she, or it knowingly makes a false accusation may be subject to appropriate action and/or discipline, up to and including termination or dismissal.

III. Protection from Retaliation

Retaliation is prohibited against an individual or entity who has made a protected disclosure, who has refused in good faith to engage or participate in an improper activity, and/or who has participated in a whistleblower complaint investigation. Furthermore, the District or an official, employee, contractor, or vendor of the District may not make, adopt, or enforce any rule, regulation or policy preventing an individual or entity from being a whistleblower or participating in a whistleblower complaint investigation.

An individual or entity who believes he, she, or it has been subjected to or affected by retaliatory conduct for making a protected disclosure, for refusing in good faith to engage in an improper activity, or for participating in a whistleblower complaint investigation, should report such conduct to any person or entity listed in section I of this Administrative Regulation or directly to a Human Resources administrator (such as the Vice President of Human Resources, the Dean of Human Resources, or the Assistant Director of Human Resources).

Any administrator, manager or official of the District who receives a report of retaliation, or becomes aware of retaliatory conduct, is required to advise an administrator in the District's Human Resources Office (such as the Vice President of Human Resources, the Dean of Human Resources, or the Assistant Director of Human Resources).

An official, employee, contractor, or vendor of the District may not directly or indirectly use or attempt to use the official or imputed authority or influence of his, her, or its position with the District for the purpose of interfering with the right of any individual or entity to make a good-faith report of a suspected improper activity to the District or to other non-District authorities.

An official, employee, contractor, vendor, or student of the District may be subject to appropriate action and/or discipline, up to and including, termination or dismissal, for engaging in retaliation in contravention of this Administrative Regulation. The protections from retaliation set forth in this

Administrative Regulation are applicable and enforceable with regard to any individual or entity who makes a protected disclosure, even if a suspected improper activity is investigated not under this Administrative Regulation but under the terms of another District policy, regulation, procedure, process, or agreement.

References:
Board Policy #_____ (On Whistleblower Protection)
California Government Code Section 8547
Labor Code Section 1102.5; Government Code
Section 53296
Private Attorney General Act of 2004 (Labor Code Section 2698)
California Education Code Sections 87160-87164