

**Proposed Addition to Kern Community College District
Board Policy Manual
Section Eleven – General Personnel Administration**

Policy 11F

Governance Process: Share as Information Only

Reason for Addition: To Establish District Policy

Section to be renumbered.

11F Whistleblower Protection -- California Labor Code Section 1102.5; Government Code Section 53296; Private Attorney General Act of 2004 (Labor Code Section 2698)

11F1 The Chancellor or Designee shall establish procedures regarding the reporting and investigation of suspected unlawful activities by Kern Community College District employees, and the protection from retaliation of those who make such reports in good faith and/or assist in the investigation of such reports. For the purposes of this policy and any implementing procedures, "unlawful activity" refers to any activity – intentional or negligent – that violates state or federal law, local ordinances, or Kern Community College District Board policy.

11F2 Procedures shall provide that individuals are encouraged to report suspected incidents of unlawful activities without fear of retaliation; that such reports are investigated thoroughly and promptly; that remedies are applied for any unlawful practices; and protections are provided to those employees who, in good faith, report these activities and/or assist the Kern Community College District in its investigation. (See Procedure 11F of this Manual)

11F3 Kern Community College District employees shall not

- a) retaliate against an employee or applicant for employment who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order, or

b) directly or indirectly use or attempt to use the official authority or influence of his or her position for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the Kern Community College District.

11F4 The Kern Community College District will not tolerate retaliation and will take whatever action may be needed to prevent and correct activities that violate this policy, including discipline of those who violate it up to and including termination.

Reviewed and Recommended by
Chancellor's Cabinet
November 10, 2009

Reviewed by
District Consultation Council
November 17, 2009

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Board Policy Manual
Section Eleven – General Personnel Administration**

Procedure 11F

Section to be renumbered.

Administrative Procedure for Whistleblower Protection

References: Labor Code Section 1102.5; Government Code Section 53296; Private Attorney General Act of 2004 (Labor Code Section 2698)

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 Kern Community College 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 Kern Community College District Board Policy 11F, 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 President/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 President/Chancellor who will confer with the President of the Board and/or legal counsel on how to proceed.
- d) 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.
- e) 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.
- f) 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

1(f) (continued)

he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.

- g) 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. If the allegations of retaliation or the underlying allegation of unlawful conduct involve the President, 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.

Procedure 11F (continued)

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.

Reviewed and Recommended by
Chancellor's Cabinet
November 10, 2009

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District Consultation Council
November 17, 2009