



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Administrative Procedure

Chapter 6 - Business and Fiscal Affairs

AP 6125 FRAUD PROCEDURE AND WHISTLEBLOWER PROTECTION

A. PURPOSE/SCOPE

The purpose of these procedures is to implement the provisions of BP 6125 Fraud Policy and Whistleblower Protection.

The District is committed to protecting its assets against the risk of loss or misuse. These procedures outline steps to identify and promptly investigate any possibility of fraudulent and/or unlawful activities against the District and when appropriate, to pursue legal remedies available under law. This procedure applies to all San Diego Community College District employees and will be enforced without regard to past performance, position held or length of service.

B. DEFINITIONS

1. Fraud and related unlawful activity prohibited by this procedure generally involves a willful or deliberate act or failure to act with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means. All fraudulent acts are included under this policy and include, but are not limited to:
 - a. Claim for reimbursement of expenses that are not job-related or authorized by the current procedure, or are claimed in excess of actual costs incurred.
 - b. Forgery or unauthorized alteration of documents (checks, promissory notes, timecards, timesheets, independent contractor agreements, purchase orders, budgets, etc.).
 - c. Misappropriation of district assets (funds, securities, supplies, furniture, equipment, etc).
 - d. Improprieties in the handling or reporting of money transactions.
 - e. Authorizing or receiving payment for goods not received or services not performed.
 - f. Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data or misappropriation of district owned computer and telecommunication resources.

- g. Misrepresentation of information on documents.
 - h. Any apparent violation of Federal, State, or Local laws related to dishonest activities or fraud.
 - i. Seeking or accepting anything of material value from those doing business with the district including vendors, consultants, contractors, lessees, applicants, and grantees. Materiality is determined by the district's Conflict of Interest Code which incorporates the Fair Political Practices Commission's regulations.
2. Employee - In this context, employee refers to any individual or group of individuals who receive compensation, either full- or part-time, from the district.
 3. Management - In this context, management refers to any administrator, manager, director, supervisor, or other individual who manages or supervises funds or other resources, including human resources.
 4. Internal Auditor - In this context, Internal Auditor refers to any person or persons assigned by Vice Chancellor of Business Services to investigate any fraud or similar activity.
 5. Chief of Police - In this context, Chief of Police refers to any person or persons assigned by the Chief of Police to investigate fraud or similar activities.
 6. External Auditor - In this context, External Auditor refers to independent audit professionals who perform annual audits of the district's financial statements.

C. OVERVIEW

1. The Chief of Police, in conjunction with the Vice Chancellor of Business Services has the primary responsibility for the investigation of all activity as defined in this policy.
2. Throughout the investigation, the Chief of Police will inform the Vice Chancellor of Business Services of pertinent investigative findings.
3. 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:
 - a. 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
 - b. advised that if he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.
4. 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 who make a protected disclosure are protected from retaliation.

5. Employees will be granted whistle-blower protection when reporting and potential cases of fraud acting in accordance with this procedure. When informed of a suspected impropriety, neither the district nor any person acting on behalf of the district shall:
 - a. Dismiss or threaten to dismiss the employee,
 - b. Discipline, suspend, or threaten to discipline or suspend the employees.
 - c. Impose any penalty upon the employee, or
 - d. Intimidate or coerce the employee.
6. Any employee who believes he or she has been (1) subjected to or affected by retaliatory conduct for reporting suspected unlawful activity, or (2) for refusing to engage in activity that would result in a violation of law, should report such conduct to the appropriate management personnel (if such management personnel is not the source of or otherwise involved in the retaliatory conduct).

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 substantiate.

Violations of the whistle-blower protection will result in discipline up to and including dismissal.
7. Upon conclusion of the investigation, the results will be reported to the Vice Chancellor of Business Services and the Chancellor. A determination will be made as to whether a criminal prosecution is warranted.
8. The Vice Chancellor of Business Services, following review of the investigation results, will consult with Human Resources to determine appropriate discipline for the employee misconduct. Disciplinary action can include termination, and referral of the case to the District Attorney’s Office for possible prosecution.
9. The district will pursue every reasonable effort, including court ordered restitution, to obtain recovery of district losses from the offender, or other appropriate sources.

D. MANAGEMENT RESPONSIBILITIES

1. Each department of the district is responsible for instituting and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriation, and other irregularities. Management should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct.
2. When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.

3. If any manager has reason to suspect that a fraud has occurred, he or she shall immediately contact the Chief of Police.
4. Individual managers shall not attempt to investigate the suspected fraud or discuss the matter with anyone other than the Chief of Police.
5. Management should not attempt to conduct individual investigations, interviews, or interrogations. However, management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions.
6. The alleged fraud or audit investigation shall not be discussed with the media by any person other than through the Vice Chancellor of Business Services in consultation with County Counsel and the Chancellor.
7. Management is responsible for being alert to, and reporting fraudulent or related dishonest activities in their areas of responsibility.
8. Each manager should be familiar with the types of improprieties that might occur in his or her area and be alert for any indication that improper activity misappropriation, or dishonest activity is or was in existence in his or her area.
9. Management should support the district's responsibilities and cooperate fully with the Internal Auditor, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.
10. Management must give full and unrestricted access to all necessary records and personnel. All district furniture, fixtures, equipment and contents, including desks and computers, are open to inspection at any time. There is no assumption of privacy.
11. In dealing with suspected dishonest or fraudulent activities, great care must be taken. Therefore, management should avoid the following:
 - a. Incorrect accusations.
 - b. Alerting suspected individuals that an investigation is underway.
 - c. Treating employees unfairly.
 - d. Making statements that could lead to claims of false accusations or other offenses.
12. In handling dishonest or fraudulent activities, management has the responsibility to:
 - a. Make no contact (unless requested) with the suspected individual to determine facts or demand restitution. Under no circumstances should there be any reference to "what you did", "the crime", "the fraud", "the misappropriation", etc.

- b. Avoid discussing the case, facts, suspicions, or allegations with anyone outside the district, unless specifically directed to do so by the Vice Chancellor of Business Services.
- c. Avoid discussing the case with anyone inside the district other than employees who have a need to know such as the Vice Chancellor of Business Services, Chief of Police, County Counsel, or other law enforcement personnel.
- d. Direct all inquires from the suspected individual or his or her representative to the Chief of Police. All inquiries by an attorney of the suspected individual should be directed to Vice Chancellor of Human Resources and Administrative Services. All inquires from the media should be directed to Vice Chancellor of Human Resources and Administrative Services.
- e. Take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the Vice Chancellor of Human Resources and Administrative Services, in conformance with district personnel policies and procedures.
- f. The Internal Auditor will be required to make recommendations to the appropriate department for assistance in the prevention of future similar occurrences.

E. EMPLOYEE RESPONSIBILITIES

- 1. A suspected fraudulent incident or practice observed by, or made known to, an employee must be reported to the employee's supervisor for reporting to the proper management official.
- 2. When the employee believes the supervisor may be involved in the inappropriate activity, the employee shall make the report directly to the next higher level of management.
- 3. The reporting employee shall refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone, unless requested by the Chief of Police or the Vice Chancellor of Business Services.

F. CHIEF OF POLICE RESPONSIBILITIES

- 1. In all circumstances where there appears to be reasonable grounds for suspecting that a fraud has taken place, the Chief of Police, in consultation with the Vice Chancellor of Business Services, will contact the district department.
- 2. The Chief of Police shall be available and receptive to receiving relevant, confidential information to the extent allowed by law.
- 3. If evidence is uncovered showing possible dishonest or fraudulent activities, the Chief of Police will proceed as follows:
 - a. Discuss the findings with management and the department manager.
 - b. Advise management, if the case involves staff members, to meet with the Vice Chancellor of Human Resources and Administrative Services

(or his/her designated representative) to determine if disciplinary actions should be taken.

- c. Report to the Vice Chancellor of Business Services such activities in order to assess the effect of the illegal activity on the district's financial statements.
 - d. Coordinate with the district's Risk Management department regarding notification to insurers and filing of insurance claims.
 - e. Take immediate action, in consultation with County Counsel, to prevent the theft, alteration, or destruction of evidentiary records. Such action shall include, but is not limited to:
 - 1) Removing the records and placing them in a secure location, or limiting access to the location where the records currently exists.
 - 2) Preventing the individual suspected of committing the fraud from having access to the records.
4. In consultation with County Counsel the District Chief of Police may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.
 5. If the Chief of Police is contacted by the media regarding an alleged fraud or audit investigation, the Chief of Police will refer them to the Vice Chancellor of Human Resources and Administrative Services, as appropriate, before responding to a media request for information or interview.
 6. At the conclusion of the investigation, the Chief of Police will document the results in a confidential memorandum report to the Vice Chancellor of Business Services and the Chancellor. If the report concludes that the allegations are founded, the report will be forwarded to Vice Chancellor of Human Resources and Administrative Services, and the District Attorney's Office if appropriate.
 7. Upon completion of the investigation, including all legal and personnel actions, all records, documents, and other evidentiary material, obtained from the department under investigation will be returned by the Chief of Police to that department.

Labor Code Section 11025

Government Code Section 53296

Private Attorney General Act of 2004 (Labor Code section 2698)

Approved by Chancellor: May 25, 2006