

**Complaint Procedures for
Allegations of Retaliation for
Disclosure of Improper Government Activities**



California State University, Fresno

Updated by Human Resources

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Complaint Procedures for Allegations of Retaliation for Disclosure of Improper Government Activities

No employee of this university or applicant for employment shall be retaliated against for having disclosed improper government activities. Individuals are encouraged to report improper government activities through the appropriate university channels. The following procedures (consistent with [Executive Order No. 822](#) see Appendix A) provide an opportunity for employees and applicants for employment who feel they have been retaliated against for making a protected disclosure under the California Whistleblower Protection Act to file a written complaint with the Chancellor of the California State University. The purpose for the procedures is to provide a timely and effective resolution to the complaint.

The Vice Chancellor for Human Resources is the Chancellor's designee to receive and respond to complaints of alleged retaliation for employees who have made a protected disclosure. The Director of Human Resources and the Associate Vice President for Academic Personnel are the campus President's designees to receive and refer to the Vice Chancellor for Human Resources written complaints made under this order. Complaints may also be made directly to the Vice Chancellor's office. In the event the complaint is against the Director of Human Resources, the Associate Vice President for Academic Personnel, or any other administrator, the complaint may be filed with the President who will then refer the complaint to the Vice Chancellor for Human Resources. The Complaint Form for submitting complaints to the Chancellor's Office is attached to this policy as Appendix A.

I. Definitions

- A. As used herein, "employee" refers to a permanent or tenured, probationary, temporary, or Management Personnel Plan employee who submits a complaint within the scope of this executive order.
- B. As used herein, "applicant for employment" refers to an individual who has completed the campus application form for a specific, available position for which he or she is minimally qualified and who submits a complaint within the scope of this executive order.
- C. **Respond and File** - The terms "respond" and "file" as used herein mean personal delivery or deposit in the U.S. mail, certified with return receipt requested. If personal delivery is used, the calendar date of delivery shall establish the date of response or filing. If certified mail delivery is used, the postmark shall establish the date of response or filing.
- D. **Retaliation** - The term "retaliation" refers to the direct or indirect use by an employee of his or her official authority or influence for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with that person's action of disclosing improper governmental activity done by any employee or official of the California State University.
- E. **Improper governmental activity** - The term "improper governmental activity" means any activity by a university department or employee that is undertaken in the performance of the

employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetence, or inefficiency.

- F. **Complainant** - The term "complainant" means an employee or applicant for employment who files a complaint of retaliation under this executive order.

II. General Provisions

- A. All time limits refer to working days.
- B. Time limits set forth in this executive order may be extended by mutual agreement in writing between the complainant and the Vice Chancellor of Human Resources. If the complainant, the Vice Chancellor, or material witnesses to the investigation are on approved leave of three (3) days or more, the time limits shall be extended by the length of the leave. Investigations must be completed within sixty (60) days from the end of an eighteen-month period after the date the complaint was filed.
- C. A complainant may withdraw a complaint any time. Once the complaint is withdrawn, the complainant shall not file a subsequent complaint on the same alleged act of retaliation.
- D. Failure of the complainant to comply with the time limitations of this procedure shall render the complaint void and bar subsequent re-filing of the complaint.
- E. Complaints filed and responses and investigations thereto pursuant to this executive order shall be confidential and shared only with individuals with a legitimate business reason to know.

III. Filing a Complaint

- A. Written complaints must be filed within twelve (12) months of the alleged act of retaliation.
- B. The complaint should be made on the form provided in Appendix A. However, any complaint that conforms to the following requirements will be addressed.
- C. The written complaint must include all of the following information, or it may be rejected as inadequate:
1. It must be addressed or directed to the CSU Vice Chancellor of Human Resources.
 2. Include the name and mailing address of the complainant, the complainant's work title, or position applied for if the complainant was an applicant for employment.
 3. Contain a detailed description of the specific actions that constituted the alleged improper governmental activity, including the name(s) and title(s) of the CSU employee(s) or official(s) allegedly engaged in the improper governmental activity.
 4. Include the name of any other university official to whom the improper governmental activity was reported, and the date and manner of the disclosure. If the reporting was done in writing, a copy of the report should be enclosed with the complaint.

5. Contain a description of the specific actions taken that constituted the alleged retaliation, including the date(s) of such actions, and the names and titles of the university officials who allegedly took the retaliatory actions, and an explanation of the reasons why the complainant believes those actions were in retaliation for the reporting of improper governmental activity.
6. Be signed, dated, and include a sworn statement that the contents of the written complaint are true, or are believed by the complainant to be true, under penalty of perjury.

IV. Complaint Review Process

- A. The Vice Chancellor of Human Resources will acknowledge to the complainant in writing having received the complaint, whether directly or from the campus, within ten (10) days of receipt. The acknowledgment may include a request for additional information.
- B. The Vice Chancellor of Human Resources will commission an investigation. The investigator(s) may be from the campus, the Chancellor's Office, or be an external investigator, at the Vice Chancellor's discretion.
- C. Complainants are required to fully cooperate with the investigator(s). Investigator(s) will conduct an initial interview of complainants within thirty (30) days of receipt of the complaint. At this interview complainants will be given the opportunity to present a list of witnesses and any documentary evidence in support of the allegations.
- D. CSU employees are required to cooperate with the investigation and be completely honest in answering questions and providing information to the investigator(s).
- E. The complaint, any supporting documentation, the conduct of the investigation, the report of the investigation, the summary, the complainant's response, and the letter or determination shall be treated as confidential matters.
- F. The investigator(s) shall forward a written report to the Vice Chancellor of Human Resources within sixty (60) days of the filing of the complaint. The report shall include a summary of the investigation and a conclusion whether or not retaliation for the reporting of improper governmental activities occurred.
- G. The Vice Chancellor of Human Resources shall provide a summary of the investigation and conclusion to the complainant within ten days of the receipt of the investigator(s) report. The complainant may file a written response to the summary with the Vice Chancellor within fourteen (14) days of receipt of the summary and conclusion.
- H. The Vice Chancellor of Human Resources shall respond with a letter or determination within fourteen (14) days of the receipt of the complainant's response. This response will constitute the final decision of the CSU regarding the complaint.

Appendix A

Executive Order No. 822

Please click on the following link to view Executive Order No. 822, “Revised Complaint Procedures for Allegations of Retaliation under the California Whistleblower Act” and the attached Complaint Form:

<http://www.calstate.edu/EO/EO-822.pdf>