



## **San Francisco State University Procedure for Protected Disclosure of Improper Governmental Activities**

<b>Division:</b> Administration and Finance
<b>Department:</b> Audit & Advisory Services
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### **Authority:**

1. [Delegations of Authority—Whistleblower and Whistleblower Retaliation Complaints at SFSU](#)
2. [Executive Order No. 929](#)
3. [Executive Order No. 1104](#)
4. [California Government Code Section 8547.1](#)

### **Objective:**

This procedure is established to fulfill the requirements of the CSU Chancellor’s Executive Orders No. 929, 1104, and Section 8547.1 of the Government Code (Whistleblower Protection Act) concerning the Protected Disclosure of Improper Governmental Activities. The purpose of this University procedure is to provide employees or applicants for employment a timely and effective process for the filing of a protected disclosure of improper governmental activities on the San Francisco State University campus.

The President’s designee for implementing this procedure shall be the Director of Audit & Advisory Services to receive written complaints to be processed under this procedure; to coordinate the assessment of the proper course of action for processing such complaints; and to conduct internal investigations or coordinate investigations conducted for the campus by other internal or external investigators.

### **Statement:**

#### **Definitions**

- A. As used herein, “*employee*” refers to a permanent or tenured, probationary, temporary, or Management Personnel Plan employee of San Francisco State University.

- B. As used herein, “*applicant for employment*” refers to an individual who has completed and submitted an application for a specific, available position on the San Francisco State University campus.
- C. The term “*complainant*” means an employee or applicant for employment who files a written report and makes a protected disclosure in accordance with this Procedure.
- D. 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 or 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.
- E. “*Protected disclosure*” means any good faith communication that discloses information that may evidence
  - 1. an improper government activity, or
  - 2. any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.
- F. “*Working days*” means Monday through Friday excluding all officially recognized university holidays or campus closures.

### **Protected Disclosure at San Francisco State University**

- A. An **employee or applicant for employment** may make a protected disclosure to the Director of Audit & Advisory Services no later than thirty (30) days after the event giving rise to the protected disclosure or no later than thirty (30) days after the employee or applicant for employment knew or reasonably should have known of the event.
- B. The protected disclosure shall be in writing, on the *Form for Allegation of Improper Governmental Activities*, which is available on the Audit & Advisory Services website, or in the Office of Audit & Advisory Services. The disclosure **must** include the following information:
  - 1. The name and mailing address of the complainant, the complainant’s working title, or position applied for if the complainant was an applicant for employment.
  - 2. A detailed description of the specific actions that constituted the alleged improper governmental activity or condition that may significantly threaten the health and safety of employees or the public, including the names(s) and title(s) of the CSU employee(s) or

official(s) allegedly engaged in the improper governmental activity or responsible for the health and safety condition.

3. The date(s) the alleged improper activities occurred or the condition developed.
4. Other potential witnesses to the alleged improper activities or condition.
5. Any documentation that supports the allegations of improper activities or of a threatening condition.
6. Descriptions of documents that support the allegations of improper activities or of a threatening condition, if the actual documents are not in the possession of the complainant.
7. The protected disclosure must be signed, dated, and contain a sworn statement under penalty of perjury that its contents are believed to be true.

### **Response to Protected Disclosures Made to the SFSU Campus**

- A. The Director of Audit & Advisory Services, or a delegated representative, shall acknowledge receipt of the written protected disclosure in writing within ten (10) days of receipt.
- B. Upon receipt of a protected disclosure complying with the provisions of this procedure, the Director of Audit & Advisory Services will review the protected disclosure and determine whether the complaint has been properly filed under this procedure. The Director of Audit & Advisory Services may commission an investigation of the matter.
- C. Care shall be taken to keep the identity of the complainant confidential, so far as feasible and consistent with the law.
- D. If the Director of Audit & Advisory Services determines that there is reasonable cause to believe that improper governmental activity has occurred or that a condition that may significantly threaten the health or safety of employees or the public exists, the Director shall report this information with a recommendation for appropriate action to the Vice President for Administration and Finance and the President.
- E. The Vice President for Administration and Finance and the President will determine what action, if any, is necessary. Within ninety (90) days of receipt of the protected disclosure, the Director of Audit & Advisory Services shall issue a formal response to the complainant that includes whether the allegations were substantiated and what, if any, actions were taken. Care shall be taken to protect the privacy interests of those involved.

### **Complaint Investigation**

- A. Upon receipt of a written complaint, the Director of Audit & Advisory Services shall consult with the Vice President for Administration and Finance, President, appropriate vice president/s and others as appropriate in determining whether an investigation is warranted. In all instances, the University retains the prerogative to determine when circumstances warrant an investigation and

the appropriate investigative process to be employed, including commissioning an external consultant to conduct the investigation. As appropriate, investigations may require consultation and coordination among other campus personnel and departments. The Director of Audit & Advisory Services shall assure that the appropriate division executive is apprised of the ongoing investigation.

- B. Upon completion of an investigation, the Director of Audit & Advisory Services shall report the findings and a recommendation to the appropriate division executive. A determination shall be made as to whether there is reasonable cause to believe that improper governmental activity has occurred or that a condition which may significantly threaten the health or safety of employees or the public exists. This determination shall be communicated to the appropriate division executive. Should the allegation of misconduct involve the Vice President for Administration and Finance, the Director of Audit & Advisory Services shall report directly to the President on all matters involving the investigation.
- C. The Vice President for Administration and Finance and the President will determine what actions, if any, are necessary. Within ninety (90) days of receipt of the protected disclosure, the Director of Audit & Advisory Services shall issue a response to the complainant that includes whether the allegations were sustained and what, if any, actions were taken. Care shall be taken to protect the privacy interests of those involved.
- D. The Director of Audit & Advisory Services and the President are required to notify the CSU and other state officials of certain cases of actual or suspected fiscal improprieties, including issues related to the campus itself and to an auxiliary of the campus. These reporting requirements apply to both state and non-state funds.
- E. Under Executive Order 1104, incidents where the estimated dollar value is less than \$5,000 do not need to be reported and will be handled by the campus. If the estimated dollar value of the incident is between \$5,000 and \$50,000, it will be reported to Chancellor's Office administrators (the Chancellor, Executive Vice Chancellor/CFO, Vice Chancellor and Chief Audit Officer) and the Chair of the Board of Trustees' Committee on Audit. Incidents with an estimated value greater than \$50,000 and where state funds or a state employee are involved will also be reported to the California State Auditor and the California Department of Finance, Office of State Audits and Evaluations.
- F. Any required initial notifications should be made not later than five business days following the determination that an issue is reportable, and progress reports should be provided every thirty calendar days until the review or investigation is complete.

## **General Provisions**

- A. All time limits refer to working days.
- B. Time limits set forth in this procedure may be extended in writing by the Director of Audit & Advisory Services. Written notification of such a change in time limits must be provided to the complainant.
- C. To the extent possible, and within the limitations of the law and the need to conduct a competent investigation, the confidentiality of the complainant will be maintained. Complaints, responses, and investigations under this procedure shall be shared only with those individuals who have a legitimate business reason to know. Persons accused of government misconduct as well as witnesses in the case will receive only that information essential for the conduct of the investigation. The identity of the complainant will not be provided. Details of the complaint will be revealed only if there is a clear need to know and if there is no danger of negative impact on the integrity of evidence in the case. Employees who are interviewed during the investigation shall be reminded of the importance of confidentiality of everything related to the investigation.
- D. To maintain the integrity of the process, the complainant is expected to keep confidential the issues raised in the complaint during the investigation.
- E. All employees of the University have a duty to cooperate with an investigation initiated under Executive Order 929 and this campus procedure. They also have the duty to refrain from interfering with or impeding the investigation in any way.
- F. All employees who are involved in any way in an investigation under this procedure shall be provided with a copy of this procedure and the campus procedures on retaliation and reminded of the importance of refraining from actual or apparent retaliatory acts against the complainant.

### **Searchable Words:**

Whistleblower, disclosure, complaint