

**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 to file a written complaint with the appropriate manager who will respond to the allegation(s). The purpose for the procedures is provide a timely and effective resolution to the complaint.

The Director of Human Resources is the President's designee to receive written complaints made under this order and will be responsible for evaluating compliance with this order. The complaints involving a respondent who is a faculty member will be referred to the Associate Vice President for Academic Personnel who will be responsible for conducting an investigation and evaluating compliance with this order. 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, or the Vice Chancellor for Human Resources and Operations who serves as the Chancellor's designee in this matter.

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, incompetency, 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 calendar days. If the last day of the described time limit falls on a weekend or campus holiday, the time limit shall be extended to the next campus working day.
- B. Time limits set forth in this executive order may be extended by mutual agreement in writing between the complainant and the Director of Human Resources or Associate Vice President for Academic Personnel. If the complainant, the Director of Human Resources, the Associate Vice President, or material witnesses to the investigation are on approved leave of 7 days or more, the time limits shall be extended by the length of the leave.
- 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 refileing of the complaint.
- E. Complaints filed and responses and investigations thereto pursuant to this executive order shall be confidential.

III. Filing a Complaint

- A. Written complaints will be filed with the Director of Human Resources or other appropriate officer within 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. be addressed or directed to the Director of Human Resources or other appropriate officer,
 2. 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. 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. 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. 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 contain a sworn statement that the contents of the written complaint are true, or are believed by the complainant to be true, under penalty or perjury.

IV. Complaint Review Process

- A. The complaint will be acknowledged in writing by the Director of Human Resources or other appropriate officer within 7 days of receipt with an indicating of which office will conduct the investigation, Human Resources or Academic Personnel. The acknowledgment may include a request for additional information.
- B. The Director of Human Resources or other appropriate officer shall designate an investigator(s) for complaints involving respondents who are staff or Management Personnel Plan employees, and shall refer complaints involving faculty respondents to the Associate Vice President for Academic Personnel who will designate an investigator(s).
- C. The investigator shall conduct an investigation which includes a review of any supporting documentation supplied by the complainant, any response to the complaint supplied by the employee alleged to have taken retaliatory action, the interviewing of witnesses, any other action deemed appropriate by the investigator(s) in order to complete the investigation. Upon completion of the investigation, the investigator(s) may determine and advise the Director of Human Resources or the Associate Vice President for Academic Personnel that the complaint failed to present specific and credible evidence to form an allegation of retaliation for disclosure of improper governmental activities.
- 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 Director of Human Resources or the Associate Vice President for Academic Personnel within 45 days of commencing the investigation. 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 Director of Human Resources or the Associate Vice President for Academic Personnel shall share a summary of the investigation with the complainant. The complainant may file a written response to the summary with the Director or the Associate Vice President within 14 days of receipt.
- H. The Director of Human Resources or Associate Vice President for Academic Personnel shall respond with a letter or determination within 14 days of the expiration of the time limits for the complainant to file a response as outlined in paragraph "g" above.
- I. If the complainant disagrees with the determination, he or she may file a written appeal with the President within 14 days of receipt of the determination. The appeal should include any new material that was not available at the time of the original investigation. The President's decision shall be final for the campus.
- J. If the complainant disagrees with the President's decision, he or she may appeal to the Vice Chancellor of Human Resources and Operations, the Chancellor's designee. The process for review by the Vice Chancellor is described in detail within Executive Order 822. The letter or determination from the Vice Chancellor will act as the final CSU response to the complainant.

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>