
UCLA Procedure 620.1: Reporting Whistleblower Complaints

Issuing Officer: Administrative Vice Chancellor

Responsible Dept: Office of the Administrative Vice Chancellor

Effective Date: August 1, 2002

Supersedes: New

- I. REFERENCES**
- II. BACKGROUND**
- III. PURPOSE**
- IV. GENERAL POLICY**
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I. REFERENCES

1. University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy) (4/2/2008);
2. University of California Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy) (10/4/2002);
3. University Policy on Safeguarding University Resources and Investigating Suspected Misuse of Resources, March 11, 1992;
4. UC Business and Finance Bulletin G-29, Procedures for Investigating Suspected Misuse of University Resources (to be superseded);
5. University Policy on Integrity in Research, Office of the President, June 19, 1990;
6. Academic Senate Manual, Los Angeles Division; Appendix XII - Campus Procedures for Implementation Of University Policy on Faculty Conduct and the Administration of Discipline;
7. Academic Personnel Manual: Policy 140 – Non-Senate Academic Appointees/Grievances;
8. UCLA Medical Center: Medical Staff Bylaws;
9. University of California Personnel Policies for Staff Members: Policy 70 – Complaint Resolution;
10. Grievance procedures of the appropriate collective bargaining agreements, where applicable, for exclusively represented employees;
11. UCLA Procedure 360. 1 - Misappropriation of Assets by University Academic, Staff and Student Employees;
12. UCLA Procedure 993.1 - Integrity in Research - Responding to Allegations of Misconduct in Science.

II. BACKGROUND

On December 18, 1989, the Office of the President issued the University of California Policy for Reporting Improper Governmental Activities and Protection Against Retaliation for Reporting Improper Activities. The policy, which became effective January 1, 1990, enforces the University's responsibility to seek out and correct abuses regarding improper activities by encouraging its employees and other persons to disclose improper activities as defined in the Reporting of Improper Governmental Activities Act (Currently, Government Code Section (8547, *et seq.*). The policy also provides protection for those employees or applicants for employment who allege acts of reprisal or intimidation by University officials

due to disclosure of Improper Governmental Activities, provided there was no complicity on the part of those employees or applicants in the matters that are the subject of the allegations or an ensuing investigation. This policy has been revised to conform to changes in the law and is being republished as two related policies: University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy); and University of California Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy).

III. PURPOSE

This procedure is intended to provide local implementing guidelines for the Whistleblower Policy including procedures for reporting alleged Improper Governmental Activity and procedures for protection against alleged retaliation resulting from reporting of alleged improper activity.

Activities related to misappropriation of funds may be reported under this procedure but are investigated according to UCLA Procedure 360.1, Misappropriation of University Assets by University Employees. Activities related to misconduct in research may be reported under this procedure but are investigated according to UCLA Procedure 993.1, Integrity in Research: Responding to Allegations of Misconduct in Science.

IV. GENERAL POLICY

A. Reports of Improper Governmental Activities

Improper Governmental Activity, as defined in the Whistleblower Policy, is any activity by a University department or by an employee which is (1) in violation of any State or Federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of University property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of University property and facilities, or willful omission to perform duty, or (2) economically wasteful, or involves gross misconduct, incompetence, or inefficiency.

1. As set out in the Whistleblower Policy (Reference I.1., above), any person (hereinafter called "Whistleblower"), including any academic or staff employee, student, applicant for University employment or member of the public, may report suspected Improper Governmental Activity. Reports of Improper Governmental Activity can be made orally or in writing and may be reported anonymously. Such reports will be treated as confidential to the extent practical.
2. In general, in accordance with the Whistleblower Policy, the identity of the person reporting the Improper Governmental Activity will not be disclosed without that person's permission, unless the disclosure is to a law enforcement agency that is conducting a criminal investigation or to University personnel with a legitimate need to know in order to carry out an investigation. In addition, release of the identity of the Whistleblower may be required pursuant to a subpoena or in other circumstances where the University is required by law to release information. In some cases, the public testimony of the Whistleblower may be needed in order to prove the case against the person accused of improper activity. If the Whistleblower self-discloses, the University will no longer be obligated to maintain the confidentiality of that person's identity.
3. Upon receiving a report of suspected Improper Governmental Activity, the University will investigate or take such other action as is consistent with the nature of the complaint, the sufficiency of the information that is available to corroborate the allegation, and the rights of any individual alleged to have engaged in the improper activity.

In all instances, the University retains the prerogative to determine when circumstances warrant an investigation and, in conformity with the UC Whistleblower Policy and applicable laws and regulations, the appropriate investigative process to be employed.

B. Retaliation Complaints

In accordance with the Whistleblower Protection Policy, retaliation is defined as the use of official authority or influence by a UC employee for the purpose of interfering with the right of a person to report Improper Governmental Activities, or the right to file such a report with the University Auditor or with the Auditor General of the State of California, or with other public officials designated to receive such reports. Use of “official authority or influence” includes promising to confer, or conferring, any benefit; effecting or threatening to effect any reprisal; or taking, or directing others to take, or recommending, processing or approving any personnel action, including, but not limited to, appointment, promotion, transfer assignment, performance evaluation, suspension, or other disciplinary action.

1. Any University employee or applicant for University employment may file a complaint against a University employee alleging threatened or actual interference or retaliation resulting from the reporting of Improper Governmental Activities (Whistleblower Retaliation Complaint). Claims of retaliation from UCLA students who are not University employees (e.g., regarding grade-related or other academic matters) are not heard under this policy but under policies established by the Academic Senate.
2. In order for a retaliation complaint to be accepted under this procedure, the complainant must have previously reported Improper Governmental Activity, as described in Section IV.A., above, with the appropriate University or public official or must present a case alleging the prevention by intimidation from filing such a report. The report of Improper Governmental Activity may be written or may be a “Protected Disclosure”. A Protected Disclosure is any good faith communication that discloses or demonstrates an intention to disclose information that may evidence 1) an Improper Governmental Activity, or 2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure was made for the purpose of remedying that condition.

V. PROCEDURES

A. Reporting Improper Governmental Activities

RESPONSIBILITY	ACTION
Whistleblower	<p>May report suspected activity to his or her immediate supervisor or other appropriate administrator or supervisor, or by calling the UCLA Confidential Hotline (800-296-7188); or may contact a designated Whistleblower advisor for information regarding policies and procedures for reporting suspected wrongdoing, including completing a UCLA Report of Improper Governmental Activity Form (Attachment A) at one of the following locations:</p> <ul style="list-style-type: none"> • Audit & Advisory Services, UCLA Wilshire Center, Suite 700 (<i>faculty, staff, students, general public</i>); • Office of the Vice Chancellor - Academic Personnel, 2147 Murphy Hall (<i>all academic appointees, including non-Senate appointees</i>); • Dean, Graduate Division, 1237 Murphy Hall (<i>academic apprentice personnel</i>); • Campus Human Resources Employee & Labor Relations Office, UCLA Wilshire Center, Suite 200 (<i>campus staff employees and students in the course and scope of their staff appointments</i>); • Healthcare Human Resources Office, 924 Westwood Blvd., Suite 200 (<i>Medical Center staff employees and students in the course and scope of their staff appointments</i>).
Whistleblower, Whistleblower’s Supervisor or Other Campus Official Receiving a Report of Improper Governmental Activity	<p>Reports suspected Improper Governmental Activity to the Locally Designated Official in the Office of the Administrative Vice Chancellor, or with the Chancellor if the Administrative Vice Chancellor is the person alleged to have engaged in the improper activity. If the Chancellor is alleged to have engaged in improper activity, files the report with the Senior Vice President – Business & Finance, Office of the President.</p> <p>Oral reports should normally be documented by Supervisor or Other Campus Official, or by written transcript of oral report. Internal communications regarding allegations of Improper Governmental Activity should normally be in writing.</p>

RESPONSIBILITY	ACTION
<p>Locally Designated Official (LDO)</p>	<p>Consulting with the Investigations Workgroup as appropriate, within 60 calendar days from receipt of the report of Improper Governmental Activity, determines if the charges warrant an investigation or requests additional information from the Whistleblower needed to make such a determination. Criteria include whether the report:</p> <ul style="list-style-type: none"> • fits the definition of a report of Improper Governmental Activity; • appears frivolous or clearly without substance; • provides sufficient information to allow for an adequate investigation. <p>If the report alleges misconduct in research, refers the report to the Vice Chancellor – Research for processing in accordance with UCLA Policy 993, Integrity in Research.</p> <p>If a determination is made that an investigation is warranted, authorizes the investigation and forwards the report of Improper Governmental Activity to the appropriate University official(s) responsible for conducting investigations of the type of activity reported.</p> <p>Investigators may include, but are not limited to, the following officials or their designees:</p> <ul style="list-style-type: none"> • Director of Audit & Advisory Services; • Chief of Police; • Assistant Vice Chancellor - Campus Human Resources; • Sr. Associate Director, Medical Center - Patient Relations & Human Resources; • Vice Chancellor - Academic Personnel; • Dean - Graduate Division. <p style="text-align: center;">OR</p> <p>If an investigation is not warranted, and if the identity of the Whistleblower is known, informs the Whistleblower of the reason and of his/her right to file a report with the University Auditor or the Auditor General of the State of California.</p>
<p>Investigator</p>	<p>Upon authorization by the LDO, conducts an investigation in accordance with applicable procedures. At the conclusion of the investigation, provides a written report of findings, including a summary of the evidence gathered and a conclusion as to whether or not Improper Governmental Activity is substantiated, to the LDO and to other University officials as applicable.</p>
<p>LDO</p>	<p>If the investigator’s report concludes that no Improper Governmental Activity took place, closes the investigation and sends the record of the report to Campus Human Resources, Healthcare Human Resources, the Graduate Division or the Academic Personnel Office, as appropriate, where it will be retained for a minimum of three years.</p> <p style="text-align: center;">OR</p> <p>If the investigator’s report concludes that Improper Governmental Activity by an employee took place, the report is sent to the employee’s department head with a request that appropriate action be taken in accordance with relevant personnel policies or collective bargaining agreements. A copy of the report is also sent to the appropriate campus official as follows:</p> <ul style="list-style-type: none"> • Vice Chancellor – Academic Personnel (<i>for academic employees</i>); • Assistant Vice Chancellor – Campus Human Resources (<i>for campus staff employees</i>); • Sr. Associate Director, Healthcare Human Resources (<i>for Medical Center staff employees</i>); • Dean, Graduate Division (<i>for academic apprentice employees</i>); or the • Dean of Students (<i>for students</i>).
	<p>If the identity of the Whistleblower is known, informs the Whistleblower of the completion and the result of the investigation.</p>

B. Including a Retaliation Claim as Part of a Personnel Policy Complaint

Certain claims by employees of “retaliation” can be considered as part of formal grievances or other personnel dispute resolution processes under the Personnel Policies for UC Staff Members or collective bargaining agreements. Specifically, when a claim of retaliation is related to other claims being considered

in a dispute resolution proceeding under UC Personnel Policies or a collective bargaining agreement, the retaliation claim should be evaluated as part of such proceedings to the extent permitted by such policy or agreement.

In addition to including a claim of retaliation in a personnel action, a complainant may also file a separate Whistleblower Retaliation Complaint (WRC) provided the complaint is filed within 12 months of the alleged act of retaliation, as set forth in Section C. below. In the case of such concurrent filing, the Retaliation Complaint Officer (RCO) shall wait until proceedings related to the personnel action have concluded before acting on the complaint and shall act on the separately filed complaint only if the claim of retaliation was not adequately considered and resolved in the earlier proceeding.

RESPONSIBILITY	ACTION
Complainant	<p>May contact one of the following offices for information regarding procedures and deadlines for filing complaints:</p> <ul style="list-style-type: none"> • Vice Chancellor – Academic Personnel, 2147 Murphy Hall (<i>academic appointees, including nonSenate appointees and applicants for academic positions</i>); • Dean – Graduate Division, 1237 Murphy Hall (<i>academic apprentice personnel</i>); • Healthcare Human Resources Office, 924 Westwood Blvd., Suite 200 (<i>Medical Center staff employees and applicants</i>); • Campus Human Resources, Employee & Labor Relations Office, UCLA Wilshire Center, Suite 200 (<i>campus staff employees, applicants, and students acting in the course and scope of their staff appointments</i>). <p>Files written grievance, request for administrative review or other form of charges with the following Designated Official appropriate to the complainant’s status:</p> <ul style="list-style-type: none"> • Assistant Vice Chancellor-Campus Human Resources (<i>for campus staff employees</i>); • Sr. Associate Director, Medical Center – Patient Relations & Human Resources (<i>for Medical Center staff employees</i>); • Vice Chancellor – Academic Personnel (<i>for academic personnel</i>); or • Dean of Students (<i>for students</i>).
Designated Campus Official	<p>Determines whether the complaint can be accepted under the applicable procedure and ensures that all applicable procedures and time limits are followed.</p> <p>If the claim of retaliation cannot be considered under existing procedures, advises the complainant to contact the Office of the Administrative Vice Chancellor about filing a separate Whistleblower Retaliation Complaint.</p> <p>If the complainant has concurrently filed a Whistleblower Retaliation Complaint as per Section C. below, sends a copy of the original complaint and the final decision in the matter, whether by staff officer, hearing officer or arbitrator, to the designated RCO, or informs the RCO that the retaliation complaint was not evaluated in such personnel proceedings and the reasons therefore.</p>

C. Submitting a Separate Whistleblower Retaliation Complaint

If the retaliation claim cannot be accepted under existing grievance or complaint resolution procedures, or, for any reason, is not evaluated under such procedures, complainant may submit the complaint to the LDO for further review and determination as to whether the complaint qualifies as a Whistleblower Retaliation Complaint. To be accepted as a Whistleblower Retaliation Complaint, the complaint must concern an act of retaliation as defined in Section IV.B., above, and must be filed within 12 months of the alleged act or threat of interference or retaliation. An RCO has been designated in the Office of the Administrative Vice Chancellor to coordinate the processing of such complaints and function as independent fact finder for particular complaints.

RESPONSIBILITY	ACTION
Complainant	Submits complaint on Whistleblower Retaliation Complaint Form (Attachment B).
Retaliation Complaint Officer (RCO)	Reviews the complaint to determine if it sufficiently meets the criteria to warrant an investigation as a Whistleblower Retaliation Complaint: <ul style="list-style-type: none"> • fits the definition of a claim of retaliation; • appears frivolous or clearly without substance; or • provides sufficient information to allow for an adequate investigation.
	Conducts an initial inquiry to determine if a formal fact-finding proceeding is necessary to resolve the matter.
	If the claim of retaliation was the subject of a separate personnel action which has been concluded, determines whether the complaint was adequately evaluated in the earlier proceeding.
RCO or Designated Independent Fact Finder	As warranted, conducts a fact-finding investigation, which may include but is not limited to: <ul style="list-style-type: none"> • conducting interviews with complainant and accused; • conducting interviews with witnesses as appropriate; • collecting written documentation as appropriate; • maintaining records of complaints, investigative reports, and the outcome of recommendations in conformance with privacy requirements.
	Before findings are reached, provides the respondent party (the party accused of the retaliation) with copies of all documents on which the findings will rely. Gives the respondent an opportunity to file a written statement responding to the complaint, and includes such a response as part of the fact-finding record.
	Reports results of the fact-finding investigation to the Chancellor with a copy to the Assistant Vice Chancellor - Campus Human Resources, Sr. Associate Director - Medical Center Patient Relations and Human Resources, the Vice Chancellor - Academic Personnel, or the Vice Chancellor - Graduate Division, as appropriate. The report should include sufficient factual information to substantiate the basis for any finding that there is probable cause to believe that retaliation or interference occurred. The report should be submitted within 120 days from the date on which the complaint was assigned to the RCO or Designated Independent Fact Finder, unless an extension of time has been granted.
	If the complaint alleges that the Chancellor interfered with or took the retaliatory action, reports the findings to the President, who will take the actions described for the Chancellor below.
Chancellor	Reaches a decision based on findings, or reviews hearing decisions which are final and binding, and communicates the decision to the complainant, to the respondent and to relevant University administrators. As appropriate, the decision may include relief for the complainant and refers the initiation of any disciplinary action against a University employee to the department head or appropriate administrator.
Department Head	Determines the appropriate disciplinary action, if any, to be initiated against a University employee found to have interfered or retaliated against the complainant: <ul style="list-style-type: none"> • For a member of the staff, disciplinary actions are taken after consultation with the Assistant Vice Chancellor - Campus Human Resources or the Sr. Associate Director - Medical Center Patient Relations & Human Resources, and in accordance with personnel policies and collective bargaining agreements. • For a member of the faculty, disciplinary proceedings are in accordance with procedures established by the Academic Senate.

VI. ATTACHMENTS

- A. UCLA Report of Improper Governmental Activity Form
- B. UCLA Whistleblower Retaliation Complaint Form

Issuing Officer

/s/ Pete Blackman

Administrative Vice Chancellor

**Questions concerning this policy or procedure should be referred to
the Responsible Department listed at the top of this document.**

UCLA
Report of Improper Governmental Activity Form

This form is to be completed by any person who wishes to file a report alleging Improper Governmental Activity. As set out in the University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy):

Any person (hereinafter called "Whistleblower"), including any academic or staff employee, student, applicant for University employment or member of the public, may report suspected Improper Governmental Activity.

Improper Governmental Activity, as defined in the Whistleblower Policy, is an activity by a University department or by an employee which is (1) in violation of any State or Federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of University property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of University property and facilities, or willful omission to perform duty, or (2) economically wasteful, or involves gross misconduct, incompetence, or inefficiency.

The identity of the person filing this report shall not be disclosed without his or her written permission unless the disclosure is (1) to University personnel with a legitimate need to know in order to carry out an investigation; (2) to a law enforcement agency which is conducting a criminal investigation; or (3) pursuant to a subpoena or other circumstances where the University is required by law to release information. The testimony of a person filing a report of Improper Governmental Activity may be needed in order to prove a case against the person accused of wrongdoing. For more information, see UC Whistleblower Policy, and UCLA Procedure 620.1, Reporting Whistleblower Complaints.

PART I. Please provide the following information:

(1) Description of the nature of the Improper Governmental Activity; (2) name(s) of University employee(s) and department(s) suspected of engaging in the activity; and (3) approximate or actual date the activity took place. Attach additional pages as needed.

PART II. Individual completing report must provide the following information:

Name: _____
(Last) (First) (M.I.)

Home Address: _____
(Street) (City) (ZIP Code)

Home Telephone: () _____ **Work Telephone:** () _____

Signature: _____ **Date:** _____

Return this completed form and any attachments to: UCLA Office of Administrative Vice Chancellor, 2211 Murphy Hall, 140501; or by U.S. mail to UCLA, Office of Administrative Vice Chancellor, 405 Hilgard Ave., Los Angeles, CA 90095-1405.

Part II: Confidentiality Statement and Declaration

1. Confidentiality Statement

A Whistleblower Retaliation Complaint is dealt with by the University as a confidential matter. The complaint and any information derived as a result of an investigation of the complaint will be disclosed only to persons with a legitimate need to know in order to resolve the complaint or to assist in an investigation of the matter, or in other circumstances where the University is required by law to release the information.

The complaint itself and other information submitted by the complainant in support of the complaint will be made available to the person accused of the retaliation. Other information that may be derived from an investigation of the matter may, at the discretion of the investigator, be revealed to other persons, including a party to the complaint, in order to ascertain the truth of matters asserted or to otherwise further the investigation. Before the investigator reports the results of an investigation, the person accused of the retaliation shall be given a reasonable opportunity to review and provide a response to any information upon which the investigator intends to rely in reaching findings or conclusions adverse to such person.

Until a decision in the matter is reached or the complaint is dismissed or otherwise resolved, persons who are parties to the complaint are expected to treat the matter as confidential so as not to compromise any investigation and to respect the rights of the parties. However, nothing is intended to preclude a person from reporting any matter to a University or public official or to otherwise limit a person's free speech rights. All University employees are required to cooperate as requested in the investigation of Whistleblower Retaliation Complaints. The unwillingness or inability of a party to a complaint to cooperate in an investigation may warrant findings adverse to that party.

2. Declaration

I agree to cooperate in any investigation of this matter and declare that I have read and understand the confidentiality statement above. If I have designated a person below to represent me in this matter, I understand that all notices to and communications with the named representative will be treated as if such notices and communications had been made to me. As required by the California Whistleblower Protection Act, I swear under penalty of perjury under the laws of the State of California that the facts set forth in the statement of the complaint, and in any supporting information submitted with the complaint, are true and accurate to the best of my knowledge and belief.

Complainant's Signature

Date

3. Complainant's Contact Information

Phone:	Department:
E-Mail:	Mailing Address:

4. Complainant's Designated Representative (optional)

Name:	Job Title/Classification:
Phone:	Department or Affiliation:
E-Mail:	Mailing Address: