

WHISTLEBLOWER PROTECTION POLICY STANDARDS SUMMARY

Eligibility

To submit a whistleblower retaliation complaint, you must have been a UCLA employee or applicant for employment at the time the alleged retaliation occurred.

Acceptance and Evaluation

Whistleblower retaliation is defined in the University's Whistleblower Protection Policy as an Adverse Personnel Action that results from an individual having made a Protected Disclosure or having refused to obey an Illegal Order. Your complaint will not be accepted if the facts you describe do not clearly set forth that you engaged in such an activity. Even if your complaint is accepted for review, the designated fact-finder may later conclude, after examining the evidence, that you did not engage in activity that is protected under the Policy, and your complaint may be denied. For this reason, you may want to consider your other complaint options.

Other Complaint Options

Not all claims of "retaliation" qualify as "whistleblower retaliation." If you are unsure of whether you can meet the above standards, you should also consider pursuing any grievance option that may be available under the applicable personnel policy or collective bargaining agreement provision. As strict filing deadlines apply, you should promptly check with your employment representative for more information about such an option.

Key Terms (Whistleblower Protection Policy, Section II.)

Adverse Personnel Action. A management action that affects the Complainant's existing terms and conditions of employment in a material and negative way, including, but not limited to, failure to hire, corrective action (including written warning, corrective salary decrease, demotion, suspension) and termination.

Illegal Order. A directive to violate or assist in violating a federal, state, or local law, rule, or regulation or an order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

Improper Governmental Activity. Any activity undertaken by the University or by a University employee that is undertaken in the performance of the employee's duties, whether or not that activity 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 (including University property), fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property (including University property and facilities), or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, gross incompetence, or gross inefficiency.

Protected Disclosure. A good faith communication, including a communication based on, or when carrying out, job duties, that discloses or demonstrates an intention to disclose information that may evidence either (1) an Improper Governmental Activity or (2) a 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.

Evidentiary Standards (Whistleblower Protection Policy, Section III.E.1.)

Consistent with California Government Code Section 8547.10(e), a Complainant who brings a Retaliation Complaint must demonstrate by a Preponderance of the Evidence that he or she either made a Protected Disclosure or refused to obey an Illegal Order and that such activity was a contributing factor in the alleged Adverse Personnel Action. If the Complainant has met that standard, the burden of proof shifts to the supervisor, manager, or University to demonstrate by Clear and Convincing Evidence that the alleged Adverse Personnel Action would have occurred for legitimate, independent reasons even if the Complainant had not made a Protected Disclosure or refused to obey an Illegal Order. If that burden is not met, the Complainant shall have a complete affirmative defense to the Adverse Personnel Action that was the subject of the complaint.

Consistent with California Government Code Section 8547.10(d), nothing in this policy is intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take an Adverse Personnel Action with respect to any employee or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a Protected Disclosure or refused to obey an Illegal Order.