

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

April 15, 2011

CHANNEL ISLANDS

MEMORANDUM

CHICO

DOMINGUEZ HILLS

TO: CSU Presidents

EAST BAY

FROM: Charles B. Reed
Chancellor

FRESNO

SUBJECT: Complaint Procedure for Allegations of Retaliation for Having Made a Protected Disclosure under the California Whistleblower Protection Act – Executive Order 1058

FULLERTON

HUMBOLDT

LONG BEACH

Attached is a copy of Executive Order 1058, which supersedes Executive Order 822 and revises the complaint procedure for allegations of retaliation for making a protected disclosure of improper governmental activities or significant threat to health or safety.

LOS ANGELES

MARITIME ACADEMY

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

MONTEREY BAY

NORTHRIDGE

If you have questions regarding this executive order, please call the Equal Opportunity & Whistleblower Compliance Unit at (562) 951-4425.

POMONA

SACRAMENTO

SAN BERNARDINO

CBR/ea

SAN DIEGO

Attachment

SAN FRANCISCO

c: Executive Staff, Office of the Chancellor

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4425

Executive Order: 1058
Effective Date: April 15, 2011
Supersedes: Executive Order 822
Title: Complaint Procedure for Allegations of Retaliation for Having Made a Protected Disclosure under the California Whistleblower Protection Act

This executive order fulfills the requirements of Government Code Section 8547.12(a) of the California Whistleblower Protection Act, by establishing a complaint procedure for employees, former employees and applicants for employment at CSU campuses or the Chancellor’s Office who claim to have been retaliated against for having made a protected disclosure under the California Whistleblower Protection Act. If this executive order is in conflict with the provisions of any memorandum of understanding under Government Code Section 3560, et seq., the memorandum of understanding shall control.

I. Scope of Procedure

This complaint procedure is for CSU employees, former employees and applicants for specific CSU employment who believe they have been retaliated against for making a protected disclosure.

II. Definition of Terms

- A. "Improper governmental activity" is an activity by a CSU department, or employee that is (1) in violation of a state or federal law or regulation, including 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) economically wasteful, or involves gross misconduct, incompetency, or inefficiency.
- B. "Protected disclosure" is a good faith communication, including any communication based on job duties that discloses or demonstrates an

intent 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 made for the purpose of remedying the condition.

- C. "Retaliation" is an intentional act by a CSU employee of reprisal, or a threat, act of intimidation or attempt to intimidate, coerce, or other similar act that substantially and materially affects the complainant's terms and conditions of employment adversely, as a result of that complainant having made a protected disclosure.

III. The Complaint

- A. The complaint must be filed within 12 months of the most recent alleged act of retaliation.
- B. The complaint may be made on the form attached as "Attachment 1" or in any other writing that clearly indicates the intent to file a complaint of retaliation for a protected disclosure or specifically references this executive order.
- C. The complaint must contain the following:
 - 1. The complainant's name, work title or position applied for, and mailing address.
 - 2. A detailed description of the actions that constituted the alleged improper governmental activity or the condition that may significantly threaten health or safety of CSU employees or the public, including the name(s) and title(s) of the responsible CSU employee(s).
 - 3. The name(s) of the individual(s) to whom the improper governmental activity or health or safety condition was reported, and the date and manner of the disclosure.
 - 4. A description of the retaliatory actions, including the date(s), the name(s) and title(s) of the CSU employee(s) who retaliated, and an explanation of the reasons why those actions constituted retaliation.
 - 5. A list of witnesses, including the facts known by each.
 - 6. Copies of documentary evidence that supports the complaint.

7. A dated and signed statement by the complainant under penalty of perjury that the complaint is true, or is believed by the complainant to be true.
- D. The complaint may be filed with the employee's manager or supervisor, or with the campus MPP employee responsible for administering this executive order or designated by the president or the chancellor to handle a particular complaint ("the campus administrator"). Supervisors or managers must immediately deliver complaints to the campus administrator.
- E. The complaint must be personally delivered, or sent by electronic or certified mail. The complaint filing date is the date of personal service, the date on the electronic transmission or the postmark date of the mailing.

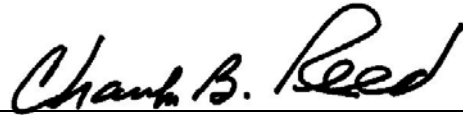
IV. Review and Investigation

- A. The campus administrator shall review the complaint to determine whether it contains all the required information and falls within the scope of this executive order. If it does, the campus administrator shall notify the complainant in writing that the complaint has been accepted. If it does not, the campus administrator shall notify the complainant in writing that the complaint has not been accepted and state the reasons.
- B. If the complainant raises any new allegations after the complaint has been accepted, the campus administrator shall decide whether to include those allegations as part of the complaint. If they are not included as part of the initial complaint, the complainant must file a new complaint to address those allegations.
- C. The campus administrator may investigate the claim, or may appoint a third party to conduct an investigation. If the complaint is against a president or vice president, the campus administrator shall consult with the senior director, Whistleblower Compliance Unit at the Chancellor's office who shall determine the appropriate handling of the complaint. The timelines and procedures for the complaint process are unchanged.
- D. The complainant is required to fully cooperate in the investigation, and must participate in a timely intake interview. In the event that the complainant does not cooperate, the campus administrator may end the investigation.
- E. The complainant may withdraw the complaint at any time but may not thereafter file another complaint on the same alleged act(s) of retaliation.

- F. CSU employees are required to cooperate with the investigation, be honest, maintain confidentiality, and provide information to the investigator.
- G. Complaints and other information gathered during the course of the investigation by the university shall be shared only with individuals who have a legitimate reason to know.

V. **The Decision**

After reviewing the investigation, the campus administrator must make the final decision and issue a letter of determination to the complainant no later than one year from the date the complaint was filed, unless the vice chancellor, Human Resources determines that extenuating circumstances warrant an extension of time. In no case shall the letter of determination be issued later than 18 months from the date the complaint was filed. If it is determined that there was retaliation, the determination letter shall include recommended remedies (specific employee discipline is confidential). This letter of determination is the final CSU decision, pursuant to Government Code Section 8547.12(c).



Charles B. Reed, Chancellor

Dated: April 15, 2011

NOTE TO SUPERVISORS AND MANAGERS: UPON RECEIPT OF THIS FORM, YOU ARE REQUIRED TO IMMEDIATELY DELIVER IT TO THE ADMINISTRATOR AT YOUR CAMPUS RESPONSIBLE FOR ADMINISTERING THIS EXECUTIVE ORDER

**Complaint of Retaliation for Having Made a Protected Disclosure
Under the California Whistleblower Protection Act**

Section 8547.12 of the Government Code forbids retaliation by any employee of the California State University against employees, former employees or applicants for employment for having made protected disclosures under that statute. Allegations of such retaliation may be filed with the employee's manager or supervisor, or with the campus MPP employee responsible for administering Executive Order 1058 or designated by the President or the Chancellor to handle a particular complaint.

Please provide all requested information. Forms that do not include any required information will be rejected. Use additional sheets of paper if necessary and write your name and the date at the top of each page.

PLEASE TYPE OR PRINT CLEARLY

Name: _____

Home Address: _____

City: _____ State: _____ Zip Code: _____

Check One:

Employee

Work title: _____

Former Employee

Position held on last day worked: _____

Applicant for employment

Position applied for: _____

Executive Order No. 1058
Attachment 1

Describe in detail the actions that were the basis for the protected disclosure and constituted the alleged improper governmental activity or the condition that may significantly threaten the health or safety of CSU employees or the public.

As related to your reported protected disclosure, list all persons allegedly involved in the improper governmental activity or the health or safety condition and their involvement.

List all persons to whom the alleged improper governmental activity or health or safety condition was reported; the date reported; and whether the report was oral or in writing (if in writing, attach a copy of the report).

Describe the specific retaliatory actions allegedly taken, the names and titles of the persons who retaliated, the dates of said actions and the reasons why those actions constituted retaliation.

List all witnesses including the facts known by each.

Please attach any documentation in support of your charge. List all supporting documentation that is attached.

I hereby declare under penalty of perjury that the contents of this written complaint are true, or are believed by me to be true.

Signature

Date