



Proposed Revisions to District Whistleblower Policy

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Reason for Changes



- Board adopted the policy in 2013
- Roles and responsibilities have changed; policy adopted prior to the Office of the Independent Police Auditor and the Office of the Inspector General being established
- Current policy does not address calls that should go to the Office of Civil Rights

Recommended Changes



- Title – revised the title to state that it is a Whistleblower and Antiretaliation Policy
- Declaration of Policy – adds statement that consultants and contractors are expected to comply with applicable laws, regulations, and District policies and procedures
- Reporting Responsibility – clarifies broad responsibility for reporting misconduct or misappropriation of District assets and that everyone *must* report suspected or known instances of fraud to the OIG
- Misconduct – revised the paragraph to better align with the language in the California Government Code
- No Retaliation – clarifies that this is a Whistleblower and Antiretaliation Policy; adds language regarding reporting of retaliation complaints

Recommended Changes



- Reporting Misconduct – Added the following language:
 - Added a nondiscrimination provision – Anyone can file a complaint, regardless of religion, race, color, sex, age, disability, immigration or documentation status, or national origin
 - Complaints regarding Equal Employment Opportunity, equity, and contract compliance should be filed with the Office of Civil Rights
 - Complaints regarding police officers may be filed with the Independent Police Auditor, the Police Citizen Review Board, or the Police Department Office of Internal Affairs
 - Complaints regarding fraud, waste, and abuse should be filed with the Office of the Inspector General
 - Ethics Complaints and Questions should be directed to the Ethics Officer

Recommended Changes



- Acting in Good Faith – deleted “prove not to be substantiated and which” to avoid discouraging people from reporting
- Confidentiality and Anonymous Allegations – combined the main points in these paragraphs for better flow
- Handling of Reported Misconduct – added language that:
 - investigations would be completed as promptly as time allows rather than committing to a five-day turnaround
 - Supervisors and managers may forward misconduct reported to them to one of the investigative offices

Recommended Changes



- Disciplinary Action – added as a new paragraph to indicate that disciplinary action may be taken when warranted
- Definitions Page – New page; added definitions and examples of fraud, waste, and abuse to provide examples of the types of misconduct that should be reported

Item for Discussion



| Reporting Misconduct | BART Management Language | OIG Concern |
|---------------------------------|---|---|
| Ethics Complaints and Questions | The District’s Ethics Officer handles complaints and questions regarding ethics and improprieties, conflicts of interest, and provides leadership and advice on governance issues to ensure that ethical behavior is consistently adhered to throughout the District. | The language, “handles complaints and questions regarding ethics and improprieties” is not specific enough for those who want to file complaints to know when they should report something to the Ethics Officer vs. the Office of the Inspector General or the Office of Civil Rights. The basis for the concern is that anything that is required to be reported to the Office of the Inspector General or the Office of Civil Rights is technically an impropriety and can include conflicts of interest. More clarity is needed as to what type of improprieties should be reported to the Ethics Officer vs. the OIG or OCR. |