

Whistleblower Protection

Scope: CITYWIDE

Policy Contact

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Regulatory References

Not applicable

WHISTLEBLOWER PROTECTION

The City will take all appropriate steps to thoroughly evaluate any allegations of improper governmental action that are brought to its attention. No City official or employee shall take retaliatory action against any employee who, in good faith, has made a complaint or allegation concerning improper governmental action. Any individual who files a complaint may elect to have their identity kept confidential to the extent permitted by law unless the employee waives confidentiality in writing. This policy reflects the City's ongoing commitment to support open, ethical, accountable, and transparent local government.

Purpose

It is the purpose of this policy to 1) encourage employees to report information concerning any allegedly improper governmental action or subsequent retaliation by the City's officers or employees by providing them protection against retaliation, and 2) reinforce the expected values and behaviors of City officials and employees because of their role as guardians of the public trust and resources.

PROCEDURES

Policy Background

City Council directed the Office of the City Auditor in March 2012 to begin implementing a Whistleblower Hotline in order to receive and investigate allegations (also referred to as complaints) of possible City fraud, waste, and abuse. The following office procedures and supplemental documents aim to create a consistent and logical method for receiving and tracking complaints that ensures accountability. These procedures describe how City Auditor's Office staff will handle complaints. Additionally, the procedures lay out a risk-based approach for using the Auditor's Office's limited resources to investigate the allegations that could place the City at the greatest risks.

Receiving Allegations

City staff or members of the public may submit allegations by either calling the Whistleblower Hotline's toll-free number 1-888-245-8859 or by completing the online form located at <https://www.reportlineweb.com/cityofsacramento>. In addition, individuals may also submit allegations directly to the City Auditor or any Auditor Office staff member. Any individual who files a complaint may elect to have their identity kept confidential. The individual's identity will be kept confidential to the extent permitted by law unless the individual waives confidentiality in writing. Information can be submitted in person, over the phone, by voicemail, by e-mail, or by mail. The following provides the general procedure for receiving allegations. The supplemental documents referenced provide more detailed information about receiving allegations.

In-person or phoned-in allegations

1. Ask about the subject of the allegation to ensure that the complainant is reporting to the correct entity. Determine if the allegation is about a City department, employee, vendor, or contractor or would fall under another jurisdiction.
 - a. If the allegation is not related to City government (for example, it is about a State or County employee), refer the complainant to other relevant reporting options. See Reporting Options spreadsheet
 - b. Enter the information in the Intake Log with a note about which entity the complainant was referred to.
2. If the allegation is about a City department, employee, vendor, or contractor, start a conversation with the complainant about the allegation.
3. After obtaining a basic understanding of the allegation, if the complainant had not already provided his/her name - ask for his/her name and contact information. Discuss the complainant's preference about remaining anonymous. Note this information on the Intake Form. Staff receiving allegations may enter notes on paper or directly into the electronic form.

4. After gathering this information, continue the conversation about the allegation. Ask the questions from the Intake Form if appropriate, but use your discretion to ask additional questions. The form's questions are meant to be used as a tool to aid the conversation and to solicit possible additional evidence.
5. After completing the conversation, enter/review Intake Form notes and save the file on the Investigations flash drive.
6. Log the allegation information on the Intake Log.
7. Discuss the allegation with the City Auditor or other appropriate audit staff. Depending on the severity of the allegations, this discussion might need to occur immediately. See Serious Allegation section below. For less serious allegations, discussions of many allegations may take place during periodic whistleblower hotline meetings.

Voicemail allegations

1. Listen to the voicemail.
2. Log the allegation information on the Intake Log.
3. Complete the Intake Form.
4. If necessary and the contact information are available, seek additional information by using any contact information that the complainant provided.
5. If contact is made, update the Intake Form to reflect additional information.
6. Discuss the allegation with the City Auditor or other appropriate audit staff. Depending on the severity of the allegations, this discussion might need to occur immediately. See Serious Allegation section below. For less serious allegations, discussions of many allegations may take place during periodic whistleblower hotline meetings.

E-mailed or Mailed-in allegations

1. Read the e-mail or letter.
2. Log the allegation information on the Intake Log.
3. Complete the Intake Form
4. If necessary and the contact information are available, seek additional information by using any contact information that the complainant provided.
5. If contact is made, update the Intake Form to reflect additional information.
6. Discuss the allegation with the City Auditor or other appropriate audit staff. Depending on the severity of the allegations, this discussion might need to occur immediately. See Serious Allegation section below. For less serious allegations, discussions of many allegations may take place during periodic whistleblower hotline meetings.

Serious Allegations

The Intake Log and Intake Form ask staff conducting intake to rate the priority of the allegation using “low,” “medium,” and “high.” This method is to help the office prioritize its investigations by targeting overall risk to the City. Any allegations that are rated “medium” or “high” should be presented to the City Auditor or relevant audit staff as soon as practicable. Those rated “low” can be discussed during periodic hotline discussions. The following provides guidance about rating allegations:

High Priority

Some reasons why allegations may be considered high priority are that they could include a safety concern, loss to the City of more than \$75,000, criminal activity resulting in a loss of at least \$400, high-level involvement, collusion of multiple wrongdoers, major department-wide issue, or need for immediate action to stop a potential major issue. High-priority items should be discussed immediately, and addressing these items could take priority over other investigations and audits – at the City Auditor’s discretion.

Medium Priority

Allegations in this category could include a loss to the City of more than \$25,000, abuse of authority, medium to low-level employee involvement, minor department-wide issues, or patterns of small problems that could become serious when summed. Whistleblower

Low Priority

Allegations in this category could include a loss to the City of less than \$25,000, isolated instances of time abuse, wasteful practices that would lead to limited gains in efficiencies if corrected, or allegations that lack credibility and evidence. The office would aim to investigate items in this list, but may not do so because of limited resources. However, if the same or similar issues were reported multiple times – low priority items may become more of a priority.

Allegations Covered By the Office of the City Auditor

The aim of the hotline is to promote good government by providing City employees and members of the public with a way to report allegations of fraud, waste, and abuse. In 2009, State law went into effect that enabled local government auditors to establish whistleblower hotlines and to provide whistleblower protections. Local auditors are authorized under California Government Code Section 53087.6 to create whistleblower hotlines with the approval of their respective legislative bodies. The California Government Code defines “fraud, waste, or abuse” in this context as an activity by a local government or employee “that is in violation of any local, state, or federal law or regulation relating 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, is economically wasteful, or involves gross misconduct.”

The following further defines fraud, waste, and abuse:

Fraud -- The Association of Certified Fraud Examiners defines occupational fraud as “the use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources or assets.” Some examples of possible fraud include theft of City funds or property, accepting or soliciting a bribe or kickback, falsifying payroll information, falsifying financial records to hide theft, submitting a false voucher, or using city property for non-City business.

Waste -- Waste can be intentional or unintentional and can involve unnecessary or extravagant City expenditures or misuse of City resources.

Abuse -- This is the use of an employee’s position in the City to obtain personal gain for that employee or for someone else like a family member or friend.

The above definitions are meant to provide guidance, and are not meant to cover all types of allegations that will be investigated.

Allegations Covered by Other City Offices

Some allegations are more appropriately investigated by other City Departments. The intent of establishing a whistleblower hotline is not to replace or limit other reporting options.

Specifically, many Human Resources–related issues should still be reported to the appropriate Human Resources staff. For example, labor grievances, discrimination allegations, and workers’ compensation claims should be reported under the City’s current procedures. Also, some callers may want to report legal issues to the City Attorney’s Office, or code enforcement issues to the Community Development Department. As appropriate, the Auditor’s Office will refer reporters to other City divisions. However, it may also be appropriate for Audit staff to gather initial information in these areas to better understand the issues involved.

Internal Referrals:

Risk Management for workers’ compensation information:

916-808-5741

<http://cityofsacramento.org/hr/risk/index.cfm>

Risk Management for environmental health and safety programs like OSHA and DOT compliance:

916-808-5278

<http://cityofsacramento.org/hr/risk/index.cfm>

Risk Management for insurance and liability claims:

Insurance: 916-808-5556

Liability Claims: 916-808-5502

<http://cityofsacramento.org/hr/risk/index.cfm>

Labor Relations for union grievance procedures:

<http://cityofsacramento.org/hr/laborRelations/index.cfm>

Office of Civil Rights for the grievance procedures alleging discrimination based on disability:
916-264-5011

<http://cityofsacramento.org/adaweb/grievance-procedure.html>

Other Human Resources related issues:

916-808-5726

<http://www.cityofsacramento.org/hr/>

Legal Issues by attorney assignment:

916-808-5346

http://www.cityofsacramento.org/cityattorney/department_assignments/Assignments.cfm

Code Compliance Division for neighborhood code, housing and dangerous buildings, business compliance, landscape requirements, rental house standards, and anti-graffiti:

311 or 916-264-5011 outside of City limits

<http://www.cityofsacramento.org/dsd/code-compliance/>

Police for non-emergencies:

916—264-5471

<http://www.sacpd.org/>

Allegations Covered by Non-City Agencies Jurisdiction	Organization	Reporting	Methods
County of Sacramento	County Auditor-Controller	Audit Fraud Hotline	916-874-7822
TDD callers 800-735-2929 Audit Fraud Hotline/ County of Sacramento/ 700 H St, Room 3650/ Sacramento, CA 95814			
State of California	Bureau of State Audits	Whistleblower Hotline	800-952-5665
Investigations/ Bureau of State Audits/ 555 Capitol Mall, Suite 300/ Sacramento, CA 95814			
http://www.bsa.ca.gov/hotline/filecomp			
Consumer Complaints Against a Business	California Office of the Attorney General	Comment/ Complaint Form	http://ag.ca.gov/contact/complaint_form.php?cmplt=CL
Consumer Complaints Against a Business	Better Business Bureau	Complaints	https://www.bbb.org/consumer-complaints/file-a-complaint/get-started
California Attorneys	State Bar of California	Complaints	800-843-9053
http://www.calbar.ca.gov/Attorneys/LawyerRegulation/FilingaComplaint.aspx			
California Judges	Commission on Judicial Performance	Complaints	415-557-1200
http://cjp.ca.gov/file_a_complaint.htm			

DEFINITIONS

Employee means anyone employed by the City, whether in a permanent or temporary position, including full-time, part-time and intermittent workers. It also includes volunteers and members of appointed boards or commissions, whether or not paid.

Good faith belief means an honest and reasonable belief based on personal knowledge.

Improper governmental action means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating 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, is economically wasteful, or involves gross misconduct.

Retaliatory action means any adverse change in an employee's employment status or the terms and conditions of employment resulting from an employee's good faith complaint or allegation of an improper governmental action.