



Policy Type: Board

Category: Administrative Practices

Policy Name: Reporting of Improper Government Activity - Board Policy 3.50

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3.50 REPORTING OF IMPROPER GOVERNMENT ACTIVITY (Adopted 4-13-10; Amended 12-5-17; Amended 2-25-20)

It is the policy of the Board of Supervisors that an effective process be established for the receipt, acceptance, investigation, documentation, monitoring, and reporting of allegations of improper government activity in accordance with County of Santa Clara Ordinance Code, Division A25, Sections A25-750 to A25-753. The process created by this Board Policy for the reporting of improper government activity is entitled "24/7 Whistleblower Program." The 24/7 Whistleblower Program shall operate under the direction of the Office of the County Counsel (County Counsel).

The 24/7 Whistleblower Program shall be guided by the following principles:

- (1) The public purpose in the reporting and investigation of improper government activity is the protection of integrity in governmental institutions. In furtherance of this interest, the County of Santa Clara encourages individuals to report to the 24/7 Whistleblower Program: violations of laws, regulations, and rules governing the conduct of County officers and employees; practices in County government that are wasteful and inefficient; or the misuse of County government funds.



- (2) Complainants, including but not limited to County officers and employees as well as members of the public, should not fear retaliation for filing a complaint with, or providing information about, improper government activity by County officers and employees.
- (3) Whenever possible the Whistleblower Program staff will provide complainants with information about more direct means by which they can seek to resolve their complaint or file their complaint with the specific County staff and program designed to receive such complaints. While urgent complaints should be prioritized over others, all complaints within the jurisdiction of the 24/7 Whistleblower Program should be investigated as promptly as possible. Complaints that lie outside the jurisdiction of the 24/7 Whistleblower Program include those involving non-County matters, issues under litigation, over which litigation is threatened, or those decided in prior litigation, or investigations deemed confidential by State Law (e.g., Public Safety Officers Procedural Bill of Rights Act).
- (4) Where improper government activity is uncovered it should be corrected.
- (5) All complainants should be kept informed to the extent reasonably possible of the outcome of their complaints as requested.
- (6) The 24/7 Whistleblower Program should be used as a tool to detect and correct systemic problems in County operations.
- (7) Any retaliation or reprisal by any County officer or employee against any complainant or informant is strictly prohibited. This prohibition against retaliation is in addition to the protections contained in Labor Code section 1102.5, and any amendment thereto. However, the filing of a complaint by a County employee in bad faith may result in the employee being subject to appropriate disciplinary action.



This policy supplements and does not supplant any and all other processes and procedures required by law or available for reporting and investigating complaints of improper government activity.

3.50.1 Reporting Procedures

Complaints of improper government activity may be made via letter, web-based form, e-mail, telephone, or any other medium of communication established by the 24/7 Whistleblower Program. Information on how to file complaints shall be provided to the public and County employees via the County's website, and Whistleblower Program information will be made available at the County Information Desk, the reception area of the Board of Supervisors, and in other County facilities.

3.50.2 Receipt and Processing of Complaints

As part of its overall responsibility for the program, County Counsel shall oversee the receipt and processing of all complaints submitted to the 24/7 Whistleblower Program.

County Counsel may use a third-party vendor for receiving complaints. In addition to receiving complaints, such vendor may, under the direction of County Counsel, perform additional tasks for the 24/7 Whistleblower Program. All complaints and investigations shall be kept confidential to the greatest extent permitted by law and in accordance with the County Ordinance Code.

3.50.3 Investigation of Complaints

(A) Personnel Complaints

Under the direction of County Counsel, all personnel complaints shall be referred for investigation to the Chief Operating Officer (COO). Examples of



such personnel complaints include allegations of poor or lax management, falsification of time cards by colleagues, engaging in private business activity on County time, personal use of County resources, or nepotism. They also include allegations of violations of the County's merit system rules, e.g., allegations of improper consideration of transfers, improper hiring, requiring that employees work extra hours without commensurate pay, or impermissible discrimination or harassment of a County-protected class.

The COO shall direct his or her staff to conduct investigations into personnel complaints. To the extent that the complaints constitute violations of any collective bargaining agreement and such agreement includes a process for addressing such complaints, the complainant may be directed to pursue such remedies before filing a whistleblower complaint. The COO may also direct the Equal Opportunity Department (EOD) to investigate claims where the allegations indicate that a violation of the Board's Policy Against Discrimination, Harassment, and Retaliation (Board Policy 3.8) may have occurred.

If any complaint is directed against the Board of Supervisors or other elected officials, the County Executive, the Chief Operating Officer, or the County Counsel, such complaint shall be referred to an outside investigator.

All investigations must occur on a timely basis and must be conducted lawfully (without the complainant being retaliated against). The County Counsel shall be available to review investigation plans, and advise and direct the conduct of investigations regardless of the entity that conducts it.

(B) Non-Personnel Complaints

All non-personnel complaints shall be investigated by County Counsel. The County Counsel may refer appropriate complaints to the Board's Management Audit Division. Non-personnel complaints include



allegations of waste, fraud, and abuse regarding the use of County resources by County officers, employees, or contractors such as: (i) violations of laws and regulations including the County Open Government Ordinance and Board Policy (except violations of Merit System Rules and personnel issues discussed above); (ii) waste or misuse of County resources by acts of omission or commission; (iii) inefficient or poor delivery of services and benefits; (iv) a substantial and specific danger to public health or safety; or (v) claims of fraud leading to the waste of County resources.

In instances of complaints related to the performance or activity of individuals or entities that contract with the County, County Counsel may refer such complaints to the County Agency/Department monitoring such contract.

In the discretion of the County Counsel, complaints may be referred to law enforcement for investigation.

3.50.4 Disposition of Complaints

All complaints shall be investigated as appropriate based on the information provided. The investigation shall determine whether complaints are sustained, partially sustained, inconclusive, or not-sustained. A determination of a violation or breach of federal or state law, ordinance, policy, regulation, or contract shall be made by County Counsel in light of the facts uncovered in the investigation.

Where complaints are sustained or partially sustained, the County Executive's Office in consultation with the County Counsel's Office, shall determine or approve an appropriate corrective action plan and the County Executive shall direct County officers and employees to implement the approved corrective action plan(s). Such corrective action plan shall be documented and tracked with the complaint, with appropriate follow-up. The implementation of such steps shall be subject to verification. Methods



by which to verify such may include reviewing a written report, interviewing departmental management, and/or visiting the related departmental worksite to review documents and observe operations.

3.50.5 Reporting of Complaints and Investigations

County Counsel shall be responsible for reporting at least twice per year to the Board of Supervisors, through the Finance and Government Operations Committee, summary statistics on the complaints and disposition of complaints, as well as on any complaints involving alleged retaliation for filing whistleblower matters, and any complaints involving violations of the County's Open Government Ordinance (Division A17). Such reporting may include the number of complaints received, timeliness of investigations, and analysis (including trend analysis) of complaints. The reports shall be published on the County's website.

Related Policies

None.

Related Forms and Information

- 24/7 Whistleblower Program Complaint Form - [\[url\]/sites/forms/cco/CCOCountywideForms/File a Complaint.aspx](#)

History

Date	Changes Made
2/25/2020	Policy Amended. View legislative file.
4/30/2019	Updated Link to Complaint Form.
12/5/2017	Policy Amended. View legislative file.



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3/15/2016	Whistleblower Program Complaint Form Added. (David Bruno)
1/30/2014	Policy Uploaded. (John Myers)
4/13/2010	Policy Adopted. View legislative file.