

May 9, 2023

Privacy Violations Update

Dear Colleagues,

I am writing to give you an update concerning the faculty privacy violation issues I previously reported on in April. UF has just learned that the District has given an enormous amount of confidential faculty information without permission to the third party vendor, American Fidelity. In addition, the District has confirmed that Associate Vice Chancellor of Human Resources Julie Kossick entered into an agreement with American Fidelity without a contract and without an approval process.

ALL faculty have been compromised. American Fidelity does not have a right to be given this information to upload into their business system without our knowledge and consent. However, Human Resources gave American Fidelity the following confidential data profile information for ALL full-time faculty employees regardless of whether or not they have insurance coverage, dependent coverage, a 125 benefit plan, or supplemental insurance.

1. Full name (first, middle, last)
2. Employee ID
3. Gender
4. Date of birth
5. Social Security number
6. Home address
7. Phone number
8. Email address
9. Date of Hire
10. Department location
11. Job title
12. Job classification
13. Salary payroll frequency
14. Deduction frequency

This confidential information is required to be protected at all times by the District. This information is also protected under Government Code and CA privacy laws. Our privacy rights are protected by law.

AP 3722 District Data Security Standards for End Users

3.1.1 Level 1 – Confidential: Information used by District operations that may contain SSN's, PII, financial, health, or other sensitive data such as passwords that may harm or damage the District or users if exposed to the public or to unauthorized subjects. Confidential data is intended solely for use within the District and limited to those with a 'business need-to-know.' These data must be secured and protected at all times and only authorized personnel may access such data.

Without a contract and without any approval process, we have no way of knowing how our confidential information has been used or is being used. But we do know that it has been uploaded into the American Fidelity database for at least a month and a half.

UF is vigorously pursuing accountability for this serious violation of faculty privacy rights. Whistleblower complaints can be filed with The California Community College Chancellors Office (916) 445-8752 and with the California State Attorney General Whistleblower Hotline (800) 952- 5225 or (916) 322-3360.

Faculty have a right to know what the District is doing with their confidential and private information. If you would like to file a Whistleblower complaint, which can be done anonymously, please see the attached AP 7700 Whistleblower Protection.

I will email any updates that we receive. Please let me know if you have any questions.
In Solidarity,

Christie

Christie Diep
President, United Faculty

AP 7700 Whistleblower Protection

Reference:

Education Code Sections 87160-87164;
Labor Code Section 1102.5;
Government Code Section 53296
Private Attorney General Act of 2004 (Labor Code Section 2698);
Affordable Care Act (29 U.S. Code Section 218C)

- 1.0 Individuals are encouraged to report, in good faith, suspected incidents of improper governmental activities by District employees in the performance of their duties. Reports will be investigated promptly and appropriate remedies applied. Employees who, in good faith, report such activities and/or assist the District in the investigation will be protected from retaliation. This procedure sets out the processes for responding to and investigating reports of improper governmental activities, as defined in Board Policy 7700, and addressing complaints of retaliation for making such reports.
- 2.0 A "whistleblower" is an employee who discloses information to a government or law enforcement agency, person with authority over the employee, or to another employee with authority to investigate, discover, or correct the violation or noncompliance, or who provides information to or testifies before a public body conducting an investigation, hearing or inquiry, where the employee has reasonable cause to believe that the information discloses:
 - 2.1 A violation of a state or federal statute.
 - 2.2 A violation or noncompliance with a local, state or federal rule or regulation.
 - 2.3 A danger to public health or safety.
 - 2.4 An economically wasteful, inefficient, or incompetent operations, or involve gross misconduct.
- 3.0 **Filing a Report of Suspected Improper Governmental Activities**
 - 3.1 Any person may report allegations of suspected improper governmental activities. Knowledge or suspicion of such improper governmental activities may originate from academic personnel, staff, or administrators carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, customers, vendors, students, or other third parties.
 - 3.2 Anonymous reports will be investigated to the extent possible. However, employees are strongly encouraged not to report anonymously because doing so impedes the District's ability to thoroughly investigate the claim and take appropriate remedial measures. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint. As set forth fully below, retaliation against individuals who report suspected improper governmental activities will not be tolerated.

AP 7700 Whistleblower Protection

- 3.3 Normally, a report by a district employee of allegations of a suspected improper governmental activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit.
 - 3.3.1 However, if the report involves or implicates the employee's direct supervisor or others in the operating unit, the report may be made to any another district official whom the reporting employee believes to have either responsibility over the affected area or the authority to review the alleged improper governmental activity on behalf of the District.
 - 3.3.2 When the alleged improper governmental activity involves a college president, provost, or a vice chancellor, the report should be made directly to the Chancellor.
 - 3.3.3 When the alleged improper governmental activity involves the Chancellor, the report should be made to the President of the Board of Trustees.
 - 3.3.4 When the alleged improper governmental activity involves the Board of Trustees or one of its members, the report should be made to the Chancellor who will confer with the President of the Board of Trustees and/or legal counsel on how to proceed.
- 3.4 Allegations of suspected improper governmental activities should be made in writing so as to assure a clear understanding of the issues raised, but may be made orally.
 - 3.4.1 Such reports should be factual and contain as much specific information as possible.
 - 3.4.2 The receiving supervisor or administrator should elicit as much information as possible.
 - 3.4.3 If the report is made orally, the receiving supervisor or administrator shall reduce it to writing and make every attempt to get the reporter to review and confirm by his or her signature that it is accurate and complete.
- 3.5 Once the receiving supervisor or administrator has received and/or prepared a written report of the alleged improper governmental activity, he or she must immediately forward the written report to the President or Provost of the college where the alleged activity has occurred or to the Chancellor if the activity involves the District office or is district-wide.
 - 3.5.1 However, if this process would require submitting the report to an employee implicated in the report, the receiving supervisor or administrator should follow the reporting options outlined in Section 3.3.1.

AP 7700 Whistleblower Protection

- 3.5.2 The highest-level administrator or trustee who receives the written report pursuant to this paragraph is responsible for ensuring that a prompt and complete investigation is made by an individual with the competence and objectivity to conduct the investigation and that the assistance of legal counsel and/or an outside investigator is secured if deemed necessary.
 - 3.6 In the course of investigating allegations of improper governmental activity, all individuals who are contacted and/or interviewed shall be advised of the following:
 - 3.6.1 Retaliation against the reporter(s) and/or others participating in the investigation will subject the employee to discipline up to and including termination.
 - 3.6.2 If he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.
 - 3.6.3 Must maintain strict confidentiality.
 - 3.7 In the event that an investigation into alleged improper governmental activity determines that the allegations are accurate, prompt and appropriate corrective action shall be taken.
- 4.0 Protection from Retaliation**
- 4.1 When a person makes a good-faith report of suspected improper governmental activities to an appropriate authority, the report is known as a protected disclosure. District employees and applicants for employment who make a protected disclosure are protected from retaliation.
 - 4.2 Any employee who believes he or she has been (1) subjected to or affected by retaliatory conduct for reporting suspected improper governmental activity, or (2) for refusing to engage in activity that would result in a violation of law, should report such conduct to the appropriate supervisory personnel (if such supervisory personnel is not the source of or otherwise involved in the retaliatory conduct).
 - 4.2.1 Any supervisory employee who receives such a report or who otherwise is aware of retaliatory conduct is required to inform their college president, provost, or Chancellor or the Chancellor's designee.
 - 4.2.2 If the allegations of retaliation or the underlying allegations of improper governmental activity involves a President, the Provost, or the Chancellor, the supervisor shall report to the highest-level administrator and/or trustee who is not implicated in the reports of improper governmental activity and retaliation.
 - 4.3 All allegations of retaliation shall be investigated promptly and all information obtained will be handled on a "need to know" basis. At the conclusion of an investigation, as appropriate, remedial and/or disciplinary action will be taken

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AP 7700 Whistleblower Protection

where the allegations are verified and/or otherwise substantiated by preponderance of evidence.

5.0 Internal Reporting

- 5.1 Improper Governmental Activity: To report an alleged improper governmental activity, contact the immediate supervisor or other appropriate administrator or supervisor within the operating unit as outlined in Section 3.0.
- 5.2 Alleged Fraud, Waste or Abuse: To report an alleged fraud, waste or abuse, visit the webpage of the Office of the Internal Audit for the Fraud Hotline (<https://www.nocccd.edu/internal-audit>).

6.0 External Reporting

- 6.1 In addition to the internal reporting process set forth above, any employee who has information regarding possible violations of state or federal statutes, rules, or regulations, may contact any one of the following government agencies:
 - 6.1.1 The California Community College Chancellors Office (916) 445-8752
 - 6.1.2 The State Personnel Board Hotline (916) 653-1403 (for complaints of retaliation resulting from whistleblower activities)
 - 6.1.3 The State Auditor's Whistle-Blower Hotline (800) 952-5665.
 - 6.1.4 Investigations, Bureau of State Audits, 555 Capitol Mall #300, Sacramento, CA 95814
 - 6.1.5 The State of California Department of Insurance Fraud Division (619) 645-2485, 1495 Pacific Highway., Suite 300, San Diego, CA 92101
 - 6.1.6 WeTip Corporate Ethics Hotline (800) 873-7283, P.O. Box 1296, Rancho Cucamonga, CA 91729-1296 www.wetip.com
 - 6.1.7 California State Attorney General Whistleblower Hotline (800) 952-5225 or (916) 322-3360

- 7.0 This administrative procedure will not supersede the Collective Bargaining agreement(s) unless contrary to any applicable rule of law.

See Board Policy 7700.

Date of Adoption: November 28, 2017