



# ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 7111

PAGE: 1 OF 4

CATEGORY: **Personnel, Complaints/Grievances**

EFFECTIVE: **3-27-87**

SUBJECT: **Employee Complaints Alleging Waste of Funds, Abuse of Authority, or Danger to Health or Safety**

REVISED: **6-14-2002**

## A. PURPOSE AND SCOPE

1. To outline administrative procedures governing the right of employees or applicants for employment to file a complaint with the district alleging gross mismanagement or a significant waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety.
2. **Related Procedures:**

Internal audits.....	2370
Security, general.....	5000
Safety, general.....	5100

Refer to alphabetical index for other procedures, as appropriate.
3. **Other types of complaints:** Employees in bargaining units see collective negotiations contracts; managerial, supervisory, and confidential employees see Procedure 7113.

## B. LEGAL AND POLICY BASIS

1. **Reference:** Board Policy I-1800; Government Code Sections 53296-53299.

## C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Chief of Staff, Office of the Superintendent.
2. **Definitions** (for the purpose of this procedure)
  - a. **Disciplinary action:** Any direct form of discipline as defined in the Education Code or in the Employment Regulations for the Classified Service of the San Diego Unified School District.
  - b. **Disclosure of information:** The written provision of evidence regarding gross mismanagement for a significant waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
  - c. **Complaint:** Any written document containing a disclosure of information as specified in C.2.b.

SUBJECT: **Employee Complaints Alleging Waste of Funds, Abuse of Authority, or Danger to Health or Safety**

NO: 7111

PAGE: 2 OF 4

EFFECTIVE: 3-27-87

REVISED: 6-14-2002

---

- d. **Employee:** Any person employed by San Diego Unified School District.
  - e. **Manager:** Any employee having significant responsibilities for formulating or administering district or departmental policies and programs.
  - f. **Supervisory employee or supervisor:** Any employee (regardless of job description or title) having the authority in the interest of the district to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or the responsibility to direct such employees or to adjust their grievances, or effectively to recommend this action, if in connection with the foregoing the exercise of this authority is not of a merely routine or clerical nature but requires the use of independent judgment.
  - g. **Confidential employee:** Any employee whose position is designated by the Board of Education as one in which the incumbent, in the regular course of his/her duties, has access to, or possesses information relating to, his/her employer's employer-employee relations.
  - h. **Reprisal action:** Any act of intimidation, restraint, coercion, or discrimination against any employee (or applicant for employment) who files a complaint pursuant to this procedure.
  - i. **Abuse of authority:** The wrongful administration of duties resulting in the misuse of district money, property, equipment, or services.
3. **Filing of Complaints.** An employee (or applicant for employment) shall have the right to file a complaint with the district within *sixty (60) days* of date of the act or event that is the subject of such complaint.
- a. **Subject of the complaint** is limited to (1) a significant waste of funds, (2) an abuse of authority, and/or (3) a substantial and specific danger to public health or safety.
  - b. **Prior to filing a complaint,** employee (or applicant for employment) shall make a good-faith effort to discuss the subject of complaint with division head in charge of the division where the alleged conduct is occurring. The 60-day time limit shall be extended by the actual amount of time used by the complainant in pursuing his/her discussion with the appropriate division head. (Complainant shall maintain an accurate record of dates and times of such discussions.)

SUBJECT: **Employee Complaints Alleging Waste of Funds, Abuse of Authority, or Danger to Health or Safety**

NO: 7111

PAGE: 3 OF 4

EFFECTIVE: 3-27-87

REVISED: 6-14-2002

---

- c. **A formal written complaint** may be initiated by an employee (or applicant for employment) by submitting a written letter of complaint to the Chief of Staff. Such letter of complaint shall specifically detail any evidence regarding the subject of complaint (gross mismanagement or a significant waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety). The letter of complaint shall:
- (1) Include, but not be limited to, names of any or all persons involved, dates, amounts of money, and all other relevant information regarding the incident(s).
  - (2) Include the statement: "I declare under penalty of perjury the foregoing to be true and correct."
  - (3) Be signed and dated by the complainant, and shall include his/her address and telephone number.
4. **Chief of Staff** shall acknowledge receipt of the formal complaint, in writing, within five (5) workdays.
5. **Chief of Staff or designee** will investigate and provide a written response to the complainant within sixty (60) days of receipt of the complaint.
6. **Regulations/Limitations Governing Reprisal Action, Discipline, and/or Penalties**
- a. No reprisal action may occur through any act of intimidation, restraint, coercion, or discrimination against any employee (or applicant for employment) who files a complaint pursuant to this procedure.
  - b. The district may take, recommend, or approve personnel action with respect to a complainant if the district reasonably believes the action is justified by separate evidence which shows any of the following:
    - (1) The complaint has disclosed information that the employee (or applicant for employment) knows to be false or has disclosed information without regard for the truth or falsity thereof.
    - (2) The complaint has disclosed information from records that are closed to public inspection pursuant to law.

SUBJECT: **Employee Complaints Alleging Waste of Funds, Abuse of Authority, or Danger to Health or Safety**

NO: **7111**

PAGE: **4 OF 4**

EFFECTIVE: **3-27-87**

REVISED: **6-14-2002**

---

- (3) The complaint has disclosed information which is confidential under any other provision of law.
  - (4) The complainant was the subject of an ongoing or existing disciplinary action prior to disclosure of information.
  - (5) The complainant has violated any other provision of district rules and regulations, has failed to perform assigned duties, or has committed any other act unrelated to the disclosure that would otherwise be subject to personnel action.
- c. A district officer, manager, or supervisor may take disciplinary action against an employee if that officer, manager, or supervisor had no prior knowledge that a complaint had been filed by that employee.
  - d. Any district officer, manager, or supervisor who, with malicious intent, takes any reprisal action against a complainant, is deemed to have violated Government Code Section 53298.5. This offense is punishable by a fine up to \$10,000 and imprisonment in county jail for up to one year. In addition, that district officer, manager, or supervisor shall be individually liable for any damages awarded by a court, punitive damages, and attorney fees, and may be subject to disciplinary action by the district.

**D. IMPLEMENTATION** (Section C.)

**E. FORMS AND AUXILIARY REFERENCES**

**F. REPORTS AND RECORDS**

**G. APPROVED BY**



---

Chief of Staff, Terrance L. Smith  
For the Superintendent of Public Education