

The University's Whistleblower Policy has been updated to conform to revisions of the California Whistleblower Protection Act (California Government Code Section 8547) effective as of January 1, 2012. The changes to the University's Whistleblower Policy can be found on pages 2 and 3. The updated policy will also be posted to the UCOP Whistleblower website.

AB 1102 revised provisions governing the scope and conduct of audits and survey by the California State Auditor, amended the Whistleblower Protection Act's definition of "improper governmental activities", made revisions to the definition of "protected disclosure" and "illegal order". The definition of IGA was expanded to include a violation of an Executive order of the Governor, a California Rule of Court, or any policy or procedure of the State Administrative Manual or State Contracting Manual. This has limited effect on the University and does not require substantive changes to our policy. Since the definition of IGA, protected disclosure and illegal order is set out in the University's Whistleblower Policy, corrections were needed to these definitions to conform to the amended California Government Code.

UCOP Policy Analysis and Coordination Unit provided the following summary as an overview of the other revisions to Whistleblower Act:

Changes to powers and duties of the State Auditor

- GC Section 8545.2 (b) regarding the State Auditor's access to state agency records is amended to include the following language: "Providing confidential information to the State Auditor pursuant to this section, including, but not limited to, confidential information that is subject to a privilege, shall not constitute a waiver of that privilege." This section now also includes paragraph (d), "For purposes of this section "confidentiality of records or property" means that the record or property may lawfully be kept confidential as a result of a statutory or common law privilege or any other provision of law." According to Section 14 of the bill the amendments made to this GC Section are declaratory of existing law.

Changes to the CA Whistleblower Protection Act

- GC Section 8547.2 (c), the definition of "improper governmental activity", is amended to also include an activity that "is in violation of an Executive order of the Governor, a California Rule of Court, or any policy or procedure mandated by the State Administrative Manual or State Contracting Manual."
- GC Section 8547.5 (b) was amended to state that the identity of a person providing the information that initiated the investigation, or of any person providing information in confidence to further an investigation, shall not be disclosed without the express permission of the person providing the information. This section formerly required written permission from the individual. (This section applies to the State Auditor.)
- GC Section 8547.6 (a) was amended to state that in addition to requesting the assistance of a state agency in conducting an investigation, the State Auditor may also request agency assistance in evaluating an allegation of an improper governmental activity.
- The bill also adds subsection (b) to GC Section 8547.6 which states that as an alternative to conducting its own investigation, the State Auditor, subject to certain limitations, may refer the allegation to the involved state agency, or to another state agency having direct oversight of the allegation under the State Auditor's supervision. If the State Auditor refers an allegation to a state agency it shall investigate the allegation and report the results of the investigation to the State Auditor within 60 days of the referral and monthly thereafter until final action has been taken.
- GC Section 8547.7 (a) is amended to state that the State Auditor may provide to an agency any evidence gathered during the investigation that, in the judgment of the State Auditor, is necessary to support any of the recommendations. Within 60 days of receiving the State Auditor's investigative report, the involved agency shall report to the State Auditor any actions that it has

taken or that it intends to take to implement the recommendations. The agency shall file subsequent reports on a monthly basis until final action has been taken.

- GC Section 8547.7 (b) is amended to allow that when the State Auditor finds that an agency or employee engaged in an improper governmental activity it may provide its findings and evidence to a criminal law enforcement agency, an administrative law enforcement agency or a licensing agency that has authority to investigate the matter. Subsection (c) includes some technical amendments.
- GC Section 8548 is amended to include the offices of the courts in the definition of state agency.
- GC Section 8548.2 is amended to require that whenever a state agency posts or advertises its whistleblower complaint program it must also disclose the opportunity to submit complaints to the State Auditor under the Whistleblower Protection Act.