

CHANCELLOR'S DIRECTIVE

07-02

March 13, 2007

The Chancellor's Directives clarify and remind ACCD employees, vendors, students and others affiliated with our colleges about how to apply board policies and administrative procedures. Please keep the directives as a quick guide to ACCD policies and procedures. As always, please let me know if you have questions or wish to suggest ways to improve this directive.

TOPIC: RETALIATION

PURPOSE:

To clarify how ACCD will prevent and respond to retaliation, and to reaffirm that no member of the ACCD workforce (full-time, part-time, temporary, consultant, work study, or volunteer) may engage in retaliation.

ACCD CORE VALUES: Integrity; Public Trust.

SCOPE:

All members of the ACCD workforce including volunteers are subject to the requirements of this directive.

DIRECTIVE

The ACCD is committed to providing a positive educational and work environment in which all students and employees are treated with respect and dignity. In addition to compliance with federal and state "whistleblower" requirements, the ACCD is committed to protecting from retaliation all who bring complaints and who testify, assist, cooperate with, or otherwise participate in an investigation or hearing.

Retaliation means taking adverse action against a person based on the person's bringing a complaint or participating in an investigation or hearing. It may take the form of direct retaliatory acts such as threatening, intimidating, or taking adverse personnel action against a person (demotion, dismissal, unjustified unfavorable performance evaluation after several favorable evaluations, and similar actions that a reasonable person in the same situation as the employee would find retaliatory).

Retaliation may also take the form of creating a hostile work environment or making false, malicious or unfairly damaging comments about the complainant or participant. Interfering with an investigation or closed hearing by attempting to identify those who have made a complaint or participated, attempting to obtain information on the content of interviews and witness statements, and any other attempts to breach the confidentiality of an investigation, are also retaliatory acts. For example, a supervisor whose employee has filed a complaint against the supervisor should not question that employee about what he or she said to the investigator.

All ACCD employees are expected to embrace the ACCD Core Value of integrity. Nothing in this directive prevents the ACCD from taking appropriate action against a person who knowingly makes a false accusation or provides false information related to

an investigation or hearing, and nothing in this directive limits or delays the ACCD's right to take appropriate disciplinary action when an employee's behavior warrants the action.

The ACCD will not tolerate retaliation. Any employee who becomes aware of retaliatory behavior is required to notify the District Director of Human Resources (208-8075) immediately.

CONSEQUENCES:

Retaliation may in some cases make a person, not the ACCD, liable to pay civil and criminal penalties under federal and state law. In addition, in the event retaliation in violation of ACCD policy is determined, disciplinary action will be taken by the ACCD, up to and including termination. By Board policy, the ACCD also reserves the right to decline to indemnify, pay a judgment against, or defend any employee who retaliates in violation of ACCD policy. This means that a supervisor who retaliates may find himself/herself without the benefit of the ACCD's insurance coverage and legal representation.

APPLICABLE POLICIES, PROCEDURES, LAW, REGULATIONS AND CODES:

FEDERAL LAW:

18 U.S.C. 1513(e) - Retaliating Against a Witness, Victim, or Informant

TEXAS LAW:

Texas Penal Code Section 36.06 - Obstruction or Retaliation

Texas Government Code Chapter 554 - Protection for Reporting Violations of Law

ACCD CODE OF CONDUCT:

INTEGRITY: maintaining an ongoing dedication to honesty and forthrightness

EVENHANDEDNESS: treating others with impartiality

RESPECT: treating others with civility and decency

ACCD POLICIES:

DG(LEGAL) and DG(LOCAL) - Employee Rights and Privileges

CDE(LOCAL) - Accounting: Financial Ethics

DGBA(LOCAL) - Personnel-Management Relations: Employee Complaints

DAA(LEGAL) - Employment Objectives: Equal Employment Opportunity

DHA(LOCAL) - Employee Standards of Conduct: Sexual Harassment

DHC(LOCAL) - Employee Standards of Conduct: Harassment

FA(LEGAL) - Equal Educational Opportunities

FLDA(LOCAL) - Student Complaints: Sexual Harassment

FLDC(LOCAL) - Student Complaints: Harassment

ACCD ETHICS HANDBOOK: "Retaliation", p. 24

APPROVED:



Dr. Bruce H. Leslie, Chancellor