

**CHAPTER 2: Administration and General Institution
BOARD POLICY NO. 2.12 (BP 3900, 7510, and 7700)**

**BOARD POLICY
San Mateo County Community College District**

Subject: BP 2.12 Employee Rights and Protection, Domestic Partner Rights, and Whistleblower Protection
Revision Date: 3/11; ~~xx/xx~~
Policy References: Education Code Sections 87160-87164; Labor Code Section 1102.5, Government Code Section 53296, Private Attorney General Act of 2004 (Labor Code Section 2598); Family Code Sections 297-299; Affordable Care Act (29 U.S.C. 218C)

1. Any employee shall have:
 - a. The right that the employee has as a private citizen to support or oppose any political issue or candidate. Such activities must be conducted on the employee's own time and must not interfere with District or College operations. The employee shall take reasonable steps to clarify that he/she is acting in an individual capacity, does not represent the District, and that the position of the employee with respect to a political issue or candidate does not represent the position of the District.
 - b. The right to inspect materials in the employee's personnel files in accordance with provisions of the Education Code and applicable collective bargaining agreements.
 - c. The right to an appropriate process for resolution of any public charge against the employee which is taken under consideration, ~~as well as appropriate process with respect to any action based solely on charges lodged anonymously.~~
 - d. The right to appear before the Board of Trustees, consistent with the Board's policies and legal requirements. The employee may apply for such appearance through the Chancellor who will make necessary arrangements for such appearances. The process set forth herein shall not limit the employee's right to address the Board through applicable open meeting laws, including, for example, the Brown Act.
 - e. Except as otherwise provided by law, employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Employees shall also have the right to refuse to join or participate in the activities of employee organizations, although the employee may be required, by terms of the collective bargaining agreement, to pay a service fee.
2. Domestic partners registered with the California Secretary of State shall have, insofar as permitted by California law, all of the same rights, protections, and benefits, as well as the same obligations, responsibilities, and duties of married persons (spouses) under state law. Insofar as permitted by California law, former domestic partners shall have all of the rights and obligations of former spouses. Surviving domestic partners shall have the same rights, protections, and benefits as are granted to a surviving spouse of a decedent. Therefore, all references to "spouses" in the District's policies and procedures shall be read to include registered domestic partners as permitted by California law.

3. The Chancellor shall establish procedures regarding the reporting and investigation of suspected unlawful activities or improper conduct by District employees, and the protection from retaliation of those who make such reports in good faith and/or assist in the investigation of such reports. For purposes of this policy and any implementing procedures, “unlawful activity” refers to any activity – intentional or negligent – that violates state or federal law, local ordinances, or District policy.

“Improper conduct” is behavior that violates District policies and procedures and/or behavior that a reasonable and sensible person would not do. The procedures shall provide that individuals are encouraged to report suspected incidents of unlawful activities or improper conduct without fear of retaliation, that such reports are investigated thoroughly and promptly, remedies are applied ~~for any unlawful practices~~, and protections are provided to those employees who, in good faith, report these activities or improper conduct and/or assist the District in its investigation. Furthermore, District employees shall not:

- (1) retaliate against an employee or applicant for employment who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order;
- (2) ~~retaliate against an employee or applicant for employment because the employee or applicant is a family member of a person who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order;~~
- (3) directly or indirectly use or attempt to use the official authority or influence of his or her position for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the District. The District will not tolerate retaliation, and will take whatever action may be needed to prevent and correct activities that violate this anti-retaliation policy, including discipline of those who violate it, up to and including termination of employment.