



# **Board Policy**

No.: **042**

## **Policy of Reporting Procedures and Form for Fraud, Waste, and Abuse**

### **Purpose**

It is the San Diego Association of Governments' (SANDAG) policy to encourage employees, contracted parties, members of the public, or any other stakeholder to notify an appropriate government or law enforcement agency, person with authority over the employee, or another employee with authority to investigate, when they have reason to believe their employer, another employee, or affiliated entity of SANDAG is abusing, misusing, misappropriating or committing fraud using local, state or federal resources.

For purposes of this document, "fraud, waste, or abuse" means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

### **Background**

The SANDAG Office of the Independent Performance Auditor, herein referred to as "OIPA," is the official body of SANDAG to investigate allegations of potential fraud, waste, and abuse identified by SANDAG staff or other stakeholders. Once the investigation into the allegations has been conducted the OIPA advises the the Audit Committee, the Office of the General Counsel or outside counsel under contract with SANDAG on whether improper activities occurred.

Specific procedures have been adopted for the express purpose of filing and investigating complaints alleging improper activities. These procedures do not supersede, replace or serve as an alternative to procedures under SANDAG's Employee Manual or other Federal or State rules and regulations.

An employee, contracted parties, member of the public, or other stakeholders of SANDAG can file a complaint with OIPA alleging improper activities. A member of the public or other stakeholders are encouraged to file as soon as the complainant had knowledge of the alleged improper activity. An employee or applicant for employment that is subject to Government Code Section 53297 shall have the right to file a complaint within 60 days of the date of the act or event which is subject of the complaint. Prior to filing a written complaint, the employee shall first make a good faith effort to exhaust all available administrative remedies.

An employee's name and other personal information may remain confidential during and after the investigation to ensure your rights are protected, and will only be disclosed if determined necessary, and only to an appropriate government official, or law enforcement agency that are required to be involved in the investigation or thereafter to remedy the matter.

## 1. Information

Any reprisal action taken against SANDAG employees, applicants or witnesses, because of the filing of a complaint, is strictly prohibited under Government Code Section 53297.

## 2. Whistleblowers are Protected

2.1 Pursuant to California Labor Code Section 1102.5, employees are entitled to certain protections. "Employee" means any person employed by an employer, private or public, including, but not limited to, individuals employed by the state or any subdivision thereof, any county, city, city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, political subdivision, or the University of California. [California Labor Code Section 1106]

2.2 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:

2.2.1 A violation of a state or federal statute,

2.2.2 A violation or noncompliance with a local, state or federal rule or regulation, or

2.2.3 With reference to employee safety or health, unsafe working conditions or work practices in the employee's employment or place of employment.

2.3 A whistleblower can also be an employee who refuses to participate in an activity that would result in a violation of a state or federal statute, or a violation of or noncompliance with a local, state or federal rule or regulation.

### 2.4 Protections Afforded to Whistleblowers

2.4.1 An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower.

2.4.2 An employer may not retaliate against an employee who is a whistleblower.

2.4.3 An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of a state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.

2.4.4 An employer may not retaliate against an employee for having exercised his or her rights as a whistleblower in any former employment.

2.5 [Under California Labor Code Section 1102.5](#), if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.

## 3. How to Report Improper Acts to the State Government

If you have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees, call the [California State Attorney General's Whistleblower Hotline at 1 \(800\) 952-5225](#). The Attorney General will refer your call to the appropriate government authority for review and possible investigation.

#### 4. Procedures

Please complete the form below, to the best of your knowledge, provide any evidence that might help support the allegation, and submit it to the address provided or via email. For a member of the public or other stakeholders of SANDAG, if you prefer to remain anonymous your name and signature, address, and other personal information is not required to be completed.

4.1 To report fraud, waste, or abuse to SANDAG OIPA there are three options:

4.1.1 Call Independent Performance Auditor, Courtney Ruby, CPA. CFE at (619) 595-5323

4.1.2 Complete the SANDAG Complaint Form and hand deliver, email or mail to the address provided below

SANDAG

Attn: CONFIDENTIAL – Office of the Independent Performance Auditor

401 B Street, Suite 800

San Diego, CA 92101

4.1.3 Confidential email to [OIPA@sandag.org](mailto:OIPA@sandag.org)

#### 5. Instructions for Completing the Complaint Form

Please describe, under each appropriate category, the improper SANDAG activity which is the subject of this complaint. Please be clear and specific, as to the facts, only as they relate to the improper activity.

5.1 **Improper Activity** means any activity, or act by a SANDAG department, officer (elected or appointed) or employee relating to the performance of official SANDAG business, duties and responsibilities.

5.2 There are four categories that constitute improper activity

5.2.1 gross mismanagement

5.2.2 significant waste of public funds

5.2.3 abuse of authority

5.2.4 substantial and specific danger to public health and safety

5.3 **Gross Mismanagement** means the failure to exercise even a substandard level of performance relating to the management of SANDAG programs, activities, functions, services and responsibilities.

5.4 **Abuse of Authority** means the willful exercise of authority for improper or wrongful purpose.

5.5 Your complaint must be a true and accurate account to the best of your knowledge, and you must sign under penalty of perjury (unless filing anonymously).

5.6 Once OIPA has reviewed and accepted your complaint, it will be investigated by the auditor(s). If you move or change your phone number, remember to inform OIPA of the change. If you have questions, please call Mary Khoshmashrab at (619) 595-5323.

**San Diego Association of Governments Complaint Form**

Complainant: \_\_\_\_\_

Work Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

***\*\*If you are a member of the public or other stakeholders of SANDAG filing anonymously, the above information is not required\*\****

**Allegations of Improper Activity**

List each allegation under the appropriate category. If you need more space, please attach additional sheets.

***Gross Mismanagement***

Date you had knowledge of allegation: \_\_\_\_\_ Date: \_\_\_\_\_

Allegation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Significant Waste of Funds***

Date you had knowledge of allegation:                      Date: \_\_\_\_\_

Allegation:

---

---

---

---

---

Facts:

---

---

---

---

---

***Abuse of Authority***

Date you had knowledge of allegation:                      Date: \_\_\_\_\_

Allegation:

---

---

---

---

---

Facts:

---

---

---

---

---

**Substantial and Specific Danger to Public Health and Safety**

Date you had knowledge of allegation: \_\_\_\_\_ Date: \_\_\_\_\_

Allegation:

---

---

---

---

---

---

---

Facts:

---

---

---

---

---

---

---

**Witness(es):**

*Please provide the name, address, and phone number for each witness. Attach additional sheets if needed.*

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

**Please describe (if any) the remedies taken by you to resolve/inform/report the allegations of improper activity.**

*Please give dates and names*

---

---

---

---

---

**Sworn Statement of Complainant:**

I hereby certify, under penalty of perjury as provided by law, that the statements herein are true.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

***\*\*If you are a member of the public filing anonymously or other stakeholders of SANDAG no name or signature is required\*\****

Thank you for your diligence and commitment in helping ensure that public funded agencies are being held accountable.

Adopted: September 27, 2019