

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Reporting on Substantiated Misconduct by Senior City Officers in Whistleblower Investigations]

Ordinance amending the Campaign and Governmental Conduct Code to require the Controller's Whistleblower Program to report to the Board of Supervisors regarding the results of whistleblower investigations that substantiate wrongdoing by City department heads and elected officials.

Existing Law

The City Charter authorizes the Controller to operate a whistleblower program to receive and investigate complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City funds, and improper activities by City officers and employees. The Campaign and Governmental Conduct Code fleshes out these Charter authorities and responsibilities. When the Controller receives a whistleblower complaint, the Controller may investigate, taking all steps the Controller deems appropriate.

If another City agency (such as the City Attorney, District Attorney, or Department of Human resources) is required by law to handle a particular type of complaint, the Charter requires the Controller to refer the complaint to that agency. The Controller generally refers to these mandatory referrals as "Charter referrals." The Controller also sometimes refers other complaints to a City department for investigation, either after or without initial investigation. City departments that receive these non-Charter referrals are required to report to the Controller the results of their investigations and any actions the department has taken, all within 60 days of receiving a complaint for investigation or a recommendation for specific action.

The Administrative Code provides that the whistleblower program's investigations must remain confidential, with limited exceptions. But existing law does not address whether or under what circumstances the whistleblower program may release substantiated complaints regarding elected officials or department heads.

Amendments to Current Law

The proposed ordinance would require the Controller to report to the Board of Supervisors the result of any investigation where the Controller concludes that a department head or elected official engaged in improper or unlawful activities, misused City funds, directly caused deficiencies in the quality and delivery of government services, or directly caused wasteful and inefficient government practices. The report could not reveal the identity of any person who files a complaint or provides testimony, and could not include information protected by attorney-client privilege or attorney work product protections.

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The proposed ordinance also would require departments that receive Charter referrals from the Controller's whistleblower program to report to the Controller in writing the results of the agency's investigation and any action that the agency has taken within 60 days after receiving the referral or in another timeframe requested by the Controller's Office.

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