



# The Office for Inclusion and Equity

---

The University of Texas at Austin

Office for Inclusion and Equity Whistleblower Retaliation Procedure and Practice Guide

Effective Date: September 30, 2015

Last Revised Date: May 2, 2016

## **I. Purpose**

The University of Texas at Austin's Office for Inclusion and Equity (OIE) establishes this practice guide to set forth the University's policy and procedure regarding protection from retaliation for suspected misconduct reporting. The Office for Inclusion and Equity may, from time to time, amend these procedures as necessary.

## **II. Scope and Audience**

This policy applies to reports of misconduct in the employment setting and applies to University employees, students, affiliates, and visitors.

## **III. Definitions**

Misconduct: An individual's action that is unlawful or unethical including but not limited to: illegal or fraudulent activity; financial misstatements, accounting or auditing irregularities; conflicts of interest or commitment; violation of laws, regulations, rules, or policies.

Retaliation: Any action that adversely affects the employment or institutional status of an individual who, in good faith, advances a report of misconduct to University officials or participates in an investigation of such report.

University Policy: This collectively refers to The University of Texas System ("UT System") Board of Regents' *Rules and Regulations*, UT System policies, as well as the University's own policies.

Whistleblower: An individual who raises a concern in good faith about suspected misconduct.

## **IV. Contacts**

**University Compliance Services**

1616 Guadalupe St., Ste. 2.206

512-232-7055 (phone)  
hotline@compliance.utexas.edu (email)  
<http://www.reportlineweb.com/utaustin>  
Compliance and Ethics Hotline: 877-507-7321

**Office for Inclusion and Equity**

NOA 4.302  
512-471-1849 (phone)  
equity@utexas.edu (email)  
[www.equity.utexas.edu](http://www.equity.utexas.edu)

**Strategic Workforce Solutions**

NOA 2.200  
512-475-7200 (phone)  
hrs.sws@austin.utexas.edu (email)  
[www.hr.utexas.edu](http://www.hr.utexas.edu)

**Office of Internal Audits**

1616 Guadalupe Street, Suite 2.302  
512-471-7117 (phone)  
mike.vandervort@austin.utexas.edu (email)  
<https://www.utexas.edu/admin/audit/index.html>

**The Texas State Auditor's Office**

Hotline at 1-800-TX-AUDIT (1-800-892-8348)  
<http://sao.fraud.state.tx.us>

**V. Examples of Misconduct/Violations of University Policy or Law**

The following is a non-exhaustive list of applicable misconduct:

- Theft of any State or UT Austin asset including, but not limited to money, tangible property, trade secrets or intellectual property;
- Misappropriation, misapplication, destruction, removal, or concealment of State or UT Austin property;
- Inappropriate use of computer systems, including hacking and software piracy;
- Unauthorized disclosure of confidential or proprietary information;
- Unauthorized disclosure of student educational records, personal information, or medical information;
- Authorizing or receiving compensation for hours not worked or covered by appropriate and available leave;
- Fraudulent or otherwise deceptive financial reporting;
- Credit card and travel expense fraud;

- Use of staff to perform personal errands, services or tasks;
- Alteration or falsification of documents;
- False claims by students, employees, vendors, or others associated with UT Austin; and
- Bribery, kickbacks, bid rigging, and conflicts of interest
- Activities Covered Under Other Policies and Protocols

Activities described above that may constitute misconduct may also be covered by existing policies and procedures on specialized topics. Such activities may still be reported under this policy, but will be referred for handling to the extent such other procedures exist. Examples of such policies include:

- Individual employee grievances and complaints concerning terms and conditions of employment will continue to be reviewed in accordance with applicable academic and human resources policies.
- Complaints regarding sexual harassment and unlawful discrimination on the basis of race, color, national origin, religion, age, sex, sexual orientation, disability, veteran or marital status will continue to be reviewed and handled in accordance with applicable nondiscrimination and sex discrimination policies.
- Student academic grievances should follow college/school policies and procedures.
- Complaints regarding research administration are generally the responsibility of the Office of Internal Audits.

## **VI. Reporting Guidelines**

Violations of the university policies related to nondiscrimination, sexual discrimination and harassment, sexual misconduct, consensual relationships, and disability accommodations may be reported to the Office for Inclusion and Equity.

Violations of the university policies related to personnel issues or employee health and safety may be reported to Strategic Workforce Solutions.

Policies related to potential violations of policies related to fraud and abuse, the use of state property, maintenance of records and information, conflicts of interest, and purchasing and contracts may be reported to University Compliance Services and/or Internal Audits. Miscellaneous reports may also be submitted to the Office of University Compliance Services for distribution to the appropriate university body.

## **VII. Procedural Steps for Reporting**

### **A. Individual Reporting Process**

All members of the UT Austin community are expected to report any known or suspected fraud or irregularities. Generally, an individual may discuss the concern

directly with a supervisor; however, if the individual is not comfortable speaking with their supervisor, the individual is not satisfied with the supervisor's response, or the individual does not have a supervisor (e.g., a visitor or student), the individual may report the concern to the campus' designated officer(s), any campus fraud hotline, or the state auditor's office.

Individuals who want to report suspected misconduct directly to the appropriate University administrator may utilize the fraud hotlines maintained by the Office of Internal Audits and/or University Compliance Services, listed above.

Individuals have the option of either providing contact information or reporting the information anonymously. While not required, providing contact information will enable the reviewer to contact the individual to clarify the information being provided. At a minimum, individuals should provide key information such as a description of the incident; individual(s) involved; and financial loss, if any. When requested, UT Austin will make every effort to handle all information received confidentially, to the extent permitted by law. Consistent with federal and state laws, employees or other persons who lawfully report suspected improprieties shall not suffer discharge, demotion, suspension, threats, harassment, discrimination, or other retaliation as a result of making such a good faith report.

#### **B. Process for Review and Determination of Appropriate Action**

- a. Each misconduct incident report, as well as any relevant communication received through the fraud hotline (or other method), will be reviewed by an appropriate university official.
- b. The appropriate university official will review each report or complaint to determine what action, if any, should be taken. These actions may include (1) if possible contacting the complainant for additional information, (2) initiating a review into the matter, (3) refer the matter to the appropriate internal office for administration, or (4) refer the matter to an appropriate outside agency such as the Texas Attorney General, State Auditor's Office, or law enforcement. Reviews may be conducted individually or jointly with appropriate campus personnel.

#### **C. Resolution**

- a. Upon completion of the review, a determination will be made as to whether the review has resulted in sufficient evidence to show a violation of law, regulation, policy or procedure; or that fraud or irregularities may have occurred. If the results of the review rise to the level of sufficient evidence, the results may be forwarded to an appropriate University office and/or a law enforcement agency for further action, as appropriate. The Office of the Vice President of Legal Affairs will work with the campus, when

appropriate, to take the necessary steps to make a referral to the appropriate government entity. Disciplinary procedures, if any, are initiated by the appropriate university official, or designee. Such disciplinary actions should be initiated in consultation with University Human Resources.

## **VIII. Complaints of Retaliation**

Consistent with state and federal law, employees or other persons who lawfully report suspected misconduct shall not suffer discharge, demotion, suspension, threats, harassment, discrimination, or other retaliation as a result of making such a good faith report.

No University employee or agent of the University may take any harmful or adverse action with the intent to retaliate against any person, including interference with employment or educational status, for providing to a law enforcement officer or appropriate university official any good faith report of misconduct. Similarly, University employees and agents may not retaliate against individuals who, in good faith, participate in an investigation of violations under this Policy.

Prohibited retaliation includes, but is not limited to, threats of physical harm, loss of job, punitive work assignments, unjustified negative evaluations, or impact on salary or fees. Generally, petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history do not constitute retaliation.

### **A. Whistleblower Retaliation Reporting Process**

Complaints of retaliation should be reported. Potential violations of EEO policies should be directed to OIE. All other complaints of retaliation for reporting potential violations should be reported to University Compliance Services. To promote timely and effective review, the University strongly encourages the filing of complaints within 180 calendar days of the last act that the complainant believes was a violation of federal or state law or University policy.

Complaints should be submitted in writing and include:

1. The full name and contact information of the complainant (who must be the individual claiming to be harmed by the alleged policy violation);
2. The name of the respondent(s);
3. The complaint must include a statement describing the alleged policy violation which should contain the following information:

- (a.) The grounds or bases for the complaint;
  - (b.) The conduct or behavior believed to be retaliatory, including the names (and if known titles) of the University-based individuals involved;
  - (c.) The dates, time period, and the location of the conduct or behavior believed to be retaliatory;
  - (d.) The effect that the conduct or behavior have had on the complainant's work;
  - (e.) The names (and if known contact information) of any persons who may have information pertinent to the allegations, and the names of any persons who may have experienced similar treatment;
  - (f.) Any documents or material supporting the allegations;
  - (g.) A statement of an outcome or resolution the complainant believes would be an appropriate remedy for the complaint.
4. A statement by the complainant verifying that the information supporting the allegations is true and accurate to the best of the complainant's knowledge.

## **B. Investigation Procedure**

If the complaint is an EEO retaliation concern properly within the jurisdiction of OIE, it will follow the complaint and investigation process outlined in OIE's investigation procedure and practice guide. (*See* <http://equity.utexas.edu/investigations/procedure-and-practice-guide/>). All other investigations of whistleblower retaliation will be conducted by University Compliance Services.

Retaliation complaints will be handled with sensitivity, discretion and confidentiality to the extent allowed by law and policy. Retaliation complaints will only be shared with those who have a legitimate need to know so that the University can conduct an effective investigation, determine what action to take based on the results of any such investigation, and in appropriate cases, may be shared with law enforcement personnel. Should disciplinary or legal action be taken against a person(s) as a result of a retaliation complaint, such person(s) may also have the right to know the identity of the whistleblower.

## **IX. Miscellaneous Provisions**

### **Effect on Pending Personnel Actions**

Protection from retaliation is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related or other non-retaliatory factors. Of course, employees are not excused from continuing to perform their jobs or follow their company's legitimate workplace rules just because they have filed a misconduct report.

### **Relationship of Complaint Process to Outside Agency Time Limits**

The filing of a complaint with the Office for Inclusion and Equity does not extend the time limits for filing a complaint with external state and/or federal agencies. Complainants are urged to contact the applicable state/federal agency directly for more information regarding their time limits.