Protection from Retaliation from Alleged Wrongdoing

Section: V: Human Resources
Chapter: 8
Date Updated: March 17, 2014

8.1 Purpose

8.1.1 The purpose of this policy is to provide the requirements and guidelines for the protection of individuals from retaliation for good faith actions in reporting, or participating in an investigation pertaining to alleged violations of laws, rules, policies, or procedures applicable to the University. The procedures within this policy are intended to aid administrators in complying with University policies that protect against unlawful retaliation by the University as a consequence of such good faith actions. This policy does not establish any additional rights or causes of action.

8.1.2 The University is committed to including employees in the process of ensuring that the University operates in an ethical, honest, and lawful manner.

8.1.3 The University encourages employees to report, or cause to be reported, and to assist in any investigation by persons authorized or responsible for such matters, known or suspected violations of laws, rules, policies, regulations, or improper activities.

8.1.4 The University prohibits unlawful retaliation against employees as a consequence of good faith actions in the reporting of, or the participation in an investigation pertaining to allegations of wrongdoing.

8.1.5 No University employee shall take any disciplinary or retaliatory action against any individual for, in good faith, reporting, or causing to be reported, suspected wrongdoing, or for assisting in an authorized investigation of alleged wrongdoing. The prohibition against disciplinary action does not extend to disciplinary action for self-reported events.

8.1.6 This section does not protect an employee who files a report or provides information that he or she knows to be false or who does not have a reasonable belief in the truth and accuracy of the information. An employee who is determined to knowingly have made false accusations or given false information during an investigation may be subject to disciplinary action, including termination of employment, in accordance with applicable University policies and procedures.
8.2 Reporting of Wrongdoing

8.2.1 All University employees have a personal and professional obligation to report, or cause to be reported, and to assist in any investigation by persons authorized or responsible for such matters, the following (collectively referred to as “wrongdoing”):

a. Illegal or fraudulent activity;
b. Financial misstatements, or accounting or auditing irregularities;
c. Conflicts of interests, or dishonest or unethical conduct;
d. Violations of the institution's standards of conduct; and
e. Violations of other laws, rules, or regulations.

8.2.2 Employees are expected to be truthful and cooperative in investigations of allegations of wrongdoing.

8.2.3 While allegations of possible wrongdoing at the University may be reported through regular administrative or supervisory channels, individuals may also make reports through the following:

a. University Compliance Hotline
b. University Compliance email address
c. University Office of Internal Audit
d. University Compliance Officer
e. University Ethics Officer

8.2.4 If the alleged wrongdoing is significant or widespread or applies to the University as a whole, or if the individual is uncomfortable reporting the matter through local administrative channels at the University, the individual may make a report to the:

a. U.T. System Compliance Hotline;
b. U.T. System-wide Compliance email address;
c. U.T. System Internal Audit Executive;
d. U.T. System Compliance Officer;
e. Vice Chancellor and General Counsel and U.T. System Ethics Officer.

8.3 Protection from Retaliation

8.3.1 No employee shall take any disciplinary or retaliatory action against any individual for, in good faith, reporting, or causing to be reported, suspected wrongdoing, or for assisting in an authorized investigation of alleged wrongdoing. The prohibition against disciplinary action does not extend to disciplinary action for self-reported violations.

8.3.2 If an employee believes that he or she has been subjected to any action that violates the non-retaliation provisions in this policy, the employee may file a complaint in accordance with the procedures set forth below.

8.3.3 If it is determined through the retaliation complaint proceedings that an employee has experienced retaliation in violation of this policy, the University shall take the appropriate corrective action.
8.3.4 This policy does not protect an employee who files a report or provides information that he or she knows to be false or who does not have a reasonable belief in the truth and accuracy of the information. An employee who is determined to knowingly have made false accusations or given false information during an investigation may be subject to disciplinary action, including termination of employment, in accordance with applicable institutional policies and procedures.

8.4 Procedures for the Handling of an Allegation of Retaliation

8.4.1 Designation of Retaliation Complaint Officer. The President shall designate the individual who will serve as the Retaliation Complaint Officer.

8.4.2 Submission of Retaliation Complaint.

8.4.2.1 A complaint alleging retaliation must be submitted in writing to the Retaliation Complaint Officer. The complaint must contain the following information (the “mandatory information”):

a. Name of the complainant;

b. Contact information, including address, telephone, and e-mail address, if applicable;

c. Name of the person directly responsible for the alleged retaliation;

d. Date and place of the alleged retaliation;

e. Nature of the alleged retaliation;

f. Detailed description of the specific conduct that is alleged to constitute retaliation;

g. Copies of documents pertaining to the alleged retaliation;

h. Names of any witnesses to the alleged retaliation;

i. Corrective action requested by the complainant;

j. Complainant's signature and date of filing; and

k. Any other relevant information.

8.4.2.2 The following communications do not constitute a retaliation complaint and will not be investigated or resolved pursuant to the retaliation complaint resolution process:

a. Oral allegations;

b. Anonymous communications;

c. Courtesy copies of correspondence or a complaint filed with others;

d. Inquiries that seek advice or information only; and

e. Pre-complaint consultations and informal resolution activities.

8.4.2.3 A written complaint must be filed within thirty (30) calendar days of the occurrence of the alleged retaliation.

8.4.3 Acknowledgement and Notification of Receipt of Complaint.

8.4.3.1 Within five (5) working days after receipt of a written retaliation complaint, the Retaliation Complaint Officer will send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, and advising the complainant that he or she will be contacted within a given time. The acknowledgment letter will include a copy of these Procedures for the Handling of an Allegation of Retaliation. The Retaliation Complaint Officer also shall keep the complainant apprised of the status of
the investigation of the matter, to the extent that the Retaliation Complaint Officer determines that the communication does not compromise the integrity of the investigation.

8.4.3.2 Also within five (5) working days after receipt of a written retaliation complaint, the Retaliation Complaint Officer shall inform the Department Head/Chair of the allegation. The Retaliation Complaint Officer also shall keep the Department Head/Chair apprised of the status of the investigation of the matter. If the Department Head/Chair is the subject of the investigation, however, then the Retaliation Complaint Officer shall provide such information instead to that individual’s supervisor.

8.4.3.3 The Retaliation Complaint Officer shall inform the individual against whom the allegations are raised (the “respondent”) of the nature of the allegations and of the status of the investigation at the point and to the extent that the Retaliation Complaint Officer determines that it will not compromise the integrity of the investigation.

8.4.4 Complaint Evaluation

8.4.4.1 The Retaliation Complaint Officer will initiate an investigation if the written, signed complaint contains all of the mandatory information and is timely, within the scope of this Policy, and states sufficient specific facts, which, if determined to be true, would support a finding that the non-retaliation provisions of this Policy were violated. Notwithstanding that the complaint meets the foregoing requirements, the Retaliation Complaint Officer may determine not to proceed with a complaint investigation for any one of the following reasons:

a. the complainant withdraws the complaint;
b. corrective action has been taken, or has been offered and rejected;
c. another complaint resolution process is more appropriate; or
d. litigation or another complaint process is pending.

8.4.4.2 If the Retaliation Complaint Officer determines not to proceed with a complaint investigation, he or she will send a notification letter to the complainant stating the reason for that determination. The notification letter will also include a statement informing the complainant that the complainant may appeal the determination not to proceed. The appeal must be delivered to the President or his or her designee within ten (10) working days after the complainant’s receipt of the notification letter. The appeal must be in writing and signed by the complainant and must state why the decision not to proceed with an investigation of the retaliation complaint was in error.

8.4.4.3 The President or designee will respond within twenty (20) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision to dismiss is overturned, the complaint is sent back to the Retaliation Complaint Officer for investigation in accordance with the procedures outlined below.

8.4.5 Investigative Process and Findings

8.4.5.1 If it is determined that the institution will proceed with a retaliation complaint investigation, the Retaliation Complaint Officer or his or her designee will interview the complainant, the respondent, and any other persons whom the investigator determines may have pertinent factual information related to the retaliation complaint. The investigator shall also gather and examine relevant documents. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the basis of
a particular sensitivity or reaction of an individual. Findings will be based on the totality of circumstances surrounding the alleged retaliation.

8.4.5.2 During the retaliation complaint investigation process, the complainant and the respondent will provide the Retaliation Complaint Officer or designee with all documents relied upon regarding the issues raised in the complaint.

8.4.6 Report of Findings and Recommendation; Final Determination

8.4.6.1 The investigator will provide a proposed statement of findings, copies of relevant documents, and relevant physical evidence to the President or his or her designee within thirty (30) working days of receipt of the respondent's statement, unless unusual circumstances require more time. The President or designee and the investigator shall meet within ten (10) working days thereafter to discuss the findings.

8.4.6.2 Within fifteen (15) working days after that meeting, the President or designee shall take one of the following actions:

   a) Request further investigation into the complaint;
   b) Dismiss the complaint; or
   c) Find that the non-retaliation provisions of the University were violated, in which event the President or designee, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine disciplinary or corrective actions to be taken.

8.4.6.3 The President or designee shall notify in writing the complainant, respondent, and appropriate Department Head/Chair of his or her decision, and shall attach a copy of the final statement of findings to the notification. The Retaliation Complaint Officer shall retain copies of the President’s letter, the statement of findings, and relevant documents in accordance with the institution’s records retention schedule.

8.4.7 Substitution of Officers

8.4.7.1 If a retaliation complaint is directed against an official who would otherwise act on the complaint, the function assigned to that official in these procedures will be delegated by the President, to another person.