

University Policy 3011: Reporting Improper Conduct and Retaliation

Category: Human Resources

Subcategory: Rights & Responsibilities

Covered Individuals: All Employees

Responsible Executive: Sr. Vice President for Legal Affairs and General Counsel

Policy Custodian: Ethics and Compliance, Chief Compliance Officer

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3011.1 PURPOSE AND SCOPE

This policy implements the Utah Protection of Public Employees Act and outlines reporting options for employees to report or submit a complaint regarding waste or misuse of public funds, property, or workforce; a violation or suspected violation of any law; [Gross Mismanagement; Abuse of Authority](#) (referred to in this Policy as [Improper Conduct](#)). This policy also prohibits [Retaliatory Action](#) against employees who engage in good faith reporting of improper conduct.

Employees are encouraged to report Improper Conduct to their supervisors, a member of the administration, or the university office responsible for the policy at issue. For information about compliance responsibilities at Utah State University (USU), see either the USU [Compliance Matrix](#) or [Misconduct and Non-Compliance Reporting](#).

This policy does not apply to employee obligations for reporting sexual misconduct. Those obligations are governed by [Interim USU Policy 3012: Required Reporting of Sexual Misconduct](#). For complaints of retaliation related to reporting discrimination and sexual misconduct see [Interim USU Policy 2101: Discrimination based on Protected Characteristics](#) and its [associated procedures](#).

3011.2 POLICY

2.1 Reporting Improper Conduct

2.1.1 Formal Reporting

Any employee who reasonably suspects Improper Conduct is occurring may report or submit a written formal complaint to the responsible department head/director. Formal complaints may also be made using [USU's ethics reporting form](#).

Additionally, an employee is presumed to have communicated in good faith if the employee gives written notice or formally communicates Improper Conduct to:

- a. A person in authority over the person alleged to have engaged in improper conduct;
- b. The USU President;
- c. USU's Internal Audit Office;
- d. The Utah Attorney General's Office;
- e. Law enforcement—if the conduct is criminal in nature;
- f. A Utah Board of Higher Education member; or
- g. The commissioner of higher education.

A complaint provided to any of the individuals listed in lines D-G above will not be deemed to have been filed at USU until the complaint has been received by the USU Office of Legal Affairs.

2.1.2 Confidential and Anonymous Reporting

An individual may report Improper Conduct anonymously or request that their information not be shared, and the university may take measures to protect a reporter's personally identifiable information when concerns of retaliation are provided. However, it is important to note: (1) when a report is provided anonymously, USU is typically limited in the action it can take in response, often due to a lack of specific relevant information, and (2) during an investigation, it may become necessary to disclose information about the Reporting Individual to university personnel. Any necessary disclosure will be made on a need-to-know basis. Additionally, the identity of a Reporting Individual, including an individual who has requested confidentiality, may be subject to release in response to official requests for such information, such as public records requests, subpoenas, audits, and regulatory investigations.

2.1.3 Good Faith Required

A Reporting Individual is not required to prove the truth of their report but is required to act in Good Faith. A Reporting Individual is presumed to be acting in Good Faith when they make a report consistent with this policy. Any presumption of Good Faith may be rebutted by showing that the Reporting Individual knew, or reasonably should have known, that the report was malicious, false, or frivolous. Any individual who does not act in Good Faith in reporting Improper Conduct or a Retaliatory Action may be subject to disciplinary action, up to and including termination of employment.

2.1.4 Documenting Improper Conduct

Supervisors may not implement a rule or practice that unreasonably restricts an employee's ability to document improper conduct. Declining permission to record meetings or conversations is not an unreasonable restriction under this section. If an employee believes an unreasonably restrictive practice is occurring, they may raise the concern with individuals in their supervisory line or anonymously via [USU's ethics reporting form](#).

2.2 Investigation of Reports and Complaints

Reports and/or formal complaints may be investigated by Human Resources, Internal Audit Services, the Chief Compliance Officer, the relevant compliance owner, contracted outside investigators, or another individual assigned by USU administration to investigate the report and/or formal complaint. In some instances, an interdisciplinary team may be assigned to process and/or investigate a complaint. Any individual involved in the processing and/or investigation of a formal complaint must disclose any potential conflict of interest with the Reporting Individual, the Responding Individual, and/or the subject matter of the complaint.

The investigating office and/or investigation team will contact the Reporting Individual and acknowledge that the reported violation was received. If an investigation occurs, the Reporting Individual may be contacted to further discuss the reported concern. Details regarding disciplinary actions are only shared on a need-to-know basis and will not be shared with peer employees ([USU Policy 3004: Employee Privacy and Confidentiality](#)).

2.3 Retaliation Prohibited

Consistent with this policy and applicable law, USU supervisors may not engage in Retaliatory Action (as defined by this policy) against any employee:

1. because they complained in good faith of improper conduct;
2. because they participated or gave information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by USU; or
3. because they objected to or refused to carry out a directive that the employee reasonably

believes violates federal, state, or local law.

An employee found to have engaged in Retaliatory Action in violation of this policy may be subject to disciplinary action pursuant to [USU Policy 3001: Setting Expectations and Managing Performance](#), up to and including termination of employment.

2.3 Reporting Retaliation

An Employee who believes that USU has taken a Retaliatory Action against them may file a written complaint by using USU's [ethics reporting form](#). Such complaints will be processed according to the: Retaliation Grievance Procedure, which requires a review by an Independent Personnel Board.

The Independent Personnel Board shall hear the matter, resolve the complaint and take actions within 30 days after the timely filing of the complaint, or such longer period as may be mutually agreed by the complainant and the employee.

If the Independent Personnel Board finds that a Retaliatory Action was taken in violation of this policy, the Board may order or recommend to a final decision maker:

- Reinstatement of the employee at the same level as before the Retaliatory Action
- Payment of back wages;
- Full reinstatement of seniority rights; or
- If the Retaliatory Action includes failure to promote, a pay raise that results in the pay that the employee would have received if the complainant had been promoted.

3011.3 RESPONSIBILITIES

3.1 Supervisors

Comply with USU policy and applicable law, including this policy's prohibitions relating to retaliation. Set expectations with regard to avoiding improper conduct; accept and handle formal complaints consistent with this policy and applicable laws.

3.2 Employees

Comply with USU policy and applicable laws and report improper conduct in a manner consistent with this policy.

3.3 Office of Human Resources

Accept complaints and direct them to higher-level supervisors in cases with a conflict of interest and report them to the Office of Legal Affairs consistent with the Retaliation Grievance Procedure.

3011.4 REFERENCES

- [Utah Code §67-21-1 et seq. Utah Protection of Public Employees Act](#)
- [Utah Code § 67-16-1 et seq. Utah Public Officers' and Employees' Ethics Act](#)

3011.5 RELATED USU POLICIES

- [Policy 3001: Setting Expectations and Managing Performance](#)
- [Policy 3004: Employee Privacy and Confidentiality](#)
- [Policy 3002: Respectful Workplace](#)
- [Policy 3310: Termination of Exempt and Non-exempt Staff](#)

3011.6 DEFINITIONS

6.1 Abuse of Authority

An arbitrary or capricious exercise of power that either a) adversely affects the employment rights of another, or b) results in personal gain to the person exercising the authority or to another person.

6.2 Complaint

A formal verbal, written, or otherwise communicated report of improper conduct.

6.3 Employee

For purposes of this policy only, any faculty, staff, undergraduate or graduate student employees, consultants, contractors, or any other individual under contract, written or otherwise, to provide paid services for USU.

6.4 Good Faith

An employee acts with both subjective good faith and the objective good faith of a reasonable employee.

6.5 Gross Mismanagement

Action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the university that employs, or is managed or controlled by, the person.

6.6 Improper Conduct

Any suspected or actual activity that an employee reasonably believes to be a) a waste or misuse of public funds, property, or workforce; b) a violation or suspected violation of any law; c) Gross Mismanagement; d) Abuse of Authority; or e) Unethical Conduct.

6.7 Reporting Individual

An individual who in Good Faith reports Improper Conduct in a manner contemplated under this policy.

6.8 Retaliatory Action

Any of the following adverse actions taken against an employee because they are a Reporting Individual.

- Dismissal.
- Pay reduction.
- Failure to increase compensation by an amount that the employee was promised or is otherwise entitled to.
- Failure to promote if the employee would have otherwise been promoted.
- Threatening to take any of the listed retaliatory actions.

6.9 Unethical Conduct

Conduct that violates a provision of the Utah Public Officers' and Employees' Ethics Act.

Information below is not included as part of the contents of the official policy. It is provided only as a convenience for readers/users and may be changed at any time by persons authorized by the president.

RESOURCES

Procedures

- [USU Procedure 3011-PR1, Whistleblower Retaliation Grievance](#)

Guidance

- [Addressing Suspected Misconduct and Noncompliance, Office of University Compliance](#)
- [Misconduct & Noncompliance Reporting, Office of University Compliance](#)
- [USU Compliance Matrix, Office of University Compliance](#)

Related Forms and Tools

- [USU Ethics & Compliance reporting form](#)

Contacts

- University Ethics & Compliance
www.usu.edu/compliance

POLICY HISTORY

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