

UCOP Human Resources Procedures Supplement A – Procedures for Reporting Improper Governmental Activities and Protection Against Retaliation for Reporting Improper Activities “Whistle Blower Procedures”

- I. POLICY REFERENCE** UC Policy for Reporting Improper Governmental Activities and Protection Against Retaliation for Reporting Improper Activities (The UC Whistle Blower Policy)

The following procedures describe how employees or members of the public report improper activities (or retaliation for making such a report) and how these complaints are investigated and resolved. These procedures should be read together with the general policy, listed above.

II. REPORTING IMPROPER ACTIVITIES

- A. Any person may file with the Associate Vice President, Human Resources and Benefits a confidential, written report alleging improper activity. Alternatively, the report may be submitted to the State Auditor General or the Joint Legislative Committee of the State. The report should describe as clearly as possible information as to the specific activity thought to be improper, dates on which the activity occurred, if known, the University employee(s) known to be involved, and any other information that would be useful to an investigation of the allegation(s). The complainant must sign the report and provide an address or telephone number at which he or she may be contacted by an investigator. (Note: Reports of alleged misconduct in research should be made according to procedures implementing the University Policy on Integrity in Research.)
- B. If the Associate Vice President, Human Resources and Benefits is alleged to have engaged in the improper activity, the report may be filed with the Senior Vice President – Business and Finance.
- C. After reviewing the allegation(s), the Associate Vice President, Human Resources and Benefits shall decide whether an investigation is warranted and, if so, assign the appropriate personnel to conduct the investigation. In determining whether or not an investigation is warranted, the Associate Vice President, Human Resources and Benefits will consider such factors as whether the report meets the definition of a report of improper activity, whether it contains sufficient information to allow for an adequate investigation, and whether it appears to be frivolous or without substance.
 - 1. Personnel assigned to investigate a report of improper activity will conduct an investigation pursuant to Business and Finance Bulletin G-29 and/or such other investigative procedures as are appropriate to the nature of the allegation(s) made. The investigation shall be concluded within a reasonable period of time and the findings reported to the Senior Vice President – Business and Finance, who shall take appropriate action based on the findings.
 - 2. Confidentiality of the person making the allegation of improper activity will be maintained except on a need-to-know basis (e.g., University personnel investigating the allegation may need to know the reporter’s identity) or as required by law (e.g., disclosure of the person's identity may be required by subpoena or by a law enforcement agency conducting a criminal investigation).
 - 3. An employee who knowingly makes a false report alleging improper activity may be subject to disciplinary action for dishonesty.

III. PROTECTION AGAINST RETALIATION FOR REPORTING IMPROPER ACTIVITIES

A. **Retaliation Complaint Officer (RCO)**

1. The Director, UCOP Human Resources (or designee) shall be the RCO.
2. The Manager, UCOP Employee and Labor Relations (or designee) shall administer the policy.

B. **Filing a complaint with the RCO**

1. A complaint cognizable under an existing University grievance or complaint resolution procedure, even though filed with the RCO, too, must also be filed within the time limits of the applicable grievance or complaint resolution procedure to be considered under that procedure.
2. A complaint filed with the RCO must be in writing and must contain:
 - the complainant's name,
 - a statement as to whether the complainant is an employee, applicant for employment, student, or member of the public,
 - the date of the complainant's report of improper governmental activity filed under I.A. above, if applicable, and the name of the person or agency to who the report was made,
 - the name, if known, or other identifying information about the person(s) who intimidated or retaliated against them or prevented them from filing a report under I.A. above,
 - the date, time and general nature of the alleged act(s) of intimidation or retaliation, and
 - a statement that the complainant swears that the contents of the written complaint are true, or are believed by him/her to be true, under penalty of perjury.
3. Upon receipt of a complaint, the RCO will confer with the Director, UCOP Human Resources, or designee, to determine:
 - whether or not the complaint has been accepted as a grievance pursuant to provisions of a collective bargaining agreement, personnel policy, or other complaint resolution process, and if so,
 - the appropriate course of action for the RCO pursuant to these procedures. If appropriate, the complaint may be returned to the complainant with instructions for filing under the applicable grievance or other complaint resolution procedure.
4. Pursuant to Section III.B.2 above, when a complaint states the name of a person or agency with whom a report of improper governmental activity was filed, the RCO shall confirm the filing of the report by the complainant.

C. **Investigation by the RCO**

1. The RCO may appoint a fact finder to assist in his/her investigation of any complaint.
2. The RCO shall present findings to the Associate Vice President, Human Resources and Benefits within 60 calendar days after taking jurisdiction of the complaint pursuant to this policy. The

Director, UCOP Human Resources may grant reasonable extension(s) of time based on the complexity of the case, availability of witnesses or documents, or other relevant considerations.

3. The sealed record shall be forwarded to and maintained by the Associate Vice President, Human Resources and Benefits or, in the event the complaint alleges interference or retaliation by the Associate Vice President, Human Resources and Benefits, by the Senior Vice President, Business and Finance.

D. The Associate Vice President – Human Resources and Benefits Decision

1. The Associate Vice President, Human Resources and Benefits will endeavor to render a decision within 30 calendar days after receipt of the RCO's findings. If the Associate Vice President, Human Resources and Benefits cannot reach a decision within 30 calendar days, the Associate Vice President, Human Resources and Benefits will advise the complainant in writing of the approximate date on which a decision can be expected.
2. In those cases heard before an arbitrator or a University hearing officer or committee, the RCO will provide the Associate Vice President, Human Resources and Benefits with any finding made relative to interference or retaliation.

E. Appeal of the Decision

A complainant who wishes to appeal a decision of the Senior Vice President – Business and Finance may do so by sending a written notice of appeal, setting forth the specific reasons for the appeal, to the Director, UCOP Human Resources within 15 calendar days after the decision of the Associate Vice President, Human Resources and Benefits.

The appeal will be forwarded to the Senior Vice President, Business and Finance who shall endeavor to respond within 30 calendar days after receiving the appeal.

F. Report

No later than July 31 of each year, the Director, UCOP Human Resources, shall submit to the Associate Vice President, Human Resources and Benefits a report of the actions taken the preceding fiscal year under Section III.