



Policy Title	Policy on Reporting Suspected Wrongful Conduct (Whistleblower Policy)
Policy Category	Ethics, Integrity, and Legal Compliance Policies
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Policies Superseded	Whistleblower Policy dated September 8, 2011
Responsible Office	Board of Trustees
Related Policies	None
Frequency of Review	Annually
Date of Revision	

I. SCOPE

This Policy on Reporting Suspected Wrongful Conduct (“Policy”) applies to each member of the University community including all trustees, employees, students, faculty, volunteers, vendors, alumni, and applicants seeking positions at the University. See Section IX of this Policy for the definitions of capitalized terms below.

II. POLICY STATEMENT

The purpose of this Policy is to protect Whistleblowers who engage in the good faith Protected Disclosure of alleged Wrongful Conduct.

III. POLICY

Each member of the University community shares responsibility for stewardship of University resources and compliance with laws and policies. Therefore, the University encourages all members of the University community, acting in good faith and without fear of Retaliation, to report suspected or actual Wrongful Conduct.¹ Wrongful Conduct is any activity or conduct that a member of the University community in good faith believes to be fraudulent, dishonest, or criminal. Wrongful Conduct includes, but may not be limited to, any action or activity that:

- Is in violation of any federal or state law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft, fraudulent claims, fraud, or conversion;
- Involves questionable accounting procedures, internal controls, or auditing matters;
- Constitutes misuse or misappropriation of University resources for personal gain or other non-University related purposes. University resources shall include, but not be limited to the following, whether owned by or under the management or control of the University:

¹Note: In Pennsylvania, anyone may report instances of child abuse. However, mandated reporters, as defined in the Pennsylvania statute to be any employee 18 years or older, must immediately report the suspected abuse in accordance with the statute.

*In addition, the University has identified all faculty, staff, and resident assistants as mandated reporters under the University’s [Policy Prohibiting Sexual Misconduct, Relationship Violence, and Stalking](#). Mandated reporters **must** report any form of discrimination based on sex that they become aware of or observe in accordance with the Policy.*

- Cash and other assets whether tangible, intangible, real, or personal property;
 - Receivables and other rights or claims against third parties;
 - Intellectual property rights;
 - Facilities and the rights to use University facilities;
 - The University's name, associated symbols, logos, or service marks; and
 - The University's records, including student records.
- Is a violation of any University policy or procedure including the University's [Conflict of Interest Policy for Trustees and Senior Administrators](#) or Conflict of Interest Policy for Faculty, Staff, Independent Contractors, and Volunteers;
 - Is economically wasteful or involves gross misconduct, incompetence, or inefficiency or creates for the University potential exposure to liability and financial irregularities;
 - Suggests that the action or activity is the result of a criminal act;
 - Is a significant threat to the health or safety of members of the University community;
NOTE: The Campus Conduct Hotline Reporting System (defined below) should not be used for immediate threats to life or property. Those types of reports should be directed to either law enforcement at 911 or Public Safety at 215-572-2999.
 - Constitutes scientific misconduct;
 - Constitutes a violation of environmental laws;
 - Is an unauthorized invasion, alteration, or manipulation of records and computer files;
 - Is interference with a University investigation conducted in accordance with this Policy, Including the withholding, destruction, or tampering with evidence or any effort to influence, coerce, intimidate, or retaliate against Whistleblowers or witnesses; or
 - Is determined by the General Counsel, in consultation with the President, to be detrimental to the best interests of the University.

The following are examples of the types of Wrongful Conduct that should be reported under this Policy:

- Disability violations;
- Discrimination or harassment;
- Retaliation;
- Violations of laws or fraudulent accounting (including but not limited to: wire, mail, bank, and securities fraud, or questionable accounting, internal control, and auditing matters);
- Illegal or unethical business practices;
- Athletic rule violations;
- Safety or security issues;
- Student or Faculty Handbook violations; and
- Wrongful terminations.

If you have any doubt, please report your concern. The General Counsel will then make a determination about whether a violation has occurred without any repercussion to the Whistleblower.

IV. METHOD OF REPORTING A PROTECTED DISCLOSURE

A. General Reporting

Any person may report allegations of Wrongful Conduct. Reports should include as much specific information as possible and focus on facts and avoid speculation or the drawing of conclusions. Employees who are aware of or have reason to suspect Wrongful Conduct should report such Wrongful Conduct to their immediate supervisor or other appropriate administrator within their operating unit or to the General Counsel. Employees may also make reports directly to the President, Vice Presidents, or Provost. It is recommended that

individuals who are not employees of the University make reports to the General Counsel or to the party that the reporting person may reasonably expect to have either responsibility over the affected area or the authority to review the Wrongful Conduct on behalf of the University.

B. Anonymous Reporting

Anonymous reports may be made to the University's reporting service "Campus Conduct Hotline" ("CCH"), which is managed by In Touch, via telephone at 1-866-943-5787 (toll free) or directly on the web at: www.intouchwebsite.com/CCH1079. This is a secure, confidential website. CCH will not know and cannot disclose the identity of the reporter. The Protected Disclosure is then immediately sent to the Chair of the Audit Committee of the Board of Trustees and the General Counsel. The General Counsel is the University official who has independence within the University community, is knowledgeable concerning University resources and procedures, and can assure that there is a fair and impartial investigation of allegations of Wrongful Conduct and that the outcome of the investigation will be based on the merits. If the Protected Disclosure is against the General Counsel, CCH will instead send the Protected Disclosure directly to the Chair of the Board of Trustees.

CCH does not replace our existing methods for reporting problems or complaints. Rather, it is intended to complement and supplement existing University procedures. The University continues to encourage everyone to report concerns or suspected violations to their supervisor or other administrator, as appropriate.

C. Time for Reporting

Reports of Wrongful Conduct should be made immediately or as soon as possible after observing the Wrongful Conduct. Reporting the Wrongful Conduct as soon as possible is important in order to (i) give the University the best possible chance to address and remedy the wrongful conduct before it escalates to a more problematic or irreversible level, and (ii) to preserve the rights you may have under Federal and State whistleblower laws. Therefore, the University will not consider reports that are filed more than one year after the alleged Wrongful Conduct took place unless there are extenuating circumstances that warrant reconsideration. Disclosures will be afforded careful consideration and be promptly and discreetly investigated within sixty (60) days, unless the circumstances of the matter require more time for review, and appropriate corrective action will be taken if warranted by the investigation.

D. Action after a Protected Disclosure is Reported

Managers, administrators and employees in supervisory roles who receive a Protected Disclosure shall promptly report the matter to their supervisor and/or the General Counsel. Such supervisors are responsible for exercising appropriate judgment in determining which matters can be reviewed under their authority or referred to a higher level of management or to the General Counsel.

The General Counsel will review Protected Disclosures to determine if an investigation is warranted and whether it can be performed internally by Human Resources, Public Safety, or externally by an outside source. An investigation shall be undertaken if preliminary consideration establishes that (i) the allegation, if true, constitutes improper conduct; and (ii) the allegation is accompanied by information specific enough to be investigated, or (iii) the allegation has or directly points to corroborating evidence capable of being pursued.

If an investigation is warranted, the General Counsel will (i) promptly report the matter to the insurance carrier (ii) consult with the investigator (either internal or external) and review the results of the investigation, (iii) choose and retain outside counsel (in conjunction with the insurance carrier), if needed, and (iv) recommend a course of action. The General Counsel shall have principal responsibility for reporting the Protected Disclosure to the President and senior management, the Chair of the Audit Committee (if not reported through CCH) or, if circumstances warrant, to the full Board of Trustees.

In some instances, a funding entity or regulatory agency may require a report of an allegation of improper conduct. The General Counsel in consultation with the administrators of the affected area will determine the nature and timing of such communications.

In the event that any person with the reporting obligation believes that there is a conflict of interest on the part of the person to whom the Protected Disclosure is to be reported, the next higher level of authority shall receive the report.

E. Investigations of Protected Disclosures

All University employees have a duty to cooperate with investigations conducted under this Policy. During an investigation, an employee may be placed on administrative or investigative leave when it is determined that such a leave would serve the best interests of the employee, the University, or both and the granting of such leave is consistent with applicable personnel policies or collective bargaining agreements.

V. Rights and Responsibilities of Whistleblowers, Investigation Participants, Subjects, and Investigators

A. Whistleblowers

- Whistleblowers shall not obtain evidence to which they do not have a right of access. Whistleblowers are reporting parties, not investigators.
- Whistleblowers must be truthful and cooperative with the General Counsel, investigators, or others to whom they make a report of alleged Wrongful Conduct.
- Whistleblowers have a right to be informed of the disposition of their report of Wrongful Conduct.

B. Investigation Participants

- Investigation participants have a duty to cooperate fully with the University investigators.
- Investigation participants should not discuss or disclose the investigation or their testimony with others who are reasonably likely to be investigation participants or with individuals not connected to the investigation.
- Under no circumstances shall an investigative participant discuss with the investigation subject or other witnesses the nature of the evidence requested or provided or the testimony given to the investigator unless agreed to by the investigator.
- Investigative Participants are entitled to protection from retaliation on account of their participation in an investigation to the extent that participants cooperate in a truthful, cooperative and candid manner.

C. Investigation Subject

- A subject is a person who is the focus of an investigation.
- Subjects should be informed of the allegations at the outset of a formal investigation and have opportunities for input during the investigation.
- Subjects shall cooperate with investigators to the extent their cooperation will not undermine protection against self-incrimination under federal or state law.
- Subjects have the right to consult with person(s) of their choice, including an attorney.
- Subjects may consult with the Office of the General Counsel. The Office of the General Counsel will provide legal advice to the subject with respect to the issues in the investigation, unless the General Counsel determines that a conflict of interest precludes such action. The Office of the General Counsel represents the University's interest. If the Office of the General Counsel provides legal services, the disclosures will not be subject to the attorney-client privilege. The Subject will be advised whenever a conflict of interest arises requiring the attorney to withdraw from providing legal services.
- Subjects shall not interfere with an investigation and shall not withhold, destroy, or tamper

- with evidence or influence, coerce, or intimidate witnesses.
- The standard of evidence to sustain an allegation of Wrongful Conduct is a preponderance of the evidence.
- Subjects shall be informed of the outcome of the investigation.
- Any disciplinary or corrective action taken against the subject resulting from an investigation under this Policy shall conform to the applicable academic or personnel conduct and disciplinary procedure.

D. Investigators

- Investigators are those persons authorized by the University to conduct fact-finding and analysis of cases of alleged Wrongful Conduct.
- All investigators shall be independent and unbiased in fact and appearance. In addition, they have a duty to be fair, objective, thorough, ethical and observant of legal and professional standards.
- An investigation shall be undertaken if preliminary consideration establishes that: (a) the allegation, if true, constitutes improper conduct; and (b) the allegation is accompanied by information specific enough to be investigated, or (c) the allegation has or directly points to corroborating evidence capable of being pursued.

VI. CONFIDENTIALITY

Whistleblowers frequently make their reports in confidence. To the extent possible within the limitations of law and the need to conduct a competent investigation, confidentiality shall be maintained. Whistleblowers should be cautioned that their identity might become known for reasons beyond the control of the investigators or University administrators. Whistleblowers should prepare to be interviewed by the Investigator. If there is a self-disclosure the University is no longer obligated to maintain confidentiality. The identity of the subject of the Investigation shall be maintained in confidence subject to the same limitations.

VII. PROTECTION AGAINST RETALIATION

Members of the University community may not directly or indirectly use or attempt to use the official authority or influence of their positions or offices for the purpose of interfering with the right of a Whistleblower to make a Protected Disclosure about matters within the scope of this Policy. No Whistleblower who makes a Protected Disclosure will suffer Retaliation or Adverse Action. This Policy is intended to encourage and enable employees and others to raise serious concerns within the University prior to seeking resolution outside the University.

It is the intention of the University to take whatever action may be necessary to prevent and correct activities that violate this Policy. If a Whistleblower believes that he or she has suffered Retaliation, he or she may file a written complaint requesting an appropriate remedy to their immediate supervisor or to the General Counsel in the following manner:

A Whistleblower may file a complaint with their immediate supervisor or to the General Counsel within ninety (90) days from the effective date of the Retaliation or Adverse Action. Complaints shall be filed in writing and shall include:

- Name and address of the complainant;
- Name and title of individual(s) against whom the complaint is made;
- The specific type(s) of Retaliation or Adverse Action(s) taken;
- The specific date(s) on which the Retaliation or Adverse Action(s) were taken;
- A clear and concise statement of the facts that form the basis of the complaint;

- A clear and concise statement of the complainant's explanation of how his or her previous disclosure of Wrongful Conduct is related to the Adverse action; and
- A clear and concise statement of the remedy sought by the complainant.

The party to whom such conduct is reported will keep the Whistleblower's identity confidential unless:

- The Whistleblower(s) agrees to be identified;
- Identification is necessary to allow the University or law enforcement officials to investigate or respond effectively to the report;
- Identification is required by law; or
- The individual accused of violations of this Policy is entitled to the information as a matter of procedural and/or legal right in disciplinary actions.

Within sixty (60) calendar days of receipt of the complaint, the General Counsel shall consider the written complaint, shall conduct or have conducted an investigation that in his or her judgment is consistent with the circumstances of the complaint and disclosure, and shall provide the complainant with a determination regarding the complaint. The determination shall be in writing and shall include the findings of fact, the conclusions of the investigation, and, if applicable, a specific and timely remedy consistent with the findings.

VIII. SANCTIONS

Any person who retaliates against a Whistleblower will be subject to disciplinary action up to and including reprimand, suspension, demotion, or under appropriate circumstances, termination.

This protection from Retaliation is not intended to prohibit Whistleblowers, who make reports under this Policy in bad faith or know or have reason to know that such a report is false or materially inaccurate, from being subject to disciplinary action including reprimand, suspension, demotion, or under appropriate circumstances, termination.

Making a report under this Policy shall not insulate an individual from personnel or other actions, including disciplinary actions that are warranted based on performance or other factors and are not caused by the making of a complaint under this Policy.

IX. DEFINITIONS

Adverse Action shall be defined as actions including: discharge, demotion, suspension, being threatened or harassed, or in any other manner discriminated against with respect to compensation, terms, conditions or privileges of employment. Other adverse actions include: dismissing, suspending, or disciplining a student or changing or lowering a grade or evaluation of a student or in any other manner negatively affecting the student's academic career, terminating or threatening to terminate a customer or vendor relationship, and discriminating against or mistreating an alumni or volunteer.

Protected Disclosure is any report, communication, complaint, or other disclosure about actual or suspected Wrongful Conduct engaged in by a member of the University community, based on a good faith and reasonable belief that the conduct has both occurred and is wrongful under applicable law and/or University policy.

Retaliation is any discrimination, mistreatment, or taking any Adverse Action against a Whistleblower because they have made a Protected Disclosure or have participated in an investigation, proceeding, or hearing involving a Protected Disclosure.

Whistleblower(s) is a person who makes or reports a Protected Disclosure of Wrongful Conduct.

APPENDIX A

ADDITIONAL WHISTLEBLOWER INFORMATION REGARDING FEDERAL GRANTS

Effective January 1, 2017, with the passage of public law 114-261 dated December 14, 2016, the Federal government enacted a permanent program aimed at enhancing and expanding protections for employees against reprisals for whistleblowing activities related to federal grants and contracts. The statute, 41 U.S.C. 4712, applies to all employees working for grantees, sub grantees, contractors and subcontractors on federal awards and states that an “employee...may not be discharged, demoted, or otherwise discriminated against as a reprisal” for whistleblowing.

Whistleblowing is defined as making a disclosure that the employee reasonably believes is evidence of any of the following:

- Gross mismanagement of a federal contract or grant;
- A gross waste of federal funds;
- An abuse of authority relating to a federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule or regulation related to a federal contract or grant (including the competition for, or negotiation of, a contract) or grant.

To qualify under the statute, the employee’s disclosure must be made to:

- A Member of Congress, or a representative of a Congressional committee; An Inspector General;
- The Government Accountability Office;
- A federal employee responsible for contract or grant oversight or management at the relevant agency;
- An official from the Department of Justice, or other law enforcement agency; A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, grantee, or sub grantee who has the responsibility to investigate, discover, or address misconduct.

Arcadia University does not tolerate retaliation against employees who in good faith report potential violations or non-compliance (please see Arcadia’s Policy on Reporting Suspected Wrongful Conduct (Whistleblower Policy)). You may make an anonymous report by phone to the University campus hotline at 866-943-5787 or online through the link located at: www.intouchwebsite.com/CCH1079.

For additional information, please see:

- 41 USC 4712: Pilot program for enhancement of contractor protection from reprisal for/disclosure of certain information
- Federal Regulations: 48 C.F.R. 3.908