Section 9.5-9.6 - Reporting Fraud or Misconduct, Whistleblower Protection, and Investigations

Date: September 2005 - Revised September 2012
Approved: Senior Associate Vice President for Business and Finance

Purpose

The purpose of this policy is:

1. to define employee and management responsibility for reporting fraud, potential or actual, or misconduct and to establish procedures for addressing wrongful conduct; and
2. to protect any employee who engages in good faith disclosure of alleged wrongful conduct to a designated University official or public body.

More specifically it:

- encourages employees to disclose serious breaches of conduct covered by the University policies or state or federal law;
- informs employees how allegations of wrongful conduct can be disclosed;
- protects employees from reprisal by adverse employment action as a result of having disclosed wrongful conduct (employees who self-report misconduct are not afforded protection by this policy) or participated in an ethics-related investigation; and
- provides individuals who believe they have been subject to reprisal a fair process to seek relief from retaliatory acts.

Nothing in this policy is intended to interfere with legitimate employment decisions.

Policies Regarding Conduct, Behavior, and Reporting

The University has developed numerous policies and procedures for enforcing standards of conduct and behavior. Additionally, University employees are expected to abide by applicable state and federal laws. Furthermore, an employee cannot be compelled by a supervisor or University official to violate a University policy, an applicable law, or public policy. In the interest of the University, an employee who has particular knowledge of specific acts which he or she reasonably believes constitute wrongful conduct should disclose the conduct to the University Ethics Office via the toll-free Help Line at 866-758-2146 or by email at ethicsofficer@uillinois.edu.

Employee and Management Responsibility

The University's Code of Conduct establishes guidelines for professional conduct and indicates those acting on behalf of the University have a general duty to conduct themselves in a manner that will maintain and strengthen the public's trust and confidence in the integrity of the University and take no actions incompatible with their obligations to the University. University employees are responsible for safeguarding University resources and ensuring they are used only for authorized purposes, in accordance with University rules, policies, and applicable law.
It is a violation of University policy for any employee to receive or use University resources for non-University purposes or personal gain. Management employees are responsible for detecting fraudulent activities or misconduct in their areas of responsibility. Each manager should be familiar with the types of improprieties that might occur in his/her area and be alert for any indication that improper or dishonest activity is or was in existence in his/her area. When dishonest or improper activity is detected or suspected, management should determine whether an error or misunderstanding has occurred or whether possible fraud exists. Management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent the reoccurrence of fraud.
In addition to complying with University policies, employees are expected to comply with all applicable federal and state laws with include but are not limited to the mandatory reporting of abuse or neglect of minors visiting our campus or participating in University sponsored activities.

Protection for Those Reporting Fraud or Misconduct

The State Officials and Employees Ethics Act (*Ethics Act*), 5 ILCS 430/15-5 et. seq. provides protection to University employees who:

- Disclose or threaten to disclose to their supervisor or any public body an act or omission that the employee reasonably believes to be a violation of law, rule or regulation by another University employee;
- Provide information to or testify before any public body conducting an investigation hearing or inquiry into a violation of law, rule, or regulations; or
- Assist or participate in a proceeding to enforce the *Ethics Act*.

The University will not take retaliatory action such as:

- Reprimand, discharge, suspension, demotion or denial of promotion or transfer that occurs in retaliation for an employee's exercise of any one of the three protected activities, above.

The *Ethics Act* provides remedies for employees if retaliation occurs, and if the employee's work performance or behavior did not warrant the adverse action, which may include one or more of the following:

- Employee shall be made whole;
- Reinstatement;
- Two times back pay;
- Interest on back pay; and/or
- Payment of reasonable costs and attorneys' fees.

The employee would need to pursue a civil action in order to attempt to receive some or all of the remedial relief listed above.

Cooperation Following Report and During an Investigation

The reporting employee shall refrain from further involvement in the matter unless directed otherwise by the University Ethics Office, the Office of University Audits, University Counsel, or University Police.

University employees are required to cooperate with the University Ethics Office, Office of University Audits, University Police/Public Safety, the Office of the Executive Inspector General, and other involved law enforcement agencies in the detection, reporting, and investigation of fraud and/or misconduct, including the prosecution of offenders. The University Ethics Office, Office of University Audits, University Counsel or University Police/Public Safety will direct management involvement in any University investigation.

The University Ethics Office maintains records of these allegations. The University Ethics Office or a referring unit (for example, internal audit, campus police, public safety, human resources) will follow-up on the matter which may include an investigation of the disclosure. Laws and University policies impose privacy and confidentiality restraints on reporting the results of such a review or investigation. Within the constraints of these laws and policies, the University Ethics Office will acknowledge, and as appropriate and permissible by law and policy, provide confirmation of the status and outcome of the review.

It should be noted that a disclosure warranting an investigation is not the same as making a complaint of reprisal (adverse employment action or situation). In matters of disclosure, the University will make all reasonable efforts to maintain the identity of the employee making the disclosure confidential, as long as maintaining confidentiality does not interfere with conducting an investigation of the specific allegations or taking corrective action.

The University will take appropriate disciplinary and legal action against employees who commit fraud. The University's actions may include termination of employment, mandating restitution, and/or informing the appropriate authorities in accordance with University policies and procedures, and state and federal law.

Complaints of Reprisal

The University Ethics Office will coordinate with the President or other senior management official to appoint an investigator. The investigator will report findings and recommendations to the senior management official concerning whether retaliation occurred, and if so, what the appropriate remedy or remedies will be. The decision of the senior management official will be final.

Definitions and Examples

Employee - Employee is defined as anyone who is compensated by the University or paid a fee

for services by the University
Management - Management is defined as any administrator, manager, director, supervisor, or other individual who manages or supervises University resources.
Resources - Resources are defined as money, property, personnel (including time worked) or any other assets owned or controlled by the University.
Retaliatory Action – Retaliatory action includes reprimand, discharge, suspension, demotion, or denial of promotion or transfer.
Wrongful conduct is defined as:

- a serious violation of University policy;
- a serious violation of the University Code of Conduct;
- a violation of applicable state and federal laws;
- embezzlement or other financial irregularities; and/or
- the use of University property, resources, or authority for personal gain or other non-University related purpose except as provided under University policy.

Examples of wrongful conduct or fraud covered under this policy include but are not limited to such actions as:

- Theft, misappropriation, misapplication, destruction, removal, or concealment of University resources including intellectual property;
- Forgery, falsification, or alteration of documents;
- Improprieties/misrepresentation in the handling or reporting of money or financial transactions;
- Authorizing or receiving payment for goods not received or services not performed;
- Misuse of University facilities, such as telephones, e-mail systems and computers;
- Intentional violation of the *Illinois Procurement Code* (30 ILCS 500), including dishonest or improper reporting of results, selective reporting, or omission of conflicting data for deceptive purposes;
- Accepting or offering bribes, kickbacks, or rebates;
- Lack of reporting of actual or perceived abuse of a minor; and/or
- Actions related to concealing or perpetuating above mentioned activities.

Additional Resources

University Ethics Office
Office of Executive Inspector for the Agencies of the Illinois Governor

Please send questions regarding this policy manual to OBFSPolicies@uillinois.edu.