UTDBP3105 - Reporting Suspected Unlawful Activity and Protection from Retaliation

Policy Statement

The University of Texas at Dallas is committed to including employees in the process of ensuring that the University operates in an ethical, honest, and lawful manner. It is the policy of the University to:

1. Encourage 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, or regulations, or improper activities (collectively referred to as “wrongdoing”); and
2. Prohibit unlawful retaliation against employees as a consequence of good faith actions in the opposition to, reporting of, or participation in a proceeding pertaining to allegations of wrongdoing.

Inquiries regarding this policy may be directed to the Office of Institutional Compliance, Equity, and Title IX Initiatives (“ICET”) at 972-883-2306 or compliance@utdallas.edu.

Reason for Policy

This policy provides information regarding the University's compliance and prevention efforts related to known or suspected wrongdoing and unlawful retaliation against an employee for reporting alleged wrongdoing.

Scope

This policy applies to all employees of the University.

Definitions Specific to this Policy

Unlawful Retaliation - any action that adversely affects the employment or other institutional status of an individual (including discharging, demoting, suspending, threatening, harassing, or in any other manner discriminating against an employee in the terms and conditions of employment), that is taken by the University or its employee because the individual, in good faith, opposes
an unlawful practice; makes or files a charge; files a complaint; or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing regarding an allegation concerning wrongdoing or of inadequate institutional response thereto of such allegation.

*Complaint* - Complaint means a written document, including the required information, alleging a violation of this policy.

*Complainant* - Complainant means a person who submits a complaint alleging they have experienced a violation of this policy.

*Respondent* - Respondent means the person designated to respond to a complaint. Generally, the respondent would be the person alleged to be responsible for the prohibited discrimination or harassment alleged in a complaint. The term "Respondent" may be used to designate persons with direct responsibility for a particular action or those persons with administrative responsibility for procedures and policies in those areas covered in a complaint.

*Appropriate Administrator* - For the sections on complaint evaluation and investigation, the term "Appropriate Administrator" means the Vice President for Academic Affairs and Provost, or their designee, for complaints arising from academic areas; and the Chief Compliance Officer, or their designee, for complaints arising from all other units of the University.

**Responsibilities and Procedures for Reporting Allegations of Wrongdoing**

**Reporting Responsibility**

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:

1. Illegal or fraudulent activity;
2. Financial misstatements, or accounting or auditing irregularities;
3. Conflicts of interest, or dishonest or unethical conduct;
4. Violations of the institution's code of conduct; and
5. Violations of other laws, rules, or regulations.

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

Employees shall report allegations of wrongdoing through administrative processes and procedures of the University and the U. T. System, including, but not limited to, those established:
1. Pursuant to Business Procedures Memorandum 50 pertaining to embezzlement, misappropriation, and other fiscal irregularities;
2. By specific policy, such as sexual harassment and employee grievances;
3. By the University's Compliance Program; and
4. By the UT System.

**Responsibility to Cooperate**

Employees are expected to be truthful and cooperative in investigations of allegations of wrongdoing or unlawful retaliation.

**Protecting Against Unlawful Retaliation**

An employee who takes any disciplinary or retaliatory action against an individual for, in good faith, reporting, or causing to be reported, suspected wrongdoing, or for assisting in an authorized investigation of alleged wrongdoing is subject to disciplinary action, up to and including dismissal from the University. The prohibition against disciplinary action does not extend to disciplinary action for self-reported violations.

If an employee believes that they have been subjected to any action that violates the non-retaliation provisions, the employee may file a complaint in accordance with the procedures outlined below.

**Formal Complaint Resolution Procedures for Allegations of Unlawful Retaliation**

**Submission of Retaliation Complaint**

A complaint alleging retaliation must be submitted in writing to the Senior Director for Institutional Compliance, Equity, and Title IX Initiatives. If the complaint is against the Senior Director, the complaint may be submitted to the Vice President and Chief of Staff. The complaint must contain the following information (the "required information"):

1. Name of the complainant;
2. Contact information, including address, telephone, and e-mail address, if applicable;
3. Name of the person directly responsible for the alleged retaliation;
4. Date and place of the alleged retaliation;
5. Nature of the alleged retaliation;
6. Detailed description of the specific conduct that is alleged to constitute retaliation;
7. Copies of documents pertaining to the alleged retaliation;
8. Names of any witnesses to the alleged retaliation;
9. Corrective action requested by the complainant;
10. Complainant's signature and date of filing; and
11. Any other relevant information.

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

1. Oral allegations;
2. Anonymous communications;
3. Courtesy copies of correspondence or a complaint filed with others;
4. Inquiries that seek advice or information only; and
5. Pre-complaint consultations and informal resolution activities.

If a complaint of retaliation arises from reporting or filing a complaint or participating in an investigation or related proceeding regarding allegations of discrimination or otherwise opposing a discriminatory practice, including sexual harassment, it will be handled according to the procedures outlined in UTDBP3030 Nondiscrimination or UTDBP3102 Sexual Misconduct Policy, respectively.

If a complaint arises from other types of wrongdoing, as defined by this policy, it will be handled according to the procedures outlined in this policy.

**Time Limit**

A written complaint must be filed within 180 calendar days of the occurrence of the alleged retaliation in order to ensure prompt and efficient handling and resolution. At the discretion of the Senior Director, the 180-day filing period may be extended for good cause.

Within five (5) working days after receipt of a written retaliation complaint, ICET will:

1. send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, advising the complainant that they will be contacted within a given time, and providing them with a copy of this policy. ICET will keep the complainant apprised of the status of the complaint to the extent that ICET determines that the communication does not compromise the integrity of the investigation.
2. inform the unit head of the allegation. ICET will keep the unit head apprised of the status of the complaint to the extent that ICET determines that the communication does not compromise the integrity of the investigation. If the unit head is the subject of the investigation, ICET will provide this information instead to that individual's supervisor.

**Complaint Evaluation**
ICET will initiate an investigation if the written complaint contains all the required 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, ICET may determine not to proceed with a complaint investigation for any one of the following reasons:

1. the complainant withdraws the complaint;
2. corrective action has been taken, or has been offered and rejected;
3. another complaint resolution process is more appropriate; or
4. litigation or another complaint process is pending.

If ICET determines not to proceed with a complaint investigation, a notification will be sent to the complainant stating the reason for that determination. The notification will also include a statement informing the complainant that they may appeal the determination not to proceed. The appeal must be delivered to the Appropriate Administrator, or their designee, within (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.

The Appropriate Administrator or designee will respond within 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 ICET for investigation in accordance with the procedures outlined below.

**Notification of Respondent**

If it is determined that the complaint investigation will proceed, ICET will provide the respondent written notification of the complaint investigation and a copy of this policy. The notification will include a statement of the allegations to be investigated. ICET will keep the respondent apprised of the status of investigation to the extent that ICET determines that it will not compromise the integrity of the investigation.

**Complaint Investigation and Determination**

The assigned investigator 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.

During the investigation process, the complainant and the respondent will
provide the investigator with all documents relied upon regarding the issues raised in the complaint.

The investigator will provide a proposed statement of findings, copies of relevant documents, and relevant physical evidence to the Appropriate Administrator, or their designee, within thirty (30) working days of receipt of the respondent's response to the allegations and supporting documentation, unless unusual circumstances require more time. The Appropriate Administrator or designee and the investigator will meet to discuss the findings.

Within 20 working days from receipt of the proposed findings, the Appropriate Administrator or designee shall take one of the following actions:

1. Request further investigation into the complaint;
2. Dismiss the complaint; or
3. Find that the non-retaliation provisions of this policy were violated, in which event the Appropriate Administrator or designee, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine disciplinary or corrective actions to be taken.

The Appropriate Administrator or designee will notify in writing the complainant, respondent, and appropriate unit head of their decision, and attach a copy of the final statement of findings to the notification. ICET will retain copies of the Appropriate Administrator's letter, the statement of findings, and relevant documents in accordance with the institution's records retention schedule.

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 Vice President and Chief of Staff, or the President, as appropriate, to another person. If it is determined through the proceedings that an employee has experienced retaliation in violation of this policy, the University shall take appropriate corrective action pursuant to applicable university policies.

**False Complaints**

This policy does not protect an employee who files a complaint or provides information that they know to be false or who does not have a reasonable belief in the truth and accuracy of the information. An employee determined to knowingly have made false accusations, or to have given false information during an investigation may be subject to disciplinary action, including termination of employment, in accordance with applicable institutional policies and procedures.