

## **GUIDANCE**

For the Implementation of

### **Policy 3344-2-05 Whistleblower Protection**

**Purpose:** Policy 3344-2-05, Whistleblower Protection (the “Policy”), prohibits retaliation for, and provides for the investigation of, good faith reports of wrongful conduct and retaliation. This Guidance supplements that Policy to provide information regarding how such reports will be investigated.

**Responsible Official:** Chief Compliance Officer, Office of University Compliance, is the Responsible Official for Policy 3344-2-05 and for this Guidance.

#### **Reports of Wrongful Conduct**

Wrongful conduct is defined in the Policy as, “a serious violation of university policy or rule, a violation of applicable state or federal law, or the misuse of university or other public resources, including the use of university resources for private gain.” Examples of wrongful Conduct include, but are not limited to:

- Use of University time and resources for personal business;
- Failure to implement appropriate safeguards for research activities;
- Improper release of student information or records, contrary to FERPA;
- Accepting gifts from vendors hoping for business at the University;
- Acts of discrimination or harassment;
- Falsifying University records; and
- Failing to follow proper business practices.

Reports of wrongful conduct as defined in the Policy may be made by any member of the University community to any one of the following:

1. An employee’s supervisor;
2. The University administrator responsible for the program area in which the wrongful conduct occurred;
3. The Office of General Counsel ([www.csuohio.edu/general-counsel/general-counsel](http://www.csuohio.edu/general-counsel/general-counsel));
4. The Office of University Compliance (216-687-2125);
5. The Department of Audits ([www.csuohio.edu/audits/audits](http://www.csuohio.edu/audits/audits));
6. Through the University’s anonymous fraud and abuse reporting hotline (888-837-1824);
7. The Office for Institutional Equity ([www.csuohio.edu/offices/affirmativeaction](http://www.csuohio.edu/offices/affirmativeaction)), if the wrongful conduct involves harassment or discrimination; or
8. The CSU Police Department ([www.csuohio.edu/police/police](http://www.csuohio.edu/police/police)), if the wrongful conduct is potentially criminal conduct.

Reports of wrongful conduct may also be made to the Ohio Ethics Commission, the Ohio Auditor of State’s Office, the Cleveland Police Department or other law enforcement or regulatory body. However, such reports cannot be investigated by the University unless those

entities inform the University of the report. Reports made through the fraud and abuse reporting hotline are referred to the appropriate University Vice President and the Office of University Compliance.

Reports may be made on a verbal or written basis. In either case, a report must contain sufficient detail for it to be properly investigated. Important details to include are the person or persons who have engaged in wrongful conduct, if known, when the conduct took place and the nature of the conduct.

If a report of wrongful conduct is made to an office that is not responsible for the program area in which the wrongful conduct occurred, the report should be forwarded to the Office of University Compliance.

### Wrongful Conduct Investigations

If a report of wrongful conduct is received by the office responsible for the program area in which the wrongful conduct occurred, that office shall conduct an appropriate investigation in accordance with its own procedures. The Office of University Compliance (OUC) shall assist in any such investigations at the request of the office director.

Reports of wrongful conduct received by OUC shall be referred or investigated as follows:

Criminal Conduct: If a report of wrongful conduct involves conduct that could constitute a crime, the OUC shall refer it to the CSU Police Department. The Chief Compliance Officer and the Police Department shall determine whether a non-criminal investigation is also required or is feasible. If the Chief of Police believes that a non-criminal investigation could harm the criminal investigation, no further non-criminal investigation shall take place until after the criminal investigation is completed, unless the University has a legal obligation to do so. If a non-criminal investigation is feasible at the same time as the criminal investigation, or once a criminal investigation is completed, whether or not criminal charges are filed, the OUC may initiate a non-criminal investigation.

Discrimination: If a report of wrongful conduct involves conduct that could constitute discrimination or harassment under University policies, it shall be investigated by the Office for Institutional Equity (OIE) in accordance with that office's procedures. OIE shall inform the OUC when such investigation is complete. If the report of discrimination or harassment involves members of the Office for Institutional Equity, the Chief Compliance Officer shall designate an individual to conduct an investigation in accordance with OIE procedures.

Research Non-Compliance: Reports of wrongful conduct related to research activities shall be referred to the Office of Vice President for Research for investigation in accordance with that office's procedures. The Office of University Compliance shall provide assistance in the investigation as requested. If the report of wrongful conduct involves members of the Office of

the Vice President for Research, the Chief Compliance Officer shall designate an individual to conduct the investigation.

Athletic Non-Compliance: Reports of wrongful conduct that violates NCAA rules and standards shall be investigated by the Athletics Department Compliance Office in accordance with its procedures. The Athletics Department shall inform the OUC when the investigation is complete. The OUC shall provide assistance to the investigation as requested. If the report of wrongful conduct involves member of the Athletics Department Compliance Office, the Chief Compliance Officer shall designate an individual to conduct the investigation.

Misuse of Public Funds: Reports of wrongful conduct that involves the misuse of public funds shall be investigated by the Director of Internal Audits, with assistance from the Office of General Counsel and OUC as appropriate. If the report of misuse of public funds involves members of the Department of Internal Audit, the Chief Compliance Officer shall designate an individual to conduct the investigation.

Other Types of Non-Compliance: The Office of University Compliance will determine on a case-by-case basis the nature of an investigation with respect to non-compliance in other areas. OUC shall draw on appropriate resources, such as the Office of General Counsel, the Department of Audits, and the office responsible for the matter that is the subject of the report of non-compliance.

#### Investigation Findings and Sanctions

To the extent that an investigation results in a finding as to whether a report of wrongful conduct was substantiated or unsubstantiated, a copy of any findings shall be provided to OUC. For all non-criminal matters, findings will be made using a preponderance of the evidence standard – that is, that it is more likely than not that the conduct investigated did occur. If a report of wrongful conduct is substantiated, OUC shall work with the department in which the wrongful conduct took place, and other offices as appropriate, to determine appropriate educational or corrective action. The Office of Human Resources shall be involved in the discussions related to corrective action for findings involving an employee; the Department of Student Life shall be involved in the discussion related to corrective action for findings involving a student. The Office of University Compliance and the department in which the wrongful conduct occurred shall also review the department's procedures to determine whether changes in management systems would be appropriate to help prevent future instances of non-compliance.

To the extent that an investigation results in a finding that the report of wrongful conduct was a false allegation, OUC shall refer the matter to the appropriate official to implement corrective action against the person making the false allegation. A report is a false allegation when the person making the report knows that it is not true, or knows that the report could have serious consequences, but makes no effort to determine whether it is true, or is indifferent to whether it is true. It is not a false allegation to make a report in good faith that is based on the reasonable

belief that the conduct both has occurred and is wrongful conduct, even if, upon investigation, the report is not substantiated.

#### Retaliation Prohibited

Retaliation is prohibited against any person that makes a Protected Disclosure under the Policy, participates in the investigation into such Protected Disclosure, or participates in any proceedings that result from such an investigation. A report is a Protected Disclosure when the person reporting it has a reasonable belief that the wrongful conduct being reported has occurred and is wrongful conduct. A report is not a Protected Disclosure if the person making the report participated in the conduct that is being reported.

Anyone who believes that they have been subjected to retaliation in violation of the Policy should report it immediately to any one of the offices listed above. Reports of retaliation will be investigated and, if confirmed, appropriate corrective action shall be taken.