

Westfield State University

Policy concerning:

APPROVED: October 2005

Section Administrative

Number 0440

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REPORTING VIOLATIONS OF LAWS, RULES OR REGULATIONS (WHISTLEBLOWER)

PURPOSE

To protect individuals who report suspected improper activity in accordance with this policy against retaliation. In addition to this policy, employees shall be protected from retaliation in accordance with Massachusetts General Law Chapter 149, Section 185.

INTRODUCTION

Westfield State University is committed to complying with all laws, rules and regulations that govern its operating practices. In that spirit, the University has established internal controls and procedures designed to prevent violations of law and applicable regulations. The University encourages all employees, students, volunteers, and vendors/contractors acting in good faith to report suspected improper activity. When the University becomes aware of potential violations, it has a responsibility to investigate such allegations promptly. Similarly, the University has a responsibility to assure that individuals who report what they reasonably believe are violations do not suffer retaliation.

The University's policy is designed to provide guidance to individuals for reporting suspected violations of law, rule or regulation promulgated pursuant to the law. This policy is not meant to abridge any processes or protections available to individuals under any collective bargaining agreement, federal or state law. This policy also does not replace the grievance processes provided in the respective collective bargaining agreements to investigate complaints regarding the terms and conditions of employment, or the affirmative action grievance process established to address alleged unlawful discrimination.

DEFINITIONS

1. Employee - any individual who performs services for and under the direction of Westfield State University for wages.
2. Supervisor - any individual to whom the University has given authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.
3. University Reporting Officer (URO) - the person designated by the Audit Committee Chair and the Vice President of Administration & Finance to serve as the official with

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responsibility for receiving reports of improper activities, as defined herein; the person designated to coordinate investigations of improper activities, as defined herein, on behalf of the Audit Committee Chair and the Vice President of Administration & Finance. The Associate Director of Risk Management serves as the URO.

4. Retaliatory Action - (a) adverse action or harassment of an individual; or (b) the discharge, suspension, or demotion of an employee, or any adverse employment action taken against an employee in the terms and conditions of employment.
5. Public Body - (a) the United States Congress, any state legislature, or any popularly elected local government body, or any member or employee thereof; (b) any federal, state, or local judiciary, or member or employee thereof; (c) any federal, state, or local regulatory, administrative or public agency or authority; (d) any federal, state, or local law enforcement agency, prosecutorial office, police or peace officer; or (e) any division, board, bureau, office, committee or commission of any public bodies described above.
6. Improper Activity - any activity by a University employee, volunteer, agent, or vendor/contractor which is a violation of federal, state, or local laws, rules, policies or regulations; is a serious violation of University policy; or uses University property, resources, or authority for personal gain or other non-University purpose except as provided under University policy.
7. False Allegation – Any employee or volunteer who knowingly or with reckless disregard for the truth gives false information or knowingly makes a false report of improper activity or a subsequent false report of retaliation shall be subject to disciplinary action, up to and including termination. Any student who makes false allegations in the non-employment setting shall be subject to student code of conduct for disposition. Allegations that are not substantiated yet are made in good faith are not subject to corrective action.

REPORTING ALLEGATIONS OF SUSPECTED IMPROPER ACTIVITIES

1. Any individual may report a suspected improper activity. Individuals are encouraged to report improper activities in writing, although they may be made orally. Any such reports should be based on facts, rather than speculation, and should contain as much specific information as possible to allow for an effective investigation. The “Fraud, Waste & Abuse Report Form” is available on the University website in Word Document format and electronic format for anonymous submission directly to the URO.
2. Under normal circumstances, reports by employees of suspected improper activities should be made to the employee's immediate supervisor or to the appropriate

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administrator within the employee's department or division. In instances where there exists a potential conflict of interest or to ensure confidentiality, an individual may report suspected activity to a University administrator who has responsibility for, or oversight of, the unit in which the suspected activity occurred or to the URO. The URO's contact information is available on the University's Risk Management webpage.

When a report involves the activities of a senior officer or the URO, the report should be made directly to the President of the University. The President shall inform the Audit Committee Chair of any reports involving senior officers or the URO. All reports involving alleged improper activities by the President shall be reported to the Audit Committee Chair and the Chair of the Board of Trustees.

It is important that all faculty and staff, particularly those in a supervisory role, recognize that any complaint or allegation, formal or informal, may constitute a report of improper activity.

3. Administrators and supervisors who receive reports of alleged improper activity should report that information to their supervisor, appropriate administrative official or the URO as soon as practicable. In circumstances where the alleged improper activity is a minor violation of a rule or regulation it may be appropriate for the supervisor to investigate the alleged activity. When a supervisor is uncertain how the report should be investigated, the supervisor is encouraged to seek guidance and direction from supervisors, the URO and University administrators. When in doubt, supervisors receiving reports should err on the side of reporting to the URO or supervisor. Administrators and supervisors shall report to the URO any alleged improper activities which involve possible criminal acts, the misuse of University resources, or a significant threat to the health and safety of the University community.
4. Individuals are required to report alleged improper activities to the appropriate University official as described in the preceding sections 1, 2 and 3 prior to disclosing the matter to a public body, unless the individual is reasonably certain the activity is known to a supervisor and is an emergency, or the individual reasonably fears physical harm will result from disclosing the activity to a University official, or the disclosure is for the purpose of providing evidence of a crime. Such notice to the supervisor or appropriate University official must be made in writing prior to notification of a public body. In the event an individual does not comply with this section 4, the individual shall not be protected by this policy.
5. Several University departments, public safety and human resources for example, have responsibility for conducting investigations of improper activities. Based on the nature of the alleged improper activity, other departments may become involved in, or responsible for, an investigation. The URO shall consult with university

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departments as deemed appropriate and/or seek consultation with the Vice President for Administration and Finance to determine a department's role in the investigation. Reports involving the President shall be investigated by the Board of Trustees. All University employees are required to cooperate fully with any investigation into improper activities. The URO shall assure that appropriate University officials have been apprised of the allegations and the progress of the investigation. At the conclusion of the investigation the URO or the investigating officer may recommend corrective action and shall ensure that, where required, notification is provided to appropriate governmental bodies. All reports and final outcomes are submitted to the Audit Committee Chair and the Vice President for Administration & Finance and kept on file with the URO.

6. If the employee assigned as the URO is unavailable to perform this function for an extended period of time (e.g., family or medical leave, leave of absence, vacancy), the Assistant Vice President of Human Resources will automatically fulfill this function unless otherwise determined by the Vice President of Administration and Finance and the Chair of the Audit Committee. The campus community will be notified and the risk management website will be updated within 2 business days if the URO is unavailable and the Assistant Vice President of Human Resources will temporarily fulfill this function.

PROTECTION FROM RETALIATION/ADVERSE PERSONNEL ACTION

1. Westfield State University is committed to protecting individuals from retaliation for having disclosed alleged improper activities. No retaliatory action may be taken against an individual who, consistent with this policy, reports improper activities or participates in an investigation of suspected improper activities. Further, no adverse personnel action may be taken with respect to any employee who objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, or a regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety, or the environment.
2. Whenever an individual believes that retaliatory action has been taken against the individual for one of the reasons stated in Section 1 above, the individual shall file a complaint with the URO. The complaint shall be filed in writing within 10 days of the date the alleged retaliation occurred. The URO shall meet with the individual within 10 days of receipt of the complaint, conduct such investigation as the URO deems appropriate, and whenever possible, render a decision in writing within 10 days of the meeting. The decision shall set forth a finding whether retaliation took place, and, if so, what remedy shall be undertaken. Any action or decision taken or made shall be reported to the Chair of the Audit Committee.

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3. Nothing in this policy shall be deemed to limit the rights, privileges or remedies of any individual under any federal or state law or regulation, or of any employee under any collective bargaining agreement.

REVIEW

This policy shall be reviewed, at a minimum, every three years by the Audit Committee Chair in conjunction with the Vice President of Administration and Finance.