

CLAYTON STATE UNIVERSITY
POLICY ON MALFEASANCE, NON-RETALIATION, WHISTLEBLOWER
PROTECTION & HOTLINE MANAGEMENT

I. PURPOSE

Clayton State University ("CSU" or "the University") is committed to providing a workplace conducive to open discussion of the University's business practices and operations. This mission demands integrity, good judgment and dedication to public service from all members of the University community. University employees have an affirmative duty to report wrongdoing in a timely manner and to refrain from retaliating against those who report violations or assist with authorized investigations.

The purpose of this policy is to reassure University employees that they can raise workplace concerns regarding alleged violations of Board of Regents ("BOR") and University policy or local, State or Federal law without retaliation.

This policy is consistent with O.C.G.A. 45-1-4 (2010) entitled "Complaints or information from public employees as to fraud, waste, and abuse in state programs and operations." In addition, this policy is in conformance with BOR policy 16.4 Reporting Wrongdoing and 16.5, Ethics & Compliance Hotlines. The University incorporates the aforementioned policies into this policy and has adopted these processes and procedures.

Also, the University is committed to preventing and detecting fraud, waste, abuse, and other forms of wrongdoing and taking action when wrongdoing occurs. It is the policy of the University to refer all criminal acts to law enforcement for investigation.

II. SCOPE OF APPLICATION

This policy prohibits University officials, officers, employees, or contractors from retaliating against applicants, officials, employees, or contractors because of any of the protected activities as defined below.

III. POLICY

University employees are expected and encouraged to promptly raise questions and concerns regarding possible violations of BOR and University policy or local, state or federal law with his/her immediate supervisor or another management employee within the employee's department.

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Promptly raising questions and concerns allows the opportunity for such concerns to be addressed quickly and can help prevent problems from occurring or escalating and allows the matter to be promptly investigated or reviewed while evidence and memories are fresh. In the event that an employee is not comfortable with raising an issue with his/her immediate supervisor or another management employee in the employee's department, or if the employee believes that an important issue remains unresolved, employees can contact the University Department of Human Resources' Office of Institutional Equity ("OIE").

Complaints and concerns are accepted in person and by telephone, email, and regular mail and can be submitted anonymously through the Global Compliance Ethics Hotline at

<https://secure.ethicspoint.com/domain/media/en/gui/76591/index.html>

For more information, please contact OIE at 678-466-4230 or email OIE's Assistant Director, Nikia Yallah at NikiaYallah@clayton.edu or visit the HR website. In addition, the "Ethics Compliance FAQ" may be located at

<https://secure.ethicspoint.com/domain/media/en/gui/76591/faq.pdf>.

It is the policy of the BOR and the University to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of BOR and University policy or local, state or federal law in retaliation for that reporting or participation. (Refer to definitions of "protected activity" and "adverse employment action" below.)

No employee of the University shall directly or indirectly use or attempt to use the authority or influence of such employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of BOR and University policy or local, state or federal law.

To the extent lawful, the University shall not after receipt of a complaint or information from an employee disclose the identity of the employee without the written consent of such employee, unless the University determines such disclosure is necessary and unavoidable during the course of the investigation. In such event, the employee shall be notified in writing at least seven days prior to such disclosure.

Disciplinary action, up to and including termination, will be taken against an employee who is found to have violated this Policy. Employees will be subject to

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appropriate sanctions. However, employees who file reports or provide evidence which they know to be false or without a reasonable belief in the truth and accuracy of such information will not be protected by this policy and may be subject to disciplinary action, including termination.

IV. DEFINITIONS

1. "Government agency" means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations.
2. "Law, rule, or regulation" includes any federal, state, or local statute or ordinance or any rule or regulation adopted according to any federal, state, or local statute or ordinance.
3. "Public employee" means any person who is employed by the executive, judicial, or legislative branch of the state or by any other department, board, bureau, commission, authority, or other agency of the state. This term also includes all employees, officials, and administrators of any agency or any local or regional governmental entity that receives any funds from the State of Georgia or any state agency.
4. "Public employer" means the executive, judicial, or legislative branch of the state; any other department, board, bureau, commission, authority, or other agency of the state which employs or appoints a public employee or public employees; or any local or regional governmental entity that receives any funds from the State of Georgia or any state agency.
5. "Retaliate" or "retaliation" refers to the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public employer against a public employee in the terms or conditions of employment for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or government official or agency.
6. "Supervisor" means any individual:
 - a. To whom a public employer has given authority to direct and control the work performance of the affected public employee;
 - b. To whom a public employer has given authority to take corrective action regarding a violation of or noncompliance with a law, rule, or regulation of which the public employee complains; or

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- c. Who has been designated by a public employer to receive complaints regarding a violation of or noncompliance with a law, rule, or regulation?
7. "Wrongdoing" is defined under this policy as violations of BOR and CSU policies, state or federal law, violations of ethical and professional conduct and fraud, waste or abuse. Examples of wrongdoing include, but are not limited to: BOR and CSU Code of Conduct violations, discrimination, harassment, research misconduct, academic misconduct and privacy violations.
8. "Waste" means the expenditure or allocation of resources in excess of need that is often extravagant or careless.
9. "Abuse" means the intentional, wrongful, or improper use of resources. Abuse may be a form of wastefulness, as it entails the exploitation of "loopholes" to the limits of the law, primarily for personal advantage.
10. "Fraud" means a false representation of a matter of fact that is intended to deceive another. A fraudulent act may be illegal, unethical, improper, or dishonest and may include, but is not necessarily limited to:
 - a. Embezzlement
 - b. Misappropriation
 - c. Alteration or falsification of documents
 - d. False claims
 - e. Asset theft
 - f. Inappropriate use of computer systems, including hacking and software piracy
 - g. Bribery or kickbacks
 - h. Conflict of interest
 - i. Intentional misrepresentation of facts

V. WHERE TO REPORT

Employees should report wrongdoing or concerns through the administrative processes and procedures established by the BOR and the University. Unless otherwise indicated or circumstances make it inappropriate, employees should

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report wrongdoing through their supervisory chain of command. Other reporting avenues, are available including the University's Internal Audit Department, the University's Department of Human Resources' Office of Equity, etc.

Events presenting an immediate threat to life or property or that are obvious criminal acts should be reported to law enforcement. Wrongdoing and concerns also can be reported anonymously on the Ethics and Compliance Reporting Hotline, which is also available 24 hours a day, 7 days a week at:

<https://secure.ethicspoint.com/domain/media/en/gui/76591/index.html>

VI. PROTECTION AGAINST RETALIATION – WHISTLEBLOWER PROTECTION

Protections Afforded: University employees may not interfere with the right of another employee to report concerns or wrongdoing, and may not retaliate against an employee who has reported concerns or wrongdoing, has cooperated with an authorized investigation, has participated in a grievance or appeal procedure, or otherwise objected to actions that are reasonably believed to be unlawful, unethical or a violation of BOR and University policy. Violations of this policy may result in disciplinary action, which may include the termination of employment.

Conduct Prohibited: Retaliation is any action or behavior that is designed to punish an individual for reporting concerns or wrongdoing, cooperating with an investigation, participating in a grievance or appeal procedure or otherwise objecting to conduct that is unlawful, unethical or violates BOR and University policy. Retaliation includes, but is not limited to, dismissal from employment, demotion, suspension, loss of salary or benefits, transfer or reassignment, denial of leave, loss of benefits, denial of promotion that otherwise would have been received, and non-renewal.

False Reports / False Information: This policy does not protect an employee who files a false report or who provides information without a reasonable belief in the truth or accuracy of the information. Any employee who knowingly files a false report or intentionally provides false information during an investigation may be subject to disciplinary action, which may include the termination of employment.

VII. CONFIDENTIALITY

All employees involved in the process of receiving and investigating reports of wrongdoing must exercise due diligence and reasonable care to maintain the integrity and confidentiality of the information received. All University employees

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must ensure they comply with state and federal laws regarding whistleblower protection.

VIII. COMPLAINT PROCEDURES

An applicant, employee, officer, official, or contractor who believes he or she has been retaliated against in violation of this Policy should immediately report the conduct to the Office of Equity in the University's Department of Human Resources.

IX. INVESTIGATION OF MALFEASANCE

Malfeasance is any conduct or act carried out by a public official that cannot be legally justified or conflicts with the law including, but not limited to, fraud, waste, and abuse. The BOR's Office of Internal Audit and Compliance has the primary obligation for investigating reported malfeasance involving the University System Office, institutional senior administrators, and institutions without an institutional internal auditor. Institutional internal audit departments have the primary obligation for malfeasance investigations at institutions.

Malfeasance Reporting:

Incidents involving suspected criminal malfeasance by an employee must be reported to the University Audit Officer once an initial determination has been made that employee malfeasance may have occurred. Malfeasance reports should be marked confidential and submitted in draft form. Malfeasance reports should include:

1. Institution's name and point of contact , including the email address and phone number;
2. Description of the incident, including the incident time, date, location, improper activity, and estimated loss to the institution (if any);
3. Known suspect information, including the employee name, title, employment status (administrative leave, pending termination, etc.), and supervisor's name; and,
4. Current case status, including law enforcement involvement and the results of any internal audit investigation.

The University Audit Officer will consult senior management, as specified, will do so with the BOR's Office of Audit and Legal Affairs, The University Audit Officer may

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contact others to establish the necessary team to proceed with the review or investigation. The investigative team will attempt to keep source information as confidential as possible.

X. CSU TRIAGE COMMITTEE

All cases are presented to the University Triage Committee for review and initial Assessment. The University Triage Committee determines the University Case Manager and potential University Investigator.

A. Role of the University Triage Committee

The University Triage Committee consists of key University administrators. A core of at least 3 individuals serve with other administrators—Provost, Athletics Director, Vice Presidents brought in on specialized matters.

1. The Triage University Committee generally convenes either in person or via phone within two to five business days of the receipt of a report.
2. The University Triage Committee reviews the complaint and determines initial steps regarding the assignment of the matter to a Case Manager or Investigator (such individuals may be internal or external.)

B. Role of Case Manager:

1. Acknowledges that the complaint has been received.
2. Evaluates the information received to determine whether (a) to proceed with a formal workplace investigation or (b) whether an attempt at informal resolution could be appropriate under the guidance of the University Triage Committee.
3. If not a member of the University Triage Committee--notify the Vice President for Business Operations and/or Legal Affairs for the University that a complaint has been received.
4. As appropriate, contact the appropriate unit official of the nature of the complaint.
5. If a formal investigation is required contact investigators.
6. Take ownership of every case and monitor progress.

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7. Support the Investigator(s) by providing advice and guidance on policies and procedures. Consult with Legal as needed.
8. Provide higher management with information on cases progressing within their area of control.
9. Update the website case management file periodically and at least twice per month.
10. Meet regularly with Investigator(s) as to the status and progress of the investigation.
11. Direct as necessary additional work needed to be completed or additional follow up in the investigation. Review the report and provide a copy to Legal for review.
12. Discuss resolution including sanctions with appropriate officials.
13. Conduct post investigation review and debriefing and close case on hotline.
14. Inform the University Triage Committee and any administrations of the outcome.

C. Investigator(s)

1. Assigned Investigator(s) will meet with the University's Chief Human Resources Officer or other University Authority(ies) to discuss and develop a "Case Management Plan" or strategy. The investigator will be responsible for the proper handling of the case by conducting interviews, documenting all relevant information in the case file, and ensuring that timely communication is maintained with all appropriate parties. The investigation will consist of all necessary procedures and actions to provide sufficient facts to reach accurate conclusions based on the investigator's best judgment. In instances of multiple infractions or complex matters, more than one investigator may be used for cross-functionality. Instances of retaliation, discrimination, and sexual harassment may require additional investigative procedures applicable to policies, laws and regulations.
 - a) Log into Ethics site and outline initial action plan and tentative timeline or provide data to the Case Manager.
 - b) Gather background information on the Complainant, the Respondent (the person(s) who the allegations are made against), others as necessary; e.g. review personnel files, other data sources, etc. Consult with Triage

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Committee or other administrators if permission is needed to access materials.

- c) Determine order of interviews:

Normally: *Complainant -> Accused -> Witnesses*

2. Launch investigation.
3. Provide updates to the University Case Manager and Ethics hotline site.
4. Contact the Complainant for interview. If anonymous contact other individuals named in allegation.
 - a) Ask Complainant if he/she would prepare a statement specific to their complaint if they have not already done so (See (i) below).
 - i. The Complaint: At a minimum, ask the Complainant:
 1. What happened?
 2. What was your role?
 3. How did you become aware of the event?
5. Prepare for the Interview e.g. determine location, prepare questions, prepare script, decide on whether to record or not record, etc.
6. Interview Complainant and obtain a signed Complainant Statement.
 - a) Prepare summary of interview.
7. Consider all relevant circumstances and decide whether Precautionary Action is necessary and, if so, what form such action should take. Consult with Case Manager, Legal and HR.
8. Gather all evidence and documentation.
9. As soon as reasonably practicable after interviewing Complainant, contact Respondent and provide sufficient details so that the Respondent can answer questions, and meet with Respondent(s) for interview.

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10. Prepare for the Interview.
11. Interview Respondent(s).
 - a) Prepare summary of interview.
12. Contact potential witness(s) to arrange interviews.
13. Prepare for the Interview(s).
14. Interview Potential witnesses.
 - a) Prepare summary of interview(s).
15. Carefully consider the need to re-interview the Complainant, Respondent, and/or Witnesses to clear up any ambiguities or to discuss any new evidence upon which a decision is being made.
 - a) Prepare summary of re-interview(s).
16. To the extent possible, ensure that both Complainant and other relevant parties are kept updated on the status as necessary throughout the investigation.
17. Meet with the Case Manager and/or other University Authorities to discuss facts of the case.
18. Findings or Decisions are rendered based on the facts of the investigations and completed Investigative Report.
19. The Findings and Recommendations must be reviewed.
20. Work with the University Case Manager to submit investigation report into hotline.
21. At the conclusion of the investigation the investigator will issue a report which will be reviewed by the appropriate officials to determine final appropriate course of action. The case will be closed through the Global Compliance site, and the status will be communicated to the Complainant.
22. The University will implement corrective action, as appropriate.

XI. General Requirements

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1. All individuals involved in an investigation or complaint will not retaliate against any individual or group that reported the allegations.
2. All individuals involved in an investigation or complaint will comply with all Whistleblower protection requirements.
3. All individuals involved in an investigation or complaint will exercise reasonable care to maintain the integrity and confidentiality of information.
4. All individuals involved in an investigation or complaint will investigate matters fairly and objectively.

XII. Tracking and Analyzing Reports

Bi-annually the University Triage Committee will meet to analyze and identify trends or problem areas.

Approved: Cabinet

Effective: November 1, 2014 (presented 10/28/14)