



OLD DOMINION UNIVERSITY

University Policy

Policy #3020

WHISTLEBLOWER RETALIATION POLICY

Responsible Oversight Executive: Vice President for Human Resources

Date of Current Revision or Creation: August 9, 2018

A. PURPOSE

The purpose of the policy is to encourage and protect individuals who in good faith report incidents that are illegal, fraudulent, abusive or contrary to applicable law and/or University policy, or simply not in the best interests of the University by preventing the threat and acts of retaliation against the reporting individual (whistleblower) in a protected disclosure.

B. AUTHORITY

[Code of Virginia Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 6.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Code of Virginia Title 2.2, Chapter 30.1, as amended, Fraud and Whistle Blower Protection Act](#)

[Code of Virginia Section 2.2-310, as amended, Cooperation of state agencies and officers](#)

C. DEFINITIONS

Adverse Employment Action – Includes, but is not limited to, failure to promote; adverse impact on compensation, termination, discharge, suspension, or demotion; other change in responsibilities, whether formal or informal; or other negative consequences.

Employee – All persons who were paid wages by Old Dominion University in any capacity at the time of the alleged improper activity.

Good Faith – Acting without malice and which the person making the report has reasonable cause to believe is true.

Protected Disclosure – Communication made without malice about actual or suspected wrongful conduct engaged in by a University employee, student, volunteer, agent, or contractor (who is not also the disclosing individual) based on a good faith and reasonable belief that the conduct has both occurred and is illegal, fraudulent, abusive, or otherwise wrongful under applicable law and/or University policy.

Retaliation – Any adverse action or credible threat of an adverse action taken by the University, or member thereof, in response to a whistleblower’s protected disclosure of University-related misconduct.

Student – Any person enrolled at the University at the time of the alleged improper activity.

Whistleblower – Any person who, in good faith, makes a protected disclosure to one or more of the parties specified in this policy or to a regulatory or licensing agency.

D. SCOPE

This policy applies to all employees, students, volunteers, employees of affiliated organizations who are paid through the University, visitors, agents, and contractors. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Students include all persons admitted to the University who have not completed a program of study for which they were enrolled; student status continues whether or not the University’s programs are in session. Affiliated organizations are separate entities that exist for the benefit of the University through an operating agreement and include the Foundations, the Community Development Corporation, and the Alumni Association. Visitors include vendors and their employees, parents of students, volunteers, guests, uninvited guests and all other persons located on property owned, leased, or otherwise controlled by the University. Agents include persons authorized to represent, act on behalf of, and/or bind the University. Contractors include any persons who have entered a contractual relationship with the University for any person.

E. POLICY STATEMENT

The University prohibits any form of retaliation, intimidation, harassment, or adverse employment action against any member of the University community who makes a protected disclosure (commonly called a “whistleblower”).

The types of retaliation that are prohibited include, but are not limited to: (1) intimidation, (2) adverse actions with respect to the whistleblower’s grades, tuition assistance, work assignments, salary, vacation, and other terms of employment; (3) unlawful discrimination; (4) termination of employment; (5) adverse actions against a relative of the whistleblower who is a University employee or student; and (6) threats of any of the above.

The University encourages individuals who are aware of or have reason to suspect wrongful conduct to report the conduct immediately.

F. PROCEDURES

1. Filing of Complaints of Retaliation

- a. All classified employees of the University have the following options for reporting instances of retaliation:
 - i. Use their reporting line. However, under no circumstances shall the individual alleging retaliation be required to file a complaint with the alleged offending party.
 - ii. Contact the Department of Human Resources’ Employee Relations Manager.

- iii. File a grievance in accordance with [University Policy 6602, Classified Employee Grievance Procedure](#).
 - iv. File a complaint with the Office of Institutional Equity and Diversity.
 - v. A classified employee may also ask the Virginia Department of Employment Dispute Resolution (EDR) to investigate allegations of retaliation as a result of the use of reporting, in good faith, an allegation of fraud, waste or abuse to the State Employee Fraud, Waste and Abuse Hotline.
- b. All complaints of retaliation in response to allegations of research misconduct shall be reported to the University's Research Integrity Officer.
 - c. Complaints made by any other party should be filed with the Office of Institutional Equity and Diversity.
 - d. Claims must be filed within 30 days of the alleged retaliation. In instances where more than one act of retaliation is claimed, only instances where the retaliatory act has taken place within 30 days of the filing of the complaint may be considered.
- i. The following information must be included in a written complaint:
 - (a) Name of any individual(s) who may be involved in the alleged retaliation;
 - (b) Description of the alleged retaliation;
 - (c) Times, dates, places, departments, and names of people relevant to the alleged retaliation;
 - (d) Any evidence relevant to the alleged retaliation; and
 - (e) Any other information that might be relevant to someone trying to address the alleged retaliation.
 - ii. The Office of Institutional Equity and Diversity shall investigate all complaints of retaliation within 30 days of receipt and issue the findings and recommended course of action to the appropriate party with a copy provided to the complainant. If an investigation of a complaint exceeds 30 days from the date of receipt, the Office of Institutional Equity and Diversity shall notify the parties in writing of the progressive status of the investigation and the proposed extension of time needed for completion of the investigation.
 - (a) In all cases that involve complaints against teaching and research faculty, the findings and recommendations shall be reported to the Provost and Vice President for Academic Affairs.
 - (b) In all other cases, the findings and recommendations shall be reported to the Vice President for Human Resources.
 - iii. The Office of Institutional Equity and Diversity shall monitor implementation of the recommended course of action.
 - iv. A person found in violation of this policy may appeal to the President or the President's designee within 30 days of the finding of retaliation.

- (a) A finding that no retaliation occurred may not be appealed.
- (b) The right to and method of appeal shall be included in the documentation of findings.

2. Required Cooperation

To the greatest extent allowed by law, policy, and contract, all individuals are required to cooperate and provide requested information to University personnel authorized under this policy or procedures enacted to implement this policy, and/or to investigate and determine the merits of reports of violation and/or complaints of retaliation. Any individual in violation of this policy is subject to action deemed appropriate by the University, which may include discipline up to and including termination from the University.

3. Protection Against Retaliation

No one may intimidate, harass, discriminate or in any way retaliate against a person who makes a protected disclosure. Any person, however, who knowingly files a false report will be subject to the appropriate disciplinary process.

4. Confidentiality

The University takes seriously its responsibility to enforce this policy, and therefore encourages any person reporting a concern to identify him or herself so as to facilitate any resulting investigation. Notwithstanding the foregoing, in reporting a concern, University representatives can request that their report be treated in a confidential manner (including that the University takes reasonable steps to ensure that the identity of the reporting person remains anonymous). Concerns may also be reported on an anonymous basis through the [Discrimination Complaint Form](#).

G. RECORDS RETENTION

Applicable records must be retained and then destroyed in accordance with the [Commonwealth's Records Retention Schedules](#).

H. RESPONSIBLE OFFICER

Assistant Vice President for Institutional Equity and Diversity

I. RELATED INFORMATION

[United States Office of Research Integrity – Guidelines for Institutions and Whistleblowers](#)
[PHS \[Public Health Services\] Policies on Research Misconduct \(42 C.F.R. 93\)](#)
[Board of Visitors Policy 1426 – Policy, Procedures and Timeline for Responding to Allegations of Misconduct in Scientific Research and Scholarly Activity](#)
[Board of Visitors Policy 1530 – Student Disciplinary Policies and Procedures](#)
[University Policy 1002 – Code of Ethics](#)
[University Policy 3003 – Detection, Investigation and Reporting on Fraud and Misuse of University Property/Funds](#)

Where to go with issues or concerns:

- [Old Dominion University Department of Human Resources](#)
- [Office of Institutional Equity and Diversity](#)
- [Office of the University Auditor](#)
- [The State Employee Fraud, Waste, and Abuse Hotline, 1-800-723-1615](#)
- [The Virginia Office of Employment Dispute Resolution \(EDR\)](#)

