

**SOUTHEASTERN UNIVERSITY  
POLICY ON REPORTING AND INVESTIGATING ALLEGATIONS OF  
SUSPECTED IMPROPER ACTIVITIES  
(WHISTLEBLOWER POLICY)**

**I. Introduction**

Southeastern University has a responsibility for the stewardship of University resources and the public and private support that enables it to pursue its mission. The University is committed to compliance with the laws and regulations to which it is subject and to promulgating University policies and procedures to interpret and apply these laws and regulations in the University setting. Laws, regulations, policies and procedures strengthen and promote ethical practices and ethical treatment of the members of the University community and those who conduct business with the University.

The University's internal controls and operating procedures are intended to detect and to prevent or deter improper activities. However, even the best systems of control cannot provide absolute safeguards against irregularities. Intentional and unintentional violations of laws, regulations, policies and procedures may occur and may constitute improper activities as defined below (see "Definitions"). The University has a responsibility to investigate and report to appropriate parties allegations of suspected improper activities and the actions taken by the University. This policy governs reporting and investigation of allegations of suspected improper activities, and together with the *Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints*, represents the University's whistleblower policies.

Employees and others are encouraged to use guidance provided by this policy for reporting all allegations of suspected improper activities. While the scope of this policy is intended to be limited to the statutory definition of improper activities, serious or substantial violations of University policy may constitute improper activities determined upon review or investigation.

Individual employee grievances and complaints regarding terms and conditions of employment will continue to be reviewed under the applicable academic and staff personnel policies. Any allegations of improper activities that may result in subsequent actions bringing disciplinary charges against an academic or staff member shall be coordinated with the applicable academic or staff personnel conduct and disciplinary policies. In all instances, the University retains the prerogative to determine when circumstances warrant an investigation and, in conformity with this policy and applicable laws and regulations, the appropriate investigative process to be employed.

## **II. Definitions**

### **A. *University Resources***

For purposes of this policy, the term *University resources* is defined to include, but not be limited to the following, whether owned by or under the management of the University:

- Cash and other assets, whether tangible or intangible; real or personal property;
- Receivables and other rights or claims against third parties;
- Intellectual property rights;
- Effort of University personnel and of any non-University entity billing the University for its effort;
- Facilities and the rights to use of University facilities;
- The University's name; and
- University records, including student files.

### **B. *Improper Activities***

Any activity by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any University policy, or state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of University property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of University property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency.

### **C. *Protected Disclosure***

Any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper activity, or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

### **D. *Illegal Order***

Any directive to violate or assist in violating an applicable federal, state, or local law, rule or regulation or any order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

**E. *Whistleblower***

A person or entity making a protected disclosure is commonly referred to as a whistleblower. Whistleblowers may be University employees (academic or staff), applicants for employment, students, parents, vendors, contractors or the general public. The whistleblower's role is as a reporting party. They are not investigators or finders of fact, nor do they determine the appropriate corrective or remedial action that may be warranted.

**F. *Independent Auditor***

The person designated as the official with primary responsibility to receive reports of allegations of suspected improper activities.

**III. Reporting Allegations of Suspected Improper Activities**

**A. Filing a Report**

1. Any person or entity may report allegations of suspected improper activities. Knowledge or suspicion of improper activities may originate from academic personnel, staff or administrators carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, and customers, parents, vendors, students or other third parties. Allegations of suspected improper activities may also be reported anonymously.
2. Reports of allegations of suspected improper activities are encouraged to be made in writing so as to assure a clear understanding of the issues raised, but may be made orally. Such reports should be factual rather than speculative or conclusory, and contain as much specific information as possible to allow for proper assessment of the nature, extent and urgency of preliminary investigative procedures.
3. The University recommends that any reports by persons who are not University employees be made to the Independent Auditor. Such reports may also be made to another University official whom the reporting person may reasonably expect to have either responsibility over the affected area or the authority to review the alleged improper activity on behalf of the University.
4. Normally, a report by a University employee of allegations of a suspected improper activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit (such as the unit head), or to the Independent Auditor. However, in the interest of confidentiality, when there is a potential conflict of interest or for other reasons, such reports may be made to another University official whom the reporting employee may reasonably expect to have either responsibility over the

affected area or the authority to review the alleged improper activity on behalf of the University. When the alleged improper activities involve the President, a Vice President, the Independent Auditor, or the Independent Auditor's supervisor, such reports should be made to the Chairman of the Finance and Audit Committee.

5. When a person reports allegations of suspected improper activities to an appropriate authority the report is known as a *protected disclosure*. The rights of University employees and applicants for employment when making a protected disclosure are covered by the *Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints*.
6. All University employees, and especially any academic or staff employee in a supervisory role, should be aware of and alert to either oral or written, formal or informal communications that may constitute a report of allegations of suspected improper activity.
7. The University is prohibited from disclosing the identity of a whistleblower unless he or she obtains the whistleblower's permission to do so, or when the disclosure is to a law enforcement agency that is conducting a criminal investigation.

## **B. Reporting to the Independent Auditor**

1. Managers, administrators and employees in supervisory roles who receive a report alleging suspected improper activities shall ensure that the matter is promptly reported to their supervisor, an appropriate University manager and/or the Independent Auditor. Such employees are charged with exercising appropriate judgement in determining which matters can be reviewed under their authority and which matters must be referred to a higher level of management or the Independent Auditor. Consulting with supervisors, the Independent Auditor or other appropriate University management is encouraged and the exercise of judgement should err on the side of upward reporting. Oral reports should normally be documented by the supervisor by a written transcription of the oral report, and internal communications regarding allegations of improper activities should normally be in writing.
2. Managers, administrators and employees in supervisory roles shall report to the Independent Auditor any allegations of suspected improper activities—whether received as a protected disclosure, reported by their subordinates in the ordinary course of performing their duties, or discovered in the course of performing their own duties—when any of the following conditions are met:
  - The matter is the result of a significant internal control or policy deficiency that is likely to exist at other units within the institution or across the University system;

- The matter is likely to receive media or other public attention;
- The matter involves the misuse of University resources or creates exposure to a liability in potentially significant amounts;
- The matter involves allegations or events that have a significant possibility of being the result of a criminal act (e.g., disappearance of cash);
- The matter involves a significant threat to the health and safety of employees and/or the public; or
- The matter is judged to be significant or sensitive for other reasons.

**C. Reporting to the Office of the President and Others**

1. The Independent Auditor shall have principal responsibility for meeting the reporting requirements to the Office of the President and senior management. The Independent Auditor shall make a written report to the President, with a copy to the Chairman of the Finance and Audit Committee of any reported allegations of suspected improper activities when any of the following conditions are met:
  - The matter is the result of a significant internal control or policy deficiency that is likely to exist at other units within the institution or across the University system;
  - The matter is likely to receive media or other public attention;
  - The matter involves the misuse of University resources or creates exposure to a liability of at least \$25,000;
  - The matter involves a significant threat to the health and safety of employees and/or the public; or
  - The matter is judged to be significant or sensitive for other reasons;
  - The matter alleges an improper activity by any vice president.
2. A copy of communications sent to the President shall be sent to the respective police department if on the basis of the allegations it appears that a crime may have been committed. The police shall be consulted to determine the appropriate action with regard to these investigations.
3. In some instances, even an allegation of improper activity may be reportable to a funding entity or regulatory agency. More typically, at least preliminary

investigation results are needed to assess reporting obligations to parties outside the University. The Independent Auditor, in consultation with the leadership of the affected area, will determine the nature and timing of such communications. The President shall be notified of any matter being reported to external agencies (other than matters routinely reported to the Department of Education pursuant to any contracts).

4. Allegations of suspected losses of money, securities or other property shall be reported to the Independent Auditor as soon as discovered. The Office of the President shall be notified of such matters when they meet the criteria for reporting to the Vice President for Finance and Administration by copy of such notification.
5. In the event that any person with a reporting obligation under this policy believes that there is a conflict of interest on the part of the person to whom the allegations of suspected improper activities are to be reported, the next higher level of authority shall receive the report.
6. Whistleblowers frequently make their reports in confidence. To the extent possible within the limitations of law and policy and the need to conduct a competent investigation, confidentiality of whistleblowers will be maintained. Whistleblowers should be cautioned that their identity may become known for reasons outside of the control of the investigators or University administrators. Similarly, the identity of the subject(s) of the investigation will be maintained in confidence with the same limitations.

#### **IV. Investigating Alleged Improper Activities**

- A.** A number of functional units within the University have responsibility for routinely conducting investigations of certain types of allegations of improper activities, and have dedicated resources and expertise for such purposes. These include Independent Audit, Safety & Security Office, and Human Resources. In addition, other University parties may become involved in investigations of matters based on their areas of oversight responsibility or topical expertise.
- B.** The Independent Auditor shall receive reports of all allegations of known or suspected improper activities and will determine a course of action, including determining that an adequate basis exists for commencing an investigation.
- C.** The Independent Auditor will chair investigations that may include representatives from each functional unit that has routine responsibility for certain types of investigations. In addition, specialized expertise may be required on an ad hoc basis for investigation of certain matters.
- D.** The Independent Auditor's responsibilities shall include:

1. Assuring that the proper investigative channels are utilized according to appropriate expertise and jurisdiction and that the plan to address the reported improper activities is appropriate to the circumstances (the “triage” process);
2. Assuring that all appropriate administrative and senior officials are apprised of the allegations as necessary;
3. Assuring that appropriate reporting occurs to the Office of the President, funding and regulatory agencies, whistleblowers and others as necessary or provided by this policy;
4. Ensuring that appropriate resources and expertise are brought to bear to cause the timely and thorough review of reports of allegations of suspected improper activities;
5. Ensuring that there are no conflicts of interest on the part of any party involved in specific investigations;
6. Coordinating and facilitating communications across investigative channels as necessary to ensure comprehensive attention to all facets of the matter;
7. Monitoring significant elements and progress of investigations to ensure that allegations are timely and thoroughly addressed; and
8. Coordinating and facilitating in an advisory capacity the corrective and remedial action that may be initiated in accordance with applicable faculty or staff conduct and disciplinary procedures.

**E.** Each functional unit with investigative authority shall carry out investigative activities in accordance with appropriate laws and established procedures within its discipline, and regulatory policies and guidelines.

**F.** The purpose and authority of the Independent Auditors shall not be construed as to limit or halt investigations undertaken with proper authority granted by law or policy to any University investigative authority. Nor is the Independent Auditor empowered to initiate investigations without an adequate basis. Rather, the Independent Auditor’s purpose is to provide oversight and coordination for investigative activities and to facilitate communications among appropriate parties.

**G.** All employees of the University have a duty to cooperate with investigations initiated under this policy.

**H.** Consistent with applicable personnel policies, an employee may be placed on an administrative leave or an investigatory leave, as appropriate, when it is determined by the University that such a leave would serve the best interests of the employee, the University or both. Such a leave is not to be interpreted as an accusation or a conclusion of guilt or innocence of any individual including the person on leave. The Human Resources Office shall be consulted regarding any plan to place an employee on such a leave.

**V. Responsibilities**

**A. Office of the President**

1. The President shall have overall responsibility for implementation of this policy.
2. The President, based on advice and consultation with the Vice President for Finance and Administration, and the Independent Auditor will communicate with the Finance and Audit Committee regarding alleged improper activities and investigative results on matters of significance.

**B. Investigative Responsibilities**

1. The Independent Auditor is responsible for investigations involving allegations of known or suspected misuse of University resources, including fraud, financial irregularities and the financial consequences of other matters under investigation. If criminal activity is detected, consultation with the Safety & Security office will determine if they should take the lead, participate, or initiate a separate investigation.
2. The Southeastern University Safety & Security office is responsible for investigations of known or suspected criminal acts within their jurisdiction. In cases involving principally criminal concerns, Safety & Security should be the lead investigators and others with an investigative interest should work in support of their investigation.
3. Procedures for investigations of personnel matters, scientific misconduct, regulatory non-compliance, student misconduct and other matters are established by Human Resources. Such procedures shall be consistent with this policy and applicable laws and regulations.
4. In cases involving overlapping interests among investigative bodies, assistance and cooperation will be provided between the investigators based on the relative expertise of the investigative bodies.

## **VI. Roles, Rights and Responsibilities of Whistleblowers, Investigation Participants, Subjects and Investigators**

### **A. Whistleblowers**

1. Whistleblowers provide initial information related to a reasonable belief that an improper activity has occurred. The motivation of a whistleblower is irrelevant to the consideration of the validity of the allegations. However, the intentional filing of a false report, whether orally or in writing, is itself considered an improper activity which the University has the right to act upon.
2. Whistleblowers shall refrain from obtaining evidence for which they do not have a right of access. Such improper access may itself be considered an improper activity.
3. Whistleblowers have a responsibility to be candid with the Independent Auditor, investigators or others to whom they make a report of alleged improper activities and shall set forth all known information regarding any reported allegations. Persons making a report of alleged improper activities should be prepared to be interviewed by University investigators.
4. Anonymous whistleblowers must provide sufficient corroborating evidence to justify the commencement of an investigation. An investigation of unspecified wrongdoing or broad allegations will not be undertaken without verifiable evidentiary support. Because investigators are unable to interview anonymous whistleblowers, it may be more difficult to evaluate the credibility of the allegations and, therefore, less likely to cause an investigation to be initiated.
5. Whistleblowers are “reporting parties,” not investigators. They are not to act on their own in conducting any investigative activities, nor do they have a right to participate in any investigative activities other than as requested by investigators.
6. Protection of a whistleblower’s identity will be maintained to the extent possible within the legitimate needs of law and the investigation. Should the whistleblower self-disclose his or her identity, the University will no longer be obligated to maintain such confidence.
7. A whistleblower’s right to protection from retaliation does not extend immunity for any complicity in the matters that are the subject of the allegations or an ensuing investigation.
8. Whistleblowers have a right to be informed of the disposition of their disclosure absent overriding legal or public interest reasons.

## **B. Investigation Participants**

1. University employees who are interviewed, asked to provide information or otherwise participate in an investigation have a duty to fully cooperate with University-authorized investigators.
2. Participants should refrain from discussing or disclosing the investigation or their testimony with anyone not connected to the investigation. In no case should the participant discuss with the investigation subject the nature of evidence requested or provided or testimony given to investigators unless agreed to by the investigator.
3. Requests for confidentiality by participants will be honored to the extent possible within the legitimate needs of law and the investigation.
4. Participants are entitled to protection from retaliation for having participated in an investigation.

## **C. Investigation Subjects**

1. A subject is a person who is the focus of investigative fact finding either by virtue of an allegation made or evidence gathered during the course of an investigation. The decision to conduct an investigation is not an accusation; it is to be treated as a neutral fact finding process. The outcome of the investigation may or may not support a conclusion that an improper act was committed and, if so, by whom.
2. The identity of a subject should be maintained in confidence to the extent possible given the legitimate needs of law and the investigation.
3. Subjects should normally be informed of the allegations at the outset of a formal investigation and have opportunities for input during the investigation.
4. Subjects have a duty to cooperate with investigators to the extent that their cooperation will not compromise self-incrimination protections under state or federal law.
5. Subjects have a right to consult with a person or persons of their choice. This may involve representation, including legal representation.
6. Subjects may consult with the Office of Legal Counsel concerning the investigation. The Office of Legal Counsel will provide legal advice to the subject regarding issues in the investigation, unless the Office of Legal Counsel determines that a divergence of interest prevents it from doing so, it being understood that at all times the Office of Legal Counsel represents the interests of the University. If legal services are provided by the Office of Legal Counsel to the subject, the attorney-client privilege may not be invoked by the subject to

prevent disclosure to the University of information obtained by the attorney providing the services, and the subject will be advised whenever it appears that a divergence of interest may require the attorney to withdraw from providing such legal services to the subject.

Subjects are free at any time to retain their own counsel to represent them with regard to the investigation and may request that the University pay or reimburse the attorney's fees. Such requests shall be considered consistent with statutory law, case law and University practice, but this policy creates no entitlement to such payments or reimbursements.

7. Subjects have a responsibility not to interfere with the investigation and to adhere to admonitions from investigators in this regard. Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached or intimidated.
8. Unless there are compelling reasons to the contrary, subjects should be given the opportunity to respond to material points of evidence contained in an investigation report.
9. No allegation of wrongdoing against a subject shall be considered sustained unless, at a minimum, a preponderance of the evidence supports the allegation.
10. Subjects have a right to be informed of the outcome of the investigation. If allegations are not sustained, the subject should be consulted as to whether public disclosure of the investigation results would be in the best interest of the University and the subject.
11. Any disciplinary or corrective action initiated against the subject as a result of an investigation pursuant to this policy shall adhere to the applicable academic personnel or staff conduct and disciplinary procedures.

#### **D. Investigators**

1. Investigators are those persons authorized by the University to conduct fact finding and analysis related to cases of alleged improper activities.
2. Investigators derive their authority and access rights from University policy or Regental authority when acting within the course and scope of their responsibilities.
3. The University, investigation participants and subjects should be assured that investigators have competency in the area under investigation. Technical and other resources may be drawn upon as necessary to augment the investigation.

4. All investigators shall be independent and unbiased both in fact and appearance.
5. Investigators have a duty of fairness, objectivity, thoroughness, ethical behavior, and observance of legal and professional standards.
6. Investigations should be launched only after preliminary consideration that establishes that:
  - The allegation, if true, constitutes an improper activity<sup>1</sup>, and either:
  - The allegation is accompanied by information specific enough to be investigated, or
  - The allegation has or directly points to corroborating evidence that can be pursued. Such evidence may be testimonial or documentary.

## **VII. Additional Required Communications**

- A.** If an investigation leads University officials to conclude that a crime has probably been committed, the results of the investigation shall be reported to the District Attorney or other appropriate law enforcement agency. The Safety & Security Office should be the conduit for communications with law enforcement agencies unless the Independent Auditor in a particular situation determines a different communications strategy.
- B.** If an investigation leads University officials to conclude that a faculty member has engaged in conduct that may be a violation of the Faculty Code of Conduct, the results of the investigation shall be reported to appropriate academic personnel governing bodies in accordance with the applicable procedures for faculty conduct and the administration of discipline. Any charges of faculty misconduct brought as a result of an investigation under this policy shall comply with established faculty conduct procedures.
- C.** Consultation with the Office of Legal Counsel is required before negotiating or entering into any restitution agreement resulting from the findings of an investigation.

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<sup>1</sup> Matters that do not meet this standard may be worthy of management review, but should not be undertaken as an investigation of an improper activity.