

## **University of Minnesota, Crookston**

### **Guidelines related to handling allegations and investigations of misconduct**

The University of Minnesota, Crookston (UMC) is committed to conducting its activities in accordance with University of Minnesota policies. Investigations handled by UMC will adhere to the University's Reporting and Addressing Concerns of Misconduct policy as well as other relevant University and UMC policies and procedures. These guidelines are intended to describe general operating practices for handling reports that raise concerns of legal or policy violations. In some situations the specific facts and circumstances surrounding an allegation may warrant additional or different procedures.

- 1. Intake:** Allegations may be reported using EthicsPoint<sup>®</sup>, the university's report service, telephone, e-mail, or in-person. An allegation will be entered into the reporting system as soon as reasonably practical after it has been determined to be a valid allegation. If subsequent inquiry shows it is not a legal or policy concern, the report will be closed in the system and noted as such.

**Reports received by EthicsPoint<sup>®</sup> reporting service** – The reporting service will forward electronic notification and access to the report to the appropriate department at UMC. The receiving department's director or designee will normally review the report within three work days and make an initial evaluation to determine how the report will be handled. The receiving department will create an internal file to collect information and track the report.

**Reports received by telephone, mail, or e-mail** – The director of the department or designee who receives the report will take notes, inform the reporter of investigation process, enter the report and relevant information in EthicsPoint<sup>®</sup>, notify the reporter that the complaint has been entered into EthicsPoint<sup>®</sup>, and create a file for any paper materials received.

**Reports received by in-person reporting** - Where possible, individuals seeking to report a violation in person will meet with the employee's supervisor, department director, vice chancellor or UMC's Director of Human Resources or designee. The substance of the allegation will be documented, and copies of all documents provided will be preserved.

- 2. Initial evaluation and assignment** – The department director or designee receiving the report will conduct an initial evaluation of the report to determine whether a potential violation occurred, determine what University agent or agency is responsible for complaint investigation, determine the appropriate process for complaint investigation and resolution (Inquiry, Investigation or neither), and change the status of the complaint in EthicsPoint<sup>®</sup> from "not reviewed" to "in progress".

Complaint allegations determined to lack sufficient information to investigate, are clearly not a law or policy violation, or for other legitimate reasons need not be investigated further. The case will be closed in EthicsPoint<sup>®</sup>, the reporter will be notified, and relevant others will be notified if necessary.

Complaint allegations determined to have cause for inquiry and which fall within the scope of the department authority will be reviewed. EthicsPoint<sup>®</sup> will be updated, the reporter will be notified, and relevant others will be notified if necessary.

Complaint allegations determined to have cause for investigation and which fall within the scope of the department receiving the report will be investigated. The director of the department receiving the report may either investigate the allegation or assign the case to another appropriate campus staff person for further action based upon skills, availability, and workload. The investigation will undertake all communications necessary to update the reporter and all concerned parties.

Complaint allegations determined to have cause for inquiry and or investigation, but which do not fall within the scope of the department receiving the report will be referred to the appropriate office, or reclassified. In cases in which a serious allegation of misconduct is made, UMC's Chancellor will be notified of the unit against which the allegation was made.

If the investigator is aware of multiple incidents arising out of a common set of facts or circumstances, each incident does not need to be entered separately. It is appropriate to input a single report describing the issues as appropriate, and update that report during the course of the investigation or as new issues relating to it arise, if necessary.

- 3. Process** - The reporting party will be told in general terms what steps will be taken to review and resolve the allegation. This may include who will be told about the allegation, what future communications to expect, who to contact for further information, and the reporting party's preferred method for communication. Reporting parties may also be told that some information about the investigation may not be shared with them. For example, investigations may involve private data of other employees or other legal restrictions, and disclosing such information is prohibited by Minnesota law.

**Investigation** – If a report requires a significant investigation, the investigation will be sensitive to the following factors when developing an investigation plan.

Ensure fair treatment of all involved parties - The investigator will determine what actions need to be taken to respond to concerns of retaliation during and following the investigation and to protect the rights of persons accused of misconduct.

Develop an investigation strategy - The investigator will determine the scope of the investigation, responsibilities of parties involved in the investigation, identify interviews to be conducted, determine the records to be reviewed, and what other offices will be involved.

Develop approximate timeframes – The investigator will establish a schedule and deadlines for the investigation and reporting, if any.

Identify potential reporting obligations – The investigator will examine whether any notification or report should be made to any outside entity (*e.g.*, federal granting agencies, NCAA), when such notification and report should be made, and how this responsibility will be fulfilled.

Develop a communication strategy – The investigator will determine when/how parties affected by the allegation and investigation will be informed. Considerations include: notification to any individual against whom allegations are made about the nature of the allegation and the individual's rights and responsibilities during the investigation; notification and content of information that may be communicated to the reporting party, if any; notification and updates to the leadership of the affected college or unit to keep them informed of the status of the investigation; if appropriate, notification and updates to University officers. Correspondence and discussions with counsel or other legal entities may be considered confidential and privileged communications.

**Notification to interviewees:** Before an interview, the investigator will provide the subject with an overview of the reason, purpose, and goal of the interview. The subject being interviewed will be informed as to what information will be collected and how the information may be used. Where the interview involves accusations against another employee, explain generally the rules about keeping information about other employees private and confidential if shared. The interview will explain expectations placed on the subject. For example, explain that the employee has a duty to be truthful, cooperative, and candid in an interview and may be subject to discipline if these rules are violated. In some, but not all, cases, students have similar obligations (for example student conduct code, student athletes & NCAA rules, etc.).

If the investigator uncovers reasonable credible evidence a potential criminal violation; immediate health hazard or imminent risk of danger to public health or safety; the need to take immediate action to protect the funds or equipment of the University; the need to protect any reporter, respondent, witness or other party involved in the inquiry or investigation process; the need to prevent the loss, destruction, or alteration of any evidence relevant to the University's review of an Allegation of Misconduct under this process; the need to prevent or stop an imminent or continuing violation of an applicable law, regulation, or other governmental requirement or of a University rule or policy; or to prevent the probable or imminent public disclosure of an Allegation of Misconduct or of any related information the investigator will notify the Office of the General Counsel, University of Human Resources, UMC's Chancellor and local law enforcement agency. If such action is taken, it shall not be deemed to predetermine any finding or conclusion from the University's review of an allegation of misconduct under these procedures. Any evidence or information arising from any such action may be made part of the record.

**Corrective action** - The investigator will document the findings of the investigation and if warranted establish corrective action to be followed. This may include documentation to leadership of the affected parties or unit, additional monitoring, training, etc. The corrective action will be documented and maintained, either within the resolution notes in the reporting system or elsewhere in your administrative files. Findings of legal or policy violations that are required to be reported to an outside body will be reported as required in a timely manner. The investigator will consult with the Office of General Counsel prior to making such reports, unless otherwise specified in University policy.

**Documentation** - The investigator will ensure appropriate records, documentation, and supporting materials relating to the nature of the allegation and investigation, findings, and corrective actions taken will be maintained. Documentation will be maintained to reflect key events during the investigation of a reported concern. This may include: written interview summaries or transcripts with the date, time and identification of the interviewee; documentation relating to the allegation (files, e-mails, letters, photos, memoranda, etc.); notes; telephone messages that may be transcribed, notes from conversations with the various parties, etc. Where allegations are made in person or over the phone, documentation of the substance of the allegation will be prepared and maintained, including any relevant information about the reporting party if known. Files and documents will be retained according to University guidelines (See [http://www.fpd.finop.umn.edu/groups/ppd/documents/policy/record\\_retention.cfm](http://www.fpd.finop.umn.edu/groups/ppd/documents/policy/record_retention.cfm))

**Protection from retaliation** - Where the reporting party is an employee or student, the reporting party will be informed that retaliation against complainants and witnesses is prohibited. Reported parties will be informed of resources that may be available if they are concerned about retaliation, including a point of contact. Where practical, the director or other person communicating with the reporting party will offer to facilitate communication with the University of Minnesota's Office of Human Resources, or other support office, to ensure the reporting party is provided with support adequate to handle retaliation concerns and secure appropriate protections.

**Confidentiality.** Where the reporting party requests his or her name be kept confidential, the reporting party will be provided information regarding confidential reporting. This may include reference to the University's Policy "Reporting and Addressing Concerns of Misconduct" as well as information about how to access the University's confidential/anonymous reporting service. In addition, the reporting party should be reminded that there are circumstances where the University may be required to disclose the reporter's identity. For example, where disclosure is required to protect the due process rights of those implicated by the allegation if there is an investigation or further adverse action, or where disclosure is required to an outside governmental authority.

- 4. Case closing** - The investigator is responsible for insuring the report is closed within the reporting service system promptly after the matter has been resolved or when further action is otherwise not required. Allegations that are trivial, may be swiftly resolved without further consequences, or are otherwise in the judgment of the investigator not significant do not need to be entered into the Reporting System. Reports may be closed for any of the following reasons:
- Frivolous: The report, on face, shows the allegation to be unfounded.
  - Not Legal/Policy Violation: The report did not allege a policy violation. Investigator may advise or redirect reporter to another resource, if applicable.
  - Insufficient Information: The report lacked adequate information to reasonably allow for or warrant an investigation.
  - Moot/Untimely/Abandoned: The circumstances surrounding the reports did not allow for further action. This may occur, for example, where the reporting party's participation was required to pursue the matter and he or she did not seek to pursue the issue; where too much time had elapsed to effectively investigate the matter or it had passed timelines established in applicable policy or law; where parties responsible have left the University and the University had no further obligation; or where the particular facts otherwise did not justify further inquiry and resolution.
  - Outside University Responsibility: The Report did not fall within the University's responsibility. In such cases, the investigator may consider whether another entity should be notified, and whether to advise the reporting party to raise the issue with that body.
  - Not Substantiated after Inquiry: The investigation was unable to substantiate the allegations in the report.
  - Substantiated and Resolved: The investigation demonstrated part or all of the allegations were substantiated, and that the work associated with that report has been concluded. This may be because the matter was fully concluded; the matter was referred to another office to implement whatever remedy or corrective action was established, or other reasons.

When closing a report the investigator will generally include a brief comment summarizing the disposition and resolution of matter in the appropriate box within the reporting system's report management feature.

- 5. Resources** – The investigator may consult and share information with UMC's Office of Human Resources and other offices that have specialized expertise or an appropriate role or responsibility. This may include the Department of Audits, Office of the General Counsel, University Office of Human Resources, Equal Opportunity, or other offices required to handle allegations in a manner consistent with University practice. This may also include consultation or referral to other resources that may assist the reporting party in resolving the allegation, such as the Dispute Resolution Office and other formal and informal dispute resolution procedures.
- 6. Communication** – It is the responsibility of the UMC's Office of Human Resources to post a copy of guidelines related to handling allegations and investigations of misconduct on the UMC's Human Resources web site. This policy and related procedures will be reviewed on a regular basis. Departments and individuals who have experienced difficulties with the reporting process or who have suggestions regarding improving the process are encouraged to contact UMC's Director of Human Resources at (218) 281-8345.