

POLICY STATEMENT #129

REPORTING AND INVESTIGATION OF SUSPECTED IMPROPER ACTIVITIES AND WHISTLEBLOWER PROTECTION

I. Purpose

The University is obligated to investigate actions undertaken by employees in the performance of their official duties that may be unlawful, improper, or dangerous to the well-being of students, faculty and staff, and to protect those who disclose such actions. This Policy establishes a mechanism for (A) reporting suspected Improper Activities (as such term defined In Section IV below), (B) initiating investigations of suspected Improper Activities, and (C) protecting members of the University community who report suspected Improper Activities from retaliation.

II. Policy

Members of the University community who have reason to suspect the occurrence of Improper Activities should report those Improper Activities to the appropriate authority following the procedures described in Section V below. Retaliation against anyone reporting Improper Activities in good faith is prohibited.

III. Introduction

The University of North Carolina at Charlotte is responsible for the stewardship of University resources and the public and private support that enables it to pursue its mission. The University is fully committed to compliance with all applicable laws and regulations and to promulgating policies, procedures and internal controls to interpret and apply these laws and regulations in the University community. While these policies, procedures and controls are intended to detect and prevent Improper Activities, the University recognizes that not every intentional or unintentional violation of law, regulation, policy or procedure can be identified through administrative safeguards. Accordingly, the University has a responsibility to investigate and, if necessary, act on any report of suspected Improper Activities. The University is also committed to protecting those members of the University community who, in good faith, report suspected Improper Activities to the appropriate authority.

This Policy governs the reporting of suspected Improper Activities and the initiation of investigations into such reports, and outlines the protection afforded to members of the University community who report suspected Improper Activities in accordance with the procedures outlined herein. This Policy does not change the University's responsibility to conduct investigations, but clarifies normal investigatory processes. Individual employee or student grievances and complaints regarding terms and conditions of employment will continue to be reviewed under the applicable academic and staff personnel policies. Any investigations of Improper Activities that may result in subsequent disciplinary action will be coordinated with applicable conduct and disciplinary policies. In all instances, the University retains the prerogative to determine when circumstances warrant an investigation and, in conformity with applicable laws, policies and regulations, the appropriate investigative process to be employed.

IV. Improper Activities

"Improper Activities" is defined as actions or failures to act by University employees in the course of their duties that result in:

- (A) A violation of State or Federal law, rule, or regulation;
- (B) A serious or substantial violation of University policy or procedure;
- (C) Fraud;
- (D) Misappropriation of State resources, including embezzlement;
- (E) Substantial and specific danger to the public health and safety; or
- (F) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

V. Reporting Suspected Improper Activities

Employees who have reason to suspect Improper Activities should, as soon as possible, report their suspicions verbally or in writing to the reporting employee's immediate supervisor or, if the supervisor is involved in the suspected Improper Activities, to the supervisor's manager. Students who have reason to suspect Improper Activities should, as soon as possible, report their suspicions verbally or in writing to the Dean of Students or to the Dean of the Graduate School. In instances where the person reporting the suspected Improper Activities is not satisfied with the response, the reporting person may contact the Internal Audit Director, the General Counsel, the Director of Police and Public Safety, the Associate Vice Chancellor for Human Resources or the Vice Chancellor/Provost of his/her department.

Persons reporting suspected Improper Activities are encouraged to provide as much specific information as possible including names, dates, places, events that took place, the employee's perception of why the incident(s) may constitute Improper Activities. Anonymous written or telephonic communications will be accepted, but such communications must provide sufficient corroborating evidence to justify the commencement of an investigation.

Any member of the University community who knowingly gives false information or knowingly makes a false report of suspected Improper Activities or a subsequent false report of retaliation will be subject to disciplinary action, up to and including dismissal for employees and up to and including expulsion for students.

VI. Investigation Procedures

All University employees in a supervisory role should be aware of and alert to communications, whether formal or informal, that may constitute a report of suspected Improper Activities. Any University employee in a supervisory role receiving a report of suspected Improper Activities must ensure that the matter is promptly reported to his/her supervisor or an appropriate level of University management. Employees in a supervisory role are charged with exercising appropriate judgment in determining which matters can be reviewed and disposed of under their authority and which matters must be referred to a higher level of management.

At a minimum, employees in a supervisory role must ensure that a report of suspected Improper Activities is referred to the head of his/her respective department or unit when any ONE of the following conditions is met:

- (A) The suspected Improper Activities are the result of a significant internal control or policy deficiency that is likely to exist at other units within the University or across the University system;
- (B) The suspected Improper Activities are likely to receive media or other public attention;

- (C) The suspected Improper Activities involve the misuse of State or University resources or create exposure to a liability in potentially significant amounts;
- (D) The suspected Improper Activities involve allegations of activities that may have a significant possibility of being the result of a criminal act;
- (E) The suspected Improper Activities threaten an individual's safety or may present a threat to the public safety; or
- (F) The suspected Improper Activities are judged by the supervisor to be significant or sensitive for other reasons.

A number of functional units within the University, including the Internal Audit department, Human Resources, Police and Public Safety and the Office of Legal Affairs, have responsibility for coordinating and conducting investigations of certain types of suspected Improper Activities. Generally, the University's Internal Audit department and Office of Legal Affairs will review and evaluate reports of suspected Improper Activities to determine the appropriate course and scope of review and/or investigation.

VII. Communications Regarding Investigation Results

Absent overriding legal or public interest reasons: (A) individuals who report suspected Improper Activities pursuant to this Policy are entitled to be informed of the disposition of their report, and (B) individuals who are the focus of an investigation conducted as a result of suspected Improper Activities have a right to be informed of the outcome of such investigation. The determination of whether there is an overriding public interest reason for not disclosing the disposition or outcome under (A) or (B) is within the discretion of the University, subject to applicable laws and regulations.

Communications by the University to third parties regarding the results of any investigation will depend upon the nature and outcome of the investigation, applicable law and policy, and the best interests of the public, the University and the parties involved in the investigation.

VIII. Protection from Retaliation

State law prohibits interference with or retaliation against a member of the University community who reports suspected Improper Activities unless the person making the report knows or has reason to believe that the report is false or inaccurate. Specifically:

- (A) No University employee exercising direct or indirect supervisory authority may discharge, threaten, harass or otherwise discriminate against another University employee regarding his/her compensation, terms, conditions, location, or privileges of employment because that employee, or a person acting on behalf of the employee, reports or is about to report any suspected Improper Activities.
- (B) No University employee exercising direct or indirect supervisory authority may discharge, threaten, harass or otherwise discriminate against another University employee regarding his/her compensation, terms, conditions, location, or privileges of employment because that employee has refused to carry out a directive which in fact constitutes a violation of State or federal law, rule, or regulation or poses a substantial and specific danger to the public health and safety.
- (C) No University employee may threaten, harass or otherwise discriminate against a student, or take intentional adverse academic action against a student, because that student, or a person acting on behalf of the student, reports or is about to report any suspected Improper Activities.

The protections of this Section VIII extend to any member of the University community who reports any suspected Improper Activities to the State Auditor as authorized by North Carolina law. The protections of this Section VIII do not extend immunity for any complicity in the suspected Improper Activities that are the subject of the report or an ensuing investigation.

IX. Reporting Acts of Retaliation

If any person believes that retaliation or interference related to a report of suspected Improper Activities was threatened, attempted or has occurred, that person may file a complaint in accordance with the grievance procedure applicable to the employee's position classification:

- Employees subject to the provisions of the State Personnel Act should follow the grievance procedure outlined in [PIM 35, "Grievance and Appeal Procedures for Employees Subject to the State Personnel Act."](#)
- Non-faculty employees exempt from the provisions of the State Personnel Act should follow the grievance procedure outlined in [PIM 36, "Procedures of the EPA Non-Faculty Grievance Committee."](#)
- Faculty members should follow the [Procedures for Resolving Faculty Grievances Arising from Section 607\(3\) of The Code of The University of North Carolina.](#)
- Students should follow [The UNC Charlotte Student Grievance Procedure.](#)

X. Compliance

Failure to comply with this Policy or cooperate with any review or investigation initiated hereunder will be deemed a violation of University Policy and subject to disciplinary action in accordance with [Policy Statement #25](#). Individuals may additionally be subject to civil and criminal penalties under State law.