
SUBJECT: Whistleblower Protections Policy

1.0 PURPOSE

- 1.1. The purpose of this policy (the “Policy”) is to implement the requirements of the Utah Protection of Public Employees Act (UPPEA) and establish the procedures by which the College will review Complaints of Retaliatory Action by College Employees. This Policy applies to specific Retaliatory Actions based on Employee’s Good Faith reports of violations of the Utah Public Officers’ and Employees’ Ethics Act (i.e. whistleblowing). For claims related to Retaliation, please refer to [Policy].
- 1.2. The College reserves all rights afforded to it under applicable law. Nothing in this Policy or related policies, procedures, and practices of the College or the College’s governing institutions shall be read to offer or constitute a legal agreement or contract or be subject to legal jurisdiction in the law or courts of any kind. The College’s policies, procedures, and practices are subject to change at any time. This policy is enacted solely to comply with the requirements of Utah Code 67-21-3.7 and does not confer any additional rights.
- 1.3. This policy supersedes all Whistleblower policies prior to the date of approval listed above.

2.0 REFERENCES

- 2.1. [Utah Code §67-21-1 et seq. Utah Protection of Public Employees Act \(UPPEA\)](#)
- 2.2. [Utah Code § 67-16-1 et seq. Utah Public Officers’ and Employees’ Ethics Act](#)
- 2.3. [Snow College Policy #381 Conflict of Interest](#)
- 2.4. [Snow College Policy #318 Corrective Action Policy](#)
- 2.5. [Snow College Policy #402 Faculty Corrective Action](#)

3.0 DEFINITIONS

- 3.1. Abuse of Authority: An arbitrary or capricious exercise of power that: a) adversely affects the employment rights of another; or b) results in personal gain to the person exercising the authority or to another person.
- 3.2. Complaint: A formal verbal, written, broadcast, or otherwise communicated report of Improper Conduct.
- 3.3. Conflict of Interest: A material, specific, and outside the ordinary course of College business relationship or connection with a Reporting Individual or an allegation made in any received Complaint, such that the existence of the relationship and/or connection would prevent that individual from operating objectively.
- 3.4. Employee: Any faculty, staff, student employees, consultants, contractors, or any other individual under contract, written or otherwise, to provide paid services for the College.
- 3.5. Final Decision Maker: The senior executive (such as the President, Provost, or Vice President) of the department or academic division in which the complainant is employed shall be the final decision maker on the remedy and shall render a decision within seven (7) calendar days after the day on which the senior executive receives the recommended remedy from the hearing panel. If the relevant senior

executive has a conflict of interest, the final decision maker will be the President.

- 3.6. Good Faith: Means that an Employee acts with:
 - 3.6.1. subjective good faith; and
 - 3.6.2. the objective good faith of a reasonable employee.
- 3.7. Gross Mismanagement: Means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the College that employs, or is managed or controlled by, the person.
- 3.8. Improper Conduct: Any suspected or actual activity that an Employee reasonably believes to be: a) a waste or misuse of public funds, property, or manpower; b) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; c) Gross Mismanagement; Abuse of Authority; or, Unethical Conduct.
- 3.9. Independent Personnel Board (Board): The Board responsible to review Complaints submitted pursuant to this Policy. "Independent Personnel Board" means a Board where no member of the Board:
 - 3.9.1. is in the same department as the complainant;
 - 3.9.2. is a supervisor of the complainant; or
 - 3.9.3. has a Conflict of Interest in relation to the complainant or an allegation made in the Complaint.
- 3.10. Reporting Individual: An individual who communicates in Good Faith a violation of the Utah Public Officers' and Employees' Ethics Act.
- 3.11. Responding Individual: An individual alleged to have taken Retaliatory Action against a Reporting Individual.
- 3.12. Retaliatory Action: Any of the following adverse actions taken against an Employee because of their being a Reporting Individual.
 - 3.12.1. Dismissal;
 - 3.12.2. Pay reduction;
 - 3.12.3. Failure to increase compensation by an amount that the Employee was promised or is otherwise entitled to;
 - 3.12.4. Failure to promote if the Employee would have otherwise been promoted; or
 - 3.12.5. Threatening to take any of the listed Retaliatory Actions.
- 3.13. Unethical Conduct: Conduct that violates a provision of the Utah Public Officers' and Employees' Ethics Act.

4.0 POLICY

- 4.1. This policy applies to all Snow College Employees, as defined in 3.4.
- 4.2. This policy does not apply to types of retaliation which are separately defined and proscribed in other College policies, including Policy 128 *Title IX Policy Prohibiting Discrimination and Sexual Harassment*, and Policy 307 *Sexual Harassment*.
- 4.3. The College encourages lawful whistleblowing pursuant to state and federal law. An Employee of the College who believes they have been subjected to Retaliatory

Action for any protected reporting as a Reporting Individual shall follow the steps outlined in this policy.

- 4.4. No College employee may unreasonably restrict another employee's ability to communicate or document
 - 4.4.1. The waste or misuse of public funds, property, or workforce;
 - 4.4.2. A violation or suspected violation of any law;
 - 4.4.3. Gross mismanagement;
 - 4.4.4. Abuse of authority; or
 - 4.4.5. Unethical conduct.
- 4.5. A Reporting Individual is not required to prove the truth of their allegations at the time the Complaint is submitted but is required to act in Good Faith. Any Employee who does not act in Good Faith may be subject to civil fines of up to \$5,000 and/or disciplinary action pursuant to College policy 318 and 402, up to and including termination of employment. Any presumption of Good Faith may be rebutted if the Employee knew, or reasonably ought to have known, that the Complaint is malicious, false, or frivolous.
- 4.6. Details regarding Complaints under this Policy are shared on a need-to-know basis and will be treated as confidential to the extent permitted by law and at the discretion of the College.

5.0 REPORTING

- 5.1. An Employee who believes the College or an Employee of the College has taken a Retaliatory Action against them as a result of being a "Reporting Individual," may file a written Complaint to the Human Resources Office, or through the College's ethics reporting system.
 - 5.1.1. The Reporting Individual must include all relevant information available to the Reporting Individual that supports the allegations raised in the Complaint.
 - 5.1.2. A Complaint provided to any of the individuals listed in 5.1 will not be deemed to have been filed at the College until the Complaint has been received by the Human Resources Office.
 - 5.1.3. A Complaint must be filed no later than within thirty (30) calendar days after discovery of the alleged Retaliatory Action. Filing of a Complaint after the established thirty (30) calendar day deadline may result in the immediate dismissal of the Complaint.

6.0 COMPLAINT RESOLUTION

- 6.1. Upon receipt of a timely filed Complaint, the Human Resources Office shall, within seven (7) calendar days, empanel an Independent Personnel Board consisting of three (3) College employees.
 - 6.1.1. Panel Composition—The appointed board may not include any panelist who (1) is in the same academic or administrative department or office (same executive division is permissible) as the Complainant; (2) is a supervisor of the Complainant; or (3) has a conflict of interest in relation to the complainant or an allegation made in the complaint. A panelist with a conflict shall recuse him or herself from selection if appointed.

- 6.2. Upon empanelment of the Independent Personnel Board, the Human Resources Office shall provide notice to the Reporting Individual and the Responding Individual (collectively, the “Parties”) that a Complaint has been received pursuant to this Policy. This notice shall include the names and identities of the individuals empaneled to the Independent Personnel Board and will include a copy of this Policy and the Utah Protection of Public Employees Act.
- 6.3. The Parties may, within five (5) calendar days, submit a written objection related to the makeup and statutory definition of the Independent Personnel Board. Failure to submit a timely objection will be construed as a waiver of such right.
- 6.4. If a member of the Independent Personnel Board is disqualified after an objection, the Human Resources Office shall appoint additional member(s) who by statutory definition may be invited to participate.
- 6.5. To the extent reasonably possible, the Human Resources Office will collect relevant documents provided by the Reporting Individual or otherwise maintained by the College. The Human Resources Office will forward the Complaint and any collected documentation to the Independent Personnel Board for their review.
- 6.6. The Independent Personnel Board shall convene as soon as practicable, but at least within seven (7) calendar days of their receipt to review the Complaint and relevant documentation and, as deemed necessary by the Independent Personnel Board, set a time to interview the Reporting Individual, the Responding Individual, and any necessary witnesses.
- 6.7. The Responding Individual shall bear the burden to prove by substantial evidence that the Responding Individual’s action was justified by reasons unrelated to the Employee’s Good Faith actions under UPPEA.
- 6.8. If the College believes the Employee’s Complaint does not plausibly establish that the Reporting Individual: 1) were in fact a Reporting Individual; and 2) suffered a Retaliatory Action, the College may challenge the Employee’s claim in a written submission to the Independent Personnel Board prior to the commencement of the hearing. If the Independent Personnel Board finds by substantial evidence that the Employee has not stated a plausible claim, the Independent Personnel Board may dismiss the Complaint without a hearing.
- 6.9. The Independent Personnel Board shall issue a written recommendation with corresponding facts and reasoning addressing, at a minimum, the following points:
 - 6.9.1. Whether the complainant was in fact a Reporting Individual;
 - 6.9.2. Whether the Reporting Individual was subject to Retaliatory Action;
 - 6.9.3. Whether or not the Responding Individual has established, by substantial evidence, that their actions were justified by reasons unrelated to the Reporting Individual’s Good Faith action or belief;
 - 6.9.4. Whether the Responding Individual took a Retaliatory Action in violation of this Policy;
 - 6.9.5. Proposed remedies for the Reporting Individual for any violations of this Policy, if any; and

- 6.10. If the Independent Personnel Board finds that Retaliatory Action has been taken in violation of this Policy, the Independent Personnel Board may recommend any of the following remedies:
- 6.10.1. Reinstatement of the Employee at the same level as before the Retaliatory Action;
 - 6.10.2. Payment of back wages;
 - 6.10.3. Full reinstatement of fringe benefits;
 - 6.10.4. Full reinstatement of seniority rights; or
 - 6.10.5. If the Retaliatory Action includes a failure to promote, a pay raise that results in the Employee receiving the pay that the Employee would have received if the person had been promoted.
- 6.11. A Responding Individual found in violation of this Policy may be subject to disciplinary action pursuant to College policy 318 (Staff) or 402 (Faculty), up to and including termination of employment.
- 6.12. The Independent Personnel Board will issue its written recommendations to the Final Decision Maker with a copy to the Reporting Individual and Responding Individual within twenty-three (23) calendar days of the Reporting Individual filing the Complaint with the College, unless the Reporting Individual and the Independent Personnel Board have mutually agreed to a longer period of time not to exceed an additional thirty (30) calendar days.
- 6.13. The Final Decision Maker may ask clarifying questions of any person(s) involved in the process and review any relevant information, as needed, to reach a final decision.
- 6.14. The Final Decision Maker shall issue a written final decision within seven (7) calendar days of receiving the Independent Personnel Board's recommendations: a) adopting the recommendations of the Board (in whole or part); b) rejecting the recommendations of the Board (in whole or part) and/or making such other findings and conclusions as necessary for each of the above identified categories (Section 6.9); and/or c) referring the matter to the proper sanctioning authority within the College for the evaluation and imposition of sanctions against a Responding Individual found to have violated this Policy.
- 7.0 The Final Decision Maker shall send the written decision to, or make it available for review for, the Reporting Individual, Responding Individual, and all such other College officials that the Final Decision Maker deems necessary to effectuate the decision.