

# WHISTLEBLOWER PROCEDURE STATEMENT

Date: August 2, 2006

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## Whistleblower Procedure Objectives

1. **Reporting Procedures for Suspected Improper Activities** - provides for any employee who communicates in good faith the existence of:
  - any waste of public funds
  - any waste of property
  - any waste of manpower
  - suspected violation of a law, rule, or regulation adopted under the laws of this state
2. **Stewardship of Salt Lake Community College Resources**
3. **SLCC Commitment and Compliance with Laws and Regulations**
4. **Support Ethical Practices and Ethical Treatment of Those in the College Community**
5. **Establish A Whistleblower Hotline**
6. **Provide Protection from Retaliation for Reporting**
7. **Provide for an Integral Internal Safeguard for all SLCC Operations**

## Whistleblower Definitions

- A. **Anonymity/Anonymous Reporting**— A person of the College community making a good faith report of improper use of College resources may do so without disclosing his/her identity.
- B. **Conflict of Interest**—where personal or financial interests may adversely affect College employment; conflict between private interests and public duty.
- C. **Immunity**—Freedom from danger of penalty.
- D. **Investigation/Investigative Activities**—an examination and the processes utilized, by which designated SLCC personnel discover information.
- E. **Protected Disclosure** - Good-faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) waste, (2) an improper governmental activity, (3) violations of law or (4) conditions that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made to remedy that condition. In certain circumstances, SLCC cannot guarantee the kinds of protections cited in the Utah GRAMA S63-2-202 (3) and (6). Protected disclosure/protected activity provides protection from harassment or retaliation for the reporter.
- F. **Person Reporting Suspected Improper Activity (Whistleblower)** - A person or entity making a protected disclosure. Whistleblowers may be College employees (faculty, staff or administration), applicants for employment, students, vendors, contractors or the general public.

- G. **Retaliation** –Adverse employment action taken as a result of an employee’s good faith reporting of suspected improper activity.
- H. **Suspected Improper Activities**-- Waste or misuse of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the law of this state.
- I. **Whistleblower Standing Committee**—The SLCC committee designated with primary responsibility to receive reports, complaints or allegations of suspected improper activities.
- J. **Whistleblower Hotline**--The Hotline is a resource for anonymous reporting of suspected improper activities. The Hotline is operated by a third-party vendor who collects reports of suspected improper activities. The hotline is accessible both through a toll-free phone number and the internet.

## **Whistleblower Procedures**

### **1. Reporting Suspected Improper Activities**

#### **a. Reporting to Supervisors or College Officials**

Any person may report allegations of suspected improper activities. Normally, a college employee should make an initial report to the employee’s immediate supervisor, or the next level supervisor. However, in the interest of confidentiality, when there is a potential conflict of interest or for other reasons, the employee should make such reports to another College official whom the employee may reasonably expect to have either responsibility over the affected area or the authority to review the suspected improper activity on behalf of the College.

#### **b. Reporting to the Whistleblower Hotline or Committee**

The Whistleblower Hotline is an alternate reporting process. Whistleblower complaints typically address improper activities that threaten the integrity of the institution. The Whistleblower Hotline is not an alternative grievance process intended to resolve a personal/personnel injustice.

Employees should use the Hotline if they feel they cannot use other reporting channels or if the initial complaint is unresolved. Employees reporting suspected improper activities to the Whistleblower Hotline are encouraged to identify themselves so that the College may contact them for further information if necessary, but reports may be made anonymously if the employee feels that it is the only way he or she can disclose the information safely.

The College recommends that suspected improper activity reports by persons who are not College employees be made to the Whistleblower Hotline. Such reports may also be made to another College 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 College.

If an employee prefers to make an in-person report, he/she should make that report to the Chair of the Whistleblower Committee, (the EEO director), or to any other member of the Whistleblower Committee. Current Committee members can be found on MyPage.

A Whistleblower Committee member receiving an in-person report shall forward that report to the Chair of the Committee.

## **Whistleblower Standing Committee:**

- ***Chair***- Director of Equal Employment Opportunity
- Director of Human Resources
- Director Risk Management
- Director of Public Safety
- Representative from Institutional Advancement
- Representative from Student Services
- Representative from Instructional Services
- Representative from Workforce, Professional and Literacy Development Services

### **2. Whistleblower Hotline Process**

Information about the hotline will be distributed to all SLCC employees and other relevant business partners.

A third party provider will maintain the Whistleblower Hotline and provide reports to the Whistleblower Committee Chair daily.

An employee or other reporting person can reach the Whistleblower Hotline through a toll-free phone number: 866-873-0614 or Internet site: [https://secure.ethicspoint.com/domain/en/report\\_custom.asp?clientid=15432](https://secure.ethicspoint.com/domain/en/report_custom.asp?clientid=15432).

Upon receipt of a report, the Hotline provides a case number to the reporting person. The reporting person is responsible to keep the case number to monitor the status of the case and to report more information if necessary.

Reporting employees have a right to be informed of the disposition of their disclosure, absent overriding legal or public interest reasons. Normally, a reporting person will be able to monitor the status of the case within six working days from the date of reporting (e.g., under investigation, not being investigated).

If not investigated, the case will include the basic reason(s) for not investigating (e.g., not enough information).

At any time during the open case, the reporter has the option of providing additional information, if available, or upon report of the closure of a Whistleblower complaint, a reporter may appeal to the President of the College.

Upon receipt of a report of suspected improper activities, either from the Hotline or any other source, the Chair may immediately delegate certain reports that are specifically the province of one area of responsibility and authority (e.g., financial mismanagement to the Internal Auditor).

The Chair of the Whistleblower Committee shall notify the Hotline provider of the disposition of each case within ten working days, whenever possible.

In all instances, the College retains the prerogative to determine when circumstances warrant an investigation and, in conformity with this policy and applicable laws, regulations, and accepted practices, the appropriate investigative processes to be employed.

### **3. Reporting to the State Auditor**

Under Utah Law S67-21-3, reports of allegation of suspected improper Governmental activities may be made to the State Auditor. Under that law, the State Auditor is prohibited from disclosing the identity of the employee making the report without obtaining the employee's permission to do so, or when the disclosure is to a law enforcement agency conducting a criminal investigation.

## **GUIDELINES FOR ALL WHISTLEBLOWER REPORTS**

### **1. Putting Reports in Writing**

Reports of suspected improper activities may be made orally. However, the reporting employee or person, especially if maintaining anonymity, is highly encouraged to write down all the facts prior to reporting to ensure all facts and other informational items appear in the initial report. This practice will aid in the clarity and the factual nature of such reports. Reports should be specific and factual in nature, for proper assessment of the nature, extent and urgency of preliminary investigative procedures. Complaints should use *who, what, why, where, when* and *how* as guidelines to present the most complete information possible.

### **2. Protected Information**

When a person reports an allegation of suspected improper activities to an appropriate College official or to the Whistleblower Hotline, the report is known as *protected information* under GRAMA (See GRAMA S63-2-304).

### **3. Protection from Retaliation**

The College does not condone or permit retaliation against anyone who participates in a Whistleblower activity, and anyone who participates in a Whistleblower report has the right of protection from retaliation. This right does not extend immunity for any complicity in the matters that are the subject of the allegation or an ensuing investigation.

An employee or person is presumed to have communicated in good faith when reporting suspected improper activities to a supervisor, a college official or the Whistleblower Hotline. The presumption may be rebutted by showing that the employee or person knew or reasonably ought to have known that the report is malicious, false, or frivolous. This is itself considered an improper activity that the College has the right to act upon according to College policy.

A supervisor may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee: files a report of suspected improper activities; an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.

A supervisor may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a College policy, a law of this state, or the United States, or a rule of regulation adopted under the authority of the laws of this state, or the United States.

Supervisors may not implement rules or policies that unreasonably restrict an employee's ability to document the violation of College policy or state or federal law.

If a Whistleblower feels that retaliation has taken place, he or she should report that concern to the Human Resources or Equal Employment Opportunity offices.

## **RESPONSIBILITY TO REPORTS SUSPECTED IMPROPER ACTIVITIES**

### **1. Employees**

Employees who know of, or who receive a report of, suspected improper activities shall promptly report the matter to their supervisor. The supervisor should 1) always document oral reports in a written account, 2) report within one working day to the Standing Committee and seek assistance from the Standing Committee, and 3) send reports and their dispensation to the Whistleblower Committee every quarter. All College employees, especially those in supervisory roles, should be aware of communications that may constitute a report of allegations of suspected improper activity. Failure to act on supervisory responsibilities may result in disciplinary action.

### **2. Whistleblower Committee**

The Whistleblower Committee is responsible for receiving, assessing and maintaining records of reports of suspected improper activities. The Committee reports to the President of the College and simultaneously provides reports to the Trustee Audit Committee, except in the case that a report is filed about the President. In such a situation, the Committee reports to the Chair of the Trustee Audit Committee.

The Chair is responsible to maintain records of all reports of suspected improper activities as well as periodic reports received from College supervisors.

The Chair is responsible for coordinating communication regarding an investigation with appropriate entities at the College.

The Chair shall update the status of cases on the Whistleblower Hotline every week, or as necessary.

The Committee shall maintain the confidentiality of the investigation and protect the identity of the Whistleblower to the extent permitted by law (GRAMA, S63-2). During an investigation, if other significant information is discovered, the Standing Committee will reconvene to evaluate prior investigation and communication decisions.

If the Committee deems a report not worthy of investigation, the Chair is responsible to place a reasonable explanation for this decision on file with the Committee and to update the case on the Whistleblower Hotline.

When the Committee determines need for an investigation, those assigned to investigate shall prepare a final report to the Committee for documentation, assessment and action as appropriate.

If a report of suspected improper activities pertains to a member of the Whistleblower Committee, that member shall dismiss him/herself from the discussion/investigation process for that report.

### **3. Persons Making Reports of Suspected Improper Activities (Whistleblowers)**

Whistleblowers provide initial information based on 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, intentionally filing a false report, whether orally or in writing is itself considered an improper activity that the College has the right to act upon according to College policy.

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 appointed investigators. They shall refrain from obtaining evidence to which they do not have a right to access. Such improper access may itself be considered an improper activity under state law S63-2 (GRAMA), 67-16-4, and S76-8-201, 202, and 203 (Misconduct) and S76-8-412 Records (Custodian) S76-8-413 (Non Custodian).

Whistleblowers who have disclosed their identity in the reporting process are responsible to be candid with the Whistleblower Committee, investigators or others to whom they make a report of suspected improper activities and shall set forth all known information regarding any reported allegations. Persons making a report of suspected improper activities should be prepared to be interviewed by College investigators. All interviews shall be used solely for the purpose of gathering information regarding the complaint.

A Whistleblower interviewed by the Whistleblower Committee may request that any member of the committee be dismissed from the interviewing process in order to provide more candid and useful information. The Committee will determine if that committee member is to remain dismissed for that entire report.

Anonymous whistleblowers must provide sufficient corroborating evidence to justify the commencement of an investigation. An investigation of unspecified wrongdoing or broad allegations cannot 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.

Protection of a whistleblower’s identity will be maintained to the extent possible within the legitimate needs of law (GRAMA, S63-2) and the investigation. Should the whistleblower self-disclose his or her identity outside the reporting structure, the College will no longer be obligated to maintain such confidence.