

## NON-RETALIATION

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### A. Purpose

The University of Texas Rio Grande Valley (UTRGV) is committed to an effective compliance program designed to ensure UTRGV operates in an ethical, honest, and lawful manner. Employee participation and cooperation with this compliance program are essential to preventing accidental or intentional non-compliance with laws, policies, rules, or regulations; detecting instances of non-compliance; and preventing future non-compliance.

### B. Persons Affected

This policy applies to all employees of UTRGV.

### C. Policy

It is the policy of UT Rio Grande Valley to:

1. Encourage employees to report (or cause to be reported), and to assist in the investigation by persons authorized or responsible for such matters, any known or suspected improper activities or violations of laws, rules, policies, or regulations; and
2. Prohibit retaliation as a consequence of good faith actions in reporting or participating in an investigation of allegations of misconduct or wrongdoing.

No UTRGV employee may retaliate against any individual for making a good faith report of known or suspected misconduct or wrongdoing or for assisting in an authorized investigation of such allegations. This prohibition against retaliation does not apply to appropriate disciplinary action taken for self-reported misconduct or wrongdoing.

This policy does not protect an employee who makes a report or provides information that the employee knows to be false or does not reasonably believe to be true or accurate. An employee who is discovered to knowingly have made false allegations or given false information during an investigation may be subject to disciplinary action, including termination of employment or non-renewal of appointment, in accordance with applicable UTRGV policies and procedures.

This prohibition against retaliation applies to employees who have reported allegations either internally, according to UTRGV policies, or externally to other agencies. This policy is not intended to and does not establish any additional rights or causes of action for an employee.

### D. Procedures

1. *Reporting and Investigating Allegations of Wrongdoing:*

- a. Employees have a personal and professional responsibility to report, or cause to be reported, and to assist in any authorized investigation of, any misconduct or wrongdoing, including without limitation the following:
  - i. Violations of applicable laws, rules, or regulations;
  - ii. Fraudulent activity;
  - iii. Knowing or intentional financial misstatements or accounting or auditing irregularities;
  - iv. Knowingly presenting a false or fraudulent claim for payment to any federal employee;
  - v. Knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid;
  - vi. Conspiring to defraud the government by getting a false or fraudulent claim allowed or paid;
  - vii. Conducting business that presents a conflict of interest with one's UTRGV job duties;
  - viii. Dishonest or unethical conduct; or
  - ix. Violations of UTRGV's standards or conduct or compliance program.

Employees should report allegations of misconduct or wrongdoing through established administrative processes and procedures or to the Compliance Office.

- b. Employees are expected to be truthful and cooperative in investigations of such matters.

2. *Designation of Retaliation Complaint Officer:*

The Chief Compliance Officer is designated to serve as the Retaliation Complaint Officer.

3. *Submission of Retaliation Complaint:*

A complaint alleging retaliation must be submitted in writing to the Retaliation Complaint Officer. The complaint must contain the following information (the "mandatory information"):

- a. Name of the complainant;
- b. Contact information, including address, telephone, and e-mail address, if applicable;
- c. Name of the person directly responsible for the alleged retaliation;
- d. Date and place of the alleged retaliation;
- e. Nature of the alleged retaliation;
- f. Detailed description of the specific conduct that is alleged to constitute retaliation;

- g. Copies of documents pertaining to the alleged retaliation;
- h. Names of any witnesses to the alleged retaliation;
- i. Corrective action requested by the complainant;
- j. Complainant's signature and date of filing; and
- k. Any other relevant information.

The following communications do not constitute a retaliation complaint and will not be investigated or resolved pursuant to the retaliation complaint resolution process:

- a. Oral allegations;
- b. Anonymous communications;
- c. Courtesy copies of correspondence or a complaint filed with others;
- d. Inquiries that seek advice or information only; and
- e. Pre-complaint consultations and informal resolution activities.

A written complaint must be filed within thirty (30) calendar days of the occurrence of the alleged retaliation.

4. *Acknowledgment and Notification of Receipt of Complaint:*

Upon receipt of a written retaliation complaint which contains all required information, the Retaliation Complaint Officer will send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, and advising that the complainant will be contacted regarding the results of any investigation. The acknowledgment letter will include a copy of these procedures. The Retaliation Complaint Officer also shall keep the complainant apprised of the status of the investigation of the matter, to the extent that the Retaliation Complaint Officer determines that the communication does not compromise the integrity of the investigation.

If the Retaliation Complaint Officer determines that the written complaint does not contain all required information, the deficiencies will be outlined in writing and returned to the complainant. Complainants will have 30 days from the date of such notice to provide additional information.

Also after receipt of a written retaliation complaint which contains all required information, the Retaliation Complaint Officer will inform the department head of the allegation. The Retaliation Complaint Officer also shall keep the department head apprised of the status of the investigation of the matter. If the department head is the subject of the investigation, however, then the Retaliation Complaint Officer shall provide such information instead to that individual's supervisor.

The Retaliation Complaint Officer shall inform the individual against whom the allegations are raised (the “respondent”) of the nature of the allegations and of the status of the investigation at the point and to the extent that the Retaliation Complaint Officer determines that it will not compromise the integrity of the investigation.

5. *Complaint Evaluation:*

The Retaliation Complaint Officer will initiate an investigation if the written, signed complaint contains all of the mandatory information and is timely, within the scope of this policy, and states sufficient specific facts, which, if determined to be true, would support a finding that the non-retaliation provisions of this policy were violated. Notwithstanding that the complaint meets the foregoing requirements, the Retaliation Complaint Officer may determine not to proceed with a complaint investigation for any one of the following reasons:

- a. the complainant withdraws the complaint;
- b. corrective action has been taken, or has been offered and rejected;
- c. another complaint resolution process is more appropriate; or
- d. litigation or another complaint process is pending.

If the Retaliation Complaint Officer determines not to proceed with a complaint investigation, he or she will send a notification letter to the complainant stating the reason for that determination. The notification letter will also include a statement informing the complainant that the complainant may appeal the determination not to proceed. The appeal must be delivered to the Deputy President or designee within ten (10) working days after the complainant’s receipt of the notification letter. The appeal must be in writing and signed by the complainant and must state why the decision not to proceed with an investigation of the retaliation complaint was in error.

The Deputy President or designee will respond within twenty (20) working days of receipt of the appeal. If the decision to dismiss is upheld, that decision is final. If the decision to dismiss is overturned, the complaint is sent back to the Retaliation Complaint Officer for investigation in accordance with the procedures outlined below.

6. *Investigative Process and Findings:*

If it is determined that UTRGV will proceed with a retaliation complaint investigation, the Retaliation Complaint Officer or designee will interview the complainant, the respondent, and any other persons whom the investigator determines may have pertinent factual information related to the retaliation complaint. The investigator shall also gather and examine relevant documents. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the basis of a particular sensitivity or reaction of an individual. Findings will be based on the totality of circumstances surrounding the alleged retaliation.

During the retaliation complaint investigation process, the complainant and the respondent will provide the Retaliation Complaint Officer or designee with all documents relied upon regarding the issues raised in the complaint.

7. *Report of Findings and Recommendations; Final Determination:*

The investigator will provide a proposed statement of findings, copies of relevant documents, and relevant physical evidence to the Deputy President or designee, and the investigator and the Deputy President or designee shall then meet to discuss the findings. Under normal circumstances, this meeting will take place within 60 days of receipt of the initial complaint.

Within fifteen (15) working days after that meeting, the Deputy President or designee shall take one of the following actions:

- a. Request further investigation into the complaint;
- b. Dismiss the complaint; or
- c. Find that the non-retaliation provisions of this policy were violated, in which event the Deputy President or designee, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine disciplinary or corrective actions to be taken.

The Deputy President or designee shall notify the complainant, respondent, and appropriate unit head of the decision in writing, and shall attach a copy of the final statement of findings to the notification. The Retaliation Complaint Officer shall retain copies of the Deputy President's letter, the statement of findings, and relevant documents in accordance with UTRGV's records retention schedule.

8. *Substitution of Officers:*

If a retaliation complaint is directed against an official who would otherwise act on the complaint, the function assigned to that official in these procedures will be delegated by the Deputy President, as appropriate, to another person.

**E. Definitions**

1. Good Faith Report – A report made with a reasonable belief that the reported activity occurred or may have occurred. A report is not made in good faith if the report is made knowing an allegation is false or with reckless disregard for or willful ignorance of the facts that would disprove an allegation.
2. Retaliation – Any action that adversely affects the employment or other institutional status of an individual (including discharging, demoting, suspending, threatening, harassing, or in any other manner discriminating against an employee in the terms and conditions of employment) that is taken by UTRGV or its employees because the individual has made a good faith report concerning a possible violation of a law, rule, policy, or procedure (or of

inadequate institutional response thereto), or has cooperated in good faith with an investigation of such allegation.

**F. Related Statutes or Regulations, Rules, Policies, or Standards**

[Texas Government Code, Chapter 554, Protection for Reporting Violations of Law](#)

[UTS 131 – Protection from Retaliation for Reporting Suspected Wrongdoing](#)

**G. Dates Reviewed or Amended**

Amended on 04/04/18 (non-substantive changes).

Amended on 09/22/20 (non-substantive changes).