



# OLD DOMINION UNIVERSITY

## University Policy

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### Policy #3020

### WHISTLEBLOWER RETALIATION POLICY

**Responsible Oversight Executive:** Vice President for Human Resources

**Date of Current Revision or Creation:** July 12, 2010

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#### A. PURPOSE

The purpose of the policy is to encourage reporting of incidents that are illegal, contrary to policy, or simply not in the best interests of the University by preventing the threat and acts of retaliation against the reporting individual (whistleblower) in a protected disclosure.

#### B. AUTHORITY

[Virginia Code Section 23-9.2:3, as amended](#), grants authority to the Board of Visitors to establish rules and regulations for the institution. Section 6.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Virginia Code Section 2-2-3009 et seq., as amended](#)

[Virginia Code Section 23-38.117, as amended](#)

#### C. DEFINITIONS

Employee – All persons who were paid wages by Old Dominion University in any capacity at the time of the alleged improper activity.

Good Faith Report – A report of conduct, real or reasonably perceived as wrongdoing or abuse, that is made without malice and which the person making the report has reasonable cause to believe is true.

Protected Disclosure – Communication about actual or suspected wrongful conduct engaged in by a University employee, student, volunteer, agent, or contractor (who is not also the disclosing individual) based on a good faith and reasonable belief that the conduct has both occurred and is wrongful under applicable law and/or University policy.

Retaliation – Any adverse action or credible threat of an adverse action taken by the University, or member thereof, in response to a whistleblower's good faith disclosure of University-related misconduct.

Student – Any person enrolled at the University at the time of the alleged improper activity.

Whistleblower – Any person who, in good faith, makes a protected disclosure.

Whistleblowing – Making a protected disclosure.

#### **D. SCOPE**

This policy applies to all employees, students, volunteers, employees of affiliated organizations, agents, and contractors. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Students include all persons attending classes whether enrolled or not enrolled. Affiliated organizations are separate entities that exist for the benefit of the University and include the Foundations, the Community Development Corporation, and the Alumni Association. Agents include persons authorized to represent, act on behalf of, and/or bind the University. Contractors include any persons who have entered a contractual relationship with the University for any person.

#### **E. POLICY STATEMENT**

University employees shall not intimidate or take retaliatory action, directly or indirectly, against any member of the University community as a result of whistleblowing.

The types of retaliation that are prohibited include, but are not limited to: (1) intimidation, (2) adverse actions with respect to the whistleblower's work assignments, salary, vacation, and other terms of employment; (3) unlawful discrimination; (4) termination of employment; (5) adverse actions against a relative of the whistleblower who is a University employee or student; and (6) threats of any of the above.

All complaints of retaliation (except those of classified employees and allegations of research misconduct) shall be directed to the Office of Institutional Equity and Diversity. The Office of Institutional Equity and Diversity shall investigate all claims of retaliation and make their findings available to the Vice President for Human Resources and the Provost and Vice President for Academic Affairs. The complaints of classified employees are addressed through the grievance process. All complaints of retaliation in response to allegations of research misconduct shall be investigated by the Research Integrity Officer pursuant to [Board of Visitors Policy 1426, Policy, Procedures and Timeline for Responding to Allegations of Misconduct in Scientific Research and Scholarly Activity](#).

If allegations of retaliation are not substantiated and are proven to be made maliciously, the employee or student making the complaint may be subject to disciplinary action.

Acts of retaliation by students are covered by [Board of Visitors Policy 1530, Student Disciplinary Policies and Procedures](#).

#### **F. PROCEDURES**

##### **1. Dissemination of the Policy**

- a. The Department of Human Resources shall be responsible for dissemination of the policy to all employees other than teaching and research faculty.
- b. The Office of the Provost and Vice President of Academic Affairs shall be responsible for dissemination of the policy to all teaching and research faculty.

- c. The Office of the Dean of Students shall be responsible for dissemination of the policy to students.
  - d. The Office of Research shall be responsible for dissemination of the policy to all research faculty and employees.
2. Filing of Complaints of Retaliation
- a. All classified employees of the University have the following options for reporting instances of retaliation:
    - i. Use their reporting line. Under no circumstances shall the individual alleging retaliation be required to file a complaint with the alleged offending party.
    - ii. Contact the Department of Human Resources' Employee Relations Manager.
    - iii. File a grievance in accordance with University Policy 6602, Classified Employee Grievance Procedure.
    - iv. File a complaint with the Office of Institutional Equity and Diversity.
    - v. A classified employee may also ask the Virginia Department of Employment Dispute Resolution (EDR) to investigate allegations of retaliation as a result of the use of reporting, in good faith, an allegation of fraud, waste or abuse to the State Employee Fraud, Waste and Abuse Hotline.
  - b. All complaints of retaliation in response to allegations of research misconduct shall be reported to the University's Research Integrity Officer.
  - c. All other complaints are to be filed with the Office of Institutional Equity and Diversity. The claim must be filed within 30 days of the alleged retaliation. In instances where more than one act of retaliation is claimed, only instances where the retaliatory act has taken place within 30 days of the filing of the complaint may be considered.
    - i. The following information must be included in a written complaint:
      - (a) Name of any individual(s) who may be involved in the alleged retaliation;
      - (b) Description of the alleged retaliation;
      - (c) Times, dates, places, departments, and names of people relevant to the alleged retaliation;
      - (d) Any evidence relevant to the alleged retaliation;
      - (e) Any other information that might be relevant to someone trying to address the alleged retaliation.
    - ii. The Office of Institutional Equity and Diversity or shall investigate all complaints of retaliation within 30 days of receipt by the supervisor/administrator, and issue the findings and recommended course of action to the appropriate party with a copy provided to the complainant. If an investigation of a complaint exceeds 30 days from the date of receipt by the supervisor/administrator, the Office of Institutional Equity and Diversity shall notify the parties in writing of the progressive status of the

investigation and the proposed extension of time needed for completion of the investigation.

- (a) In all cases that involve complaints against teaching and research faculty, the findings shall be reported to the Provost and Vice President for Academic Affairs.
  - (b) In all other cases, the findings shall be reported to the Vice President for Human Resources.
- iii. The Office of Institutional Equity and Diversity shall monitor implementation of the recommended course of action.
  - iv. The person found in violation may appeal to the President or the President's designee within 30 days of the finding of retaliation.
    - (a) A finding that no retaliation occurred may not be appealed.
    - (b) The right to and method of appeal shall be included in the documentation of findings.

#### **G. RESPONSIBLE OFFICER**

Assistant Vice President for Institutional Equity and Diversity

#### **H. RELATED INFORMATION**

[United States Office of Research Integrity – Guidelines for Institutions and Whistleblowers](#)

PHS [Public Health Services] Policies on Research Misconduct ([42 C.F.R. 93](#))

[University Policy 3003 – Detection, Investigation and Reporting on Fraud and Misuse of University Property/Funds](#)

Where to go with issues or concerns:

- Old Dominion University Department of Human Resources  
<http://www.odu.edu/ao/humanresources/>
- Office of Institutional Equity and Diversity  
<http://www.odu.edu/ao/oied/>
- Office of the University Auditor  
<http://www.odu.edu/ao/auditor/>
- The State Employee Fraud, Waste, and Abuse Hotline, 1-800-723-1615  
[http://www.doa.virginia.gov/DSIA/Fraud\\_and\\_Abuse\\_Hotline.cfm](http://www.doa.virginia.gov/DSIA/Fraud_and_Abuse_Hotline.cfm)
- The Virginia Department of Employment Dispute Resolution (EDR)  
<http://www.edr.virginia.gov/>

**POLICY HISTORY**

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**Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:**

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Responsible Officer Signature

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Date

**Policy Review Committee (PRC) Approval to Proceed:**

/s/ Donna W. Meeks  
Policy Review Committee (PRC),  
Chair Signature

May 4, 2010  
Date

**Executive Policy Review Committee (EPRC) Approval to Proceed:**

/s/ Glenda Humphreys  
Responsible Oversight Executive Signature

July 10, 2010  
Date

**Presidential Approval:**

/s/ John R. Broderick  
President

July 12, 2010  
Date

**Policy Revision Dates:** July 12, 2010

**Scheduled Review Date:** July 12, 2015