

1. Title

Procedures for the Handling of an Allegation of Retaliation

2. Policy

Sec. 1 Purpose. The purpose of this Policy is to set forth the procedures adopted by The University of Texas System Administration to implement UTS131, *Protection from Retaliation for Reporting Suspected Wrongdoing*.

Sec. 2 Policy Statement. As stated in UTS131, *Protection from Retaliation for Reporting Suspected Wrongdoing*, it is the policy of the U. T. System to:

2.1 encourage employees to report, or cause to be reported, and to assist in any investigation by persons authorized or responsible for such matters, known or suspected violations of laws, rules, policies, regulations, or improper activities; and

2.2 prohibit unlawful retaliation against employees as a consequence of good faith actions in the reporting of, or the participation in, an investigation pertaining to allegations of wrongdoing.

Sec. 3 Designation of Retaliation Complaint Officer. The Chancellor will designate an individual to serve as the Retaliation Complaint Officer. The Chancellor may change the designation from time to time, as he or she deems appropriate. The name, office location, and contact information for the Retaliation Complaint Officer shall be included on the U. T. System Administration central web page mandated by UTS131, *Protection from Retaliation for Reporting Suspected Wrongdoing*.

Sec. 4 Submission of Retaliation Complaint.

4.1 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 email 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.

4.2 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.

4.3 The complaint must be received by the Retaliation Complaint Officer within thirty calendar days after the occurrence of the alleged retaliation.

Sec. 5 Acknowledgement and Notification of Receipt of Complaint.

5.1 Within five working days after the Retaliation Complaint Officer's receipt of a written retaliation complaint, the Retaliation Complaint Officer will send the complainant a brief acknowledgment of the complaint, stating that the complaint will be evaluated, and advising the complainant that he or she will be contacted within a given time. The acknowledgment letter will include a copy of these Procedures for the Handling of an Allegation of Retaliation. 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.

- 5.2 Also within five working days after the Retaliation Complaint Officer's receipt of a written retaliation complaint, the Retaliation Complaint Officer shall inform the department head of the allegation. The Retaliation Complaint Officer also shall keep the unit head apprised of the status of the investigation of the matter. If the unit head is the subject of the investigation, however, then the Retaliation Complaint Officer shall provide such information instead to that individual's supervisor.
- 5.3 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.

Sec. 6 Complaint Evaluation.

- 6.1 The Retaliation Complaint Officer will initiate an investigation if the written complaint contains all of the mandatory information, is timely, is within the scope of UTS131, *Protection from Retaliation for Reporting Suspected Wrongdoing*, and states sufficient specific facts, which, if determined to be true, would support a finding that the non-retaliation provisions of UTS131 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.
- 6.2 If the Retaliation Complaint Officer determines not to proceed with a complaint investigation, he or she will send a notification

letter to the complainant at the address stated in the written complaint. The notification letter will state the reason for that determination and include a statement informing the complainant that the complainant may appeal the determination not to proceed. The appeal must be delivered to the Chancellor or his or her designee at 601 Colorado Street, Austin, Texas 78701 within ten working days after the date 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.

- 6.3 The Chancellor or designee will respond within 20 working days after the Chancellor's 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.

Sec. 7 Investigative Process and Findings.

- 7.1 If it is determined that the Retaliation Complaint Officer will proceed with a retaliation complaint investigation, the Retaliation Complaint Officer or his or her 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.
- 7.2 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.

Sec. 8 Report of Findings and Recommendation; Final Determination.

- 8.1 The investigator will provide a proposed statement of findings, copies of relevant documents, and relevant physical evidence to the Chancellor or his or her designee within thirty working days after the Retaliation Complaint Officer's receipt of the respondent's statement, unless unusual circumstances require

more time. The Chancellor or designee and the investigator shall meet within ten working days thereafter to discuss the findings.

- 8.2 Within 15 working days after that meeting, the Chancellor 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 UTS131, *Protection from Retaliation for Reporting Suspected Wrongdoing* were violated, in which event the Chancellor or designee, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine disciplinary or corrective actions to be taken.
- 8.3 The Chancellor or designee shall notify in writing the complainant, respondent, and appropriate unit head of his or her decision, and shall attach a copy of the final statement of findings to the notification. The Retaliation Complaint Officer shall retain copies of the Chancellor's letter, the statement of findings, and relevant documents in accordance with System Administration's records retention schedule.

Sec. 9 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 Chancellor or, if appropriate, by the Chairman of the Board of Regents, to another person.

Sec. 10 Interpretation. The Associate Vice Chancellor for Employee Benefits and Services officially interprets these procedures and is responsible for revising them as necessary to meet the changing needs of System Administration.

3. Definitions

Calendar Days - the seven days of the calendar week. For purposes of these procedures, should any date specified herein as a deadline fall on a Saturday, Sunday, or other day that is not a working day at U. T. System Administration, the deadline shall automatically be extended to the next following day that is a working day.

Working Days - the days U. T. System Administration is open for business. The term does not include any day designated by System Administration as a "skeleton crew day."

4. Relevant Federal and State Statutes, Policies, and Standards

None

5. Relevant System Policies, Procedures, and Forms

[UTS131, Protection from Retaliation for Reporting Suspected Wrongdoing](#)

[UTS163, Guidance on Effort Reporting and Certification Policies](#)

6. System Administration Office(s) Responsible for Policy

Office of Employee Services

7. Dates Approved or Amended

July 12, 2004

March 5, 2010

November 15, 2012