07-02.30 EMPLOYEE AND APPLICANT DISCLOSURE OF MISCONDUCT FOR EXEMPT AND NON-EXEMPT EMPLOYEES AND APPLICANTS FOR EMPLOYMENT

I. Purpose:

To implement USM Policy VII-2.30, Policy on Employee and Applicant Disclosure of Misconduct for Nonexempt and Exempt Staff Employees and Applicants for USM Staff Positions (“USM Policy”) on disclosure of misconduct by employees and applicants to protect them from retaliation in the form of adverse personnel actions for reporting information believed to be unlawful, wasteful or hazardous. The USM Policy applies to all exempt and non-exempt University employees and to applicants for University employment.

II. Statement of Policy:

A. It is the policy of Towson University (the “University”) that employees or applicants may make known, without fear of retaliation, information that they reasonably believe shows misconduct (“Information Relating to Misconduct”) including:

1. An abuse of authority, gross misconduct, or gross waste of money; or

2. A substantial and specific danger to public health or safety; or


B. It is the University’s policy not to take adverse personnel action against an employee or applicant in retaliation for the disclosure of Information Relating to Misconduct pursuant to this policy or who, following such disclosure, seeks a remedy provided by this policy, by applicable law or by other USM policies.

C. This policy does not apply to the disclosure of Information Relating to Misconduct unless the disclosure is made in accordance with §IV of this policy.

D. This policy does not prohibit an adverse personnel action that would have been taken regardless of the disclosure.

III. Definitions:
A. **Applicant**: any University employee or an applicant for University employment.

B. **Adverse Personnel Action**: actions taken in retaliation for disclosing Information Relating to Misconduct such as: termination, disciplinary suspension; denial of promotion or salary increase; refusal to hire; rejection on probation; an unsatisfactory written performance evaluation; an involuntary reassignment to a position of less responsibility or importance; or, a material change in the terms and conditions of employment.

**IV. Disclosure Procedure:**

A. The employee or applicant who discloses Information Relating to Misconduct shall disclose all relevant information including supporting documentation, if any, to the University’s Counsel in a signed written document within one year of the date the employee or applicant either knew or reasonably should have known of the misconduct.

B. University Counsel shall promptly report the alleged misconduct to the Maryland Attorney General’s Office (“Attorney General’s Office”) and to the University’s President. If the alleged misconduct involves a fiscal irregularity or a matter that requires review by the University’s internal auditors, the University Counsel shall report the matter to the University’s Internal Auditor. The Attorney General’s Office shall recommend to the President appropriate action under the law given the circumstances of the disclosure.

C. In the case of Information Relating to Misconduct involving the University’s President, the employee or applicant shall be directed to make any such disclosure to the USM Chancellor and the Attorney General’s Office.

**V. Complaints of Retaliation:**

If the employee or applicant believes Adverse Employment Action was brought against him/her for disclosing Information Relating to Misconduct under this policy, the employee may file a written complaint (“Complaint”) requesting an appropriate remedy.

**VI. Complaint Procedure:**

A. Complaints must be filed with University Counsel within 30 calendar days from the date the Employee knew of the Adverse Personnel Action or reasonably should have known of such action.

B. Complaints shall be filed in writing and shall include:

1. name and work address of the Complainant;
2. name and title of University officer(s) against whom the Complaint is made;

3. the specific type(s) of Adverse Personnel Action(s) alleged;

4. the specific date(s) on which the Adverse Personnel Action(s) occurred;

5. a clear and concise statement of the facts that form the basis for the Complaint;

6. a clear and concise statement of the Complainant’s explanation of how disclosure of misconduct is related to the Adverse Personnel Action; and

7. a clear and concise statement of the remedy sought.

C. A Complaint shall not be accepted under this Section VI which is substantially the same as a Complaint currently being considered, or which has previously been resolved under this policy, under another University policy, or by an external agency. University Counsel in consultation with the Attorney General’s Office shall determine whether to accept a Complaint.

D. Within sixty (60) calendar days of receipt of the Complaint, the University shall provide the Complainant with a written determination to include: findings of fact, conclusions of the investigation and, if applicable, a specific and timely remedy consistent with the findings. The time for determination may be extended beyond 60 days where there is a good faith basis for the extension and the Complainant is notified in writing of the extension and the supporting basis.

E. For purposes of this policy, a remedy may include promotion, reinstatement, reassignment, removal of detrimental material from institutional files, a written correction of institutional records, appointment, a change in the terms and conditions of employment, or any other action considered by the President to be consistent with the findings.

F. If the President determines that an employee or applicant has been retaliated against for his/her prior disclosure of misconduct, the President will consider appropriate and timely disciplinary and/or legal action consistent with the circumstances of the complaint against the persons found to be responsible.

G. In the event the Complainant takes exception to the determination issued by the University President, or if the determination is not timely issued consistent with this policy, then the Complainant, if eligible, may file a grievance pursuant to applicable grievance procedures or as provided in §VII below, file a Complaint with the Secretary of the Department of Budget and Fiscal Planning (“DBM”).

VII. Filing of a Complaint with DBM:
An employee or applicant may file a Complaint with the Secretary of the Department of Budget and Management (DBM) in accordance with DBM regulations, provided that a complaint may not be filed with DBM as to any matter which is the subject of a grievance filed by the employee under USM Policy VII-8.00, Policy on Grievances for Nonexempt and Exempt Staff Employees.

VIII. Notice of Procedures:

The head of each department shall provide employees of the department with written notice of the protection and remedies provided by this Policy.

Related Policies:

USM Policy VII-2.30, Policy on Employee and Applicant Disclosure of Misconduct for Nonexempt and Exempt Staff Employees and Applicants for USM Staff Positions

USM Policy VII-8.00, Policy on Grievances for Nonexempt and Exempt Staff Employees

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