



FGCU REGULATION 1.006

Whistle-Blower Reporting And Protection

Effective Date of Regulation:

May 5, 2020

A. GENERAL STATEMENT

Florida Gulf Coast University (“University”) employees have a responsibility to be good stewards of the public resources that have been entrusted to the University’s care. The University and its employees are to behave ethically and to abide by all applicable laws, regulations, rules, and policies. The University takes seriously any allegation of fraud, criminal conduct, mismanagement, misrepresentation, or other dishonest acts.

To that end, the University shall provide protection from retaliatory action for any Whistle-blower who truthfully reports Whistle-blower Information, and who has not himself or herself committed or intentionally participated in committing the reported violation(s). To ensure complaints are investigated promptly and consistently, and to ensure employees and independent contractors will be able to utilize the remedial protections provided for in section 112.3187(8), Florida Statutes, University employees or independent contractors are required to submit Whistle-blower complaints using the procedures set forth in this Regulation and any related procedures established by the Director of Internal Audit.

B. DEFINITIONS

1. *Adverse Personnel Action:* The discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by the University or independent contractor.
2. *Complainant:* A Complainant is a person who submits a Whistle-blower complaint under this Regulation.
3. *Gross Mismanagement:* A continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.
4. *Gross Neglect of Duty:* A dereliction of duty that endangers the welfare of the University or an arbitrary decision for personal gain and/or to injure others.
5. *Malfeasance:* The doing of an act which a person ought not do at all. It is an act by a University employee, agent, or independent contractor, that is legally unjustified, harmful, or contrary to law. Examples include, but are not limited to, bribery, asset misappropriations, and fraudulent financial or non-financial statements

6. *Misfeasance*: An act that is not illegal but is improperly performed. This can also be described as the performance of an act in an unlawful, injurious, or negligent manner.
7. *Whistle-blower*: Any employee, independent contractor, or other person who reports Whistle-blower Information. Pursuant to section 112.3187(7), Florida Statutes, a Whistle-blower must report Whistle-blower Information on their own initiative and in a written and signed complaint; or must have been requested to participate in an investigation, hearing, or other inquiry conducted by the University's Internal Auditor, appropriate state agency official, or a federal agency; or must have refused to participate in any adverse action against another Whistle-blower; or who has made a report to the University's Hotline.
8. *Whistle-blower Information*: Whistle-blower Information addresses or relates to:
 - a. Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of the University or University independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare; or
 - b. Any act or suspected act of Gross Mismanagement, Malfeasance, Misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or Gross Neglect of Duty committed by an employee or agent of the University or University independent contractor.

C. UNIVERSITY OFFICIAL REPORTING CONTACT

Whistle-blower Information must be reported to the University's Director of Internal Audit (Director), or through the University's reporting hotline.

D. WHISTLE-BLOWER PROCEDURAL PROTOCOL

When a complaint is filed, the Director will coordinate all activities of the University covered under the Whistle-blower's Act and this Regulation. All complaints received under this Regulation shall be reviewed by the Director to confirm the complaint qualifies as a Whistle-blower complaint, and shall thereafter be investigated within the time limits required by law. The Director is authorized to develop such official reporting forms and procedures as that official deems necessary and appropriate to facilitate the implementation of this Regulation. Such forms and procedures shall be consistent with this Regulation.

E. ADVERSE ACTIONS PROHIBITED

Adverse Personnel Actions against University employees or any other form of retaliation against any persons determined to be a Whistle-blower under this Regulation is strictly prohibited. If the appropriate University official determines that an employee or independent contractor retaliated against a Whistle-blower, such employee or

independent contractor shall be subject to disciplinary action, cancellation of contract, debarment, or such other appropriate sanctions as are allowed under Florida law, University Policies and Regulations, the provisions of a relevant contract, and any applicable collective bargaining agreement.

Authority

Sections 112.3187-112.31895, Florida Statutes

History of Regulation

New 09/13/16; Format Changed 05/22/17; Amended 01/14/20; Amended 05/05/20

Approved by Florida Gulf Coast University Board of Trustees

May 5, 2020