

**HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES**

Chapter 2	General Policies and Procedures	Effective:	July 2005
Section 2.5	Institutional Compliance Program	Revised:	February 2007
<b>Policy 2.5.3</b>	<b>Procedures for Handling Allegations of Retaliation</b>	Responsible Party:	Assistant Vice President for Regulatory Affairs & Compliance

## **PROCEDURES FOR HANDLING ALLEGATIONS OF RETALIATION**

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### **Submission of Retaliation Complaint**

A complaint alleging retaliation must be submitted in writing to the Institutional Compliance Officer except claims relating to discrimination, sexual harassment and sexual misconduct. These allegations need to be submitted to the Equal Employment Opportunity/Affirmative Action Office. For all other claims, the complaint must contain the following mandatory information:

- Name of the complainant;
- Contact information, including address, telephone, and e-mail address, if applicable;
- Name of the person directly responsible for the alleged retaliation;
- Date and place of the alleged retaliation;
- Nature of the alleged retaliation;
- Detailed description of the specific conduct that is alleged to constitute retaliation;
- Copies of documents pertaining to the alleged retaliation;
- Names of any witnesses to the alleged retaliation;
- Corrective action requested by the complainant;
- Complainant's signature and date of filing; and,
- Any other relevant information.

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

- Oral allegations;

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- Anonymous communications;
  - Courtesy copies of correspondence or a complaint filed with others;
  - Inquiries that seek advice or information only; and,
  - 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.

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**Acknowledgement and Notification of Receipt of Complaint**

Within five (5) working days after receipt of a written retaliation complaint, the Institutional Compliance Officer will send the complainant a brief acknowledgement 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 acknowledgement letter will include a copy of these "Procedures for Handling Allegations of Retaliation". The Institutional Compliance Officer also shall keep the complainant apprised of the status of the investigation of the matter, to the extent that the Institutional Compliance Officer determines that the communication does not compromise the integrity of the investigation.

Also, within five (5) working days after receipt of a written retaliation complaint, the Institutional Compliance Officer shall inform the department head of the allegation. The Institutional Compliance 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 Institutional Compliance Officer shall provide such information instead to that individual's supervisor.

The Institutional Compliance 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 Institutional Compliance Officer determines that it will not compromise the investigation.

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**Complaint Evaluation**

The Institutional Compliance Officer will initiate an investigation if the written, signed complaint contains all of the mandatory information and is timely, and states sufficient specific facts, which, if determined to be true, would support a finding that the non-retaliation provisions of the *Handbook of Operating Procedures* (HOP), [Section 2.5.2](#), "Protection from Retaliation for Reporting Suspected Wrongdoing" were violated. Notwithstanding that the complaint meets the foregoing requirements, the Institutional Compliance Officer may determine not to proceed with a complaint investigation for any one of the following reasons:

- The complainant withdraws the complaint;
- Corrective action has been taken, or has been offered and rejected;
- Another complaint resolution proves is more appropriate; or,
- Litigation or another complaint process is pending.

If the Institution Compliance 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 President or his 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 President or his 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 Institutional Compliance Officer for investigation in accordance with the procedures outlined below.

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**Investigative Process and Findings**

If it is determined that the institution will proceed with a retaliation complaint investigation, the Institutional Compliance Officer or their designee will interview the complainant, the respondent, and any other

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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 a 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 Institutional Compliance Officer or designee with all documents relied upon regarding the issues raised in the complaint.

**Report of Findings and Recommendations and Final Determinations**

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The Institutional Compliance Officer will provide a proposed statement of findings, copies of relevant documents, and relevant physical evidence to the President or his designee within thirty (30) working days of receipt of the respondent’s statement, unless unusual circumstances require more time. The President or designee and the investigator shall meet within ten (10) working days thereafter to discuss the findings.

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

1. Request further investigation into the complaint;
2. Dismiss the complaint; or,
3. Find that the non-retaliation provisions of the HOP, [Section 2.5.2](#), and “Protection from Retaliation for Reporting Suspected Wrongdoing” were violated, in which event the President or designee, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine disciplinary or corrective actions to be taken.

The President or designee shall notify in writing the complainant, respondent, and appropriate department head of his or her decision, and shall attach a copy of the final statement of findings to the notification. The Institutional Compliance Officer shall retain copies of the President or designee’s letter, the statement of findings, and

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relevant documents in accordance with the institution's records and retention schedule.

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**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 President, the Chancellor, or the Chairman of the Board of Regents, as appropriate, to another person.

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