



To: University Council

From: Ashley Leonard, Compliance Counsel

Date: September 26, 2019

Re: Reporting and Investigating Allegations of Wrongdoing –
after 14-day comment period

I. Introduction

The Reporting and Investigating Allegations of Wrongdoing policy is a new policy and procedure for East Tennessee State University. The originator, Ashley Leonard, solicited input from operational stakeholders in public safety, human resources, athletics, internal audit, and the policy review committee prior to finalizing for public comment. The public comment period for this proposed policy ran from September 16, 2019, through September 23, 2019. We received five comments regarding the policy.

II. Comments Received

Two comments proposed minor changes that were incorporated into the final version of this policy. One comment noted that the policy did not explicitly address how to report allegations of wrongdoing if the allegations are against an immediate supervisor; language was therefore added to clarify that if there are concerns regarding an immediate supervisor, employees have a list of reporting options to consider. Another comment noted the placement of the subjective term “values” and recommended a more objective term for investigatory purposes. This recommendation was incorporated into the final version of this policy by replacing “values” with “regulation”.

A final comment stated: “presently there seems to be a culture at ETSU that even if investigations happen there is no way to hold people accountable for wrongdoing. I hope this policy actually has more teeth and isn’t just something that looks good on paper but does little to change a widespread cultural norm.” A notable comment, and one the compliance office will consider in future outreach and education initiatives to the university community.

III. Legal Review of the Proposed Policy

This new policy is in line with the United States Sentencing Commission Organizational Guidelines in terms of reducing the prospect of unethical or unlawful activity at East Tennessee State University. The policy explains different university units that monitor, audit, and investigate reported suspected wrongdoing without employees’ fear of reprisal.



Reporting and Investigating Allegations of Wrongdoing	
Responsible Official: University Counsel	Responsible Office: Office of University Compliance

Policy Purpose

The purpose of this policy is to authorize units of the university to fully and fairly investigate all allegations of wrongdoing.

Policy Statement

East Tennessee State University is committed to conducting its affairs ethically and in compliance with laws, regulations, and University policies. When a report of potential ethical misconduct or other wrongdoing is made, the University has a responsibility to investigate.

A. Such investigations may be performed to:

1. Determine if a violation of law, policy, or regulation has occurred;
2. Attempt to identify the person or persons responsible for the violation;
3. Determine circumstances surrounding the violation;
4. Make recommendations for appropriate sanctions if a violation has occurred; and
5. Make recommendations to prevent future violations.

B. Employees must:

1. Respond promptly, completely, and accurately to requests related to investigations and otherwise cooperate with persons charged with investigating;
2. Make oneself available for meetings with investigators;
3. Provide full, accurate, and truthful information;
4. Keep information learned during an investigation confidential; and
5. Preserve relevant information.

C. Departments must:

1. Implement investigative recommendations to improve departmental controls for preventing future violations.
2. The investigating unit may follow-up with departments to ensure recommendations are implemented and effective.

D. Confidentiality

1. Confidentiality of individuals involved in investigations will be maintained to the extent possible by law.
2. While absolute confidentiality cannot be guaranteed, all matters will be shared only with those with a legitimate interest in needing to know. Identities of individuals will not be revealed beyond the university unless necessary to comply with the law or if legal action is taken.

E. Retaliation

1. Neither the university nor any employee may retaliate, or threaten or attempt to retaliate, against anyone for making a report, assisting in an investigation, or being regarded as making a report or assisting in an investigation.
2. All suspected reports of retaliation should be reported immediately to the Office of University Compliance.

F. Violations of Policy

1. Failure to comply with the requirements of this policy represents serious neglect of duty and misconduct and is grounds for disciplinary action up to and including termination, in compliance with applicable employee policies.
2. Recommendations regarding employee discipline will be made directly to the immediate supervisor, department chair, dean, human resources, or other appropriate institutional official for faculty and staff.
3. Nothing in this policy requires an employee to breach legally protected confidences or privileges, except as permitted by law.

Definitions

Investigation

A University-authorized internal examination, inspection, inquiry, analysis, or review to determine facts. An investigation is not a hearing or legal proceeding. An investigation may be formal or informal. Investigations may be undertaken by different university units, such as the Office of University Compliance, Internal Audit, Public Safety, Human Resources, Office of University Counsel, or by an immediate supervisor, department chair, or dean.

Policy History

Effective Date:

Revision Date:

Procedure(s)

A. Reporting Options

1. To adhere to the highest standards of integrity, all employees should promptly report suspected or known violations of ETSU policy or of laws relating to ETSU matters to their immediate supervisor or department chair or dean.
2. Employees may also report allegations of wrongdoing to these departments:
 - a. Crime: Department of Public Safety
 - b. Reports by or about faculty or staff workplace matters: Department chair, dean, immediate supervisor, or Human Resources
 - c. Research misconduct: Office of the Vice Provost for Research and Sponsored Programs
 - d. Reports by or about students: Office of the Dean of Students
 - e. Discrimination, harassment, sexual harassment, sexual assault, or retaliation: Office of University Compliance
 - f. Fraud, waste, or abuse: Internal Audit
 - g. HIPAA violations: HIPAA Compliance Office
 - h. Regulatory violations: Office of University Compliance or Internal Audit
 - i. NCAA violations: Compliance, Intercollegiate Athletics Department
3. If an employee is unsure who to contact, the [Office of University Compliance](#) can help determine the appropriate office.

B. University Rights

1. The University will determine external reporting obligations, if any.
2. The University reserves its right to seek all remedies available to it, including seeking criminal prosecution for any misappropriation or other violation of law, as applicable.

Procedure History

Effective Date:
Revision Date:

Related Form(s)

Scope and Applicability

Primary: Employment

Secondary: Academic, Students, Information Technology, Health and Safety, Business and Finance,
Operations and Facilities