
Chapter: Fiscal and Administrative Affairs

Modification No. 001

Subject: **Reporting Suspected Fiscal Irregularities or Fraud with Whistleblower Protections**

- I. Montgomery College adheres to a high standard of ethical and legal business conduct. Therefore, it is the policy of the College to encourage and expect all College employees, students, volunteers, agents, contractors, and members of the community acting in good faith, to report suspected willful wrongful conduct involving fraud or other financial irregularities so that prompt corrective action can be taken by the College. This policy includes whistleblower protections consistent with best practices of similar organizations and the Sarbanes-Oxley Act and thereby encourages responsible reporting of such irregularities to enable timely action by the College.
- II. The College is committed to protecting individuals from interference with making a protected disclosure and from retaliation for having made a protected disclosure or for having refused an illegal order as defined in this policy.
- III. No individual who in good faith reports a violation or suspected violation shall thereby suffer harassment, retaliation or adverse employment and/or academic or educational consequence. An individual who retaliates against someone who has made a report in good faith under this policy is subject to disciplinary action in accordance with College policy and/or the student code of conduct, up to and including dismissal from the College.
- IV. This policy does not protect an individual who files a report or provides information that he or she knows to be false or provides information with reckless disregard for its truth or falsity.
- V. Just as the College will consider wrongful conduct as serious violations of law or College policy, the filing of false or malicious allegations of wrongdoing or knowingly providing false answers or information to an ongoing investigation of wrongdoing may subject individuals to disciplinary action up to and including discharge or expulsion from the College. The failure to substantiate a claim of wrongdoing does not automatically constitute malicious intent or a false claim.
- VI. This policy does not protect individuals who self-report their own misconduct.
- VII. This policy is not intended to replace existing reporting mechanisms for matters such as employment related complaints, health and safety matters, complaints involving discrimination or harassment, nor is it intended to supplant other channels of communication for reporting suspected fraud and financial wrongdoing.
- VIII. The president is authorized to establish procedures necessary to implement this policy.

Board Approval: April 28, 2014

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I. Definitions

- A. Acting in Good Faith - Good faith means the individual providing the information or report of a violation has a reasonable basis in fact for reporting or providing the information. An individual who knowingly provides or reports, or who reasonably ought to know he or she is providing or reporting, malicious, false, or frivolous information, or information with reckless disregard for the truth, or an individual who knowingly omits relevant information, is not acting in good faith.
- B. Protected Disclosure – Communication about suspected wrongful conduct engaged in by a College employee, student, volunteer, or contractor based on a good faith and reasonable belief that the conduct has both occurred and constitutes wrongful conduct.
- C. Retaliation – Any adverse action against an individual because she or he has made a protected disclosure as a whistleblower or has participated in an investigation, proceeding or hearing involving a protected disclosure. The adverse action exists outside of business related reasons or the action is outside of regular practice. Reporting suspected misconduct does not exempt an employee from legitimate personnel action taken during the normal course of business.
- D. Whistleblower - Any person, who in good faith, makes a protected disclosure, with identification of source for College follow-up.
- E. Wrongful Conduct - Unethical, illegal or fraudulent business activity in violation of College policy, laws or regulations.

II. Activity to Be Reported

- A. Fraud that generally involves a willful or deliberate act, expression, omission, or concealment with the intent of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means.
- B. Fraudulent activity relating to grants, contracts, agency funds or other fiduciary obligations.
- C. Forgery or other unauthorized alteration of College instruments including, but not limited to, checks, financial documents, academic records or personal information.
- D. Misappropriation or theft of funds, goods and services, or other College assets.
- E. Impropriety in handling or reporting money or financial transactions.
- F. Purposely reporting inaccurate financial information.

- G. Authorizing or receiving compensation for goods not received or services not performed.
 - H. Accepting or seeking anything of material value from contractors or vendors providing services or materials to the College, not authorized by College policy, nor in compliance with Maryland State Ethics Commission regulations (<http://ethics.gov.state.md.us/Pages/Public%20Ethics%20Law.htm>).
 - I. Destruction, removal or inappropriate use of College records or assets that is unauthorized or contrary to College policy or requirements under the law or regulations.
 - J. Unethical procurement practices.
- III. This procedure should not be used to address and thereby excludes violations that could otherwise be addressed through the College's existing policies and procedures, including the grievance procedure.
- IV. Reporting Suspected Irregularities, Unethical or Illegal Business Activities
- A. All employees are expected to report their reasonable suspicions of fraud, financial misconduct, irregularities, or unethical business activities. Reporting must be made directly to the Chief Compliance, Risk and Ethics Officer or via the third party reporting line at:

Online Reporting: www.montgomerycollege.ethicspoint.com
Toll-free Reporting Line: 1-844-572-2198

All reports are confidential, to the extent permitted by law. The suspicion will be reviewed initially within the Office of Compliance, Risk and Ethics and reported to the Chief Compliance, Risk and Ethics Officer to determine if the report is creditable and should be further investigated or subject to other appropriate actions.
 - B. A report should include information and lawful documents or data in support of the allegation, when possible:
 - 1. A detailed description of the concern;
 - 2. Name of individual(s) involved in the concern;
 - 3. The location where the action(s) occurred; and,
 - 4. Any other details or data that may be important for the investigation including data, documents, evidence, or related information.
 - C. The suspected misconduct should be reported as soon as the individual becomes aware of the misconduct.
 - D. The means for which to make a confidential report will be broadly communicated by the Office of the President through appropriate channels.
 - E. Employees who are aware of or have reason to suspect wrongful conduct should report the conduct to Chief Compliance, Risk and Ethics Officer, or third party

reporting line provider. This procedure does not preclude an employee from reporting to other appropriate persons such as:

1. Their supervisor
2. College administrator with compliance oversight of the issue
3. General Counsel

F. Students or others who are aware or have reason to suspect wrongful conduct should report conduct to either of the following:

1. Students may report to faculty, department chair or dean.
2. Employees who receive protected disclosures are required to forward the concern to the Chief Compliance, Risk and Ethics Officer as soon as possible after of receiving the report.
3. Students or others, who prefer an alternative method to report, may do so through the reporting line.

V. Vetting of Received Reports

- A. All reports must be directed to the Office of Compliance, Risk and Ethics. This includes those made directly to the confidential reporting means or through a College employee. For employees who receive a protected disclosure, failure to forward reports to the Chief Compliance, Risk and Ethics Officer within five (5) business days of receiving the report may result in disciplinary action.
- B. Initial receipt of the report will be acknowledged by Office of Compliance, Risk and Ethics within five (5) business days. If the report does not fall under this Policy, the complainant or other appropriate person/entity will be notified. Reports received via the reporting line would receive acknowledgement by the reporting line vendor to protect the anonymity of the person reporting.
- C. Investigations would normally follow the same procedures as stipulated in 61005CP Internal Audit, but special circumstances would require an alternative.
- D. Reports and investigations will be kept confidential to the extent possible under law and consistent with the need to conduct an adequate investigation and take corrective action.
- E. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measure; appropriate responsible administrators are charged with these responsibilities.
- F. At the conclusion of the investigation, a follow-up with the complainant will be made to the extent possible and permitted by law for closure of the concern.

VI. Protection Against Retaliatory Actions

Individuals who believe they have suffered retaliation as a result of making a protected disclosure may report suspected violations to the Chief Human Resources Officer.

VII. All reports under this procedure will be included as part of the reporting outlined in procedure 61005CP Internal Audit. Annually, or upon request, the Chief Compliance,

Risk and Ethics Officer will prepare a summary report of protected disclosures to the President.

Administrative Approval: April 28, 2014; February 23, 2015; January 26, 2017; September 15, 2017