



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable the Members of the Board of Regents
Acting in their Capacity as Trustees of The University of
the State of New York

FROM: Mary Drzonsc *Mary Drzonsc*

SUBJECT: Whistleblower Policy and Procedures

DATE: December 13, 2016

AUTHORIZATION(S): *Margellen Eis*

Issue for Decision

Will the Board of Regents, acting in their capacity as Trustees of The University of the State of New York, approve a Whistleblower Policy and Procedures?

Reason(s) for Consideration

Pursuant to Not-For-Profit Corporation Law §715-b, the University of the State of New York ("USNY") – Regents Research Fund ("RRF") is required to adopt a Whistleblower policy to protect from retaliation persons who report suspected improper conduct. This Whistleblower Policy and Procedures addresses this statutory requirement.

Proposed Handling

Approval

Recommendation

I recommend that you take the following action:

VOTED, that the Board of Regents, acting in their capacity as Trustees of The University of the State of New York, approve the Whistleblower Policy and Procedures effective December 13, 2016.

Attachment

**THE UNIVERSITY OF THE STATE OF NEW YORK
REGENTS RESEARCH FUND
WHISTLEBLOWER POLICY & PROCEDURES**

1. Purpose.

Not-For-Profit Corporation Law §715-b, as well as certain other state and federal laws, provide employees, including employees of the University of the State of New York (“USNY”) – Regents Research Fund (“RRF”), with protection against retaliation for engaging in various forms of "whistleblowing" and further prevent an employer from retaliating against any employee for disclosing, in good faith, any activity, policy or practice of the employer or any of its employees that is illegal, fraudulent or in violation of any adopted policy of the employer.

The Whistleblower Policy and Procedures as set forth below are intended to encourage and enable Employees to raise concerns in Good Faith within the RRF and without fear of retaliation or adverse Personnel Action.

2. Definitions.

(a) Good Faith: Information concerning alleged wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes alleged wrongdoing.

(b) Trustees: The Honorable members of the Board of Regents acting in their capacity as Trustees of The University of the State of New York – Regents Research Fund.

(c) Fiscal Agent: Any one of the three Fiscal Agents for the RRF.

(c) Employee: All Trustees, officers, staff, consultants or volunteers of the RRF, whether full-time, part-time, employed pursuant to contract, employees on probation and temporary employees.

(d) Wrongdoing: Any activity, policy or practice of the RRF or its Employees that is illegal, fraudulent or in violation of any adopted policy of the RRF.

(e) Whistleblower: Any RRF Employee who in Good Faith disclosed information concerning Wrongdoing by another Employee, or concerning the business of the RRF itself.

(e) Personnel Action: Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

3. Reporting Responsibility.

All RRF Employees who discover or have knowledge of Wrongdoing or suspected Wrongdoing concerning the RRF or another Employee shall report such activity in accordance with the procedures set forth in Section 4 below.

4. Reporting Wrongdoing to a Fiscal Agent.

(a) Information concerning Wrongdoing shall be disclosed to a Fiscal Agent. In the event the Wrongdoing relates to the activities of a Fiscal Agent, such complaint shall be directed to one of the other two Fiscal Agents as set forth in Sub-Section 5(e) below.

(b) Reports of Wrongdoing shall be made in a prompt and timely manner.

(c) Information concerning Wrongdoing may be made anonymously and shall be protected from adverse Personnel Action, intimidation, harassment, discrimination, or other retaliation pursuant to the Policy set forth herein. While complainants are not required to identify themselves, identification is encouraged in the event additional questions arise during the course of the investigation. Complainants' identities will be protected, unless they consent to disclosure or unless disclosure is otherwise compelled by law or pursuant to a court order.

(d) To file an anonymous report of Wrongdoing:

Write to one of the three Fiscal Agents, Regents Research Fund, Room 121, 89 Washington Avenue, Albany, NY 12234, and mark the envelope "Confidential"; or

Send an e-mail to a Fiscal Agent at USNYRRF@nysed.gov. In the subject line of the message, state which of the three Fiscal Agents the complaint should be forwarded to, and also note the message as "Confidential".

5. Investigation of Wrongdoing.

The Fiscal Agent shall immediately advise the Trustees of all reported Wrongdoing and shall investigate and handle such claims in a timely and reasonable manner, which may include referring such information to an appropriate law enforcement agency where applicable. The Fiscal Agent is required to report on the resolution of reported Wrongdoing and substantial pending investigations to the Trustees at least once per quarter at a regularly scheduled Trustee meeting.

Notwithstanding the above, in the event the subject of the reported Wrongdoing is a Trustee, the Fiscal Agent shall report the Wrongdoing to the President of USNY.

6. Retaliation Prohibited.

(a) Neither the RRF nor any Employee shall: (i) retaliate against any Whistleblower for the Good Faith disclosure of Wrongdoing or suspected Wrongdoing, whether through threat, coercion, or abuse of authority; or (ii) interfere with the rights of any other Employee by any improper means aimed at deterring disclosure of Wrongdoing. Any attempts at retaliation or interference are strictly prohibited.

(b) It is the policy of the RRF that no Employee who in Good Faith reports any Wrongdoing or suspected Wrongdoing by the RRF or an Employee shall suffer adverse Personnel Action, intimidation, harassment, discrimination, or other retaliation.

(c) All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose Wrongdoing will be thoroughly investigated by a Fiscal Agent.

(d) Any Employee who retaliates against, or attempts to interfere with, any other Employee for having in Good Faith disclosed Wrongdoing is subject to discipline, which may include termination of employment.

(e) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

7. Distribution of Policy.

Upon approval and adoption by the Trustees of the RRF, this Whistleblower Policy and Procedures shall be distributed to all current Employees. Thereafter, it shall be distributed to all new Employees when their employment commences.

8. Additional Responsibilities of Fiscal Agent

In addition to the duties and responsibilities enumerated in paragraphs 1 through 7 herein, the Fiscal Agent shall also report to the Trustees of the RRF on the Whistleblower Policy, its implementation and the general type and resolution of any reports of Wrongdoing received pursuant to the Whistleblower Policy as needed but at least once annually.

9. Other Legal Rights Not Impaired.

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under state or federal law with respect to disclosing Wrongdoing free from retaliation or adverse Personnel Action.