



<b>Policy Name:</b>	Mercy College Whistleblower Policy		
<b>Associated Forms:</b>	Whistleblower Report Form: <a href="https://www.mercy.edu/whistleblower-form">https://www.mercy.edu/whistleblower-form</a>	<b>Policy Number:</b> 2022-1	
<b>Approval Authority:</b>	President  <i>Timothy L. Hall</i>	<b>Adopted:</b>	January 24, 2022
<b>Reviewed:</b>	Non-Academic Policy Review Committee	<b>Revised:</b>	April 23, 2015; October 24, 2016; March 28, 2017; January 24, 2022
<b>Responsible Office:</b>	Internal Audit	<b>Contact:</b>	Director, Internal Audit

## **I. Policy Statement**

Mercy College is committed to conducting its affairs in accordance with all federal, state, and local laws and regulations and to ensuring that its internal policies are followed. The College expects all College community members to report conduct or suspected conduct that they, in good faith or reasonably believe, whether pursuant to the process provided in this Policy, or otherwise in a manner which is protected under Section 740 of the New York Labor Law, may violate the law or College policy (“whistleblowers”) so that the College may investigate and take appropriate action. Suspected violations can be reported confidentially via the College’s hotline at **1-888-OK-MERCY (1-888-656-3729)** or online via the Whistleblower Report Form, found at: <https://www.mercy.edu/whistleblower-form>. The College will ensure that whistleblowers are protected from retaliation for making such reports. This Policy should not be used for routine personnel or managerial disputes.

Persons with knowledge of conduct or conditions that pose an imminent threat to the health or safety of any member of the Mercy College community or the public should immediately call 911 or Campus Public Safety at x 9999.

## **II. Reporting Suspected Violations of Law or College Policy**

### **A. Who Should Report**

The following members of the Mercy College community are expected to report conduct that relates to the College and that they in good faith or reasonably believe, whether pursuant to the process provided in this Policy, or otherwise in a manner which is protected under Section 740 of the New York Labor Law, may violate federal, state or local law, rule, regulation, ordinance, executive order, judicial or administrative decision, ruling or order, or College policy (hereinafter “violations”):

- Employees, who are individuals who perform services for and under the control and direction of Mercy College for wages or other remuneration;
- Former employees;
- Consultants, vendors and contractors doing business with the College;
- Individuals who perform services for the College as volunteers or otherwise assert association with the College, including trustees and officers; and
- Students in any degree, non-degree, diploma, certificate granting or other programs.

### **B. What Should Be Reported**

Suspected misconduct that should be reported includes violations of federal, state or local law, rule, regulation, ordinance, executive order, judicial or administrative decision, ruling or order, or College policy. Examples of such violations may include but are not limited to, the following:

- Fraud, theft, embezzlement, destruction or misuse of College property or resources
- Forgery or unauthorized alteration of documents or computer records

- Falsification or misrepresentation of reports, including timesheets and travel reimbursement forms
- Conflict of interest or ethics violations
- Computer fraud or data security breaches
- Disclosing confidential or proprietary information to unauthorized individuals
- Taking information of another and using it in an unauthorized manner or facilitating identity theft
- Sexual assault, assault, hazing or child abuse or misconduct relating to minors
- Discrimination and harassment, including age, disability, sex-based and race
- Environmental, health and safety violations
- Research or academic misconduct by faculty or staff
- Retaliation for reporting misconduct under this Policy

### C. How to Report

#### (1) Employee Whistleblowers

Depending on the nature of the complaint, it may be appropriate for a current employee or independent contractor to resolve their concerns at the most local level, by reporting suspected violations through standard management channels, beginning with their immediate supervisor. A supervisor is a person at the College who has the authority to direct and control work performance of the affected employee; or has managerial authority to take corrective action regarding the violation of which the employee complains. If the current employee or independent contractor does not wish to report a suspected violation to an immediate supervisor, they may go to a higher level of management or they may report the misconduct confidentially by contacting the **Whistleblower Hotline 1-888-OK-MERCY (1-888-656-3729)**, online via the Whistleblower Report Form, found at <https://www.mercy.edu/whistleblower-form> or contacting the **Director of Internal Audit at 914-674-7278**.

#### (2) Students, Former Employees and other Non-Employee Whistleblowers

Students, former employees and those who are other non-employees of the College should contact the **confidential Whistleblower Hotline 1-888-OK-MERCY (1-888-656-3729)**, file a report confidentially via the Whistleblower Report Form online at: <https://www.mercy.edu/whistleblower-form> or contact the **Director of Internal Audit at 914-674-7296** to make a report of suspected violations of federal, local or state law or College policy.

### D. Confidentiality

Reports of violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation, to comply with all applicable laws, and to cooperate with law enforcement authorities. While a report may be made anonymously, doing so may hinder the College's ability to investigate and resolve the complaint.

### E. Investigation of Allegations

(1) Who will conduct an investigation?

Reports will typically be directed to persons responsible for investigation and resolution consistent with Mercy College policies and procedures. In some cases, it may be appropriate for the department manager to investigate a matter. In other circumstances, the complaint may need to be forwarded to a different department within the College for investigation. For example, the College's Title IX Coordinator/Equity Compliance Specialist is responsible for investigating complaints of unlawful discrimination, including sexual harassment and sexual assault. **In all circumstances in which a report is made pursuant to this Policy, the supervisor or manager shall confer with the Director of Internal Audit to determine if an investigation is warranted and if so, who shall conduct the investigation.**

(2) Cooperation Required

Any member of the College community who is interviewed, asked to provide information, the subject of an investigation, or otherwise asked to participate in an investigation, has a duty to fully cooperate with College officials who are charged with conducting an investigation. Participants should refrain from discussing or disclosing the details of the investigation with anyone.

(3) Penalties for Whistleblower Violations

Confirmed violations reported under this Policy will result in appropriate disciplinary action up to and including termination from employment in accordance with applicable procedures under the relevant College policies, procedures, bylaws or collective bargaining agreements, or severance of the relationship with the College; suspension or expulsion for students who are in violation; or severance of the relationship with the College for contractors or vendors who are in violation. In some circumstances, civil and/or criminal charges and penalties may apply.

### **III. Retaliation Against Whistleblowers**

#### **A. Prohibited Retaliatory Actions**

No Mercy community member who in good faith or reasonably believes, whether pursuant to the process provided in this Policy, reports any action or suspected action taken by or within the College that is in violation of federal, state or local law, rule, regulation, ordinance, executive order, judicial or administrative decision, ruling or order, or College policy shall suffer: (1) intimidation, harassment, discrimination or other retaliation or, (2) in the case of employees, adverse employment consequence such as demotion, suspension, termination, or threats to do the same; or (3) actions that are threats to take such actions that would adversely impact a former employee's current or future employment; or (4) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member (defined under NYS Social Services Law).

The College may not take any retaliatory actions against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following: (1)

discloses, or threatens to disclose to a supervisor or to a public body<sup>1</sup> an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety; (2) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or (3) objects to, or refuses to participate in any such activity, policy or practice.

### **B. Penalties for Retaliatory Conduct Directed at Whistleblowers**

Any community member who engages in retaliatory behavior against another individual who has reported a suspected violation or cooperated in an investigation of, or proceeding relevant to, a violation may be subject to discipline, up to and including termination of employment, in accordance with applicable procedures under the relevant College policies, procedures, bylaws or collective bargaining agreements, suspension or expulsion (for students), or severance of the relationship with the College (for contractors or vendors).

The protection against retaliatory action pertaining to disclosure to a public body set forth above shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where: (1) there is an imminent and serious danger to the public health or safety; (2) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (3) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (4) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (5) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

### **C. Remedies for those Subjected to Retaliation**

An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action in a court of competent jurisdiction for relief in accordance with NYS Labor Laws within two (2) years after the alleged retaliatory action was taken. Any such action may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial. It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section.

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<sup>1</sup> "Public body" includes any of the following: the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof; (ii) any federal, state, or local [judiciary] court, or any member or employee thereof, or any grand or petit jury; (iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof; or (iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer.

#### **IV. Filing a False Report**

Making a false report or providing false information during the course of an investigation may be grounds for discipline in the absence of good faith or reasonable belief that the report or the information is true.

#### **V. Distribution of this Policy**

This Policy shall be posted on the Mercy College website and shall be distributed to all new and current employees, board of trustees, officers and students who provide substantial services to the College through electronic notifications or other appropriate means. This Policy shall also be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

#### **VI. Administration of this Policy**

The Director of Internal Audit, in coordination with appropriate College offices, shall be responsible for the administration of this Policy including:

- Monitoring the confidential Whistleblower Hotline;
- Disseminating and posting the Policy;
- Making periodic updates to the Policy as may be necessitated by changes in law;
- Providing reports to the Chair of the Audit Committee; and
- Notifying law enforcement, regulatory and other governmental authorities when appropriate.