



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

## Operating Policy and Procedure

**HSC OP:** 52.04, **Reporting Violations; Non-Retaliation Policy**

**PURPOSE:** Texas Tech University Health Sciences Center (TTUHSC) is committed to protecting the rights of Employees and Affiliates who report fraud, potential or actual violations of law, policies and procedures, or who participate in any manner in a civil or criminal legal action involving allegations of violation of law.

**REVIEW:** This HSC OP will be reviewed on December 15 of each odd-numbered year (ONY) by the Senior Associate General Counsel, the Institutional Compliance Officer and the Assistant VP for Human Resources, with recommendations for revisions forwarded to the Institutional Compliance Working Committee and the Institutional Compliance Committee by March of the following year.

**DEFINITIONS:** In this policy, the following terms are defined as:

**Adverse Personnel Action**, includes, but is not limited to, an action that affects a TTUHSC employee's compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

**Affiliate** means any volunteer, student, or non-employee providing services to or on behalf of TTUHSC.

**Appropriate Law Enforcement Authority** means an authority who is part of a state or local governmental entity or of the federal government that the reporting individual believes is authorized to: (a) regulate under or enforce the law alleged to be violated in the report; or (b) investigate or prosecute a violation of criminal law.

**Employee, Termination and Separation** are the same as defined in TTUHSC OP 70.31, *Standards of Conduct, Discipline and Separation of Employees*.

**Retaliation** includes, but is not limited to, termination of or separation from employment or affiliation with TTUHSC, forced resignation, elimination of the position, discrimination in the terms of employment or affiliation with TTUHSC, interference with employment or affiliation with TTUHSC, harassment, threats of retaliation, unwarranted disciplinary action or adverse personnel action.

**Fraud** has the same meaning in Texas Tech University System Regents Rule 07.03

### **POLICY/PROCEDURE:**

#### **1. Reporting Violations**

- a. A report of fraud, a potential or actual violation of federal or state laws, regulations, rules, or TTUHSC policies and procedures may be made as follows including, but not limited to, making a verbal or written report to or through:
  - 1) A TTUHSC supervising manager or administrator as part of the routine day-to-day operations or TTUHSC policy;
  - 2) The Texas Tech University System Office of Audit Services;

- 3) Texas State Auditor's Office Fraud Hotline, as follows:
  - Telephone 1-800-TX-AUDIT (1-800-832-8348)
  - On-Line Report Form at <https://sao.fraud.state.tx.us/Hotline.aspx>
  - Mail to:

State Auditor's Office  
ATTN: SIU  
P.O. Box 12067  
Austin, TX 78711-2067

- 3) The Texas Tech University System Compliance Hotline at [www.ethicspoint.com](http://www.ethicspoint.com) or the toll-free number of 1-866-294-9352, See also [TTUHSC OP 52.03, Compliance Hotline](#);

- 4) A state or federal law enforcement authority, including but not limited to, the Texas Tech Police Department.

- b. To the extent possible, submitting a written report is encouraged, as well as reporting in a timely manner in order to permit an opportunity to review the allegation(s) and take necessary action as appropriate.

## 2. **Protection Against Retaliation for Reporting Violations**

- a. No retaliation shall knowingly be taken against any TTUHSC Employee or Affiliate who in good faith reports fraud, official wrongdoing, a potential or actual violation of federal or state laws, regulations, rules, or TTUHSC policies and procedures.
- b. No TTUHSC Employee or Affiliate shall directly or indirectly use or attempt to use the official authority or influence of his/her supervisory position or office for the purpose of interfering with the right of a person to report fraud, violations of law, regulations, rules or TTUHSC policies and procedures.
- c. No TTUHSC Employee or Affiliate shall be retaliated against because of lawful acts he/she takes on his/her own behalf, or for others to pursue any civil or criminal action filed under federal and/or state laws, including, but not limited to, the Federal False Claims Act,<sup>1</sup> or the Texas Medicaid Fraud Prevention Act.<sup>2</sup> Lawful acts include, but are not limited to, investigation of, initiation of, testimony for, or assistance in, any civil or criminal legal action involving allegations of fraud or violation of federal and/or state laws, rules or regulations.

3. **Rights of TTUHSC Employees.** A TTUHSC Employee who is retaliated against for reporting, in good faith, fraud, official wrongdoing, or violation of federal or state law, regulation or rules to an appropriate law enforcement authority may seek relief under Texas Government Code, Chapter 554, which includes the right to file a suit for damages, reinstatement, lost wages, court costs and attorneys fees.

## 4. **Posting Of Whistleblower Notice**

The Whistleblower notice prepared by the Attorney General of Texas shall be posted in prominent locations at all TTUHSC workplace locations.<sup>3</sup>

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<sup>1</sup> 31 USC 3729 et. seq.

<sup>2</sup> Texas Government Code, Chapter 36, as currently amended.

<sup>3</sup> Texas Government Code §554.009.

5. **Disciplinary Action**

a. **Illegal Retaliation.**

1) Employee. Any Employee found to have violated this policy may be immediately terminated and may be subject to additional legal action. The procedures set forth in Section 6 of TTUHSC OP 70.31, *Standards of Conduct, Discipline and Separation of Employees* shall apply to non-faculty employees. Where applicable, the procedures set forth in Sections 9 and 10 of Regents' Rule 04.03, *Tenure-TTUHSC*, or the respective Schools' Faculty Grievance Policies, shall apply to faculty.

2) Affiliate. Any Affiliate who violates this policy is subject to discipline, including but not limited to, loss of privileges within TTUHSC, removal from TTUHSC facilities and possible legal action.

3) Correcting Known Retaliation. If a TTUHSC Employee or Affiliate is knowingly retaliated against for his/her good faith report of a violation of law, regulation or TTUHSC policy and procedure, or for his/her lawful acts to pursue any civil or criminal action under state or federal law, and his/her other conduct or performance did not warrant that action, then appropriate remedial action will be taken on behalf of that employee or affiliate.

b. **Personnel Actions.** Nothing herein is intended to prevent personnel action against an employee for performance issues based on information, observation, evidence or any other item that is not related to the fact that the employee took action protected under this policy.

5. **Right to Change Policy.** TTUHSC reserves the right to change, modify, amend or rescind this policy in whole or in part at any time with the consent of employees.

**NOTE: The language used in this document does not create an employment contract between an employee and Texas Tech University Health Sciences Center (TTUHSC).**