

**SUMMARY OF FINAL GUIDANCE
for the Communication of Suspected Unethical or Illegal Conduct
(Whistleblower Protections)**

Whistleblower Complaints

The University of Maryland College Park has a responsibility to conduct its affairs ethically and in compliance with the law. If you suspect that a University employee or contractor is engaged in improper or illegal conduct, the University has policies and procedures that allow you to “blow the whistle” on this behavior and protect you from retaliation. Maryland also has a specific Whistleblower Law that protects employees who make good faith reports about abuse of authority, gross mismanagement or waste, substantial and specific dangers to public health and safety, or violations of law. Maryland’s Whistleblower Law applies to all State employees.

Federal Grants & Contracts

Employees who work on Federal Government grants, contracts, cooperative agreements, or other awards may report complaints of actual or suspected misconduct to a variety of Federal employees and are protected from discharge, demotion, or other forms of discrimination or retaliation. (Employees who do not work on Federal Government agreements are also protected from retaliation and may report complaints to a variety of University and State of Maryland employees.)

Final Guidance

The following Final Guidance is necessary to comply with new federal whistleblower protections. It sets forth the University’s guidelines and procedures related to filing a complaint of suspected or actual illegal or unethical conduct and complaints of retaliation for good faith reporting.

FINAL GUIDANCE
for the Communication of Suspected Unethical or Illegal Conduct
(Whistleblower Protections)

- I. Purpose. The purpose of this guidance is to expand existing USM and UMD procedures on the reporting of actual or suspected misconduct and protection from retaliation for such reporting, and to establish compliance with new and existing federal laws and regulations, including but not limited to:
- Maryland Code Annotated, State Personnel and Pensions Article, §§ 5-301 *et. seq.*, Maryland whistleblower law in the executive branch of state government;
 - 7 USC § 2131 *et. seq.*, Animal Welfare Act;
 - 10 USC § 2409, Contractor employees: protection from reprisal for disclosure of certain information;
 - 41 USC § 4712, Pilot program for enhancement of contractor protection from reprisal for disclosure of certain information;
 - 42 USC § 289b, Office of Research Integrity;
 - 9 CFR, Subchapter A, Animal welfare regulations;
 - 22 CFR Parts 120-130 International Traffic in Arms Regulations and 15 CFR Parts 734-774 Export Administration Regulations, collectively “export regulations”;
 - 48 CFR 52.203-17, Contractor employee whistleblower rights and requirement to inform employees of whistleblower rights; and
 - 48 CFR 252.203-7002, Requirement to inform employees of whistleblower rights.
- II. Definitions.
- a. **Anonymous reporting** – A method of making a good faith disclosure while withholding the identity of the Reporting Individual.
 - b. **Fraud** – Any act or instance of conscious deception made for personal gain. Fraud includes, but is not limited to, theft, embezzlement, improper reporting of time, illegal payments, misuse of University resources, and inappropriate communication of confidential information (*e.g.*, social security number, protected health information, confidential financial information).
 - c. **Fraud Hotline** – The University System of Maryland’s existing hotline for reporting fraud or other financial irregularities, operated by USM’s Office of Internal Audit. The hotline will be expanded to handle reports of actual or suspected non-financial concerns.
 - d. **Good Faith Disclosure** – Any communication or report about actual or suspected misconduct based upon a reasonable belief that the conduct has both occurred and is wrongful under applicable law, regulation, University policy, and/or ethical and professional standards. Good faith disclosures do not disregard facts that would refute the disclosure and are not based upon bias, malice, or other ill intent.
 - e. **Misconduct** – Any act that violates a law, regulation, University policy, or ethical/professional standard.
 - f. **Reporting Individual** – Any employee, student, volunteer, agent, contractor, or other person who reports a concern regarding improper conduct or other matters that compromise the working environment. Also known as a whistleblower.

- g. **Retaliation** – An adverse action or threat taken against an individual in response to a good faith complaint of a known or suspected violation of law, policy, ethical standards, or professional standards.
- h. **University Community Member** – University of Maryland College Park faculty, staff, students, and contractors.

III. Statement of Guidance.

- a. Compliance & Reporting. It is the intent of the University of Maryland College Park to adhere to all applicable laws and regulations; the underlying purpose of this guidance is to support the University's goal of legal compliance. The support of all University community members is necessary to achieving compliance with various laws and regulations. The University has financial and operating controls in place to provide reasonable assurance that it can detect and prevent fraudulent, illegal, or unethical activity on the part of University faculty, staff, officers, students, or business contacts, but the potential for inappropriate transactions and behavior still exists within the University, as it does within any organization.

All members of the University community are strongly encouraged to report any potential misconduct. Potential misconduct includes but is not limited to:

- i. Illegal acts, such as corruption, bribery, theft, or misuse of University property;
 - ii. Fraudulent claims, fraud, coercion, willful neglect of official duties, or economic waste;
 - iii. Gross misconduct, incompetence, or inefficiency by University community members;
 - iv. Any condition that may significantly threaten the health and/or safety of University community members and the public;
 - v. Serious or substantial violations of University policy; and
 - vi. Research misconduct, including the mishandling of laboratory animals.
- b. Retaliation. The University will not tolerate any retaliatory actions against any Reporting Individual for making a good faith report of potential misconduct. Anyone who, in good faith, reports a suspected or actual violation of law, regulation, university policy or procedure, or ethical or professional standards will be protected from retaliation as a result of such reporting regardless of whether, after investigation, a violation is found to have occurred.

No member of the University community shall discharge, demote, suspend, threaten, harass, or discriminate against a Reporting Individual for reporting what he/she sincerely believes to be a serious actual or suspected violation or unethical act. This protection extends to individuals who provide information in relation to an investigation of a report by a Reporting Individual.

IV. Procedures.

- a. Reporting a Claim of Suspected or Actual Misconduct. The preferred method of reporting any issue of concern is for the Reporting Individual to first discuss the issue with his/her supervisor. If the Reporting Individual feels uncomfortable discussing the issue with his/her

supervisor, he/she may report the matter to a department manager, Human Resources – Staff Relations, the System hotline, or one of the individuals listed in Appendix A, Additional Resources for Reporting.

The System hotline is available at <http://www.usmd.edu/usm/IAO/ReportFraud/index.php> or 877-330-2320.

A report should be filed within 30 days from the date on which the Reporting Individual has knowledge of the suspected or actual misconduct, except where other time periods are indicated by state or federal law.

Upon receiving a report of suspected or actual misconduct, the University will provide fair and objective procedures for examining and resolving complaints, disputes, and allegations of misconduct.

- b. Anonymous Reporting. Currently, Reporting Individuals who wish to remain anonymous may use the System hotline or send written communication by campus mail or U.S. mail to Human Resources – Staff Relations.

Anonymous Reporting Individuals must provide sufficient corroborating evidence to justify the commencement of an investigation. Because investigators are unable to interview anonymous Reporting Individuals, it may be more difficult for the University to investigate the credibility of the allegations and therefore less likely to result in an investigation.

- c. Reporting a Claim of Retaliation. Following a good faith claim of suspected or actual misconduct, the University will take reasonable steps to protect the Reporting Individual from retaliation. Reporting Individuals who believe they have experienced retaliation are encouraged to submit a Complaint of Retaliation to Human Resources. The complaint should be filed within 30 days after any alleged act or threat of retaliation, except where other time periods are indicated by state or federal law.

- V. Specific Rights under Maryland’s Whistleblower Law. Employees of the Executive Branch of the State of Maryland, including a unit with an independent personnel system, may report suspected or actual misconduct to a supervisor, appointing authority, or head of a principal unit who is in a position to correct the misconduct, as well as the Office of the Attorney General. If an employee believes he/she has experienced retaliation, the employee may file a claim with the Office of the Statewide EEO Coordinator within six months after the employee knew of or reasonably should have known of the retaliation.

- VI. Specific Rights under Federal Grants and Contracts. Organizations that enter into grants, contracts, and other agreements with the Federal Government are now required to inform employees who work on these agreements of specific whistleblower rights and protections, and must also flow these protections down to all subcontractors.

- a. Specific Violations. University employees and subcontractors are entitled to report information that they reasonably believe to be evidence of any of the following:
 - i. Gross mismanagement of a federal contract;
 - ii. Gross waste of federal funds;

- iii. Abuse of authority relating to a federal contract (any arbitrary or capricious exercise of authority that is inconsistent with the mission of the University or the successful performance of a federal grant, contract, or other agreement);
 - iv. Substantial and specific danger to public health or safety; or
 - v. Violation of a law, rule, or regulation related to a federal grant, contract, or other agreement, including competition for and negotiation of said agreement.
- b. Entities to Whom Disclosure May be Made. A Reporting Individual concerned about the violations listed in Section VI(a) may disclose evidence to any of the following entities:
- i. A management official or other employee of the University or subcontractor who has the responsibility to investigate, discover, or address misconduct;
 - ii. A member of Congress or a representative of a committee of Congress;
 - iii. An inspector general;
 - iv. The U.S. Government Accountability Office;
 - v. A federal employee responsible for contract oversight or management at the relevant agency;
 - vi. An authorized official of the U.S. Department of Justice or other law enforcement agency; and
 - vii. A court or grand jury.

APPENDIX A – Reporting Resources

Subject	Contact	Telephone	URL
Animal Welfare	IACUC	301-405-5037	http://www.umresearch.umd.edu/IACUC
Anonymous Reporting	System Hotline	877-330-2320	http://www.usmd.edu/usm/IAO/ReportFraud/index.php
Athletics	Director of Compliance	301-314-1349	http://www.umterps.com/ViewArticle.dbml?DB_OEM_ID=29700&ATCLID=208138989
Conflict of Interest	Research Compliance Office	301-405-0678	http://www.umresearch.umd.edu/RCO/COI/index.html http://www.umresearch.umd.edu/RCO/FCOI/index.html
Criminal matters	University Police	301-405-3333	http://www.umpd.umd.edu
Discrimination & Harassment	Human Resources/Title IX Coordinator	301-405-1142	
Employment Matters	Human Resources	301-405-0001	http://uhr.umd.edu
Export Compliance	ECO Office	301-405-2656	http://www.umresearch.umd.edu/Export/overview.html
Financial Matters	VPAF/Office of Contract & Grant Accounting	301-405-2607	
Health & Safety	Dept. of Environmental Safety	301-405-3960	http://www.des.umd.edu
Human Subjects	Institutional Review Board	301-405-0678	http://www.umresearch.umd.edu/RCO/IRB
Research Misconduct	Assoc. Provost, Faculty Affairs	301-405-4252	http://www.faculty.umd.edu/index.html