

Davis Technical College

Whistleblower Policy

Effective Date: 7 December 2023

1. Purpose

To outline protections for employees who report suspected or actual occurrences of illegal or unethical events and provide steps for reporting/remediating adverse actions against employees who have submitted reports in good faith.

2. References

Utah Code 67-21-3, Utah Protection of Public Employees Act.

3. Definitions

3.1. Complaint – A formal, verbal, written, broadcast, or otherwise communicated report of improper conduct.

3.2. Adverse Action- Discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.

3.3. Retaliation – Adverse employment action taken as a result of an employee's good faith reporting of suspected improper activity.

3.4. Conflict of Interest – A material, specific, and outside the ordinary course of the College business relationship or connection with a reporting individual or an allegation made in any received complaint, such that the existence of the relationship and/or connection would prevent that individual from operating objectively.

3.5. Good Faith – An employee acts with (a) subjective good faith intention and (b) the objective good faith intention of a reasonable employee.

3.6. Improper Conduct – Any suspected or actual activity that an employee reasonably believes to be a waste or misuse of public funds, property, or labor; b) a violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; c) gross mismanagement, abuse of authority; or d) unethical conduct.

4. Policy

4.1. The College encourages employees to report suspected or actual occurrences of illegal, unethical, or inappropriate events, behaviors, or practices without fear of adverse action. An employee of the College who believes they have been subjected to retaliatory action for any protected reporting shall follow the procedures outlined in this policy in section 7.

4.2. Human Resources shall provide employees with a copy of the Utah Protection of Public Employees Act (UPPEA) statute upon hire, upon request by the employee, and when an employee submits a complaint under this policy. Human Resources is also responsible for keeping employees informed of their protections and obligations under the UPPEA.

4.3. A reporting individual is not required to prove the truth of their allegations at the time a complaint is submitted but is required to act in good faith. Any employee who does not act in good faith may be subject to civil fines of up to \$5,000 and/or disciplinary action by the College per the UPPEA. Any presumption of good faith may be rebutted if the employee knew, or reasonably ought to have known, that the complaint is malicious, false, or frivolous.

4.4. Details regarding complaints under this policy are shared on a need-to-know basis and will be treated as confidential to the extent permitted by law and at the discretion of the College.

4.5. The College reserves all rights afforded to it under applicable law. Nothing in this policy or related policies, procedures and practices of the College or governing bodies shall be read to offer or constitute a legal agreement or contract or be subject to legal jurisdiction in the law or courts in any kind. This policy is enacted to solely to comply with the requirements of Utah Code 67-21-3.7 and does not confer any additional rights.

5. Procedure

5.1. Any person may report allegations of suspected improper activities. A College employee should make an initial report to the employee's immediate supervisor, or the next level supervisor. However, if the immediate supervisor or next level supervisor is suspected of improper activities or impartiality, the employee should make reports to another College official.

5.1.1. The reporting individual must include all relevant and specific information available to the reporting individual that supports the allegations raised in the complaint.

5.1.2. Individuals who submit their complaint to the Utah Board of Higher Education, the commissioner of higher education, the State Attorney General's office, law enforcement (if the conduct is criminal in nature), the state auditor's office, the state court administrator, the Utah Division of Finance, the president of the Utah Senate, the speaker of the Utah House of Representatives, or the Utah governor's office are subject to the protections of this policy per the UPPEA.

5.1.3. A complaint provided to any of the individuals listed in 5.1.2 will not be deemed to have been filed a complaint at the College until the complaint has been received.

5.1.4. The Davis Tech Speak Up link is an alternate reporting process. The link is not an alternative grievance process intended to resolve a personal/personnel injustice. Employees should use the link if they feel they cannot use other reporting channels or if the initial complaint is unresolved. Employees reporting suspected improper activities to the link are encouraged to identify themselves so that the College may contact them for further information if necessary. Reports may be made anonymously if the employee feels that it is the only way they can disclose the information.

5.1.4.1. After the employee submits the form through the link, it will be sent to the Human Resources Director. If the employee provides their name, the Human Resources Director will contact the employee for further information if needed.

5.1.5. Under Utah Law S67-2-3, reports of allegation of suspected improper governmental activities, such as fraud, waste, or abuse of state resources, may be made to the State Auditor. Under that law, the State Auditor is prohibited from disclosing the identity of the employee making the report without obtaining the employee's permission to do so, or when the disclosure is to a law enforcement agency conducting a criminal investigation.

6. Retaliation

- 6.1. The College may not take adverse action against employees because they filed a complaint in good faith.
- 6.2. An adverse action made for legitimate disciplinary or other purposes is not a violation of this policy.
- 6.3. The College may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of the State of Utah, a political subdivision of Utah, or the United States, or a rule or regulation adopted under the authority of the laws of Utah, a political subdivision of Utah, or the United States.

7. Reporting Adverse Action

- 7.1. An employee alleging adverse action for reporting in good faith shall file a complaint with the Human Resources Director.
- 7.2. The Human Resources Director shall assemble a personnel relations committee to review the complaint.
- 7.3. No member of the committee may:
 - 7.3.1. be in the same department as the complainant,
 - 7.3.2. be a supervisor of the complainant; or
 - 7.3.3. have a conflict of interest in relation to the complainant or an allegation made in the complaint.
- 7.3.4. If the allegation involves the Human Resources Director, then either the President or appropriate Vice President will be appointed by the President to fulfill the obligation of section 7.

8. Approval and Notes

Board Approval: 7 December 2023
President's Council Approval: 9 October 2023