

# **Kenyon College**

## **Whistleblower Policy**

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## **Kenyon College**

### **Policy on Employee, Student, Vendor, Alumni and Applicant Disclosure of Misconduct Including Questionable Accounting or Auditing Matters (Whistleblower Policy)**

**(Approved by the Board of Trustees, April 21, 2017)**

#### **I. PURPOSE AND APPLICABILITY**

The purpose of this policy is to set forth Kenyon College's (the "College") policy on Board member, employee, volunteer, student, vendor, alumni and applicant disclosure of misconduct, including misconduct relating to accounting or auditing matters, and to protect Board Members, employees, volunteers, students, vendors, alumni and applicants from retaliation in the form of an adverse employment and other action for disclosing in good faith what the Board Member, employee, volunteer, student, vendor, alumni or applicant believes evidences certain unlawful practices. This policy is applicable to all Board Members, employees, volunteers, students, vendors, alumni of the College and to applicants for jobs at the College.

#### **II. STATEMENT OF POLICY**

The College is committed to the highest ethical standards of conduct and expects those individuals and organizations affiliated with the College to be equally committed. To maintain those standards, the College needs the help of the College community. Board Members, employees, volunteers, students, vendors, and alumni have a duty to disclose information they have regarding suspected or alleged misconduct existing within the College that he or she reasonably believes constitutes wire fraud, mail fraud, bank fraud, securities fraud, questionable accounting, internal controls or auditing matters, the wrongful use or disclosure of an individual's personal information (such as identity theft), disclosure of a student's education records in violation of the Family Educational Rights and Privacy Act (FERPA), misuse of personal financial, health, or other private information in violation of state or federal law or College policy, or any other conduct or activity that violates the College's policies, procedures or legal obligations. It is the policy of the College that Board Members, employees, volunteers, students, vendors, alumni and applicants who disclose information regarding suspected or alleged misconduct shall be free from fear of retaliation to make known in good faith any information about the suspected or alleged misconduct. The confidentiality of the reporting individual will be maintained as much as possible, keeping in mind that the name of the disclosing individual, if known, may need to be disclosed in the course of an investigation or to comply with the law..

A Board member, employee, volunteer, student, vendor, alumni or applicant who retaliates against any individual(s) or organization who discloses information regarding suspected misconduct under this Policy or who, following such disclosure, seeks a remedy provided under this Policy or any law or other College policy may be subject to suspension, termination, cancellation of the applicable vendor contract, removal from campus or any other action the College deems necessary. Intentionally providing false information regarding an actual or potential violation of this policy, making a disclosure of suspected or alleged misconduct in bad faith, or intentionally withholding information regarding suspected or alleged misconduct without an appropriate basis for doing so may also result in discipline under this Policy, including suspension, termination, cancellation of the applicable vendor contract, removal from campus or any other action the College deems necessary.

### III. PROCESS FOR DISCLOSURE

A. An employee, volunteer, student, vendor, alumni or applicant shall disclose all relevant information regarding suspected misconduct to the following designated intake officers, in accordance with the subject matter of the disclosure:

<b>Subject Matter</b>	<b>Intake Officer</b>
Disability Violations	President's Chief of Staff <u>OR</u> Title IX/Civil Rights Coordinator
Discrimination/Harassment/Retaliation/ Hostile Workplace/Bullying	President's Chief of Staff <u>OR</u> Civil Rights/Title IX Coordinator
Environmental Hazards/ Unsafe Workplace Conditions	Chief Business Officer <u>OR</u> Director of Facility Operations
Faculty/Staff Handbook Violation	Faculty - Provost <u>OR</u> Associate Provost Staff - VP for Finance <u>OR</u> Director of Human Resources
Financial Improprieties/ Fraudulent Accounting (including but not limited to: wire fraud, mail fraud, bank fraud, securities fraud or questionable accounting, internal controls, and auditing matters )	VP for Finance <u>OR</u> Controller <u>OR</u> Contact Campus Conduct Hotline to direct concern to Chair of the Audit Subcommittee
Illegal/Unethical Business Practices	VP for Finance <u>OR</u> Controller <u>OR</u> Contact Campus Conduct Hotline to direct concern to Chair of the Audit Subcommittee
Athletic Rules Violation	VP for Student Affairs <u>OR</u> Director of Athletics (except for alleged or suspected misconduct related to Title IX, which shall be reported to the Title IX/Civil Rights Coordinator
Safety/Security Issues	VP for Student Affairs <u>OR</u> Director of Campus Safety
Waste of College Resources	VP for Finance <u>OR</u> Controller <u>OR</u> Contact Campus Conduct Hotline to direct concern to Chair of the Audit Subcommittee

Wrongful Termination

VP for Finance OR Director of Human Resources

Other Conduct

President's Chief of Staff OR Provost

All Title IX related matters should be communicated directly to the Civil Rights/Title IX Coordinator or to the Deputy Civil Rights/Title IX Coordinator.

If the disclosure is by a Board of Trustee member, it shall be made to the Chair of the Trustee Affairs Committee, unless the complaint involves the Chair of the Trustee Affairs Committee, in which case the complaint shall be made to the Chair of the Board of Trustees.

Any disclosure shall be made in a signed written document as soon as possible, preferably in 6 months of the occurrence or the discovery, but in any event within one year in order to allow the College the best chance of preserving and accessing evidence relevant to the investigation of the disclosure. If the person making the disclosure wishes to remain anonymous, the College maintains an anonymous telephone hotline to receive calls concerning suspected misconduct as provided for in this Policy. The hotline number is 866-943-5787. The hotline is available 24 hours a day, 7 days a week, 365/366 days a year and is provided by an independent service staffed by trained compliance risk specialists that document the caller's concerns and forwards them to the appropriate intake officer.

Any individual who suspects misconduct as discussed in this Policy shall refrain from obtaining evidence to which they do not have right of access. Such improper access may itself be considered an improper activity that could subject the individual to disciplinary action.

Disclosures and investigatory records related to disclosures will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and in accordance with all applicable laws. If the disclosing individual discloses his or her identity or other information related to the disclosure directly or indirectly through his or her own actions outside of the official investigative process, the College shall not be obligated to maintain the confidentiality of the identity of the individual.

As set forth in more detail in section IV of this Policy, it is College's policy that there shall be no retaliation of any kind by anyone associated with or affiliated with the College for disclosures made in good faith pursuant to this Policy. However, if a Board Member, employee, volunteer, student, vendor, alumni or applicant knowingly provides false information in relation to a complaint, investigation, hearing or other event under this Policy or acts in bad faith in disclosing information under this Policy, or intentionally withholds information without an appropriate basis for doing so, he or she will be subject to disciplinary action, up to and including termination or expulsion, and such action shall not be considered retaliation as defined in this Policy.

**B.** The disclosing individual is not responsible for investigating the suspected misconduct or for determining fault or corrective measures, nor does the disclosing individual have a right to participate in any investigative activities other than as requested by appropriate individuals as set forth in this Policy who are charged with responsibility for investigating all reported concerns. The disclosing individual may contact the intake officer or the hotline to receive updates on the investigation.

**C.** The intake officer shall consider the disclosure and take whatever action he or she determines to be appropriate under the law and circumstances of the disclosure, including opening an investigation or referral to the appropriate department for handling, as applicable.

**D.** In the case of disclosure of misconduct involving the designated intake officer, the disclosure shall be directed to the alternate intake officer. The alternate intake officer shall consider the disclosure and take whatever action he or she determines to be appropriate under the law and circumstances of the disclosure, including opening an investigation or referral to the appropriate department for handling, as applicable.

**E.** In the case of disclosure involving financial misconduct, the intake officer or the Campus Conduct Hotline shall also provide a report of the disclosure to the Audit Subcommittee for their review and consideration. The Audit Subcommittee shall have the authority to resolve the matter in accordance with its stated procedure.

**F.** If the disclosure involves the President, the disclosure shall be directed to the Chair of the Board of Trustees

#### **IV. NON-RETALIATION POLICY**

Retaliation of any kind against any member of the College's community who makes a disclosure or complaint under this Policy, or who in good faith discloses suspected impermissible activities, or the warning signs thereof, or who raises any other concern under this Policy to an administrator, or who refers a matter for complaint or investigation, or who participates in the complaint, investigation or hearing process under this Policy, is strictly prohibited.

The term "retaliation" includes, but is not limited to, discriminating against, mistreating or taking adverse employment action or other adverse action against someone who has made a complaint or disclosure under this Policy or raised any other concern under this Policy to an administrator, or who referred a matter for complaint or investigation, or who participated in the complaint, investigation or hearing process under this Policy.

For purposes of this Policy, an "adverse employment action" shall be defined as actions including: discharge, demotion, suspension, being threatened or harassed, or in any other manner discriminated against with respect to compensation, terms, conditions or privileges of employment. For purposes of this Policy, "adverse action" includes, but is not limited to: dismissing, suspending or disciplining a student or changing or lowering a grade or evaluation of a student or in any other manner negatively affecting the student's academic career; terminating or threatening to terminate a customer or vendor relationship; and discriminating against or mistreating an alumni or volunteer. The College's commitment to nonretaliation does not preclude the College from addressing performance or behavioral issues, even if the individual

has participated in reporting misconduct that is protected by this Policy. This Policy does not prohibit an employment action or any other action that would have been taken regardless of the disclosure of information under this Policy.

If an employee, volunteer, student, vendor, alumni or applicant believes that he or she has been retaliated against in the form of an adverse employment or other adverse action for disclosing information regarding suspected misconduct under this Policy, raising a concern under this Policy, or referring a matter for complaint or investigation, or participating in the complaint, investigation or hearing process related to a disclosure made under this Policy, he or she may file a written complaint requesting an appropriate remedy to the President's Chief of Staff or the Provost.

If a Board Member believes that he or she has been retaliated against in the form of an adverse action for disclosing information regarding suspected misconduct under this Policy, raising a concern under this Policy, or referring a matter for complaint or investigation, or participating in the complaint, investigation or hearing process related to a disclosure made under this Policy, he or she may file a written complaint requesting an appropriate remedy to the Chair of Trustee Affairs or the Chair of the Board of Trustees.

A Board Member, employee, volunteer, student, vendor, alumni or applicant who engages in retaliation as prohibited under this Policy will be subject to disciplinary action, up to and including possible termination of the relationship with the College or expulsion.

## **V. PROCESS FOR ADJUDICATION OF RETALIATION COMPLAINTS STEMMING FROM DISCLOSURE**

**A.** An employee, volunteer, student, vendor, alumni or applicant who believes he or she has been retaliated against in violation of this Policy must file a complaint with the President's Chief of Staff or the Provost within ninety (90) days from the effective date of the adverse employment action or the date on which the employee, volunteer, student, vendor, alumni or applicant should reasonably have had knowledge of the other adverse action.

**B.** Complaints of retaliation shall be filed in writing and shall include:

1. Name and address of the complainant;
2. Name and title of individual(s) against whom the complaint of retaliation is made;
3. The specific type(s) of adverse action(s) taken;
4. The specific date(s) on which the adverse action(s) were taken;
5. The specific date of the disclosure made, the substance of the disclosure, the name of the person or persons to whom the disclosure was made, and any other relevant information relating to the disclosure by the complainant;



6. A clear and concise statement of the facts that form the basis of the complaint of retaliation;
7. A clear and concise statement of the complainant's explanation of how his or her previous disclosure of misconduct is related to the adverse employment or other adverse action; and
8. A clear and concise statement of the remedy sought by the complainant.

**C.** Within sixty (60) calendar days of receipt of the complaint of retaliation, the President's Chief of Staff or Provost shall consider the written complaint, shall conduct or have conducted an investigation which, in his or her judgment, is consistent with the circumstances of the complaint and disclosure, and shall provide the complainant with a determination regarding the complaint of retaliation.

**D.** The determination shall be in writing and shall include the findings of fact, the conclusions of the investigation, and, if applicable, a specific and timely remedy consistent with the findings. The decision of the President's Chief of Staff or Provost shall be final.

**E.** The process for the adjudication of complaints of retaliation stemming from disclosure of suspected misconduct by a Board Member will involve a written complaint of retaliation to be filed with the Chair of Trustee Affairs or the Chair of the Board of Trustees. Within sixty (60) calendar days of receipt of the complaint of retaliation, the Chair of Trustee Affairs or the Chair of the Board of Trustees shall consider the written complaint, shall conduct or have conducted an investigation which, in his or her judgment, is consistent with the circumstances of the complaint and disclosure, and shall provide the complainant with a determination regarding the complaint of retaliation. The determination shall be in writing and shall include the findings of fact, the conclusions of the investigation, and, if applicable, a specific and timely remedy consistent with the findings. The decision of the Chair of the Trustee Affairs or the Chair of the Board of Trustees shall be final.