



**Policy on the Reporting and Investigation of Suspected
Fraudulent Illegal or Improper Activities
and Protections for Whistleblowers**

Scope and Definition of Fraudulent, Illegal or Improper Activities

For purposes of this policy, the term “fraudulent activities” generally includes any willful or deliberate act performed with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means. The broader term used here—“fraudulent, illegal or improper activities”—includes actions and activities generally understood to be fraudulent, as well as other actions or activities involving financial improprieties, criminal behavior, violations of other laws, or serious or significant breaches of institutional policies. The term includes, but is not limited to, actions and activities such as the following:

- Embezzlement, theft, misappropriation or other financial irregularities
- Forgery or alteration of documents (checks, time sheets, contractor agreements, purchase orders, other financial documents, electronic files)
- Improprieties in the handling or reporting of money or financial transactions
- Improprieties in the approval, management, administration or assignment of contracts
- Theft or misappropriation of funds, securities, supplies, equipment, goods, inventory, or any other asset (including furniture, fixtures or equipment)
- Authorizing or making payment for goods not received or services not performed, or receiving payment or other consideration for goods not delivered or services not performed.
- Authorizing or receiving payments for hours not worked
- Receiving of tangible personal benefit from a third party as a direct consequence of performance of duties as an employee of the College
- Pursuing or obtaining a benefit or advantage in violation of the College’s conflict of interest policies
- Illegal activities involving the wrongful use, disclosure or appropriation of an individual’s personal information, such as identity theft, disclosure of a student’s education records in violation of FERPA, or misuse of personal financial or other private information.
- Other activities that violate the law or College policy.

The term “fraudulent, illegal or improper activities,” for purposes of this policy, shall **not** be understood to include allegations of certain specific types of (alleged) illegal or improper activities or actions, such as sexual harassment, certain environmental health and safety violations and any other areas, the reporting and investigation or evaluation of which is the subject of separate, more specific policies of the College. However, to the extent other College policies do not address the subject of whistleblower protection and non-retaliation, the provisions of this policy on those subjects shall apply in the context of the reporting and investigation of those specific types of improper activities or actions.

Procedure for Reporting Suspected Fraudulent Activities

Any member of the Mount Holyoke community may be in a position to observe, or learn about, behavior that appears to be fraudulent. If you believe that an instance of fraud has occurred, you should report the incident to an appropriate person. Use the channel of communication with which you are most comfortable. As a general rule, you should avoid reporting to anyone whom you think may be implicated or involved (directly or indirectly) in the suspected wrongdoing. You may report your concerns to your immediate supervisor or department head, or to another College official, such as the Comptroller, one of the vice-presidents, the President or the Director of Public Safety. As further specified below, it is the College's policy that any College employees who report actual or suspected instances of fraudulent, illegal or improper activities under this policy that they reasonably believe to have occurred, may not, as a result of or in response to making such a report, be retaliated against in any way by any other College agent or employee or suffer from any detrimental change in the terms and conditions of their employment at the College.

Management Roles and Responsibilities

College administrators at all levels of management, including academic department chairs, are responsible for establishing and maintaining proper internal controls that provide security and accountability for the resources entrusted to them, and that provide a reasonable level of assurance that the College and its employees are in compliance with applicable laws and College policies. Administrators should be familiar with the risks and exposures inherent in their areas of responsibility and be alert for any indications of any fraudulent, illegal or improper activity.

If a manager receives a credible report of an apparent case of fraudulent, illegal or improper activity, or has other reasons to believe that such activity may have taken place, his/her responsibilities include the following:

- Insure that notification promptly reaches the Vice President for Finance and Administration's office and, if appropriate, the Public Safety Department. If the report directly concerns the Vice President for Finance and Administration, the incident should be reported directly to the President.
- If the situation warrants immediate action—for example, obvious theft has taken place, security is at risk, or immediate recovery is possible—management and non-managerial staff receiving reports should immediately contact the Public Safety Department.
- As a general rule, you should never (unless so directed by the Vice President for Finance and Administration or his/her designee) contact the suspected individual to determine facts or demand restitution. In those cases where you are authorized and directed to speak with the suspected individual, you should be objective and neutral in attempting to determine what happened, avoid rushing to judgment and avoid the use of accusatory, judgmental, or inflammatory language (e.g., phrases and references like: "what you did", "the crime", "the fraud", "the forgery", "the misappropriation").

- Consult with the Human Resources Department or the Dean of Faculty's Office, as appropriate, to determine if any immediate personnel actions are necessary. They will consult with College counsel as appropriate.
- Refrain from discussing the case, facts, suspicions, or allegations with anyone, except those supervisors and College officers with whom you must communicate on a need to know basis in order to satisfy your reporting, notification and investigation related obligations under this policy, unless specifically directed to do so by College counsel, the Director of Public Safety, the Director of Human Resources, or the Vice President for Finance and Administration. While this provision is not intended to limit, and should not be considered to limit, your rights or obligations (or those of the original whistleblower) as a citizen to report illegal activity to government officials in exceptional cases, (e.g., when you reasonably and sincerely believe that the College, after notice to its most senior officials, has failed to act on credible allegations of wrongdoing, to correct illegal activity, or to report illegal activity to the cognizant government agency as required under the law) you are nonetheless encouraged, to the extent appropriate in light of the health or safety or other concerns at issue, to exhaust all appropriate internal channels at the College before deciding to report the matter to external authorities.
- Direct all inquiries (pertaining to or resulting from the suspected activity or its investigation) from any suspected individual, his or her representative, or his or her attorney to the Vice President for Finance and Administration or the Director of Human Resources. Direct all inquiries from the media to the Communications Office.

Managers need to treat all credible information and allegations indicating possible fraudulent, illegal or improper activities very seriously. Failure by a manager or supervisor to establish necessary management controls, or to report or properly handle reports of fraudulent, illegal or improper activity as required by this policy, may subject the manager or supervisor to discipline up to and including termination of employment.

At the same time, as a College manager with responsibilities in this area, managers should strive to handle complaints and allegations arising under this policy, their investigation and communications surrounding them with an appropriate degree of sensitivity and discretion. Generally speaking, sufficient care must be taken in these cases to avoid incorrect accusations, alerting suspected individuals that an investigation is under way, violating any person's right to due process, or making statements that could lead to claims of false accusation or other civil rights violations.

Other Irregularities or Apparently Wrongful Activities

Identification or allegations of acts outside the scope of this policy should be resolved by the respective area management in conjunction with Human Resources and/or reference to any other existing College guidance or resource. In some cases, protection against retaliation already exists in either regulatory or College policy language. Examples are complaints of discrimination or sexual harassment and environmental health and safety violations. In other cases, the College's grievance procedures are the appropriate mechanism. Examples include interpersonal conflict or other employment issues. The College Ombudsperson may also be of assistance. The Vice President for Finance and Administration's office may be contacted if guidance is needed to determine if an action might constitute fraudulent, illegal or improper activity as defined in this policy.

Protection from Retaliation

An employee who reports a fraudulent, illegal or improper activity, or information indicating that such an activity may have occurred, in the reasonable belief that such activity or information is true, shall not suffer harassment, retaliation or other adverse employment consequence from other employees of the College. An employee who retaliates against someone who has reported a suspected violation in good faith is subject to discipline up to and including termination of employment. Any employee who believes that he/she has been retaliated against after making a report of an improper activity under this policy may report this alleged retaliation to the Director of Human Resources or Vice President for Finance and Administration, who will take appropriate action.

Confidentiality under the Whistleblower Policy

Confidentiality of the reporter will be maintained to the extent practicable within the limitations of the law, College policy and the legitimate needs of the investigation. In addition, employees submitting a report should be aware that their public testimony might be needed to prove the case against the suspected employee.

While employees are encouraged to come forward with concerns, and to make reports under this policy in all appropriate cases, individuals making reports are also cautioned to take care to limit appropriately their discussions and communications about reported cases in order to minimize their exposure to possible claims by persons accused of wrongdoing. Although an employee's report may possess merit, comments made to others regarding another employee could constitute defamation, invasion of privacy or other grounds for civil liability. Employees therefore should, subject to exceptions discussed elsewhere in this policy, generally avoid discussing allegations outside of the reporting and investigation process. This is especially true in instances where, after full investigation by the College, it is determined that the suspected employee's actions were lawful or within College policy. It should also be noted that if an employee self-discloses his or her identity directly or indirectly through his or her own actions outside of the official investigation process, the College is not obligated to maintain the confidentiality of that employee's identity.

Investigation under the Whistleblower Policy

The investigation of particular reports or allegations of fraudulent, illegal or improper activities under this policy will vary from case to case, depending on the nature of the activity, its scope and severity, the number of individuals implicated, and the number and identity of the College offices and officials that need to be involved in the investigation. Nonetheless, the following general rules and principles should be adhered to whenever possible and should be used as a general guide for investigatory procedures in all cases:

- The Vice President for Finance and Administration is available and receptive to receiving relevant information on a confidential basis and may be contacted directly by a whistleblower whenever fraudulent activity is suspected. In other cases, he/she will receive reports from a manager who has received an allegation or report, or to whom an allegation or report has been referred. It is the responsibility of the Vice President for Finance and Administration or his/her designee to work with other College offices as needed in order to ensure that an

appropriate investigation is conducted in all such cases. This will include the appointment of a lead investigator and as needed an investigation team to conduct and oversee the investigation. In any cases involving allegations against (or implicating) the Vice President for Finance and Administration, his/her responsibilities as described here will be handled by the President. In cases involving allegations against (or implicating) the President, the Chair of the Trustee Audit Committee will fulfill that role.

- The assigned investigator/investigation team will have access to all resources of the College and external counsel to ensure a fair and accurate investigation of the allegations and will appropriately document its findings and make recommendations for resolution of the matter, to the Vice President for Finance and Administration or his/her designee, who will normally make final decisions on the matter and direct which actions need to be taken in response to any findings concluding that fraudulent, illegal or improper activities have occurred. These actions may include disciplinary action against one or more employees (up to and including possible termination), reporting a matter to an external law enforcement agency, or the making of restitution to a third party. Documents and evidence pertaining to the investigation, including any report and recommendations prepared by the lead investigator or investigation team, will normally be maintained in the office of the Vice President for Finance and Administration during the investigation. The investigation is closed when the Vice President for Finance and Administration or his/her designee has deemed the investigation is complete and a plan for final resolution of the matter, which includes any appropriate corrective or responsive action steps, has been approved (taking into account the recommendations of the lead investigator or investigation team). Documents and evidence relating to a closed investigation will remain in the College's files in the Human Resources or Public Safety Department, as appropriate. These documents generally should be kept separate from individual personnel files maintained by Human Resources and by individual supervisors, with the exception of documents which pertain to disciplinary action taken against an individual employee as a result of an investigation.
- An individual who has been deemed to have committed a fraudulent, illegal or improper act under this policy, and is sanctioned as a result of that activity, will have access to the grievance process of the College described in the employee handbook.
- The Vice President for Finance and Administration or his/her designee will review the results of any investigation with responsible management and administrators as necessary, including the President and the Chair of the Audit Committee, and will make recommendations for improvement to the systems of internal control as needed. The Vice President for Finance and Administration will also provide a report on activity under this policy to the Audit Committee annually.

Sanctions for a False or Baseless Allegation

A report made under this policy can have considerable impact on the personal and professional lives of those charged, both during the investigation and long term. An employee who intentionally makes a false or baseless allegation against another will be subject to discipline up to and including termination of employment. A false or baseless

allegation is one made with an awareness of its falsity, or one made without any substantial basis and with a reckless disregard for its truth or falsity.

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