

# MCLA

## Massachusetts College of Liberal Arts Reporting Violations of Laws, Rules or Regulations (Whistleblower) Procedure

### I. INTRODUCTION

Massachusetts College of Liberal Arts (“MCLA” or the “College”) will protect individuals who report suspected improper activity against retaliation, in accordance with Massachusetts General Laws Chapter 149, Section 185. MCLA has developed internal practices and procedures to encourage all faculty, employees, and paid student employees/paid interns acting in good faith to report suspected or actual wrongful conduct without the fear of retaliation in accordance with this Reporting Violations of Laws, Rules or Regulations (Whistleblower) Procedure (the “Procedure”).

The College is committed to protecting individuals from interference with making a protected disclosure, or from retaliation for having made this disclosure, or refusing to act and follow an illegal order, or when testifying or reporting crimes. This Procedure, however, is not meant to abridge any processes or protections available under a collective bargaining agreement (including the grievance process), or any federal or state law.

It is the intention of the College to take whatever action may be needed to prevent and correct activities that violate this Procedure.

### II. INTENT OF PROCEDURE

This Procedure is intended to protect any employee who engages in a good faith disclosure by:

1. Encouraging employees to disclose Wrongful Conduct (see definitions) engaged in by others so that prompt, corrective action can be taken by the College;
2. Informing employees how allegations of Wrongful Conduct can be disclosed while protecting the Disclosing Employee (see definitions) from retaliation;
3. Protecting employees from reprisal by adverse employment action or other retaliation as a result of having disclosed Wrongful Conduct; and
4. Providing employees who believe they have been subject to retaliation for making a good faith disclosure a fair process to seek relief.

*Nothing in this Procedure is intended to interfere with legitimate employment decisions.*

### III. DEFINITIONS

The below definitions apply throughout this Procedure:

- (1) **Employee:** Any individual who performs services for and under the direction of MCLA for wages. A **Disclosing Employee** is one who makes the protected disclosure of report of alleged wrongful conduct.

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(2) **Supervisor:** Any individual who has the authority to direct and control the work of an MCLA employee, or who has authority to take corrective action against an employee relative to making a protected disclosure (see below definition).

(3) **Protected Disclosure:** Written notice from a Commonwealth employee to the College that discloses, or threatens to disclose, to a supervisor or to a public body Wrongful Conduct (see below definition) by the College, or another employer with whom the College has a business relationship.

A Protected Disclosure also occurs when a Commonwealth employee provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or Wrongful Conduct allegedly perpetrated by the College, or by another employer with whom the College has a business relationship.

An employee who objects to, or refuses to participate in any activity, policy or practice which they reasonably believe is in violation of a law, rule or regulation promulgated pursuant to a law, or which the employee reasonably believes poses a risk to public health, safety or the environment, has also engaged in making a Protected Disclosure.

*An employee must follow the Reporting Requirements (see Section IV) in order to receive the protections in this Procedure.*

(4) **Retaliatory Action/Retaliation:** Adverse action or harassment of an individual, or the discharge, suspension, or demotion of an employee, or any adverse action taken against an employee in regard to their terms or conditions of employment.

(5) **Wrongful Conduct:** An activity, policy or practice of the College, or of another employer with whom the College has a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health or safety, or to the environment.

(6) **Public Body:** (A) the United States Congress or any state legislature, any popularly elected local government body, or any member or employee thereof; (B) any federal, state or local judiciary, or any member or employee thereof, or any grand or petit jury; (C) any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof; (D) any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer; OR (E) any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.

## IV. REPORTING REQUIREMENTS

An employee who wishes to receive the protections in this Procedure must **first** provide MCLA with the opportunity to address the activity, policy or practice, the employee believes to be Wrongful Conduct.

Specifically, in order to be afforded the protections, a Disclosing Employee **MUST**:

1. Provide written notice that provides sufficient detail to identify and describe the violation TO:

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2. Their supervisor (or Human Resources, see Section VI Procedures, Section 1);  
AND

Provides MCLA with a reasonable opportunity to correct the activity, policy, or practice.

Once the Disclosing Employee has made disclosure internally and provided the College with a reasonable opportunity to address the situation, they may bring their concern to a Public Body (see definitions).

A Reporting Employee may not need to report internally first, only if any of the following exceptions are met:

1. They reasonably believe that 1 or more supervisors of the College knows of the situation AND the situation is emergency in nature; OR
2. They reasonably fear physical harm as a result of disclosing; OR
3. They are disclosing to a Public Body (see definitions) for purposes of providing evidence of what they reasonably believe to be a crime.

**Acting in good faith.** An employee who makes a Protected Disclosure must do so in good faith and have reasonable grounds for believing the disclosed information indicates Wrongful Conduct. Allegations that are not substantiated yet are made in good faith are considered to be acting in good faith.

**False Allegation.** An employee who knowingly, or with reckless disregard for the truth, gives false information or knowingly makes a false disclosure of Wrongful Conduct, or a subsequent false report of retaliation, will be subject to disciplinary action, up to and including termination.

## V. PROCESSES

### 1. Reporting Violations Process

An employee should make their written, Protected Disclosure to their immediate supervisor, who is responsible for bringing the written concern to Human Resources. If an employee's concern is relative to some action or inaction their supervisor has taken, they should forward their written complaint to Human Resources. An employee may also make a confidential report to Human Resources.

### 2. Investigation Process

Human Resources will work with the below offices to investigate or address the Protected Disclosure as appropriate:

- Office of the Chief of Staff: 413-662-5409
- Office of the Provost/Vice President for Academic Affairs: 413-662-5242
- All Supervisors who receive Protected Disclosures shall immediately contact the Office of Human Resources: 413-662-5596

The offices (above) receiving the Protected Disclosure will notify the disclosing employee (if

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their identity is known) and acknowledge receipt of the reported Wrongful Conduct within ten (10) working days, unless the matter involves alleged criminal or environmental violations in which case it will be acknowledged within twenty-four (24) hours.

All Protected Disclosures will be promptly investigated within sixty (60) calendar days and appropriate corrective action will be taken if warranted by the investigation.

MCLA will keep Protected Disclosures and investigatory records confidential to the extent possible, consistent with the need to conduct an adequate investigation, and in accordance with the Public Records Act.

External agencies of the Commonwealth may also be contacted and are listed on the [Commonwealth's Confidential Public Fraud, Waste and Abuse Reporting Hotline webpage](#). In order to receive the protections in this Procedure, an employee needs to provide MCLA with reasonable time to address the concern before reporting externally, unless an exemption applies (See Section IV).

## VI. RETALIATION

This Procedure is intended to encourage and enable employees to raise serious concerns within the College without fear of reprisal. No employee who makes a good faith Protected Disclosure will suffer from any Retaliatory Action (see definitions). Any employee who retaliates against any employee who makes a Protected Disclosure is subject to discipline up to and including termination

### 1. **Retaliation Complaint Process**

An employee who believes they have been retaliated against for making a Protected Disclosure should notify Human Resources.

The employee shall submit their complaint in writing and include a clear, detailed, and factual description of the retaliatory action, employee(s) involved, and specific date(s) or timeline(s) of the retaliatory action.

Human Resources shall confirm receipt of the complaint in writing to the complainant within 5 working days. Human Resources will investigate the matter within 30 calendar days of the confirmation notice.

Human Resources shall review the details of the complaint and provide the accused employee(s) the opportunity to respond to the complaint in writing. The Disclosing Employee is asked to provide a response in writing to Human Resources within ten (10) business days to ensure Human Resources can address any concern promptly. Human Resources may also request that the Disclosing Employee or the employee at issue submit supplementary information for the investigation, including the names of witnesses.

### 2. **Notice of Conclusion of Investigation**

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At the conclusion of the investigation, Human Resources shall prepare a written report of the investigation findings, including the original complaint, a list of individuals interviewed, and any other documentation collected during the investigation. The Disclosing Employee will be informed if their allegation(s) of retaliation were substantiated or not. The Disclosing Employee and the employee at issue shall receive notification of the decision in writing. There is no right for either party to appeal an investigation outcome.

If Human Resources substantiates the allegation(s) of retaliation, MCLA will take appropriate corrective action against the employee at issue, with consideration given to the appropriate collective bargaining agreement.

## VII. EXPECTED RESPONSIBILITIES

### 1. Individuals

- Be knowledgeable about this Procedure.
- Report violations or suspected violations of the Procedure to their direct supervisor, or to Human Resources.
- Do not file False Allegations.

### 2. Unit/Department Managers

- Familiarize employees with this Procedure and incorporate it into orientation materials.
- Information concerning this Procedure will be communicated on an annual basis to faculty, staff, and student employees.
- Do not engage in any retaliatory action against an employee who has made a Protected Disclosure.

### 3. Office of Human Resources

- Accept and investigate Protected Disclosures.
- Accept and investigate complaints of retaliation for making Protected Disclosures under this Procedure.
- Provide information about this Procedure to new faculty, staff, and student employees/paid interns upon hire and on an annual basis.
- Maintain findings of Wrongful Conduct or false allegations in a staff member's personnel file.

### 4. Academic Affairs Administration

- Maintain findings of Wrongful Conduct or false allegations in a faculty member's personnel file.