

# UM PROCEDURES FOR REVIEW AND INVESTIGATION OF REPORTS OF FISCAL IRREGULARITIES, ILLEGAL ACTIVITY, AND VIOLATIONS OF POLICY

UM Policy VIII-7.11(C)

Effective Date: June 1, 2011

Revised July 3, 2012

## I. Purpose

These Procedures are established by the University of Maryland, Baltimore (“UM”) to implement the UM Whistleblower Policy on Reporting Fiscal Irregularities, Illegal Activity and Violations of Policy (“the UM Policy”). These Procedures also are UM’s procedures as required by the USM Policy on Reporting Suspected or Known Fiscal Irregularities (USM Policy VIII – 7.10) and the USM Policy on the Communication of Suspected Fraud, Unethical and Illegal Business Activity (USM Policy VIII-7.11).

These Procedures will be followed by UM to evaluate and investigate reports received by the UM Hotline or the USM Fraud Hotline concerning matters addressed by the UM Policy, including without limitation the following: illegal activities; serious violations of policy; serious violations of the UM Code of Business Ethics and Conduct; suspected or known fiscal irregularities such as embezzlement, theft, and falsification of documents; and conflicts of interest under State law, UM policy, or federal law and regulation.

## II. Definitions

CARO – The UM Chief Academic and Research Officer and Senior Vice President.

COO – The UM Chief Operating Officer/Senior Vice President

Chief Accountability Officer or CAO – The UM Chief Accountability Officer.

Executive Order – Executive Order 01.01.2007.01 issued by the Governor of Maryland setting out Standards of Conduct For Executive Branch Employees.

Fiscal Irregularities Policies-- USM Policy on Reporting Suspected or Known Fiscal Irregularities (USM Policy VIII – 7.10) and USM Policy on the Communication of Suspected Fraud, Unethical and Illegal Business Activity (USM Policy VIII-7.11). See Appendix III.

President – The President of UMB.

Report – A report made or referred to UM as provided in these Procedures which is determined to be a report of a known or reasonably suspected, serious, violation of law or policy. The report may be made pursuant to the UM Policy or one of the Fiscal Irregularities Policies. (Appendix I provides information about making Reports and copies of the policies mentioned in this definition and the definition of Fiscal Irregularities Policies.)

Reporter – A Whistleblower making a report under these Procedures.

Reprisal Action – A disciplinary or adverse action against a Reporter who is a UM employee, student, patient or volunteer if the action is taken solely in retaliation for making a report. An action that would have been taken, consistent with policy and law, regardless of a Report, is not a Reprisal Action, even if the action is taken after a Report is received and the Reporter’s identity is known, and regardless of the merits of the Report.

Reprisal Action Complaint -- A written allegation by a Reporter who is a UM employee, student, patient or volunteer that a Reprisal Action has been taken against the Reporter.

Responsible Official – The UM officer designated by the President to evaluate and investigate Reports under these Procedures.

UM Personnel - UM administrative and academic officers, faculty, employees, fellows, students, and volunteers.

UM Report Monitor – The UM employee assigned by the President to monitor Reports received and investigated.

USM Audit Office – The University System of Maryland Office of Internal Audit. The Office reports to the Board of Regents, the governing body for USM and UM.

Whistleblower – A person making a Report.

Whistleblower Policy - The UM Whistleblower Policy on Reporting Fiscal Irregularities, Illegal Activity, and Violations of Policy. See Appendix III.

### III. Making Whistleblower Reports

Appendix I provides a summary of the methods available to make a Report under these Procedures. Reporters may be UM Personnel, patients, clients, applicants for employment, vendors, contractors, or other members of the public. The UM Hotline is available to all these groups.

A Report must disclose information that the Reporter reasonably believes evidences a serious violation of law, regulation, or policy related to activities of UM and UM Personnel. A Report may address matters covered by the Purpose of these Procedures and the UM Whistleblower Policy, or a Report may relate to a matter described in one of the Fiscal Irregularities Policies.

The UM Hotline is the preferred means to make Reports to UM. The UM Hotline will not disclose a Reporter's identity or contact information to UM without the express prior permission of the Reporter. The UM Hotline will refer all Reports it receives to the UM Report Monitor and other UM officials as designated by the President. (If a Report concerns the President, it will be forwarded to the USM Internal Audit Office.)

From international sites, web access to the UM Hotline is strongly preferred due to time differences and communication issues. Translation services are available.

If a Report will disclose information that is protected by law (e.g., protected health information, academic records of a student), the Report should be sent only to the Office of the Attorney General; it should not be sent to the UM Hotline. See Appendix 1. If a Report concerns information protected by law, the Report can be sent to the UM.

The scope of a Report should be sufficient for UM to identify issues and investigate. A Reporter is not an investigator or finder of fact. A Reporter does not determine the corrective or remedial action that may be warranted in response to a Report.

### IV. Evaluation and Investigation of Reports

#### Evaluation:

The UM Report Monitor will record all Reports received by UM and track the actions taken to evaluate the Reports and investigate them. The UM Report Monitor will maintain an up to date log of Reports. Information about each Report will be retained for at least four years after the close of the investigation of that Report, or the decision that the Report does not warrant investigation.

Within 5 business days after UM receives a Report, the UM Report Monitor will consult with the Chief Accountability Officer<sup>1</sup>, who, in consultation with legal counsel, will evaluate the Report to determine whether it falls under the Policy.

Each Report within the scope of these Procedures will be evaluated initially by the CAO or designee to determine whether it appears to be serious and based on knowledge or reasonable belief, and whether it provides reasonable information related to the allegations in the Report. The CAO, in consultation with University Counsel and the Office of the Attorney General, will make these determinations, and determine whether the Report falls under the one of the Fiscal Irregularities Policies. If so, then USM and/or the Office of the Attorney General will be notified and consulted concerning investigation of the Report.

If it is determined that a matter addressed in a Report does not fall under these Procedures, or does not appear to be based on knowledge or reasonable belief, and as a result will not be investigated, the CAO or designee will notify the Reporter, if that person is identified in the Report and/or can be contacted (e.g., through the UM Hotline, which allows communication between UM and anonymous reporters). The Reporter will be given an opportunity to provide additional information concerning the subject of the Report. If the Reporter does so, the Report will be further considered.

Assignment:

If the CAO determines that investigation of a Report is warranted, the CAO will refer it for investigation by an appropriate UM office<sup>2</sup> or ask the President to name a Responsible Official to serve as investigator. Potential conflicts of interest involving individuals and/or campus offices, and the workloads of campus offices, will be

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<sup>1</sup> If a Report concerning the CAO, Chief Operating Officer or CARO is received, the President will designate another Officer of UM to perform that officer's functions under these Procedures, or will refer the matter to the USM Audit Office. If a Report concerning the President is received, it must be forwarded to the USM Audit Office.

<sup>2</sup> UM offices with capacity to investigate issues that are the basis for Reports will be relied upon in appropriate cases to assist with or carry out investigations. Such offices include the Human Research Protections Office, for issues related to human subjects research; the Office of Human Resources, for issues related to legal rights of employees and job applicants; the Office of the Vice President for Academic Affairs, for issues related to USM and UM conflict of interest policies, faculty matters and student matters; the UM Police Department, for criminal issues; and the Office of Environmental Health and Safety, for issues of non-compliance with safety rules. The Responsible Official will determine when to delegate investigation to a UM office. In the event of delegation, the procedures of the office will be followed, except that the Responsible Official will be advised of significant actions and findings and the matter will be tracked through the UM Hotline.

considered by the CAO in determining whether or not to use an existing campus resource or to seek outside support for investigation (e.g., outside auditors, or the USM Audit Office).

The Responsible Official assigned to investigate a Report will be expected to complete work within 30 calendar days of appointment or by a later deadline determined by the CAO, given the nature of the investigation. The investigation work will be conducted on a confidential basis to the extent feasible. The time for completion may be extended by the CAO for good cause.

Notices:

The Office of University Counsel will advise the CAO and Responsible Officials concerning legal issues relating to application of these Procedures and interpretation of laws and policies relevant to investigations. University Counsel will consult with the Office of the Attorney General if a report relates to an alleged violation of State or federal law or an allegation of criminal action.

UM will follow either or both of the Fiscal Irregularities Policies if one or both of those Policies is applicable. If the USM Audit Office or the Office of the Attorney General begins an investigation of a matter cited in a Report, the CAO may suspend the investigation at UM pending resolution of the other investigation.

The Executive Order requires that the Attorney General's Office and the Chief Legal Counsel to the Governor be advised immediately of any instance of possible criminal or unethical conduct by any employee or contractor. The Office of University Counsel will report possible criminal or unethical conduct as required by the Executive Order.

Investigations:

Investigations will be diligent, thorough, and timely, and results will be documented. Outcomes will be documented by the Responsible Official and reported to the CAO and President.

Advice of the State Ethics Commission will be sought by the CAO or University Counsel if a Report identifies or alleges a possible violation of the State Ethics Law.

If investigation of a Report requires support from auditors, the CAO will notify the USM Audit Office. In consultation with that Office, the CAO will determine what auditors will be involved. Ordinarily the auditors will be from the USM Audit Office. UM will rely upon outside auditors as required in order to complete an investigation

in a timely and thorough manner or to comply with terms of funding agreements or other legal requirements.

Communications to Reporter:

If a Reporter's identity has been disclosed to UM, the CAO or designee will notify the Reporter when the investigation commences and when it is complete. Action taken to resolve issues identified by the Reporter will be described to the Reporter to the extent this can be done consistent with confidentiality obligations applicable to UM including, without limitation, obligations arising from UM's status as an employer, an educational institution, a public agency, and a health care provider.

All actions taken by or at the direction of a Responsible Official to investigate and resolve facts cited in a Report will be reported to the UM Report Monitor and CAO at regular intervals, and recorded in the log maintained by the UM Report Monitor.

V. Investigation of Reprisal Action Complaints

Reprisal Actions are not allowed. Reprisal Action Complaints may be filed as provided in Appendix II. Each Reprisal Action Complaint will be referred promptly to the CAO and will be thoroughly and promptly investigated in a manner directed by the CAO. A person alleged to have taken an action that is a Reprisal Action will be given a full and fair opportunity to understand and respond to the allegation.

If an employee or student files a grievance concerning the same action that is at issue in a Reprisal Action Complaint, the grievance procedure will be relied upon for fact-finding and disposition of the Reprisal Action Complaint.

A finding that a Reprisal Action has been taken will be sent to the President and concerned administrative and academic officers so that appropriate disciplinary and remedial action can be taken, as directed by the President.

APPROVED by President 7/3/2012

## APPENDIX I

### Whistleblowers: How to Report Fiscal Irregularities, Illegal Activity, or Violations of Policy

**CAUTION: If a Report would disclose information that is confidential information under State or Federal law (e.g., employee social security numbers, protected health information, student education records), do not use the Options below. Instead, send the Report ONLY to the Office of the Attorney General, addressed to:**

Chief Counsel  
Educational Affairs Division  
Office of the Attorney General  
200 St. Paul Place, 17<sup>th</sup> Floor  
Baltimore, Maryland 21202

NOTE: THE UM HOTLINE IS NOT FOR REPORTS ABOUT ANY CAMPUS OTHER THAN THE UNIVERSITY OF MARYLAND, BALTIMORE, OR REPORTS ABOUT THE UNIVERSITY OF MARYLAND MEDICAL CENTER OR UNIVERSITY OF MARYLAND MEDICAL SYSTEM.

**Option 1:** Log onto the UM Hotline at [www.umaryland.ethicspoint.com](http://www.umaryland.ethicspoint.com) or call the Hotline Operator, toll-free, at 1-866-594-5220. Reports made to the UM Hotline will not result in disclosure of your identity and contact information to UM without your explicit permission.

**Option 2:** PRINT or TYPE your Report. Send it by campus mail, USPS, or courier delivery, addressed as follows:

ATTENTION: UM Hotline Report Monitor  
University of Maryland  
220 Arch Street, 14<sup>th</sup> Floor, Room 03-111  
Baltimore, MD 21201

**ALTERNATIVES:** If the Report concerns the UM President, you may PRINT or TYPE it and send it by USPS or courier delivery to:

University System of Maryland  
Office of Internal Audit  
10630 Little Patuxent Parkway, Suite 450  
Columbia, Maryland 21044

If your Report falls under the USM Policy on the Communication of Suspected Fraud, Unethical and Illegal Business Activity, or the USM Policy on Reporting Suspected or Known Fiscal Irregularities, the Report also may be made to the USM Audit Office in the by mailing it to the above address, or in one of the following ways:

Via Web Portal Link: <http://www.usmd.edu/usm/IAO/ReportFraud/index.php>.

Through the Toll-free Telephone Hotline: 1-877-330-2320.

By Fax to: 443-367-3551.

A Report to USM under either of the USM policies may be sent in addition to making the Report to UM, or instead of making the Report to UM, at the choice of the Reporter.

## APPENDIX II

### Reprisal Action Complaints

A Reporter who is a student, employee, patient or volunteer, and who identified himself to UM when making a Report, or who knows that his identity became known to UM after a Report was made, may use the following Reprisal Action Complaint procedure:

Non-Exempt Staff, Exempt Staff and Faculty – Send a Reprisal Action Complaint to ATTENTION: Chief Accountability Officer, University of Maryland Baltimore, 620 W. Lexington Street, 5<sup>th</sup> Floor, Baltimore, MD 21201. Send a copy to the Dean or Vice President in charge of your School or administrative area unless the Reprisal Action Complaint involves that Dean or Vice President. If the Reprisal Action Complaint involves the President, send an additional copy to the USM Office of Internal Audit. (A complaint as provided in the Maryland Whistleblower Law (Title 5, Subtitle 3, Ann. Code of Maryland and related regulations in COMAR) also may be considered.)

Students - Send the Reprisal Action Complaint to the Chief Academic and Research Officer and Senior Vice President, University of Maryland Baltimore, 620 W. Lexington Street, 2nd Floor, Baltimore, MD 21201. Send a copy to the Dean of your School.

Patients, Volunteers -- Send the Complaint to ATTENTION: UM Report Monitor, University of Maryland Baltimore, 220 Arch Street, 14<sup>th</sup> Floor, Room 03-111, Baltimore, MD 21201. If you have the information needed to do so, send a copy to the Dean or Vice President in charge of the School or administrative area involved.

## Appendix III

UM Whistleblower Policy on Reporting Fiscal Irregularities, Illegal Activity, and Violations of Policy (UM VIII-7.11(B))-- attach or insert link

USM Policy on Reporting Suspected or Known Fiscal Irregularities (VIII-7.10) - attach or insert link

USM Policy on the Communication of Suspected Fraud, Unethical and Illegal Business Activity (VIII-7.11) – attach or insert link