

Whistleblowers' Regulations

Owner:	Department of Administrative and Legal Affairs
Adopted by the Executive Board on:	1 November 2016

Preamble

Vrije Universiteit Amsterdam finds it important to ensure that any misconduct or wrongdoings within the organization can be reported safely. The Whistleblowers' Regulations have been drawn up for that purpose. In this context, whistleblowing can be described as an employee of or student at Vrije Universiteit Amsterdam reporting suspicions of serious illegal or immoral practices that are taking place under the responsibility of Vrije Universiteit Amsterdam and in the context of which a significant general social interest or an interest of the institution itself is at stake.

The purpose of these Regulations is therefore to provide legal protection to those employees and students on the one hand, and on the other hand these Regulations will prevent employees or students from immediately disclosing publicly alleged misconduct or wrongdoings, which could cause unnecessary harm to the organization. The Regulations offer Vrije Universiteit Amsterdam the ability to seriously investigate, an alleged case of misconduct or wrongdoing within the organization.

Chapter 1 General provisions

Article 1.1 Definition of terms

1. In these Regulations the terms listed below have the following meaning:
 - a. Employee: an employee who works at Vrije Universiteit Amsterdam, or who worked at Vrije Universiteit Amsterdam a maximum of 12 months in the past, on the ground of an employment contract or otherwise;
 - b. Student: a student who is registered as such at Vrije Universiteit Amsterdam or who was registered as such a maximum of 12 months in the past;
 - c. Executive Board: Vrije Universiteit Amsterdam's Executive Board;
 - d. Supervisory Board: Vrije Universiteit Amsterdam's Supervisory Board;
 - e. Suspicion of Misconduct or Wrongdoing: an employee's suspicion that there has been an incident involving misconduct or wrongdoing within the organization in which he currently works or in which he worked in the past or at another organization in the event that he has come in contact with that organization in connection with his work, provided that:
 - 1ST the suspicion is based on reasonable grounds that ensue from the knowledge that the employee has gained at his employer or that ensues from the knowledge that the employee has obtained through his work at another company or another organization; and

- 2nd the general public interest is at stake in connection with the violation of a statutory regulation, a danger to public health, a danger to the safety of persons, a danger of harmful effects on the environment, a danger to the proper functioning of the state or a company as a result of the improper way of acting or failing to act;
- f. Person Reporting: an employee or a student who reports a Suspicion of Misconduct or Wrongdoing;
- g. Whistleblowers' Regulations Confidential Counsellor: the person whom the Executive Board designates as such.
2. A Suspicion of Misconduct or Wrongdoing does not include a suspicion of a violation of academic integrity within the meaning of VU-VUmc Academic Integrity Complaints Procedure. However, the protection afforded by the Whistleblowers' Regulations will nonetheless continue to apply in respect of the complainant within the meaning of the VU-VUmc Academic Integrity Complaints Procedure.

Article 1.2 Advice and counselling from the Whistleblowers' Regulations Confidential Counsellor

1. In the context of these Regulations, the Executive Board will appoint one or more Whistleblowers' Regulations Confidential Counsellors.
2. An employee or a student who suspects a case of misconduct or wrongdoing can contact one of the Whistleblowers' Regulations Confidential Counsellors for information, advice and support.
3. If there is cause to do so, the Whistleblowers' Regulations Confidential Counsellor will advise the employee or student to report the Suspicion of Misconduct or Wrongdoing.

Chapter 2 Internal reporting

Article 2.1 Internal reporting by an employee or student directly

1. An employee or a student who has a Suspicion of Misconduct or Wrongdoing can report that suspicion directly to the Executive Board, except in the situation referred to in subsection 4 of this article.
2. In the event that the suspicion is not reported directly to the Executive Board, the recipient will forward it to the Executive Board.
3. Once it has received the report, the Executive Board will send the Person Reporting confirmation of receipt.
4. If there is a Suspicion of Misconduct or Wrongdoing that involves the Executive Board or one of its members, the Person Reporting should report the suspicion to the Secretary of the Supervisory Board. In the event that the Supervisory Board receives such a report, it will handle the report in accordance with the provisions stipulated in these Regulations to every extent possible, in which context in those provisions 'the Executive Board' should be deemed to be replaced with 'the Supervisory Board'.
5. The report must be submitted in writing (by post or e-mail) and:
 - a. it must contain a clear description of the misconduct or wrongdoing; and

- b. it must be dated and, unless the provisions stipulated in Article 2.2(3) apply, state the name, position (if applicable) and contact details of the Person Reporting.
- 6. Anonymous reports will not be accepted for consideration, unless the provisions stipulated in Article 2.2(3) apply.
- 7. An internal report will not affect the statutory obligation to report a criminal offence.

Article 2.2 Internal reporting through the Whistleblowers' Regulations Confidential Counsellor

1. An employee or a student who has a Suspicion of Misconduct or Wrongdoing but does not wish to report that suspicion directly internally can contact one of the Whistleblowers' Regulations Confidential Counsellors and request the counsellor to report the suspicion on his behalf.
2. The Whistleblowers' Regulations Confidential Counsellor will forward the Person Reporting's report in accordance with the provisions stipulated in Article 2.1.
3. A report that is submitted through the Whistleblowers' Regulations Confidential Counsellor may be anonymous at the Person Reporting's request, provided that the name, position (if applicable) and contact details of the Person Reporting are known to the Whistleblowers' Regulations Confidential Counsellor.
4. In the foregoing case, the Executive Board will send the confirmation of receipt referred to in Article 2.1(3) to the Whistleblowers' Regulations Confidential Counsellor, who will forward it to the Person Reporting.

Chapter 3 The manner in which an internal report will be handled

Article 3.1 The initiation of an investigation

1. Once it has received a report of a Suspicion of Misconduct or Wrongdoing, the Executive Board will initiate an investigation as quickly as possible, unless it already is clear that:
 - a. the suspicion is not based on reasonable grounds; or
 - b. the matter that has been reported does not relate to a Suspicion of Misconduct or Wrongdoing.
2. In the event that Executive Board decides not to initiate an investigation, it will notify the Person Reporting, or if Article 2.2(3) applies the Whistleblowers' Regulations Confidential Counsellor, of its decision, in writing, within two weeks after it has received the report. In that context the Executive Board also must state the ground on which it is of the opinion that the suspicion is not based on reasonable grounds or that it already is clear that the matter that has been reported does not relate to a Suspicion of Misconduct or Wrongdoing.

Article 3.2 The investigation procedure

1. In the event that an investigation is initiated, the Executive Board will inform the Person Reporting and/or the Whistleblowers' Regulations Confidential Counsellor; it also will notify the person or persons to whom the report relates of the report and the investigation, unless doing so could hamper the investigation.
2. The Executive Board will delegate one or more investigators, who will be independent, unbiased and knowledgeable in respect of the matter in question, to conduct the investigation; in any event it will not have the investigation conducted by persons who might be involved (or who might have been involved in the past) in the suspected misconduct or wrongdoing. An employee whom the Executive Board asks to act as an investigator may request to be excused by giving notice and substantiating that fulfilling that duty would (or could) lead to a conflict of interest.
3. If necessary, the Executive Board can consult with an internal or external expert or request such an expert to conduct the investigation.
4. In the conduct of the investigation, the principle of hearing both sides of the argument will be taken into consideration.
5. The setup of the investigation that was used, the manner in which the investigation was conducted and the results of the investigation will be laid down in a written report, preferably including recommendations.
6. If possible, the written report will be provided to the Executive Board within eight weeks after the investigation has commenced.

Article 3.3 The Executive Board's position

1. Within two weeks after it has received the report referred to in Article 3.2(6), the Executive Board will adopt a substantive position and will notify the Person Reporting and/or the Whistleblowers' Regulations Confidential Counsellor, in writing, of that position. The Executive Board will also indicate the steps to which the report has led or will lead.
2. The Executive Board will notify the Person Reporting and/or the Whistleblowers' Regulations Confidential Counsellor, in writing, in the event that the Executive Board cannot provide its position within the term stipulated. The Executive Board will also indicate the term in which its position can be expected. In the event that the total term, from the time at which the Executive Board received the report until the time at which it issues its position, will be longer than 12 weeks as a result, the Executive Board will also state why a longer term is needed.

Chapter 4 External report

Article 4.1 External report

1. After an employee has submitted an internal report, the employee can report a Suspicion of Misconduct or Wrongdoing externally to or through the House for Whistleblowers (Huis voor klokkenluiders) in the event that:
 - a. he does not accept the Executive Board's decision, within the meaning of Article 3.1(1), to refrain from handling the report any further;
 - b. he is of the opinion that the internal procedure did not lead to sufficient measures in order to remedy the suspected Misconduct or Wrongdoing; or
 - c. the Executive Board did not finish handling the report in a timely manner (within 12 weeks) and the Executive Board has prolonged the term for handling the report by an unreasonably long period of time.
2. After a student has submitted an internal report, the student can report a Suspicion of Misconduct or Wrongdoing externally to the designated external authority in the event that:
 - d. he does not accept the Executive Board's decision, within the meaning of Article 3.1(1), to refrain from handling the report any further;
 - e. he is of the opinion that the internal procedure did not lead to sufficient measures in order to remedy the suspected Misconduct or Wrongdoing; or
 - f. the Executive Board did not finish handling the report in a timely manner (within 12 weeks) and the Executive Board has prolonged the term for handling the report by an unreasonably long period of time.
3. In the event that weighty interests preclude applying the internal handling procedure, the employee or student may, in derogation from the provisions stipulated in the preceding subsection, report the Suspicion of Misconduct or Wrongdoing directly to or through the House for Whistleblowers or report it directly to the designated external authority.
4. In the event that there is a reasonable suspicion of a criminal offence or a clear and present danger to the public health and safety or the environment, an employee or a student may report it directly to the designated external authority.

Chapter 5 Legal protection, protection in general and reporting

Article 5.1 Protecting the Person Reporting and other persons involved from being disadvantaged.

1. The legal position of a Person Reporting who has reported a Suspicion of Misconduct or Wrongdoing in good faith and properly may not be adversely affected in any manner whatsoever as a result of that report.
2. The Executive Board will ensure to every extent possible that the Person Reporting also is not disadvantaged in the performance of his work or in his studies as a result of his having reported a Suspicion of Misconduct or Wrongdoing in good faith and properly.

3. In addition, the Executive Board will ensure to every extent possible that the legal position of the persons who are involved in handling a report of a Suspicion of Misconduct or Wrongdoing, including the Whistleblowers' Regulations Confidential Counsellor, also are not otherwise disadvantaged in any manner whatsoever in the performance of their work as a result of their making statements or carrying out the duties described in these Regulations in good faith.

Article 5.2 Maintaining confidentiality with respect to the report and the identity of the Person Reporting

1. Any person who is involved in handling a report of a Suspicion of Misconduct or Wrongdoing will not disclose the identity of the Person Reporting without that person's explicit permission and will maintain the confidentiality of the information with respect to the report.
2. In the event that a Suspicion of Misconduct or Wrongdoing is reported through the Whistleblowers' Regulations Confidential Counsellor and the Person Reporting has not given permission to disclose his identity, any and all correspondence with respect to the report will be sent to the Whistleblowers' Regulations Confidential Counsellor, and the Whistleblowers' Regulations Confidential Counsellor will immediately forward that correspondence to the Person Reporting.
3. The Executive Board must ensure that the information with respect to the report is saved in such a way that it is physically and digitally accessible only to persons whose involvement in handling the report is necessary.

5.3 Reporting

1. Every year, the Executive Board will include in Vrije Universiteit Amsterdam's Annual Report an anonymized overview of the internal and external reports of a Suspicion of Misconduct or Wrongdoing, within the meaning of these Regulations, in that financial year, insofar as that information is known the Executive Board.
2. That overview will indicate how many reports led to an investigation and whether the investigations, in general, led to steps that have been taken or to steps that will be taken in the future.

Chapter 6 Final provisions

Article 6.1 Date of entry into force

These Whistleblowers' Regulations will enter into force on 1 November 2016 and replace Vrije Universiteit Amsterdam's prior Whistleblowers' Regulations dated 1 October 2007.

House for Whistleblowers' contact details

The House for Whistleblowers can refer the employee to the proper agency, and in some cases it will conduct an investigation itself. In addition to the investigatory department, the

House for Whistleblowers has an advisory department, which advises employees with respect to how to handle misconduct or wrongdoing. Those two departments are strictly separate from each other.

Telephone

For questions about reporting misconduct or wrongdoing: +31 (0)88 371 30 31

For employers' questions and for other questions: +31 (0)88 371 30 32 or by e-mail to: kenniscentrum@huisvoorklokkenluiders.nl.

E-mail

For advice about reporting misconduct or wrongdoing: advies@huisvoorklokkenluiders.nl.

For employers and for general information: info@huisvoorklokkenluiders.nl.

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