

WHISTLEBLOWER

 H. LAVITY STOUTT COMMUNITY COLLEGE	
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RATIONALE

H. Lavity Stoutt Community College (hereinafter referred to as "the College" or "HLSCC") is committed to fulfilling requirements of the good governance framework, and thus maintaining the highest standards of integrity, transparency, and accountability. This policy aims to ensure that all members of the College community can report any instance of misconduct, unethical behavior, or violations of law or College policies without fear of retaliation.

SCOPE

This policy applies to all employees, students, volunteers, contractors, Board of Governors and any other individuals associated with the College.

DEFINITIONS

Disclosure: The act of making something known to a specified person or body.

False Report – A false report is a disclosure made with the intent to mislead, defame, or cause harm, without any reasonable belief that wrongdoing has occurred.

Good Faith – A report made with a reasonable belief that the information disclosed is true and constitutes misconduct.

Misconduct – Any action that is illegal, unethical, or violates college policies, including but not limited to fraud, theft, corruption, harassment, discrimination, and safety violations.

Retaliation – Any adverse action taken against a whistleblower because of their report. This includes termination, demotion, harassment, or any other form of discrimination.

Whistleblower – An individual who reports misconduct, unethical behavior, or violations of law or college

policies.

POLICY STATEMENT

The college is committed to maintaining an environment where individuals feel safe and are encouraged to report any concerns of misconduct without fear of reprisal. The college prohibits retaliation against anyone who, in good faith, reports such concerns.

GUIDING PRINCIPLES

Accountability and Transparency – The college will hold individuals accountable for validated misconduct and for retaliatory actions against whistleblowers. The privacy of all parties involved will be protected.

Confidentiality – The college will protect the confidentiality of whistleblowers and the details of the report to the extent possible, consistent with the need to conduct a thorough investigation.

Misconduct – Individuals found to have engaged in misconduct will face disciplinary actions, which may include termination of employment or enrollment, depending on the severity of the misconduct. Individuals found to have retaliated against whistleblowers will face disciplinary actions, up to and including termination.

Fair and Impartial Investigation – All reports will be taken seriously, investigated promptly and thoroughly, and addressed with due regard for the rights of all parties involved.

Good Faith Reports – Disclosures made in good faith are protected under this policy, even if the investigation does not substantiate the allegations.

Non-Retaliation – Whistleblowers will be protected from harassment, discrimination, or other adverse consequences.

POLICY DETAILS

Concerns should be raised internally, and employees are encouraged not to take concerns outside pending completion of the investigation and any remedial process. If measures taken are deemed inadequate, the college's grievance policy can be instituted to further pursue redress.

Reporting Wrongdoing

Information is to be disclosed to a specified person or body where there is reasonable cause to believe that it reveals any of the following:

- a. Illegal activity has occurred, is about to occur or is likely to occur;
- b. A law, policy or regulation has been violated;
- c. A misapplication of policy requirements;
- d. Mismanagement, misuse, or waste of college resources;

- e. Identification of actions/activities which are harmful to the physical environment over which the college has responsibility;
- f. Unsafe practices are being undertaken or allowed;
- g. Non-compliance with accreditation standards, requirements of affiliation, and accrediting body policies and procedures.

Who Can Make a Disclosure of Impropriety/Misconduct

A disclosure of impropriety at HLSCC can be made by any individual who has reasonable grounds to believe that wrongdoing has occurred, is occurring, or is likely to occur. This includes, but is not limited to, the following stakeholders:

- a. Employees
 - (Faculty & Staff)
 - (Fulltime, Part-time, Adjuncts)
- b. Students
 - (Fulltime, Part-time)
- c. Governing Bodies and College Leadership
 - Members of the Board of Governors
 - President, Vice Presidents, Deans, Department Heads
- d. Service Providers and Contractors
 - Vendors, suppliers, and contractors providing goods and services to the College
 - Cleaning, catering, and other outsourced (or third party) providers.
- e. Alumni and Former Employees
 - Graduates who have information regarding past or ongoing impropriety
 - Former faculty, staff, and administrators who wish to report wrongdoing they became aware of during or after their tenure.
- f. Parents and Guardians
 - Parents, guardians, or sponsors of students who suspect unethical behavior affecting their dependents
- g. Community Members and the General Public

- Individuals who may observe misconduct or unethical practices related to the college
- Individuals who interact with the college through outreach programs, partnerships, or events.

Reporting Channels:

Disclosure of misconduct can be made according to the following guidelines:

- Disclosures about college employees/departments except the President, should be made directly to the President.
- Disclosures about the President should be to the Chairman of the Board of Governors.
- Disclosures about the Board of Governors should be made to the Permanent Secretary in the Ministry of Education.

Once a disclosure has been made, the College's legal counsel (or someone who has the capacity to undertake the investigation) should be made aware/appointed within 5 days. The final report of the investigation should be shared with the college's legal counsel.

Specific institutional complaints can be made to the College's accrediting bodies as appropriate.

Timelines

Various timelines may exist within the phases of the investigation. Regardless of those timelines the overall investigative process should not exceed sixty business days from the date of receipt of the disclosure.

Protection for Whistleblowers

Retaliation against a whistleblower is strictly prohibited under this policy in accordance with the Virgin Islands Whistleblowers Act, 2021. Retaliation includes any adverse action taken against an individual because that individual made a good-faith disclosure.

Retaliatory Actions Against Employees:

Retaliatory actions against whistleblowers who are employees, include but are not limited to:

- Termination or dismissal
- Demotion
- Salary reduction
- Unjustified negative performance reviews
- Reassignment, unfair work assignments or isolation
- Increased scrutiny or harassment
- Exclusion from meetings or decision-making

- Denials of promotions or training opportunities
- Threats or intimidation
- Unjustified disciplinary actions
- Defamation or character attacks
- Retaliatory legal action

Retaliatory Actions Against Students

Retaliatory actions against whistleblowers who are students include but are not limited to:

- Academic penalties
- Expulsion or suspension
- Denial of scholarships
- Loss of leadership positions
- Exclusion from extracurricular activities
- Verbal or written harassment
- Unjustified disciplinary action
- Social isolation or peer pressure
- Unfair treatment by faculty or staff
- Withholding references or recommendations

Retaliation Against Contractors, Vendors, or Service Providers

Retaliatory actions against whistleblowers who are students include but are not limited to:

- Termination of current contracts
- Exclusion from future contracts

Any individual who experiences or observes retaliatory actions should report the matter through the designated whistleblower channels. Violators will face disciplinary action, up to and including termination, suspension, or legal consequences.

Legal guidance, counselling, or other necessary support may be provided to the person against whom the retaliation is directed as appropriate.

Breach of Confidentiality

HLSCC is committed to protecting the identity and confidentiality of whistleblowers as far as possible, in accordance with applicable laws and policies. Any person who receives a disclosure under this policy is obligated to maintain strict confidentiality regarding the whistleblower's identity and the information provided.

A breach of confidentiality occurs when the recipient of a disclosure:

- Knowingly or negligently discloses the identity of the whistleblower without their consent, except as required by law.
- Shares details of the disclosure with unauthorized persons.
- Uses the information disclosed for purposes other than investigating or addressing the reported concern.

Every breach will be investigated, consequences administered, and corrective measures implemented to prevent further breaches.

Whistleblowers who believe their confidentiality has been breached may report the incident to the President or accordingly to the other members indicated under the Reporting Channels of this policy. The matter will be handled with urgency, and appropriate remedial action will be taken. Reports of confidentiality breaches will be investigated promptly, and the results communicated to the whistleblower to the extent permitted by law.

Consequences:

Confirmed Wrongdoing

If an investigation confirms that a wrongdoing has occurred, the College will take appropriate corrective and disciplinary actions in accordance with institutional policies and applicable laws.

Employees (Faculty and Staff)

- Formal warning or reprimand
- Suspension without pay
- Termination of employment
- Legal action, if the wrongdoing involves criminal activity
- Restitution of misappropriated funds or resources

Students

- Formal warning or probation
- Suspension or expulsion
- Removal from student leadership positions

- Legal action, if applicable

For Contractors, Vendors, or Service Providers

- Termination of contracts or agreements
- Legal action for breach of contract
- Disqualification from future business with the college

For Senior Administrators or Board Members

- Formal censure or removal from office
- Referral to external regulatory bodies for further action
- Criminal prosecution for offenses involving fraud, corruption, or abuse of power.

False Reports

While HLSCC encourages good faith disclosures of wrongdoing, knowingly making a false disclosure is a serious offense. Consequences of making a false disclosure include:

- Disciplinary action against the individual making the false claim, which may include suspension, termination or expulsion (for employees or students respectively).
- Legal consequences under the Virgin Islands Whistleblowers Act 2021, if the false report leads to reputational or financial harm.

The college will conduct a thorough investigation before determining whether a report was made in bad faith. Reports made with honest intent, even if unproven, will not be subject to penalty.

Breach of Confidentiality

If a breach of confidentiality occurs, the organization will take appropriate action based on the severity and impact of the breach. Potential consequences include:

- a. Internal Disciplinary Actions
 - i. Verbal or Written Warning: For minor breaches where no significant harm was caused.
 - ii. Formal Reprimand: For breaches that compromise the whistleblower's confidentiality but do not result in serious consequences.
 - iii. Suspension Without Pay: In cases of gross negligence or willful disregard for confidentiality obligations.
 - iv. Termination of Employment: If the breach results in harm to the whistleblower, legal consequences for the organization, or reputational damage.
- b. External Actions

Depending on the nature of the breach HLSCC may pursue or be required to enforce legal penalties, including:

- i. **Criminal Charges:** If the breach violates whistleblower protection laws or involves malicious intent, legal action may be taken, potentially resulting in fines or imprisonment.
- ii. **Third-Party Actions:**
 - i. HLSCC may refer the matter to external enforcement agencies;
 - ii. If the breach was committed by a contractor, consultant, or third party, their contract may be terminated, and they may be barred from future engagements.

RESPONSIBILITIES

- **College Leadership:**
 - Ensure the implementation of this policy and promote awareness.
 - Ensure that all employees, students, and community members are informed about the procedures for reporting misconduct.
 - Provide necessary resources for investigations.
- **Supervisors and Administrators:**
 - Encourage a culture of openness and ethical behavior.
 - Support and protect whistleblowers from retaliation.
 - Report any received allegations to the designated reporting channel member.
- **Designated Reporting Channel Members (President, Board Chair or Permanent Secretary):**
 - Receive and evaluate reports of suspected misconduct.
 - Ensure confidentiality and protection of whistleblowers.
 - Conduct or oversee investigations of reported misconduct.
 - Report findings to the appropriate authorities and recommend corrective actions.
- **Whistleblowers:**
 - Report suspected misconduct promptly and in good faith.
 - Provide all relevant information and cooperate with the investigation.
 - Must provide all relevant information. Whistleblowers should not investigate matters themselves.

MONITORING AND EVALUATION

To ensure the effectiveness of this policy, the College will establish a monitoring and evaluation framework that includes:

Annual Review of Whistleblower Reports: A summary of cases (without compromising confidentiality) will be reviewed to assess trends, recurring issues, and policy effectiveness.

Stakeholder Feedback: Employees, students, and other stakeholders will have opportunities to provide feedback on the whistleblower process to identify areas for improvement.

Training and Awareness Programs: Regular training sessions will be conducted to ensure that all employees and students understand the whistleblower policy, reporting mechanisms, and their respective rights.

Corrective Action Implementation: Based on monitoring findings, the college will take necessary actions to address systemic issues and improve accountability.

Regular Policy Assessment: The policy will be reviewed periodically according to schedule or with more frequency as needed to ensure compliance with legal updates and institutional needs.

LEGAL FRAMEWORK

This policy aligns with local legislation and requirements of accrediting and certifying bodies, specifically the Virgin Islands Whistleblower Act, 2021, and the MSCHE Complaints Involving Applicant or Member Institutions Policy.

PROCEDURES

Reporting Procedure

A disclosure may be made orally or in writing.

1. **How to Report:** Reports/disclosures of suspected misconduct can be made:

- In person, to the appropriate member of the Reporting Channel.
- By email, to the appropriate member of the Reporting Channel.
- The designated authority will acknowledge receipt of the report within five (5) working days and review the submission to determine completeness of information and need for further investigation.
- A verbal report must be converted to a written document by the person taking the report. The typed report must be read by the whistleblower or to the whistleblower and signed to confirm the accuracy of what is recorded.

2. **Information to Provide:**

- Detailed description of the suspected misconduct.
- Full names and contact information of individuals involved, including witnesses.
- Dates, times, and locations of the incidents.
- Any supporting evidence or documentation.
- Reference to any previous disclosures made of the same or a different impropriety.
- Category/Stakeholder status.

3. **Acknowledgment and Review**

- The person receiving the disclosure shall:
 - Indicate the time and location of the disclosure;
 - Provide written acknowledgement of the disclosure;
 - Review for sufficiency of details;
 - Ensure the confidentiality and safekeeping of the disclosure.

4. **Investigation and Resolution**

- **Initial Assessment:** The designated reporting channel official will conduct an initial assessment to determine the credibility of the report and the appropriate course of action.
- **Formal Investigation:**
 1. If warranted, a formal investigation will be conducted, which may involve interviews, review of documents, and consultation with legal and other experts.
 2. The whistleblower/discloser will be interviewed and can be accompanied by a work colleague or approved representative. Any person accompanying a whistleblower/discloser to an interview must not be involved in the proceedings relating to the concern or be involved in the concern itself.
 3. The identified person will be interviewed to give an account of the issue.
- **Findings and Actions:**

Following the initial interview(s), an assessment of what action should be taken will be made.

 - a. If the assessment is made that the concern can be resolved quickly (i.e., within one working week) by the designated official, it will be dealt with internally according to the rank of the designated reporting channel official. The whistleblower will be notified of this. This may lead to the implementation of other formal procedures, e.g. disciplinary procedures.
 - b. If the assessment is made that the concern is of a complex nature, further investigation will be conducted.
 - c. In the event of a decision that no action will be taken following interviews and/or investigation, the whistleblower will be given a written explanation of the reasons for this decision.
- **Timeline:** The designated official undertaking the investigation will provide a response and recommendation to the President within 15 working days, although in complex matters this may be an initial response pending further investigations.
- **Feedback to Whistleblower:** Where appropriate and feasible, the whistleblower will be informed of the outcome of the investigation.

Examples of Possible Areas for Reporting

- Unaddressed risks to students and staff
- Maltreatment of students (including discrimination, detrimental treatment, and victimization)

- Maltreatment of employees (including discrimination, victimization, and detrimental treatment including, unfair dismissal)
- A criminal offence
- Fraud and financial malpractice
- Failure to comply with a legal or professional obligation
- Miscarriage of justice
- Unaddressed health and safety risks
- Damage to facilities, systems or the environment
- Deliberately concealing information relating to the above
- Bullying and harassment
- Any other area which may qualify as justifying whistleblowing, not explicitly stated.

PROCEDURES FOR INVESTIGATION

The College is committed to ensuring that all whistleblower disclosures are handled promptly, fairly, and impartially. The following procedures shall guide the investigation of reported concerns under this policy:

1. Acknowledgement and Preliminary Assessment

- Upon receipt of a disclosure, the designated authority (President's Office, Board Chair, or Permanent Secretary) shall acknowledge receipt in writing within five (5) working days, where possible.
- A preliminary assessment will be conducted within ten (10) working days to determine whether the allegation warrants a full investigation and falls within the scope of this policy.
- If the matter does not meet the criteria for investigation under this policy, the whistleblower will be informed, and the matter may be redirected to the appropriate department or grievance procedure.

2. Appointment of an Investigator

- If a full investigation is warranted, an investigator will be appointed by the designated authority. The investigator must be impartial and have no conflict of interest in the matter.

3. Conduct of the Investigation

- The investigator shall develop a plan and timeline for the investigation, typically not exceeding thirty (30) working days, unless additional time is warranted due to complexity.
- Evidence will be collected through interviews, document reviews, and other relevant methods.
- The whistleblower, accused party, and relevant witnesses will be interviewed where necessary, and all individuals are expected to cooperate fully.

4. Confidentiality and Fairness

- All investigations will be conducted with due regard to confidentiality, privacy, and the rights of all parties.
- The whistleblower's identity will be protected to the extent possible/permitted by law, unless disclosure is necessary for the conduct of a fair investigation or required by legal obligation.
- Persons accused of wrongdoing will be given an opportunity to respond to allegations before a final determination is made.

5. Investigation Report and Recommendations

- A written investigation report will be prepared summarizing the findings, evidence reviewed, and conclusions drawn.
- The report will be submitted to the designated authority for review and decision.
- Recommendations for corrective or disciplinary action will be included where appropriate.

6. Outcome and Closure

- The whistleblower and the subject of the investigation will be informed of the outcome to the extent appropriate and permissible.
- Where misconduct is confirmed, appropriate remedial action will be taken, which may include disciplinary measures, policy changes, or legal referral.
- All documentation related to the investigation will be securely maintained in accordance with institutional records management and confidentiality protocols.

7. Appeals and Follow-Up

- If the whistleblower or subject of the investigation disputes the outcome, they may submit a written appeal within ten (10) working days of being notified. Appeals will be reviewed by an independent authority not involved in the initial investigation.
- Follow-up reviews may be conducted to ensure that any recommended actions have been implemented and that no retaliation has occurred.