



Personnel Policies and Procedures

Whistleblower Policy

Effective Date: November 6, 2019

Board Approval: November 6, 2019

1. Purpose

- 1.1. Tooele Technical College requires directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees and representatives of the College, are expected to practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

2. Scope

- 2.1. All employees and board of directors are subject to this policy.

3. Policy

- 3.1. In accordance with Utah Code 67-21-3, Tooele Technical College may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:
 - 3.1.1. the waste or misuse of public funds, property, or manpower;
 - 3.1.2. a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or
 - 3.1.3. as it relates to a Tooele Technical College employee:
 - 3.1.3.1. gross mismanagement;
 - 3.1.3.2. abuse of authority; or
 - 3.1.3.3. unethical conduct.

3.2. Good Faith Reporting

- 3.2.1. For purposes of subsection 3.1, an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in 3.1 to:
 - 3.2.1.1. a person in authority over the person alleged to have engaged in the conduct described in subsection 3.1
 - 3.2.1.2. the President of the Tooele Technical College;
 - 3.2.1.3. the attorney general's office;
 - 3.2.1.4. Tooele County Attorney's office;
 - 3.2.1.5. law enforcement, if the conduct is criminal in nature;
 - 3.2.1.6. the Commissioner of Utah System of Technical Education; or
 - 3.2.1.7. the entity that conducts audits of the College.

3.2.2. The presumption that a communication was in good faith may be rebutted by showing that the employee knew or reasonably ought to have known that the report was malicious, false, or frivolous.

3.3. Retaliation

3.3.1. Tooele Technical College may not take adverse action against an employee because s/he has filed a good faith a complaint under subsection 3.1.

3.3.1.1. "Adverse Action" for the purposes of this policy means to discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.

3.3.1.2. An adverse action made for legitimate disciplinary or other purposes is not a violation of this policy.

3.3.2. Tooele Technical College may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of the State of Utah, a political subdivision of Utah, or the United States, or a rule or regulation adopted under the authority of the laws of Utah, a political subdivision of Utah, or the United States.

3.4. Reporting Adverse Action

3.4.1. An employee alleging adverse action for reporting in good faith under subsection 4.1 shall have the opportunity to be heard before an independent personnel board.

3.4.2. An employee who has believes s/he has experienced an adverse action in violation of subsection 4.3 shall file a complaint with a Human Resources representative.

3.4.3. The Human Resources representative shall assemble an independent personnel board of three members to review the complaint.

3.4.3.1. No member of the board may be:

3.4.3.1.1. in the same department as the complainant;

3.4.3.1.2. a supervisor of the complainant; or

3.4.3.1.3. has a conflict of interest in relation to the complainant or an allegation made in the complaint.

3.5. Hearing Procedures

3.5.1. The independent personnel board that receives the complaint under Subsection 4 shall hear the matter and make recommendation to the Tooele Technical College President within the later of:

3.5.1.1. 30 days after the day on which the employee files the complaint; or

3.5.1.2. a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.

3.5.2. Evidence and testimony disclosed during a hearing is confidential and board members and other participants are prohibited from discussing the proceedings outside the hearing.

3.5.3. The hearing is informal to allow a full and complete disclosure. Formal courtroom rules of evidence do not apply.

3.5.4. The burden of proof is on Tooele Technical College to establish by substantial evidence that the

action was justified by reasons unrelated to the employee's good faith actions in relation to Subsection 3.1.

3.5.5. At the hearing Tooele Technical College and/or the complainant may:

3.5.5.1. be represented by counsel,

3.5.5.2. produce witnesses,

3.5.5.3. hear the testimony for or against the complainant,

3.5.5.4. cross examine witnesses, and

3.5.5.5. examine documentary evidence.

3.5.6. Any probative evidence will be admitted unless it is totally irrelevant or repetitious.

3.5.7. Hearsay evidence is admissible but the board's final decision must be based on all credible evidence and not merely on hearsay evidence alone.

3.5.8. Within five (5) days of the conclusion of the hearing the board shall make its recommendation in writing to the Tooele Technical College President. The board's recommendation shall include:

3.5.8.1. Any relevant findings of fact, and

3.5.8.2. recommended action, including any remedies recommended as outlined in subsection 3.6.

3.5.9. Tooele Technical College President shall render a decision after considering the recommendation of the independent personnel board and enter an order within seven (7) days after the day on which Tooele Technical College President receives the recommendation.

3.6. Remedies

3.6.1. If an independent personnel board finds that adverse action was taken in violation of the policy described in Subsection 3.1, the independent personnel board may recommend the Tooele Technical College President:

3.6.1.1. reinstate the employee at the same level as before the adverse action;

3.6.1.2. pay back wages;

3.6.1.3. fully reinstate fringe benefits;

3.6.1.4. fully reinstate seniority rights; or

3.6.1.5. if the adverse action includes failure to promote, institute a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.