

<p style="text-align: center;">OGDEN-WEBER TECHNICAL COLLEGE</p>	<p style="text-align: center;">Number 500.3</p>	<p style="text-align: center;">Effective Date 2/27/20 Revised 01/25/24</p>	<p style="text-align: center;">Page 1 of 1</p>
<p style="text-align: center;">POLICY</p>	<p style="text-align: center;">Approval - President's Cabinet</p>		
<p style="text-align: center;">Title WHISTLEBLOWER PROTECTION</p>			

1. PURPOSE AND SCOPE

It is the purpose of the policy to outline protections for employees who report suspected or actual occurrences of illegal or unethical events and provide steps for reporting/remediating adverse actions against employees who have submitted reports in good faith.

2. POLICY

It is the policy of the College to encourage employees to report suspected or actual occurrences of illegal, unethical, or inappropriate events, behaviors, or practices without fear of adverse action.

3. DEFINITIONS

3.1 Adverse Action: 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.

4. REFERENCES

- Utah Code 67-21-3, Utah Protection of Public Employees Act

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1. Whistleblower Protection

In accordance with Utah Code 67-21-3, the 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:

- 1.1 the waste or misuse of public funds, property, or manpower;
- 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
- 1.3 as it relates to a College employee:
 - 1.3.1 gross mismanagement;
 - 1.3.2 abuse of authority; or
 - 1.3.3 unethical conduct.

2. Good Faith Reporting

- 2.1 An employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described above to:
 - 2.1.1 a person with supervisory authority over the person alleged to have engaged in the conduct described in Section 1;
 - 2.1.2 the Attorney General's Office;
 - 2.1.3 law enforcement, if the conduct is criminal in nature;
 - 2.1.4 The Utah System of Higher Education (USHE) or a member of the Utah Board of Higher Education;
 - 2.1.5 the Utah commissioner of higher education;

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2.1.6 the president of the College; or

2.1.7 the entity that conducts audits of the College where the employee is employed.

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. Retaliation

3.1 The College may not take adverse action against employees because they have filed a complaint in good faith under Section 1.

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

3.3 The 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 state or federal laws, rules, or regulations.

4. Reporting Adverse Action

4.1 An employee alleging adverse action for reporting in good faith under Section 1 shall have the opportunity to be heard before an independent personnel board.

4.2 Employees who believe they have experienced an adverse action in violation of Section 3 shall file a complaint with a human resources representative.

4.3 The human resources representative shall assemble an independent personnel board of three members to review the complaint.

4.3.1 No member of the board may:

4.3.1.1 be in the same department as the complainant;

4.3.1.2 be a supervisor of the complainant; or

4.3.1.3 have a conflict of interest in relation to the complainant or an allegation made in the complaint.

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Hearing Procedures

- 4.4** The independent personnel board that receives the complaint shall hear the matter and make a recommendation to the College president within the later of:
- 4.4.1** 30 days after the day on which the employee files the complaint; or
 - 4.4.2** 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.
- 4.5** Evidence and testimony disclosed during a hearing is confidential, and board members and other participants are prohibited from discussing the proceedings outside the hearing.
- 4.6** The hearing is informal to allow a full and complete disclosure. Formal courtroom rules of evidence do not apply.
- 4.7** The burden of proof is on the College to establish, by substantial evidence, that the action was justified by reasons unrelated to the employee's good faith actions in relation to Section 1.
- 4.8** At the hearing, the College and/or the complainant may:
- 4.8.1** be represented by counsel,
 - 4.8.2** produce witnesses,
 - 4.8.3** hear the testimony for or against the complainant,
 - 4.8.4** cross examine witnesses, and
 - 4.8.5** examine documentary evidence.
- 4.9** Any probative evidence will be admitted unless it is totally irrelevant or repetitious.

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- 4.10 Hearsay evidence is admissible, but the board's final decision must be based on all credible evidence and not merely on hearsay evidence alone.
- 4.11 Within five (5) days of the conclusion of the hearing, the board shall make its recommendation in writing to the College president. The board's recommendation shall include any relevant findings of fact and recommended action, including any remedies recommended as outlined in Section 6.
- 4.12 The College president shall render a decision after reviewing the recommendation of the independent personnel board and enter an order within seven (7) days after the day on which the College president receives the recommendation.

5. Remedies

If an independent personnel board finds that adverse action was taken in violation of the policy described in Section 1, the independent personnel board may recommend the College president:

- 5.1 reinstate the employee at the same level as before the adverse action;
- 5.2 pay back wages;
- 5.3 provide full reinstatement of fringe benefits;
- 5.4 provide full reinstatement of seniority rights; or
- 5.5 provide a pay raise equal to the pay the employee would have received if the person had been promoted if the adverse action included failure to promote.