

UNIVERSITY OF CENTRAL ARKANSAS
BOARD POLICY

Policy Number: 523

Subject: Arkansas Whistle-Blower Act

Date Adopted: 02/01 Revised: 12/12

This policy, regarding the “Arkansas Whistle-Blower Act,” is consistent with Ark. Code Ann. §§ 21-1-601 through 608.

An employee will be protected from discharge or retaliation when the employee reports in good faith the existence of any waste of public funds, property or manpower, or a violation or suspected violation of Arkansas law, rule, or regulation. This policy includes federal funds, property, or manpower administered or controlled by a public employer.

No adverse action will be taken against an employee or a person authorized to act on behalf of an employee, in the following situations:

- if an employee alleges a violation under this Act, and does so “in good faith”;
- if an employee alleges a violation under this Act, and does so “in good faith,” and participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review; and/or
- if an employee alleges a violation under this Act, and does so “in good faith,” and has objected to or refused to carry out a directive that the employee reasonably believes violates a law, rule, or regulation adopted under the authority of the State.

An “adverse action” is defined as discharging, threatening, discriminating, or retaliating against the employee in any manner that affects his/her employment, including compensation, job location, rights, immunities, promotions, or privileges.

“Good faith” is lacking when an employee does not have personal knowledge of the waste or violation, or when an employee knew or reasonably should have known that the report is malicious, false, or frivolous.

The report of waste or violation should be made verbally or in writing to an employee’s supervisors or to an appropriate authority, such as:

- a state, county, or municipal government department, agency, or organization having jurisdiction over criminal law enforcement, etc;
- a member, officer, agent, investigator, auditor, representative, or supervisory employee of the institution (e.g, vice president, university counsel, affirmative action/equal employment officer); or
- the Attorney General' Office, Auditor of State, Arkansas Ethics Commission, Legislative Joint Audit Committee, Division of Legislative Audit, or Prosecuting Attorney's Office.

The report by an employee of such waste or violation must be made prior to any adverse action by the institution. Additionally, the report is to be made at a time, and in a manner, that gives the institution reasonable notice of the need to correct the waste or violation.

An employee who alleges a violation of the Act, and believes that the institution has acted adversely towards him/her because of the allegations, may utilize the grievance procedures available within the *Faculty* or *Staff Handbook*. An employee may subsequently bring a civil action in circuit court within 180 days of the alleged violation of the Act. Should such civil action occur, the employee has the burden of proof in establishing that he or she has suffered an adverse action for an activity protected under the Act. Additionally, the institution shall have an affirmative defense if it can establish that the adverse action taken against an employee was due to misconduct, poor job performance, or a reduction in workforce unrelated to a report made concerning violations under the Act.