

Effective as of October 1, 2019

**AMERICAN UNIVERSITY IN BULGARIA
WHISTLEBLOWER POLICY**

I. INTRODUCTION

The American University in Bulgaria is committed to creating and maintaining a culture of openness within its organization so that individuals feel encouraged and confident to raise any concerns relating to suspected misconduct at an early stage.

The American University in Bulgaria also recognizes the negative effect which misconduct, malfeasance or wrongdoing (together, referred to below as “misconduct”) can have on the organization, and therefore encourages you to raise genuine concerns, or any concrete suspicions, which you may have concerning misconduct.

This Policy is intended to create an internal safe mechanism for raising concerns within the Material Scope described in Section III below, while providing balanced and effective Whistleblower protection.

This Policy applies to full and part-time employees, students, subcontractors, persons belonging to the administrative, management or supervisory bodies of the University, including non-executive members, as well as volunteers and paid or unpaid trainees, and other members of the University. This Policy does not apply to conference attendees or visitors to the University.

II. DEFINITIONS

Except where otherwise specified in the text, the terms in this Policy shall have the following meanings:

2.1. Concerned Person means a natural or legal person who is referred to in the Disclosure and the report by the Whistleblower Officer as a person to whom the misconduct is attributed or with which he or she is associated.

2.2. Designated Person means a competent person within the internal structure of the University to whom the Whistleblower forwards the respective Disclosure.

2.3. Disclosure means each concern raised by the Whistleblower within the material scope of this Policy and under the procedure described below.

2.4. Whistleblower or Reporting Person means an individual who makes a Disclosure and who shall be protected under the rules of this Policy.

2.5. Whistleblower Officer means an independent self-employed individual, who is designated to assist the Whistleblower in the reporting process, who declare that he/she is not related to any other officer, member of any corporate body, supervisory body or subcontractor of the University, and who has undertaken to process all Disclosures according to the rules under this Policy.

III. MATERIAL SCOPE

This Policy provides protection of Whistleblowers reporting on the following breaches of

- ✓ Rules of procedure for public procurement;
- ✓ Marketing and use of sensitive and dangerous products;
- ✓ Protection of the environment;
- ✓ Consumer rights and consumer protection;
- ✓ Protection of privacy and personal data, and security of network and information systems;
- ✓ Prevention of money laundering and terrorist financing

- ✓ Competition and State aid rules, and as regards acts which breach the rules of corporate tax or arrangements whose purpose is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law;
- ✓ Financial misuse, fraud, or concealment of financial misconduct;
- ✓ Failure to comply with legal obligations;
- ✓ Serious ethical misconduct

IV. PROTECTION AND CONFIDENTIALITY

4.1. The University staff is provided with protection against being dismissed or penalized as a result of disclosing information which, in the reasonable belief of that member of staff, is in the public interest and tends to show the characteristics specified in this Whistleblowing Policy. No Whistleblower who makes a Disclosure will suffer detriment or adverse treatment from the University as an employer as a result of making the protected disclosure.

4.2. Any Whistleblower reporting information on misconduct falling within the areas of Material Scope covered by this Policy shall qualify for protection provided that:

(a) the person had reasonable grounds to believe that the information reported was true at the time of reporting, and

(b) the information fell within the scope of this Policy.

4.3. Reporting Persons making a Disclosure report in accordance with this Policy shall not be considered to have breached any restriction on disclosure of information and shall not incur liability of any kind in respect of such reporting or Disclosure, provided that they had reasonable grounds to believe that the reporting or disclosure of such information was necessary for revealing misconduct pursuant to this Policy.

4.4. Reporting Persons shall not incur liability in respect of the acquisition of or access to the relevant information, provided that such acquisition or access did not constitute a self-standing criminal offence. In the latter case, the criminal liability shall remain governed by applicable national law.

4.5. Any other possible liability of the Reporting Persons arising from acts or omissions which are unrelated to the reporting or are not necessary for revealing misconduct or a breach pursuant to this Policy shall remain governed by Bulgarian Law.

4.6. Disclosures will be treated in a confidential and sensitive manner and all related material will be stored securely. The information produced when handling a Disclosure will be kept confidential, limiting access to those persons relevant to the investigation. The identity of individuals making Disclosures will be kept confidential to the extent that it does not hinder or impede the investigation. In such cases, the University will inform the individual before it takes any further action which might involve breaking the initial confidentiality. It should be noted, however, that if it is necessary, the identity of individuals making the Disclosure may be revealed during the investigation and such an individual may need to provide a statement as part of the evidence required.

4.7. Furthermore the identity of the Concerned Person shall be kept confidential. The Concerned Person shall have rights of defense, including the right to access the file, the right to be heard and the right to seek effective remedy against a decision. During the investigation it is presumed that the Concerned Person is innocent.

V. ANONYMOUS AND UNTRUE ALLEGATIONS

5.1. Individuals raising the concerns under this Whistleblowing Policy are encouraged to identify themselves.

5.2. Anonymous concerns cannot be handled under this Policy.

5.3. If an individual discloses information under this Whistleblowing Policy which he or she reasonably believes shows or indicates misconduct, malpractice, wrongdoing or danger in the public interest, but which action is not confirmed by the investigation conducted, no detrimental or disciplinary action will be taken against such individual.

5.4. If it is indisputably proved that such an individual has made malicious or vexatious allegations pursuing personal gain, actions may be taken against this individual under the relevant disciplinary or other applicable procedure. However the actions of the Reporting Person shall be considered as performed in good faith until the opposite is proven with reliable evidence.

VI. PROCEDURE

6.1. Disclosures should be made at the earliest opportunity.

6.2. Disclosures should state that they are being made under this Whistleblowing Policy and identify the issue which is set forth under Material Scope under section III.

6.3. Disclosures should contain as much detail as possible with regard to the concerns raised including, where applicable, the names of individuals, events, locations and dates

6.4. If one or more persons wish to raise a concern with respect to issues arising under Material Scope in Section III, each person should make his/her own Disclosure and such persons should not discuss the matter among themselves further on. Joint disclosures may lead to counter-allegations, confusion or misinterpreted information.

6.5. Any individual raising concerns should make the Disclosure in writing by e-mail to the attention of the Whistleblowing Officer at whistleblowing.aubg@gmail.com.

6.6. The Whistleblowing Officer as soon as practically possible but not later than seven days upon receipt of the Disclosure will issue an acknowledgement of receipt of the Disclosure to the individual making the Disclosure and forward the received Disclosure to the Designated Person.

6.7. The official role of the Whistleblowing Officer and his/her primary responsibility is that of the person to receive Disclosures of allegations of suspected improper activities, as set forth under Material Scope herein, and administer the Disclosures by forwarding them to the respective Designated Person within the University. The Whistleblowing Officer is not an investigator, nor does he/she determine the appropriate corrective or remedial actions.

6.8. The Designated Person to whom the Disclosure has been forwarded will consider the Disclosure and the information made available to him/her, and decide whether the Disclosure falls within the scope of this Whistleblowing Policy or not, or whether it would be more appropriately considered through another policy. The Designated Person shall inform the individual making the Disclosure (if not made anonymously) about his/her decision with respect to the scope, including the justification, within twenty working days, or such longer time as is required to conclude whether the Disclosure is within the scope, as of the date when the Designated Person received the forwarded disclosure.

6.9. If the Disclosure is found not to meet the criteria set out in this Whistleblowing Policy and/or otherwise is without substance, no further action will be taken.

6.10. If the Disclosure is found to fall within the scope of another University policy, the Designated Person will refer the Disclosure to the relevant manager for further action to be taken under the applicable University policy or procedure.

6.11. If the Disclosure is found to meet the criteria set out in this Whistleblowing Policy the Designated Person will decide whether to:

6.11.1. Appoint someone internal to the University to lead an investigation;

6.11.2. Appoint someone external to the University to lead an independent inquiry; or

6.11.3. Refer the matter directly for external investigation by competent authorities – the police, the Executive Environment Agency, for example.

6.12. When allegations of suspected misconduct or improper activity concern a senior administrator, the Designated Person shall send the disclosure to the Chair of the Audit Committee.. The Audit Committee will address all issues related to financial and accounting practices, internal controls, or auditing.

6.13. The individual raising the concern may be required to attend additional meetings to provide further information to assist in making the initial assessment.

6.14. Where the matter is to be investigated internally within the University, the investigator will normally be a member of the University Management Team independent of the area in which the misconduct or improper activity is alleged to have occurred. The investigating officer will play no part in any decisions which are taken in response to the findings of the investigation, and will have no involvement with or responsibility for any other procedures which may be invoked as an outcome of the investigation. The investigating officer will, at his/her sole discretion, determine the scope of the investigation and will be supported, if necessary, by the appropriate team.

6.15. Disclosures will be investigated as sensitively and quickly as possible. Where reasonably practicable the investigation should be completed within 60 working days.

6.16. All concerns raised by an individual will be treated fairly and properly.

6.17. Official written records will be kept at each stage of the whistleblowing investigation process.

6.18. Once an investigation (whether internal or external) has been completed, a written report will be submitted to the Designated Person who will determine what action, if any, should be taken in the circumstances.

6.19. The Designated Person will provide feedback to the Reporting Person about the follow-up to the Report, within a period not exceeding three months from the acknowledgment of receipt, or if no acknowledgement was sent, from the expiry of the seven-day period after the Report was made.

6.20. The individual who made the Disclosure may not seek review of any decision made. But if the individual who made the Disclosure is dissatisfied with the outcome, because the procedures have not been followed properly; or there is evidence of prejudice or bias in the handling of the case; or there is further evidence of misconduct which was not available at the time of the original Disclosure, he/she may escalate the disclosure to the Chair of the Audit Committee, always with a copy to the Chair of the Board of Trustees (or, if the whistleblowing disclosure concerns the Chair of the Audit Committee – only to the Chair of the Board of Trustees), whereas the Chair of the Audit Committee (correspondingly the Chair of the Board of Trustees) will either confirm the decision that no further action be taken or will determine what further action is to be taken and the process by which that action will be taken and its decision in this respect shall be final.

VII. FINAL PROVISION

This Policy is approved, as of October 1, 2019, by the Audit Committee, with confirmation by the Board of Trustees. This Policy may be amended at any time, where the new version shall be published at <https://www.aubg.edu/documents/2597>. However in case of such amendment the more favorable version of this Policy for the Whistleblower shall apply to concerns, raised under this Policy prior the announcement of the amendment.

The Board of Trustees is the designated body for overseeing the enforcement of this Whistleblower Policy.

As of October 1, 2019