

**CHANCELLOR’S PROCEDURES FOR IMPLEMENTATION OF POLICY 211:  
WHISTLEBLOWER POLICY FOR REPORTING FRAUDULENT,  
ILLEGAL OR IMPROPER ACTIVITIES**

The following procedures outline the steps available to individuals who have good faith concerns about fraudulent, illegal or improper activities occurring at the Vermont State Colleges, in accordance with VSC Policy 211. The Chancellor may modify these procedures as necessary to comply with federal and state law and to enable the VSC to respond promptly and effectively to reports of fraudulent, illegal or improper activities. Questions and Answers specific to the procedures applicable to a report filed with EthicsPoint’s hotline are attached hereto at Appendix A and shall be posted online with a link to EthicsPoint’s secure server.

**I. DEFINITIONS**

**“Abuse of power”** means the wrongful use of a position of authority to promote one’s own financial or other self-interest or to influence employees, students, colleagues, or volunteers (e.g., coercing others to participate in activities or decision-making in violation of laws, regulations or policies of the VSC).

**“Allegation”** means a report of suspected fraudulent, illegal or improper activities, made in good faith, to a supervisor, an advisor, an administrator, or the EthicsPoint hotline.

**“Conflict of interest”** refers to situations in which an individual or an individual’s family member has an existing or potential financial or other material interest that impairs or may appear to impair the individual’s independence and objectivity of judgment in the discharge of the individual’s responsibilities to the VSC.

**“EthicsPoint”** is the whistleblower hotline, operated by an external vendor and provided by the VSC for the purpose of reporting suspected fraudulent, illegal or improper activities. It is accessible electronically and by telephone. EthicsPoint is not a 911 or emergency service and should not be used to report events presenting an immediate threat to life or property. The Office of General Counsel, in consultation with the Chair of the Board of Trustees’ Audit Committee, is responsible for the administration of the EthicsPoint system.

**“Fraudulent, illegal and improper activities”** means, for purposes of this policy any act performed with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means, including requesting others to perform an illegal act. The term “fraudulent, illegal and improper activities” also includes, more broadly, other actions or activities involving financial improprieties, criminal behavior, violations of other laws, or serious

or significant breaches of institutional policies. The term includes, but is not limited to, actions, attempted actions, and activities such as the following:

- Embezzlement, theft, misappropriation or other financial irregularities;
- Forgery, alteration, or falsification of official documents (such as checks, time sheets, contractor agreements, purchase orders, travel expense reports, student records, other financial documents, and electronic files);
- Improprieties in the handling or reporting of money or financial transactions;
- Improprieties in the approval, management, administration or assignment of contracts (including kickbacks);
- Theft or misappropriation of funds, securities, supplies, equipment, goods, inventory, or any other asset (including furniture, fixtures or equipment);
- Authorizing or making payment for goods not received or services not performed, or receiving payment or other consideration for goods not delivered or services not performed;
- Authorizing or receiving payments for hours not worked;
- Performing or directing employees to perform non-VSC work during work hours;
- Receiving a tangible personal benefit from a third party as a direct consequence of performance of duties as an employee of the VSC or a member institution;
- Pursuing or obtaining a benefit or advantage in violation of VSC Policy 207: *Trustee and Executive Conflict of Interest Policy* or VSC Policy 210: *Employee Conflict of Interest Policy*;
- The wrongful use, disclosure or appropriation of an individual's personal information, such as identity theft, disclosure of a student's education records in violation of FERPA, or misuse of personal financial or other private information;
- Using VSC facilities or property for personal gain or any unauthorized use;
- Using public funds<sup>1</sup> inappropriately; and
- Other fraudulent activities that violate the law or VSC policy.

In addition, "illegal" or "improper" activities include, but are not limited to:

- Abuse of power;
- Use of illegal drugs and/or abuse or misuse of legal drugs or alcohol;
- Violence or a threat of violence;
- Discrimination or harassment;
- Misconduct or inappropriate behavior; and
- A failure to provide a safe and secure environment in accordance with applicable legal requirements, such as OSHA (unsafe working conditions).

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<sup>1</sup> All monies received by the VSC are considered public funds under this policy including, but not limited to, state appropriations, tuition, room and board, student fees, restricted and unrestricted gifts, gifts-in-kind, restricted and unrestricted grants, ticket sales from athletics and other events, revenue from camps and conferences, book store monies, corporate sponsorship, and investment income.

**“Good faith”** refers to an individual’s honest belief, without malice or any intent to defraud or seek an unfair advantage. A report made in good faith that is not found to be substantiated is neither false nor malicious.

**“Investigator”** is an individual authorized by the VSC to conduct fact finding and analysis related to reports of fraudulent, illegal or improper activities. The term “investigator” in the singular includes collectively all members of an investigative team, including external experts, such as lawyers, accountants, and forensic specialists.

**“Reporting”** is the act of disclosing, in good faith and with candor, suspected fraudulent, illegal or improper activities to a supervisor, an advisor, an administrator, or the whistleblower hotline.

**“Reporter”** is the individual or entity making a report of alleged fraudulent, illegal or improper activities. A reporter may be a VSC employee (administrator, staff, or faculty), an applicant for employment, a student, a vendor, a contractor, or a member of the general public. A reporter may also be referred to as a “whistleblower.”

**“Responsible Administrator”** refers to those individuals responsible for overseeing the process for handling reports of suspected fraudulent, illegal or improper activities. The term also refers to any person designated by a Responsible Administrator to act in his or her stead.

**“Retaliation”** includes harassment, an adverse employment action, or an academic or educational consequence suffered by an individual as a result of a report of suspected fraudulent, illegal or improper activities.

## **II. CONFIDENTIALITY**

All information contained in a report of suspected fraudulent, illegal and improper activities and resulting from any subsequent investigation is confidential to the extent possible under the law, any relevant collective bargaining agreement, VSC policy, and the legitimate needs of the investigation. This includes the identity of the reporter (if known), the identity of the individuals who are subject to or party to the allegations, and any private information disclosed within the investigation. Reported information will be kept securely and shared on a “need to know” basis only with those essential to the investigation and resolution of potential concerns. Reporters should be aware that their testimony may be needed in any related hearings or legal proceedings.

### **III. REPORTING**

Individuals who are unsure about the propriety of their own or another person's actions are encouraged to review VSC policies, as well as applicable laws and regulations. If the potential impropriety is still unclear, individuals are encouraged to seek guidance from their supervisor, an advisor, or an official at the affected institution or in the Office of the Chancellor.

Individuals are encouraged to report suspected fraudulent, illegal and improper activities to their supervisor, an advisor, or an administrator, before resorting to EthicsPoint. Reports should contain enough information to allow a determination to be made as to whether the reporter has alleged sufficiently that fraudulent, illegal and improper activities have occurred or are occurring and to permit a prompt and appropriate investigation to begin.

Reports submitted through the whistleblower hotline hosted by EthicsPoint are received by the Office of the Chancellor. Information about the procedures specific to EthicsPoint are attached hereto at Appendix A: *Questions and Answers on EthicsPoint*.

Reports can be filed with EthicsPoint in three ways:<sup>2</sup>

1. Through the VSC's website (<http://www.vsc.edu/faculty-and-staff/Pages/Employee-Benefits.aspx>) or through the websites of the member institutions (search for the term "whistleblower");
2. Through the VSC/EthicsPoint web page hosted on an EthicsPoint secure server: <https://secure.ethicspoint.com/domain/media/en/gui/25224/index.html>; or
3. By dialing the toll-free EthicsPoint phone number: 1-866-215-4016. Phone lines are open 24/7 and multilingual operators are available.

### **IV. PRELIMINARY EVALUATION**

A person receiving a report alleging suspected fraudulent, illegal or improper activities shall forward the report to the Dean of Administration at the affected institution (or to the VSC Chief Financial Officer if the allegations relate to the Office of the Chancellor or the Board of Trustees). Reports filed through EthicsPoint shall be handled by the Office of the Chancellor. If the allegations implicate a Dean of Administration, the report shall be forwarded to the President at the affected institution for further handling. If the allegations implicate the VSC Chief Financial Officer or General Counsel, the report shall be forwarded to the Chancellor for further handling. If the allegations implicate the Chancellor, the report shall be forwarded to the Chair of the Audit Committee of the Board of Trustees for further handling.

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<sup>2</sup> Reports submitted via EthicsPoint are not required to be anonymous and reporters can choose to identify themselves.

The Responsible Administrator shall conduct a preliminary evaluation of the report within seven calendar days. If the report does not contain sufficient information, fails to state a credible claim of fraudulent, illegal or improper activity, or does not otherwise allege a violation of this Policy, the Responsible Administrator will advise the reporter that no further action will be taken. If the report does contain sufficient credible information and an investigation is warranted, the Responsible Administrator shall refer the report for investigation and shall notify the Office of General Counsel.

If circumstances warrant, the Chancellor, President, the VSC Chief Financial Officer, or the Chair of the Audit Committee, in consultation with General Counsel or with outside counsel, shall notify appropriate external authorities (such as law enforcement, federal granting agencies, the NCAA, etc.) of the allegations.

*Effective August 8, 2017:* In responding to allegations of suspected fraudulent, illegal or improper activities where the allegations involve any misuse of federal grant funds, VSC will comply with appropriate federal requirements, as described in Appendix B to these Procedures. In the event that there is a conflict, the requirements of Attachment B will take precedence over these Procedures.

## **V. INTERIM ACTION**

The Dean of Students, in consultation with the Responsible Administrator, may suspend a student and the President or Chancellor may place an employee on administrative leave (under the terms of any applicable collective bargaining agreement or the VSC personnel handbook) where there is cause to believe that the continued presence of the person may interfere with the investigation, may expose VSC property to further loss or misuse, or may pose a substantial threat to people, property or the continuance of normal operations of the VSC. When appropriate, immediate action shall be taken to secure and protect from destruction or alteration all pertinent records.

## **VI. INVESTIGATION**

The Responsible Administrator shall select an investigator, or an investigative team, to conduct an impartial investigation into reports that contain sufficient credible information and warrant further investigation

Investigations shall be conducted and reported in a manner that: (1) fulfils the VSC's legal and fiduciary responsibilities; (2) minimizes the loss and promotes recovery of VSC resources; (3) identifies controls that should be strengthened to reduce future fraudulent, illegal or improper activities; (4) protects the public trust; (5) protects the rights of those who are the subject of the

investigation and those making the allegations; (6) provides confidentiality compatible with an effective response and applicable reporting requirements; and (7) guards against any real or apparent conflicts of interest.

At the conclusion of the investigation, the investigator shall make a finding as to whether, by a preponderance of the evidence, the subject of the investigation engaged in any fraudulent, illegal or improper activities or retaliated against anyone in violation of this Policy. The investigator shall also advise the Responsible Administrator whether any systemic problems or inadequate internal controls exist and, if so, shall recommend corrective actions. The Office of General Counsel shall be notified of the investigative findings and any corrective actions recommended and/or taken.

## **VII. DISCIPLINARY ACTION**

If the investigator finds that the subject has engaged in any fraudulent, illegal or improper activities and the Responsible Administrator concurs, the subject shall be sent a letter outlining any discipline being contemplated, consistent with legal requirements. Sanctions may range from reprimand up to and including dismissal. If the subject is a student, the Dean of Students shall initiate procedures related to policy violations by students. If the subject is an employee of one of the member institutions, the President shall initiate the disciplinary procedures set forth in the relevant employee collective bargaining agreement or, in the case of employees not covered by a collective bargaining agreement, the VSC personnel handbook. If the subject is an employee of the Chancellor's Office, the Chancellor shall initiate the disciplinary procedures set forth in the VSC personnel handbook. If the subject is a President, the Chancellor has the authority to take interim disciplinary action pending consideration and action by the Board of Trustees. If the Chancellor is the subject, the Board of Trustees shall consider and take action as appropriate. The Office of General Counsel shall be notified of any disciplinary action taken.

## **VIII. ROLE OF REPORTER, SUBJECT OF INVESTIGATION, AND WITNESSES**

### **A. Reporter**

Reporters have a responsibility to be candid with investigators and those to whom they make a report of alleged fraudulent, illegal or improper activities and to provide all information known to them regarding the allegations. For reports filed anonymously, investigators have the ability to conduct confidential, online interviews with reporters via the EthicsPoint secure website.

Reporters are not investigators and should not conduct any investigative activities of their own. Reporters should not obtain or access information which they are not authorized to obtain or review. A reporter's right to protection from retaliation under this Policy does not provide

immunity for his or her complicity in the matters that are the subject of the allegations or an ensuing investigation.

As circumstances warrant and as the law permits, reporters may be informed as to the final outcome resulting from their allegations.

## **B. Subject of Investigation**

The decision to conduct an investigation is not an accusation; it is to be treated as a neutral fact-finding process. The outcome of the investigation may or may not support a conclusion that a fraudulent, illegal or improper act was committed or that this Policy was otherwise violated by the subject. The identity of a subject should be maintained in confidence to the extent possible given the legitimate needs of the investigation and legal requirements.

Subjects normally should be informed of the allegations at the outset of a formal investigation and be given the opportunity to provide information during the investigation. If the subject is not informed of the allegations at the outset, the subject shall be informed of the allegations prior to being interviewed by the investigator. Subjects are expected to cooperate with investigators. They have the right to consult with an advisor of their choosing, including legal counsel.

Subjects have a responsibility not to interfere with the investigation and to adhere to admonitions from investigators in this regard. Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached or intimidated.

## **C. Witnesses**

Individuals who are interviewed, asked to provide information or otherwise participate in an investigation under this Policy are expected to cooperate fully with investigators. Witnesses should refrain from discussing or disclosing the investigation or their testimony with others. Requests for confidentiality by witnesses will be honored to the extent possible within the legitimate needs of the investigation or within the requirements of law. Retaliation against witnesses for participating in an investigation is prohibited by this Policy.

## IX. RECORD-KEEPING

All records of reports, anonymous or not, including any investigations and subsequent actions, shall be retained in accordance with the schedule set forth in VSC Policy 209: *Records Retention* governing student records, personnel records, financial records, and legal records, as applicable.

Effective August 8, 2017.

Signed by:

  
Jeb Spaulding, Chancellor

**Appendix A to VSC Policy 211: Whistleblower Policy for  
Reporting Fraudulent, Illegal or Improper Activities**

**QUESTIONS AND ANSWERS ON ETHICSPPOINT**

**1. What is EthicsPoint?**

EthicsPoint is a comprehensive and confidential reporting tool that allows people to report suspected illegal and unethical conduct anonymously. It is used by thousands of organizations, including hundreds of educational institutions. The EthicsPoint hotline is available 24 hours per day, 365 days per year, and is staffed by specially trained EthicsPoint personnel.

**2. What type of situations should be reported?**

EthicsPoint may be used to report any suspected activities described in Policy 211. Users may choose one of the following types of reports:

- Accounting and auditing matters
- Conflicts of interest
- Discrimination or harassment
- Embezzlement
- Falsification of contracts, reports or records
- Misconduct or inappropriate behavior
- Sabotage or vandalism
- Securities violations
- Substance abuse
- Theft
- Unsafe working conditions
- Violation of policy
- Violence or threat
- Other (to be used if the event, action or situation does not fall into one of the above categories).

**3. How are reports submitted to EthicsPoint?**

Users can file reports via either the telephone or the Internet:

- Through the VSC's website at <http://www.vsc.edu/faculty-and-staff/Pages/Employee-Benefits.aspx> or the websites of the member institutions (search for the term "whistleblower");

- Through the VSC/EthicsPoint web page hosted on an EthicsPoint secure server at <https://secure.ethicspoint.com/domain/media/en/gui/25224/index.html>;
- By dialing the toll-free EthicsPoint phone number: 1-866-215-4016. Phone lines are open 24/7 and multilingual operators are available.

#### **4. Where do the reports go? Who is notified about reports?**

Reports are entered directly on the EthicsPoint secure server to prevent any possible breach in security. EthicsPoint will notify the Chair of the Audit Committee of the Board of Trustees, the Chancellor, General Counsel, and Associate General Counsel of all reports filed with EthicsPoint. In addition, EthicsPoint will notify the VSC Chief Financial Officer of any reports involving alleged financial irregularities and the VSC Director of Human Resources of any reports alleging employment-related issues. If any of these individuals are implicated in a report, the EthicsPoint system and report distribution are designed so that such individuals are not notified and do not have access to reports in which they have been named. Unless the President is implicated in an EthicsPoint report or there is a reasonable justification for not notifying the President, Presidents are notified by the Office of the Chancellor about reports relating to their institution.

#### **5. Can the VSC identify the reporter?**

No. EthicsPoint does not generate or maintain any internal connection logs with IP addresses, so no information linking a reporter's computer to EthicsPoint is available. EthicsPoint is contractually committed not to pursue a reporter's identity. If a reporter feels uncomfortable making a report on a VSC computer, the reporter can use a non-VSC computer (such as one located at home, an Internet café, at a friend's house, etc.) to access the EthicsPoint secure website. An Internet portal never identifies a visitor by screen name and the EthicsPoint system strips away Internet addresses so that anonymity is maintained.

**Note:** The EthicsPoint system is designed to protect a reporter's anonymity but reporters should review the body of their report to make sure that they have not revealed their identity unintentionally. For example, "From my office next to Jan Smith..." or "In my 33 years..."

#### **6. Is the telephone toll-free hotline confidential and anonymous too?**

Yes. Reporters will be asked to provide the same information that they would provide in an Internet-based report and an EthicsPoint interviewer will type the responses into the EthicsPoint Web site. These reports have the same security and confidentiality measures applied to them during delivery.

**7. What if a reporter does not want to be anonymous?**

There is a section in the report allowing reporters to identify themselves if they wish.

**8. What if a reporter is not sure whether something he or she has seen or heard is a violation of VSC policy or involves unethical conduct?**

If in doubt, file a report. EthicsPoint can help a reporter to prepare and file a report so it can be properly understood. The VSC would prefer that a situation that turns out to be harmless be reported rather than let possible unethical behavior go unchecked. Reporters may have useful knowledge of an activity that could be a cause for concern. Early reporting may minimize the potential negative impact of the suspected activity on the VSC, its students, and employees.

**9. What happens after a report has been filed with the EthicsPoint hotline?**

Typically, a reporter will receive confirmation within 2-3 business days that the Office of the Chancellor has received the report and that it will be reviewed. Then the Office of the Chancellor will make a preliminary evaluation of the report. If further investigation is merited, the Office of the Chancellor will appoint an investigator or, if appropriate, refer the report to a member institution for further handling. As circumstances warrant and as the law permits, the reporter may be informed whether an investigation is being undertaken and may be informed as to the final outcome.

**10. What if a reporter remembers something important after the report has been filed?  
What if the VSC has questions for the reporter?**

When a report is filed at the EthicsPoint Web site or through the EthicsPoint Call Center, the reporter receives a unique user name and is asked to choose a password. The reporter can return to the EthicsPoint system again either by Internet or telephone and access the original report to add more detail or answer questions posed by the VSC or an investigator and add further information that will help resolve open issues. The EthicsPoint website supports the uploading of documents and photographs in support of a reporter's allegations. Reporters are encouraged to return to the site frequently to check for any updates and to answer follow-up questions. The reporter and the VSC will be part of an "anonymous dialogue." All follow-ups are held in the same confidence as the initial report.

**Appendix B to VSC Policy 211: *Whistleblower Policy for  
Reporting Fraudulent, Illegal or Improper Activities***

**Vermont State Colleges  
Reporting Allegations of Fraud, Abuse or Criminal Conduct  
Reporting Procedures Specific to Federally Funded Programs**

**PURPOSE**

To ensure all Vermont State College (VSC) employees are in compliance with the federal requirements of reporting allegations of fraud, program abuse, or criminal conduct involving grantees and subrecipients receiving funds either directly or indirectly from agencies of the United States federal government.

**STATEMENT**

VSC employees shall abide by applicable state and federal laws. Furthermore, an employee cannot be compelled by a supervisor or VSC official to violate a VSC policy or applicable law.

Any VSC employee who becomes aware of a situation or behavior that has the potential to cause serious ethical, legal or financial harm to the VSC or any of its member Colleges shall immediately notify their supervisor. In rare instances, employees may report a situation or behavior anonymously.

The purpose of the VSC Whistleblower Hotline (866-215-4016) is to provide an anonymous and confidential method to report suspected serious misconduct and/or breach of VSC policies. EthicsPoint, an independent corporation, will receive and catalog reports submitted electronically or via the hotline. All VSC employees are strongly encouraged to report any issues to their supervisor first. EthicsPoint will provide information on any reports back to the Chancellor's Office on a totally confidential and anonymous basis.

**DEFINITIONS**

Fraud – has been defined in various ways. Generally Accepted Government Auditing Standards describes fraud as:

A type of illegal act involving the obtaining of something of value through willful misrepresentation. Whether an act is, in fact, fraud is a determination to be made through the judicial or other adjudicative system and is beyond the auditor's professional responsibility.

A false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives another so that he/she acts, or fails, to act to his/her detriment.

Waste – involves the taxpayers not receiving reasonable value for money in connection with any government funded activities due to an inappropriate act or omission by actors with control over or access to government resources (e.g. executive, judicial, or legislative branch employees, grantees, or other recipients). Importantly, waste goes beyond fraud and abuse and most waste does not involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.

Abuse – involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, violation of laws, regulations, or provisions of a contract or grant agreement.

Illegal Acts – are violations of laws or government regulations. For example, applicable laws and regulations may affect the amount of revenue accrued under government contracts. However, the auditors considers such laws or regulations from the perspective of their known relation to audit objectives derived from financial statement assertions rather than from the perspective of legality per se. Whether a particular act is, in fact, illegal may have to await final determination by a court of law or other adjudicative body. Disclosing matters that have led auditors to conclude that an act is illegal and is likely to have occurred, is not a final determination of illegality.

Source – Government Accountability Office  
Black's Law Dictionary

## **PROCEDURES**

- I. Immediate supervisor notification.
  - a. All VSC employees shall notify their supervisor immediately if they suspect any incident of fraud, program abuse or criminal conduct involving grantees and subrecipients receiving funds either directly or indirectly from a federal Agency.
  - b. Supervisors will immediately document the employee notification of suspected fraud, abuse, or criminal conduct by recording the incident with the respective

college's Dean of Administration. If the incident of suspected fraud, abuse, or criminal conduct occurs within the Office of the Chancellor, the incident is to be recorded with the Chief Financial Officer and Vice Chancellor, Finance and Administration.

II. Investigation and determination.

- a. The Dean of Administration or Vice President of Finance and Administration shall open an investigation of the alleged incident.
- b. The Dean of Administration or Vice President of Finance and Administration shall inform the President and the granting Federal Agency – using the prescribed OIG 1-156 Incident Report form -- of the alleged incident.
- c. The Dean of Administration or Vice President of Finance and Administration shall appoint an investigative response team, which shall provide a report to the President. The report will conclude one of two possible outcomes: a finding, which means evidence of an incident exists; or no finding, which means evidence of an incident does not exist.
- d. If the investigative response team determines evidence of an incident exists, the Dean of Administration or Vice President of Finance and Administration shall immediately inform the President.

III. Notification to the granting Federal Agency of a verified incident.

- a. If a finding of fraud, program abuse or criminal conduct involving grantees or subrecipients receiving Federal funds either directly or indirectly from the Agency results from the investigation, an OIG 1-156 Incident Report form will be completed by the Dean of Administration or Vice President of Finance and Administration and filed with the Agency within two business days.