

# VAUGHN COLLEGE OF AERONAUTICS AND TECHNOLOGY

## Whistleblower Policy

### Introduction

Vaughn College of Aeronautics and Technology (the “College”) is committed to maintaining an environment that promotes the prevention, detection, and resolution of instances of conduct that are illegal, fraudulent, or in violation of the College’s policies, procedures and Codes of Ethics and Conduct (hereinafter, a “Concern”). The College also has an obligation to comply with all applicable laws, rules, regulations, ordinances, Executive Orders, judicial and administrative decisions, rulings and orders, and ethical standards, and requires its Trustees, officers, employees, independent contractors and volunteers, (each, a “Protected Person”), to observe high standards of business and personal ethics in the performance of their duties on the College’s behalf. As employees and representatives of the College, Protected Persons are expected to practice honesty and integrity in fulfilling their responsibilities, to protect and preserve the College’s assets and are required to comply with the foregoing, as well as policies and business practices of the College.

### Purpose of This Policy

The objectives of this College Integrity and Whistleblower Policy (“Policy”) are to encourage and enable Protected Persons as well as former employees, without fear of retaliation, to make a good faith or reasonable report of Concerns regarding suspected unethical and/or illegal conduct or practices on a confidential and, if desired, anonymous basis so that the College can address and correct inappropriate conduct and actions.

Examples of Concerns include, by way of example, and without limitation:

- Fraud, theft, embezzlement, or other financial irregularities;
- Misuse or waste of the College’s resources or inappropriate expenditure of College funds (including but not limited to, federal and other grant funds);
- Activities endangering the health or safety of the College community or others;
- Misuse of data (physical or electronic);
- Violations of applicable state, federal or local laws, rules, regulations, ordinances, Executive Orders, or judicial and administrative decisions, rulings and orders;
- Unlawful discrimination or illegal workplace behavior;

- Violations of ethical standards, business practices, or any corporate policy adopted by the College or its Board of Trustees, including, but not limited to, this Policy and the College's Conflict of Interest Policy; and
- Retaliation against individuals who submit reports or voice concerns about any of the above in good faith.

The College treats any good faith or reasonable report that it receives of a Concern seriously, and investigates such reports expeditiously. This Policy sets forth the College's procedures for reporting and investigating Concerns. It applies to its Trustees, officers, employees, independent contractors and volunteers performing services to the College, and applies equally to supervisory and non-supervisory personnel. Nothing in this Policy shall in any way prevent the College from acting in any manner that is consistent with its responsibilities under any applicable law with respect to any Concern, nor shall anything in this Policy modify, replace, or supplant any obligation that any individual has pursuant to any other policy of the College.

## **Reporting Responsibility**

It is the responsibility of all Protected Persons to report suspected Concerns. Such reports may be communicated to the College's Compliance Officer ("Compliance Officer") or the Chair of the Audit Committee of the College's Board of Trustees ("Audit Chair"). The obligation to report is significant and a Protected Person should report all credible Concerns, whether or not there is clear proof, so that the College may undertake a review and make an independent determination. Whistleblowers cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of actions.

## **Non-Retaliation**

No Protected Person shall suffer intimidation, harassment, retaliation, discrimination or adverse employment consequences for making a good faith or reasonable report of a Concern (whether pursuant to this Policy or otherwise in a manner which is protected under Section 740 of the NYS Labor Law) or for their participation in any internal or governmental investigation of a report of a Concern. Retaliation against any person on one or both of these bases is a violation of this Policy, and any employee of the College who commits or condones any form of retaliation will be subject to discipline up to and including termination of employment. Nothing contained herein is intended to provide any Protected Person with any additional rights or causes of action, other than those provided by law.

New York law includes among prohibited retaliatory actions the following, without limitation: (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms or conditions of employment including but not limited to discharge, suspension or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting

United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in Section 459-a, subdivision 2, of the NYS Social Services Law, to a federal, state or local agency.

## Procedures for Reporting Concerns

- a. Any Concerns should be reported as soon as shall be practicable to the College's Compliance Officer or the Audit Chair. The individual receiving the report is referred to as "Recipient". Any questions with regard to the scope, interpretation or operation of this Policy should also be directed to the Compliance Officer or Audit Chair. Contact information for these individuals is included at the end of this Policy.
- b. For your convenience, there is a form attached as Appendix A to this Policy that can be used to make a report of a Concern. Use of the form is encouraged, but not required. Reports should include, to the extent possible, a detailed description of the Concern, the name(s) of individual(s) involved, relevant dates, the identities of any witnesses, and any documentation supporting the report.
- c. Reports should be made in writing or orally so that there can be follow-up and a summary provided of the outcome of the review. A report can be made anonymously, although an anonymous report can be very difficult to investigate because there may be no reasonable opportunity to obtain additional information or clarification of a point.
- d. Any report related to conduct of the Compliance Officer, or for any reason might not be appropriately made to the Compliance Officer, should be directed to the Audit Chair.
- e. Reports may also be made through Vaughn's NAVEX Global Reporting System [www.vaughnedu.ethicspoint.com](http://www.vaughnedu.ethicspoint.com), or by calling 1.844.220.0378.
- f. Any report related to conduct of the College's President should be directed to the Audit Chair.
- g. In addition, any report regarding financial misconduct or inappropriate expenditures of funds, questionable internal controls, accounting practices, or auditing matters, may be made by sending a sealed letter to the Audit Chair.
- h. The Compliance Officer will acknowledge receipt of each reported Concern promptly to the extent the reporting person's identity is disclosed or a form of contact is provided.

# Administration of this Policy

- a. The report shall be reviewed by the Recipient with appropriate members of management and members of the Audit Committee (the “Reviewing Authorities”) and legal counsel, as appropriate. Generally, the composition of the Reviewing Authorities shall be determined in light of the nature of the reported Concern and the individuals involved. The Reviewing Authorities shall determine the scope of the investigation and corrective action, if any.
- b. The Compliance Officer, or his or her designee, is responsible for administering this Policy, investigating and implementing the resolution of all reported Concerns, and for advising the Audit Chair and the President of the College of all reported Concerns. The Compliance Officer shall report in writing regularly to the Audit Committee all Concerns reported and their disposition, and the Audit Committee shall keep the full Board advised regularly of the activities under this Policy.
- c. If the President and Audit Chair determine that it might not be appropriate for the Compliance Officer to perform any of these responsibilities for a particular Concern, they shall designate an appropriate substitute, who may be a College employee or an individual external to the College. Any such determination and designation shall be within their discretion.
- d. Any trustee who is an employee of the College may not participate in any Board or committee deliberations or voting relating to the administration of this Policy.

# Investigations and Resolutions

- a. The Compliance Officer may delegate the responsibility to investigate a reported Concern to one or more employees of the College or to any other individual, including persons not employed by the College, selected by the Compliance Officer; provided that the Compliance Officer may not delegate such responsibility to an employee or other individual who is the subject of the reported Concern or in a manner that would compromise either the identity of an employee who reported the Concern anonymously or the confidentiality of the complaint or resulting investigation.
- b. The person who is the subject of a Concern may be (but is not required to be) notified of the investigation, if the Compliance Officer deems it appropriate, unless prohibited by law. The subject of a Concern shall not be present at or participate in any Board or committee deliberations or vote on the matter relating to the Concern; however, the Board or committee may request the subject to present information as background and to answer questions before any deliberations or voting occurs.

- c. Notwithstanding anything herein to the contrary, the scope, manner and parameters of any investigation of a reported Concern shall be determined by the Audit Committee in its sole discretion and the College and its employees shall cooperate as necessary in connection with any such investigation.
- d. When the investigation is concluded, the Reviewing Authorities will determine if any disciplinary action, up to and including termination of employment, and/or other corrective measures are required or otherwise warranted, which may include reporting the findings of the investigation to appropriate law or governmental authorities.
- e. If, when the investigation is concluded, it is not established that a Concern has occurred, the investigation will be closed. Any reports of Concerns that are made in bad faith may result in disciplinary action, up to and including termination of employment, or other appropriate corrective measures.

## **Accounting and Auditing Matters**

The Audit Committee shall address all reported Concerns regarding College accounting practices, internal controls or auditing. The Compliance Officer shall immediately notify the Audit Committee of any accounting concern and shall work with the Audit Committee until its resolution. The Audit Committee shall evaluate whether a Concern constitutes a matter that requires additional assistance and, if so, shall promptly determine what professional assistance, if any, it needs in order to conduct an investigation. The Audit Committee will be free in its sole discretion to engage outside auditors, counsel or other experts to assist in the investigation and in the analysis of results.

## **Confidentiality**

The College takes seriously its responsibility to enforce this Policy and therefore encourages any person reporting a Concern to identify him or herself so as to facilitate any resulting investigation. Notwithstanding the foregoing, in reporting a Concern, a Protected Person may request that such report be treated in a confidential manner (including that the College take reasonable steps to ensure that the identity of the reporting person remains anonymous). Concerns may also be reported on an anonymous basis. Reports of Concerns will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. The College retains a responsibility to consider reporting some conduct to government agencies and/or the Police and in these circumstances limits to confidentiality may arise as required by law.

# Records

Records relevant to a report and/or investigation will be assembled and secured as soon as possible to protect against alteration, mutilation, destruction, or concealment. The College will retain on a confidential basis, in accordance with College policy, records relating to any reported Concern and to the investigation and resolution thereof.

## Distribution of Policy

This Whistleblower Policy shall be posted on the College's website and at the College's offices in a conspicuous location accessible to employees and volunteers. Notification regarding the rights protected under Section 740 of the NYS Labor Law, which is annexed hereto as Appendix B, shall be included with such posting, and shall also be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment at the College.

## Contact Information

### Compliance Officer Contact Information

Name: Michael Harrington

Office A135

Phone Number: 718-429-6600 x105

Email Address: [michael.harrington@vaughn.edu](mailto:michael.harrington@vaughn.edu)

### Audit Committee Chair Information

Name: Oswin Moore

Email Address: [ozmoore55@gmail.com](mailto:ozmoore55@gmail.com)

Anonymous Communications may be transmitted to either party in a communication marked **CONFIDENTIAL** addressed to:

Vaughn College of Aeronautics and Technology

86-01 23rd Ave

East Elmhurst, NY 11369

**Adopted by the College's Board of Trustees at its Meeting on February 10, 2022.**



## APPENDIX B

### § 740. Retaliatory action by employers; prohibition, NY LABOR § 740

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 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated  
Labor Law (Refs & Annos)  
Chapter 31. Of the Consolidated Laws (Refs & Annos)  
Article 20-C. Retaliatory Action by Employers (Refs & Annos)

#### McKinney's Labor Law § 740

#### § 740. Retaliatory action by employers; prohibition

Effective: January 26, 2022

[Currentness](#)

1. Definitions. For purposes of this section, unless the context specifically indicates otherwise:

(a) "Employee" means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.

(b) "Employer" means any person, firm, partnership, institution, corporation, or association that employs one or more employees.

(c) "Law, rule or regulation" includes: (i) any duly enacted federal, state or local statute or ordinance or executive order; (ii) any rule or regulation promulgated pursuant to such statute or ordinance or executive order; or (iii) any judicial or administrative decision, ruling or order.

(d) "Public body" includes the following:

(i) the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof;

(ii) any federal, state, or local court, or any member or employee thereof, or any grand or petit jury;

(iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;

(iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer;

(v) any federal, state or local department of an executive branch of government; or

(vi) any division, board, bureau, office, committee, or commission of any of the public bodies described in subparagraphs (i) through (v) of this paragraph.

(e) "Retaliatory action" means an adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under this section, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, to a federal, state, or local agency.

(f) "Supervisor" means any individual within an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.

2. Prohibitions. An employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following:

(a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;

(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or

(c) objects to, or refuses to participate in any such activity, policy or practice.

3. Application. The protection against retaliatory action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

4. Violation; remedy. (a) An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within two years after the alleged retaliatory action was taken.

(b) Any action authorized by this section may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial.

(c) It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section.

5. Relief. In any action brought pursuant to subdivision four of this section, the court may order relief as follows:

(a) an injunction to restrain continued violation of this section;

(b) the reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof;

(c) the reinstatement of full fringe benefits and seniority rights;

(d) the compensation for lost wages, benefits and other remuneration;

(e) the payment by the employer of reasonable costs, disbursements, and attorney's fees;

(f) a civil penalty of an amount not to exceed ten thousand dollars; and/or

(g) the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.

6. Employer relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.

7. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract.

8. Publication. Every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

**Credits**

(Added L.1984, c. 660, § 2. Amended L.2002, c. 24, § 2, eff. April 2, 2002; L.2006, c. 442, §§ 12, 13, eff. Nov. 1, 2006; L.2019, c. 684, § 1, eff. Dec. 20, 2019; L.2021, c. 522, § 1, eff. Jan. 26, 2022.)

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**§ 740. Retaliatory action by employers; prohibition, NY LABOR § 740**

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McKinney's Labor Law § 740, NY LABOR § 740

Current through L.2021, chapters 1 to 672. Some statute sections may be more current, see credits for details.

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