



Eduvos

Your Education. Your Future.

WHISTLEBLOWER & PROTECTED DISCLOSURES POLICY & PROCEDURES ("the Policy")



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Policy Governance

POLICY TITLE:	Eduvos Whistleblowing Policy and Procedures
FIELD OF APPLICATION: (All persons to whom policy applies)	National All staff and students as well as external third parties
STAKEHOLDER CONSULTATION (Stakeholder group/s consulted during policy formulation/revision)	Fraud Response Group (FRG) (Head of Legal, Head of HR, Head of Student Affairs, Head of Finance)
POLICY OWNER(S): (Person(s) responsible for policy maintenance)	Head of Legal (Chair)
POLICY VERSION:	V1/2023
APPROVAL DATE:	

1. Introduction

- 1.1. A key obstacle facing the fight against corruption is the fact that individuals are often too intimidated to speak out or blow the whistle on corrupt and/or unlawful activities they observe occurring in the workplace, even though they are obligated to do so in terms of the employee code of conduct.
- 1.2. Confidential disclosures often referred to as Whistleblowing is an action that should be viewed in a positive instead of a negative manner as it is a key tool for promoting individual responsibility and organizational accountability.
- 1.3. Employers, when dealing with instances of whistleblowing, have a duty to ensure that all necessary steps are taken to protect employees from any detriment or acts of reprisal, because of their disclosure.
- 1.4. South African Law provides that employers have a duty to authorise appropriate internal procedures for receiving and dealing with information about improprieties and must take reasonable steps to bring the internal procedures to the attention of every employee.
- 1.5. Through its adoption of this policy, Eduvos seeks to show its continued commitment to facilitating a culture wherein whistleblowing is done in a responsible manner and in terms of statutory guidelines as well as its commitment to supporting and protecting whistle blowers, the steps they should take in making disclosures and how Eduvos will respond.
- 1.6. This policy can be used to report the following non-limited matters:
Misconduct/Crime/Irregularities -fraud; theft; bribery; corruption; collusion; sexual harassment; unfair HR practices.
Health & Safety related - Unsafe act or conditions; non-compliance; Near misses; other.
Other Matters - Disregard of internal policies or procedures, Supply Chain Irregularities, Abuse of company property and equipment, Misrepresentation of facts - Travel claims; Highly sensitive issues - Sexual Harassment; Nepotism; Racism; Abuse of Power etc.

2. Definitions

In this Act, unless the context otherwise indicates—

- 2.1. **“disclosure”** – is defined in section 1 of the Protected Disclosures Act (“PDA”) as any disclosure of information regarding any conduct of an employer, or an employee or worker of that employer, made by any employee or worker who has reason to believe that the information concerned shows one or of the following:
 - 2.1.1. a criminal offence has been committed, is being or is likely to be committed;
 - 2.1.2. a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
 - 2.1.3. a miscarriage of justice has occurred, is or is likely to occur;
 - 2.1.4. health or safety of an individual has been, is being or is likely to be endangered;
 - 2.1.5. the environment has been, is being or is likely to be damaged;
 - 2.1.6. unfair discrimination as per the Chapter II of the Employment Equity Act or the Promotion of Equality and Prevention of Unfair Discrimination Act;
 - 2.1.7. that any matter referred to in above has been, is being or is likely to be deliberately concealed;
 - 2.1.8. Disclosure which has been made in terms of the PDA need not be factually accurate, rather, the disclosure made must be in good faith, and the employee, student or third party making such disclosure must reasonably believe that the information disclosed is substantially true. Furthermore, the disclosure may not be made for the purposes of personal gain.
- 2.2. **“employee”** – any person, excluding an independent contractor, who works or worked for another person or for the State, and who receives or received, or is entitled to receive, any remuneration; and any other person who in any manner assists or assisted in carrying on or conducting or conducted the business of an employer;
- 2.3. **“Fraud Response Group (FRG)”** – Refers to the Stakeholder group under Policy Governance above.
- 2.4. **“occupational detriment”** – *“No-one may be subjected to any occupational detriment by an employer on account of having made a protected disclosure”*. occupational detriment means being—
 - 2.4.1. subjected to any disciplinary action;
 - 2.4.2. dismissed, suspended, demoted, harassed or intimidated;
 - 2.4.3. transferred against his or her will;
 - 2.4.4. refused transfer or promotion;
 - 2.4.5. subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage;
 - 2.4.6. refused a reference, or being provided with an adverse reference, from his or her employer;
 - 2.4.7. denied appointment to any employment, profession or office;
 - 2.4.8. subjected to any civil claim for the alleged breach of a duty of confidentiality or a confidentiality agreement arising out of the disclosure of—
 - i. a criminal offence; or
 - ii. information which shows or tends to show that a substantial contravention of, or failure to comply with the law has occurred, is occurring or is likely to occur;
 - 2.4.9. threatened with any of the actions referred to in paragraphs (a) to [(g)] (h) above; or
 - 2.4.10. otherwise adversely affected in respect of his or her employment, profession, or office, including employment opportunities, work security and the retention or acquisition of contracts to perform work or render services;
- 2.5. **“Person”** – for the purposes of this policy, shall mean a natural or juristic person.
- 2.6. **“protected disclosure”** – means a disclosure made to
 - 2.6.1. A **legal adviser** - Any disclosure made to a legal practitioner or to a person whose occupation involves the giving of legal advice; and with the object of and while obtaining legal advice, is a protected disclosure.
 - 2.6.2. An **employer**: any disclosure made in good faith and substantially in accordance with any procedure authorised by the employer for reporting or otherwise remedying the impropriety concerned and the employee, worker, student or third party has been made aware of the procedure.
 - 2.6.3. Any **employee or worker** who, in accordance with a procedure authorised by his or her employer, makes a disclosure to a person other than his or her employer, is deemed, for the purposes of this Act, to be making the disclosure to his or her employer.
 - 2.6.4. Any **person in accordance with Section 9 of the PDA, But does not, subject to section 9A, include a disclosure**—
 - i. in respect of which the employee or worker concerned commits a criminal offence by making that disclosure;
 - ii. made by a legal adviser to whom the information concerned was disclosed in the course of obtaining legal advice in accordance with section 5 of the PDA;
- 2.7. **“Whistleblower”** – for the purposes of this policy, shall mean a person or entity making a protected disclosure and shall include:
 - 2.7.1. Eduvos employees (academic, professional and support staff), applicants for employment, students, third parties or the general public. The whistleblower’s role is as a reporting party only. They are not investigators or finders of fact, nor do they determine appropriate corrective or remedial actions.
- 2.8. **“worker”** –
 - 2.8.1. any person who works/worked for another person/the State; or
 - 2.8.2. any other person who in any manner assists/assisted in carrying on or conducting/conducted the business of an employer or client, as an independent contractor, consultant, agent; or
 - 2.8.3. any person who renders services to a client while being employed by a temporary employment service.

3. Regulatory Framework

Whistleblowers, when making a disclosure, are protected by various legal and regulatory mechanisms.

3.1. Protected Disclosures Act (also referred to as the Whistleblowing Act) (“PDA”):

- 3.1.1. The PDA applies to individuals in both the public and private sectors and is aimed at employees and workers. The main aim of the PDA is to protect whistle blowers from being subjected to occupational detriment at work. These acts include dismissal, suspension, harassment, and intimidation.
- 3.1.2. According to the PDA, disclosure is classified as 'protected' if:
- the disclosure contains information about "impropriety"; and
 - the disclosure has been made to the right person, as detailed further in this policy under clause 2.5.

3.2. Labour Relations Act:

The Act protects whistle blowers through three sections: Section 186 (2)(d) and 187(1)(h), which refer to unfair labour practice and unfair dismissal respectively, and section 191 (3), which permits an employee to refer an unfair labour practice, if the employee has suffered occupational detriment.

3.3. Protection Against Harassment Act (PAHA):

Under Section 2 of the PAHA, a citizen can get a protection order against a person harassing them. This is granted by the Magistrate’s Court and prohibits the perpetrator from harassing the victim any further.

4. Current Policies

This policy must be read in conjunction with the following Eduvos Policies:

- Conditions of enrollment and contract of enrollment;
- Code of Conduct for Employees;
- Grievance Policy & Procedures;
- Disciplinary Code & Procedure;
- Health & Safety Policy & Procedures;
- Zero Tolerance on Dishonest Conduct Policy;
- Gifts, Anti-Bribery & Corruption Policy;

5. Objectives

- 5.1. The objective of this policy is to outline procedures for providing a safe internal route for employee, students and third parties to raise their concerns about any observed impropriety and to minimize risks to Eduvos.

6. Scope

- 6.1. This policy will be applicable to any person who wishes to make a disclosure including but not limited to employees, workers and students.
- 6.2. To qualify for protection, a disclosure made by an employee, worker, student or third party must be one that is regarded as “protected” under the Protected Disclosures Act as defined in clause 2 of this policy.
- 6.3. This policy is not a substitute for Eduvos’ other policies and procedures on matters such as personal grievances, academic grievances, bullying and harassment, health and safety, sexual harassment, or complaints.

7. Whistleblowing Procedures

7.1. [Raising a concern by making a disclosure](#)

- 7.1.1. For sake of clarity see Annexure A “Whistle-blower Process Flow”.
- 7.1.2. This procedure outlines how an individual should proceed should they wish for their concerns to be treated as a protected disclosure.
- 7.1.3. It is important to note that the identity of the person providing the disclosure will be kept confidential, if so requested and if this is compatible with a proper investigation. A proper investigation may be more difficult or impossible if further information cannot be obtained from the person making the disclosure. It is also more difficult to establish whether any allegations are credible.

- 7.1.4. Eduvos offers a variety of methods for reporting that do not require ‘chain of command’ reporting.

- Line Manager** - In the first instance employees and workers should normally raise issues and concerns with their line manager. There may, however, be instances where the seriousness of their concerns, or the involvement of their line manager, means that they need to go straight to the Head of Department or the Legal Department.
- Lecturers** - Similarly, students may report directly to their lecturer. Should the student have a reason to believe that his/her lecturer is involved, they may report the matter to the next level of Faculty Management. In some situations, students may wish to report the matter to or involve the Student Representative Council (SRC).
- Eduvos ethics mobile application** - In the most serious cases employees, workers and students may make a direct disclosure to the Eduvos ethics mobile application as outlined below.

- 7.1.5. It is essential that line managers/lecturers recognise the nature of the disclosure and if it is within the scope of this policy and procedure and should advise the person making the disclosure to make use of mobile application.

7.2. [Eduvos ethics mobile application](#)

- 7.2.1. Eduvos has made an anonymous mobile application available to employees, workers, students and third parties who wish to provide a disclosure in an independent anonymous environment.
- 7.2.2. Details of how to download the application and how to use it can be found on the Eduvos website under the “whistle blower” page.
- 7.2.3. The service is a 24-hour, seven days-a-week, 365-days-a-year service and is completely anonymous and confidential.
- 7.2.4. To ensure confidentiality, all disclosures will be handled by the Legal Department and a limited number of designated administrators.
- 7.2.5. The role of the Legal Department and designated administrators will be to receive the report and to assess the disclosure in order to decide if an investigation should be conducted or if the disclosure requires referral to another person or body.
- 7.2.6. Where it is decided that an investigation should take place, the Legal Department shall facilitate the investigation with relevant stakeholders and will provide feedback via the mobile application.

7.3. [Incident report](#)

- 7.3.1. Upon receipt of an incident report, the Legal Department and designated senior administrators will assess the report using the following criteria:
- Seriousness and credibility of allegations being made;
 - The prospects of being able to investigate the matter based on the sufficiency of information provided;
 - Fairness to any individual mentioned in the allegation;
 - Risks to Eduvos reputation, the environment, or Eduvos stakeholders;
 - Does the allegation entail a criminal offence?;
 - Is the disclosure a normal disclosure or a protected disclosure?;
 - Is there a possibility of the matter being reported or leaked to the media?;
 - Was this allegation reported previously, and if so, was the allegation investigated sufficiently and correctly?;
 - Does the allegation involve senior employees?;
 - Does it need to be referred to law enforcement agencies?;
- 7.3.2. The outcome of this assessment may include any of the following:
- In some situations, urgent action may need to be taken prior to any investigation process (e.g. to protect the safety of individuals, or if immediate action is needed to secure relevant information etc.);
 - Suspected employee may be suspended or given a leave of absence in line with Eduvos HR policies;
 - Business with the supplier or any other party doing business with the University who is suspected to be involved in fraud and/or corruption or related activities may be suspended until conclusion of the investigation;
 - Request for more information;
 - Implement preliminary measures such as suspending the implicated person and securing evidence;
 - Ensure that a whistle-blower’s safety and security are not compromised when his or her identity is known;
 - Refer the whistle-blower to other procedures such as those contained in other Eduvos policies.

7.3.3. Depending on the nature of the incident, the Legal Department may arrange for the disclosure to be:

- (a) Investigated internally by a senior Manager or by an independent professional such as the Eduvos internal Auditor;
- (b) Referred to an external Auditor to be investigated; and/or
- (c) Referred to the appropriate law enforcement agency.

7.3.4. Any individual who is aware of any impropriety must refrain from:

- (a) Contacting the suspected individual to establish facts or demand restitution;
- (b) Discussing the case, facts, suspicions, or allegations with anyone unless specifically asked to do so, in writing, by the investigating function.

7.4. [Duty to inform on the outcome of the investigation](#)

7.4.1. Eduvos shall, on receipt of any disclosure, have a reasonable period, but not more than 21 working days after the disclosure has been made, to decide whether to investigate the matter or not and refer the disclosure to the appropriate function for investigation.

7.4.2. An acknowledgement of receipt of the disclosure and the of the decision to investigate the matter, and where possible, the timeframe within which the investigation will be completed will be provided to the disclosing party where known.

7.4.3. If a decision not to investigate the matter is made the reasons for such decisions will be disclosed. Alternatively, the disclosure may be referred to another person or body who will also have 21 working days after such referral, to decide whether to investigate the matter or not and to provide reasons for such decision.

7.4.4. Where Eduvos or the person or the body to whom a disclosure has been referred is unable to make a decision within 21 days of receipt, then Eduvos or the person or body shall inform the disclosing party, where known, that the decision is still pending.

7.4.5. A written decision on the outcome of an investigation must be made as soon as is reasonably possible to the disclosing party where known.

7.4.6. Due to the sensitive nature of whistleblowing matters, once a matter is finalized its file shall be closed and sealed and kept for a period of 5 years. Written authorization from the Eduvos Executive Committee and Head of Legal shall be required to re-open the matter should this, for any reason, be required.

7.5. [Investigation](#)

7.5.1. Investigations will be planned and controlled to ensure a thorough and speedy conclusion.

7.5.2. Should an investigation or referral lead the investigating function to conclude there has been a breach of any of the Eduvos policies, the responsible person or persons may, in addition to disciplinary action as per standard Eduvos disciplinary procedures, be subject to civil or criminal proceedings.

7.5.3. A report on the in-progress investigations on all cases shall be provided on a quarterly basis to the Executive Committee.

8. CONFIDENTIALITY

8.1. The integrity of an investigation shall be protected at all times by:

8.1.1. Treating all the records and information provided during the investigation as confidential and ensure proper safeguards.

8.1.2. Ensuring protected disclosure of whistle blowers who choose to remain anonymous.

8.1.3. Ensuring that investigation results are not disclosed or discussed with anyone other than those who have a legitimate need to know. This is important to avoid damaging the reputations of individuals who may be found innocent of any wrongful conduct and to protect Eduvos from potential liability.

8.1.4. Exercising greater care to avoid mistaken accusations or alerting suspected individuals of an ongoing investigation.

8.2. No individual is authorised to supply any information regarding allegations or incidents of fraud and/or corruption to the media without the express written permission of the Eduvos Executive Committee and Head of Legal.

8.3. Any violation of the confidentiality requirements of the investigation will be dealt with in accordance with standard Eduvos disciplinary procedures.

9. CONTACT US

Any comments, questions or suggestions about this policy or Eduvos' handling a disclosure should be referred to the relevant contact persons below:

Human resources queries

Head of Human Resources:

Address: 9 Rogers Street, Kaapzicht Building, Tyger Valley, Cape Town

Telephone Number: (+27) 021 914 8000

Email: zahn.vniekerk@eduvos.com

Student queries

Head of Student Affairs:

Address: 44 Alsatian Road, Glen Austin ext 3, Midrand, Gauteng, 1685.

Telephone Number: (+27) 011 690 1700

Email: Cheryl.Smith@eduvos.com

Legal queries

Head of Legal:

Address: 44 Alsatian Road, Glen Austin ext 3, Midrand, Gauteng, 1685.

Telephone Number: (+27) 011 690 1700

Email address: legal@eduvos.com

10. ROLES & RESPONSIBILITIES

Fraud Response Group (FRG)	Initial assessment of reported allegations and determination on whether to proceed with an investigation or not.	<ul style="list-style-type: none"> • FRG to convene within a reasonable period of time, not longer than 21 days after a report is received to assess the reported case in terms of the criteria referred to in this policy. FRG to be Chaired by Head of Legal. • Consider and decide on whether to proceed with an investigation or not and which function will lead the investigation. If there is a decision not to proceed with an investigation, stipulate reasons for the decision. • Informing other relevant departments of non-relevant matters which have been disclosed, for them to investigate or address as necessary.
Management (ie: Campus GMs, Heads of Departments)	Participation, cooperation and support during investigations and disciplinary proceedings.	<ul style="list-style-type: none"> • Report promptly to the FRG any reported cases directly received from employees or students to ensure that the disclosure is considered by FRG. • Protect employees or students who, in good faith make any disclosures against any form of reprisal resulting from such disclosure. • Review, and immediately improve the effectiveness of the internal controls which may have failed, where matters such as fraud or corruption have been identified within their area of accountability. • Provide their full cooperation during any investigation providing witness testimony at disciplinary proceedings as required. • With assistance from the Legal Department, open criminal cases with law enforcement agencies as and when instructed.
Legal Department	Investigations requiring Legal privilege, legal support and legal advice.	<ul style="list-style-type: none"> • Oversee investigations into reported cases. • Report all outcomes of investigations relating to reported cases to the Social and Ethics Committee, as well as to the individual who made the allegation. • Provide legal advice prior to, during, and after investigations as required. • Provide advice, in conjunction with Human Resources Department, on the appropriateness of the suspension of employees implicated in fraud and corruption. • Instruct departments to implement litigation holds as and when required to preserve evidence. • Amend the Eduvos Whistleblowing Policy and Procedures as and when needed. • Liaise with Head of Facilities on all insurance related procedures (E.g. in cases of defrauded amounts by employees, where a fidelity insurance claim is required).
Human Resources Department	Investigation, coordination and oversight over employee misconduct and grievance procedures.	<ul style="list-style-type: none"> • Conduct investigations into misconduct, grievances. • Oversee discipline processes related thereto. • Conduct Investigations into incapacity for Ill health or injury. • Conduct Investigations into Poor Work Performance. • Issue investigation reports and make recommendations on corrective action. • Provide advice, in conjunction with Legal, on the appropriateness of the suspension of employees implicated in any reported case. • Advise IT and Protection Services immediately when employees are suspended to enable prompt action to remove University accesses (physical and IT systems), and to seize keys and other University equipment. • Assist management in drafting charge sheets for implicated employees in conjunction with investigators in preparation for disciplinary proceedings. • The Human Resources function has a leading role in ensuring that all Employee's understand how to both raise and receive concerns. In addition, Human Resources is also responsible for fostering a culture of openness through various mechanisms. • The Human Resources Office will ensure that all new Employees are made aware of relevant policies and procedures relating to Whistleblowing, specifically the Anti – Fraud and Corruption Policy and the Whistleblowing Policy respectively.
Finance Department	Support Investigations and provision of evidentiary documentation.	<ul style="list-style-type: none"> • Respond to requests timeously for, and provision of supporting financial related documents for investigation purposes. • Implement litigation holds for financial documents and data under Finance Department control, when instructed. • Assist with the recovery and recording of University funds as result of fraud or corruption, where recovery processes have been initiated. • Provide expert witness testimony relating to Finance systems, processes and operations, as and when required.
Internal Audit	Investigation into fraud and corruption committed by employees, service providers, and other outside third parties.	<ul style="list-style-type: none"> • Internal Audit's role will entail promoting Whistleblowing good practices, testing and monitoring systems and advising on change where it is required. • Internal Audit will be actively involved in the Whistleblowing process through the performance of investigations which have been referred to it.

Employees/Workers

Cooperation during investigations.

Students

Cooperation during investigations.

**Third Parties
(ie; Service providers,
members of the public
etc)**

Cooperation during investigations.

- Conduct preliminary and/or full investigations into allegations of fraud and corruption involving employees, students, service providers as well as other third parties.
- Request relevant departments to implement litigation holds as and when required.
- Liaise with Employee Relations, when investigators, during an investigation, deem suspension of an employee may be prudent as a precautionary measure for a decision on suspension.
- Direct written requests to the Head of IT (in conjunction with the Head of Legal/Eduvos Information Officer) for access to IT controlled resources during investigations, such as University email accounts, master files, audit logs, transaction logs, security logs, and data tools for data interrogation etc., who must officially authorise each request before any information is released by IT.
- Compile investigation files and collation of evidence.
- Issue preliminary or full investigation reports to Head of Legal.
- Provide witness testimony at disciplinary proceedings if required.
- All employees/workers should disclose matters that they reasonably believe constitutes misconduct, with the confidence that they will be acted upon appropriately.
- As a whistleblower they will not be negatively impacted on for making a disclosure
- Provide their full cooperation during investigations into any reported matter, including providing witness testimony at disciplinary proceedings as required.
- Exercise confidentially and do not discuss details of ongoing investigations with fellow employees, workers, students, services providers, or other third parties or with persons implicated the reported case.
- All students should disclose matters that they have a reasonable believe constitutes a misconduct, with the confidence that they will be acted upon appropriately.
- As a whistleblower they will not be negatively impacted on for making a disclosure.
- Provide their full cooperation during investigations into any reported matter, including providing witness testimony at disciplinary proceedings as required.
- Exercise confidentially and do not discuss details of ongoing investigations with fellow employees, workers, students, services providers, or other third parties or with persons implicated the reported case.
- Provide their full cooperation during investigations into any reported matter, including providing witness testimony at disciplinary proceedings as required.
- Exercise confidentially and do not discuss details of ongoing investigations with fellow employees, workers, students, services providers, or other third parties or with persons implicated the reported case.

Whistleblowing and Raising a Concern

