

## Tilburg University Whistleblower Regulations

The Executive Board of Tilburg University considers it desirable in the context of good management an honest and transparent organization to adopt a clear procedure for reporting suspected cases of misconduct that protects employees and confidential advisors against prejudicing of their position as a result of their reports, and, in view of the 'Good Governance Code for Universities 2007' adopts the following 'Tilburg University Whistleblower Regulations'.

### Section 1 Introductory provisions

#### Article 1.1 Definitions

1. In these regulations, the following definitions apply:
  - employee: a person who performs work for Tilburg University on the basis of an employment contract with Tilburg University or as an assignee. Members of the Executive Board are not employees within the meaning of these regulations;
  - supervisor: the immediate superior of an employee;
  - confidential advisor: one of the 'confidential advisors on unacceptable behavior' whom the Executive Board has designated as such;
  - external contact point: the Government Integrity Board <http://www.onderzoeksraadintegriteitoverheid.nl/home/>, which also acts as an external contact point for the Netherlands Municipalities;
  - suspicion of misconduct: a suspicion based on reasonable grounds of misconduct at Tilburg University regarding:
    - a. a (threatening) criminal offense;
    - b. a (threatening) gross violation of rules;
    - c. a serious danger to public health, safety or the environment;
    - d. an improper act or omission that constitutes a danger to the proper functioning of the university or that seriously prejudices the university;
    - e. a (threat of) intentionally misinforming of public bodies or
    - f. (a threat of) intentional concealment, destruction or manipulation of information about these offenses.
2. Suspicion of misconduct does not include a suspicion of a breach of academic integrity. The Tilburg University Academic Integrity Regulations apply to reporting a suspicion of a breach of academic integrity.

#### Article 1.2 Scope of application of the Regulations

These regulations are not intended for:

- reporting personal complaints of employees about matters affecting them personally in connection with their work;
- reporting conscientious objections in relation to performing normal business activities and
- expressing criticism of policy choices made by the employer.

## **Section 2 Internal reporting procedure**

### **Article 2.1 Reporting**

Unless there is a ground for exception as referred to in article 3.2 paragraph 2 or a situation as referred to in article 2.5, an employee who suspects misconduct must report that suspicion internally

- to his/her supervisor or
- if he/she does not consider reporting to the supervisor desirable, to his/her dean (if he/she works at a School) or to his/her director (if he/she works at a Service) or
- if he/she does not consider reporting to the above-mentioned staff members desirable, to the Secretary General of the university.<sup>1</sup>

### **Article 2.2 Reporting by a former employee**

A former employee who wants to report misconduct must do so within a period of twelve months from his/her dismissal or termination of his/her work for the university. He/she can only report misconduct if he/she obtained knowledge of the suspicion in his/her capacity as an employee.

### **Article 2.3 Employee's identity**

1. The person to whom a report is made must not disclose the identity of the employee making the report without the employee's consent.
2. Those who are involved in handling a report must deal properly and carefully with the identity of the reporting person.

### **Article 2.4 Informing the Executive Board or the Board of Governors**

1. The staff member referred to in article 2.1 who receives a report must record the report in writing, stating the date of receipt, have the employee sign the report for approval (which employee will receive a copy) and see to it that the Executive Board<sup>2</sup> is informed without delay of a reported suspicion of misconduct. If the employee does not consent to disclosure of his/her identity, the employee will not sign for approval and will not receive a copy of the report.
2. After receiving a report, the Executive Board will start an investigation immediately.
3. The Executive Board will send a confirmation of receipt to the employee who has reported a suspicion of misconduct, unless the employee has not consented to disclosure of his/her name.

### **Article 2.5 Suspicion of misconduct concerning (a member of) the Executive Board**

In case of a suspicion of misconduct in which the Executive Board or one of its members is involved, the employee must report the suspicion directly to the Board of Governors. The Board of Governors handles reports received as far as possible in accordance with the provisions of these regulations, whereby in the relevant provisions, 'the Board of Governors' should be read instead of 'the Executive Board'.

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<sup>1</sup> A written report goes directly to the Secretary General of the university, if the name and position of the Secretary General and the addition 'Confidential and personal' are stated on the envelope.

<sup>2</sup> Supervisors report directly to the Executive Board, not through a dean or director.

### **Article 2.6 Engaging a confidential advisor**

1. If the employee does not (yet) consider reporting to the staff members referred to in article 2.1 desirable, the employee can first discuss the suspected misconduct with one of the confidential advisors for advice before deciding whether or not to report it.
2. If after discussion with a confidential advisor, the employee decides to make an internal report, he/she must make the report to one of the persons referred to in article 2.1 or directly to a confidential advisor. An employee can also report to a confidential advisor in combination with the report to the staff members referred to in article 2.1.
3. If the employee chooses to report to a confidential advisor, the confidential advisor must inform the Executive Board, or - in the situation referred to in article 2.5 - the Board of Governors of the report in a manner and time agreed with the employee. Paragraphs 2 and 3 of article 2.4 will apply mutatis mutandis.
4. Confidential advisors are entitled to a right of non-disclosure.

### **Article 2.7 Viewpoint of the Executive Board**

1. Within a period of twelve weeks from the time of the internal report, the Executive Board will inform the employee or person to whom the employee made the report in writing of its substantive viewpoint on the reported suspicion of misconduct. It will also indicate the steps to which the report has led.
2. If the viewpoint cannot be given within twelve weeks, the employee or person to whom the employee made the report will be notified of this by or on behalf of the Executive Board. The notification will indicate the period within which a viewpoint can be expected.

## **Section 3 External procedure at the external contact point**

### **Article 3.1 The external contact point**

1. The Government Integrity Board acts as the external contact point.
2. The task of the external contact point is to investigate a suspicion of misconduct reported by an employee and advise the Executive Board on it.

### **Article 3.2 Reporting to the external contact point**

1. An employee can report misconduct to the external contact point within a reasonable period if:
  - a. he/she does not agree with the viewpoint referred to in article 2.7;
  - b. he/she has not received a viewpoint within the period referred to in article 2.7.
2. The employee can request the external contact point not to disclose his/her identity. He/she can withdraw this request at any time.
3. A report to the external contact point contains at least:
  - a. the name and address of the reporting person;
  - b. the organization where the employee is working or used to work;
  - c. the organization reported on;
  - d. a description of the suspected misconduct;
  - e. the reason for reporting to the external contact point.
4. In case serious interests prevent application of the internal procedure, in departure from articles 2.1 and 2.6, the employee can report misconduct directly to the external contact point.
5. The contact point will not disclose the employee's identity without the employee's consent.

### **Article 3.3 Confirmation of receipt and investigation**

1. The external contact point will confirm the receipt of a report of a suspicion of misconduct to the employee who reported the suspicion.
2. If the external contact point considers this important for the performance of its task, it will start an investigation.
3. For the purposes of the investigation of a report of a suspicion of misconduct, the external contact point is authorized to obtain all information from the Executive Board it considers necessary to formulate its advice. The Executive Board will provide the external contact point with the requested information.
4. The external contact point may delegate the investigation or parts of it to one of the members or an expert.
5. If the contents of certain information provided by the Executive Board must remain the exclusive purview of the external contact point because of its confidential nature, the external contact point will be informed to that effect. The external contact point must protect confidential information from becoming known to unauthorized persons.

### **Article 3.4 Inadmissibility**

The external contact point will declare the report inadmissible if:

- a. the misconduct is not of sufficient importance;
- b. the employee does not come under the definition of employee or former employee under these regulations
- c. the employee has not followed the procedure referred to in section 2 and article 3.2 is not applicable, or
- d. the employee has followed the procedure referred to in section 2 but the periods referred to in section 2 have not yet elapsed;
- e. the report was not made within a reasonable period.

### **Article 3.5 Substantive advice from the external contact point**

1. If the reported suspicion of misconduct is admissible, the external contact point will set out its findings regarding the report of a suspicion of misconduct in advice to the Executive Board within eight weeks. The external contact point will send a copy of the advice to the employee or the person to whom the employee made his/her report, with due observance of any confidential nature of the information provided to the contact point.
2. If the advice cannot be given within eight weeks, the contact point will extend the period by four weeks at most. The contact point will inform the Executive Board as well as the employee of this in writing.
3. The advice will be made public in an anonymized form with due observance of any confidential nature of the information provided to the contact point and the relevant applicable statutory provisions, in a manner the contact point deems appropriate, unless there are serious reasons not to do so.

### **Article 3.6 (Further) viewpoint of the Executive Board**

1. within two weeks after receiving the advice referred to in article 3.5, the Executive Board will inform the employee or the person to whom the employee made the report and the external contact point in writing of its (further) viewpoint. It will also indicate the steps and/or measures to which the advice has led.

2. An employee who requested the external contact point not to disclose his/her identity will be informed of the further viewpoint by way of the external contact point.
3. A (further) viewpoint departing from the advice must be reasoned.

## **Section 4 Legal protection**

### **Article 4.1 Restriction of the duty of confidentiality pursuant to the Collective Labour Agreement**

The duty of confidentiality to which the employee is subject will not apply

- if the employee requests advice from or makes a report to the confidential advisor and
- if, when making the report to the external contact point, he/she meets the conditions in Section 3.

### **Article 4.2 Legal protection**

1. The position of an employee who has reported a suspicion of misconduct with due observance of the provisions of these regulations must not be prejudiced in any way as a result of the report.
2. A confidential advisor as referred to in article 1, who is employed at Tilburg University, must not be prejudiced in any way as a result of acting as such under these regulations.
3. Adverse consequences mean at any rate decisions:
  - a. to dismiss an employee unasked;
  - b. not to extend a fixed-term employment contract;
  - c. not to convert a fixed-term employment contract into an employment contract for an indefinite time;
  - d. to transfer an employee to another job or organizational unit;
  - e. to take disciplinary measures;
  - f. to withhold salary raises, occasional remuneration or the award of allowances;
  - g. to withhold opportunities for promotion and
  - h. to refuse a request for leave, insofar as these decisions are made because of the report made by the employee of a suspicion of misconduct.
4. The Executive Board must ensure that the reporting person does not experience any other adverse consequences of the report for the performance of his/her job.

## **Section 5 Final provisions**

### **Article 5.1 Entry into effect**

These regulations will enter into effect on July 1, 2014<sup>3</sup>, and replace the previous Tilburg University Whistleblower Regulations, which have been in effect since January 1, 2012.

### **Article 5.2 Official Title**

These regulations can be cited as the 'Tilburg University Whistleblower Regulations'.

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<sup>3</sup> This is not a substantive change, but merely concerns some adaptations following the integration of the Municipal Government Whistleblower Committee into the Government Integrity Board, which now functions as the external contact point.