



KARATINA UNIVERSITY

WHISTLE BLOWERS PROTECTION POLICY

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SIGNATURE PAGE

This Whistle Blowers Protection Policy was approved by Karatina University Council on 28th January 2016.

.....
Prof. Mucai Muchiri
Vice Chancellor

A handwritten signature in black ink, consisting of several vertical strokes followed by a horizontal line and a small flourish, positioned above a dotted line.

VISION

To be a University of global excellence, meeting the dynamic needs and development of society

MISSION

To conserve, create and disseminate knowledge through training, research, innovation and community outreach

CORE VALUES

Equity
Teamwork
Meritocracy
Academic Freedom
Accountability
Excellence
Probity

FOREWORD

As Chairman of both Senate and the Management Board, I wish to express my commitment to seeing that this policy is implemented to the later. This is more especially in seeing that the intent and spirit of it all is realized in promoting transparency and accountability and as one of the corruption prevention measures.

The policy covers the responsibilities of employees or students who information which is considered as whistle blowing and on those who receive such information. It further provides guidance on the various channels and procedures available for giving of information by the whistle blower. Finally, it sets out the reliefs or remedies that may be accorded to any person likely to suffer victimization or harassment as a result of the whistle blowing.

I use this opportunity to thank everyone who participated in the development of this policy. It is one tool which shall be key in providing crucial information that will aide in stemming corruption. In the national context, corruption eradication is currently a major task being undertaken by the Government of Kenya. This policy should encourage all members within the University to give all relevant information pertaining corruption using the internal mechanisms in the University. The Policy does not stop the whistle blower from reporting to any of the external oversight bodies established to oversee transparency and accountability in the public service. Such information will assist the institution use the administrative actions available even if it were to be subject of investigation by the external body as well as providing leads towards sealing of the corruption loopholes.

Prof. Mucai Muchiri, PhD
Vice Chancellor

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CHAPTER 1: POLICY FRAMEWORK

1.1 INTRODUCTION

Karatina University is a public university in Kenya. As a public institution is obligated to serve all persons with effectively and efficiently. Its employees or its officers are hence bound by the national values in Articles 10 and 232 of the Constitution better enunciated in both the Public Officers Ethics Act, 2003 and the Public Service (Values and Principles) Act, 2015. They are required to report any improper orders or any impropriety to an appropriate authority. This includes reporting of corruption and related malpractices. It is a fact that it is the employees who have access to up-to-date information concerning their workplaces' practices, and are usually the first to recognize wrongdoings. However employees who report wrongdoings may be subject to intimidation, harassment, dismissal and violence by their fellow officials or superiors and may need to be safeguarded.

As a learning institution serving students, it may be that some of the information concerning the wrong-doing or impropriety of employee(s) is within the knowledge of a student. A student – lecturer relationship or with any other University Officer who has authority over the Student is also one to be safeguarded against any form of exploitation, victimization or harassment should the student give such information concerning the lecturer or officer.

On the other hand an informant needs to know what their rights and obligations are in terms of exposing actual or suspected wrongdoing. These includes information on channels and procedures to use which includes a formal chain of responsibility, reliefs and protection available in case of wrong doing.

1.2 JUSTIFICATION OF THE POLICY

Karatina University is committed to maintaining the highest possible standards of ethical and legal conduct within the University and in all university programs and business. In line with this commitment and in order to enhance good governance and transparency, the main aims of the Policy are to provide an avenue for raising concerns related to fraud, corruption or any other misconduct and to assure that persons who disclose information relating to fraud, corruption or any other misconduct will be protected from retaliation.

Hence the Policy is also in response to the requirements set out in Article 10 of the Kenyan Constitution which requires every person to abide by the national values and principles. It is also adopted in line with the universal principles of corporate governance in a bid to enhance the audit and risk management in an institution. Specifically, this policy is in response to the requirement under the Kenya Mwangozo Code, 2015.

The University has established a Corruption Prevention Committee which has been cascaded into Divisional and Schools level. The whistle blowing policy shall apply to supplement the provisions in the Corruption Prevention Policy in supporting corruption prevention initiatives being undertaken by the University. It will facilitate the detection of corrupt malpractices, it will encourage whistle blowers who are at a risk of retaliation.

Translating whistleblower protection into an institutional policy allows the University to take administrative action against any person who harasses, victimizes or retaliates against a whistle blower.

1.3 OBJECTIVES OF THE POLICY

The making of this policy is intended to:

- a. Encourage the reporting of corruption malpractices or any other wrong doing without fear if victimization, discrimination or disadvantage.
- b. Enable persons to raise serious concerns within the University rather than overlooking a problem or blowing the whistle outside.
- c. Assure and give protection to any person giving information relevant to a corruption allegation
- d. Guide the Persons within the University on what to do upon receiving the information

Provide an avenue invoking any administrative action against an officer who harasses or victimizes a whistle blower.

1.4 GUIDING PRINCIPLES

Karatina University shall at all times be guided by the following principles in implementation of this policy:

- a. Integrity and confidentiality upon receipt of the information from the whistle blower;
- b. Application of this policy on all persons regardless of their position in the University.

1.5 COVERAGE AND SCOPE AND APPLICATION OF THE POLICY

- a. This policy applies to all staff, students and other stakeholders interacting with the University.
- b. This policy applies in addition to the University's Code of Conduct and Ethics, the Corruption Prevention Policy and other statutory reporting frameworks that are provided.
- c. Where this policy is in conflict with an Act enacted by the Parliament of Kenya, then the Act will take precedence over this policy.
- d. This Policy does not apply to complaints of University Staff associated with unsatisfactory service, performance evaluations, discriminatory work assignments, equal employment opportunities, sexual harassment or any other

personal grievances. These shall be referred to the Human Resources Department and other mechanisms established by the University for such Grievances. However, where in the view of the Whistleblower or a Complainant, factors such as performance evaluations, work assignments and opportunities or any form of harassment is being used by management in a retaliatory manner, the Policy shall apply.

CHAPTER TWO: POLICY AREAS

This chapter gives guidance on who is considered to be a whistle blower, the nature and/or form of information that needs to be disclosed and considered as whistle blowing under this policy. It assigns responsibilities to various persons and related organs created in the University for purposes of meeting the objectives of this policy, it also sets out the various reporting channels available, redress for a person suffering retaliation out of whistle blowing.

2.1 WHO IS WHISTLEBLOWER OR A COMPLAINANT

A whistleblower or a complainant is any person or party who conveys or is proven to be about to convey a concern, allegation or any information indicating that fraud, corruption or any other misconduct is occurring or has occurred in the University or in a University Project; with knowledge or good faith belief that the concern, allegation or information is true. Such persons or parties, without limitation, include University employees, contractors, consultants, Government officials, professional bodies and Non-Governmental Organisations, former university personnel, or any other entity or person.

2.2 INFORMATION REQUIRING DISCLOSURE:

- a. It is required that all information related to fraud, Corruption, or any other misconduct that come to the attention of any person be it an employee, student or any other person is disclosed.
- b. The disclosures required may be in any form and nature as follows and without limitation to the description given:
 - i. Unlawful acts or orders involving a violation of a law, gross waste, mismanagement, abuse of University property, substantial and specific dangers to public health or safety;
 - ii. Fraud, which means any act or omission, including a misrepresentation, that knowingly and recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii. Corruption, which means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - iv. Misconduct, which means failure by University Staff to observe the University's rules of conduct or standards of behavior;
 - v. Coercive practices, which mean impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - vi. Collusive practices, which mean an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party; and
 - vii. Any other activity which undermines the University's operations and mission.
- c. In the case of a supplier, development partners or any other Stakeholders, the disclosure to disclose acts of Fraud, Corruption and Misconduct including such

acts that involve University Staff and/or University Projects or transaction as well as actions that undermine operations and mission of the University.

2.3 CHANNELS FOR MAKING DISCLOSURE

- a. An employee may make a report or give information of any suspected cases of fraud and corruption to any of the following:
 - i) Vice Chancellor
 - ii) Immediate supervisor
 - iii) Head of Department
 - iv) A member of the University CPC
 - v) Integrity Assurance Officers (IAOs)
- b. Where the employee feels uncomfortable discussing the matter with the immediate supervisor or a head of department or foresees a potential conflict of interest or for any other reason is reluctant to disclose to either of them, the employee may, at his or her option address the matter to a higher-level supervisor within the University structure and/or any other member of the CPC.
- c. An employee who may be unsure of whether or not to whistle blow or who needs advice on the factual nature as to the disclosure or concerns for protection shall be free to seek advice and assistance of any member of the CPC.
- d. If the employee prefers to remain anonymous, then, she/he can report through the confidential reporting channels provided.
- e. As per the Karatina University Corruption Prevention Policy, the following channels may be used by the employee or any other person wishing to whistle blow :
 - i) Corruption reporting boxes placed at strategic places
 - ii) Hotlines
 - iii) Emails to the Corruption Prevention Committee through integrity@karu.ac.ke
 - iv) Direct reports to the Corruption Prevention Committee
 - v) Use of the institution's official website link;
- f. A Student may also choose to report through the Dean of Student or Head of Department or any other person the student is comfortable with being an official of the University
- g. Where the student feels uncomfortable discussing the matter or a higher office or foresees a potential conflict of interest or for any other reason is reluctant to disclose using the channels provided for handling students' affairs, the student has the option of addressing the matter to a higher-level officer within the University structure or directly to any member of the CPC.
- h. The Student may also choose to use make a report or give information through the reporting channels provided.
- i. In addition, there are channels provided for external reporting if need be which are as follows:
 - i) Reports to the Ethics and Anti-Corruption Commission by the integrity committee.

- ii) Direct anonymous reports to the Ethics and Anti-Corruption Commission. The Commission has established a mechanism for anonymous reporting which can be accessed through its official website on www.eacc.go.ke;
- iii) Direct to the Commission for Administrative Justice where the action or omission affects service delivery;
- iv) Direct to the Public Procurement Oversight Committee where the action or omission relates to procurement;
- v) Direct reports to the Kenya Police and other national investigative agencies

2.4 RESPONSIBILITIES OF INFORMANTS

- a. All staffs have a responsibility of ensuring that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct. Staffs are advised to:
 - i) Report to an appropriate staff member as outlined in this policy, any concerns that something is happening which might compromise the operations of the university or are against various rules and regulations;
 - ii) Raise concerns in good faith with the true belief that a malpractice has occurred/or is about to occur.
 - iii) Not raise concerns with any malicious intent or vexatious nature.
- b. It should be noted that whistleblowers and complainants are reporting parties. They are neither investigators nor finders of fact; they do not determine if corrective measures are necessary; and they do not determine the appropriate corrective or remedial action that may be warranted.

2.5 RESPONSIBILITIES OF A HEAD OF DEPARTMENT OR ANOTHER SENIOR OFFICER UPON RECEIPT OF THE INFORMATION

All immediate supervisors, Heads of Departments or any other officer who receives the information has a duty to:

- a. Treat concerns in a confidential manner;
- b. Take staff concerns seriously;
- c. Consider them carefully and undertake an investigation.
- d. Understand the difficult position a member of staff may be in;
- e. Seek appropriate advice where the matter is complex;
- f. Take appropriate action to resolve the concern if possible or refer it on to an appropriate person.
- g. Keep the member of staff informed of the progress.
- h. Monitor and review the situation as regarding the Employee's or Student's safety;
- i. Inform their seniors or any other person deemed fit in the circumstances;
- j. Ensure that individuals who genuinely report concerns are not penalized in any way.

2.6 RESPONSIBILITIES OF THE CPC UPON RECEIPT OF THE INFORMATION

- a. On receipt of an allegation from a University staff, the CPC shall register the allegation and where the identity of the University Staff is known, acknowledge receipt of the allegation, and where appropriate to the nature of the information or allegations explain the subsequent actions to be taken and give an indication of when such actions are to be taken. An employee making a disclosure should expect an official correspondence within one month as to the preliminary evaluation by the CPC or the Internal Audit Department (IAD) of the disclosure.
- b. A preliminary evaluation will determine whether there are grounds for a more detailed investigation. This assessment shall be based on information and documentary evidence provided by the Whistleblower or the Complainant and shall consider whether the disclosure has been made on the basis of reliable information and in good faith. Where the preliminary evaluation reveals tangible and credible information that supports the existence of conditions identified by this Policy, a full investigation will be launched. The Party or Parties subject of the investigation shall be informed unless such communication would, in the view of the CPC will interfere with the investigation or related investigations within the jurisdiction of the CPC.
- c. Upon receipt of a complaint of Retaliation, the CPC shall initiate an investigation and as appropriate provide interim relief to the Whistleblower, and take such interim remedial action to cure the underlying circumstances.
- d. The CPC shall make appropriate recommendation to the VC. The recommendation to the VC will be neither adjudicatory nor a finding on the merits of any issue; rather shall be designed to protect the rights of all parties and the interests of the University during the pendency of the investigation. The Corruption Prevention Committee may seek such modifications or additional actions by the VC during the course of the investigation as may be necessary.
- e. The interim relief and actions to protect and adjudicate the rights of the Whistleblower shall be separate processes from the investigation of related underlying issues within the jurisdiction of the CPC.
- f. This whistle blower protection policy has been made in the reasonable belief that what is being reported is true. Allegations and concerns expressed anonymously shall be considered at the discretion of the CPC. In the exercise of such discretion, the factors to be considered by the CPC shall include, without limitation, the seriousness of the allegation, its credibility, and the extent to which the allegation can be confirmed or corroborated by attributable sources.

2.7 PROTECTION OF AND REMEDIES FOR WHISTLEBLOWERS AND COMPLAINANTS

- a. The success of the Policy depends in part on the conscience and professional ethics of the Whistleblower or Complainant and the attendant assurance of confidentiality. Nonetheless, perceived ostracism by peers, harassment or victimization by Management can be disincentives to whistle blowing. To avoid the psychological pressures such conflicts can cause whistleblowers and complainants, the University shall protect whistleblowers and complainants.
- b. The University is committed to good practice and high standards and wants to be supportive of both employees and the Students. The University recognizes the

- difficulty that an employee or student may face in voicing concerns and assures them of support and confidentiality during the investigation process. It will not tolerate any harassment or victimization and will protect the affected persons raised concern in good faith
- c. The University will protect the Whistleblower's or Complainant's identity and person. For whistle blowing and complaint handling mechanism to be effective, the concerned parties are assured that the information given will be treated in a confidential manner and above all that they will be protected against Retaliation from within or outside the University. The University will maintain as confidential the Whistleblower or Complainant's identity unless:
- i) Such person agrees to be identified;
 - ii) Identification is necessary to allow the University or the appropriate law enforcement officials to investigate or respond effectively to the disclosure;
 - iii) Identification is required by law or under the University's rules and regulations, where a false accusation has been maliciously made, or
 - iv) The person accused is entitled to the information as a matter of legal right or under the University's rules and regulations in the disciplinary proceedings. In such an eventuality, the University shall inform the Whistleblower or Complainant prior to revealing his or her identity.
- d. The University will not retaliate and will not allow any retaliation or discrimination by its employees of any kind against any employee who submitted a complaint in good faith. Specifically, the University will not discharge, demote, suspend, threaten, harass or in any other manner discriminate or retaliate against any employee who lawfully provides information to the authorities regarding any conduct which the employee reasonably believes constitutes a violation of written Laws or participates in or otherwise assists with a proceeding relating to potential violations by the University or employees.
- e. The protection the University can give parties external to the University shall be limited to the capability of the University. But any retaliatory action against a contractor or its employees, agents or representatives by University Staff or by University Contractors because of a disclosure made by such persons under the Policy will be treated as Misconduct and subject to disciplinary action. If Retaliation occurs at the hands of University contractors, then the contract in question will become subject to immediate review and possible termination.
- f. Where the University concludes that false or malicious allegations have been made it may be necessary to take action under the University's disciplinary procedures against the complainant.

CHAPTER THREE: IMPLEMENTATION, MONITORING AND EVALUATION

3.1 IMPLEMENTATION OF THIS POLICY

The Responsibility for ensuring compliance with the policy rests with the Vice Chancellor. The Vice Chancellor is responsible for keeping the policy up to date; defining the extent to which powers and duties vested in him/her may be exercised and performed by officers under him/her and giving direction to ensure the proper exercise of the powers and performance of the duties.

3.2 MONITORING AND EVALUATION OF THE POLICY

There shall be regular appraisals of the progress made in the implementation of this policy by the Corruption Prevention Committee and reports thereon shall also be forwarded to Council annually.

3.3 REVIEW OF THE POLICY

Review of the policy document shall be carried out as need arises.

