



MAASAI MARA UNIVERSITY

WHISTLEBLOWING POLICY

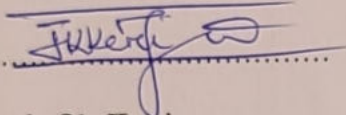
Policy No.	MMU/CEC/01
Version	01
Principal Responsibility	Chairperson Ethics Committee
Effective Date	30 th October, 2020

Policy Approval

This policy shall be known as the Whistleblowing Policy of Maasai Mara University (herein after referred to as "the Policy") which shall take effect on the date of approval by the University Council.

In exercise of the powers conferred by statute 17 (2d) of Maasai Mara University and section 35(1) (a) (iii) of the Universities Act No. 42 of 2012, Section 19 of the Charter for Maasai Mara University 2013. Maasai Mara University Council confirms that this policy has been made in accordance with all relevant legislations.

Dated the 30th day of October,2020

Signed:

Dr. Kennedy Ole Kerai

Chairman of Council, Maasai Mara University

P.O. Box 861-20500 Narok, Kenya

Telephone: +254 - 205131400

Email: chairmarauni@mmarau.ac.ke

Website: www.mmarau.ac.ke

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Foreword

Maasai Mara University recognizes that an important aspect of accountability is to have a mechanism to enable all individuals to involve their concerns internally in a responsible and effective manner when they discover information which they believe shows serious malpractice. To this end, this policy demonstrates the University's commitment to recognize and take action in respect of malpractice, illegal acts or omissions by its employees.

It is the responsibility of all staff to ensure that if they become aware that actions of other customers or officers might compromise the University's objectives, they will be expected to report the matter in the safe knowledge that this will be treated seriously and sensitively. Noting that the Witness Protection (Amendment) Act 2010 was enacted by the parliament of Kenya to protect whistle blowers, it is important to develop a whistle blowing policy and procedures to protect staff who acting in good faith disclose information about the University and its activities or those of any of its customers, or relevant employees which might be considered as fraudulent or corrupt behavior. Management shall ensure that the policy is in tandem with the Witness Protection (Amendment) Act 2010. This policy and procedures have been developed to support and assist staff in bringing genuine concerns to the attention of appropriate people within the University who can initiate an investigation into matters raised. Where this policy is in conflict with an Act enacted by the parliament of Kenya, then the Act will take precedence over this policy, and if a Complainant requires further protection beyond this policy, the provisions of the Witness Protection (Amendment) Act 2010 shall apply.

Prof. Kitche Magak, PhD

Ag. Vice - Chancellor

Definition of Terms

“Employees” The term “employees” includes all officers of administration, officers of instruction, officers of research, and other staff.

“Whistleblowing” is the disclosure based on one’s reasonable belief that any person has engaged, is engaging or preparing to engage in improper conduct.

“Whistleblower” is a person who discloses information of improper conduct in accordance with this Policy.

“Improper Conduct” is any conduct which if proved, constitutes a breach of integrity.

“The University” The term “The University” shall refer to Maasai Mara University

“Disciplinary Offence” means any action or omission which constitutes a breach as provided by law or the Authority’s code of conduct and ethics, policies or a contract of employment.

“Detrimental Action” includes:

- a) Action causing injury, loss or damage;
- b) Intimidation or harassment;
- c) Interference with the lawful employment or livelihood of any person; or
- d) Threat to take any of the actions referred to above.

“Reprisal” an act of retaliation

“Ethics Committee” is a management committee constituted at the University Management Level which is responsible for:

- Receiving whistleblowing disclosures
- Investigating whistleblowing disclosures
- Making a decision based on the outcome of the investigation
- Reporting on the outcome of the investigation to the Group CEO and Board
- Ensuring protection of whistleblowers

Acronyms and Abbreviations

MMU Maasai Mara University

HR Human Resource

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1. Introduction

Maasai Mara University is located in Narok Municipality within Narok County. It is a successor of the then Narok University College which was established as a University College of Moi University in 2008. It attained full University status following the enactment of the University's Act, 2012 and the award of the charter on 12th February 2013 from which it draws its mandate. The University now operates five Schools namely: School of Science and Information Sciences, School of Education, School of Business and Economics, School of Tourism and Natural Resource Management and the School of Arts and Social Sciences.

Maasai Mara University is committed to quality teaching, research and consultancy services. Towards this objective it is imperative for members of staff to live our core values. To enhance transparency and accountability it is important to develop a whistle blowing policy in line with the witness Protection (Amendment) Act 2010 which was enacted by the parliament of Kenya to protect whistle blowers.

1.1. Vision, Mission and Core Values

1.2. Vision

To be a world class university committed to academic excellence for development

1.3. Mission

To provide Quality University education through innovative teaching, research and consultancy services for development

1.4. Core Values

- a) Excellence
- b) Team Work
- c) Professionalism
- d) Equity and Social Justice
- e) Creativity and Innovativeness
- f) Transparency and Accountability

2. Purpose

This policy is designed to;

- a) Support the University's core values Excellence, Team Work, Professionalism, Equity and Social Justice, Creativity and Innovativeness, Transparency and Accountability
- b) Ensure employee can raise concerns without fear of suffering retribution.
- c) Provide a transparent and confidential process for dealing with concerns.

3. Policy Statement

Maasai Mara University ("the University") is committed to promoting and maintaining high standards of transparency, accountability, ethics and integrity in service delivery.

This Policy is designed to support the University's core values and facilitate reporting of employees' and other parties' concerns about possible improprieties at the earliest opportunity to ensure that concerns can be raised without fear of reprisal or detrimental action.

This Policy has been developed in alignment with the Witness Protection (Amendment) Act 2006, The Leadership and Integrity Act 2012, Public Officers Ethics Act, 2003, Anti-Corruption and Economic Crimes Act, 2003 and all applicable laws and regulations in Kenya. However, this Policy does not absolve employees and stakeholders from any statutory obligations contained in any Act or Regulation to report criminal offences or breaches of law with the relevant enforcement agencies.

This Policy is to be read together with the University's Code of Conduct and Ethics and provisions made on code of conduct and disciplinary control in the University's Human Resource Management Policies and Procedures Manual and other internal, statutory or regulatory reporting procedures.

4. Policy Objectives

The objectives of this policy are to;

- a) Provide for a culture of zero tolerance towards fraud, corruption, bribery and any malpractice or wrongdoing

- b) Explain what qualifies as a whistle-blow and guidelines on how to report a concern
- c) Encourage stakeholders to bring out information helpful in enforcing good corporate governance practices
- d) Provide a platform to disclose concerns of malpractices within the organization
- e) Explain the evaluation process conducted in determining whether a report holds merit or not
- f) Mitigate against any fraud, operational or regulatory risk that could lead to potential financial loss or damage to the company's reputation.
- g) Reassure those who raise concerns in the public interest, and not maliciously or for personal gain, that they can do so without fear of reprisals or victimization or disciplinary action, regardless of whether these are subsequently proven

5. Scope of the Policy

This policy applies to all University Council members, staff, including permanent and temporary staff, persons on attachment/internship and all other stakeholders.

It is recognized that situations may arise when it is no appropriate or staff feel unable to report some incidents through the usual Management channels. These incidents may include;

- a) Suspected fraud or corruption
- b) Criminal Offence
- c) Disregard for registration. Public Officers Ethics Act
- d) A breach of Code of Ethics
- e) Damage of environment
- f) Breach of the standing financial rules and regulations
- g) Showing undue favor over a contractual matter or to a job applicant
- h) Failure to comply with legal or regulatory obligations
- i) Concealment of any of the above

NB: The list is not exhaustive.

6. Responsibilities:

All staff are duly bound to ensure that the best possible standards of care are achieved and to act in accordance with their professional codes of conduct.

Staff are encouraged to:

- a) Report any form of unethical behavior, a contravention of the University's Code of Conduct and Ethics or raise any concerns that something happening is unethical or improper and might compromise the provisions of the Code of Conduct and Ethics.
- b) Raise concerns in good faith with the true belief that a malpractice has occurred
- c) Not raise concerns with any malicious intent or vexatious nature;
- d) Raise concerns with an appropriate officer as outlined in this policy.

Staff members may report suspected cases of fraud and corruption to the following authorities:

- a) University Council
- b) Chief Executive Officer
- c) Audit Department
- d) Audit Committee of Council
- e) Corruption Prevention Committee
- f) Public Complaints Department/Ombudsman

If the staff members prefer to remain anonymous, he/she can report through confidential reporting hotline e.g. suggestion boxes, private calls etc.

All persons, who are the first recipients of reports, have a duty to:

- a) Treat concerns in a confidential manner
- b) Take staff concerns seriously
- c) Consider them carefully including undertaking an investigation

- d) Establishing an enabling environment which ensures that corrective measures are undertaken to address any operating procedures that may contribute to such violations.
- e) Seek appropriate advice
- f) Take appropriate action to resolve the concern or refer it on to an appropriate person
- g) Keep the member of staff informed of the progress and monitor and review the situation
- h) Ensure that those who in good faith report suspected violations or misconduct are not penalized.

7. Guiding Principles

This policy is guided by five key principles;

- a) All concerns raised will be treated fairly and properly
- b) The University will not tolerate any form of harassment or victimization of anyone raising a genuine concern
- c) Any individual making a disclosure will retain his/her anonymity unless he/she agrees otherwise
- d) The University will ensure that any individual raising a concern is aware of who is handling the matter.
- e) The Sacco will ensure that no one is at risk of suffering some form of retaliation as a result of raising a concern. We do not however, extend this assurance to someone that maliciously raises a matter that is known to be untrue.

8. Anonymous allegations

All complaints must contain as much information as possible to allow for proper assessment. Anonymous allegations will be considered based on the following factors;

- a) Seriousness of the issue raised
- b) The credibility of the concern
- c) The likelihood of confirming the allegation from attributable source
- d) To the extent possible, any complaint should be factual rather than speculative or conclusory

This policy encourages you to put your contact information to your allegations whenever possible.

9. Untrue allegations

There will be no adverse consequences if a staff member makes an allegation in good faith but it is not confirmed by the investigation. No action will be taken against him/her. If, however, an employee is found responsible of making allegation maliciously, in bad faith or for personal gain, disciplinary action may be taken against him/her.

10. Internal Channels for Making Disclosure Reports (Whistleblowing)

- a) The University's whistle blowing portal, which can be accessed through the University's website facilitates for anonymous disclosure.
- b) Email address is provided in the is provided in the University's website. These emails will be received by a designated officer of the Ethics Committee.
- c) Toll-free/Hotline number provided in the University's website. These calls will be directed to a designated officer of the Ethics Committee

11. Handling of Whistleblowing

The University encourages and supports disclosures of suspected or alleged serious malpractice and has appropriate mechanisms in place to facilitate independent, objective and prompt investigations. This mechanism ensures that the individual making the disclosure is protected from potential detriment as a result of actions by persons internal or external to the University, while guaranteeing, as far as is possible, anonymity when requested.

11.1. Protection of Whistle-blowers

All whistleblowing concerns must be treated in the strictest confidence and University pledges to take all reasonable steps to protect the identity of the whistleblowers from any detrimental action within the University i.e. their names will not be revealed without their consent unless required by law.

The whistle-blower must satisfy themselves, to a reasonable level, of the occurrence of the wrongdoing disclosed as a concern. The whistleblowing concerns can relate to past, present or future events.

For a disclosure to be protected it must be made through the right channels to the right person, as provided for in this policy. The whistle-blower must:

- a) Make the disclosure in good faith (which means with honest intent and without malice);
- b) Reasonably believe that the information is substantially true;

An employee should not suffer detrimental action as a result of raising a whistleblowing concern. For instance, continued employment, opportunities for future promotion and training of an employee must not be negatively affected because he/she has made a whistle-blow within the terms detailed above.

Subjecting any member of staff to any form of detrimental action because of a protected disclosure, including the member of staff who is being investigated as part of the disclosure, qualifies for gross misconduct which will result to a disciplinary action as prescribed in the University HR policy.

If an employee experiences any act of harassment or victimization, he/she should report the issue to any member of the Ethics Committee.

While protection is provided under this policy, deliberate, false or malicious allegations must not be tolerated. Anyone found making deliberate, false or malicious allegations may be subjected to disciplinary action according to the University's HR policy.

Giving or accepting instructions to cover up serious malpractice must not be tolerated and could lead to disciplinary action.

11.2. Principal Responsibility

The Ethics Committee, which will be responsible for handling the whistleblowing process, will be accountable to the Audit and Risk Committee of the University Council.

The Ethics Committee will appoint a Chairperson responsible for leading the handling of whistleblowing disclosures and issue a mandate to a member of the Committee to commence the investigations.

The Chairperson must be unconflicted and have access to all University's records, data and information, including storage on University's owned assets.

11.3. Making Disclosures Reporting

Suspicious or knowledge of serious malpractice should be disclosed to any member of the Ethics Committee.

If a whistle-blower chooses to remain anonymous, it is important to ensure that enough information is provided in the whistleblowing disclosure to facilitate a thorough investigation.

However, it helps the investigation significantly if the whistle-blower is willing to speak to the investigators.

Under special/rare circumstances, the Ethics Committee may outsource the function of reporting of serious malpractices to an independent third-party or choose to seek independent advice externally.

All whistleblowing concerns relating to the Vice-Chancellor, members of the Ethics Committee and members of the University Council shall be dealt with, either internally or externally.

Employees are required to use the internal whistleblowing channels first before disclosing externally. Failure to do so is likely to result in a disciplinary offence.

11.4. Assessing Disclosures Reports

The Ethics Committee shall consider the information in context of what they know about the particular area or activity and the information the whistleblower provides. From that, and on the assumption that the information is well-founded, members of the Ethics Committee should assess:

- a. How serious and urgent the risk is;
- b. Whether the disclosure can best be dealt with under the whistleblowing policy or some other procedure (such as the grievance procedure); and
- c. Whether the help of or referral to senior managers or a specialist function will be desirable or necessary.
- d. Specifically, for whistleblowing concerns made anonymously, the likelihood of verifying the allegation from independent sources.

- e. To the extent possible, any complaint should be factual rather than speculative or conclusory.

Where an employee formally invokes the whistleblowing policy and raises a disclosure with the Ethics Committee, it is helpful if the Ethics Committee establishes;

- f. If the employee is anxious about reprisals;
 - g. When the disclosure first arose and, where relevant, what is prompting the decision to speak up now;
 - h. Whether the information is first hand or hearsay;
 - i. Whether confidentiality is sought;
 - j. Whether and when the employee wants feedback; and If there is anything else relevant the employee should mention.
- b) The appointed Chairperson of the Ethics Committee will notify the whistleblower and acknowledge receipt of the reported or suspected violation within 3 business days after lodging a concern.

11.5. Addressing Disclosures Reports

- c) The appointed Chairperson of the Ethics Committee will take the lead in handling of all whistleblowing concerns. Where the implications are potentially serious or far-reaching, the independence and oversight of the investigation should be upheld. Where a member of the Ethics Committee is mentioned in a disclosure, he/she is conflicted and should step aside to allow for an independent investigation. It is also important that, where confidentiality has been promised, it should be respected.
- d) Where specific inquiries need to be made in the area where the whistleblower works, they should be forewarned so they are prepared to answer questions along with everyone else. Keeping the whistleblower updated regularly and ensuring they can contact the appointed chairperson of the Ethics Committee if they have any questions, will help manage expectations, pre-empt problems and ensure the process works efficiently.

- e) In the process of addressing a disclosure, the Ethics Committee may decide to inform an external body (for example a regulatory, a supervisory department or the police) once a serious issue has been identified either to enlist their assistance or to reassure them and employees that the matter is being addressed properly. In some cases, the individual reported may be required to explain their action to an external body, shareholder or the media.
- f) The Chairperson of the Ethics Committee will purpose to inform the whistleblower of the outcome following an investigation of the alleged matter within 2 months after the matter was disclosed. If the issue is not closed after two months, the investigation may be extended for another one (1) month or more as the Committee deems fit. If the matter is not closed after the extension period, the Chairperson will inform the whistleblower in writing of the reason why the issue is yet to be closed and the time when the matter is likely to be closed.
- g) Employees who deliberately breach the policy or tamper with the investigation process (e.g. tampering with documents/evidence) must be subjected to disciplinary actions in accordance with the University's Human Resource Policy, potentially leading to dismissal as this is considered a serious misconduct.

11.6. Investigating Disclosure Reports

Once it is determined that an investigation is required, these steps should be followed:

- a) The appointed Chairperson of the Ethics Committee will assign a member of the committee, who will be the lead investigator, to commence with the investigations.
- b) The appointed Chairperson of the Ethics Committee will outline an action plan depending on the people and issues involved as well as the severity of the disclosure, considering:
 - What is the allegation?
 - What is the policy regarding these types of allegations?
 - Who is the complainant?
 - What position does he or she hold?

- Who is the accused?
 - What position does he or she hold?
 - Who should be interviewed and in what order?
 - Where should the interviews take place?
 - What possible issues may arise during the interview process?
 - Are there any supervisors or managers that need to be informed?
 - Does anyone need to be suspended to stop unlawful behavior?
 - Do computer records need to be frozen?
 - Does the IT, Security, or HR department need to be consulted?
 - What documents should be reviewed?
- c) Properly gather and record any evidence in support of the investigation, including e-mails, reports, witness interview statements etc.
 - d) Report on your findings.
 - e) Take appropriate action in consultation with appropriate management and HR, for example disciplinary, civil or criminal action.
 - f) Follow up with the whistleblower and provide feedback on the outcome of the investigation.
 - g) Take remedial action to address control weaknesses and share lessons learned.

All Investigations will be handled confidentially and will not be disclosed to any other persons other than those who legitimately have the right to such information.

11.7. External Reporting

Where appropriate (for example, where criminal behavior such as fraud, bribery and corruption and/or local regulatory breaches have been identified), whistleblowing events must be reported by the appointed Chairperson of the Ethics Committee to local law enforcement, regulatory bodies or government agencies except where this is impractical or unsafe, in which case, they must be reported to the Vice-Chancellor and the Audit and Risk Committee of the University Council. The University shall cooperate fully with law enforcement and regulators locally within the bounds of local legislation.

12. Cooperation

An employee who fails to cooperate in an investigation, or who deliberately provides false information during an investigation, shall be subject to disciplinary action as prescribed in the University's HR Policy.

Any person named in a report will be given an opportunity to be heard and defend themselves before any action is taken.

13. Implementation

Implementation of this policy may be vested with the Chairperson of Ethics Committee.

14. Review

This document shall be reviewed as and when necessary as the Ethics Committee shall recommend to the University Council through the appropriate University organs.

15. Amendments

Any amendments shall be approved by the University Council