



BIULETYN PRAWNY

UNIWERSYTETU MIKOŁAJA KOPERNIKA W TORUNIU

Rok 2024; poz. 265

ORDER No. 125

by the Rector of Nicolaus Copernicus University in Toruń

of 25 July 2024

on the procedure of internal reporting at Nicolaus Copernicus University in Toruń

Pursuant to § 52 section 3 of Resolution No. 37 by the NCU Senate of 16 April 2019, Statutes of Nicolaus Copernicus University in Toruń (NCU Legal Bulletin of 2024, item 10), in relation to the Directive of the European Parliament and the EU Council 2019/1937 of 23 October 2019 on protection of individuals reporting violations of the EU laws and the legal act of 14 June 2024 on the protection of whistleblowers (Journal of Laws of 2024, item 928)

It is provided, as follows:

Chapter 1 General provisions

§ 1

1. The purpose of the procedure, hereinafter referred to as the “Procedure”, is to define the rules for making reports of violations of law and taking follow-up action at Nicolaus Copernicus University in Toruń, hereinafter referred to as “the University”.
2. The provisions of the Procedure are an execution of obligations resulting from the Directive of the European Parliament and the EU Council 2019/1937 of 23 October 2019 on protection of individuals reporting violations of the EU laws and the legal act of 14 June 2024 on the protection of whistle-blowers (Journal of Laws of 2024, item 928), hereinafter referred to as “the Legal Act”.
3. In matters not regulated by the Procedure, the provisions of the Act shall apply.

§ 2

Whenever the Procedure mentions:

- 1) **Follow-up action** – it should be understood as the action taken by the University to assess the veracity of the information contained in the report and to counteract the violation of the law that is the subject of the report, in particular, by investigation, initiation of control or administrative proceedings, filing of charges, action taken to recover funds, or closing the procedure carried out as part of the internal procedure for reporting violations of the law and taking follow-up action
- 2) **retaliatory action** - it should be understood as a direct or indirect act or omission in a work-related context that is caused by a report or public disclosure and that violates or may violate the whistleblower's rights or causes or may cause unjustified harm to the whistleblower, including the groundless initiation of proceedings against the whistleblower;

- 3) **report about a violation of law** - it should be understood as information, including reasonable suspicion, regarding an actual or potential violation of law that has occurred or is likely to occur at the University where the whistleblower participated in the recruitment process or other pre-contract negotiations, works or worked, or at another legal entity with which the whistleblower maintains/maintained contact in a work-related context, or information regarding an attempt to conceal such a violation of law;
- 4) **feedback** – it should be understood as information provided to the whistleblower regarding the planned or taken follow-up actions and the rationale behind them;
- 5) **work-related context** – it should be understood as past, present or future activities related to the performance of work on the basis of an employment relationship or other legal relationship forming the basis for the provision of work or services, performance of functions at the University or on its behalf, in the course of which information about the violation of the law was obtained and there is a possibility of experiencing retaliatory actions;
- 6) **a public body** – it should be understood as chief and central government administration bodies, field government administration bodies, bodies of local self-government units, other state bodies and other entities performing public administration tasks by law, competent to take follow-up actions in the areas indicated in § 3 section 1;
- 7) **the person whom the violation report concerns**– it should be understood as a natural person, a legal person, or an organizational unit without legal personality, to which the law grants legal capacity, indicated in the report or public disclosure as a person who committed the violation of the law, or as a person with whom the person committing the violation of the law is associated;
- 8) **the person helping in making a violation report**– is to be understood as an individual who assists a whistleblower with a report or public disclosure in a work-related context and whose assistance should not be disclosed;
- 9) **the person associated with the whistleblower**– it should be understood as an individual who may experience retaliation, including a co-worker or a person close to the whistleblower as defined in Article 115 § 11 of the act of 6 June 1997 – Penal Code (Journal of Laws of 2024 item. 17);
- 10) **whistleblower** – it should be understood as an individual who reports or discloses to the public information about a violation of the law obtained in a context related to the work referred to in the Legal Act;
- 11) **public disclosure** – it should be understood as disclosing the information regarding violation of law to the general public;
- 12) **report** – it should be understood as an oral or written, or in electronic form, internal notification, provided in accordance with the requirements of the Legal Act and the Procedure;
- 13) **internal reporting** – it should be understood as oral or written communication to the Ombudsman or a public body of information about a violation of the law.

Chater 2

The range of application of the Procedure

§ 3

1. The Procedure shall be applied for reports of violation of law, i.e. actions or neglections which break the law or attempt to circumvent it involving:
 - 1) corruption;
 - 2) public procurement;

- 3) financial services, products and markets;
 - 4) anti-money laundering and terrorist financing;
 - 5) product safety and compliance;
 - 6) transportation safety;
 - 7) environmental protection;
 - 8) radiological protection and nuclear safety;
 - 9) food and feed safety;
 - 10) animal health and welfare;
 - 11) public health;
 - 12) consumer protection;
 - 13) protection of privacy and personal data;
 - 14) security of networks and information and communication systems;
 - 15) financial interests of the State Treasury of the Republic of Poland, local government unit and the European Union;
 - 16) the internal market of the European Union, including public law principles of competition and state aid and corporate taxation;
 - 17) constitutional freedoms and rights of man and citizen - occurring in the relations of the individual with public authorities and unrelated to the areas indicated in items 1-16.
2. The University shall additionally allow reporting of information on violations of internal regulations in force at the University, as well as ethical standards referred to in the statutes of the University.
 3. The provisions of the Procedure shall not apply to the information which is:
 - 1) covered by regulations on the protection of classified information;
 - 2) covered by the secrecy related to the medical and legal professions;
 - 3) covered by the secrecy of judicial deliberations;
 - 4) covered by criminal proceedings - with regard to the secrecy of pre-trial proceedings and the secrecy of an in-camera trial.

Chapter 3

Ways of filing reports

§ 4

1. The whistleblower has the right to make a violation report referred to in § 3 of the Procedure.
2. A report should include:
 - 1) the subject of the violation;
 - 2) personal data of the whistleblower and the subject of the notification, necessary to identify them;
 - 3) correspondence address or e-mail address of the whistleblower, hereinafter referred to as “contact address”.
3. Reports with violations not included in § 3 and anonymous reports shall be left unacknowledged.
4. The University shall ensure that the Procedure and the processing of personal data related to the receipt of reports shall prevent unauthorized persons from gaining access to the information covered by the report and shall ensure protection of the confidentiality of the identity of the whistleblower, the person to whom the report pertains, and the third party indicated in the report. Confidentiality protection applies to information from which the identity of these persons can be directly or indirectly identified.

5. Information on a violation of the law may in any case also be reported by the whistleblower to the Ombudsman or a public body and, where appropriate, to institutions, bodies or organizational units of the European Union, bypassing the Procedure.
6. The public body competent to accept an external notification of a violation of the law by the special services referred to in Article 11 of the Act of May 24, 2002 on the Internal Security Agency and the Intelligence Agency, and to perform tasks related to the external notification is the Prime Minister or the Minister - Coordinator of Special Services, in the case of their appointment.

§ 5

1. The report can be filed in an oral or written form.
2. An oral report may be made via telephone, with the use of recorded phone line under the number 56 6112666.
3. An oral report filed through the recorded phone line shall be documented, at the whistleblower's consent, in the form of:
 - 1) a recorded conversation, making it possible to search, or
 - 2) a complete and precise transcript prepared by the team referred to in § 7 section 1.
4. In the case referred to in section 3, item 2, the whistleblower may review, correct and approve the transcript of the conversation or the minutes of the conversation, which they shall confirm by signing them.
5. At the whistleblower's request, an oral report may be made during a face-to-face meeting arranged within 14 days of receiving such a request. In this case, with the consent of the whistleblower, the notification shall be documented in the form of a:
 - 1) a recorded conversation, making it possible to search, or
 - 2) the minutes of the meeting, reconstructing its exact course, prepared by a member of the team referred to in § 7 section 1.
6. In the case referred to in section 5, item 2, the whistleblower may review, correct and approve the meeting minutes, which they confirm by signing them.
7. A written report may be submitted in the paper or digital form.
8. A report in a paper form may be made by placing the letter in the designated delivery boxes located on the exterior wall of the building at 5 Gagarina Street in Toruń and on the exterior wall of the building at 13 Jagiellońska Street in Bydgoszcz.
9. A report in a digital form can be submitted:
 - 1) via a dedicated form available at the University's website,
 - 2) via naruszenia@umk.pl e-mail address.

§ 6

The communication channels adopted by the University for the purpose of receiving the reports:

- 1) are independent of the communication channels used in the ordinary course of the University's activities;
- 2) ensure the completeness, confidentiality and integrity of the data, including its protection from access by unauthorized persons;
- 3) allow information to be stored permanently for further investigation.

Chapter 4 Proceedings after acknowledgement of the report

§ 7

1. The Rector shall appoint by a separate order from among the employees of the University a Team in charge of Violations, hereinafter referred to as the "Team", which shall be

authorized to receive reports, their initial verification, follow-up and related processing of personal data on the basis of the authorizations granted.

2. Authorized persons shall be obliged to maintain secrecy with regard to the information and personal data they obtained in the course of receiving and verifying reports and taking follow-up actions, even after the termination of the employment or other legal relationship under which they performed this work.
3. An authorized person shall be excluded from the verification of the application and follow-up if there is a circumstance that may cause reasonable doubt about their impartiality in the case in question.

§ 8

1. Upon receiving a report, the Team shall provide the whistleblower with an acknowledgement of the report within 7 days from the date of receipt, unless the whistleblower has not provided a contact address to which the acknowledgement shall be forwarded.
2. Once a report is received, further communication between the whistleblower reporting the violation and the Team shall be conducted through the contact address indicated in the report. If the contact address is the whistleblower's e-mail address, communication from the Team, related to the notification, is conducted using the address: naruszenia@umk.pl. If the whistleblower's postal address is indicated for contact, communication is carried out through the universal postal service provider.
3. After carrying out the investigation, the Team shall provide the whistleblower with feedback within a maximum period of three months from the confirmation of receiving the report or, if the confirmation referred to in section 1 is not provided, three months from the expiration of 7 days from the date of the report, unless the whistleblower has not provided a contact address to which the feedback shall be provided.
4. The feedback shall include, in particular, an indication of whether or not a violation of the law has been identified and what measures, if any, have been or will be applied in response to the identified violation of the law.
5. The team keeps a register of reports, which includes:
 - 1) report number;
 - 2) the subject of the violation of the law;
 - 3) personal data of the whistleblower and the person to whom the report relates, necessary to identify them;
 - 4) contact address of the whistleblower;
 - 5) the date on which the report was made;
 - 6) information on follow-up actions taken;
 - 7) date of completion of the case.
6. Personal data and other information in the register of reports shall be retained for a period of 3 years after the end of the calendar year in which the follow-up actions were completed, or after the completion of the proceedings initiated by these actions.
7. The administrator of personal data included in the register is the University.

Chapter 5 Follow-up actions

§ 9

1. The Team shall be entitled to investigate the legitimacy of the report received, in particular to verify whether the action or negligence referred to in the report falls within the scope of

- the Procedure indicated in § 3. In the course of investigating and evaluating the report, the Team may ask the whistleblower for clarification or additional information in the scope of the information provided that may be in their possession, using the contact address.
2. The Team shall be obliged to maintain confidentiality with respect to the information obtained and the details of the persons who provided explanations or information or documents to the Team.
 3. Should the Team determine that the received report is legitimate, the Team shall prepare a report specifying the type of violation (or reasonable suspicion of its occurrence) and present in it recommended actions to remove the violation.
 4. On the basis of the report referred to in section 3, the Rector shall decide on further actions, including notification of the relevant state authorities.

Chapter 6

Protection of whistleblowers

§ 10

1. Personal data of the whistleblower allowing to establish their identity shall not be disclosed to unauthorized persons, except with the explicit consent of the whistleblower.
2. The provisions of section 1 shall not apply if disclosure is a necessary and proportionate obligation under the law in connection with investigations conducted by public authorities or pre-trial or judicial proceedings conducted by courts, including in order to guarantee the right of defense of the reported person.
3. Prior to making the disclosure referred to in section 2, the competent public body or the competent court shall notify the whistleblower by sending, in paper or electronic form, an explanation of the reasons for the disclosure of their personal data, unless such notification will jeopardize the investigation, pre-trial or judicial proceedings.
4. The University, upon receiving a report, shall process personal data to the extent necessary to accept the report or take possible follow-up action. Personal data that are not relevant to the processing of the notification shall not be collected, and if accidentally collected, shall be deleted immediately. The deletion of such personal data shall take place within 14 days after it is determined that it is not relevant to the case.
5. The provision of Article 14 section 2 (f) of the Regulation (EU) 2016/679 of the European Parliament and of the EU Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free flow of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (EU Journal of Laws L 119, 04.05.2016, p. 1, as amended), hereinafter referred to as “Regulation 2016/679,” shall not apply unless the whistleblower meets the conditions indicated in Article 6 or has explicitly consented to the disclosure of their identity.
6. The provision of Article 15, section 1 (g) of Regulation 2016/679 regarding the transfer of information about the source of obtaining personal data shall not apply unless the whistleblower does not meet the conditions indicated in Article 6 or has expressly consented to such transfer.
7. Personal data processed in connection with the acceptance of a notification or follow-up action, as well as documents related to such notification, shall be retained by the University for a period of 3 years after the end of the calendar year in which the notification was submitted to the public body competent to take follow-up action or follow-up action was completed or after the completion of proceedings initiated by such action.
8. In the case referred to in section 7, the University shall delete the personal data and destroy the documents related to the notification after the expiration of the storage period. The

provisions of the Act of July 14, 1983 on the national archival resource and archives (Journal of Laws of 2020, item 164) shall not apply.

9. The provisions of section 8 shall not apply when documents related to the notification are part of the files of pre-trial proceedings, court or administrative court cases.

§ 11

1. A whistleblower shall be protected under the terms of the Procedure from the time of filing a report or public disclosure, provided that they had reasonable grounds to believe that the information that is the subject of the report or public disclosure is true at the time of filing the report or public disclosure and that it constitutes information of a violation of law.
2. The University shall not retaliate against a whistleblower or attempt or threaten to take such action.
3. If the work was, is, or is to be performed on the basis of an employment relationship, no retaliatory action shall be taken against the whistleblower, consisting in particular of the following:
 - 1) refusal to establish an employment relationship;
 - 2) termination or termination without notice of the employment relationship;
 - 3) failure to conclude a fixed-term employment contract or an indefinite-term employment contract after termination of a probationary contract, failure to conclude another fixed-term employment contract, or failure to conclude an indefinite-term employment contract, after termination of a fixed-term employment contract - if the whistleblower had a legitimate expectation that such a contract would be concluded with them;
 - 4) reduction in the amount of salary for work;
 - 5) withholding of promotion or omission from promotion;
 - 6) omission from the award of work-related benefits other than salary or reduction in the amount of such benefits;
 - 7) transfer to a lower job position;
 - 8) suspension from employment or official duties;
 - 9) transfer of the whistleblower's existing duties to another employee;
 - 10) unfavorable change in the place of work or work schedule;
 - 11) negative evaluation of work performance or negative opinion of work;
 - 12) imposition or application of a disciplinary measure, including a financial penalty, or a measure of a similar nature;
 - 13) coercion, intimidation or exclusion;
 - 14) mobbing;
 - 15) discrimination;
 - 16) unfavorable or unjust treatment;
 - 17) withholding of participation or omission in typing for participation in professional qualification training;
 - 18) unjustified referral for medical examination, including psychiatric examination, unless separate regulations provide for the possibility of referring an employee for such examination;
 - 19) action aimed at making it difficult to find future employment in a particular sector or industry on the basis of an informal or formal sector or industry agreement;
 - 20) causing financial loss, including economic loss, or loss of income;
 - 21) causing other intangible harm, including damage to personal property, in particular to the whistleblower's good name.
4. An attempt or threat to use the measure specified in section 3 shall also be considered retaliation for making a report or public disclosure.

5. The burden of proof that the action taken, as referred to in sections 3 and 4, is not a retaliatory action shall be on the University.
6. If the work or services were, are, or are to be rendered on the basis of a legal relationship other than an employment relationship, which is the basis for the provision of work or services, the performance of a function, or the performance of a service, the provisions of sections 3 through 5 shall apply accordingly, provided that the nature of the work or services rendered, the performance of a function, or the performance of a service does not preclude the application to the whistleblower of such action.
7. If work or services have been, are being, or are to be provided pursuant to a legal relationship other than an employment relationship that forms the basis for the provision of work, services, functions, or service, the making of a report shall not constitute grounds for retaliation or an attempt or threat of retaliation, including, but not limited to, the following:
 - 1) termination of a contract to which the whistleblower is a party, in particular concerning the sale or supply of goods or the provision of services, withdrawal from such a contract or termination without notice;
 - 2) imposition of an obligation or refusal to grant, limit or withdraw an entitlement, in particular a concession, permit or discount.
8. A whistleblower against whom retaliation has been committed shall have the right to compensation in an amount not lower than the average monthly salary in the national economy in the previous year, announced for pension purposes in the Official Journal of the Republic of Poland "Monitor Polski" by the President of the Central Statistical Office, or the right to compensation.
9. A person who has suffered damage due to a whistleblower's knowingly reporting or public disclosure of false information shall have the right to compensation or redress for violation of personal rights from the whistleblower who made such reporting or public disclosure.
10. The making of a report or public disclosure shall not constitute grounds for liability, including disciplinary liability, liability for damages for violation of the rights of others or obligations set forth in the law, in particular on the subject of defamation, violation of personal rights, copyright, protection of personal data and the obligation to maintain secrecy, including the secrecy of the enterprise, taking into account § 3 section 3, provided that the whistleblower had reasonable grounds to believe that the report or public disclosure was necessary to disclose the violation of the law in accordance with the law.
11. The provisions of sections 1-10 shall apply accordingly to the person assisting in the filing of the report and the person associated with the whistleblower.
12. The provisions of sections 1-10 shall apply accordingly to a legal entity, other organizational unit assisting or associated with the whistleblower, in particular, owned or employed by the whistleblower.

Chapter 7

Rules of personal data protection

§ 12

1. The administrator of personal data collected in connection with the investigation of law violation reports and protection of whistleblowers is the University.
2. The personal data of the whistleblower, allowing to establish their identity, shall not be disclosed to unauthorized persons, except with the express consent of the whistleblower.
3. The data of a whistleblower reporting a violation may be disclosed at their consent or at the request of an authorized body. Disclosure of such data may take place when it results from generally applicable laws in connection with the proceedings conducted by national authorities.

4. Any report submitted under the procedure specified in the Procedure, together with data on the whistleblower or data that may enable their identification, shall be of a confidential nature.

Chapter 8

External reports

§ 13

1. A whistleblower may file an external report without first making an internal one.
2. An external report shall be accepted by either the Ombudsman or a public body.
3. The Ombudsman and the public body shall be separate controllers with respect to the personal data provided in the external report accepted by these bodies.
4. If the notification concerns information about a violation of the law, the Ombudsman shall immediately, but no later than 14 days from the date of the notification, forward the notification to the public body competent to follow up the notification.
5. The Ombudsman and the public body shall post on their websites in the Public Information Bulletin, in a separate, easily identifiable and accessible section and in a manner understandable to the whistleblower, in particular, information about the following:
 - 1) the manner of external reporting;
 - 2) conditions for protection of the whistleblower;
 - 3) the procedure applicable to external reporting;
 - 4) confidentiality rules applicable to external reporting;
 - 5) principles of personal data processing;
 - 6) legal safeguards and procedures to protect against retaliation and the availability of confidential advice for those considering making an external report;
 - 7) the conditions under which a whistleblower is protected from incurring liability for breach of confidentiality.

Chapter 9

Final provisions

§ 14

1. The Procedure shall be published on the University's website in the Public Information Bulletin.
2. A person applying for a job based on an employment relationship or other legal relationship providing the basis for the provision of work, services, functions, or service of the University shall be informed of the Procedure together with the commencement of recruitment or pre-contract negotiations.
3. The Procedure shall come into force 7 days after the date of its publication in the University Legal Bulletin..

R E C T O R

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