

# **Regulation for Reporting (suspected) misconduct and infringement of EU law (Whistleblower Policy)**

As determined by the Executive Board on 25-05-2022

Preamble:

The regulation for dealing with suspected misconduct or infringement of European Union law at Saxion University of Applied Sciences describes the procedure to be followed in the event of suspicion (based on reasonable grounds) of misconduct or an infringement of Union law.

All students and former students of Saxion University of Applied Sciences, as well as employees and former employees or persons who perform work or have otherwise performed work for Saxion may report internal or external misconduct in the context of social interest or an infringement of European Union law.

Reports can be made internally to the Ombudsperson or the Executive Board (EB).

Reports can be made externally through one of the relevant reporting channels designated in the Dutch Whistleblowers' Protection Act. The reporting channel of the Data Protection Authority should be used when the report concerns the processing of personal data or the Dutch Authority for Financial Markets when it comes to financial services. In case of doubt, it is possible to obtain advice from the Dutch Whistleblowers' Authority([www.huisvoorklokkenluiders.nl](http://www.huisvoorklokkenluiders.nl)).

If they wish, the reporting person can consult an adviser in confidence about (suspected) misconduct or any possible infringement of EU law. The report will be processed confidentially. Saxion's Executive Board is also responsible for ensuring that the reporting person is not unfairly treated during and after the processing of the report. Protection against unfair treatment also applies to those who assist the reporting person.

If the reporting person is unfairly treated during or after the processing of the report, he or she is only obliged to demonstrate that they have filed the report correctly and that they have been disadvantaged. Saxion will then be obliged to prove that the disadvantageous measure was not taken as a result of the report being filed.

The regulation in question is not intended for reporting personal grievances and should be distinguished from the 'Complaints Procedure for Inappropriate Behaviour' and the 'Regulations concerning the Ombudsperson.'

The above is detailed in the following regulation.

## **General provisions**

### **Glossary**

#### ***Article 1***

In this procedure, the following is understood to mean:

1. Person involved: any student or former student of Saxion University of Applied Sciences, as well as any employee or former employee or other person who performs work or has otherwise performed work for Saxion reporting (suspected) misconduct or an infringement of European Union law.
2. Investigator: the Ombudsperson or a person or authority appointed by the Executive Board or by the President of the Supervisory Board who is in charge of the investigation under this regulation following a report filed by the person involved.
3. (Suspected) misconduct:  
If the person involved suspects misconduct in the organisation where they study or have studied, work or have worked and the suspicion is based on reasonable grounds arising from knowledge gained by the person involved at Saxion University of Applied Sciences (or at another organisation if the person has come into contact with that organisation through his work) and:
  - the social interest is at stake in a (threatened) violation of laws or regulations;
  - or there is: (imminent) danger to the safety of persons;
  - (imminent) danger to the public health or environment, or knowingly withholding, destroying or manipulating information about these facts;
  - (imminent danger) to the proper functioning of Saxion University of Applied Sciences as a result of improper conduct or omission.
4. (Possible) infringement of EU law.  
If the person involved suspects that, in the organisation where they study or have studied, work or have worked, there has been an act or omission which (potentially) infringes European Union law in one of the following areas of Union law:
  - public contracts;
  - financial services;
  - protection of the environment;
  - protection of privacy and personal data;
  - security of network and information systems.

**Legal protection**

**Article 2**

1. The Executive Board is responsible for ensuring that a student or former student will not be adversely affected as a result of reporting (a suspicion of) misconduct or an infringement of EU law in good faith and in the correct manner during and after the processing of the report. Protection against unfair treatment also applies to those who assist the reporting person.
2. No decision or action with adverse consequences may be taken against an employee or former employee or persons who perform work or have otherwise performed work for Saxion as a result of reporting (a suspicion of) misconduct or an infringement of EU law in good faith and in the correct manner while the Executive Board, another employer, the Dutch Whistleblowers' Authority or another competent authority is processing the report. Protection against unfair treatment also applies to those who assist the reporting person.
3. The Executive Board is responsible for ensuring that the Ombudsperson is not adversely affected during and after the processing of the report due to their position in the performance of their duties.
4. No decision or action with adverse consequences may be taken against the Ombudsperson or designated Ombudsperson because of the performance of his duties based on these regulations, no decision or action may be taken that may adversely affect his or her legal position. The protection against prejudice referred to in this paragraph also applies in the event that a person other than the Ombudsperson performs duties on the basis of these regulations.

**Adviser**

**Article 3**

If they wish, the reporting person can consult an adviser in confidence about (suspected) misconduct or any possible infringement of EU law.

**Procedure**

**The report**

**Article 4**

**Internal**

1. The person involved has the choice of reporting (suspected) misconduct or a (possible) infringement of EU law internally or externally. Filing a report internally is preferable because it is the quickest way to tackle the misconduct or infringement and measures can be taken immediately to stop the malpractice or infringement, if necessary.
2. In the case of an internal report, the person involved should report malpractice or infringement to the Ombudsperson or Executive Board (EB).
3. In the case of a report of suspected malpractice or infringement concerning the functioning of the Executive Board, a complaint can be filed directly with the Ombudsperson or the President of the Supervisory Board.

**Outside Saxion**

4. A report as referred to in paragraphs 2 and 3 of this Article will be handled confidentially.
5. If the misconduct or infringement is reported directly externally, the report should be made to a competent authority (designated in the Whistleblowers' Protection Act).
6. The reporting person may make the external report referred to in the previous paragraph to the authority competent in the subject. For example, file reports to the Data Protection Authority (AP) if the report concerns the processing of personal data or the Dutch Authority for the Financial Markets (AFM) in the case of financial services. If in doubt, advice can be obtained from the Dutch Whistleblowers' Authority. ([www.huisvoorklokkenuiders.nl](http://www.huisvoorklokkenuiders.nl)).
7. As an exception to the provisions under Paragraph 1, the person concerned should report (a suspicion of) misconduct or a (possible) infringement of an EU law to the President of the Executive Board if this report concerns the Ombudsperson. The Executive Board will handle the report as far as possible in accordance with the provisions of these regulations.

**Article 5**

1. In any case, the report may be made in writing, orally by telephone or other voice message system or, at the request of the person concerned, within a reasonable period of time during a conversation on location. The report will be registered and must at least include:
  - a. the name and address of the reporting person;
  - b. the date of submission;
  - c. a description of the misconduct or the infringement of the European law to which the report relates;
2. If the report does not meet the conditions referred to in this article, the person concerned will be given the opportunity to fulfil his or her obligations.

**Confirmation**

**Article 6**

1. In the case of an internal report, the person concerned will receive written confirmation of receipt within seven days of receipt.
2. If the report is filed with the Ombudsperson, the Ombudsperson will, at their discretion, inform the President of the Executive Board if there is reason to do so. The President of the Executive Board will inform the concern controller if necessary. If an allegation is made against the President of the Executive Board, the Ombudsperson will inform the President of the Supervisory Board and the concern controller. The identity of the person concerned will be kept secret unless the person concerned has indicated in a written statement that they have no objection to waiving anonymity.
3. The recipient of the report will inform the person or persons to whom the report relates about the report, unless this may unnecessarily or disproportionately damage an investigative interest or an interest of the person concerned.

**Area of  
responsibility**

**Article 7**

The recipient of the report will ensure that an investigation referred to in Article 9 and subsequent articles will be initiated without delay unless:

- a. the report fails to comply with the conditions of Article 5 Paragraph 1 and the person concerned, after being given the opportunity to do so, has not made use of the option offered in Article 5, Paragraph 2;
- b. more than one year has elapsed since the facts or circumstances covered by the report occurred;
- c. the report is obviously without foundation.
- d. an opinion has already been given previously under this regulation on the misconduct or infringement referred to in the report.

**Announcement  
of no further  
investigation**

**Article 8**

1. If the Ombudsperson is notified and the Ombudsperson decides not to investigate or not to continue the investigation, the Executive Board will be notified in writing as soon as possible, stating the reasons. If the Executive Board does not consider the reasons put forward convincing, such at the discretion of the Executive Board, and sees reason to initiate research or continue research, the Executive Board may still order such an investigation. If it is established that no investigation is being initiated or the investigation is not continuing, the person concerned and the person or persons to whom the report relates, if they have been informed of the report, will be notified in writing, stating the reasons.
2. The notification referred to in the previous paragraph informs the person concerned about the possibility of reporting the suspicion of misconduct or the possible infringement of EU law to the Whistleblowers' Authority or another competent authority.

**Investigation**

**Article 9**

1. The investigator will give the person concerned and the person or persons to whom the report relates the opportunity to explain their views in writing or orally, whether or not in the presence of each other - at the discretion of the investigator.
2. The investigator can contact the President of the Supervisory Board if the investigation concerns the Executive Board. In that case, the investigator must inform the concern controller beforehand.
3. The investigator may, if he or she considers this necessary to assess the report, also give others the opportunity to file a report

**Related articles**

to take note and to make oral or written statements about the subject.

4. The persons involved in processing the report under Paragraphs 2 and 3 of this Article will treat the report and the identity of the person concerned confidentially.

**Information**

**Article 10**

1. The investigator is authorised to request information, or to request and view documents from Saxion's institutional bodies and employees, concerning the matter to which the investigation relates.
2. Institutional bodies and employees are obliged to comply with a request as referred to in the previous paragraph within the period specified by the investigator.
3. If the person concerned gives written permission to do so, the investigators will have access to personal data relating to that person.

**Experts**

**Article 11**

If, in his or her opinion, this is required for the purpose of the investigation, the investigator is authorised to call in experts.

**Own initiative**

**Article 12**

The Ombudsperson is authorised to investigate on his or her own initiative a suspicion of misconduct or a possible violation of EU law.

**Report**

**Article 13**

1. When an investigation has been concluded, the investigator will set out their findings regarding the report in an advisory report addressed to the Executive Board as soon as possible, but no later than eight weeks after receiving the report. The advisory report then gives an opinion on the merits of the report and the investigator makes their recommendations to the Executive Board.
2. In special cases, this period may be extended and the investigator will inform the reporting person and the Executive Board of this fact. However, within a maximum of three months after sending the confirmation of receipt, the reporting person must be informed about the follow-up and any further steps.
3. The advisory report with recommendations is provided to the reporting person and the Executive Board in an anonymised form - insofar as necessary for the protection of the reporting person - and with due regard to the confidential nature of the information provided to the investigator (and the applicable legal provisions).
4. Upon request, the investigator will provide a copy or extract of the report. In these cases, the anonymity of the persons mentioned in the report is guaranteed.

**Opinion of the Executive Board and**

**Article 14**

1. Within four weeks of receiving the investigator's advisory report the reporting person, the investigator and possibly the Ombudsperson, as well as the person(s) suspected of misconduct or the infringement of

**notification  
to the  
person  
concerned**

EU law, will be informed in writing by or on behalf of the Executive Board of a substantive position concerning the report. This indicates which steps the report has led or will lead to.

2. If the first Paragraph cannot be applied within four weeks, the person concerned will be notified in writing with reasons before this period expires. The period within which the person concerned receives a notification as referred to in the previous Paragraph may be extended once by a maximum of four weeks.
3. The first and second Paragraphs apply mutatis mutandis to the person or persons to whom the report relates, unless this can harm an investigative interest.
4. The notification referred to in Paragraph 1 states that if the reporting person disagrees with the Executive Board's substantive position, the suspicion of misconduct or possible infringement of EU law can be reported to the Whistleblowers' Authority or another competent authority.

**Article 15**

1. If the Whistleblowers' Authority makes a recommendation to the Executive Board as referred to in Article 17, Paragraph 2 (c) of the Whistleblower Protection Act (Wbk), the Executive Board will inform the person concerned, whether or not via the Ombudsperson, and the person or persons to whom the report relates in writing, of its position on this matter and any consequences it attaches to it no later than 12 weeks after publication of the report.
2. If the position and consequences differ from the recommendation, the Executive Board shall state the reason for that deviation.

**Article 16**

1. The investigator is obliged to maintain the confidentiality of what has become known to him or her in the performance of their duties, insofar as this follows from the nature of the case and does not reveal the identity of the person concerned without the written consent of the person concerned.
2. This confidentiality extends to all persons working for the investigator.

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