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# Creating a Safe Environment for Whistleblowing

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# Disclaimers:

***The opinions expressed in this presentation are solely that of the presenters and not of any particular institution.***

***The presenters have no conflicts of interest to declare in conjunction with this presentation.***

# Objectives

**01**

Identify the necessary components of institutional policies and structures to support safe reporting environments

**02**

Discuss the necessary partnerships and best practices for institutional offices and leaders to ensure appropriate responses to whistleblower reports

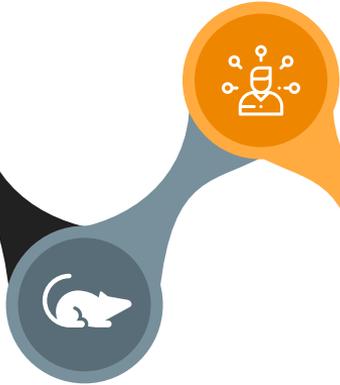
# Session Outline

**Overview of  
Typical Policies  
and Practices**



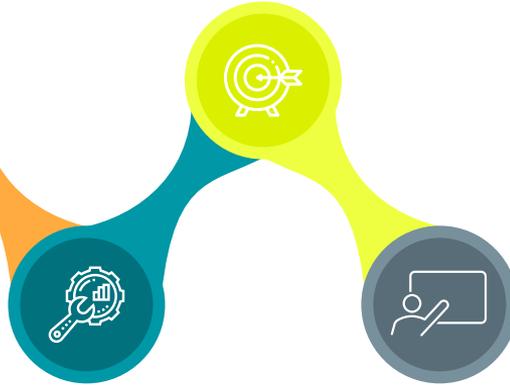
**Regulations,  
Protections, &  
Expectations**

**Routes Used by  
Whistleblowers**



**Whistleblowers  
& Specific  
Research Areas**

**Creating a Culture of  
Research Success**



**Working with  
Whistleblowers**      **Time for  
Discussion**

# Relevant Regulations & Protections

- Whistleblower Protection Act of 1989 (Federal Employees)
- False Claims Act (FCA)
- National Defense Authorization Act (NDAA)
- Occupational Safety and Health Act (OSHA)
- Title IX Protections for Retaliation
- Federal Acquisition Regulation (FAR) Clause
- Research Misconduct – 42 CFR Part 93
- National Institutes of Health (NIH) Office of Laboratory Animal Welfare (OLAW)
- Health and Human Services (HHS) Office of Human Research Protections
- State Statutes
- Institutional Policies
- And more.....



## Overview of typical policies – Who are we protecting; and from what?

- Obligation of institutions to protect Whistleblowers from Retaliation – state and federal policies and laws (previous slide), other sponsor obligations, university policies
- Whistleblower: generally defined as an individual who reports “wrongdoing” (e.g., “a whistleblower is someone who reports waste, fraud, abuse, corruption, or dangers to public health and safety to someone who is in the position to rectify the wrongdoing.” National Whistleblower Center (<https://www.whistleblowers.org/what-is-a-whistleblower/>), Sept. 23, 2024.
  - Sometimes, but not always, applies just to employees

# Overview of typical policies – Who are we protecting; and from what?

- Retaliation: generally defined as any adverse [employment] action taken against someone who in good faith reports suspected wrongdoing or who cooperates or participates in any processes or proceedings related to the suspected wrongdoing
  - Good Faith – how is it defined?
  - Examples can include: “harassment, discrimination, threats of physical harm, job termination, punitive work schedule or research assignments, decrease in pay or responsibilities, or negative impact on academic progress” (Penn State Policy AD67)

## Overall Best Practices

- Readily available avenues for whistleblowing or reporting concerns
  - Use communication skills that encourage reporting
  - Multiple modes available – how do people know how and what to report?
  - Options for anonymity and confidentiality (these are different)
- Institutional structure to receive and review whistleblower reports
  - Take every allegation seriously
  - Is there an internally defined “triage” system?

Morse, M.A., 2020. Best Practices for Responding to Internal Whistleblowers

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## Reporting at Penn State

As a member of the Penn State community you are encouraged to report potential issues and concerns and/or raise questions if you learn about something that might not be consistent with the Penn State Values.

### Select your role below to continue:



Penn State takes appropriate action on every report. Providing details about your concerns helps the team responsible conduct a thorough review. Please be aware that in most cases, findings and any subsequent action must remain confidential and won't be shared with the person who reported the concern. That doesn't mean nothing was done, just that the results of the review are being kept confidential.

Penn State can't help address problems we don't hear about – we encourage you to reach out and report.

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# Overall Best Practices

- Protection from retaliation
  - Avoid misconceptions about internal whistleblowers
- Due process
  - Opportunities to respond and engage in the process – for both whistleblower and person alleged to have committed the behavior
  - Who in the institution will know of the outcomes?
  - What happens once the process is finished and outcome is communicated?

Morse, M.A., 2020. Best Practices for Responding to Internal Whistleblowers

# Whistleblowers & Specific Research Compliance Areas

Human Subjects



Research Misconduct



Animals



Biohazardous  
Materials

# Animal Research Oversight

## PHS Policy

- *IACUC must investigate concerns*
- *New FAQ outlines requirements for anonymity & non-retaliation*



## AAALAC

- *IACUC must investigate concerns*
- *Follow the “Guide”*
- *Must have means of anonymous reporting*
- *Signage*



## USDA

- *IACUC must investigate concerns*
- *No mention of allegations, whistleblowers, or anonymity*
- *Must have methods to report “deficiencies” and there is a non-retaliation requirement*



## IACUC

- *IACUC policy in conjunction with other requirements*
- *Committee training*



# Human Subjects Research

- AAHRPP Accreditation Standards
  - Standard 1.4.A (written policies and procedures for participants to report concerns),
  - Standard 1.5.C (written policies and procedures for researchers and research staff to bring forward concerns and suggestions) and
  - Standard 1.5.D (written policies and procedures for addressing allegations and findings of non-compliance)
- HHS OHRP guidance – reporting concerns to OHRP
  - FAQ on whistleblower protections
    - Difference between internal and external whistleblowers
- Human subjects vs. non-human subjects as whistleblowers

# Biosafety, COI, and Research Misconduct

- Biosafety - *NIH Guidelines for Research Involving Recombinant DNA Molecules*
  - Information concerning noncompliance with the NIH Guidelines may be brought forward by any person - Concerns are directed to NIH OSP and the institution, institution takes action through the IBC
- COI – 42 CFR Part 50 Subpart f – Nothing?
- Research Misconduct – 42 CFR § 93.300(d) (June 2005) Deb
  - Explicit duty to protect complainants (whistleblowers), witnesses and committee members
  - Responsibility also extends to protecting their reputations
  - Applies to internal and external individuals
  - Best practice tip – inform all of those involved of these protections at the outset and share copies of your “whistleblower” policy if you have one

# Whistleblowing Routes



# Suggestions for working with the Whistleblower

- Active listening and create a safe environment
- Transparency and setting expectations
  - Do people know how to bring concerns forward? Do they know there may be protections?
  - Do you have a policy? Is it publicly accessible? Explain the policy in plain language
  - Be clear about possible outcomes and their role in the process (including what outcomes you may *not* be able to share)
  - Be careful about what you promise
  - Share additional resources as needed – e.g., Graduate school, ombudsperson, HR, Employee Assistance Program

# Suggestions for working with the Whistleblower

- Anonymity vs. confidentiality
  - What is the difference? Be clear about what each means
- Respecting the whistleblower's role
  - Empathy for the stress of the process
  - \*Do not judge the allegation based on who the complainant is\*

# Suggestions for working with the Whistleblower

- Follow-up and Close-out
  - Written vs. verbal (e.g., phone call)
  - Are there other actions needed to protect the complainant? E.g., switching advisors, changing labs/PIs – who might you need to partner with?
  - Is there any internal or external reporting required?
  - “Serial” Complainants?
- **FOLLOW YOUR POLICY, SOPs, etc.!**



## Creating a Culture of Success

# Time to Share





## Contact Us:

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