

Note : This FAQ has been translated from Japanese original for reference purpose only. In the event of any discrepancy between this translated document and the Japanese original, the original shall prevail.

FAQ on Kyoto University Regulations for the Protection etc. of Whistleblowers

Purpose

Q1. What is the purpose of establishing the Kyoto University Regulations for the Protection etc. of Whistleblowers (hereafter “the Whistleblower Protection Regulations”)?

A1. The Whistleblower Protection Act (hereafter “the Act”) was promulgated on June 18, 2004 and came into effect on April 1, 2006. In response, Kyoto University established the Whistleblower Protection Regulations on March 6, 2006 for the purpose of enabling protection of whistleblowers, including prohibiting termination of employment on the grounds of whistleblowing, and to prescribe measures for the University to take in regard to whistleblowing.

Definition of Whistleblowing

Q2. What is whistleblowing?

A2. The Whistleblower Protection Regulations define whistleblowing as: “(1) reporting performed by (2) any staff member of the University (including those who are engaged in operation of the University under worker dispatch contracts or other contracts), (3) without any purpose of obtaining a wrongful gain, any purpose of causing injury to others, or any other wrongful purpose, regarding (4) a Reportable Fact that has occurred, is occurring or is about to occur as a result of any action by the University, or any officer, staff member, agent, or other person in a situation whereby any of the aforementioned is engaged in operation of the University, (5) a) to the University (contact points for whistleblowers, etc.), b) to an administrative organ with the authority to impose disposition or recommendation, etc. in respect of such Reportable Fact, or c) to any person who is recognized as a required recipient of reporting regarding such Reportable Fact in order to prevent the occurrence thereof or the spread of injury caused thereby.”

Q3. What kinds of operations at Kyoto University are covered by whistleblowing?

A3. All operations conducted by the University pursuant to Paragraph 1, Article 22 of the National University Corporation Act (Act No. 112 of 2003).

[Reference] Excerpt from National University Corporation Act (Act No. 112 of 2003):

(Scope of operations)

Article 22. National university corporations shall perform the following operations:

(1) Establish national universities and operate them.

- (2) Provide students with counseling that relates to their studies, choice of career paths, and physical and mental well-being, as well as other forms of assistance.
- (3) Conduct research commissioned by parties other than the national university corporation concerned, or else conduct joint research together with such parties, and engage in educational and research activities in cooperation with such parties.
- (4) Offer courses open to the general public and other opportunities for study to persons who are not students.
- (5) Disseminate the findings from research undertaken in the national university concerned and promote the use thereof.
- (6) Invest in parties which implement projects that both promote the practical use of the findings of technology-related research undertaken at the national university concerned and pursue objectives specified by government ordinances.
- (7) Perform all work attendant on the operations enumerated in the preceding clauses.

Q4. What kinds of people are “those who are engaged in operation of the University under worker dispatch contracts or other contracts” as included in the classification of any staff member of the University?

A4. This term includes all people meeting the definition of a worker in Article 9 of the Labor Standards Act: anyone who offers their labor under the direction or specific instruction of the University and receives wages therefrom.

It is essential to note that this definition extends to all those engaged in labor under the University’s direction, even in the event that they have entered into a “subcontracting” or “outsourcing” agreement predicated on an free and equal relationship under the Civil Code.

Q5. In the definition of whistleblowing, what does “any purpose of obtaining a wrongful gain, any purpose of causing injury to others, or any other wrongful purpose” mean?

A5. “Any purpose of obtaining a wrongful gain” includes receipt of money or goods through reporting or any other purposes to derive improper advantage for oneself or another from contravention of a relationship of good faith with the University, or in a manner contrary to public policy, while “any purpose of causing injury to others” is a purpose to cause damage to property, loss of confidence, or other material or immaterial damage to another staff member of the University or other party. In addition, the definition covers “any other wrongful purpose” with a high degree of illegality under prevailing social standards, such as whistleblowing for purposes contrary to the principle of good faith or public policy.

Q6. In what cases is a Reportable Fact “about to occur”?

A6. When the event’s occurrence is imminent and the probability of occurrence is high. However, this does not necessarily mean that it must be occurring in the immediate future: included are cases where the occurrence is certain but there is still some time before it will actually take place.

Q7. What kinds of people are “any person who is recognized as a required recipient of reporting regarding such Reportable Fact in order to prevent the occurrence thereof or the spread of injury caused thereby”?

A7. Envisaged here, for example, are whistleblower support organizations operated by attorneys and certified public accountants. Broadcasters, newspapers, and other media organizations are also included, as informing the general public of Reportable Facts can contribute to prevention of their occurrence and limitation of the damage caused by them.

Q8. What is a “reporting”?

A8. An act of informing another party of a certain fact. In the context of the Whistleblower Protection Regulations, it means to inform the University’s contact points for whistleblowers, etc. about a specific fact of the occurrence or imminent occurrence of criminal or unlawful conduct. On the other hand, general information that does not provide specific facts such as the name of the person involved in the unlawful conduct is classed as prior “consultation” and does not constitute a “reporting.” Examples here include inquiries regarding whether or not a certain act constitutes unlawful conduct for the purposes of the Whistleblower Protection Regulations, and where to lodge a report in order to gain protection under the Whistleblower Protection Regulations.

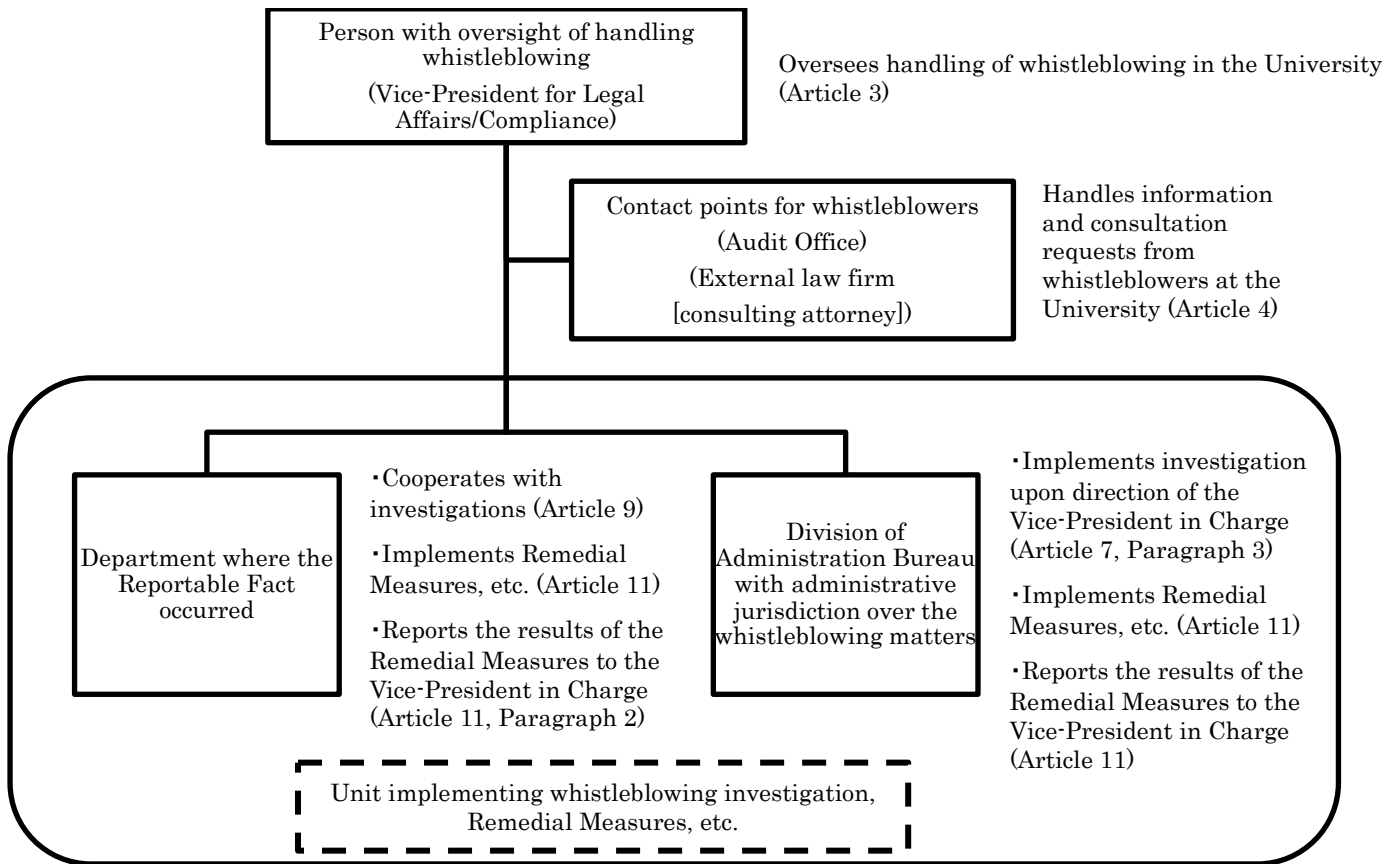
Q9. What things are excluded from the category of “Reportable Facts”?

A9. Whistleblowing is limited to the reporting of facts on criminal conduct and unlawful conduct that attracts administrative penalties. Facts on infringements of civil law and the reasonable endeavor obligations of various basic legislation are not Reportable Facts for whistleblowing purposes, and their reporting does not lead to the processes or whistleblower protection measures prescribed in the Whistleblower Protection Regulations.

Structures for Responding to Reports

Q10. Please explain the administrative structures for processing whistleblower reports at Kyoto University.

A10. The University's administrative structures for processing whistleblower reports are shown in the figure below.



Q11. What means should be used for lodging whistleblower reports and consulting about whistleblowing to the contact points for whistleblowers?

A11. Reports and consultation to the contact point can be made in four ways: telephone, e-mail, letter, and in person. (However, reports and consultation to the contact point outside the University are accepted by telephone, e-mail, and letter.)

When making a whistleblower report by telephone, except in cases of urgency and other special grounds, please communicate essential items to the contact points as shown in the form attached. It is not essential at this stage to specify the exact legal provision that applies to the fact you are reporting, but if you do not state the details concretely, it is impossible to determine what laws or regulations the conduct in question infringes. You need to inform the contact point in sufficient detail to enable it to conduct investigations and institute remedial measures, etc. after the report.

Q12. Can I make a whistleblower report anonymously?

A12. Yes you can, but we ask that you use your real name wherever possible, so we can notify you of the outcome of the investigation (full care is taken to ensure that whistleblowers cannot be identified in the course of investigating a Reportable Fact). In the case of anonymous reports, the whistleblower cannot usually be identified and disadvantageously treated, so s/he is not subject to protection. However, even if a report is made anonymously, the whistleblower is eligible for protection in the event that s/he is identified subsequently for some reason and suffers disadvantageous treatment such as termination of employment.

Q13. In relation to the receipt of whistleblowing reports, it says that when any staff member other than those serving as contact points for whistleblowers receives a report, s/he is to notify the matter to a contact point or advise the whistleblower to report the matter to a contact point. What is the purpose of this requirement?

A13. Whistleblowing at Kyoto University extends not only to reports to the contact points prescribed by the University (internal: Audit Office; external: law firm [consulting attorney]) but also to reports made to parties such as managerial staff members with authority over the Reportable Fact and workplace superiors supervising and directing the duties of the staff member in question. In order to ensure

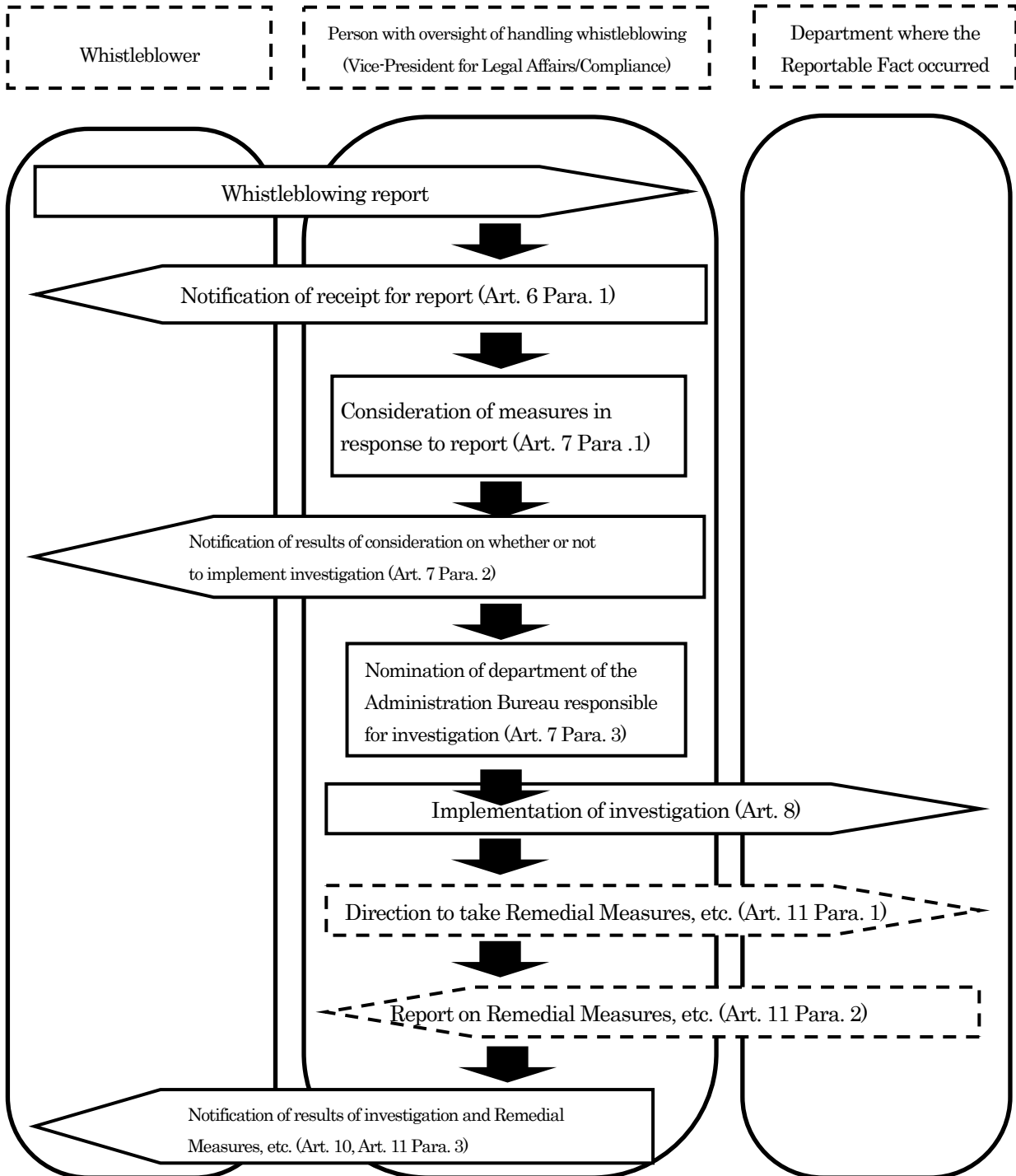
consistent and appropriate processing of whistleblower reports, the University has prescribed measures to be taken in cases where reports are made to parties such as managerial staff, while maintaining the basic rule that reports should be made directly to the contact points.

Q14. When conducting an investigation into a Reportable Fact, “those who conduct the investigation” are prohibited from divulging confidential information on the whistleblower report which they became aware of in the course of their work. Who exactly are “those who conduct the investigation”?

A14. This refers to the persons implementing the investigation pursuant to the provisions of Article 8 of the Whistleblower Protection Regulations, those cooperating with the investigation pursuant to the provisions of Article 9, and those taking remedial measures, etc. pursuant to the provisions of Paragraph 1, Article 11.

Q15. How does the University process whistleblower reports?

A15. Reports are processed as shown in the flowchart below.



Prohibition on Termination of Employment/Disadvantageous Treatment

Q16. Whistleblowers are not meant to suffer disadvantageous treatment as a result of making a “whistleblowing as set forth in each Item of Article 3 of the Act,” but what kinds of report does the Act specify?

A16. The types are shown in (1) to (3) below. Whistleblowers making any of these types of report are eligible for protection under the Whistleblower Protection Regulations.

- (1) Whistleblowing to Kyoto University in the case a Reportable Fact is considered to have occurred, occur or be about to occur;
- (2) Whistleblowing to an Administrative Organ with the authority to impose Disposition or Recommendation, etc. in the case there are reasonable grounds to believe that the Reportable Fact has occurred, occurs or is about to occur; or
- (3) Whistleblowing to any person to whom such Whistleblowing is considered necessary to prevent the occurrence of the Reportable Fact or the spread of damage caused by the Reportable Fact in the case there are reasonable grounds to believe that the Reportable Fact has occurred, occurs or is about to occur and when any of the following applies:
 - a) In the case the Whistleblower has reasonable grounds to believe that he/she will receive dismissal or other disadvantageous treatment if he/she does whistleblowing as provided for in (1) or (2) above;
 - b) In the case the Whistleblower has reasonable grounds to believe that the evidence pertaining to the Reportable Fact might be concealed, counterfeited, or altered if he/she does whistleblowing as provided for in (1) above;
 - c) In the case the Whistleblower was requested by the Business Operator, without any justifiable reason, not to blow a whistle provided for in (1) or (2) above;
 - d) In the case the Whistleblower does not receive notice from the said Business Operator, etc., about the commencement of an investigation on the Reportable Fact within twenty days from the day of the Whistleblowing provided for in (1) above made in writing (including a record made by an electronic method, a magnetic method, or any other method not recognizable to human senses), or the said Business operator, etc. does not investigate without any justifiable reason; or
 - e) In the case the Whistleblower has a justifiable reason to believe that some damage to the life or body of an individual is caused or about to be caused.

Q17. What is “disadvantageous treatment” in Article 16 and (3) a) of A16?

A17. A disciplinary action, a reprimand or the like that does not amount to a disciplinary action, or an act or omission that amounts to discriminatory treatment in personnel affairs or wages, such as disadvantageous workplace reassignment. Disadvantageous treatment includes concrete acts detrimental to the work environment, such as making the whistleblower engage exclusively in menial tasks. Where the whistleblower is a dispatched worker, it is also disadvantageous treatment to demand that the labor dispatch agency substitutes another worker.

Q18. What kinds of cases are considered “the case there are reasonable grounds to believe” under (2) and (3) of A16?

A18. This is where there is a firm basis for the belief, such as documentary or other evidence that supports the existence of the Reportable Fact rather than simple hearsay, or a previous case in which the Reportable Fact occurred.

Q19. What is “justifiable reason” in (3) c) of A16?

A19. An example is a case where a Reportable Fact was about to occur and the whistleblower did not know that corrective measures had already been taken, and the whistleblower’s workplace superior says that “there is no need to report because corrective measures are already in place.”

Q20. How is the “twenty days” in (3) d) of A16 calculated, and what kind of period is it?

A20. The base date for calculating the “twenty days” is the day on which the written report arrived at the University (day on which the content of the said report was first knowable by the University), in accordance with the receipt-on-delivery principle under the Civil Code. This twenty days represents the deadline for notification that an investigation will be conducted, not the deadline for implementing the investigation.

Q21. What are “justifiable reasons” for not conducting an investigation under (3) d) of A16?

A21. This includes cases where an investigation was conducted before the report was made, which clearly

established that the alleged fact did not exist; and cases that occurred in the past where it turned out that there is no means of investigating the details.

Q22. How is a whistleblower protected if the report involves two or more different organizations?

A22. As long as the “whistleblowing as set forth in each Item of Article 3 of the Act” satisfies the conditions for a whistleblower report stated in A16, the whistleblower is protected regardless of whether or not multiple organizations are involved in a Reportable Fact. In such cases the whistleblower cannot be dismissed from employment or subjected to other disadvantageous treatment on grounds of having made the said report.

Other Matters

Q23. What kinds of reports are “reporting by persons other than staff members of the University or reporting of facts that violate the provisions of the regulations stipulated by the President or Executive Director”?

A23. Such reports are not considered whistleblower reports under the Whistleblower Protection Regulations, but they are treated in the same way as whistleblower reports in the University if a person other than staff members of the University has knowledge of such a fact and reports it to the University. A “fact” in this context means any conduct in the course of the University’s work duties by its staff members, and does not cover unlawful conduct in the course of private life unconnected with the University, such as a speeding offense committed by a staff member in her/his own vehicle.

Q24. How are matters raised in a whistleblower report addressed after the report is made?

A24. After receiving the report, the University considers what measures to institute in relation to the matters in the report, and notifies the whistleblower of whether or not an investigation will be conducted to confirm the facts of the case. (Notification will also be made regarding whether or not the matter constitutes a whistleblower report, and which department will respond to it.) Investigations are conducted by staff of the Administration Bureau. Results are communicated to the whistleblower as soon as the investigation is completed, and if the Reportable Fact is confirmed, necessary measures for correction and prevention of recurrence are instituted immediately, or the

head of the department concerned is ordered to institute remedial measures. The whistleblower is notified of the results of remedial measures, etc. subsequently.

(Attachment)

Whistleblower Report

Report date:

Name				
Affiliation				
Preferred Contact Method(s) and Details		Telephone		()
		E-mail		()
		Internal Mail		()
Report Details	Subject of the Report (Name and Department)			
	Matters to Report			
	Special Notes			
Is evidence available?		Yes / No	(If yes, provide details:)	
Do you wish to be notified of results?		Yes / No		

*Please provide your real name and preferred contact method(s) and details wherever possible. If you report anonymously, it may be difficult to conduct a full investigation into the case.

*Your name and other personal information will be protected appropriately and used solely to the minimum extent necessary for the purposes of contacting you from contact points, investigating and processing this report.

*In the Report Details section, please enter whatever you know about the matter you are reporting, such as when, where, how, for what reason it occurred or is about to occur, and what laws or regulations it infringes.

*"Evidence" includes not only documents, but also electronic and magnetic recording media and any other items that may furnish evidence of the matters you are reporting. Please submit such evidence when lodging your report.