



SIAYA INSTITUTE OF TECHNOLOGY

WHISTLE-BLOWING POLICY

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FOREWORD

Siaya institute of technology is a government tertiary institution for training middle level technical manpower in various fields. The institute was established in December 1986 and is registered as an educational institute under the education act chapter 211, laws of Kenya.

Siaya Institute of Technology is committed to upholding institutional integrity and accountability in accordance with the national values and principles of governance as per the provisions of the Constitution of Kenya, 2010. This is reflected in the Institutes' core values of creativity, integrity, professionalism, social responsibility, team work and equity.

Siaya Institute of Technology has formulated this policy on Whistleblowing to help deepen these values within our community. The Institute recognizes that Whistleblowing enhances achievement of good governance practices; it is an effective way of detecting corruption and other malpractices. This Policy also recognizes that Whistleblowing acts as an early warning system to enhance preemptive action.

Accordingly, this Policy demonstrates the Institute's commitment to recognize and take action in respect of corruption and malpractice by members of SIT community. This Policy sets out the organizational approach and obligation to the detection and prevention of corruption and malpractice within Siaya Institute of Technology. It provides a procedure for the making of good faith disclosures; protection of those who make such disclosures from reprisals; and a mechanism for appropriate investigation of and response to such disclosures.

This policy is benchmarked with and informed by the Constitution of Kenya, 2010, national legal and policy frameworks, and Siaya Institute's policy documents.



**DANIEL O. RANDA
PRINCIPAL**

DEFINITION OF TERMS

In this policy unless the context otherwise requires:

“confidential information” includes: —

- (a) information about the identity of:
 - (i) a whistleblower; and
 - (ii) a person against whom a whistleblower has made a disclosure of improper conduct;
- (b) information disclosed by a whistleblower;
- (c) substance of an investigation

“corruption” – corruption means the misuse or abuse of Institute office for private gain. Circumstances that would constitute corruption include:

- (a) Bribery
- (b) Embezzlement
- (c) Misappropriation or diversion of public property and public funds
- (d) Abuse of office
- (e) Misuse of cash or Institute resources
- (f) Illicit enrichment
- (g) Obstruction of justice and concealment
- (h) Practicing of nepotism, tribalism, clannism
- (i) Practicing discrimination on the basis of religion, gender or disability
- (j) Improper reporting of time (timecard, sick or vacation leave reporting)
- (k) Activities causing environmental pollution and degradation
- (l) Inversion and distortion of social values including soliciting for and giving sexual and assorted favours
- (m) Negligence of professional ethics
- (n) Electoral fraud including election manipulation or vote rigging, and
- (o) Any other acts of corruption as defined in the Anti-Corruption and Economic Crimes Act, 2003.

“Designated office”- means an independent office mandated by the principal to implement this policy and carry out any other functions under this policy.

“Detrimental action” refers to any adverse action taken by the Institute, or any individual doing work for or on behalf thereof against a whistleblower and includes:

- (a) action causing physical, emotional and psychological injury, loss or damage;
- (b) intimidation or harassment;
- (c) reprisal which includes retaliatory acts such as to harass, discriminate, threaten, demote, discipline, suspend, dismiss or otherwise disadvantage the individual, adversely affect the individual’s employment, enrolment, working conditions or learning conditions, or deny the individual a benefit or threat to take any of the foregoing measures as a direct

- result of the individual, in good faith, disclosing a perceived malpractice.
- (d) interference with the lawful employment, livelihood or freedom of any person, discrimination, discharge, demotion, suspension, disadvantage, termination or adverse treatment in relation to a person's employment, career, profession, trade or business or the taking of disciplinary action, or any other discriminatory action that would curtail the exercise of rights protected by this Policy;
 - (e) a threat to take any of the actions referred to in paragraphs (a) to (d).

“disclosure” means any written or oral submission of information reporting alleged malpractice and which in the reasonable belief of a person, tends to show one or more of the following:

- (a) An unlawful, corrupt, or irregular use of public funds or public resources;
- (b) An act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment;
- (c) An act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial;
- (d) An act, omission, or course of conduct that constitutes an offence;
- (e) An act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

“Good faith” means honestly intended action based on a reasonable belief and is evident when the report is made without malice and the individual has a reasonable basis to believe that the report is substantially true.

“malpractice” means improper, illegal, or negligent professional activity or treatment.

“protected disclosure”- means a disclosure that relates to any of the matters covered under the definition of disclosure above, has been made in good faith and in accordance with the procedure established by this policy:

- (a) it relates to one of the broad categories of malpractice covered under the definition of disclosure above;
- (b) the disclosure has been made in good faith;
- (c) the disclosure has been made according to the procedure established by this policy.

“Public interest” means considerations affecting the welfare of the general public and includes but is not limited to the following matters:

- (a) freedom of thought and expression;
- (b) the proper management of the Institute;
- (c) public health and safety;
- (d) security;
- (e) the prevention and detection of crime and fraud; and
- (f) the economic wellbeing of the Institute.

“suspect” means a person against whom a disclosure has been made.

“The Institute” means the Siaya Institute of Technology

“whistleblower” means a person who reports in good faith and on reasonable grounds to the Integrity Assurance officer any facts concerning corruption or malpractice at the Institute in accordance with this policy.

“whistleblowing” means the disclosure in good faith by a person to the competent authorities, which the person reasonably believes, is evidence of corruption or malpractice and in accordance with this Policy.

“SIT stakeholder” means a person with a vested interest or concern in the business of Siaya Institute of Technology

1.0 INTRODUCTION

Siaya Institute of Technology aims to foster a culture of creativity, integrity, professionalism, social responsibility, team work, equity, transparency and accountability. Whistleblowing promotes such accountability by allowing for the disclosure, by any person, of information about misconduct while at the same time protecting the person against sanctions of all forms.

This Policy has been developed to enable the employees and stakeholders to make disclosures of corruption or malpractice without fear of intimidation or reprisal. The policy is in tandem with other policies in the Institute that promote transparency and accountability.

1.1 Policy Statement

- (1) The Institute embraces good faith Whistleblowing.
- (2) The whistleblower will suffer no adverse repercussions as a result of making a disclosure of corruption or malpractice.

1.2 Justification

Fear of reprisals, detrimental actions and inaction – lead to reluctance by staff, trainees, and other stakeholders to report corruption or malpractice. The Institute whistleblowers need to be protected to effectively reduce corruption and malpractices in the Institute.

2.0 SCOPE AND APPLICABILITY OF THE POLICY

2.1 Scope

This Policy sets out the framework for the disclosure of information, which is in the public interest and in particular information on corruption or malpractices, as specified in the Policy. The Policy includes types of corruption and malpractice covered, procedures for reporting and investigation of disclosures, protections, incentives, and sanctions.

2.2 Applicability

The policy covers disclosures made by members of the institute's community and other stakeholders.

3.0 GOAL AND OBJECTIVES

3.1 Goal

The goal of this policy is to create an enabling environment and a culture of disclosing corruption or malpractice in good faith while at the same time offering protection to the whistleblower.

3.2 Objectives

The main objectives of the Policy are:

- (a) To provide avenues for members of the Institute's community and stakeholders to make disclosures of corruption or malpractice.
- (b) To provide a clear procedure for handling good faith disclosures.
- (c) To enable Institute Management to be informed at an early stage about acts of

corruption or malpractice.

- (d) To reassure members of SIT community and stakeholders that they will be protected from reprisal, unfair treatment or other detrimental actions for disclosures made in good faith in accordance with this policy.
- (e) To foster a culture of transparency, accountability and integrity.

4.0 GUIDING PRINCIPLES

The Policy shall be guided by the following principles:

- (a) The principles of good governance, integrity, transparency and accountability.
- (b) The principles of equality, equity, human rights and non-discrimination.
- (c) The principles of natural justice.

5.0 TYPES OF CORRUPTION AND MALPRACTICE

This Policy covers the disclosure of information which, in the reasonable belief of the person making it, is in the public interest, and tends to show one or more acts of bribery, corruption or malpractice as defined in this policy:

Examples of corruption and malpractice disclosures, which may fall within these categories and thus covered by this policy include but are not limited to:

- (a) financial malpractice or impropriety, fraud, bribery, stealing or corruption;
- (b) irregularities in the hiring or promotion of staff;
- (c) academic and examination malpractices such as the production, citation, or other use of fraudulent research data, breach of intellectual property, plagiarism, cheating in examination and impersonation;
- (d) professional malpractice;
- (e) Practicing of nepotism, tribalism, cronyism, clannism;
- (f) Inversion and distortion of social values including soliciting for and giving sexual and assorted favours;
- (g) obstruction or frustration of academic freedom;
- (h) irregular procurement of goods and services;
- (i) irregular resource allocation; and
- (j) falsification of data or documents.

6.0 PROCEDURE FOR DEALING WITH DISCLOSURES

6.1 Reporting

6.1.1 Who can make a disclosure

Disclosures may emanate from members of the SIT community, stakeholders and any other person who has a reasonable belief that there is bribery, corruption and malpractice affecting the Institute directly.

6.1.2 Procedure for making a disclosure

Acts of bribery, corruption and malpractice may be disclosed through the following channels:

1. In person reporting to Integrity Assurance officers.
2. Phone: 0769109783.
3. in writing by filling the form ANNEX 1 to address: SIAYA INSTITUTE OF TECHNOLOGY, P. O. BOX 1087- 40600,SIAYA
4. or through website. www.siayainstitute.ac.ke/integrity
5. Email: integrity@siayainstitute.ac.ke copied to principal@siayainstitute.ac.ke

The disclosure should contain the following details:

- i) the alleged form of bribery, corruption or malpractice,
- ii) the identity of individuals and significant dates,
- iii) locations or events, where applicable.

It is important that individuals disclose information at the earliest opportunity.

6.1.3 Action following disclosure

Upon receipt of disclosure, the Integrity Assurance officer shall:

1. Acknowledge receipt of the reported violation or suspected violation within 24 hours.
2. Will consider the disclosure and assess whether it falls within the scope of this Policy and determine whether:
 - (i) investigations are necessary and, if so, the form of investigation to be undertaken.
 - (ii) refer the matter to SIT Corruption Prevention Committee
 - (iii) refer the matter to the EACC.
 - (iv) refer the matter to the police
 - (v) close the matter.

The Integrity Assurance officer shall notify the whistleblower about the action taken within 30 days.

6.1.4 Procedure for investigation of disclosures

Where the Integrity Assurance officer decides to investigate, the procedure shall be as follows:

Where the matter is to be the subject of an internal inquiry, the Integrity Assurance officer will then consider how that investigation should be conducted. This consideration will include determining:

- (a) who should undertake the investigation;
- (b) the procedure to be followed;
- (c) the point at which the person or persons against whom the disclosure is made, will be informed as to the nature of that disclosure; and
- (d) the scope of the concluding report.

6.1.5 Timelines

The Integrity Assurance officer will deliver the report to the principal within three months from the date of commencement of investigations.

6.1.6 Record of outcomes

A record of all disclosures and any subsequent actions taken will be made by the Integrity Assurance officer, who will retain such materials.

6.1.7 External Disclosures

If, having exhausted this procedure, the whistleblower is not satisfied with the Institute's response and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true, he/she is at liberty to take the matter further by raising it with the appropriate agencies established by law such as:

- (a) Commission on Administrative Justice
- (b) Kenya National Commission on Human Rights
- (c) Ethics and Anti- Corruption Commission

7.0 CONFIDENTIALITY

Siaya institute of Technology shall treat disclosures made under this policy with utmost confidentiality. The substance of an investigation including the identities of the parties will remain confidential and may only be disclosed in the following circumstances:

- (a) Where the law requires disclosure;
- (b) The whistleblower has waived his/her right of confidentiality;
- (c) The identity of the whistleblower or substance of disclosure is already publicly known; and
- (d) The information is given on strictly confidential basis for the purpose of obtaining professional advise.

8.0 PROTECTION FOR WHISTLEBLOWERS

If a member of staff makes a disclosure in conformity with this Policy, the member may not:

- (a) be dismissed from employment;
- (b) have salary increases or employment related benefits withheld;
- (c) be transferred or reassigned;
- (d) be denied a promotion that the employee otherwise would have received; or
- (e) be demoted.

If a trainee makes a disclosure in conformity with this Policy, the trainee may not:

- (a) be suspended or expelled from the Institute;
- (b) have financial aid or other benefits withheld;
- (c) be harassed by trainers, technical staff or other trainees;
- (d) be denied enrollment in classes;
- (e) have their grades reduced; or
- (f) be subject to any other form of discrimination.

If any other member of SIT community or stakeholders makes a disclosure in conformity with this policy, the Institute will not subject them to detrimental action.

Any member of SIT who takes the above detrimental action against a whistleblower will be subject to disciplinary action up to and including termination of services or expulsion from the Institute as appropriate.

9.0 PROTECTION OF THE SUSPECT

In the interest of natural justice, the suspect will be presumed innocent and will be accorded the right to be heard. The suspect will be taken through a fair due process.

10.0 WITHDRAWAL OF PROTECTION

The Institute may revoke the whistleblower protection conferred under this Policy if it is of the opinion, based on its investigation or in the course of its investigation finds that:

- (a) the whistleblower has participated in the bribery, corruption or malpractice disclosed;
- (b) the whistleblower willfully made in his/her disclosure of bribery, corruption or malpractice a material statement which he knew or believed to be false or did not believe to be true;
- (c) the disclosure of bribery, corruption or malpractice is malicious or baseless;
- (d) the disclosure of bribery, corruption or malpractice principally involves questioning the merits of government policy, including policy of a public body.

If the whistleblower protection has been revoked, the Integrity Assurance officer will give a written notification to that effect to the whistleblower.

11.0 INCENTIVES

The Integrity Assurance officer will develop a program for rewarding a whistleblower by giving non-monetary awards and commendations.

12.0 SANCTIONS

- i) A whistleblower who does not act in good faith or makes an allegation without having reasonable grounds for believing it to be substantially true, or makes it maliciously, will be subject to disciplinary proceedings.
- ii) Any person who condones corruption or malpractice through willful suppression or concealment of relevant information or interferes with the investigation will be disciplined.

13.0 LEGAL FRAMEWORK

This policy will be guided by the relevant legal and policy frameworks, which include:

- (a) Constitution of Kenya, 2010
- (b) Anti-Corruption and Economic Crimes Act, 2003
- (c) Commission on Administrative Justice Act, 2011
- (d) Ethics and Anti-Corruption Commission Act, 2011
- (e) Fair Administrative Action Act, 2015
- (f) Leadership and Integrity Act, 2012
- (g) Official Secrets Act (Cap 187)
- (h) Penal Code (Cap. 63)
- (i) Public Officer Ethics Act, 2003
- (j) Revised Public Procurement and Asset Disposal Act, 2022
- (k) Proceeds of Crime and Anti-Money Laundering Act, 2009

- (l) Public Audit Act, 2015
- (m) Public Finance Management Act, 2012
- (n) TVET Act, 2013
- (o) Witness Protection Act, 2006
- (p) Leadership and Integrity Code
- (q) Mwongozo Code of Conduct
- (r) Siaya Institute of Technology Rules and Regulations Governing Student Conduct
- (s) Siaya Institute of Technology Service Charter
- (t) Siaya Institute of Technology Staff Code of Conduct, 2021
- (u) Siaya Institute of Technology Academic policy
- (v) Siaya Institute of Technology Human resource policy

14.0 OBLIGATIONS

The Integrity Assurance officer will:

- (a) Receive all disclosures;
- (b) Investigate disclosures;
- (c) Maintain confidentiality;
- (d) Protect whistleblowers who have made disclosures in good faith from any sanctions, retaliation or reprisals resulting from such disclosure; and
- (e) Recommend rewards.

15.0 COMMITMENT

Siaya institute of Technology shall:

- (a) Ensure that the principles of natural justice apply to all investigations of matters covered under the Policy to ensure fairness for both the discloser and the person who is subject to the disclosure;
- (b) Ensure that the rights of the whistleblower who is the subject of, or is in some way associated with, a disclosure is safeguarded;
- (c) Ensure interests of the whistleblower are protected to ensure there will be no reprisals or retaliatory action against the whistleblower;
- (d) Promote an environment of openness and accountability; and
- (e) Sensitize SIT stakeholders on this policy.

16.0 ACCOUNTABILITY

The principal will be responsible for the implementation of this Policy.

17.0 IMPLEMENTATION

The Institute will provide a conducive environment for the implementation of this Policy

18.0 POLICY REVIEW

This policy will be reviewed after every three (3) years or as need may arise.

19.0 EFFECTIVE DATE

This policy comes into effect this²⁷.....day of.....NOVEMBER.....2022

Signed by.....*Daniel Ronda*.....Date:.....*27/11/2022*.....Sign.....*B. Mutha*.....

PRINCIPAL/SECRETARY BOG

ANNEX I

BRIBERY AND CORRUPTION REPORTING FORM

1. Please Note:

- (a) THAT this form shall be filled by anyone who wishes to report a case of bribery or corruption perpetrated by office or official(s) of the entity.
- (b) THAT this form shall be used by the entity in the investigation and determination of the matter.

2. I / We (name/s) (Optional)

- (a)
 - (b)
 - (c)
- (Tick appropriately)

Staff Stakeholder Other (specify) _____

3. Wish to make a complaint against the following person(s):

- (a)
- (b)
- (c)

4. On the grounds of:

Bribery Corruption Other (specify) _____

5. Please give details of bribery / corruption /concern (include as much details as possible e.g., date(s), time(s), location(s), amount of money involved, nature of advantage, circumstances of bribery etc.)

Attach separate sheet if space is not sufficient.

.....
.....
.....
.....

6. Witnesses/person(s) who may be interviewed or person(s) with knowledge of matter being complained of: (where possible explain why such person(s) should be contacted) (Optional)

- (a)
- (b)
- (c)

7. Have you filed this report elsewhere? (Either internally or externally – the EACC, Police/OB No.)

.....

8. Any other relevant information.....

By my signature I certify that:

- (a) The information provided is true and correct;
- (b) I have the right to expect highest level of confidentiality as relates to this report; and
- (c) Entity may take disciplinary action against me should the reporting be proven to be false, malicious or frivolous.

Email Address (optional):.....

Phone Number (optional):.....

Signature:.....

Date:.....