EthicsPoint Discussion, with Ellen Krutz, HR director, Debbie Fickler, General Counsel, Thursday 10 am Feb 20, 2014. With multiple follow-up email conversations. Summary by Robert Styer who is solely responsible for any misstatements.

EthicsPoint is an avenue to receive feedback from the community, but is only one avenue and does not receive any special consideration over other avenues of communication such as an email or phone call to an administrator.

The research shows that some persons are more comfortable giving feedback via an external anonymous system such as EthicsPoint, so such a “whistleblower” system can be useful to the University. The research also shows that the number one reason why individuals do not come forward to report instances of illegal conduct they know are taking place in the workplace is that they fear that they will experience some form of retaliation.

Bottom Line: if a complaint comes via EthicsPoint, this does not change the procedures followed; the same procedures apply to the complaint regardless of the channel through which it came.

A possible exception to this statement is in the event something comes in through the hotline that is of an emergency basis. In such instances, the hotline should not have been used, but there may need to be some variation in established processes to accommodate the nature of the emergency.

Hypothetical Scenario # 1: A student calls EthicsPoint with a grade complaint. Through the anonymous email exchange that EthicsPoint allows, an administrator would alert the complainant to the existing Grade Complaint Policy and would encourage the student to follow it. Per the policy, a written complaint would go to the department chair. The policy strongly urges the chair to establish direct communication between the student complainant and the faculty member. In those rare instances when anonymity seems appropriate to the department chair, the EthicsPoint channel can facilitate communication between the anonymous complainant and the chair. The use of the EthicsPoint conduit, however, does not negate or modify any aspect of the current Grade Complaint Policy.

Note: A complaint and findings may be placed in the professor’s personnel file depending on the final disposition of the complaint.

Hypothetical Scenario # 2: A staff member calls EthicsPoint and says A. Person has been embezzling money from the XYZ fund. An administrator would investigate this via standard financial accounting procedures. There would normally be no reason to contact the anonymous tipster nor to involve them in the process. If the University representative charged with the responsibility of investigating this complaint needs to ask the reporter follow up questions, one advantage of having a compliance and ethics hotline in place is the ability to communicate with the reporter, while the reporter remains anonymous if he or she chooses.

Hypothetical Scenario # 3: A graduate student calls EthicsPoint and says E. Vil. Prof. is hinting at a passing grade in return for unspecified sexual favors. The administrator in charge of sexual harassment would ask further questions via the EthicsPoint system and, based on the nature of the communication, would follow the existing sexual harassment policies which may or may not allow the accuser to remain anonymous.

Hypothetical Scenario # 4: A staff member calls EthicsPoint to say that another staff member has been annoying him on a regular basis (assume it is non-egregious harassment). An administrator would communicate with the complainant via EthicsPoint to verify if there is any basis for the complaint under the existing workplace harassment policies. If there is probable evidence for workplace harassment, the investigation would move forward following existing policies which would likely require the complainant to give up his anonymity. If the complainant does not wish to comply with the procedures, the investigation would not proceed.

Comment by Offices of General Counsel and Compliance: As to both Hypotheticals #3 and #4, there may be instances in which the reporter brings to light a situation that is happening in a department, with one or more faculty or staff members, that once a very limited inquiry takes place, facts come out that support that there may be an issue that must be further reviewed or investigated. Thus, while the hotline is not intended to be used, nor will it be used to go on a “fishing expedition,” the state of the law under both our obligation to preserve a work and educational environment free of sexual harassment and other forms of sexual misconduct, would necessitate that the University at least conduct a limited inquiry and/or investigation.

As noted above, a complaint and findings may be placed in a personnel file depending on the final disposition of the complaint.

EthicsPoint Procedures:

The current (2013-2014) Administrator of the EthicsPoint hotline is the Associate Vice-President for Human Resources. When a complaint is filed with EthicsPoint, the company sends it to administrators in three offices at VU: the General Counsel (and Associate General Counsel), the Associate Vice-President of HR, and the Compliance Officer. If the complaint is about one of these persons, then there is an alternate person designated. At least two of the designated persons confer to decide which administrator will investigate the complaint. Currently, academic complaints go to Craig Wheeland, student life and sexual harassment complaints go to Kathy Byrnes, and financial issues go to Neil Horgan. Effective with the new fiscal year 2014-2015, it is expected that the Compliance Officer will assume the role of Administrator of the hotline system, and will be responsible for education and training to support the effective operation of the hotline within our University community.

Another point to note is that the hotline is not meant to receive complaints only. The reporter may have questions regarding a policy or process, or a matter that is taking place in connection with a university sponsored activity, or other types of questions or inquiries. In this situation, the answer would be sought from the University area that oversees the matter in question.

Overall summary: EthicsPoint complaints do not get special treatment. They are handled with the same procedures as other complaints, except that communicating with the complainant takes place via the EthicsPoint system until the complainant decides not to be anonymous.