

21.04 Control of Fraud and Fraudulent Actions

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1. GENERAL

- 1.1 The System will pursue available legal remedies against persons or entities involved in fraudulent acts against the System. Remedies include, but are not limited to, terminating employment, requiring restitution, and forwarding ~~of~~ information regarding suspected fraud to the appropriate authorities for criminal prosecution. This policy is designed to inform System employees of their responsibility for detecting and reporting suspected fraud.
- 1.2 Factual information suggestive of illegal, improper, or dishonest acts and/or practices that may involve the System or one of the System components shall be reported. Such illegal, improper, or dishonest acts and/or practices may include, but not be limited to:
 - (1) theft;
 - (2) fraud;
 - (3) embezzlement;
 - (4) bribery/rebate/kick-back;
 - (5) misappropriation, misapplication, destruction, removal or concealment of property; or
 - (6) conflicts of interests.
- 1.3 The illegal, improper, or dishonest acts and/or practices referred to in 1.2 shall be referred to as “fraud” or “fraudulent acts,” “fraudulent incidents,” or “fraudulent practices.” The word “suspected,” when used with any of these terms, indicates the presence of a reasonable suspicion, based upon factual observations, that such illegal, improper, or dishonest acts and/or practices have been or are being committed.
- 1.4 This policy has the following objectives:
 - (1) to increase the awareness of all employees of the System to the possibility of fraud;
 - (2) to establish responsibility for detection, reporting, and examination of suspected fraud;
 - (3) to establish guidelines for processing allegations of fraud consistently throughout the System in a non-confrontational environment;

- (4) to ensure that the Chancellor and Board of Regents receive proper notification, documentation and reporting of all authenticated cases of fraud in the System; and
- (5) to establish the System as a leader in the creation and implementation of a fraud policy that provides for strict adherence to the highest standards of morals and ethics.

2. DUTIES AND RESPONSIBILITY OF SYSTEM COMPONENTS

2.1 Chief Executive Officers (CEOs) of all the System components have the primary responsibility for identifying potential areas of risk and being aware of the possibility that fraudulent acts could occur in those areas.

2.2 All CEOs shall notify their employees that they are to report specific incidents of suspected fraud in accordance with the System component procedures. Except for reportable theft incidents, which shall be reported directly to local law enforcement officials, such procedures shall provide that an employee shall notify his or her supervisor, the CEO or the Chief Auditor (CA). If the incident is reported to the employee's supervisor, the supervisor shall forward the report through appropriate administrative channels to the CEO, and examination shall proceed in accordance with Paragraph 2.2.1, below.

2.2.1 If the incident is reported to the CEO, either directly or through the employee's supervisor, the CEO or designee will notify the CA of the incident. With concurrence of the CA, the CEO may treat the incident as an administrative issue and have a qualified individual or individuals perform an objective review as may be considered necessary.

2.2.1.1 If no evidence of fraud is discovered, the results of the review by the CEO will be reported in writing to the CA immediately upon completion of the examination but in no case more than 30 days from the date the incident was first reported unless exceptional circumstances require a longer period for examination.

2.2.1.2 In cases where evidence of fraud is discovered, the CEO or designee will notify the campus police or other proper authorities and the CA within twenty four hours of such discovery and any further examination will be the responsibility of the CA in accordance with Paragraph 5. below.

2.2.2 If the incident is reported directly to the CA, that office has the option to:

- (1) Notify the CEO and, with the CEO's concurrence, treat the incident as an administrative issue to be handled as in 2.2.1 above; or
- (2) Notify the Chancellor and the CEO, as appropriate, and conduct an examination of the facts relating to the incident.

2.2.3 If an incident involves suspected fraudulent acts committed by the employee's supervisor or anyone in the employee's chain of command, then the report should be made to the CEO, to the CA, or to the level of authority immediately higher than the person suspected. If the person suspected is the CEO, then the report should be made directly to the CA.

2.2.4 It is the responsibility of each person to whom a suspected fraudulent act is reported initially, and each person who receives information about the reported suspected fraudulent act, to provide such information to persons in administrative authority on a need-to-know basis. Specifically, any allegations of fraud are not to be discussed with a suspect's coworkers except by persons designated by the CEO or CA to perform the examination, and then only for the purpose of securing information necessary to the examination that is not otherwise available.

3. DUTIES AND RESPONSIBILITIES OF EMPLOYEES

When suspected fraudulent incidents or practices are observed by or made known to an employee, the following procedures must be followed:

- (1) except as outlined in 2.2.3 above, the specific incident or practice shall be reported to the employee's supervisor, the employee's CEO or the CA as is considered appropriate by the employee; and
- (2) the reporting employee shall refrain from further examination of the incident, confrontation of the alleged violator, or further discussion of the incident with anyone other than the reporting employee's supervisor, the CEO or designee or the CA or designee and/or the law enforcement personnel.

4. EXAMINATION BY THE SYSTEM INTERNAL AUDIT DEPARTMENT

4.1 The CA shall have the primary responsibility for the examination, documentation and reporting of all allegations of suspected fraud in the System, except as otherwise determined in accordance with Paragraph 2.2, above, or authorized by the Chancellor or Board of Regents (BOR). All such examinations, documentation, and reports shall be considered confidential to the extent permitted by law.

4.2 If the examination provides evidence that significant suspected fraud has occurred:

- (1) the CA will prepare for the Chancellor and CEO a report giving the amount and type of loss, the means used to perpetrate the suspected fraud and the action taken to reduce additional losses;
 - (2) the CA will report the suspected fraud to local law enforcement agencies and will cooperate with such agencies as appropriate;
 - (3) the CA will prepare a summary of all examinations for the Chancellor and the Committee on Audit of the Board of Regents; and
 - (4) the Chancellor will direct the actions to be taken unless that responsibility is otherwise delegated to the CEO.
- 4.3 The CA will, as appropriate, communicate with the CEO regarding allegations of suspected fraud within the CEO's area of responsibility.
- 4.4 If the Chief Auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of The Texas A&M University System, or any of its components, the CA shall report the reason and basis for the belief to the state auditor. The state auditor may investigate the report or may monitor any investigation conducted by the department or entity. TEX. GOV'T CODE ANN. 321.022 (Vernon 1998).

5. ADMINISTRATIVE REQUIREMENTS

5.1 Examinations

- 5.1.1 Once a specific act or practice of suspected fraud has been reported and the State Auditor has chosen not to investigate, the CA is responsible for conducting an examination and will coordinate with appropriate law enforcement agencies in any examination, as appropriate. Unless a specific exception is made by the Chancellor or in accordance with Paragraph 2.2 above, such audit examinations shall be conducted solely by System Internal Audit personnel as deemed necessary and appropriate. Audits are to be conducted in accordance with the Standards for the Professional Practice of Internal Auditing and the Institute of Internal Auditors Code of Ethics.
- 5.1.2 The CA shall be allowed to engage experts in any field or area as needed to develop accurate and reliable evidence concerning suspected fraud.

- 5.1.3 The CA shall create processes and procedures which will allow confidential communications with those who have information concerning suspected fraud. All interviews conducted during the examination shall be conducted by at least two persons charged by the CA with such responsibilities.
- 5.1.4 Individuals providing information concerning suspected fraud shall be assured that the System will not allow any retribution against the individuals for acting in the best interest of the System.

5.2 Documentation and Reporting

- 5.2.1 The CA will be the custodian of all files and attendant documentation involved in the examinations of suspected fraud, except where conducted by law enforcement agencies.
- 5.2.2 The case report shall be prepared for each examination where there is authenticated evidence present to show that a possible fraud has been committed. Each case report shall include, but not be limited to the following: subject of the examination; statement of non-compliance with policy, plan, procedure, law or regulation; description of acts or practices discovered; statements of witnesses; appropriate documentation; and other data considered necessary by law enforcement officials.
- 5.2.3 The CA shall prepare summaries of such reports for the Committee on Audit of the Board of Regents and the Office of the Chancellor. The ~~Director~~CA shall consult with the Office of General Counsel at all times necessary so that appropriate legal measures are taken during the examination to protect the rights, privileges, and responsibilities of all parties involved, and to ensure that the appropriate state agencies are notified in a timely manner regarding an examination or prosecution of suspected fraud.
- 5.2.4 If the Chief Auditor receives an allegation of suspected fraudulent activities by the Chancellor, General Counsel, Component's Chief Executive Officer, Deputy Chancellors or Vice Chancellors of the System, the CA will immediately notify the Audit Committee through the Chairman of the Committee on Audit. If the CA has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of The Texas A&M University System, or any of its components, the CA shall report the reason and basis for the belief to the state auditor, and the Chairman of the Committee on Audit who will notify the Board of Regents through the Chairman of the Board of Regents. The Chairman of the Board of

Regents, in consultation with the Chairman of the Committee on Audits may request that the State Auditor investigate or may require the CA to request that the investigation be turned over to the State Auditor if it is in the best interest of The Texas A&M University System.

6. INFORMATION

Employees shall be provided information concerning their responsibilities for reporting suspected fraud and other criminal acts.

CONTACT OFFICE: [The](#) System Internal Audit Department