

Fraud

Original Implementation: January 28, 1997

Last Revision: October 29, 2018

Purpose

This policy establishes procedures and responsibilities for detecting, reporting, and resolving instances of known or suspected fraudulent activity. The intent of the policy is to protect the assets and interests of the university, prescribe a coordinated approach toward investigation and resolution of fraudulent activity, and outline specific responsibilities for individuals responding to the investigation of a fraudulent activity. Retaliation for filing a good faith report regarding suspected fraudulent activity is prohibited by this policy and is cause for disciplinary action, up to and including termination.

Definitions

- A. **University** - Stephen F. Austin State University (SFASU) and all of its components, regardless of the source of funding.
- B. **Employee** - All persons receiving compensation from the university, including faculty, staff, and students. The term also includes any volunteer who provides services to the university through an official arrangement with the university or a university organization.
- C. **Management** - Any administrator, manager, account holder, director, supervisor or other individual who manages or supervises funds, assets, or other resources, including human resources.
- D. **Fraud** - A representation usually of fact about a material point which is intentionally, knowingly, or recklessly false to induce another to act to his/her detriment.
- E. **Fraudulent Activities/Fiscal Misconduct** - Defalcation, misappropriation, and other fiscal irregularities or improprieties meeting the definition of fraud in D, above, including but not limited to:
 - 1. dishonest, illegal, or fraudulent acts involving university property;
 - 2. forgery or alteration of documents including checks, drafts, promissory notes, securities, purchase orders, budgets, etc.;
 - 3. forgery or unauthorized alteration by employees of employee benefit or salary-related items such as time sheets, payroll documents, billings, claims, surrenders, assignments, or changes in beneficiary;
 - 4. forgery or unauthorized alteration by employees of student-related items such as grades, transcripts, loans, fees, financial aid applications, or financial aid records;
 - 5. misappropriation of funds, securities, supplies, or any other asset of the university;
 - 6. illegal or fraudulent handling, or reporting, of money transactions;
 - 7. employee acceptance or solicitation of any gift, favor, or service that might reasonably tend to influence the employee in the discharge of his/her official duties;

8. theft, destruction, or disappearance of records, furniture, fixtures, equipment, or other assets;
9. misrepresentation of information on documents;
10. authorizing or receiving payment for goods not received or services not performed;
11. knowing, reckless, or intentional inaccuracies in the maintenance of books and records or irregularities in financial reporting;
12. any apparent violation of federal, state, or local laws related to dishonest activities or fraud;
13. any similar or related activity.

F. **Suspected Fraudulent Activity** - A reasonable belief or actual knowledge that fraudulent activity has or is occurring. Failure to show an actual diversion of assets or loss shall not be considered unreasonable belief.

General

Management is responsible for detecting fraudulent or related dishonest activity in their areas of responsibility. Management is responsible for establishing and maintaining a system of internal control that provides reasonable assurance that improprieties are prevented and detected. Each manager should be familiar with the types of improprieties that might occur in his/her area and be alert for any indication that such a defalcation, misappropriation, or other fiscal irregularity has occurred. When an impropriety is suspected, management should determine if an error or mistake has occurred or if there may be dishonest or fraudulent activity.

Management will support the university's fiduciary responsibilities and will cooperate with auditors and law enforcement agencies in the detection, investigation, and reporting of criminal acts, including prosecution of offenders. Every effort should be made to recover university losses.

Reporting Suspected Impropriety or Fraudulent Activity

Any employee of the university who knows of or suspects fraudulent activity or improprieties has the option to report suspected activity as follows:

- notify his/her immediate supervisor;
- notify one of the following university employees: the chief audit executive, the general counsel, the university chief of police, or the director of human resources;
- file a report using the university's anonymous reporting system coordinated by the Department of Audit Services for reporting dishonest or fraudulent activity. The university's reporting system, which is hosted by a third party, can be accessed 24 hours a day by calling 1-866-294-9539 or clicking the "Report Fraud" link on the SFA homepage; and/or
- file a report with the Texas State Auditor's Office by calling 1-800-TX-AUDIT (892-8348) or visiting their website at <https://sao.fraud.texas.gov>

All of these reporting options are listed on the university's website homepage www.sfasu.edu under the "Report Fraud" link at www.sfasu.edu/audit/fraudreport.asp.

Great care must be taken in the reporting and investigation of suspected improprieties or irregularities to avoid incorrect accusations or alerting suspected individuals that an investigation or audit is underway, and also to avoid making statements which could provide a basis for a lawsuit for false accusation or other offense. The reporting individual should not:

- contact the suspected individual to determine facts or demand restitution; or
- discuss the facts, suspicions, or allegations associated with the case with anyone, unless specifically directed to do so by the chief audit executive, university chief of police, general counsel, or director of human resources. To the extent permitted by the applicable provisions of the Texas Public Information Act, confidentiality of those reporting dishonest or fraudulent activities will be maintained. However, the confidentiality cannot be maintained if that individual is required to serve as a witness in legal proceedings.

Investigation

Prior to conducting an investigation, the appropriate personnel from the Office of the General Counsel and the Department of Audit Services will communicate as necessary to establish the investigative team.

All affected departments and/or individuals shall cooperate fully with the investigative team to identify whether or not actual fraudulent activity has occurred.

The investigative team shall update university administration on the progress of all investigations.

All requests for information and assistance related to investigations conducted by auditors of federal and state agencies, which are concerned with potential dishonest or fraudulent activities within the university, shall be forwarded immediately to the chief audit executive for consultation with the general counsel.

All inquiries from the suspected individual, their representative, or their attorney shall be directed to the general counsel without further comment.

All reproduction of documents, evidence, and reports shall be performed within the secured work area of the University Police Department or Department of Audit Services. Any requests to release or review such documents will be coordinated through the general counsel.

In order to protect the reputations of innocent persons initially suspected of wrongful conduct and to protect the university from potential civil liability, the results of investigations and audits will not be disclosed or discussed with anyone other than authorized representatives of law enforcement and/or regulatory agencies and persons associated with the university who have a

legitimate need to know such results in order to perform their duties and responsibilities, subject to provisions of the Texas Public Information Act.

The results of all investigations will be reported to the president of the university or to the chair of the Board of Regents Finance and Audit Committee when considered necessary.

Allegations of Defalcation, Misappropriation, and other Fiscal Irregularities

The chief audit executive will supervise all audits of allegations of defalcation, misappropriation, and other fiscal irregularities. The Department of Audit Services will have full and unrestricted access to all necessary records, including e-mail, and personnel. All university equipment, furniture, and contents, including desks and computers, are open to inspection when there is reasonable suspicion of a dishonest or fraudulent activity which makes such inspection appropriate; there is no assumption of privacy. The general counsel shall be contacted before inspection of desks and computers beyond inadvertent or official access. Every effort should be made to effect recovery of university losses.

Pursuant to Section 321.022 of the Texas Government Code, the president shall file a report with the Office of the State Auditor if he/she has reasonable cause to believe that money received from the state by the university may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity. All records of a communication by or to the state auditor in this regard are legally considered audit working papers of the state auditor.

Allegations of Criminal Activity

When an audit reveals suspected criminal activity, or an audit is initiated due to an allegation of criminal activity, the university chief of police will be notified immediately and the audit will proceed under his/her direction. The Department of Audit Services shall assist the university police in investigations of suspected defalcation, misappropriation, and other fiscal irregularities that require accounting and auditing knowledge of university records.

When suspected criminal activity may constitute a felony offense, the university chief of police shall, when appropriate, immediately notify the president or his/her designee. The university chief of police, chief audit executive, and general counsel will coordinate assistance provided to state, federal, and local law enforcement agencies in connection with felony fraud investigations. All requests for information and/or assistance from such agencies, received by any other component of the university, shall be immediately forwarded to the university police for determination and handling. All reasonable assistance will be given to law enforcement agencies when requested.

Audits revealing violations of the Penal Code for which an audit report will be issued shall be reduced to final report form only after consultation by university police with the local prosecutor

or the Office of the General Counsel to ensure that appropriate documentation of the facts has been achieved in order to permit appropriate personnel action, protect innocent persons, support appropriate civil or criminal actions, document claims made pursuant to applicable fidelity bonds, preserve the integrity of criminal investigation and prosecution, and avoid unnecessary litigation.

Allegations Involving Employment Conditions

The director of human resources will supervise or assist with all investigations involving allegations that arise by nature of one's employment that do not otherwise fall into one of the above categories.

Audit Findings

Each investigation of possible dishonest or fraudulent activities has the potential to provide valuable insight into university activities. Investigations may disclose control weaknesses or other deficiencies that require additional auditing or attention by management. The Department of Audit Services shall consider the nature and extent of the investigation and complete any additional audit work necessary to provide management with information for appropriate action.

Cross Reference: Ethics (2.6); Tex. Gov't Code § 321.022

Responsible for Implementation: President

Contact for Revision: Vice President for Finance and Administration

Forms: None

Board Committee Assignment: Finance and Audit