

## **FRAUD**

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This policy is to specifically address fraudulent acts. Fraudulent activity of any kind, including for the benefit of the College, is expressly forbidden. This policy establishes the procedures and responsibilities for reporting and resolving instances of known or suspected fraudulent acts.

### **DEFINITION**

An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Any kind of artifice employed by one person to deceive another. (Black's Law Dictionary)

### **BROADENED DEFINITION**

For purposes of this policy, the definition has been broadened to include:

- a. an intentional or deliberate act;
- b. depriving the College or a person of something of value or gaining an unfair benefit; and
- c. using deception, false suggestions, suppression of truth, or other unfair means which are believed and relied upon.

### **FURTHER DEFINITION**

A fraudulent act may be an illegal, unethical, improper, or dishonest act including, but not limited to:

- a. embezzlement;
- b. misappropriation, misapplication, destruction, removal, or concealment of property;
- c. alteration or falsification of documents;
- d. false claims by students, employees, vendors, or others associated with the College;
- e. theft of any asset including, but not limited to, money, tangible property, trade secrets or intellectual property;
- f. inappropriate use of computers, including hacking and software piracy;
- g. bribery, rebate, or kickback;
- h. conflict of interest; or misrepresentation of facts.

### **DETERMINATION**

While a fraudulent act may have criminal and/or civil law consequences, the College is not required to use a determination by a criminal justice authority to criminally prosecute as the basis for determining whether an act is fraudulent. It is the internal determination that the above criteria are present that defines an act as fraudulent under this policy.

### **DUTIES AND RESPONSIBILITIES**

Generally, employees, students, and other persons associated with the College (collectively, members of the campus community) abide by laws, rules regulations, and policies; however, incidents of fraud may occur. Administrators at all levels of management are accountable for setting the appropriate tone of intolerance for fraudulent acts by displaying the proper attitude toward complying with laws, rules, regulations, and policies, including ethics policies. In addition, administrators should be cognizant of the risks and exposures inherent in their area of responsibility, and should establish and maintain proper internal controls which will provide for the security and accountability of the resources entrusted to them.

Any member of the campus community who has a reasonable basis for believing a fraudulent act has occurred has a responsibility to promptly notify one of the following:

- a. his or her supervisor;
- b. the appropriate administrator;
- c. Internal Audit

Employees who, in good faith, report unlawful activity are protected by the Texas Whistleblower Act against any retaliation by the College for making such a report. The reporting member of the campus community shall refrain from confrontation of the suspect, further examination of the incident, or further discussion of the incident with anyone other than the employee's supervisor or others involved in the resulting review or investigation. Persons found to be making frivolous claims under this policy will be disciplined, up to and including termination of employment or expulsion from the College.

### **INVESTIGATION**

Supervisors and administrators at all levels of management who become aware of suspected fraudulent activity are to respond in a consistent and appropriate manner and shall report the suspected activity to the College Fraud Officer (VP Finance). With the concurrence of the Director of Audits and Compliance, the supervisor or administrator may treat the incident as an administrative issue and have a qualified individual or individuals perform an objective review as considered necessary. The Office of Audits and Compliance has the primary obligation for investigating reported incidents to the extent considered necessary for resolution. The Office of Audits and Compliance may contact other college departments to establish the necessary team to proceed with the review or investigation. The investigative team will attempt to keep source information as confidential as possible. In those instances where the investigation indicates criminal activity, the investigation shall be turned over to the appropriate law enforcement agency.

All affected departments and/or individuals shall cooperate fully with those performing a review or investigation, including the Office of Audits and Compliance, law enforcement officials, regulators, and any other parties involved. During all aspects of the review or investigation, the Constitutional rights of all persons will be observed. Suspects and others involved in the review shall be treated consistently without regard to past performance, position held, length of service, race, color, religion, sex, age, disability, national origin, or veteran status.

### **DISCIPLINARY ACTIONS**

Employees found to have participated in fraudulent acts as defined by the policy will be subject to disciplinary action, up to and including termination, pursuant to personnel policies and rules. Additionally, employees suspected of perpetrating fraudulent acts may be placed on paid administrative leave during the course of the investigation. In those cases where disciplinary action is warranted, the Human Resources Office, Office of General Counsel, or other appropriate office shall be consulted prior to taking such actions. Criminal or civil actions may be taken against employees who participate in unlawful acts.

The employment of any employee involved in the perpetration of a fraud will ordinarily be terminated without eligibility for rehire. Actions to be taken will be determined without regard to past performance, position held, length of service, race, color, religion, sex, age, disability, national origin, or veteran status.

Students found to have participated in fraudulent acts as defined by this policy will be subject to disciplinary action pursuant to operating manuals. In those cases where disciplinary action is warranted, the Academic Dean, Office of Student Services, Office of General Counsel, or other appropriate office shall be consulted prior to taking such actions. Additionally, criminal or civil actions may be taken against students who participate in unlawful acts.

The relationship of other individuals or entities associated with the College found to have participated in fraudulent acts as defined by this policy will be subject to review, with possible consequences including termination of the relationship. In those cases where action is warranted, the Office of General Counsel or other appropriate office shall be consulted prior to taking such actions. Additionally, criminal or civil actions may be taken against individuals or entities associated with the College who participate in unlawful acts.

### **REPORTING**

The results of investigations conducted by the Office of Audits and Compliance shall be communicated, either orally or in writing, as determined by the Director of Audits and Compliance to the board and chancellor, or other appropriate administrator.

## **REPORTING CODE VIOLATIONS**

Employees should report suspected violations of this Code, applicable laws, regulations, and government grant and contract requirements through standard management reporting channels, beginning with the immediate supervisor. Alternatively, employees may go to a higher level of management and may also report suspected violations or problems to the Director of Internal Audit. In all instances, violations of laws or regulations should be reported to the Director of Internal Audit (880-8933). Such reports may be made confidentially and/or anonymously although a greater level of information allows for a more thorough investigation. Raising such concerns is a service to the College and consistent with the State of Texas's Whistleblowers' Protection Act, will not jeopardize employment.

The Texas State University System has selected a private contractor, EthicsPoint, as a confidential means of reporting for individuals unable to use existing reporting procedures. A link is found on the TSUS web site

## **TRAINING**

The System Administrative Office shall conduct, in even numbered years, training sessions for the personnel of each component institution responsible for ethics training in the various departments of such institutions. These training sessions will provide the trainees with the methods, policies and materials necessary to allow them to train each employee within their supervision or responsibility. Each component institution is responsible for training each employee each biennium. The President will notify the Chancellor upon completion of the ethics training each biennium.

## **DISTRIBUTION OF POLICY**

This policy will be distributed at the beginning of each fiscal year. The Human Resources Office is responsible for the distribution. The policy may be delivered in electronic format.