

College Operating Procedures (COP)



Procedure Title: Suspected or Known Fraud, Abuse or Other Illegal Acts
Procedure Number: 04-0703
Originating Department: Office of Financial Services

Specific Authority:

Board Policy 6Hx6:2.10
Florida Statute 1001.20
Florida Administrative Code 6A-14.060

Procedure Actions: Adopted: 1/10; 11/1/10

Purpose Statement: All employees have a responsibility to maintain high ethical standards. Each employee has the right and obligation to report suspected or known fraud, abuse or other illegal acts, including violation of college policies and illegal or unsafe activities.

Guidelines:

This procedure establishes a uniform method for the reporting and investigating of potential incidents of fraud, abuse and other illegal acts against the College.

Procedures:

I. Definitions:

Acts of fraud, abuse or other illegal acts impact the resources of the College. These categories differ from each other and are defined as follows:

Fraud – Any intentional deception designed to unlawfully deprive the College of something of value or to secure from the College for an individual a benefit privilege, allowance, or consideration to which he or she is not entitled.

Abuse – Intentional, wrongful, or improper use or destruction of College resources. Abuse can include the excessive or improper use of an employee or official's position in a manner other than its rightful or legal use.

Examples include asset misappropriation, corruption, false statements, false overtime pay, petty theft and pilferage, use of college property for personal benefit, and payroll and sick time abuses (see appendix A for detailed examples). The key is that the activity meets one or more of the following:

- Is clandestine

- Violates the employee's fiduciary duties to the organization
- Is committed for the purpose of direct or indirect financial benefit to the employee
- Costs the colleges assets, revenues or reserves

This procedure does not address offenses against the person or personal property of faculty, staff, students, or visitors of the College. This procedure does not apply to allegations of academic misconduct or to allegations of discrimination or harassment.

II. Reporting Suspected or Known Fraud, Abuse or Other Illegal Acts:

A. Employee Responsibilities

An employee with a reasonable basis for believing an act of fraud, abuse or other illegal acts has occurred has a responsibility to report the suspected act in a timely manner as follows:

1. Employees should first discuss their concern with their immediate supervisor or manager. The employee should report in writing the following:
 - Department where it is occurring
 - What is occurring
 - When it occurred
 - Who is involved
 - How is it occurring
2. If the employee suspects that the supervisor has participated in or condoned the act, the employee should report the matter to the next highest level of supervision or management or directly to the Associate Vice President, Human Resources.
3. If the employee notifies his/her supervisor (or higher authority), the supervisor (or higher authority) must immediately direct the report to the Associate Vice President, Human Resources.
4. The Associate Vice President, Human Resources must immediately direct the report to the appropriate Campus President or Vice President, Senior Vice President and Director of Public Safety
5. The reporting employee will 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 President (or designee), the Associate Vice President, Human Resources or law enforcement.

III. Acting on Allegations of Fraud, Abuse or Other Illegal Acts:

It is the responsibility of the College to investigate suspected fraud, abuse and other illegal acts and take the appropriate action based on the evidence. In coordination with Human Resources, the Director of Public Safety will address all reported incidents by gathering facts specific to the case. After the facts are gathered, the Director of Public Safety and the appropriate officials engaged to review the facts will ascertain whether or not evidence exists.

A. If Evidence of Fraud, Abuse or Other Illegal Acts Exists:

The Director of Public Safety will conduct an investigation of the facts relating to the incident.

1. During an investigation, it may be deemed advisable that an employee be temporarily reassigned, relieved of duties, relieved of authority to expend College funds, and/or removed from the scene of the investigation pending the outcome of the investigation. The purpose of such action would be to safeguard the College's assets or facilitate the investigation. Should the President, or designee, legal counsel and/or law enforcement concur that such action is necessary, the employee's immediate supervisor and appropriate Vice President will work with the Associate Vice President, Human Resources to determine the appropriate action.
2. The Director of Public Safety will engage experts, consult with legal counsel, President or designee and appropriate law enforcement as necessary, to develop accurate and reliable evidence to determine whether or not fraud, abuse or other illegal acts has occurred based on the evidence.
3. If it is determined that fraud, abuse or other illegal acts has occurred, the Director of Public Safety will do the following.
4. Refer all evidence to appropriate law enforcement agency (as necessary) and will assist law enforcement, as requested, as well as prepare a written report containing scope of work, findings, and recommendations.
5. Notify the Vice President of Financial Services. The Vice President of Financial Services, or designee, will notify the risk management consortium.
6. In all cases, regardless of the outcome, the Director of Public Safety will prepare a report containing scope of work, findings, and recommendations to be submitted to the President or designee and the Audit Committee.

B. If Evidence of Fraud, Abuse or Other Illegal Acts Does Not Exist:

If evidence of fraud, abuse or other illegal act does not exist, the matter will be considered administrative and the Director of Public Safety will conduct an objective review of the facts relating to the incident and will prepare a written report to the Senior Vice President and to the appropriate Department Manager. The issue will be considered closed.

IV. Employee Disciplinary Actions:

Employees found to have participated in acts of fraud, abuse or other illegal acts, or any employee who hinders an inquiry or investigation by making a false or misleading statement, or any employee who has knowledge of a dishonest act, but fails to report it according to this procedure may be subject to disciplinary action. The appropriate official shall determine whether disciplinary action will be taken.

V. Acting in Good Faith:

A. Anyone reporting an incident of fraud, abuse or other illegal act, must act in good faith and have reasonable grounds for believing the information disclosed is valid.

B. Employees who in good faith report unlawful activity are protected under Federal and State law from retaliation by management and other employees.

C. The act of making allegations that prove to be unsubstantiated, and that prove to have been made maliciously, recklessly, or with the foreknowledge that the allegations are false, will be viewed as a serious disciplinary offense and may result in discipline, up to and including dismissal from the volunteer position or termination of employment.

VI. Confidentiality:

Reports of incidents of fraud, abuse or other illegal acts and investigation pertaining thereto, shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Disclosure of reports to individuals not involved in the investigation will be viewed as a serious disciplinary offense and may result in discipline, up to and including termination of employment.

VII. Audit Committee:

The Audit Committee and/or Executive Director of Finance shall consider whether evidence of the possible acts of fraud, abuse or other illegal acts reveals areas or practices in college internal controls needing modification. The Audit Committee and/or Executive Director of Finance may recommend corrective actions to the President or designee.

Appendix A

Acts of fraud, abuse or other illegal acts include, but are not limited to the following:

- Theft or misappropriation of funds, supplies, property, computer software, intellectual property, or other resources
- Fictitious disbursements
- Check tampering such as forged endorsement, altered payee or concealed checks
- Fictitious write-offs and refunds
- Fictitious vendor or employee payments
- False statement
- False overtime
- Petty theft and pilferage
- False request for reimbursement
- Forgery or alteration of documents
- Bribery or attempted bribery
- Invoice kickbacks
- Bid rigging
- Illegal gratuities
- Unauthorized use of records or access to information systems, including unauthorized sharing of computer security clearance
- Unauthorized alteration, manipulation, or destruction of computer files and data
- Falsification of reports to management or external agencies
- Conflicts of interest that pursue a personal benefit or advantage while compromising the public interest
- Improper handling or reporting of financial transactions
- Inaccurate employee credentials
- Authorizing or receiving compensation for goods not received or services not performed
- Authorizing or receiving compensation for hours not worked
- Willful violations of law, regulations and policies or contractual obligations when conducting Florida SouthWestern State College business
- Payroll and sick time abuse