

1. Title

Dishonest or Fraudulent Activities

2. Policy

Sec. 1 Purpose. Each University of Texas System institution has established reporting structures and responsibilities within its institution. The purpose of this Policy is to establish a U. T. System policy regarding internal investigations of suspected defalcation, misappropriation, and other fiscal irregularities that are supplemental to the internal administrative policies established at each institution.

Sec. 2 Policy Statement. Good business practice dictates that every suspected defalcation, misappropriation, and other fiscal irregularity be promptly identified and investigated.

Sec. 3 Scientific Misconduct. Allegations involving scientific misconduct will be handled in accordance with the controlling institutional policies based upon the Office of General Counsel Model Policy entitled "Procedure for Dealing with Allegations of Misconduct in Science."

Sec. 4 Establishment of Internal Controls. Management shall establish and maintain a system of internal control that provides reasonable assurance that improprieties are prevented and detected. Each manager must be familiar with the types of improprieties that might occur in his or her area and be alert for any indication that such a defalcation, misappropriation, or other fiscal irregularity has occurred.

Sec. 5 Cooperation with Law Enforcement. Management must support the U. T. System's fiduciary responsibilities and must cooperate with law enforcement agencies in the detection, investigation, and reporting of criminal acts, including prosecution of offenders. Every effort should be made to recover U. T. System losses.

Sec. 6 Internal Audit. The Office of Internal Audit must supervise all audits of allegations of defalcation, misappropriation, and other fiscal irregularities. When an audit reveals suspected criminal activity, or an audit is initiated due to an allegation of criminal activity, the University Police must be notified immediately.

Notification by Internal Audit. When an audit involves allegations or reveals suspected criminal activity that may constitute a felony offense, the Director of Internal Audit shall, when appropriate, immediately notify the Chief Administrative Officer, or his or her designee, and then must notify the U. T. System Director of Audits. The Director of Internal

Audit shall consult with institution legal advisors or the Office of General Counsel, and the Office of General Counsel must be kept informed regarding the progress of the audit.

- Sec. 7 Notification by Chief Administrative Officer. The Chief Administrative Officer shall notify the appropriate Executive Vice Chancellor of criminal activity, as appropriate.
- Sec. 8 Notification to the Director of Police. The Director of Police must be made aware of all felony fraud investigations, and must be kept current by University Police of the progress of investigations conducted by institution police departments.
- Sec. 9 Notification by Chief Business Officer. In accordance with the Board of Regents' *Rules and Regulations*, Rule 80601, the appropriate Chief Business Officer must notify the Executive Vice Chancellor for Business Affairs as soon as it is known that a loss has occurred for approval of all insurance and fidelity bond claims.
- Sec. 10 Coordination of Assistance. The Office of Internal Audit, University Police, institution legal advisors, and the Office of General Counsel must coordinate assistance to State, federal, and local law enforcement agencies. All requests for information or assistance from such agencies that are received by other areas shall be immediately forwarded to the University Police for determination and handling. All reasonable assistance must be given to law enforcement agencies when requested.
- Sec. 11 Investigations by Federal and State Agencies. All requests for information and assistance related to investigations conducted by auditors of federal and State agencies that are concerned with potential dishonest or fraudulent activities within the U. T. System, shall also be forwarded immediately to the Director of Internal Audit who shall consult with the Office of General Counsel, or with institution legal advisors who shall notify the Office of General Counsel.
- Sec. 12 Criminal Investigations. In order to avoid the use of investigatory techniques that might prevent evidence from being used in a criminal prosecution, University Police must coordinate the criminal investigation once probable criminal activity has been detected.

The Office of Internal Audit shall assist the University Police in investigations of suspected defalcation, misappropriation, and other fiscal irregularities that require accounting and auditing knowledge of U. T. System records.

- Sec. 13 Audit Workpapers. The Office of Internal Audit must keep its workpapers secure and limit access to only those individuals designated by the Director of Internal Audit.
- Sec. 14 Texas Public Information Act. The Office of Internal Audit must be available and receptive to receiving relevant information on a confidential basis, subject to the provisions of the Texas Public Information Act.
- Sec. 15 Reporting by Employees or Students. Employees and students may directly contact the Director of Internal Audit, the Compliance Officer, the University Police, or executive management whenever an activity is suspected to be dishonest or fraudulent. The reporting individual should not attempt to personally conduct investigations or interviews/interrogations in order to determine whether or not a suspected activity is improper.
- Sec. 16 Disclosure of Investigation. In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, and to protect the U. T. System from potential civil liability, the results of audits or investigations may not be disclosed or discussed with anyone other than authorized representatives of law enforcement or regulatory agencies and only those persons associated with the U. T. System, who need to know such results, in order to perform their duties and responsibilities, subject to the provisions of the Texas Public Information Act.
- Sec. 17 Preparation of Audit Reports. Audits revealing violations of the *Texas Penal Code* for which an audit report will be issued, should be reduced to final report form only after consultation by University Police with the local prosecutor or the Office of 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 the criminal investigation and prosecution, and avoid unnecessary litigation.
- Sec. 18 Responsibilities of Reporting Individual. Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid incorrect accusations or alerting suspected individuals that an audit is underway and also to avoid making statements that could provide a basis for a suit for false accusation or other offenses. Accordingly, the reporting individual should not
- 18.1 Contact the suspected individual to determine facts or demand restitution; or

- 18.2 Discuss any facts, suspicions, or allegations associated with the case with anyone, unless specifically directed to do so by the Office of Internal Audit, Compliance Office, University Police, institution legal advisors, or the Office of General Counsel.
- Sec. 19 **Inquiries by Suspected Individuals.** All inquiries from the suspected individual or his or her representative or attorney shall be directed to institution legal advisors or the Office of General Counsel. Proper response to such an inquiry should be, "I'm not at liberty to discuss this matter." Under no circumstances should there be any reference to "what you did," "the crime," "the fraud," "the forgery," "the misappropriation," or similar references.
- Sec. 20 **Reproduction of Documents.** All reproduction of documents, evidence, and reports shall be performed within the secured work area of the Office of Internal Audit or University Police.
- Sec. 21 **Confidentiality for Those Who Report.** 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.
- Sec. 22 **Authority to Stop an Investigation.** When an audit initiated due to an allegation of criminal activity has failed to detect criminal activity or when advised by the Office of General Counsel, the Director of Internal Audit has the discretion to stop the audit. However, with regard to criminal investigations conducted by University Police, only the Office of the District Attorney is authorized to review the progress of the criminal investigation and make the legal determination regarding whether to pursue a criminal prosecution.
- Sec. 23 **Additional Work.** Each investigation of possible dishonest or fraudulent activities has the potential to provide a unique insight into specific activities conducted by the U. T. System and may disclose control weaknesses and other areas that need additional auditing or management's attention. The Office of Internal Audit must review each investigation to determine if additional work needs to be done in order to provide the Audit Committee and management with a basis for taking any corrective action.
- Sec. 24 **Notification to State Auditor.** If funds received from the State are lost, misappropriated, misused, or other unlawful conduct has occurred in relation to the operation of the entity, the Chief Administrative Officer of the entity shall report the reason and basis for the alleged fraud to the

State Auditor as required by *Texas Government Code*, Chapter 321, Section 321.022.

3. Definitions

Audit Committee - the committee at each institution and at U. T. System Administration responsible for audit oversight at the institution or U. T. System Administration.

Chief Administrative Officer - the president of the institution or the Chancellor for U. T. System Administration.

Compliance Office - the department or office at each institution and at U. T. System Administration responsible for the compliance function at the institution or U. T. System Administration.

Compliance Officer - the individual at each institution and at U. T. System Administration responsible for directing the compliance function at the institution or U. T. System Administration.

Defalcation, Misappropriation, and Other Fiscal Irregularities - these terms include but are not limited to any

- (a) dishonest, illegal, or fraudulent act involving U. T. System property;
- (b) forgery or alteration of checks, drafts, promissory notes, and securities;
- (c) forgery or alteration of employee benefit or salary related items such as time cards, billings, claims, surrenders, assignments, or changes in beneficiary;
- (d) forgery or alteration of medical related items such as reports, charts, prescriptions, x-rays, billings, or claims;
- (e) forgery or alteration by employees of student related items such as grades, transcripts, loans, or fee or tuition documents;
- (f) misappropriation of funds, securities, supplies, or any other asset;
- (g) illegal or fraudulent handling or reporting of money transactions;
- (h) acceptance or solicitation of any gift, favor, or service that might reasonably tend to influence the employee in the discharge of his or her official duties; or

- (i) destruction or disappearance of records, furniture, fixtures, or equipment where theft is suspected.

Director of Internal Audit - the individual at each institution and at U. T. System Administration responsible for directing the internal audit function at that institution or U. T. System Administration.

Director of Police - the individual at U. T. System Administration responsible for directing the police function.

Employee - all personnel employed by the U. T. System including faculty, staff, residents, and student employees.

Institution Legal Advisors - institution personnel responsible for the coordination of legal matters with the Office of General Counsel.

Office of General Counsel - the office at U. T. System Administration responsible for the legal function.

Office of Internal Audit - the department or office at each institution and at U. T. System Administration responsible for the internal audit function at that institution or U. T. System Administration.

State Auditor's Office - the State Auditor is appointed pursuant to the *Texas Government Code* Title 3, Section 321.005, to investigate all custodians of State funds, disbursing agents, and department personnel.

University Police - the department or office at each institution and at U. T. System Administration responsible for the police function at that institution or U. T. System Administration.

U. T. System - The University of Texas System Administration and institutions, collectively.

4. Relevant Federal and State Statutes, Policies, and Standards

[Texas Government Code Chapter 552, Public Information](#)

[Texas Government Code Chapter 321.022, Coordination of Investigations](#)

[General Appropriations Act \(81\) Article IX, Section 17.05, Fraud Reporting](#)

[State Auditor's Office Hotline](#)

[Texas Government Cod Chapter 554, Protection for Reporting Violations of Law](#)

5. Relevant System Policies, Procedures, and Forms

[Board of Regents' Rules and Regulations, Rule 80601](#)

6. System Administration Office(s) Responsible for Policy

System Audit Office

7. Dates Approved or Amended

February 4, 2002

October 2, 2009

November 27, 2012

8. Contact Information

Questions or comments about this policy should be directed to:

- bor@utsystem.edu