

NEW COLLEGE OF FLORIDA REGULATIONS MANUAL

CHAPTER 3 - Administrative Affairs

3-1016 Fraudulent or Other Dishonest Acts

I. Introduction

The New College of Florida (NCF) Board of Trustees (Board) are committed to creating an organizational culture where risk management is actively practiced to effectively prevent and detect significant fraud, waste or abuse within the university. To that end, the Board is establishing this regulation and a zero-tolerance policy concerning fraudulent activity. This regulation is applicable to all members of the university community including Board members, university and auxiliary employees, entities contracting with or doing business with the university, vendors, volunteers, and students. All NCF employees and Board members are expected to observe the provisions of the Code of Ethics for Public Officers and Employees, Part III of Chapter 112, Florida Statutes.

Generally, employees and trustees abide by laws and regulations; however, incidents of fraudulent or other dishonest acts may occur. Administrators at all levels of management should set the appropriate tone by displaying the proper attitude toward prudent fiscal management, complying with all laws, rules, and regulations, and are responsible for establishing, adhering to and maintaining effective risk management and internal controls which will assure the security and accountability of the personnel, resources and fiscal responsibilities entrusted to them. In addition, administrators should be cognizant of the risks and exposures inherent in their area of responsibility, and be aware of the symptoms and red flags of fraudulent and other dishonest acts, should they occur.

(1) General

- (a) Employees found to have participated in fraudulent or dishonest acts will be subject to the strictest disciplinary action pursuant to collective bargaining agreements and personnel policies and rules. Also, criminal or civil actions may be taken against employees or other individuals who participate in unlawful acts when sufficient evidence is available.
- (b) Employees who, in good faith, report wrongful activity meeting the criteria of Section 112.3187, Florida Statutes (Florida Whistle-blower's Act), are protected by the Florida Whistle-blower's Act. Retaliation for making such a report will not be tolerated.
- (c) Employees are required to cooperate with any police, Human Resources, Compliance Officer, or Internal Audit investigation, and are required to keep their knowledge of such an investigation confidential.

(2) Definitions

- (a) Enterprise Risk Management Program – The NCF Enterprise Risk Management (ERM) program shall follow the Committee of Sponsoring Organizations (COSO) framework which identifies the university mission critical strategic objectives and management's efforts to assure their achievement through the mitigation of inherent risks. The ERM program shall also utilize a Fraud Risk Assessment framework to evaluate management's success in developing an effective system

of fraud prevention and detection internal controls.

- (b) Fraud - The Board of Governor's regulation 3.003, *Fraud Prevention and Detection*, defines fraud as: an intentional misrepresentation or concealment of a material fact for the purpose of obtaining a benefit that would not otherwise be received, or inducement of another to act upon the intentional misrepresentation or concealment to his or her detriment. The Association of Certified Fraud Examiners (ACFE) defines "fraud" as: "The use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets." (Report to the Nation on Occupational Fraud and Abuse, 1999).

Occupational fraud, waste, and abuse encompasses a wide variety of conduct by employees, managers, and principals of organizations ranging from pilferage to sophisticated investment swindles. Common violations include asset misappropriation, corruptions, false statements, false overtime, petty theft and pilferage, use of company property for personal benefit, and payroll and sick time abuses. The key is that the activity:

1. is clandestine;
2. violates the employee's fiduciary duties to the organization;
3. is committed for the purpose of direct or indirect financial benefit to the perpetrator; and
4. costs the organizations assets, revenues, or reserves.

Exhibit A of this Regulation includes a more detailed list of activities that constitute fraud or are considered fraudulent.

(3) University Community Member Responsibilities:

- (a) The President's Cabinet members as designed for each Strategic Business Risk, are responsible for designing, implementing, and overseeing the university's Enterprise Risk Management (ERM) program, system of internal controls and other antifraud framework strategies. These executives ~~may~~ should consult with the Chief Audit Executive to assure the ERM risk mitigation strategies and internal controls are properly designed and operating effectively.
- (b) All university community members are responsible for reporting suspected fraudulent activities to the proper authority as follows:
1. The NCF Police Department when they are observing a criminal act in progress, such as theft or destruction of NCF property, or if they have reasonable suspicion that a criminal act is going to be or has been committed.
 2. The Chief Audit Executive of all known or suspected fraudulent, wasteful, abusive, or dishonest acts. ~~College-NCF~~ executives, managers, supervisors, and administrators who become aware of known or suspected fraudulent, wasteful, abusive, or dishonest acts shall ensure the Chief Audit Executive is made aware of such. As deemed appropriate, the Chief Audit Executive shall keep the College President (or designee) informed of suspected fraudulent, wasteful, abusive, or dishonest acts.

3. The reporting community member will refrain from further examination or investigation of the suspected wrongdoing, confrontation of the alleged perpetrator, or further discussion of the incident with anyone other than the Chief Audit Executive and/or law enforcement unless otherwise directed by the Chief Audit Executive or compelled by subpoena. Reports may be made in person, using standard NCF e-mail and telephone communication, or anonymously through the NCF Report a Problem website options at:
<https://www.ncf.edu/about/departments-and-offices/office-of-the-general-counsel/report-a-problem/>

(4) Chief Audit Executive Responsibilities:

- (a) It is the responsibility of the Chief Audit Executive to independently and objectively evaluate all complaints involving allegations of fraudulent, wasteful, abusive, and dishonest acts and act on such in accordance with this Regulation, the Internal Audit Charter, the State University System Board of Governors Regulations and Standards, Association of Certified Fraud Examiners guidelines and code of ethics as well as the Institute of Internal Auditors standards and code of ethics.
- (b) The Chief Audit Executive, with the support of the Police, ~~and~~ Legal Counsel, the Board of Governors' Office of Inspector General, and the Office of the Florida Auditor General, will make a determination as to how the complaint will be handled based on the following criteria and factors: the sufficiency of evidence to seek criminal and/or civil action to recovery assets/losses and assure a non-recurrence of the behavior by the perpetrator(s).
 1. The credibility of the allegations based on sufficient information provided and the significance of the disclosed information compared to the other risk-based projects on the Board of Trustee approved Audit Workplan and the anticipation time and expense involved in further investigation.
 2. The potential for an investigation to yield recommendations that will make university or auxiliary operations more efficient and effective.
 3. Whether the allegation, if taken as true, would result in a violation of law, regulation or NCF policy, and whether the allegation is accompanied by sufficient evidence to result in probable cause for further action in the discretion of the Chief Audit Executive.
 4. The significance and benefit to the university to have a final report on the disclosed information.
 5. Whether the alleged information relates to topics under another agency's jurisdiction and should be referred to that agency.
 6. Whether another agency may be conducting an investigation and whether any Chief Audit Executive investigation could be duplicative.
 7. The expertise required for the subject matter of the investigation.
 8. The time that has elapsed between the alleged event and the disclosure of the information.
- (c) Based upon review of the complaint and any supplementary information, the appropriate course of action shall be determined by the Chief Audit Executive. The course of action may include, but is not limited to, the following:
 1. Conduct a preliminary inquiry to gather additional information for determination of proper

disposition.

2. Refer the complaint to another investigative jurisdiction (administrative, civil, or criminal), ensuring that the complaint is considered by the appropriate entities with jurisdiction and the complainant is notified of the referral.
3. Refer the complaint to management or the Board of Trustees Audit and Compliance Committee for action deemed appropriate with notice to the complainant.
4. Decline to investigate after giving consideration to the factors outlined above with notice to the complainant.
5. Investigate the complaint.

~~(e)~~(d) The Chief Audit Executive will report all fraud, waste, abuse and dishonest act investigation findings to the NCF President, Board, and the Board of Governors with recommendations for internal control and/or other risk mitigation enhancements.

~~(d)~~(e) The Chief Audit Executive will periodically evaluate and report to the Board of Trustees, at least annually, the status of the anti-fraud framework used and any necessary revisions to improve the framework.

(5) Allegations Made Against the President or a Board Member:

(a) The Chief Audit Executive shall provide timely notification to the Board of Governors, through the Office of Inspector General and Director of Compliance (OIGC), of any significant and credible allegation(s) of fraud, waste, mismanagement, misconduct, and other abuses made against the university president or a Board member. Such allegations will be handled as follows:

- (i) Initial Review and Preliminary Inquiry. The Chair of the Board of Trustees (or the Chair of the Audit and Compliance Committee if the allegations involve the Board Chair), in consultation with the Chair of the Board of Governors, shall review the matter and may ask the OIGC to conduct a preliminary inquiry, in accordance with section 10.2.a of the OIGC charter. If, as a result of the review and/or preliminary inquiry, it is determined that an investigation is warranted, the Board of Trustees will hire an independent outside firm to conduct the investigation with OIGC guidance and monitoring; or, the OIGC will perform the investigation.

(b) Subject's Response to Investigation Report. At the conclusion of such investigation, the investigator's report shall be submitted to the subject, who shall have twenty (20) working days from the date of the report to submit a written response. If the subject submits a written response to the investigation report, the investigator may, within ten (10) working days from receipt of the written response, create a rebuttal to the response. The subject's response and the investigator's rebuttal to the response, if any, shall be included in the final report presented to the Chair of the Board of Trustees, (or Chair of the Audit and Compliance Committee of the Board of Trustees if the allegations involve the Board Chair) and the Board of Governor's Audit and Compliance Committee.

(6) Allegations Made Against the Chief Audit Executive or Chief Compliance Officer.

(a) University General Counsel shall provide timely notification to the Board of Trustees Audit and Compliance Committee and Board of Governor's Audit and Compliance Committee, through the OIGC, of any significant and credible allegation(s) of fraud, waste, mismanagement, misconduct, or other abuses is made against the Chief Audit Executive or Chief Compliance Officer. Such allegations will be handled as follows:

(i) Initial Review and Preliminary Inquiry. The General Counsel, in coordination with the Chair of the Audit and Compliance Committee, shall review the matter and conduct a preliminary inquiry. If, as a result of the review and/or preliminary inquiry, it is determined that an investigation is warranted, the General Counsel, in coordination with the Chair of the Audit and Compliance Committee, will hire an independent outside firm to conduct the investigation; or, will ask the OIGC to perform the investigation.

(b) Subject's Response to Investigation Report. At the conclusion of such investigation, the investigator's report shall be submitted to the subject, who shall have twenty (20) working days from the date of the report to submit a written response. If the subject submits a written response to the investigation report, the investigator may, within ten (10) working days from receipt of the written response, create a rebuttal to the response. The subject's response and the investigator's rebuttal to the response, if any, shall be included in the final report presented to the Chair of the Audit and Compliance Committee of the Board of Trustees and the Board of Governor's Audit and Compliance Committee, through the OIGC.

This regulation shall be reviewed at least every five (5) years for currency and consistency with applicable Board of Governors and university regulations.

Exhibit A – Examples of Occupational Fraud and Abuse (Association of Certified Fraud Examiners, Report to the Nation on Occupational Fraud and Abuse)

(1) Corruption

- (a) Conflicts of Interest – Purchasing Schemes, Sales Schemes, Other
- (b) Bribery – Invoice Kickbacks, Bid Rigging, Other
- (c) Illegal Gratuities
- (d) Economic Extortion

(2) Asset Misappropriation

(a) Cash

- 1. Larceny of Cash on Hand, from the Deposit, Other
- 2. Fraudulent Disbursements
- 3. Billing Schemes – Shell Company, Non-Accomplice Vendor, Personal Purchases
- 4. Payroll Schemes – Ghost Employees, Commission Schemes, Workers Compensation, Falsified Wages
- 5. Expense Reimbursement – Mischaracterized Expenses, Overstated Expenses, Fictitious Expenses, Multiple Reimbursements
- 6. Check Tampering – Forged Marker, Forged Endorsement, Altered Payee, Concealed Checks, Authorized Marker
- 7. Register Disbursements – False Voids, False Refunds
- 8. Skimming
 - a. Sales – Unrecorded, Understated
 - b. Receivables – Write-Off Schemes, Lapping Schemes, Unconcealed
 - c. Refunds and Other

(b) Inventory and All Other Assets

- 1. Misuse

2. Larceny – Asset Requisition and Transfers, False Sales and Shipping, Purchasing and Receiving, Unconcealed Larceny

(3) Fraudulent Schemes

(a) Financial

1. Asset/Revenue Overstatements – Timing Differences, Fictitious Revenues, Concealed Liabilities and Expenses, Improper Disclosure, Improper Asset Valuations
2. Asset/Revenue Understatements

(b) Non-Financial

1. Employment Credentials
2. Internal Documents
3. External Documents

Authority: Article IX, Sec. 7, Fla. Constitution; Fla. Stat. Chapter 112; Fla. Board of Governors Regulations 1.001 and 3.003

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