

Financial Policy & Procedure Instructions Manual
FPI J-3 Reporting of Fiscal Misconduct
Last Updated May 5, 2005

- I. INTRODUCTION
 - II. REFERENCES
 - III. DEFINITIONS
 - A. Fiscal Misconduct
 - B. Suspected Fiscal Misconduct
 - IV. STATEMENT OF POLICY
 - V. PROCEDURES AND RESPONSIBILITIES
 - A. Unit Administrator
 - B. Internal Audit
 - C. University Police
 - D. Director of Human Resource Services
 - E. Legal Counsel
 - F. Director of Business and Financial Services
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I. INTRODUCTION

This policy establishes the procedures and responsibilities for reporting and resolving instances of known or suspected fiscal misconduct in order to: "protect the assets and interests of the University, ensure a coordinated approach toward resolution of fiscal misconduct, and encourage compliance with applicable State Fiscal Rules and Colorado Revised Statutes." The policy is derived from the statutes noted below and outlines specific responsibilities for individuals involved in a fiscal misconduct situation.

II. REFERENCES

The following references cite the legal basis from which this policy was developed:

- Retaliation Prohibited C.R.S. 24-50.5-103
- Embezzlement of Public Property C.R.S. 18-8-407
- Duty to Report a Crime C.R.S. 18-8-115
- Department of Administration C.R.S. 24-30-202 (13)
- Criminal Code-Theft C.R.S. 18-4-401
- Criminal Code-Official misconduct C.R.S. 18-4-404
- Reporting Theft or Embezzlement-State Fiscal Rules 1-9

III. DEFINITIONS

- A. **Fiscal Misconduct** - Examples include circumstances of embezzlement; defalcation; misappropriation of goods, services, or resources; diversion of assets; conflict of interest situations that result in financial loss; and violation of University fiscal policies and procedures for personal gain. Some of these terms are technical legal terms and the references noted above should be reviewed if clarification is required.
- B. **Suspected Fiscal Misconduct** - A reasonable belief or actual knowledge that fiscal misconduct has or is occurring. Failure to show an actual diversion of assets or loss shall not be considered unreasonable.

IV. STATEMENT OF POLICY

- Any employee or student associated with the University who knows of or suspects fiscal misconduct must promptly notify either one's immediate supervisor or one of the following investigative units: the CSU System Internal

Financial Policy & Procedure Instructions Manual
FPI J-3 Reporting of Fiscal Misconduct
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Auditing Department, Office of the General Counsel, the University Police Department, the Human Resources Department, the appropriate Vice President, and/or the Department of Business and Financial Services. This duty to report by an individual or supervisor complies with State law and State Fiscal Rules. State employees have "whistle blower" protection from State law when they comply with the requirements set forth in statute.

- A. Because of the often unique and complex nature of fiscal misconduct, a question may exist as to which investigative unit should be contacted first. The CSU System Internal Auditing Department, the Office of The General Counsel, and the University Police Department are most often the preferred primary contacts because these units have more flexibility in the manner in which they conduct a review or investigation where there is some doubt about what actually occurred. In any case, the notified investigative unit shall contact the other units to establish the necessary team to proceed with the review or investigation.
- B. All affected departments and/or individuals shall cooperate fully with the investigative team to identify whether or not actual or suspected fiscal misconduct has occurred.
- C. The investigative team shall keep University campus officials apprised of on-going investigations as appropriate. Given the nature of these investigations, there are times when the scope of the problem must be determined before notification is possible.
- D. Loss reporting will follow standard University processes for each investigative unit (for example, all Internal Audit reports are submitted to the State Board of Agriculture). The Director of Business and Financial Services will report all instances of actual loss greater than \$5,000 to the State Controller at the State Division of Accounts and Control. The report will state the circumstances and corrective action taken.

V. **PROCEDURES AND RESPONSIBILITIES**

The following sections outline the basic responsibilities of those units or individuals involved with an incident of actual or suspected fiscal misconduct.

- . **Unit Administrator.** The responsible administrator of the unit where the known or suspected fiscal misconduct may have occurred or may be occurring is responsible for:
 - 1. Reporting all known or suspected incidents of fiscal misconduct as required by law and State Fiscal Rules;
 - 2. Not attempting to conduct an independent investigation or audit;
 - 3. Notifying one of the investigative units to obtain guidance on how to proceed. It is preferred to contact the CSU System Internal Auditing Department first;
 - 4. Fully securing and strictly limiting access to any relevant computer and manual records as soon as the fiscal misconduct is suspected, or when there is reason to believe further losses may occur. Common steps may include changes in staff assignments, obtaining keys, removing systems access, stopping long-distance telephone access, and reassigning signature and approval authority;
 - 5. Not confronting or accusing the individual suspected of fiscal misconduct and not making any arrangements for resolution of the matter without consultation with the appropriate personnel officer, the CSU System Internal Auditing Department, University Police, and/or legal counsel.
 - 6. Using discretion and not discussing the circumstances with persons not involved in the incident or with persons without an essential need-to-

Financial Policy & Procedure Instructions Manual
FPI J-3 Reporting of Fiscal Misconduct
Last Updated May 5, 2005

know. Supervisors can and should be informed if first cleared by the investigative team;

7. At the completion of any investigation, implementing changes in policy and procedures for improved internal controls to prevent reoccurrence.
- A. **Internal Audit.** The CSU System Internal Auditing Department is responsible for:
1. Conducting a preliminary assessment of an incident where insufficient facts or evidence is apparent to determine if, in fact, fiscal misconduct has occurred;
 2. Notifying other departments, units and/or University campus officials who may need to be involved in a review or investigation as appropriate;
 3. When a loss has occurred, determining the loss occurred, the amount of the loss, and possible individuals involved. If the loss is over \$5,000, the Director of Business and Financial Services will notify the State Controller;
 4. Gathering available evidence to support loss findings;
 5. Evaluating the systems of internal control and making recommendations for improvements;
 6. Scheduling meetings, as required, with the University Police department, the Director of Human Resource Services, the Director of Business and Financial Services, appropriate University officials, and legal counsel to coordinate and assess the progress of the audit and investigative activities;
 7. Following standard audit reporting procedures.
- B. **University Police.** The University Police Department is responsible for:
1. Conducting a preliminary assessment of an incident where sufficient facts or evidence are apparent and/or criminal misconduct is suspected;
 2. Notifying other departments, units, and/or University campus officials who may need to be involved in an investigation, as appropriate;
 3. Determining if, in fact, criminal actions have occurred, and conducting an investigation based on the determination;
 4. Coordinating legal actions with the District Attorney, University General Counsel, University Vice Presidents and external law enforcement agencies. Notifying the Director of Business and Financial Services who will report a loss greater than \$5,000 to the State Controller.
- C. **Director of Human Resource Services.** The Director of Human Resource Services is responsible for:
1. Notifying other departments and units as appropriate to initiate appropriate investigative procedures;
 2. Providing guidance to the appointing authority, administration, and others affected as to appropriate personnel actions to be taken if the suspect is a University employee;
 3. Providing personnel policy interpretation and guidance;
 4. Participating in the resolution process and preparing reports, as necessary.
- D. **Legal Counsel.** Legal counsel is responsible for:
1. Notifying other departments and units as appropriate, including the University Relations Office and Risk Management; serving as the public liaison with external legal entities; and coordinating investigations as requested;
 2. Consulting with campus departments and/or University officials as to appropriate legal requests for investigative and corrective actions;
 3. Providing policy and statutory interpretation and guidance;
 4. Participating in the resolution process and preparing reports, as necessary;

Financial Policy & Procedure Instructions Manual
FPI J-3 Reporting of Fiscal Misconduct
Last Updated May 5, 2005

5. Consulting with the University Police Department and/or local District Attorney prior to finalizing any monetary or administrative agreement which may affect impending prosecution.
- E. **Director of Business and Financial Services.** The Director of Business and Financial Services is responsible for:
1. Reporting the circumstances and corrective action taken, for any losses in excess of \$5,000, to the State Division of Accounts and Control;
 2. Providing policy interpretation as required;
 3. Working with the affected units to implement the necessary management controls to change and improve business practices related to the fiscal misconduct.