



***BUSINESS OFFICE***

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## ***ALERT NOTICE – ACCOUNT MANAGERS***

**Subject:** Guidelines for Reporting and Investigating  
Fraudulent or Dishonest Acts

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**The purpose of this Alert Notice is to provide every Account Manager the opportunity to review and provide comments on the draft copy of the Guidelines for Reporting and Investigating Fraudulent and Dishonest Acts. Please submit your questions or comments to Mary Elizondo, Comptroller, at the Business Office by Friday, August 5, 2005. We appreciate your assistance in this important matter.**

### **DRAFT COPY**

According to Statements on Auditing Standards (SAS) 99, Consideration of Fraud in a Financial Statement Audit, management is responsible for designing and implementing systems and procedures for the prevention and detection of fraud and, along with the board of directors, for ensuring a culture and environment that promotes honesty and ethical behavior. The key components of a fraud prevention and detection program consist of a culture of honesty and ethics, fraud risk assessment and properly designed (mitigating) controls and an appropriate oversight process. SAS 99 also provides guidance to management on antifraud programs and controls to help prevent, deter and detect fraud.

One of the best practices in the area of mitigating fraud risks is to establish a process for employees and others to detect, report and investigate fraud. As a result, the College has established the following Guidelines for Reporting and Investigating Fraudulent and Dishonest Acts. These Guidelines should be followed by all College's employees and others to report fraudulent and dishonest acts.

## **South Texas College Guidelines for Reporting and Investigating Fraudulent or Dishonest Acts**

### **1. Introduction**

South Texas College (STC) is committed to creating an environment where fraudulent and other dishonest acts are not tolerated. All STC employees are responsible for complying with the board policies that govern their conduct and ensuring that all resources entrusted to them are used ethically, prudently, and for their designated purpose.

In addition, to ensure that STC resources are used appropriately, managers and supervisors are responsible for educating employees about proper conduct, creating an environment that deters dishonesty and maintaining internal controls that provide reasonable assurance of achieving management objectives and detecting dishonest acts. Furthermore, managers and supervisors must be cognizant of the risks and exposures inherent in their area of responsibility and be aware of symptoms of fraudulent or dishonest acts, should they occur. This procedure establishes a uniform method for reporting fraudulent or dishonest acts against the College.

### **2. Purpose**

These guidelines establish the procedures and responsibilities for reporting and investigating potential incidents of fraud or other dishonest acts, taking remedial actions, and reporting evidence to the appropriate authorities.

It 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.

### **3. General**

This procedure applies to all STC employees, including faculty (full-time, adjunct and part-time faculty), administrative staff, and student employees. It also requires employees to report the actions of other parties that may result in financial losses or possible criminal conduct affecting STC resources or information. These other parties include (1) students; (2) contractors and vendors; (3) organizations affiliated with STC, and (4) any other person or organization that uses STC resources or information, with or without authorization.

- a. The College will pursue available legal remedies against persons or entities involved in fraudulent acts against the College. Remedies include, but are not limited to, terminating employment, requiring restitution, and/or forwarding of information regarding suspected fraud to the appropriate authorities for criminal prosecution. All of the general and criminal laws of

the State of Texas are in full force and effect at all state institutions of higher education (Texas Education Code, Sec. 51.201). This procedure is designed to inform College employees of their responsibility for detecting and reporting suspected fraud.

- b. Employees who, in good faith, report unlawful activity are protected by the Texas Whistleblower Act (Texas Government Code, Chapter 554) against any retaliation by the College for making such a report. The College, per Board Policy #4209, complies with the Whistleblower Act.
- c. Employees are required to cooperate with any police or audit investigation, and they may be requested to keep their knowledge of the investigation confidential.
- d. Employees should immediately contact the College's Security Officers if they observe an unlawful act in progress, such as theft or destruction of property, or if they are certain an unlawful act has been committed.

#### **4. Examples of Fraudulent or Dishonest Acts**

A fraud or dishonest act generally involves a deliberate act or failure to act with the intention of obtaining an unauthorized benefit, destruction of property or otherwise fraudulent behavior. 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). In that document, the ACFE further explains fraud as follows: Occupational fraud and abuse encompasses a wide variety of conduct by employees, managers, and principals or organizations ranging from pilferage to sophisticated investment swindles. Common violations include asset misappropriation, corruption, 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:

- 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 employing organizations assets, revenues, or reserves

Fraud or dishonest acts include, but are not limited to the following.

- Theft or misappropriation of funds, long distance telephone services, 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 or student 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
- Economic extortion
- Unauthorized use of records or access to information systems, including unauthorized sharing of computer security clearances
- 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
- Financial asset misappropriation such as asset/revenue overstatements or understatements, fictitious revenues, concealed liabilities and expenses and improper asset valuations
- Inaccurate employment credentials
- Authorizing or receiving compensation for goods not received or services not performed
- Authorizing or receiving compensation for hours not worked
- Incurring obligations in excess of appropriation authority, and willful violation of laws, regulations or policies, or contractual obligations when conducting STC business
- Use of College property for personal benefit
- Payroll and sick time abuses

## **5. Employee Responsibilities**

An employee with a reasonable basis for believing fraudulent or other dishonest acts have occurred has a responsibility to report the suspected act in a timely manner.

- a. Reports should be made to the employee's 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
- b. An employee may also report the fraudulent or dishonest act by calling the Anonymous Fraud and Ethics Hotline at the number posted on the College's website or the State Auditor's Office Fraud, Waste, and/or Abuse Hotline at 1-800-TX-AUDIT. Employees

may choose to remain anonymous. Please refer to the Guidelines for the Anonymous Fraud and Ethics Hotline for more information.

- c. 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 Director of Human Resources.
- d. If the employee notifies his/her supervisor (or higher authority), the supervisor (or higher authority) must immediately direct the report to the Director of Human Resources.
- e. The Director of Human Resources must immediately direct the report to the appropriate Vice President and President.
- f. 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 Director of Human Resources or the Internal Auditor and/or law enforcement.

## **6. Restitution**

In the event of a loss, the Vice President for Finance and Administrative Services (VPFAS), or designee, will notify the insurance carrier to facilitate all insurance and fidelity bond claims. The President, or designee, may ask the District Attorney's office to seek restitution. The insurance company may also interact directly with the District Attorney's office on matters of restitution where the coverage applies. In the event the criminal court does not provide for restitution, the VPFAS may request the Legal Counsel to initiate a civil action to recover the loss.

Appropriate action will be taken to recover assets lost as a result of an act of dishonesty. Full recovery will constitute the value of benefits gained by an employee or beneficiary other than STC or the documented loss, whichever is larger, and, if appropriate, the cost of investigation, recovery, or other associated costs. All reasonable means, consistent with state law, will be sought to recover losses, including voluntary repayments, withholding from salary and wages, insurance proceeds when applicable, and legal action when necessary. The STC Legal Counsel shall determine whether the evidence available and the cost of recovery justify legal action to recover losses.

## **7. Internal Control Deficiencies**

The Internal Auditor, VPFAS and/or Comptroller shall consider whether evidence of possible fraudulent or other dishonest acts reveals areas or practices in college internal controls needing modification. The Internal Auditor may recommend corrective actions to the President and the Board of Trustees Finance and Human Resources Committee. The Internal Auditor shall follow-up on its recommendations.

## **8. Employee Disciplinary Actions**

Employees found to have participated in fraudulent or other dishonest acts, or any employee who hinders a fraud 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 shall be subject to disciplinary action. The appropriate official shall determine whether employee disciplinary action is warranted.

## **9. Acting on Evidence of Fraud**

It is the responsibility of the College to investigate fraud and act on evidence of fraud. The Director of Human Resources should address all reported incidents. The Director of Human Resources will gather facts specific to the case. After facts are gathered the Director of Human Resources and the appropriate officials engaged to review the facts will discuss the facts and ascertain whether or not evidence of fraud exists. If evidence of fraud does not exist, the matter will be considered administrative and the Director of Human Resources will conduct an objective review of the facts relating to the incident and will prepare a written report to the President. The issue will be considered closed.

If evidence of fraud exists, the Director of Human Resources will conduct an examination of the facts relating to the incident.

- a. 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 Director of Human Resources to determine the appropriate action.
- b. The Director of Human Resources will engage experts, as necessary, to develop accurate and reliable evidence.
- c. The Director of Human Resources will consult with the Legal Counsel, President, or designee, VPFAS, Internal Auditor and appropriate law enforcement as necessary, to determine whether or not fraud (i.e., criminal violation) has occurred, based on evidence.
- d. If it is determined that fraud has occurred, the Director of Human Resources will do the following.
  - i. Refer all evidence to appropriate law enforcement agency and will assist law enforcement, as requested, as well as prepare a written report containing scope of work, findings, and recommendations.

- ii. Notify the VPFAS. The VPFAS, or designee, will notify the insurance carrier, if required by the terms and conditions of the insurance policy.
  
- e. In all cases, regardless of their outcomes, the Director of Human Resources will prepare a report containing scope of work, findings, and recommendations.

## **10. Acting in Good Faith**

Anyone reporting an incident of fraud or other dishonest acts, must act in good faith and have reasonable grounds for believing the information disclosed is valid. 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. Such conduct may also give rise to other actions, including civil lawsuits.

## **11. Confidentiality**

Reports of incidents of fraud or other dishonest 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. Such conduct may also give rise to other actions, including civil lawsuits.