

1C.2 FRAUDULENT OR OTHER DISHONEST ACTS

Part 1. Purpose. MnSCU is committed to creating an environment where fraudulent and other dishonest acts are not tolerated. All MnSCU employees are responsible for complying with the State Code of Ethics (Minnesota Statutes Section 43A.38), other state statutes and 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 MnSCU 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 policy establishes responsibilities for investigating potential incidents of fraud or other dishonest acts, taking remedial actions, and reporting evidence to the Legislative Auditor and other appropriate authorities.

Part 2. Applicability. This policy applies to all MnSCU trustees and, 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 MnSCU resources or information. These other parties include (1) students; (2) contractors and vendors; (3) organizations affiliated with MnSCU, including foundations governed by MnSCU policy 8.3; and (4) any other person or organization that uses MnSCU resources or information, with or without authorization.

This policy does not apply to destruction or misappropriation of personal or private property. Those matters shall be reported to appropriate college, university, or Office of the Chancellor officials and to law enforcement officials when appropriate. Also, substantiated violations involving personal or private property are subject to personnel action or discipline under the student conduct code.

This policy does not apply to allegations of academic misconduct. Those matters shall be referred to appropriate college or university officials.

This policy also does not apply to allegations of discrimination or harassment. Those matters are governed by MnSCU policy 1.B.1.

Part 3. Definitions.

Subpart A. Dishonest act. A 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. Dishonest acts include, but are not limited to:

Theft or misappropriation of funds, long distance telephone services, supplies, property, computer software, intellectual property, or other resources; Forgery or alteration of documents; Bribery or attempted bribery; 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; Authorizing or receiving compensation for goods not received or 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 MnSCU business.

Subpart B. Fraud Inquiry. A fraud inquiry is the initial process for examining complaints, allegations, and other possible evidence of dishonest acts. The objective of a fraud inquiry is to determine whether sufficient evidence exists to warrant a fraud investigation.

Subpart C. Fraud Investigation. A fraud investigation is the process of collecting and examining evidence to determine whether a dishonest act involving possible criminal action or significant financial loss has occurred.

Part 4. Responsibilities.

Subpart A. Compliance. Dishonest acts are prohibited pursuant to this policy and applicable law. Employees found to have committed a dishonest act as defined by this policy shall be subject to sanctions, restitution and other remedies as deemed appropriate by MnSCU officials.

Subpart B. Employee reporting of suspected fraudulent or other dishonest acts. 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. Reports should be made to the employee's immediate supervisor or manager, unless the employee suspects that the supervisor or manager has participated in or condoned the act. In that case, the employee should report the matter to the next highest level of supervision or management or directly to the college, university, or Office of the Chancellor Director of Human Resources. Employees are encouraged to report matters through their designated college, university or Office of the Chancellor channels, but may report any matters directly to the MnSCU Office of Internal Auditing. This policy shall not prohibit prompt notification to

appropriate authorities when an immediate threat to personal safety exists or other circumstances justify such notice. Upon discovering evidence of possible fraudulent or dishonest acts, employees should not confront individuals suspected of wrongdoing or initiate fraud investigations on their own because such actions may compromise any ensuing investigation. Employees shall not make statements or disclosures knowing they are false or in reckless disregard of the truth.

Subpart C. Conducting a fraud inquiry. Presidents, the Chancellor, or the Executive Director of Internal Auditing shall be responsible for conducting fraud inquiries to determine whether evidence of fraudulent or other dishonest acts is substantiated and merits a fraud investigation or other remedy. Presidents or the Chancellor may seek the assistance of the Office of Internal Auditing in conducting fraud inquiries. If a fraud inquiry reveals evidence of possible criminal action or significant financial loss, then a fraud investigation shall be conducted pursuant to Part 4, Subpart D of this policy. If a fraud inquiry does not reveal evidence of possible criminal actions or significant financial loss related to a dishonest act, but substantiates a violation of state or federal law, MnSCU or college or university policies, or other applicable requirements, the matter shall be referred to the appropriate campus or Office of the Chancellor official for further action. Any incident that reveals possible employee misconduct may be subject to a personnel investigation by the college, university, or Office of the Chancellor, as appropriate, and subject to personnel action in accordance with the provisions of the applicable collective bargaining agreement or other personnel plan.

Subpart D. Conducting a fraud investigation. If it is determined under Part 4, Subpart C that a fraud inquiry merits a fraud investigation, the president or Chancellor shall report the matter to the Office of Internal Auditing. The president or Chancellor shall consult with the Executive Director of Internal Auditing to determine responsibilities for conducting the fraud investigation. The MnSCU General Counsel, the Legislative Auditor, or other administrative officials also shall be consulted, as appropriate and when required by this policy.

Part 5. Remedial Actions. If a fraud investigation substantiates that a violation has occurred, the following remedial actions against or by MnSCU employees shall be taken as appropriate:

Subpart A. Recovery of Losses. 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 MnSCU or the documented loss, whichever is larger, and, if appropriate, the cost of investigation, recovery, or other costs. For misuse of long-distance telephone services, recoveries must include the fair market value of the service, taxes, and interest. 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. Significant financial losses shall be reported to the Vice Chancellor - Chief Financial Officer. Dishonest acts that result in significant loss or damage to electronic information or

information systems shall be reported to the MnSCU Chief Information Officer. The MnSCU General Counsel shall determine whether the evidence available and the cost of recovery justify legal action to recover losses.

Subpart B. Referral to Law Enforcement. A college, university or Office of the Chancellor shall consult with the MnSCU General Counsel prior to disclosing private or confidential data on employees to law enforcement authorities pursuant to Minnesota Statutes section 13.43, subd. 15.

Subpart C. Internal Control Deficiencies. The Office of Internal Auditing shall consider whether evidence of possible fraudulent or other dishonest acts reveals areas or practices in college, university, or system internal controls needing modification. The Office of Internal Auditing shall recommend corrective actions to the president or chancellor, as appropriate, and the Vice Chancellor - Chief Financial Officer. Internal Auditing shall follow-up on its recommendations and report progress to the board of trustees consistent with procedures for audit follow-up.

Subpart D. 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 policy shall be subject to disciplinary action. The appropriate campus official or Vice Chancellor for Human Resources shall determine whether employee disciplinary action is warranted. The provisions of collective bargaining agreements shall be observed for any employee disciplinary proceedings.

Part 6. Data Practices. Fraud inquiry or investigation data must be handled in accordance with the Minnesota Government Data Practices Act and other applicable law.

Part 7. Whistleblower Protection. Employees who report suspected fraudulent or other dishonest acts pursuant to Minnesota Statutes Section 181.932 shall be protected from retaliation. The identity of information sources shall be protected when required by Minnesota Statutes Section 181.932 or Minnesota Statutes Section 13.392.

Part 8. Other Policies. This policy shall not be construed to limit the ability to enforce any other applicable policy or law not incorporated under this policy or to limit the remedies available for violations that occur.

Part 9. Reporting to the Board of Trustees and the Legislative Auditor. The Executive Director of Internal Auditing shall notify the Board of Trustees of any significant violations of law or board policies, as required by board policy 1D, or any material departures from this policy.

The Executive Director of Internal Auditing is responsible for reporting evidence to the Office of the Legislative Auditor as required by Minnesota Statutes Sections 10.47, 43A.39, and 609.456, Subdivision 2 and, if federal funds are involved, to the responsible

federal authority. Employees who have reported evidence according to the provisions of this policy will have fulfilled their statutory reporting obligations for reporting to the Office of the Legislative Auditor.

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