

Personnel

Board of Trustees Policy

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| SUBJECT: Fraud and Whistleblower Policy | NUMBER: 2.26 |
| | DATE: March 19, 2018 |
| | SUPERSEDES: N/A |

Purpose

The purpose of this policy is to deter and detect fraud or other irregular activity by encouraging all individuals to report good faith concerns regarding such activities at the College. The policy establishes a confidential channel of communication by which individuals may report activity that they reasonably believe to be fraudulent or otherwise irregular.

Definitions

Good Faith Disclosure – Disclosure of fraudulent or dishonest conduct to an immediate supervisor, the Vice President of Administration or via the Whistleblower Hotline or Whistleblower Email, made with an honest belief in the truth of the allegations contained in the disclosure. The allegations contained in the disclosure do not have to ultimately be proven true to demonstrate good faith.

Fraudulent or Irregular Activity – Activities that (1) involve a misappropriation of assets (i.e. theft) or obtaining an unauthorized benefit; (2) are in violation of or non-compliant with any SCCC policy, or New York State or federal laws or regulations; or (3) are financially wasteful. Examples include, but are not limited to, the following:

- Theft of any SCCC asset including, but not limited to, money, tangible property, trade secrets or intellectual property;
- Misappropriation, misapplication, destruction, removal, or concealment of SCCC property;

- Unlawful use of computer systems, including hacking and software piracy;
- Unauthorized disclosure of confidential or proprietary information;
- Unauthorized disclosure of student educational records, personal information, or medical information;
- Authorizing or receiving compensation for hours not worked or covered by appropriate and available leave;
- Fraudulent or otherwise deceptive financial reporting;
- Credit card and travel expense fraud;
- Use of staff to perform personal errands, services or tasks;
- Alteration or falsification of documents;
- False claims by students, employees, vendors, or others associated with SCCC; and
- Bribery, kickbacks, bid rigging, and conflicts of interest.

Retaliation – Any adverse action taken by SCCC or any individual doing work for or on behalf of SCCC, in response to a Whistleblower’s good faith disclosure of fraudulent or dishonest conduct or in response to any employee’s good faith participation in an SCCC investigation under this policy.

Whistleblower – A whistleblower is an individual who reports an activity that he or she reasonably believes to be fraudulent or irregular, as defined herein, by the means specified in this policy. The whistleblower is not responsible for investigating the reported activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

Policy Implementation and Oversight

The College President has identified the Vice President of Administration, or person acting in that capacity, as the individual to whom suspected or detected fraud and irregularities must be reported, and who is responsible for the implementation of this policy and administration of the procedures herein.

Process for Reporting Fraud and Irregularities

Individuals with knowledge of fraudulent or irregular activity by an SCCC employee or member of the Board of Trustees **must** report as set forth below. Individuals who know or reasonably should know that fraudulent or irregular activity has occurred or is occurring but who fail to report may be considered an accessory to the fraud or irregular activity. Note that an SCCC student or employee who knowingly files a false report, or who reasonably should know that the report is false, may be subject to discipline, including termination or expulsion. Every effort will be made to maintain confidentiality of the reporter throughout the investigation to the extent permitted by law; however, it cannot be guaranteed.

Individuals wishing to report fraudulent or dishonest activity may pursue any or all of the following options:

- (1) leave a message on a "Whistleblower Hotline" by calling 518-836-2990 (from outside the main campus or a cell phone); extension 2990 (from inside the main campus).
- (2) e-mail whistleblower@sunysccc.edu; or
- (3) report to the Vice President of Administration; or
- (4) employees may report suspected illegal or dishonest activity to their supervisor.

Individuals have the option of either providing contact information or reporting the information anonymously. Providing contact information will enable the reviewer to contact the individual to clarify the information being provided. In some instances, anonymity may limit the amount of investigation the college can conduct. At a minimum, reports should include key information such as a description of the incident; individual(s) involved; and financial loss, if any.

When requested, SCCC will make every effort to handle all information received confidentially, to the extent permitted by law. However, a whistleblower's identity may have to be disclosed to conduct a thorough investigation, to comply with the law or to provide accused individuals their legal rights of defense.

Process for Reviewing Detected or Suspected Improprieties

- A. Initial Intake: Each Fraud Incident Report (FIR), as well as any relevant communication received through the fraud hotline (or other method), will be reviewed by the SUNY SCCC Fraud Committee (Committee). The Committee is coordinated by the Vice President of Administration and includes representation from several departments within SUNY SCCC.
- B. The specific role of each office represented on the Committee is as follows:
 1. *Vice President of Administration: Office of Financial Services*: The College's Vice President of Administration (VPA), who heads the Department of Administrative Affairs, chairs the Committee, coordinates overall case screening and management, and reports to the President concerning the status of the committee's work, and consults with the College Attorney as needed.
 2. *Controller*: The Controller will also provide expertise on financial matters, including accounting and administrative controls, and will coordinate any audit work, in consultation with the college's audit firm.
 3. *Executive Director of Human Resources*: The Executive Director of Human Resources provides technical expertise regarding the various responsibilities and obligations that may be applicable in each case under the pertinent collective bargaining agreements. This position will provide information regarding interactions with bargaining unit employees and their representatives on matters such as disciplinary actions, interrogations, and notices of discipline.

4. Director of Campus Safety: The Director of Campus Safety assists in the fraud investigation by utilizing its oversight of the security staff and relationships with local police, other law enforcement agencies, and merchants to gather pertinent information. The Director of Campus Safety will also provide suggested criminal investigation procedures and, when necessary, obtain assistance from external law enforcement agencies.
- C. The Committee will review each FIR to determine what action, if any, should be taken. These actions may include (1) review of the report to determine if the allegations are sufficient to merit further investigation; (2) conduct an investigation and refer the matter to law enforcement, if appropriate; (3) dismiss the matter for lack of merit; (4) refer the matter to the President with a recommendation for disciplinary and/or remedial action
 - D. Review Process: The objectives of the review are to verify the information provided in the report, determine responsibility, identify improvement opportunities, and determine if the matter warrants reporting to the appropriate law enforcement agency. The review process may include interviewing the individual filing the complaint (unless the individual chooses to remain anonymous), college officials and staff, and others, as appropriate; reviewing documentation submitted with the complaint; obtaining and reviewing other relevant documentation; and reviewing applicable laws, rules, regulations, and policies.
 - E. Resolution: Upon completion of the review, a determination will be made as to whether the review has produced sufficient evidence to show that fraud or irregularities have occurred. If sufficient evidence supports a determination that fraud or irregularities have occurred, the results may be forwarded to law enforcement, as appropriate, as well as any appropriate oversight agency. Disciplinary procedures, if any, are initiated by the President, in consultation with the Office of Human Resources. In addition, any improvement opportunities related to policies, procedures, or control activities that were identified during the review will be shared with appropriate campus officials. The Committee will resolve the matter within ninety days of receipt and, if unable to do so, shall report to the President the reason(s) why they are unable to resolve the matter within that timeframe.

The VPA will periodically report to the College's President and Board of Trustees regarding the number and type of reports received, results of any investigations, and a description of those matters that resulted in findings of fraud or irregularities, as well as recommendations and a plan for practice improvements.

Prohibition on Retaliation

Employees or other persons who lawfully report suspected fraud or irregular activity (i.e. whistleblowers) or who participate in any investigation will not be discharged, demoted, suspended, threatened, harassed, discriminated against, or endure other retaliation, as a result of making a good faith report or for participating in any investigation.

Any whistleblower who believes he or she is being retaliated against should contact the Vice President of Administration. Note that the right of a whistleblower for protection against retaliation does not include immunity for any personal involvement the whistleblower may have in the fraud or irregular activity.

Activities Covered Under Other Policies and Protocols

Individual employee grievances and complaints concerning terms and conditions of employment will continue to be reviewed in accordance with applicable academic and human resources policies and collective bargaining agreements.

Complaints regarding unlawful harassment and discrimination on the basis of race, color, national origin, religion, age, sex, sexual orientation, gender identity or expression, disability, veteran or marital status or other protected characteristic should be reported to the designated compliance officer and handled in accordance with the applicable complaint procedures.

END OF POLICY