



ROLLAND B

Super Fan of American Democracy

(800) 674-3273

#03

Date: _____

To: Superintendents and Chief Business Officials
School Districts & County Offices of Education

Subject: **FRAUD POLICY TEMPLATE**

INTRODUCTION

The information presented in the accompanying SAMPLE Fraud Policy is recommended for adoption by all entities, private or public, including local educational agencies (LEAs) of all sizes. However, there will be variations among LEAs regarding the degree to which certain programs and controls are applied, as well as the formality of their application. In contrast with relatively large LEAs, small LEAs may conclude and decide that certain types of control activities are not relevant at all because of the direct involvement of, and controls practiced by, management. Nevertheless, all LEAs are strongly encouraged to adopt the position that fraud, misappropriations, and other inappropriate conduct will not be tolerated.

To be sure, fraud policy is separate and distinct from ethics policy, which dictates the ethical climate of the LEA and its expectations of officers and employees.

Good fraud prevention plans begin with the recognition that an organization may be at risk. In order to provide you with a starting point to assist you in the development of your own fraud policy, our CPA firm has done the legwork and compiled relevant materials from such sources as the American Institute of CPAs (AICPA), Association of Certified Fraud Examiners (ACFE), as well as a few fraud policies already adopted by other local educational agencies and related entities.

COMMUNICATING THE FRAUD POLICY

It does little good to have fraud policies if they are not communicated to the employees, consultants and other vendors. Policy communication can be accomplished in several ways. The communication of the fraud policy should be presented in a positive, non-accusatory manner, in a way that enlists the help of all employees.



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ORIENTATION

During the employee orientation, the LEA's fraud policy should be discussed. This is the first opportunity for the LEA to make its point, and it should be made thoroughly at this early stage of employment.

MEMORANDA

An interoffice memorandum issued from the Superintendent or his/her designee detailing the fraud policy is certainly a good idea. The memo should concentrate on the positive aspects of working for an ethical entity. In addition, the message should be reiterated periodically to all employees, consultants, and other vendors.

POSTERS

Some LEAs might wish to use "fraud awareness" or "fraud policy" posters displayed in common areas. However, this should be carefully considered as some employees might object to such tactics. If posters are used, they should communicate it in a positive manner such that it is considered designed to enlist employee support.

EMPLOYEE MORALE

If handled correctly, communication of a fraud policy can have a positive impact on employee morale. Honest workers want to work for an honest entity. Honest employees do not want dishonest employees working alongside them. A fraud policy helps to set the proper tone. A fraud policy does not mean you don't trust your employees. Fraud policies, along with better internal controls, are matters of sound, proactive management.

LEGAL CONSIDERATIONS

Many organizations have learned that it is best to specifically spell out unacceptable conduct. If the type of conduct that is considered unacceptable is not accurately detailed, the result might be legal problems in discharging a dishonest employee. The Human Resources Department should play a significant role in developing a fraud policy or any other employment policy. The Human Resources Department should review the policy and sign off before the policy is issued. Another important legal consideration is to ensure that every allegation is handled in a uniform manner.



PREVENTION AND DETERRENCE

Prevention: Eliminate the Motivation and/or Opportunity to Commit Fraud - The risk of fraud can be reduced through a combination of prevention, deterrence, and detection measures. According to a recent study by the Association of Certified Fraud Examiners (ACFE), median losses of organizations with key fraud prevention measures were between 30 percent and 48 percent lower than those without them (ACFE: Report to the Nation 2002). However, fraud is often difficult to detect because it frequently involves concealment through falsification of documents or collusion. Therefore, it is important to place a strong emphasis on fraud prevention, which may reduce opportunities for fraud to take place, and fraud deterrence, which could persuade individuals that they should not commit fraud because of the increased likelihood of detection and punishment.

Moreover, prevention and deterrence measures are much less costly than the time and expense required for fraud detection and investigation.

Anti-fraud programs and controls, discussed in Statement on Auditing Standards (SAS) No. 99, include the following key elements:

- Create and maintain a culture of honesty and high ethics. The ethical culture needs to be set by management through its everyday language, but more importantly, through its actions. The tone of the organization is set at the top. Therefore, the organization's value system should include not only a written code of conduct, but also a daily, consistent adherence to these values. Organizations should also clearly communicate their ethical values, decision-making processes, and codes of conduct to all employees so that they may be empowered to make appropriate ethical decisions even when they are far removed from headquarters or confronted with new dilemmas.
- Evaluate the risks of fraud and implement risk mitigation. Fraud risk assessment should be part of a more organization-wide risk monitoring process but can also be done separately. Based on the assessed risks, a response is developed that may include preventative controls (reducing the opportunity to commit fraud), mitigation controls (reducing the impact of the potential fraud), or transference (selecting appropriate commercial crime insurance coverage).
- Develop an appropriate oversight process. Internal and external parties need to oversee the risk of and responses to fraud. Although the entire management team shares the responsibility for implementing and monitoring these activities, the entity's Superintendent should initiate and support such measures. In addition, the entire organization should adopt a level of fraud awareness similar to a "neighborhood watch" program. Employees should have a means to communicate wrongdoing without fear of retribution because tips from employees are still the number one way fraud is uncovered. This could involve establishing an independent hotline that permits employees to call anonymously with information



regarding perceived or suspected fraudulent activities. Further, independent verifications by internal and external auditors help to ensure controls are operating effectively. Such reviews should be reported directly to the audit committee or its equivalent. When coupled with follow-up work of suspected wrongdoing, these reviews send a strong message throughout the organization to aid in the deterrence of fraud. Oversight needs to take a tiered approach so override of controls at any given layer, including those made by the Superintendent, may be identified and properly handled. The top layer of this oversight process is reserved for the Governing Board, which must ensure top management upholds its responsibilities to the organization.

The Top 5 prevention techniques, according to ACFE: Report to the Nation 2002, are:

1. Internal controls
2. New-employee background checks
3. Regular fraud substantive audits
4. Established fraud policies
5. Willingness to punish

Deterrence: Modification of Behavior Through the Perception of Negative Sanctions -
The expectation that the organization will take appropriate action once fraud is suspected and the threat of being exposed, are keys to ensuring that employees who may feel compelled to commit fraud maintain ethical conduct in the workplace. The Top 5 deterrence measures an organization can take are as follows:

1. Internal controls
2. Internal audit
3. Surprise audits
4. Investigations
5. Willingness to punish



Detection: Identifying fraudulent reporting and/or Misappropriation of Assets – Fraud detection can be accomplished through various means. A recent study by the ACFE (Report to the Nation 2004) revealed these Top 5 fraud detection techniques:

1. Tips from employees and/or external parties
2. Internal audits
3. By accident
4. Internal controls
5. External audits (fraud may be discovered, although the main purpose of an external audit normally is not the discovery of fraud)

If you have any questions, please do not hesitate to let me know. You have a FREE initial, half-hour, phone consultation – to be arranged at a mutually convenient time.

Sincerely,

ROLLAND B

(800) 674-3273



(SAMPLE) FRAUD POLICY

Business and Non-instructional Operations

BP _____

BACKGROUND

The _____ (LEA) fraud policy is established to facilitate the development of controls which will aid in the detection and prevention of fraud against the _____ LEA. It is the intent of the _____ LEA to promote consistent organizational behavior by providing guidelines and assigning responsibility for the (a) development of controls, (b) conduct of investigations, and (c) prevention and detection of fraud. The occurrence of fraud places the assets and credibility of the _____ LEA at risk. All individuals, regardless of position, title, or tenure with the LEA are expected to remain vigilant and report any suspicious activity to the LEA.

PURPOSES

The purposes of this policy are to:

- Protect _____ LEA's assets and fiscal resources;
- Promote a culture founded on fraud prevention, awareness, and accountability;
- Reinforce the Governing Board's and senior management's commitment and responsibility for identifying risk exposures to fraudulent activities;
- Reinforce the Governing Board's and senior management's dedication to maintaining a positive workplace environment where a culture of integrity exists and fraud risk and fraud prevention is continually assessed;
- Reinforce the requirement for all staff and others to refrain from fraudulent activities and encourage the reporting of any instance of fraud;
- Ensure the fair, objective, and thorough investigation and reporting of all such activities while safeguarding individual rights and maintaining confidentiality in accordance with applicable laws.

SCOPE OF POLICY

This policy applies to any fraud, or suspected fraud, involving employees as well as consultants, vendors, contractors, other governmental outside agencies doing business with employees of the _____ LEA, and/or any other parties with a business relationship with the _____ LEA



POLICY STATEMENT

Management is responsible for the detection and prevention of fraud, misappropriations, and other inappropriate conduct. Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the management team shall be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

The LEA adopts a zero-tolerance policy regarding fraud. The LEA will identify and promptly investigate any suspected fraud. The LEA will take appropriate disciplinary and legal actions to include the possibility of termination of employment, restitution, and forwarding of information to the appropriate authorities for prosecution. Any fraud that is detected or suspected must be reported immediately to the Superintendent (or Inspector General, if there is one), who coordinates all investigations, both internal and external.

The Governing Board and the Superintendent are responsible for:

- Developing and maintaining an effective system of controls to prevent, deter, and detect fraud;
- Carrying out vigorous and prompt investigations if fraud occurs; and
- Taking appropriate legal and/or disciplinary action against perpetrators of fraud.
- Central office managers and site administrators are responsible within their areas of responsibility for:
 - Identifying, recognizing, and assessing risks and exposures inherent to their areas of responsibility;
 - Being aware of indications of fraud and related misconduct;
 - Developing and maintaining effective controls to prevent and detect fraud; and
 - Ensuring adherence to the internal controls.

Individual LEA staff members are responsible for:

- Acting with propriety in the use of LEA resources and in the handling and use of LEA funds whether they are involved with cash, payment systems, or receipts or dealing with contractors or suppliers; and
- Immediately reporting to the Superintendent, or designee, if they suspect that fraud has been committed or see any suspicious acts or events.



STATEMENT OF ATTITUDE

The _____ LEA requires all staff members at all times to act with honesty and integrity. The _____ LEA is committed to protecting all revenue, expenditure, and assets from any attempt to gain illegal financial or other benefits. Any fraud committed against the _____ LEA office is a major concern to the _____ LEA.

Any investigative activity required will be conducted thoroughly without regard to the suspected wrongdoer's length of service, position/title, or relationship to the _____ LEA.

INTERNAL CONTROLS/FRAUD PREVENTION

The Superintendent, or designee, shall develop internal controls which aid in the prevention and detection of fraud within the _____ LEA. These internal controls may include, but are not limited to, segregating employee duties relating to authorization, custody of assets, and recording or reporting of transactions; providing detailed, written

job descriptions explaining the segregation of functions; adopting an integrated financial system; conducting background checks on business office employees; and requiring continuous in-service training for business office staff on the importance of fraud prevention.

The Superintendent, or designee, shall provide annual reports to the Governing Board on the status of the _____ LEA's internal control procedures and recommend any revisions to related Board policies or administrative regulations.

ACTIONS CONSTITUTING FRAUD

- Fraud is defined as a willful or deliberate act with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means. Stated differently, fraud is any intentional act or omission designed to deceive others, resulting in the victim suffering a loss and / or the perpetrator achieving a gain. All fraudulent acts or related misconduct are included under this policy. Embezzlement, defalcation, misappropriation, and other financial irregularities or fiscal wrongdoings constitute "fraud." Specifically, actions constituting fraud, as the term is used in this policy, refer to, but are not limited to, the following:
- Any dishonest or fraudulent act
- Forgery or alteration of any document or account belonging to the _____ LEA

- Forgery or alteration of a check, bank draft, or any other financial document
- Misappropriation of funds, securities, supplies, furniture, inventory, or any other assets
- Impropriety in the handling or reporting of money or financial transactions
- Receiving bribes, kickbacks, or secret commissions from suppliers and contractors
- Profiteering as a result of insider knowledge of _____ LEA information or activities
- Disclosing confidential and/or proprietary information to outside parties
- Disclosing investment activities engaged in or contemplated by _____ LEA
- The authorization of, or receiving, payment for goods not received or services not performed
- The authorization of, or receiving, payment for hours not worked
- Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment
- Submission of exaggerated or wholly fictitious harassment or injury claims
- Use of _____ LEA credit cards for personal expenses and claiming them as _____ LEA business expenses
- Failing to provide financial records to authorized state or local entities
- Any claim for reimbursement of expenses that were not made for the exclusive benefit of _____ LEA
- Any computer related activity involving the alteration, destruction, forgery, or manipulation of data for fraudulent purposes
- Any similar or related inappropriate conduct
- Corruption, defined as the offering, giving, soliciting, or acceptance of an inducement or reward that may improperly influence the action of a person. Examples of corruption include bribery, conspiracy, and extortion.

OTHER INAPPROPRIATE CONDUCT

Identification or allegations of acts outside the scope of this policy, such as personal improprieties or suspected unacceptable conduct – whether moral, ethical, or behavioral, safety or work environment related – or complaints of discrimination or sexual harassment, should be resolved by the respective area management, in



conjunction with the Risk Manager/Compliance Officer/Human Resources Department, with reference to _____ LEA guidance or resource. If there is any question as to whether an action constitutes fraud, contact _____ for guidance.

INVESTIGATION RESPONSIBILITIES

In LEAs where there is no Inspector General, the Superintendent has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. In LEAs where is an Inspector General, the Inspector General has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. In the case where the Superintendent (or Inspector General, if there is one) may be involved, suspected fraud shall be reported to the Board President who will report to the full Governing Board. In the case where the person suspected of fraudulent activity is the Superintendent (or the Inspector General, if there is one), the Board President is responsible for ensuring that an investigation is conducted following the guidelines of this policy, and reporting to the full Governing Board.

Any investigative activity required will be conducted without regard to the suspected wrongdoer's employment or non-employment, length of service, position/title, and/or relationship to the _____ LEA.

The Superintendent (or the Inspector General, if there is one) is responsible for taking appropriate action pursuant to law and reporting the results of the investigation to the Governing Board. The Superintendent (or Inspector General) is expected to protect the confidentiality of the informant if so requested, ensure that an impartial investigation is done, ensure that the right to due process of the suspected person is provided, and consult with LEA's external CPA firm, as well as with appropriate legal authorities and law enforcement agencies when appropriate or there is an indication that a law has been violated.

All employees and the Governing Board must report concerns they have or information provided to them about the possible fraudulent or corrupt activity of any employee, Board Member, contractor, vendor or any other party with an association with the LEA. Any person who has a reasonable basis for believing fraudulent or corrupt acts have occurred has a responsibility to report the suspected act immediately. Failure to report suspected fraudulent or corrupt activity in a timely manner accordingly to this policy will also be subject to disciplinary action.

CONFIDENTIALITY

The _____ LEA treats all information received confidentially. Any employee who reasonably suspects dishonest or fraudulent activity shall notify the Superintendent (or the Inspector General, if there is one) immediately, and should not attempt to personally conduct investigations, interviews or interrogations related to any suspected fraudulent act (see REPORTING PROCEDURES section below).



The reporting employee shall refrain from further investigation of the incident, confrontation of the alleged violator, or further discussion of the incident with any other party unless requested to do so by his/her Superintendent (or Inspector General), the LEA's legal counsel, and/or law enforcement.

Investigation results shall not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is critically important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct, and to protect the _____ LEA from potential civil liability.

RETALIATION AND RETRIBUTION

Retaliation and retribution will not be tolerated against any employee or Board Member who reports suspected fraudulent or corrupt activities. However, if an employee is determined to have acted maliciously or with deceit, the employee is subject to disciplinary action.

TERMINATION

If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the Superintendent and, if necessary, by legal counsel, before any such action is taken.

DOCUMENT RETENTION

It is the intent of the _____ LEA to comply with all relevant state and federal document retention requirements. Any complaints made to the _____ LEA shall be retained for at least five (5) years.

STAFF TRAINING ON THE _____ LEA's FRAUD POLICY

All _____ LEA staff will be provided with annual training on the _____ LEA's Fraud Policy and reporting procedures. Management recognizes that a key element in the early detection of fraud is a staff trained in understanding the symptoms and/or conditions which are directly attributable to dishonest or fraudulent activity, and by providing employees a method for anonymously reporting such activity. Fraud deterrence and monitoring policies are communicated throughout the _____ LEA.

ADMINISTRATION

The Superintendent (or Inspector General, if there is one) is responsible for the administration, revision, interpretation, and application of this policy and for ensuring consistency in accountability and any disciplinary action taken. The policy will be reviewed annually and revised as needed.



Adopted: _____, 20__

ACKNOWLEDGEMENT

My signature signifies that I have read this Fraud Policy of the _____ LEA and that I fully understand my responsibilities related to the prevention, detection and reporting of suspected misconduct and dishonesty.

Signature:

Print Name:

School Site / Department:

Date: _____, 200__



SAMPLE ADMINISTRATIVE REGULATION

Business and Non-instructional Operations

AR _____

FRAUD PREVENTION AND DETECTION CONTROLS

_____ LEA's administration, with strong Governing Board support, has acted upon its responsibility of designing and implementing systems and internal controls for the prevention and detection of fraud. This is demonstrated by creating an environment that promotes both honest and ethical behavior from not only management but also the various levels of employees at the _____ LEA.

In order to prevent fraud at _____ LEA, the following fraud prevention controls are in place:

1. Code of Ethical Conduct
2. Conflict of Interest Policy
3. Authority Limits
4. Standing Orders Related to Contracts
5. Exit Interviews
6. Written Policies and Procedures
7. Anti-Fraud Training
8. Compliance Training
9. Internal controls
10. New-employee background checks
11. Regular fraud audits
12. Surprise audits
13. Established fraud policies
14. Willingness to punish



In order to detect fraud at the _____ LEA, the following fraud detection controls are in place:

1. Whistleblower Phone Hotlines
2. Whistleblower Website Access
3. Whistleblower P. O. Box Number
4. Internal Controls
5. Proactive Fraud Detection Policies
6. Analysis of Budget-To-Actual Results
7. Management's Internal Control Environment
8. Surprise audits
9. Internal audits

INVESTIGATING A SUSPECTED INSTANCE OF FRAUD

The following procedures shall be used in the _____ LEA when a report is made to the Superintendent of suspicious or potentially fraudulent activity. The Governing Board President shall follow the same procedures in reports involving the Superintendent. All reports shall be investigated using these procedures.

The Superintendent will designate a staff member, CPA firm, or other expert to investigate all alleged fraudulent activities pursuant to Board policy. The investigator/s will:

- Assess the validity of the records;
- Obtain original documents and handle them only as necessary;
- Identify each document and log it into a document tracking system, such as a database, so that no important documents are lost or misplaced;
- If evidence is in a computer, perform a full backup to a fileserver as soon as fraud is suspected. Do not use a computer on which suspected fraud occurred in case it will need to be forensically examined. Do not open or examine suspect files yourself. Preserve a log of server traffic and an incident log where it cannot be deleted;
- Conduct interviews and review documents;
- Assess existing internal controls;



- Determine the fraud methodology, parameters and participants, and the amount of damages.

The Superintendent's designee will keep a log of all matters reported under this policy. The log will contain details of allegations, actions taken, and conclusions reached. All findings, conclusions, and recommendations will be reported to the Superintendent.

The Superintendent will:

- Determine where further investigation is warranted and, if so, by whom, for example the police or external forensic firm.
- Determine the course of action to recover the losses and required actions to be taken against the wrongdoers.
- Evaluate the events which contributed to the fraud's occurrence.

REPORTING PROCEDURES

Under direction of the Superintendent, great care must be taken in the investigation of suspected improprieties or wrongdoings so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

- The responsibilities of all _____ LEA staff for handling fraudulent activities include the following:
- Ensure that notification promptly reaches the Superintendent or designee who will then provide guidance on the following
- Contact the police department if the situation warrants immediate action, as in the case of a theft or risk to security
- Complete a written Fraud Incident Report reporting the allegations of violation of the _____ LEA policy. Such reports should be factual rather than speculative or conclusive and contain as much specific information as possible to allow for proper assessment of the nature, extent, and urgency of the preliminary investigative procedures. (If the forms are available on the _____ LEA website, add "The forms are located on the _____ LEA website, and they can be submitted anonymously."
- Do not contact the suspected individual to determine facts or demand restitution. Under no circumstance should there be any reference to "what you did," "the crime," "the fraud," "the forgery," "the misappropriation," etc.;



- Managers and/or site administrators should consult with Human Resources Department and/or the Risk Manager to determine if any personnel actions are necessary;
- Do not discuss the case, facts, suspicions or allegations with anyone, unless specifically directed to do so by the person assigned by the Superintendent or designee to do the investigation;
- Direct all inquiries from any suspected individual, his or her representative, or his or her attorney, to the designated _____ LEA investigator or counsel; and/or
- Discover or develop additional information about actual or potential fraud that was not included in the Fraud Incident Report.

An employee who notifies the Superintendent of suspected fraudulent activity may remain anonymous to the extent allowable by law. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer, should be directed to the Superintendent.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Superintendent or designee.

CONFIDENTIALITY

Generally, no information concerning the status of an investigation shall be given out while the investigation is being conducted unless authorized by the Superintendent. The proper response to any and all inquiries is: "I am not at liberty to discuss this matter." Under no circumstances shall any reference be made to the "allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the _____ LEA from potential civil liability.



ACCESS TO RECORDS AND PREMISES

When authorized by the Superintendent, members of the Investigation Unit will have:

- Free and unrestricted access to all _____ LEA records and premises, whether owned or rented; AND
- The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of such items or facilities, when it is within the scope of their investigation.

DISCIPLINARY PROCEDURES

If a fraud investigation substantiates that a violation has occurred, the Superintendent shall take the following remedial actions, as appropriate:

Recovery of the loss

Appropriate action shall be taken to recover assets lost as a result of fraud. Full recovery will constitute the value of the benefit gained by a perpetrator of fraud, and if appropriate, the cost of investigation, recovery, or other costs. All reasonable means, legally available, may be sought to recover losses.

Legal Action

The _____ LEA has the right to initiate court proceedings to recover losses or any other relief legally available. Decisions to prosecute or refer the investigation results to the appropriate law enforcement and/or regulatory agencies for independent investigation shall be made by the Superintendent, in conjunction with senior management and legal counsel, as appropriate, as shall final decisions on disposition of the case.

Disciplinary Action

Employees found to have committed and/or participated in fraudulent activities, or any employee who hindered or obstructed the reporting of a fraud inquiry, may be considered an accessory after the fact and may be subject to disciplinary action and/or discharge, as the case may be, in accordance with personnel policies and Federal regulations. Employees discharged under this policy shall not be re-employed by the District.

Administrative Regulation Approved: _____, 20____

-END-

