

## **ORGANIZATION, PHILOSOPHY, AND GOALS**

### **Philosophy and Goals**

#### **Procedures for Reporting and Investigating Embezzlement, Fraud, Waste or Abuse, and Other Financial Wrongdoing**

This regulation supersedes Regulation 1410.3.

### **I. PURPOSE**

To establish the purpose, authority, and responsibility for reporting and investigating embezzlement; fraud; or such waste or abuse which adversely impacts Fairfax County Public Schools (FCPS). Such misconduct is collectively referred to herein as fraud, waste, or abuse". The School Board shall be notified of any proposed amendment to this Regulation.

### **II. SUMMARY OF CHANGES SINCE LAST PUBLICATION**

This regulation has been reviewed and there are no changes at this time.

### **III. DEFINITIONS**

For the purpose of administering this Regulation, the following terms are defined as set forth below:

- A. Embezzlement is the theft of funds or property by a person who is entrusted with (or otherwise in a position to be) receiving, managing, protecting or administering such, thereby causing injury to FCPS or its interests.
- B. Fraud is an intentional act of deception, misrepresentation or concealment in order to gain something of value, such as committing forgery fraudulent credit card transactions, or making false statements on documents. Acts of fraud could result in a tangible or intangible benefit to others, or could cause injury to FCPS or its interests, or both.
- C. Waste means the intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of resources owned, leased, or operated by FCPS to the injury or prospective injury of FCPS. Waste also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls.
- D. Abuse involves conduct that is: (i) injurious to FCPS or its interests; and (ii) excessive, deficient or improper when compared with the conduct that a prudent person would consider reasonable and necessary governmental practice in light of the facts and circumstances known at the time. Abuse also includes misuse

of FCPS resources, authority or position which results, or could be expected to result, in injury to the school division, including reputational injury, whether such misuse is for personal interests or not.

- E. Injury or injurious as used with respect to Waste or Abuse herein shall mean an adverse impact which is measurable as well as both substantive and consequential under the circumstances.
- F. Internal Controls refer to practicable measures implemented by governmental management that are intended to provide reasonable assurance that objectives are achieved in the following categories:
  - 1. Effectiveness and efficiency of operations.
  - 2. Reliability of financial reporting.
  - 3. Compliance with applicable laws and regulations.
  - 4. Safeguarding of assets.
- G. Retaliation is defined as adverse action or conduct directed against an employee or other person(s) for engaging in a protected activity (such as good faith reporting or witness cooperation under this Regulation). Adverse employment action includes that which is calculated to deter or punish an employee or other person from engaging in a protected activity. Adverse actions include, but are not limited to, actions related to hiring, firing, discipline, pay job assignments, evaluation, promotions, layoff, training, fringe benefits, or any other term or condition of employment.

#### **IV. ROLES AND RESPONSIBILITIES**

The conditions of this regulation apply to any irregularity, suspected or observed, involving an FCPS employee. Any investigation required shall be conducted without regard to the employee's length of service, position, title, or relationship. Identification of allegations of personal improprieties--whether moral, ethical, or behavioral--shall be responded to by management and reported to the Department of Human Resources.

##### **A. Auditor General**

The Auditor General is authorized to receive and preliminarily review (and as necessary investigate, either directly or in conjunction with internal investigators of the Department of Human Resources) credible reports of waste, fraud and abuse, where observed or reasonably believed to have occurred, involving any FCPS employee or FCPS assets if such has caused or is likely to cause injury to the school division. Where the Auditor General determines, in confidential writing, that the results of the preliminary review indicate that an investigation by the Auditor General is warranted hereunder (stating the reasons therefor), an

investigation will commence, except where additional steps are prescribed as set forth below.

No investigation of Waste or Abuse involving a Leadership Team member or a School Board member shall be undertaken or commenced unless the Auditor General first shall have: (i) prepared a written summary and analysis of the report of Waste or Abuse which shall include an assessment of actual or probable injury to the school division resulting from the purported Waste or Abuse, the projected scope and duration of the investigation, and a statement of regulatory authority; and (ii) furnished written notice to Division Counsel (or outside counsel where appropriate) and to (a) the Division Superintendent in the case of investigation of a Leadership Team member other than the Superintendent, or (b) the School Board chair or vice chair in the case of investigation of the Division Superintendent or a School Board member.

If warranted, any investigation shall be conducted without regard to the employee's or School Board member's length of service, position, title, or relationship. Findings of fraud, waste, and abuse shall be responded to by management and reported to the Department of Human Resources.

The purpose of the investigation will be to collect and assess facts relative to the suspected fraud, waste and abuse in order to:

1. Determine the validity of the report and the extent of any fraud, waste and abuse;
2. Assist the police department in the preservation of evidence for any criminal charges that the department may bring;
3. Determine whether Internal Controls should be added or strengthened in either the specific situation or districtwide;
4. Design audit tests to disclose the existence of similar incidents in the future;
5. Prepare a written confidential report to the Division Superintendent and Division Counsel that presents all findings, conclusions, and recommendations for corrective action, if any, and as appropriate to the School Board.

**B. Management**

Members of management in FCPS shall be familiar with the content of this regulation and the types of fraud, waste and abuse that could occur within their areas of responsibility and shall be alert for any indication that such may be about to occur or has occurred. Members of management are responsible for establishing and implementing appropriate Internal Controls in their respective areas of responsibility, including procedures to assure the safety and security of the school system's assets, revenue, and financial data.

C. All Employees

Any employee who observes or who has a reasonable basis to believe that there is an occurrence of fraud, waste and abuse, shall notify his or her immediate supervisor. In the event that the reporting employee has reason to believe that his or her immediate supervisor may be involved, the employee is to notify his or her supervisor's supervisor, principal, program manager, or director. In such a situation, the reporting employee may instead notify the Auditor General or the internal investigator in the Department of Human Resources. Every employee shall cooperate with investigations pursuant to this regulation. The employee may also make a report to the hotline or EER. The reporting employee shall not personally attempt to investigate fraud, waste or abuse, or to discuss the matter with anyone other than the individual authorized to receive reports or to conduct the investigation hereunder. Good faith reports will be treated with the highest degree of sensitivity and confidentiality.

D. Affected Department or School

E. 1. Supervisors

Upon receipt of credible information, or good faith reason to believe, that an FCPS employee may be involved in fraud, waste and abuse, the supervisor shall notify his or her immediate supervisor, who will in turn notify the principal, program manager, or director. If there is reason to believe that the immediate supervisor or a person higher in the chain of command is involved in the fraud, waste and abuse, the report shall be made directly to the Auditor General or the internal investigator in the Department of Human Resources. No principal, program manager, or director shall conduct an investigation of the report or alert the suspected employee that a report has been made. Confidentiality is required, and the matter shall not be discussed with anyone other than those to whom a report shall be made, or when warranted, with police department personnel who are involved in conducting the investigation.

2. Principals, Program Managers, Directors, Assistant Superintendents

Upon receipt of credible information, or good faith reason to believe, that an employee may be involved in fraud, waste, and abuse, the principal, program manager, or director shall notify the appropriate region assistant superintendent. The region assistant superintendent shall notify the Auditor General or the internal investigator in the Department of Human Resources.

F. Division Superintendent/School Board

No investigation of the Division Superintendent or of a member of the School Board shall be undertaken or commenced unless the Auditor General first shall have: (i) prepared a written summary and analysis of the report of fraud, waste and abuse, which shall include an assessment of actual or probable injury to the

school division resulting from the purported fraud, waste and abuse, the projected scope and duration of the investigation, and a statement of regulatory authority; and (ii) furnished the foregoing written summary and analysis to Division Counsel and the School Board chair or vice chair, as appropriate.

Reports of suspected fraud, waste and abuse on the part of the Superintendent or one or more members of the School Board may be referred by the School Board, following consultation with Division Counsel, to outside professionals for the purpose of conducting an investigation.

#### G. Department of Human Resources

The assistant superintendent for the Department of Human Resources, or his or her designee, is responsible for determining the status of an employee who becomes the subject of a good faith report of fraud, waste, and abuse. The employee who is the subject of investigation may, where warranted in the opinion of the assistant superintendent for Human Resources with the concurrence of Division Counsel, be removed from the work location by reassignment, administrative leave, or suspension with or without pay, pending the outcome of the investigation.

The internal investigator in the Department of Human Resources will coordinate with assistant superintendent for the Department of Human Resources, the Auditor General, and Division Counsel regarding decisions to determine employee status and to notify the appropriate police department unit in cases that require such notification. Any personnel action taken regarding the employee who is the subject of the investigation will be done in a manner that does not interfere with or compromise the investigation or employee rights.

The internal investigator in the Department of Human Resources will provide the Auditor General and Division Counsel access to records and information under the control of human resources that may be relevant to the investigation.

In cases where an employee is determined to be in violation of an FCPS regulation, or is found guilty of a criminal offense, the assistant superintendent for human resources, or his or her designee, will consult with the relevant principal, program manager, or director to determine the appropriate disciplinary action and will initiate and manage the disciplinary process to its conclusion.

#### H. Department of Financial Services

The assistant superintendent for financial services, as the chief financial officer, is charged with stewardship of the monetary assets of the school division. The Department of Financial Services shall be responsible for establishing and monitoring Internal Controls over cash management that will detect or prohibit embezzlement, fraud, or waste or abuse of FCPS' revenue, assets, or financial data. The assistant superintendent for financial services may assign a qualified staff member to work as part of the investigation team. The Department of Financial Services shall ensure security of all records and their preservation.

**I. Risk Management**

When there is sufficient evidence of loss caused by, fraud, waste and abuse, the Auditor General shall make a referral to the Risk Management Section, Office of the Comptroller, Department of Financial Services, for notification of FCPS insurers, in writing, of a possible loss situation. Thereafter, but within the time frame required by the insurance policy provisions, Risk Management shall submit a detailed, written and sworn "proof of loss" to the applicable insurer.

Risk Management shall interpret all requirements under the applicable insurance policies, convey requirements to appropriate FCPS personnel, and ensure that such requirements are fulfilled on behalf of FCPS.

**J. Community Relations**

All contact with the media shall be coordinated through the Office of Communications and Community Outreach.

**K. Police Department**

When there is sufficient evidence to warrant a criminal investigation of a situation involving suspected fraud, waste and abuse, the Auditor General or the FCPS department that is conducting the investigation shall consult with Division Counsel and notify the Fairfax County Police Department or other law enforcement officials who may assume primary responsibility for conducting a criminal investigation.

**V. GENERAL**

**A. Security of Records**

Successful investigations are dependent upon preservation of relevant documentation in its original form. Therefore, once a suspected incident of fraud, waste and abuse is reported, principals, program managers, directors, or other authorized personnel involved in the investigation, with the approval of the appropriate FCPS department, shall take immediate action to prevent the theft, alteration, or destruction of relevant records.

**B. Contacts**

Decisions for referral to appropriate law enforcement or regulatory agencies for independent investigation shall be made in conjunction with Division Counsel and management, as will final decisions on disposition of each case.

**C. Confidentiality**

Good faith reports of fraud, waste and abuse will be kept confidential except to the extent that limited disclosure may be necessary for the purpose of conducting a full and fair investigation, providing opportunity for the subject to

respond, taking remedial action, and responding to government or insurance inquiry, making a referral to law enforcement authorities, or otherwise initiating or defending legal action. The subject of an investigation will be advised of the outcome, unless doing so would interfere with further legal action or investigations. No individual making a good faith report of an incident of fraud, waste and abuse will be subject to retaliation.

**D. Personnel Actions**

If a report of fraud, waste, and abuse is substantiated by the investigation, appropriate action will be taken in conformance with FCPS personnel policies and procedures. A false report of fraud, waste and abuse, which is submitted in bad faith, is a violation of this regulation. All violations of this regulation, including violations of the confidentiality provision, shall result in disciplinary action up to and including dismissal.

**E. Retaliation**

It is a violation of this regulation to retaliate against any individual for good faith reporting of fraud, waste, and abuse or for cooperating, giving testimony, or participating in an audit investigation, proceeding, or hearing. Appropriate disciplinary action will be taken against those found retaliating against any such employee.

**F. Disposition of Investigation**

At the conclusion of the audit investigation, the Auditor General (with cooperation of the relevant FCPS department) will brief the School Board or the Audit Committee, as appropriate and document the results in a confidential memorandum report to Division Counsel. No other FCPS official shall receive a copy of the report unless directed by the School Board. The Auditor General shall return all records to the appropriate department or school. If criminal proceedings are anticipated, then Auditor General shall return all records after completion of the associated proceedings.

**G. Exclusion of Officers in Certain Situations**

Should any Leadership Team member or any School Board member identified in this Regulation be the subject of review or investigation hereunder, such officer shall be excluded from notification and from participation in investigatory responsibilities in order to avoid compromising the process. Where such exclusion occurs, the officer's designee of record (or in the absence of such, the individual designated by the Division Superintendent or the School Board chair or vice chair, as the case may be) shall assume the role assigned by this Regulation.

**VI. PUBLIC DISCLOSURE**

Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainant or individuals providing information to investigators. Where an investigation results in a finding of fraud, waste and abuse, public disclosure shall consist of the nature of the complaint and the actions taken to address or correct the situation. Where an investigation does not lead to corrective action, no public disclosure will be made.

Legal reference: Code of Virginia Section 2.2-3705.3 (7)

See also the current versions of Policy 1105, Auditor General Authority  
Policy 1106, Protection against Retaliation When  
Engaged in Protected Activity  
Policy 1107, Fraud, Waste, and Abuse