

System-wide Policy: FI0130 - Fraud, Waste and Abuse	
Version: 7	Effective Date: 10/29/2018

FI0130 – Fraud, Waste and Abuse

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Objective:

The purpose of this policy is to define fraud, waste, and abuse and the procedures and responsibilities for preventing, reporting, investigating, and resolving known or suspected instances of such behavior.

Scope

This policy applies to (1) faculty, staff, and student employees, (2) contractors and vendors while conducting university business, and (3) others who use university resources or information with or without authorization. The university will investigate allegations of fraud, waste, or abuse or refer the allegations to other authorities for investigation.

Definitions

Fraud—An intentional deception that violates a law or the public trust for personal benefit or the benefit of others.

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Examples of fraud include, but are not limited to:

- Theft or misappropriation of funds, supplies, property, or other resources
- Forgery or alteration of documents
- Bribery or attempted bribery
- Unauthorized use of records
- Unauthorized alteration or manipulation of computer files
- Unauthorized use of logos, trademarks, copyrights, etc.
- Falsification of reports to management or external agencies
- Pursuit of a benefit or advantage in violation of the university's conflict of interests or other policy
- Improper handling or reporting of financial transactions
- Authorizing or receiving compensation for goods not received or services not performed
- Authorizing or receiving compensation for hours not worked
- Authorizing or receiving reimbursement for expenses not incurred
- Willful violation of laws, regulations, or contractual obligations when conducting university business
- Falsification or unauthorized alteration of time or leave records

Waste—The act of using or expending resources carelessly, extravagantly, or to no purpose.

Abuse—Behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. This includes the misuse of authority or position for personal gain or for the benefit of another.

Waste and abuse do not necessarily involve fraud or illegal acts.

[Policy](#)

[University's Commitment to Ethical Behavior](#)

1. The University of Tennessee is committed to the responsible stewardship of its resources and to the highest standards of ethical behavior. Fraud, waste, and abuse of any kind, including for the benefit of the university, is expressly prohibited. All faculty, staff, and student employees are expected to comply with all federal, state, and local laws as well as University policies. Any member of the university community found to be involved in fraud,

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waste, or abuse as defined in this policy is subject to disciplinary action, up to and including termination and may be referred to law enforcement authorities.

University management officials and employees with managerial or supervisory duties are responsible for creating an environment that encourages integrity and deters dishonest behavior. Additionally, it is the responsibility of management to establish and implement internal control systems and procedures to prevent and detect irregularities, including fraud, waste, and abuse. Management at all levels should be aware of the risks and exposures inherent in their areas of responsibility and should establish and maintain proper internal controls to provide for the security and accountability of all resources entrusted to them.

University employees are responsible for ensuring that resources entrusted to them by the university are used ethically, prudently, and for their designated purpose.

Reporting Obligations

2. University employees are required to report instances of fraud, waste, or abuse regarding university resources, whether by members of the university community or outside parties as described below. Employees who report concerns in good faith are protected from retaliation as described below; however, employees who knowingly make false accusations are subject to disciplinary action. Contractors, vendors, and others who use university resources or information are highly encouraged to report instances of fraud, waste, or abuse.
 - a. **Responsibility for Investigations.** The Office of Audit and Compliance has primary responsibility for investigations of suspected fraud, waste, and abuse by employees. Campus police departments will assist as needed in conducting investigations. **Employees or management personnel who suspect or detect such activity must not initiate investigations on their own or alert the suspected individual(s) of an impending investigation.**
 - b. **Employee Reporting Requirements.** Employees must report suspected fraud, waste, or abuse regarding university resources to their supervisor, department head, campus or institute official, or the Office of Audit and Compliance. Employees wishing to remain anonymous should report concerns to the UT Compliance Hotline (1-855-461-2771 or

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uthotline.ethicspoint.com) or the State Comptroller's Hotline (1-800-232-5454).

- c. **Departmental and Other Management Reporting Requirements.** Department heads and other management officials must report suspected fraud, waste, and abuse and all allegations of such activity made to them immediately to the Office of Audit and Compliance, except that any department head or management official who wishes to remain anonymous should report concerns to the UT Compliance Hotline (1-855-461-2771 or uthotline.ethicspoint.com) or the State Comptroller's Hotline (1-800-232-5454).
- d. **Student, Taxpayer, or Other Citizen Reporting Requirements.** A student, taxpayer, contractor, vendor, or other citizen who suspects or detects fraud, waste, or abuse regarding university resources should report concerns to the UT Compliance Hotline (1-855-461-2771 or uthotline.ethicspoint.com) or the State Comptroller's Hotline (1-800-232-5454).
- e. **System Reporting Requirements.** The chief audit and compliance officer will notify the state comptroller of any theft, forgery, credit card fraud, or any other act of unlawful or unauthorized taking, or abuse of, public money, property, or services, or other shortage of public funds by any university employee in accordance with Tennessee Code Annotated §8-19-501.

Prohibition of Retaliation

3. **Retaliation Prohibited Against University Employees.** Employees who report in good faith fraud, waste, and/or abuse shall be free of intimidation or harassment when reporting matters of public concern, including offering testimony to, or testifying before, appropriate legislative committees. No university employee or contractor shall retaliate in any way against a university employee because the employee, or a person acting on behalf of the employee, reports or attempts to report, suspected fraud, waste, or abuse, orally or in writing.

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Any person who retaliates or otherwise takes adverse action against a person because that person in good faith reported fraud, waste, or abuse, or because that person cooperated with the investigation of such allegations, is subject to disciplinary action, up to and including termination of employment and referral for potential criminal prosecution.

Employees who believe they have been retaliated against because of a good-faith report or because of cooperation during an investigation should report concerns to their supervisor, department head, campus or institute official, campus or institute human resource officer, or the Office of Audit and Compliance. Employees wishing to remain anonymous should report concerns to the UT Compliance Hotline (1-855-461-2771 or uthotline.ethicspoint.com) or the State Comptroller’s Hotline (1-800-232-5454).

Nothing in this policy shall be construed to prohibit taking disciplinary action against an employee for legitimate reasons, including because an employee made a fraudulent, dishonest, or bad faith report of fraud, waste, or abuse. A supervisor considering disciplinary action based on a fraudulent, dishonest, or bad faith report of fraud, waste, abuse, or any other potential whistleblowing activity should consult the Office of the General Counsel prior to taking any disciplinary action.

Cooperation During Investigations

4. The university is committed to creating an environment of responsible and ethical behavior and relies on faculty, staff, and student employees to cooperate with investigations into alleged fraud, waste, or abuse. Investigations into such matters may be conducted by either UT or external officials, such as members of the state comptroller's Division of Investigations. Failure to cooperate and maintain confidentiality as requested by investigators may lead to or result in disciplinary action, up to and including termination of employment.

Disciplinary Action During Investigations

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5. During an ongoing investigation, management should consult with the Office of General Counsel, Human Resources, and the Office of Audit and Compliance prior to taking any disciplinary action, including termination, against either the individual under investigation or an individual who has provided information relevant to the investigation. [HR0525 - Disciplinary Action](#) provides additional information on employees terminated for gross misconduct.

Recovery of Assets

6. The university will take appropriate action to recover any assets lost as a result of fraud, waste, or abuse. Actions to recover such losses include the following:
 - a. Voluntary Return or Repayment. Generally, action to recover losses should not be taken until an investigation has been completed. At any time, however, university officials may accept voluntary offers to reimburse the University for losses, including offers of partial reimbursement. The campus/institute chief business officer must approve of any offers of reimbursement in advance of acceptance. Repayments should be appropriately receipted and deposited to a university cost center/WBS element in accordance with university fiscal policies. Officials accepting repayment should inform the employee that such offers will not cause an investigation to stop, relieve the employee of liability for future claims, nor prevent prosecution under criminal law.
 - b. Demand for Repayment. If an investigation concludes that an individual's or entity's actions have resulted in loss of university assets, the appropriate university officials, including the campus/institute chief business officer, after consultation with the Office of the General Counsel, should demand repayment from the person or entity. The demand may be orally or in writing.
 - c. Withholding of Salary and Wages. If an employee is discharged for theft or misappropriation of assets, the university may recover losses due to the employee's actions by withholding part or all of the amount owed from his or her paycheck following consultation with the Office of the General Counsel. The amount to be withheld must be communicated to the employee in writing and promptly to the System Payroll office. The written communication must also explain the employee's right to a hearing to appeal the disciplinary action or termination (also see POLICY HR0525). Even when a hearing is requested, the paycheck will be held to the extent allowed by law pending the outcome. In addition, because employees who are terminated for gross misconduct do not

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- receive unpaid annual leave, they may not use this leave to pay debts to the university.
- d. Retirement Funds. In some circumstances, an employee may be able to use his or her retirement fund to pay debts to the university. Human Resources and the Office of the General Counsel should be contacted for advice on this method of repayment.
 - e. Legal Action. When full recovery of assets attributed to fraud, waste, or abuse by employees, other individuals, or entities is not realized from other means, legal action to obtain a judgment may be initiated. The chief financial officer (or designee) and the general counsel must approve this action.

Each campus/institute chief business officer will monitor the recovery of assets lost as a result of fraud, waste, and abuse.

Settlements of Liability

- 7. All proposed settlements of liability for fraud, waste, or abuse must be submitted to the general counsel, chief financial officer, and the state comptroller for advance approval. In some cases, employees suspected of fraud, waste, or abuse will request a settlement that relieves them of liability for losses identified in subsequent investigations. No written or oral agreements may be made to relieve an employee of liability for such losses without the advance approval of the general counsel, chief financial officer, and the state comptroller. The Office of Audit and Compliance must be contacted to request approval of the state comptroller.

Prosecution Under Criminal Law

- 8. Any person who steals, fraudulently obtains, or otherwise intentionally misuses university assets, or aids and abets others to do so, or in any way engages in criminal activity with respect to university property, contracts, or other resources, is subject to criminal prosecution.

Bonding

- 9. The state of Tennessee maintains a public employees’ blanket bond under which all university employees are included. This special coverage indemnifies the university for

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losses sustained through employee dishonesty whether acting alone or in collusion with others. An employee is automatically covered when employed. The public employees' blanket bond coverage has a maximum limit of \$1 million and is subject to a deductible of \$100,000 for each occurrence. The bond also covers employees who handle third-party funds as part of their university duties, provided a fund is established in the university's accounting system.

- a. **Claims.** The Risk Management section of the Treasurer's Office is responsible for making claims against the public employees' blanket bond. To ensure proper processing, they must be notified as soon as a loss is suspected. The Risk Management section will file a claim after receiving a report from Audit and Compliance which identifies an employee responsible for a loss in excess of the deductible. Proceeds from claims against the bond are returned to the campus or institute.
- b. **Volunteers.** Volunteers are not included in the public employees' blanket bond. When reasonably possible, departments should avoid using volunteers to handle cash or other liquid assets that exceed the bond's deductible.

Confidentiality of Work Papers

10. Detailed information received pursuant to a report of fraud, waste, or abuse regarding university resources or any ongoing investigation thereof shall be considered work papers of the university's internal auditor and in accordance with Tennessee Code Annotated §§ 4-3-304 and 10-7-504 shall be confidential and not subject to disclosure pursuant to the public records act. Such information, however, may be disclosed to the public in accordance with a subpoena or court order, or in response to a request from a federal agency.

PROCEDURES:

Knoxville:	http://web.utk.edu/~dfinance/fiscal-policy.shtml
Health Science Center:	https://uthsc.policymedical.net/policymed/home/index?ID=de47aa28-16aa-408b-9c96-cb04f232964f&
Institute of Agriculture:	https://ag.tennessee.edu/Pages/UTIApolicies.aspx

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Martin:	http://www.utm.edu/departments/finadmin/procedures.php
Chattanooga:	http://www.utc.edu/business-financial-affairs/fiscalpolicies.php

FORMS:

- [Equipment Inventory Change/Deletion Request \(Form T-64\)](#)
- [T-65 Form.xlsx](#)

For More Information:

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Related Policies: [FI0135 - Insurance](#), [FI0125 - Conflict of Interests](#), [FI0310 - Receiving and Depositing Money](#), [FI0405 - Procurement](#), [FI0605 - Equipment](#), [HR0305 - Annual Leave \(Vacation\)](#), [HR0380 - Sick Leave](#), [HR0525 - Disciplinary Action](#)