

ANTHONY INDEPENDENT SCHOOL DISTRICT

DISTRICT ACCOUNTING BULLETIN #22: FRAUD WASTE AND ABUSE

22.1 PURPOSE

The Anthony Independent School District (AISD) recognizes that fraud, waste, and abuse prevent an organization from operating at its optimal effectiveness and efficiency. The dollar losses due to fraud, waste, and abuse hampers the ability of the District to meet the diverse needs of all the students served. Also, the negative impact to the District's good reputation impacts the Board, employees, students, the community and other stakeholders. In order to achieve the District's mission, the enforcement of this policy will foster an atmosphere of honesty and integrity by establishing mechanisms to detect, investigate, and address fraudulent conduct by assigning responsibility for (i) internal controls and (ii) the conduct of investigations.

22.2 POLICY SCOPE

The District's Fraud Policy applies to alleged fraud and actual fraud by Board members, employees, contractors, consultants, third party agents, vendors and other business partners engaging in business with the Anthony Independent School District.

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

22.3 CREATING A CULTURE OF HONESTY AND HIGH ETHICS

The Board of Trustees, Superintendent and the upper administrative echelons are charged with creating (i) a culture of honesty, integrity and high ethics and (ii) to communicate acceptable behavior and expectations required of each employee and stakeholder. Such a culture is based in a strong set of core values that provides a foundation for employees as to how the District conducts its business. This also allows the District to develop an ethical framework that clearly addresses (i) fraudulent financial reporting, (ii) misappropriation of assets, (iii) falsification of District records, and (iv) corruption as well as other issues.

22.4 TONE AT THE TOP

The Board of Trustees and Administration are role models and as such must provide an example through their words and deeds that dishonesty and/or unethical behavior will not be tolerated (zero tolerance) under any circumstances. In regards to dishonesty and unethical behavior, a commitment must be made that all employees will be treated equally regardless of position.

22.5 RESPONSIBILITY - CAVEATS

The Board of Trustees and Administration are responsible for the development and implementation of policies, procedures, and controls designed to prevent and detect fraud. This implies that Board Members and Administration should be familiar with the types of improprieties that might occur within his/her span of control and be alert for any indication of irregularity. Although the Board of Trustees is ultimately responsible for this activity, the Board assigns the day-to-day management of the District's anti-fraud program to the Finance Department.

"Because of the characteristics of fraud, fraud may occur notwithstanding the presence" of said policies, procedures and controls.

This Policy does not address employee moral or behavioral conduct. These types of questions should be referred to the District's Superintendent.

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22.6 Definitions

Fraud: *Black's Law Dictionary* (Sixth Edition, 1990) defines fraud as: An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury . . . A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated.

Fraud vs. Errors: The American Institute of Certified Public Accountants, through Statement on Auditing Standards 99 (SAS 99) notes that fraud may be hard to distinguish from an error. The perpetrator's intent is the key difference between the two, and "intent" is usually difficult to determine and document. For example, the application of complex accounting guidelines may be the result of an intention to conceal or misstate important information, or it just may be "aggressive" (a term used in SAS 99) accounting. When it becomes fraud is actually a legal issue beyond the auditor's normal training and beyond the scope of the audit, but auditors must consider the impact on the financial statements and bring such matters to the attention of interested parties.

Types of Fraud: School administrators should consider the following types (not an inclusive list) of fraud when designing programs and controls to prevent, deter, or detect fraud:

- Any dishonest or fraudulent act;
- Falsification or forgery of any document belonging or pertaining to AISD;
- Theft, embezzlement, misappropriation or improper handling of District assets to include cash, checks, wire transfers, investments, materials, supplies, equipment, fixed assets, and/or human resources (time);
- Profiteering as a result of insider knowledge of the District's activities;
- False statements, improper handling and/or reporting of the District's activities and business transactions, certifications of reports, forms, or claims submitted to/from or relied upon by the District to accomplish its mission;
- Bribery, kickbacks, or bid-rigging;
- Accepting or seeking anything of material value from contractors, vendors or persons providing services and/or materials to AISD
- Destruction, removal, concealment or improper use of District records or assets;
- Unlawful disclosure of confidential or proprietary information; and/or
- Any similar or related inappropriate or dishonest conduct.

External Auditor Materiality: SAS 99 clearly states that "the [external] auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements" due to fraud. Therefore, the materiality threshold for the external auditor is at the financial statement level.

Internal Materiality: The District's fraud threshold level is significantly lower than that required for the external auditors under SAS 99. As such, the District strongly encourages all employees, students, stakeholders and community members to report all suspected fraud, waste or abuse to

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the District's CFI at 915-886-6502. In cases where the Finance Department and or Superintendent's Office is the alleged culprit, then report such allegations to the Texas State Auditor's Office at **1-800-TX-AUDIT** or at the following website:

<http://www.sao.state.tx.us/SIU/>

Circumvention of Controls: Two ways that controls can be made ineffective are (i) collusion between two or more persons and (ii) administrative overrides. Even when a school district is large enough to separate incompatible functions, collusion can result in fraudulent activities that are almost impossible to prevent or detect. School administrators should consider relations with external parties, organizational structures that facilitate altering documents or circumventing controls, and opportunities for parties to override controls (especially high level administrative positions) when assessing the school district's vulnerability to fraud.

22.7 INVESTIGATION RESPONSIBILITIES & AUTHORIZATION

The Finance Director has the primary responsibility for the investigation of all suspected fraudulent acts as defined in this policy. If the investigation substantiates that fraudulent activities have occurred the Finance Director will notify and issue reports to the Superintendent and if necessary to the Board Finance Committee through the Superintendent. Decisions to prosecute or refer the investigation results to the appropriate law enforcement agency and/or regulatory agency will be made by the Superintendent in conjunction with legal counsel, as will final decisions on disposition of the case.

The Finance Director will have (i) free and unrestricted access to all District locations, offices, and records, and (ii) the authority to examine, copy, and/or remove all or any portion of files, desks, cabinets, computers and other storage facilities/devices without the prior knowledge or consent of any individual who may use or have custody of any such items when it is within the scope of the investigation.

The Finance Director will notify the Superintendent of all alleged or suspected fraud, mismanagement and/or abuse cases. The Superintendent may consider the Finance Director's written recommendations regarding the temporary reassignment of an employee suspected of fraud, mismanagement and/or abuse, during the course of the investigation. The Superintendent will evaluate each situation on a case-by-case basis.

22.8 TERMINATION

If an investigation results in a recommendation to terminate an employee, the Superintendent, , and legal counsel will review the recommendation before any such action is taken. In all cases, the Superintendent will notify the Board President of all pending investigations and recommendations for termination/action.

22.9 CONFIDENTIALITY

The District's Finance Director is required to treat all information received confidentially. AISD employees, community members, vendors, etc. should report suspected fraud to the Finance Director or State Auditor immediately and should not attempt to personally conduct investigations or interviews related to the suspected fraud. All facets of any investigation will not be disclosed or discussed with anyone other than those who have a legitimate need to know.

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22.10 REPORTING PROCEDURES

Great care must be taken in the investigation of suspected fraud or wrongdoings so as to avoid (i) mistaken accusations or (ii) alerting suspected individuals that an investigation is in process.

Employees, community members, vendors, etc. that discover or suspect fraudulent activity should immediately contact the District's Finance Director or the State Auditor's office. The person submitting the complaint may remain anonymous. The person submitting the complaint should provide the circumstances of the incident (explanation, date, time, names, place, etc.), the office(s) and individuals suspected of involvement, location of any evidence, names and phone numbers of credible witnesses, and caller's name and contact number (optional). Also, the person reporting the suspected fraud, waste or abuse must not contact the suspected individual in an effort to determine facts or demand restitution.

The proper response to inquiries is: "I am not at liberty to discuss this matter." All inquiries concerning the activity under investigation should be referred to the Superintendent or Finance Director. No information concerning the status of the investigation will be given out. Under no circumstances should any reference be made to the allegation, the crime, the fraud, the forgery or any other specific reference.

22.11 AISD FRAUD HOTLINE

The District's Board of Trustees and administration is serious about exposing wrongdoing and maintaining anonymity. Callers reporting fraud allegations are assured anonymity.

22.12 ADMINISTRATION

The Board of Trustees and Superintendent are responsible for the administration, revision, interpretation and application of this policy. This policy will be reviewed on an annual or as needed basis.