

Standards for Complaint Handling and Investigations for the State University System of Florida

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STANDARDS OF PROFESSIONAL CONDUCT

Purpose

These standards have been prepared and adopted by the State University Audit Council for offices of chief audit executives at each of the State University System of Florida's constituent universities. These standards express basic principles to guide chief audit executives and their staff in fulfilling their investigative duties and obligations. The standards are divided into Standards of Professional Conduct and Quality Standards for Complaint Handling and Investigations.

Investigations

Each of the State University System of Florida's constituent universities and particularly their chief audit executives have a responsibility to investigate significant and credible allegations of fraud, waste, abuse, financial mismanagement or fiscal irregularities as defined below:

1. Fraud - Illegal acts characterized by a willful or deliberate act or omission with the intention of obtaining an unauthorized benefit, service, property, or something of value by deception, misrepresentation, or other unethical or unlawful means.
2. Waste - An act or instance of using or expending something carelessly, extravagantly, or to no purpose.
3. Abuse - To use wrongly or badly; the improper use of something or someone.
4. Financial Mismanagement - Intentional misstatements or omissions of amounts or disclosures in financial records or statements.
5. Fiscal Irregularity - An occurrence in which there is a shortage or overage of public funds, illegal disbursement(s) resulting from fraud, forgery, alteration of vouchers, improper certification, or other improper practices, or improper accounting for receipts.
6. Whistle-blower: A Whistle-blower allegation exists when a non-anonymous complaint is received (in any form) from an employee or former employee of a state agency or independent contractor, or an applicant for employment that alleges that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or

welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

A. Professional Competence

Individuals assigned to perform investigative work shall collectively possess professional competence (knowledge, skills, and experience) needed to address the investigative objectives and perform the work in accordance with these standards.

1. Chief audit executives and staff members shall possess the competencies necessary to perform an investigative assignment.
2. Prior to assigning an investigation, the chief audit executive shall assess staff skills to determine the extent to which those skills match the minimal competencies required. In some circumstances, it may be possible to meet the requirement for professional competence by use of consultation or referral.
3. Chief audit executives and staff members shall continually strive to increase the competence and effectiveness of their professional services. Each professional staff member shall maintain professional competence through continuing professional education (CPE) by completing at least 40 hours of CPE every two (2) years.

B. Independence

Individuals involved in performing or supervising any investigative assignment shall be free from organizational, personal, and external impairments to independence.

1. The chief audit executive is responsible for establishing and maintaining independence so that conclusions and recommendations are impartial in both fact and appearance. The chief audit executive and staff need to consider organizational, personal, and external impairments that impact investigative staff's ability to perform work impartially:
2. Organizational impairments are conflicts that may arise due to reporting structure for the office of chief audit executive. Individuals responsible for investigations shall remain organizationally outside of the management of the unit under investigation. Organizational impairments that are not resolved to the satisfaction of the chief audit executive shall be reported to the board of trustees for handling consistent with Board of Governors and university regulations.
3. Personal impairments are actual or perceived conflicts of interest due to official, professional, personal, or financial relationships of investigative staff which may prevent impartiality. Individuals with personal impairments shall report the same to the chief audit executive who shall make a determination regarding the individual's ability to continue on the investigative assignment.

4. External impairments are factors outside of the office of chief audit executive which can restrict investigative activities or interfere with investigative staff's ability to form independent and objective conclusions and recommendations. External impairments shall be reported to the board of trustees for handling consistent with Board of Governors and university regulations.

C. Integrity and Objectivity

Individuals shall conduct themselves with integrity.

1. Public confidence is maintained and strengthened when chief audit executives and staff perform investigative responsibilities with integrity. Integrity includes conducting work with an attitude that is objective, fact-based, nonpartisan, and non-ideological with regard to matters investigated and reported. Communications with those charged with governance shall be honest, candid, and constructive.
2. Chief audit executives, their staff, and any individuals assigned by CAE involved in performing or supervising any investigative assignments shall maintain objectivity in performing their investigative responsibilities.

D. Due Professional Care

Individuals involved in performing or supervising any investigative assignment shall exercise due professional care in conducting investigations and in preparing accompanying reports.

1. Chief audit executives shall ensure individuals involved in performing or supervising an investigative assignment exercise due professional care.
2. Due professional care shall be exercised in determining which allegations warrant investigation, when determining investigative methods, and when creating accurate and complete documentation and reports. Due professional care requires:
 - a) **Standards** - Chief audit executives, their staff, and any individuals assigned by CAE to follow these professional standards and comply with applicable standards of conduct.
 - b) **Professional Skepticism** - Chief audit executives, their staff, and any individuals assigned by CAE to possess an attitude that includes a questioning mind and a critical assessment of investigative evidence. In exercising professional skepticism, the investigative staff shall not be satisfied with less than persuasive evidence because of a belief that either witnesses or subjects are honest.

- c) **Critical Analysis** - Chief audit executives, their staff, and any individuals assigned by CAE to ensure a serious examination and appraisal of information based on careful analytical evaluation.
- d) **Thoroughness** - Investigations be conducted in a diligent and complete manner with reasonable steps taken to ensure that sufficient, relevant, and competent evidence is collected; pertinent issues are sufficiently addressed; and appropriate criminal, civil, contractual, or administrative remedies are considered.
- e) **Legal Requirements** - Investigations be initiated, conducted, and reported in accordance with all applicable laws, rules, regulations, and university policies and procedures. Investigations shall be conducted with due respect for rights and privacy of those involved.
- f) **Appropriate Techniques** - Chief audit executives, their staff, and any individuals assigned by CAE to use appropriate methods and techniques based upon the circumstances and objectives of the investigation.
- g) **Ethics** - Chief audit executives, their staff, and any individuals assigned by CAE to conform to high ethical standards, including those in the Code of Ethics for Public Officers and Employees.
- h) **Accurate and Complete Documentation** - Investigative findings, conclusions, and outcomes to be supported by adequate and complete documentation in the case file.
- i) **Coordination** - Chief audit executives, their staff, and any individuals assigned by CAE to coordinate investigative activities with appropriate officials.

E. Quality Assurance and Improvement

The chief audit executive shall establish and maintain a quality assurance and improvement program to reasonably ensure that investigative work performed is carried out economically, efficiently, and effectively in compliance with these professional standards and to established policies, procedures, and performance expectations.

1. The quality assurance and improvement program shall be designed to enable an evaluation of the investigative function's conformance with these standards. The program shall assess the efficiency and effectiveness of the investigative activity and identify opportunities for improvement.
2. Internal assessments shall include ongoing monitoring of the performance of the investigative function, and periodic self-assessments by persons within the organization with sufficient knowledge of investigative practices.

3. The Chief Audit Executive should consider the benefits of obtaining an external quality assessment of the investigative function at least once every five (5) years. The investigative process would be evaluated for conformance with these standards adopted by the State University Audit Council and standards of other authoritative bodies that meet the needs of the University.

QUALITY STANDARDS FOR COMPLAINT HANDLING AND INVESTIGATIONS

In addition to abiding by the *Standards of Professional Conduct*, chief audit executives and individuals involved in performing or supervising any investigative assignment shall abide by the following *Quality Standards for Complaint Handling and Investigations*.

When applicable, the rights granted by collective bargaining agreements or contracts and Florida Statutes will be honored throughout the investigative process.

A. Quality Control

The chief audit executive shall establish policies and procedures for the direction and control of investigative activities to ensure investigations are adequately supervised throughout all phases of each investigative assignment, and performance is consistent with these professional standards.

1. Quality control is an inherent responsibility of the chief audit executive and those charged with supervision of investigative assignments. Each chief audit executive shall develop internal controls to ensure that investigations conform to these standards.
2. Work performed by individuals operating under the chief audit executive's direction on investigative assignments shall be adequately supervised. The actual amount of supervision provided will vary, based on resources available, complexity, and sensitivity of the work, and experience of staff conducting the investigative activity. Each chief audit executive shall develop procedures for documenting and demonstrating that supervision has been adequate.
3. The Chief Audit Executive shall ensure that staff receive effective direction, guidance, oversight, and training. Proper supervision throughout the investigation includes making sure that personnel explicitly understand, without ambiguity, the potential violations, elements of the complaint, and timing of the work assigned to them, and the expected work product. Investigative supervision also includes sufficient interim checks to determine whether investigations are on schedule and are being executed in accordance with plans, so that necessary adjustments can be made to complete the investigation.
4. Supervisory reviews shall determine that:
 - a) Investigative plans are followed, unless deviation is justified and authorized;
 - b) Investigation objectives are met; and

- c) Evidence adequately supports any findings, conclusions, and recommendations and referrals for possible criminal, civil, or administrative action.

B. Complaint Intake

The chief audit executive shall establish policies and procedures for receiving, reviewing, tracking, and disposing of all complaints.

1. The chief audit executive shall establish a process for receiving complaints from internal and external sources, including complaints from potential whistle-blowers. The public complaint process shall be readily available to university staff and the public. The process should not discourage or intimidate complainants.
2. The chief audit executive shall ensure that all complaints received in the CAE's office are promptly reviewed for the purpose of determining how the complaint will be handled. The chief audit executive should provide written acknowledgement and disposition information to the complainant. Any exceptions to this practice shall be documented along with the rationale for the exception.
3. The chief audit executive shall establish a process for tracking complaints from their receipt through final disposition. The tracking process should capture key investigative information for organization, management, research, and reporting purposes.
4. The chief audit executive shall document the complaint disposition and consider the following factors when deciding whether an investigation by their office is necessary:
 - a) The credibility of the allegations based on the information provided and the gravity of the disclosed information compared to the time and expense of an investigation.
 - b) The potential for an investigation to yield recommendations that will make university or auxiliary operations more efficient and effective.
 - c) The benefit to the university to have a final report on the disclosed information.
 - d) Whether the alleged information relates to topics under another office's jurisdiction.
 - e) Whether another agency may be conducting an investigation and whether any chief audit executive investigation could be duplicative.
 - f) The expertise required for the subject matter of the investigation.
 - g) The time that has elapsed between the alleged event and the disclosure of the information.

5. Based upon review of the complaint and any supplementary information, the appropriate course of action shall be determined in consultation with the chief audit executive. The course of action may include, but is not limited to, the following:
 - a) Preliminary inquiry to gather additional information for determination of proper disposition;
 - b) Referral to another investigative jurisdiction (administrative, civil, or criminal) – ensuring that the complaint is considered by the appropriate entities with jurisdiction;
 - c) Referral to management or the board of trustees for action deemed appropriate;
 - d) Declining to investigate giving consideration to the factors outlined in subsection 4; or
 - e) Investigating the complaint.

C. Planning

The chief audit executive shall establish policies and procedures for ensuring that investigative work is adequately planned.

1. The chief audit executive shall ensure investigative planning is performed to clarify allegations and identify the elements of proof required to sustain allegations.
2. When planning to perform an investigation staffing resources, the extent of external coordination, scheduling, logistics, and communications should be considered.

D. Evidence and Material Collection and Analysis

The chief audit executive shall establish policies and procedures which ensure that sufficient, relevant, and competent evidence is obtained to afford a reasonable basis for investigative findings and recommendations. The chief audit executive shall ensure that evidence and material gathered during an investigation is carefully documented and organized relative to case objectives.

1. Appropriate investigative techniques shall be chosen and employed to ensure that the evidence and material gathered are sufficiently reliable for making judgments regarding the matters being investigated. As objective fact finders, investigators shall consider all evidence gathered – proving or disproving the allegations. Investigative evidence shall be sufficient, relevant, and competent.
 - a) Evidence is *sufficient* if there is enough of it to support the investigative findings.
 - b) Evidence used to support findings is *relevant* if it has logical, sensible relationships to investigative findings.
 - c) Evidence is *competent* to the extent that it is consistent with fact (valid).

2. When gathering investigatory evidence, chief audit executives, their staff, and any individuals assigned by the CAE shall be alert to the possibility of conjecture, unsubstantiated opinion, and bias of witnesses and others.
3. Sources of investigative evidence and material shall be documented in sufficient detail to provide a basis for assessing its reliability. Such documentation should address pertinent questions related to the objectives of the investigation and provide information needed to determine the facts relative to potential violations of laws, rules, regulations, policies and procedures.
4. Chief audit executives shall preserve the integrity of relevant investigative evidence and material and document the same in the investigative case file. Chief audit executives shall document the chain of custody for relevant evidence and material gathered including its origin, possession, and disposition.
5. The basis and support for the results of an investigation should be carefully organized and documented in the investigative case file.

E. Timeliness

Chief audit executives shall ensure that investigations are timely conducted.

1. Timeliness increases the value of investigations. The nature of investigations also requires that schedules be flexible in order to respond to changing priorities or unforeseen circumstances, such as the need to expand the scope of an investigation or respond to an emergent need caused by other events. Regardless, chief audit executives shall abide by applicable timeframes set forth in the Florida Whistleblower's Act (sections [112.3187-112.31895](#), F.S.).

F. Reporting

Investigative activity should normally result in a written report. Reports shall be fair, and objective, and present the results of investigation in a clear manner.

1. Investigative reports shall be
 - a) appropriate to the purpose, concise, complete, objective, timely, relevant, free of jargon, and accurate.
 - b) based on evidence that is sufficient, relevant and competent to support the facts, conclusions, opinions and/or recommendations related to the investigation.
2. Systemic weaknesses or management problems disclosed in an investigation shall be reported to appropriate officials and may include specific recommendations for corrective actions.

3. No opinion shall be expressed regarding the legal guilt or innocence of any person or party.
4. The chief audit executive should alert appropriate officials as early as possible regarding instances of criminal behavior or other egregious misconduct and waste that become known to the chief audit executive, to the extent consistent with requirements imposed by statutes, rules, or regulations.
5. A credible allegation or other evidence of a significant and immediate danger to the health or safety of people or property, should be reported to appropriate officials as soon as possible, consistent with confidentiality requirements.
6. If reasonable grounds exist to believe that there has been a violation of federal, state, or local criminal law and the matter is not subject to the jurisdiction of the chief audit executive, the matter shall be expeditiously reported in accordance with the university's established escalation procedures for such matters.
7. When applicable investigative reports shall contain the following major elements:
 - a) **Predicate** – The predicate constitutes the initial conduct, action, or event being reported. The predicate shall be documented in the receipt of initial information.
 - b) **Allegations** – Allegations consist of potential violations of laws, rules, regulations, policies, procedures, manuals, contracts, and agreements.
 - c) **Findings** – Investigative findings are a summary of facts compared to the allegations and a conclusion that was reached based on a proof analysis.
 - d) **Conclusions** – All reports related to investigations should include an independent conclusion based on the facts and circumstances of the investigation.

While each CAE has the flexibility to develop conclusion categories and terminology that fits their particular environment, the portfolio of available conclusion options should include a category that describes each of the following scenarios:

- i) If the allegation(s) was supported by sufficient evidence to justify a reasonable conclusion that it occurred and was improper or unlawful.
- ii) If the allegation(s) was found to be false or not factual.
- iii) If the allegation(s) occurred but was lawful and proper.
- iv) If the investigation concluded there was insufficient evidence to prove or disprove the allegation(s).

- e) **Recommendations** – When applicable, recommendations will be included in the report of investigation but can also be communicated separately from the report.
- f) **Statement of Accordance** – A statement that the investigation was conducted in accordance with the Standards for Complaint Handling and Investigations for the State University System of Florida.

G. Confidentiality

The chief audit executive shall establish policies and procedures for protecting exempt and confidential information.

1. Chapter 119 Florida Statutes (Public Records Law) provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. There is a difference between records the Legislature has designated as *exempt* from the Public Records Law and those designated as *confidential*.
 - a) *Exempt records* are not subject to the mandatory disclosure requirements of the Public Records Law; an agency, however, is not prohibited from disclosing such records.
 - b) *Confidential information* is not subject to inspection by the public and may only be released to those persons and entities designated in Florida Statutes.
2. The chief audit executive shall comply with all legal mandates in order to protect exempt and confidential information compiled during the course of performing investigative activities. The chief audit executive shall establish procedures for releasing records, including the designation of those staff authorized to make disclosure determinations consistent with university regulations and procedures on this topic.
3. The chief audit executive office reviews and coordinates, which may include investigating, complaints or information from employees or others concerning possible violations of any federal, state, or local law, rule, or regulation, which creates and presents a substantial and specific danger to the public's health, safety, or welfare; or allegations that someone has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty. As such, the chief audit executive shall ensure compliance with sections 112.3187-112.3188, F.S., as it relates to the Florida Whistle-blowers Act.

H. Follow-Up

Chief audit executives shall follow-up on administrative or systemic issues identified by investigative activities to assure that any recommendations made to appropriate officials are adequately considered and properly addressed.

1. Chief audit executives shall take steps to document and determine whether appropriate officials have taken timely, complete, and reasonable actions in response to investigative reports. When the chief audit executive determines that actions are not timely, complete, or reasonable, the chief audit executive shall escalate such issues to the appropriate next level within the governance structure.