

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Reporting Fraud, Improper Governmental Conduct and Crime

NUMBER: 4.8.2

A. PURPOSE

To define and describe different types of fraud, improper governmental conduct, crime, and to establish procedures for reporting and handling allegations of employee fraud, improper governmental conduct and crime, and to ensure appropriate internal controls are in place.

B. DEFINITIONS

- 1. Conflict of Interest:** Conduct defined or described by SDBOR Policy 4.9.3 and SDCL 5-18A-17 to 5-18A-17.6.
- 2. Crime:** A criminal act attempted or committed by misusing an employee's access, duty, responsibility, or position as an employee;
- 3. Designated Contact:** The institutional official for the Board of Regents or one of its governed institutions responsible for receiving reports of fraud or improper governmental conduct under this policy. Institutions shall notify the Internal Systems Auditor of the Board Office of the identity and contact information of the institution's designated contact and ensure this information is updated not less than annually.
- 4. Fraud:** for purposes of this policy:
 - 4.1. Conduct within the scope of employment, or conduct apparently within the scope of employment, and representations to the Board, or any of the institutions governed by it or any affiliated organizations that constitutes:
 - 4.1.1. Intentional or deliberate act to deprive the State of South Dakota, the Board, any of the institutions governed by it or any affiliated organizations or students of something of value (property, money, services, or opportunities).
 - 4.1.2. Deception, false representation of fact by either conduct or other communication, or concealing what should have been disclosed, or made when the actor knew or should have known that the other party relied upon his or her representations, leading to injury of the State of South Dakota, the Board, any of the institutions governed by it or any affiliated organizations or students.
 - 4.1.3. Examples of a fraudulent act include but are not limited to:
 - 4.1.3.1. Embezzlement;

- 4.1.3.2. Misappropriation, misapplication, destruction, removal, or concealment of property;
- 4.1.3.3. Theft of any asset (money, tangible property, etc.);
- 4.1.3.4. Authorizing or receiving compensation for goods not received or services not performed;
- 4.1.3.5. Authorizing or receiving compensation for hours not worked;
- 4.1.3.6. Misrepresentation of fact.

5. Improper Governmental Conduct: Any conduct or omission that results in:

- 5.1. A conflict of interest prohibited by state law or SDBOR policy;
- 5.2. Fraud; or
- 5.3. Theft of moneys or property belonging to or derived from federal, state, or institutional sources.

6. Suspected Fraud, Improper Governmental Conduct, or Crime: A reasonable belief or actual knowledge, based on known facts, to assume that fraud, improper governmental conduct, or a crime has occurred or is occurring.

C. POLICY

This policy does not displace policies surrounding academic misconduct.

1. Responsibilities

- 1.1. Each university and special school shall designate a contact for employees to report suspected or known fraudulent acts, improper governmental conduct, or crime.
- 1.2. Employees of the South Dakota Regental System shall read and understand this policy. Additionally, suspected or known fraudulent acts, improper governmental conduct, or crimes shall be reported to their respective supervisor or to the Internal Systems Auditor of the Board Office.
- 1.3. The Regents or governed institution shall communicate the provisions of this policy to all staff, and supervisors shall 1) take no action without consulting the designated contact at the respective university or special school, 2) recommend appropriate temporary employment action when there is evidence of wrong-doing, and 3) if suspension or termination is recommended, consult with a campus representative.
- 1.4. The designated contact at the respective university or special school shall work with the supervisor to submit a timely report of the suspected or known fraudulent act, improper governmental conduct, or crime to the Attorney General and Auditor General, or other appropriate law enforcement authority, as required by applicable law, along with any known evidence or documentation permitted by applicable law to be disclosed. The designated contact shall communicate the suspected or known fraudulent act, improper governmental conduct, or crime to the Internal Systems Auditor of the Board Office. The designated contact shall initiate internal investigative actions of the suspected or known act, but shall ensure such internal

investigative actions occur in collaboration with applicable law enforcement units when they have been notified of the suspected or known fraudulent act, improper governmental conduct, or crime as required by applicable law.

- 1.5. The Internal Systems Auditor will investigate other suspected or known fraudulent acts for the Board of Regents and will either investigate in cooperation with the designated contact at the respective university or special school or receive the results of the investigation of the university or special school designated contact for investigations not required to be reported to the Attorney General and Auditor General. All investigations will be in collaboration with law enforcement when necessary.

2. Prevention

Each university and special school shall maintain an internal control environment to protect the university or special school from loss or other damages as a result of a fraudulent act.

3. Good Faith and False Allegations

False allegations of suspected fraud with the intent to disrupt or cause harm to another will be subject to corrective or disciplinary action according to procedures in place for their respective employment classification.

Employees who submit good faith reports of improper governmental conduct, fraud, or crime are entitled to the protections of [SDCL 3-6C-33 to 36](#).

4. Corrective Actions and Discipline

Appropriate and timely action will be taken against those proven to have committed a fraudulent act, improper governmental conduct, or a crime without compromising law enforcement investigations. These remedial actions may include, but are not limited to:

- 4.1. Disciplinary action (up to and including termination of employment).
- 4.2. Restitution for all losses, including investigation and legal expenses.
- 4.3. Forwarding information to the appropriate authorities for criminal prosecution.
- 4.4. Institution of civil action to recover losses.
- 4.5. Where an institution elects to take corrective or disciplinary action, it will proceed under the procedures in place under Board policy or under any collective bargaining agreement for the respective employment classification.
- 4.6. An institution may take corrective or disciplinary action without awaiting the resolution of criminal or civil proceedings arising from the fraudulent conduct.

5. Other

All investigations will be conducted in confidence insofar as reasonably possible. Board of Regents and their governed institutions will seek legal support from their assigned legal counsel. The name or names of those communicating information about a fraudulent act and the name or names of those suspected of a fraudulent act will be revealed when required in conjunction of the investigation or legal action.

FORMS / APPENDICES:

None

SOURCE:

BOR June 2002; October 2023 (Clerical); BOR December 2025.