

CITY OF DENTON

SECTION: GENERAL POLICIES/PROCEDURES/DIRECTIVES	REFERENCE NUMBER: 509.01
SUBJECT: FRAUD	INITIAL EFFECTIVE DATE: 05/17/2002
TITLE: FRAUD RESPONSE	LAST REVISION DATE: 09/28/2021

POLICY STATEMENT:

The City of Denton is committed to upholding the public trust through a commitment to high legal, ethical, and moral standards. As stewards of public funds, all City employees should be aware of fraud risks and should be adequately prepared to respond in the event of fraud.

It is the intention of the City of Denton to establish procedures for responding to allegations of fraud in connection with City programs, functions or activities. The goals of this fraud response policy are as follows:

- Inform employees of their roles in the event of fraud or suspected fraud at the City of Denton
- Protect the City of Denton from financial loss and reputational damage
- Conduct a timely and fair response to protect the party or parties accused of fraud
- Support law enforcement to the fullest extent possible when fraud has been uncovered within the City of Denton

This policy applies to all City employees.

ADMINISTRATIVE PROCEDURES:

I. DEFINITIONS

- a. *Fraud is defined as the intentional or knowing misappropriation of City assets by any act including, but not limited to, theft, corruption, conspiracy, embezzlement, deception, bribery, extortion, and intentional misrepresentation. Attempted fraud is treated as seriously as accomplished fraud.* Fraud may involve:

- Forgery or alteration of any document or account belonging to the City.
- Forgery or alteration of a check, bank draft, or any other financial document representing funds belonging to the City.
- Misappropriation of funds, securities, supplies, or other assets of the City.

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- Impropriety in the handling or reporting of money or financial transactions involving the City and any other entity.
 - Profiteering as a result of insider knowledge of City activities.
 - Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials to the City.
 - Inappropriate destruction, removal or use of records, furniture, fixtures and equipment belonging to the City.
 - Authorizing or receiving payments for goods not received or services not performed.
 - Authorizing or receiving payment for hours not worked.
 - Embezzlement, larceny or any other misapplication of City funds.
 - Any official misconduct including the misapplication or misuse of City funds or property.
- b. The Investigation Committee will be comprised of, at minimum, the City Auditor or their designee(s), the City Attorney or their designee(s), and the City Manager will appoint one or more department designees as needed. When designating individuals to the Investigation Committee, the City Manager, Auditor, and Attorney shall take into consideration the relevant knowledge, skills, and abilities needed in order to carry out the Committee's work. In order to preserve confidentiality, the Investigation Committee shall have no more than five members at a time.
- c. A preliminary review of a fraud allegation is an examination of available facts of an incident to assess the extent of wrongdoing, ascertain the likelihood that the criminal act of fraud has occurred, or determine if additional risk is imminent.
- d. An investigation is the collection of evidence or information used to determine whether a fraud has taken place.

II. ROLES AND RESPONSIBILITIES

- a. All City employees shall support the fraud response policy by avoiding fraud as defined herein and by supporting efforts aimed at preventing fraud. In addition, employees are expected to report possible fraudulent activity or any internal/external practices that would allow for or facilitate fraudulent activity through the process described in this administrative procedure.
- b. Supervisors and managers have a greater responsibility to uphold the City's fraud response policy. They are expected to initiate appropriate preventive measures, implement necessary controls and initiate investigations by promptly reporting allegations to a member of the Investigation Committee. In addition, they are responsible for determining and enforcing corrective action with the aid of the Human Resources Department as provided for by City of Denton Policy No. 109.01 ("Corrective Action").
- c. The Investigation Committee is responsible for responding to fraud allegations made by

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residents or City personnel through coordination of necessary resources in determining actions regarding the investigation. The Investigation Committee serves as the primary contact for City personnel when suspicions or allegations of fraud arise. Further, the Investigation Committee will respond to any fraud allegations. The Investigation Committee should develop formal procedures for receiving, tracking, and managing fraud allegations and investigations.

- d. The Human Resources Department is responsible for advising City personnel in the determination and enforcement of corrective action.
- e. The City Manager's Office (CMO) will have overall responsibility for holding departments accountable for compliance with the fraud response policy. The City Manager has a duty to disclose all evidence of fraud. For this reason, the CMO, in consultation with the Investigation Committee, will refer information to the appropriate law enforcement authorities on items that may result in criminal prosecution, if determined necessary. Where it does not impede or interfere with a criminal investigation or prosecution, the City Manager may provide information to the City Council concerning a particular fraud investigation.
- f. The Internal Audit Department is responsible for coordinating a city-wide fraud prevention and detection training program to ensure City employees are aware of their roles and responsibilities as related to the fraud response policy and this procedure. In addition, the Department is responsible for ensuring the City makes available to employees an anonymous method of reporting fraud suspicions or allegations. Further, it is responsible for tracking cases that come before the Investigation Committee and the case results.

III. REPORTING AND INVESTIGATION PROCEDURES

- a. Reporting and investigations of fraud comply with the following:
 1. Employees who suspect fraud shall immediately report their suspicions to their supervisor for appropriate action. Immediately shall mean as soon as the employee has the means to contact their supervisor but shall be no longer than twenty-four hours after the employee becomes aware of the suspected fraud. As an alternative, City employees may go outside the normal chain of command and report a suspected fraud to their department director, the City Manager or their designee, a member of the Investigation Committee, or anonymously through the method provided by the Internal Audit Department.
 2. City employees who are contacted by residents with evidence or written allegations of fraud shall immediately report it to their department director, a member of the Investigation Committee, or the City Manager or their designee.

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3. Department directors or supervisors will promptly report allegations or suspicions of fraud to a member of the Investigation Committee immediately following notification of the allegations or suspicions. This will be done prior to taking personnel action toward the employee(s) involved or immediately after putting the employee(s) on administrative leave as defined herein. Department supervisors will be responsible for maintaining consistency in their response to allegations of fraud and actions taken should be to protect the City and City assets.
4. Upon receipt of a fraud allegation, the Investigation Committee will perform a preliminary review to determine if there is reasonable cause to believe fraud has occurred that requires further investigation. The Investigation Committee will determine and coordinate with the individuals necessary to conduct different areas of the investigation but will refrain from conducting interviews about the allegations to avoid hindering a future investigation.

If a Council Appointee is implicated in a fraud allegation, individuals designated to the Investigation Committee by that Appointee shall be required to recuse themselves from the investigation. Lack of recusal or communication of the fraud allegations or findings of the Investigation Committee will be considered non-compliance with the fraud response policy and this procedure.

5. The Investigation Committee will present the results of the preliminary review to the City Manager to determine if the allegations should be pursued administratively or as a criminal investigation. If the Investigation Committee suspects the conduct to be criminal in nature, the committee will recommend that the Police Department take charge of the investigation. The Police Department will then determine the appropriate actions as the investigation progresses including, without limitation, referral of the matter for criminal prosecution.

Results of a preliminary review involving fraud allegations of a Council Appointee will be presented by the Investigation Committee to the City Council in a closed session as allowed by Texas Government Code §551.074.

6. In consultation with the City Manager, or when appropriate the City Council, the Investigation Committee will be able to hire an investigation consultant to assist in the performance of any administrative fraud investigations.
7. The Investigation Committee may notify the department director of any allegations submitted to them that require an on-site investigation, when appropriate. When the investigation requires the inspection of City facilities and/or equipment, the Committee will comply with Policy 108.13 “Investigation and Inspection of City Facilities/Equipment” of the City of Denton Policies and Procedures Manual.
8. The Internal Audit Department will track cases and their disposition. However, if the

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case is a criminal investigation, no information made confidential by law or by discretion of the investigating Officer will be maintained in the Human Resources Department to avoid impeding the criminal investigation. All criminal case information and documentation will be maintained with the Police Department files while all preliminary review and administrative investigation case files will be maintained by the Human Resources Department.

9. When the suspected fraud involves the theft of City funds, employees should also abide by the procedures addressed in Policy 403.01 "Cash Handling Regulations," section XV "Fraud, Theft, and Lost and Found" of the City of Denton Policies and Procedures Manual.

IV. PERSONNEL ISSUES

- a. Administrative Leave – An employee under investigation may be placed on administrative leave with or without pay for the duration of the proceedings upon the recommendation by the Human Resources Department and the department director, City Manager or their designee. Upon completion of the investigation, appropriate and timely action will be taken. If the employee is returned to duty, they will receive recovery of back pay, if applicable and to the extent deemed appropriate by the Human Resources Department or as may be required by law.
- b. Rehire – Employees terminated for violating a provision of the fraud response policy or this procedure shall not be eligible for future employment with the City in any capacity - e.g., a regular, temporary, seasonal, or contract/consulting position unless the termination is overturned by a judicial or administrative procedure.
- c. False Information and/or Accusations – Employees who intentionally or knowingly make false accusations and/or provide false information concerning instances of fraud will be subject to corrective action up to and including termination of employment.
- d. Other – If an employee's personnel file contains documentation of corrective action based upon sustained allegations of fraud, within ten days of the placement of such documentation in the personnel file, the employee may submit a written response to the Director of Human Resources regarding the corrective action. This response will be placed in their personnel file.
- e. All employees are required to cooperate fully during any City review or investigation of an allegation of fraud. Anyone informed of an investigation in progress shall ensure that strict confidentiality is observed so as to not prejudice the investigation or the City's rights and integrity. Anyone found violating this requirement will be subject to corrective action. During an investigation, any employee contacted by the media should refer all questions to the Public Information Office. Employees should be aware that:

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- They are to maintain the confidentiality of the information they receive (except in the event of a public information request, court order or otherwise authorized by law).
- Retaliation for cooperating is prohibited subject to City of Denton Administrative Directive 108.06 (“Retaliation Act”).
- The Human Resources Department is available to provide advice related to the City’s personnel policies.
- If they have questions concerning legal consequences, they should consult with an attorney.
- Failure to comply with this section could result in corrective action pursuant to City of Denton Policy No. 109.01 (“Corrective Action”).

V. PROTECTION FROM RETALIATION

Pursuant to the City of Denton’s Administrative Directive 108.06 (“Retaliation Act”), an employee may not be retaliated against for reporting an alleged violation of a law by another employee to an appropriate law enforcement authority if the employee’s report is made in good faith as set forth in the Texas Retaliation Act.

Employees who believe they have been the subject of retaliation for reporting illegal activity by other City employee(s) or officials should address their complaint with their immediate supervisor. If this is not a suitable avenue, the complaint may be addressed directly to their department director or the Director of Human Resources or their designee.

VI. COMPLIANCE

All City employees are required to comply with the fraud response policy and this procedure. In addition to all the individual requirements for compliance stated within, failure to comply with the fraud response policy or this procedure may result in corrective action pursuant to City of Denton Policy No. 109.01 (“Corrective Action”) as determined necessary by the City Manager and the appropriate department director. Failure to comply with the fraud response policy or this procedure by a Council Appointee may result in corrective action by the City Council.