Procedure Statement

The intake by the University Compliance Office of a report of actual or possible misconduct which may lead to an investigation is an essential part of Texas A&M University-Commerce’s compliance program. It is the first step in a comprehensive process that will be affected by how the initial information about possible misconduct is received and handled.

Reason for Procedure

This procedure provides a consistent and logical method by which reports of actual or possible misconduct will be received, documented, and tracked by the University Compliance Office (UCO).

Procedures and Responsibilities

1  MAKING A REPORT

1.1  There are multiple channels for making an inquiry or a Report. Students, employees, contractors, vendors, suppliers, and community members are invited to direct an inquiry or Report to any of the following:

1.1.1.  The employee’s immediate supervisor

1.1.2.  Anyone in the employee’s administrative channel

1.1.3.  University Police Department

1.1.4.  The UCO

1.1.5.  The President

1.1.6.  The Chief Auditor of the System

1.1.7.  The Hotline
If a Report is made to an A&M-Commerce supervisor or department head, he/she is expected to immediately forward the Report to the UCO so that the UCO may ensure its appropriate resolution.

1.2 Reports may also be made as a result of previous investigations, audits, as well as information from external parties.

2 RECEIVING THE REPORT

2.1 The Hotline

2.1.1. The Hotline is a telephone and web resource to assist employees with guidance or for making a Report. The Hotline is administered by the System.

2.1.2. The Hotline is operated by a third-party vendor. This vendor is provided with a list of important questions to ask the Reporter to learn relevant information about the Report.

2.1.3. When a Report is made to the Hotline, the Reporter is asked to provide details of the incident or issue being reported. The Reporter is also asked to disclose his/her identity. The Reporter may decline to provide his/her identity, and the information will still be accepted.

2.1.4. The vendor will create an entry for the Report in the Database. The case number will be generated by the Database. The Reporter is provided a Report Key to reference if they choose a password for this report upon submission.

2.1.5. The vendor will then alert its designated System contact. The System has its own protocol for directing Reports. If a Report relates to A&M-Commerce, the Report is directed to the UCO Hotline Administrator.

2.2 Internal Notifications to the UCO

2.2.1. Each of the Reports received by the UCO must be entered into the Database by the Administrator.

2.2.2. The Administrator will create an entry in the Database for each Report received by the UCO internally (or externally by a third party.)

2.2.3. If a Report involves a member of the UCO, the Report will be referred immediately to the Chief Compliance Officer. If the Report involves the Chief Compliance Officer, the Report will be referred immediately to the President.

3 THE DATABASE

3.1 Each Report receives a unique case file in the Database. The case file includes such items as the Report, detailed case notes, other supporting documents, and a final report as needed.

3.2 The case file provides a record for historical purposes and aids in trends analysis.
4 ESCALATION CRITERIA

Certain Reports are sufficiently serious to warrant immediate notification to the Chief Compliance Officer. The Administrator will advise the Chief Compliance Officer within one business day of any Reports involving any suspected compliance violation that has caused or poses an imminent risk of injury or harm to persons, property or the surrounding community, or reputational harm. The Chief Compliance Officer shall promptly report to the President and the System Ethics and Compliance Officer as soon as possible after learning of or receiving such a Report.

5 PRELIMINARY ASSESSMENT

5.1 When a Report is received, the Administrator will send the Reporter a written acknowledgment that the Report has been received by the UCO within three business days, unless the Reporter has already been notified. The acknowledgment is simply a notification that the UCO has received the Report and may either open an Investigation, refer the Report to another internal department, or do nothing if the Report does not meet the criteria for taking action.

5.2 The Administrator will conduct a Preliminary Assessment to determine if the Report is an allegation of misconduct, an inquiry, a request for assistance, or a combination of all three. Not all matters reported to the UCO require an Investigation.

5.3 A Preliminary Assessment is conducted by the Administrator also to determine whether an Investigation is warranted or how otherwise to respond to the Report. This process helps identify issues and/or allegations, and it assists the UCO to develop an appropriate response.

5.3.1. An Investigation is warranted where there is a reasonable basis to believe that Misconduct may have occurred. This determination is made by reviewing the information available at that time, including the information provided by the Reporter. The Preliminary Assessment is intended to identify the issues which underlay the Report.

5.3.2. If an Investigation is not warranted, the Report is referred to another appropriate department for handling. That department should provide the UCO with information regarding how that Report was resolved. The Administrator should input that information into the Database. The Administrator will follow-up to determine the action taken and whether or not it addressed the Report.

5.3.3. The Preliminary Assessment should be completed within five business days after the Report was received.

5.4 The following types of Reports are not appropriate for Investigation:

5.4.1. Reports that are made fraudulently or in bad faith.

5.4.2. Reports that do not relate to Misconduct.
5.4.3. Reports by a Reporter who has already raised the same issues regarding the same Respondent, unless significant new information is available or there has been a significant change in circumstances.

5.5 The Reporter’s Information

5.5.1. The Report will be reviewed to determine whether the Report is credible.

5.5.2. The Report must include an allegation of Misconduct with as much specificity as possible. The Report, at a minimum, must describe: (i) the specific Misconduct alleged to have occurred; (ii) identify the employees allegedly responsible for the Misconduct; (iii) the date(s) and place(s) where the Misconduct allegedly occurred; and (iv) the basis for the Reporter’s belief that Misconduct occurred. The Reporter should be asked to provide any documentation supporting the Report.

5.5.3. The Reporter’s characterization of the Report does not determine the issue category for the Report. The issue category may be adjusted, if needed, based on the information learned during the Preliminary Assessment. Similarly, all relevant issues should be identified, even if the Reporter did not specifically mention them. The issue categories are specified in Appendix A.

5.5.4. The Administrator should contact the Reporter within five business days after receiving the Report to request an interview regarding the information in the Report, even if the information in the Report appears sufficient. The interview is intended to debrief the Reporter for all relevant information. An appropriate request will also be made if the Report is made anonymously.

5.5.5. The credibility of the Reporter will be assessed as well as the motives for making the Report. However, neither of these factors is singularly dispositive in deciding the appropriate resolution strategy.

5.5.6. Discussions with the Reporter should be documented and uploaded in the Database. Similarly, any documents or emails received from the Reporter should be uploaded in the Database.

5.6 Anonymous Reports

5.6.1. A Report may be made anonymously. Anonymous Reports are also subject to a Preliminary Assessment. The identity of the Reporter is not critical. The Administrator should not create the appearance of unduly trying to identify the Reporter.

5.6.2. Information received from anonymous sources will be assessed and may lead to an investigation. However, the information should include sufficient detail to allow for independent corroboration of the information reported. If there is no means of independently corroborating the information provided by the Reporter, the matter may not be referred for investigation.
5.6.3. If the Report is made through the Hotline, the Administrator will post a message in the Database within **three business days** after receiving the Report to invite the Reporter to contact the UCO to discuss the Report. Alternatively, clarifying questions to the Reporter may be posted in order to gather more information about the Report.

5.6.4. If the Reporter does not respond within **five business days** and an Investigation decision cannot be made without additional information, the file will be closed and an appropriate notification will be made to the Reporter in the Database within **three business days**.

6  DIRECTIVE TO INVESTIGATE

6.1 An Investigation is warranted, based on the Preliminary Assessment, if there is a reasonable basis to believe that Misconduct has occurred and the Respondent may have committed the Misconduct.

6.2 Once the Preliminary Assessment is completed, the Administrator will determine if an Investigation is warranted. If an Investigation is not warranted, the Report will be handled as otherwise specified in this procedure.

6.3 The Administrator will refer the Report for Investigation by another internal department unless the UCO will conduct the investigation. If the Report is referred, the UCO retains responsibility for ensuring that the Investigation is conducted according to A&M-Commerce policies and procedures.

6.4 The form of the Directive to Investigate is specified in **Appendix B**.

6.5 The Directive to Investigate specifies the appropriate scope and extent of the Investigation. The directive will specify a time frame for completing the Investigation. The Administrator will determine the appropriate amount of time to complete the Investigation, which will usually not exceed **30 business days**. Requests for extensions to the investigation timeframe will be made to the Administrator, and will be granted in **15 day** increments.

6.6 The Administrator will determine who needs to be notified that an Investigation will be conducted.

7  RESOLUTION OTHER THAN INVESTIGATION

7.1 If the Administrator concludes, based on the Preliminary Assessment, that there is no recognizable Misconduct and the Reporter is seeking other help or requesting information, the Administrator will generally provide that assistance. The Administrator will document the results in the Database.

7.2 **Internal Referrals**
7.2.1. If the Administrator concludes, based on the Preliminary Assessment, possible non-compliance with law, regulation or our policy has occurred but is not appropriate for an Investigation because some other established resolution path exists, the Administrator will refer the Reporter to the appropriate internal department. The Administrator will document the results in the Database.

7.2.2. Regardless of the reasons for a referral, it is not closure for the UCO. A referral contemplates some further action and possible follow-up. Consequently, matters that are referred are subject to follow-up reporting by the UCO to document the proper disposition of the Report.

7.3 If the Administrator concludes, based on the Preliminary Assessment, that there is no further action warranted, the Administrator will document the results in the Database. Examples of such Reports include (i) frivolous complaints, (ii) insufficient facts on which to make a determination, (iii) the subject matter of the Report has already been addressed, and (iv) the subject matter of the Report does not relate to Misconduct.

7.4 Unless interviewed, the Respondent will not normally be notified that a Preliminary Assessment was conducted or its findings. Other parties involved in the Preliminary Assessment may be informed of the outcome if deemed necessary to protect the reputation of the Respondent.

8 CLOSING A REPORT

8.1 The Administrator will ensure that all aspects of the Report’s resolution are fully, accurately, and properly documented.

8.1.1. The Investigative Authority is responsible for conducting the Investigation and providing a draft investigation report to the UCO within the time specified. Unless a System policy or regulation provides otherwise, the UCO will review the draft investigation report and provide any comments within ten business days after receiving the draft investigation report. The Investigative Authority will make any needed revisions and re-submit the draft investigation report to the designated senior administrator.

8.1.2. The investigation report will be prepared according to the template document prescribed by the UCO or in a form as otherwise required.

8.2 An investigation report is subject to the review of the designated senior administrator. The designated senior administrator will review the investigation report and any supporting documentation. The designated senior administrator will make a determination regarding whether to accept the Investigation findings within five business days after receiving the investigation report and any supporting documentation.
8.3 When an Investigation has been conducted, the Report will be closed in the Database once it is determined that the results of the Investigation, the acceptance of the investigation report by the designated senior administrator, the Investigation report, interview memoranda, and any supporting documentation have been uploaded in the Database.

8.4 When an Investigation has not been conducted, the Report will be closed in the Database once an appropriate notation has been made in the Database as to how the Report was resolved.

8.5 The file will be closed and an appropriate notification will be made to the Reporter in the Database within **three business days**.

9 SANCTIONS

9.1 The UCO and Investigative Authority do not make decisions regarding sanctions against the Respondent. The designated senior administrator may make these decisions or delegate the decision to another A&M-Commerce authority.

9.2 Sanctions may have educational, restorative, rehabilitative, and/or punitive components. These may include, but are not limited to, written warning or reprimand, required training and/or counseling, probation for a defined or indefinite period, and employment termination and/or expulsion from an educational program.

9.3 The Reporter and Respondent may be informed of any sanctions as appropriate, unless applicable law or regulation requires otherwise.

10 ADDITIONAL CONSIDERATIONS

10.1 Documents created under this procedure should be uploaded in the Database or as otherwise required.

10.2 Unless a time period is specified, the Administrator will perform the obligations under this procedure in a timely manner.

10.3 If someone makes a Report which involves their own Misconduct, that Reporter is not immune or otherwise protected from discipline or similar consequences. The scope of the Investigation should be expanded accordingly.

10.4 If a Reporter wishes to share concerns but does not seek an Investigation, the Administrator should explain that, depending on the information, there may be an obligation to conduct an Investigation.

10.5 Once made, a Report may not be withdrawn by the Reporter.

10.6 If the subject matter of the Report was previously investigated, no further Investigation is warranted.
10.7 If a member of the UCO or another employee attempts improperly to determine the identity if a Reporter who makes an anonymous Report, that person may be subject to disciplinary action.

10.8 The Administrator and anyone else performing this procedure must exercise appropriate discretion regarding the Investigation. Similarly, these employees must be careful to avoid communication, outside of the Investigation process, of any information that may be construed as false, misleading, defamatory, or an invasion of privacy.

10.9 Information about Reports and Investigations should be disclosed only on a need-to-know basis, as necessary to complete the Investigation or comply with applicable laws or regulations.

10.10 Records documenting the Report, the Investigation, the findings and any recommended sanctions should be considered confidential and maintained according to A&M-Commerce’s document-retention guidelines.

11 APPEALS

A Respondent who receives a disciplinary sanction as a result of an Investigation may appeal the determination according to the applicable governance:

11.1 System Policy 32.01, Employee Complaint and Appeal Procedure;

11.2 System Regulation 32.01.02, Complaint and Appeal Process for Nonfaculty Employees;

11.3 University Procedure 32.01.01.R0.01, Grievance and Appeal Process for Faculty Members; or

11.4 University Procedure 13.02.99.R0.04, Appeal Procedures.

---

**Related Statutes, Policies, or Requirements**

Federal Sentencing Guidelines Chapter 8 – Part B2- Effective Compliance and Ethics Program

*Texas Education Code Section 51.971, Compliance Program*

*System Policy 16.01, System Ethics and Compliance Program*

*System Regulation 16.01.01, System Ethics and Compliance*

*System Policy 10.02, Control of Fraud, Waste and Abuse*

*System Regulation 10.02.01, Control of Fraud, Waste and Abuse*

*System Policy 07.01, Ethics*
Definitions

“Administrator” means the UCO employee who has primary responsibility for management of the Database and the requirements of this procedure. The Administrator may delegate his/her duties under this procedure, as appropriate.

“Database” means the case-management database in which information about Reports and their Investigation or other resolution is maintained.

“Hotline” means The Texas A&M University System’s Fraud, Risk and Misconduct Hotline.

“Investigation” means an objective and reliable determination of the facts and circumstances of reported or suspected wrongdoing or non-compliance affecting A&M-Commerce’s interests. An Investigation also includes inquiries intended to improve processes and internal controls.

“Investigative Authority” means the employee or A&M-Commerce department assigned by the UCO to complete an Investigation.

“Misconduct” means the types of employee wrongdoing or non-compliance with some obligation as defined in Attachment A to this procedure.

“Notification” means the process by which an employee or internal department informs the UCO of a Report or a completed Investigation.

“Preliminary Assessment” means the process by which a Report is reviewed to determine its appropriate resolution.

“Report” means a report of actual or possible Misconduct or non-compliance.

“Reporter” means a person who makes a Report.

“Respondent” means the person who is under Investigation for possible Misconduct.

Contact Office

University Compliance Office
903-886-5996
APPENDIX A

Report Categories

Abuse or Waste of University Resources: Someone used an A&M-Commerce resource improperly or excessively. This category includes the intentional destruction, diversion, manipulation, misapplication or misuse of resources. This category also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems or internal controls. See System Regulation 10.02.01 (Control of Fraud, Waste and Abuse) and System Policy 07.01(2)(c) and (l) (Ethics).

Conflict of Interest: Someone made an A&M-Commerce business decision while allowing their personal interests to conflict or appear to conflict with A&M-Commerce’s interests. This includes hiring or supervising a relative, having a business or personal interest in a vendor or having some outside personal interest that conflicts with A&M-Commerce’s interests. See Texas Govt. Code § 572.051(a)(3) and (4) and System Policy 07.01(2)(e)(j) (Ethics).

Discrimination: Someone engaged in discrimination based on race, color, religion, gender, national origin, disability, age, or genetic information. See System Regulation 08.01.01 §§ 2.1 and 6 (Civil Rights Compliance).

Environmental, Health and Safety: Someone violated an obligation to provide a safe working environment required by local law, regulation or System policies. See System Policy 24.01 (Risk Management).

Fraud: Someone intentionally deceived for financial gain, and the deception resulted in a financial loss to A&M-Commerce. This category includes bribery. See System Regulation 10.02.01 (Control of Fraud, Waste and Abuse) and System Policy 07.01(2)(l) (Ethics).

Improper Contracting Practices: Someone failed to follow required procedures or otherwise acted improperly in connection with System or A&M-Commerce contracts. This category includes improper preferential treatment and making unauthorized commitments or promises to bind the System or A&M-Commerce. See System Policy 07.01(2)(g) (Ethics) and System Policy 25.07 (Contract Administration).

Improper Employment Practices: Someone acted improperly in the recruiting, management, supervision, promotion, tenure, training, discipline or compensation of an A&M-Commerce employee (faculty or non-faculty). See System Policy 07.01(2)(i) (Ethics), System Regulation 32.01.01 (Complaint and Appeal Procedures for Faculty Members), System Regulation 32.01.02 (Complaint and Appeal Procedures for Non-Faculty Employees), and System Policy 12.01 (Academic Freedom, Responsibility and Tenure).

Improper Research, Scholarship or Creative Work: Someone failed to follow ethical standards of honesty and integrity in connection with A&M-Commerce related research, scholarship or creative work. This includes fabrication, falsification or plagiarism. See System Regulation 15.99.03 (Ethics in Research, Scholarship and Creative Work).

Improper Research Processes: Someone failed to follow proper standards and procedures in connection with research performed at A&M-Commerce. The areas of research include human subjects and animals. See System Regulation 15.99.01 (Use of Human Subjects in Research), System Regulation 15.99.07 (Use of Vertebrate Animals) and System Regulation 15.99.05 (Research Compliance).
Misuse of Confidential Information: Someone misused A&M-Commerce confidential information. This includes using confidential information in connection with outside employment and improperly identifying a Reporter, someone seeking compliance-related guidance, or an investigation participant. This category also includes improperly disclosing investigation-related documents and information. See Texas Govt. Code § 572.051(a)(2), Texas Educ. Code § 51.971 and System Policy 07.01(2)(f) and (h) (Ethics).

Reporter/Witness Retaliation: Someone was negatively affected as a result of making a compliance-related inquiry, a good-faith report of actual or suspected non-compliance, or participating in an investigation. See System Regulation 08.01.01 § 2.1 (Civil Rights Compliance).
APPENDIX B

MEMORANDUM

To: 
From: 
Date: 
Re: Directive to Investigate Case Number 000

1 The Report: We received an anonymous hotline report on _____. After a preliminary analysis, the allegation is now understood to be that [insert].
A copy of the report and any information already developed in the report is attached.

2 Affected University Location: [insert]

3 Implicated Employee: [insert]

4 Applicable Standard: The applicable standard is [insert]. The provision is violated when each of the following elements are proven by a preponderance of the information learned in the investigation.

[insert elements]

Your inquiries should be limited to this standard unless we agree otherwise.

5 Deliverables

- A proposed investigation plan should be submitted for review within five business days.
- Conduct interviews as necessary and upload memoranda of interviews into the case-management system.
- Upload material documents into the case-management system.
- Prepare a report of investigation containing findings of fact.

6 Investigator obligations

- Conduct the investigation according to the University Compliance Office’s Investigation Protocol.
- Act fairly, without bias (including disclosing any potential conflicts of interest).
- Give the investigation subject a reasonable opportunity to participate and provide any information to the investigation.
- Make all reasonable inquiries to gather evidence before making a finding.
- Complete the investigation in a timely manner.
- Maintain confidentiality regarding all aspects of the investigation.

Thank you in advance for your assistance. Please let me know if you have any questions.