

Chapter XIII: Fraud

13.1 Purpose

The purpose of this policy is to establish a fraud policy to convey, both internally and externally, the intent and conviction that all City business is conveyed with integrity using the highest ethical standards possible. To accomplish this purpose, this policy seeks to establish rules that clearly define unacceptable behavior, prevent fraud and outline the appropriate response to allegations of fraud in connection with City programs, functions or activities.

This policy applies to all City employees.

13.2 Scope

This policy establishes three key expectations of the City of Burleson:

- (a) Since to “guard the public’s trust” is one of the core values of the City’s Ethics Mission Statement, it is important to discourage and prevent fraudulent activity and report suspected fraud.
- (b) Strong procedures, outlined in this policy, will respond to allegations of fraud.
- (c) Investigation procedures ensure objective review of each situation.

13.3 Definitions

(a) **Fraud:** The intentional misappropriation of City assets by any act including, but not limited to, theft, embezzlement and intentional misrepresentation.

Acts constituting fraud include but are not limited to:

1. Forgery or alteration of any document or account belonging to the City.
2. Forgery or alteration of a check, bank draft or any other financial document representing funds belonging to the City.
3. Misappropriation of funds, securities, supplies or other assets of the City.
4. Impropriety in the handling or reporting of money or financial transactions involving the City and any other entity.

5. Profiteering as a result of insider knowledge of City activities.
6. Disclosing confidential and proprietary information to outside parties.
7. Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials to the City in return for a referral of business.
8. Unauthorized destruction, removal or personal use of records, furniture, fixtures and equipment belonging to the City.
9. Embezzlement, larceny or any other misapplication of City funds.
10. Any official misconduct including the misapplication or misuse of City funds, property or information.

(b) **Appropriate law enforcement authority:** A part of a state or local governmental authority or of the federal government that an employee in good faith believes is authorized to:

1. Regulate or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

13.4 Policy

Fraudulent activity is prohibited. All allegations of fraudulent activity will be investigated. If it is determined that any employee has engaged in fraudulent activity, the employee will be subject to discipline, up to and including termination of employment, and referral may be made to an appropriate law enforcement authority.

Retaliation against any employee for reporting what is believed to be fraudulent activity or for participating or cooperating in an investigation of an allegation of fraud, is prohibited.

13.5 Roles and Responsibilities

(a) **City Manager:**

The City Manager has overall responsibility for compliance with this policy. As a public official, the City Manager has a duty to disclose all evidence of fraud. For this reason, when determined necessary, the City Manager, in consultation with an appointed Investigation Committee, if set up under Sec. 13.5 (g) below, will refer information to the appropriate

law enforcement authorities on items that may result in criminal prosecution. 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.

In the event that allegations of fraudulent activity involve the City Manager, the allegations shall be reported to the Mayor and City Attorney. The City Council will investigate allegations of fraudulent activity involving the City Manager in the manner as set out in the City of Burlison Home Rule Charter.

(b) Department Directors:

Department Directors have a responsibility to uphold the City's policy and to communicate the organization's values. They are expected to initiate appropriate preventative measures, implement necessary controls, encourage employees to attend training sessions and initiate investigations.

Department Directors will promptly report allegations or suspicions to the Director of Human Resources and will cooperate in investigations. This will be done prior to taking personnel action toward the employee(s) involved. Failure to report allegations or initiate investigations will result in disciplinary action.

Department Directors are responsible for conducting reviews/investigations of alleged fraud when the Human Resources Director feels it is appropriate for the Department Director to do so. If the Human Resources Director conducts the investigation, Department Directors will provide all necessary assistance.

Department Directors are responsible for determining and enforcing disciplinary action with the aid of the Human Resources Department.

(c) Supervisors and Managers:

1. Supervisors and Managers have a responsibility to uphold the City's policy. In consultation with the Department Head's they are expected to initiate appropriate preventative measures, implement necessary controls and initiate investigations by promptly reporting allegations to the department director or Director of Human Resources when they observe behavior that violates this policy and/or when they receive complaints alleging fraud.
2. Supervisors and Managers are also expected to cooperate in all investigations.

(d) Director of Human Resources:

1. The Director of Human Resources has the responsibility to ensure allegations of fraud are investigated in a timely manner.
2. The Director of Human Resources is also responsible for conducting reviews/investigations of alleged fraud or notifying the Department Head that the Department Head should proceed with the review/investigation.
3. The Director of Human Resources will develop and implement training programs designed to educate employees about this policy.

(e) Human Resources Department:

1. The Human Resources Department will track cases and their disposition. However, if the 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 by the investigating law enforcement authority. All administrative investigation case files will be maintained by the Human Resources Department.
2. The Human Resources Department is responsible for advising City personnel in the determination and enforcement of disciplinary action.

(f) Employees:

1. Employees will not engage in fraudulent activity;
2. Employees who are contacted by citizens with evidence or written allegations of fraud shall immediately report it to their department director, the Human Resources Department, a Deputy City Manager or the City Manager
3. Employees who suspect fraud shall immediately report their suspicions to their supervisor for appropriate action, or as provided in 3.a or 3.b below. Immediately shall mean as soon as the employee has the means to contact their supervisor or the alternatives, but shall be no longer than

twenty-four hours after the employee becomes aware of the suspected fraud.

- a. As an alternative, City employees can go outside the normal chain of command and report suspected fraud directly to their department director, the Human Resources Department, the Police Chief, a Deputy City Manager, or the City Manager.
- b. Employees may also make anonymous reports via the employee anonymous reporting hotline. Details of the anonymous reporting will be placed in this Handbook as an addendum and distributed to all employees. In order to assure that this type of report may be appropriately responded to, employees are discouraged from making anonymous reports via means other than the reporting hotline (notes, phone message, letters, etc.).
- c. 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. During an investigation, any employee contacted by the media should refer all questions to the Public Information Officer. Employees should be aware that:
 1. 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).
 2. They will not be subject to retaliation for cooperating.
 3. The Human Resources Department is available to provide advice related to the City's personnel policies.
 4. If they have questions concerning legal consequences to them personally, they should consult with a personal attorney at their own expense.
 5. Failure to comply with this policy could result in disciplinary action pursuant to the City of Burleson Employee Handbook.
 6. Employees who intentionally or knowingly make false accusations and/or provide false information concerning instances of fraud will be subject to disciplinary action up to and including termination.

(g) Investigation Committee:

1. Many issues may be handled through normal disciplinary procedures; however, when warranted, the City Manager may appoint an Investigation Committee to respond to fraud allegations.
2. The Investigation Committee could include but is not limited to the:
3. City Attorney, Deputy City Manager, Department directors, Representatives from the Human Resources Department, and/or a third-party consultant with expertise in the area of concern.
4. The committee's responsibilities will be to:
 - a. Respond to fraud allegations through coordination of necessary resources in determining future actions regarding the investigation.
 - b. Communicate all committee findings and recommendations to the City Manager.
 - c. Refer all allegations suspected to be criminal in nature to the appropriate law enforcement authority.
 - d. Maintain accurate records of all matters related to the investigation.

13.6 Investigation Types

Depending on the seriousness and scope of the allegation, three types of investigations could be conducted. Some allegations may be considered less serious and can be handled by a Department Director while others may touch multiple departments and require an Investigation Committee.

If at any point within an investigation it becomes suspected that criminal activity may have occurred, whomever is leading the investigation shall promptly notify the appropriate law enforcement authority as well as the City Manager who will determine if the case should still be pursued as an administrative investigation in addition to any criminal investigation.

The three types of investigations are:

(a) Department Director Review

1. The Department Director, or his/her designee, shall initiate an investigation within five (5) working days after the allegations have been received. All allegations shall be reported to the Director of Human Resources. The Human Resources Department will initially determine if a Department Director Review is appropriate and, if so, may assist in the investigation if the Department Director deems it necessary.

(b) Human Resources Review

1. The Director of Human Resources, or his/her designee, shall initiate an investigation within five (5) working days after an allegation has been received. The Director of Human Resources or his/her designee shall meet with the Department Director or designee to discuss the allegations and shall promptly report the allegations to the City Manager. The City Manager will make a final determination as to whether or not an Investigation Committee is warranted and if so, who will serve on that committee.

(c) Investigation Committee Review

1. When deemed necessary, an Investigation Committee appointed by the City Manager will prepare an investigation plan and coordinate with the individuals necessary to conduct different areas of the investigation.
2. If the committee suspects the conduct to be criminal in nature, the committee will forward all information to the appropriate law enforcement authority to take charge of any criminal portion of the investigation. If necessary, the Investigation Committee will serve as a resource.
3. The Investigation Committee will notify the Department Director of any allegations submitted to them that require an on-site investigation, when appropriate, unless it is determined that such notification will harm the investigation. When the investigation requires the inspection of City facilities and for equipment, the City may initiate a search in compliance with federal and state law.

13.7 Investigation Procedures

- A. The following procedures apply to all investigations, regardless of whom is leading the investigation:
1. An investigation shall be planned in coordination with the Human Resources Department and initiated within five (5) working days after the allegations have been received.
 2. After all relevant information has been collected, a written report of findings regarding the allegations of fraud shall be completed. The Director of Human Resources and Department Director shall meet to confer about the findings and discuss the nature of appropriate action. Provided the investigation is not related to the City Manager the findings will be reviewed with the City Manager prior to final determination of disciplinary actions to be taken.
 3. A determination regarding the reported conduct will be made and communicated to the complainant, if necessary, and the accused employee.
 4. Based on the findings, the appropriate supervisor will administer the appropriate disciplinary action, including but not limited to, counseling, mandatory training, reprimand, suspension or termination of employees violating the provisions of this policy.
 5. Any disciplinary actions resulting from the application of this policy will be handled in accordance with the City's Employee Handbook.
 6. A copy of the findings report shall be provided to the accused employee(s), the appropriate department director, the Human Resources Director, the Deputy City Manager, the City Manager and the complainant, if deemed appropriate. A copy shall also be placed in the personnel file(s) of the accused employee(s).
 7. To the extent allowed by law, all documentation and matters regarding the investigation shall be handled with due sensitivity and confidentiality appropriate to the circumstances.