

CITY OF DENTON

SECTION: GENERAL POLICIES/PROCEDURES/DIRECTIVES	REFERENCE NUMBER: 509.01
SUBJECT: FRAUD	INITIAL EFFECTIVE DATE: 05/17/2002
TITLE: FRAUD DIRECTIVE	LAST REVISION DATE: 09/16/2002

ADMINISTRATIVE DIRECTIVE:

It is the intention of the City of Denton to establish procedures for preventing fraud and for responding to allegations of fraud in connection with City programs, functions or activities.

This directive applies to all City employees.

The City of Denton is committed to upholding the public trust. All employees shall support this directive by avoiding fraud as defined herein. Employees are expected to support 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.

Supervisors and managers have a greater responsibility to uphold the City's directive. 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 disciplinary action with the aid of the Human Resources Department.

The investigation committee is responsible for responding to fraud allegations through coordination of necessary resources in determining future actions regarding the investigation. If the committee suspects the conduct to be criminal in nature, the committee will recommend that the Police Department take charge of the investigation. Committee findings and recommendations shall then be communicated to the City Manager's Office (CMO) for further action.

The Human Resources Department is responsible for advising City personnel in the determination and enforcement of disciplinary action. Further, it is responsible for tracking cases that come before the investigation committee and the case results.

The CMO will have overall responsibility for holding departments accountable for compliance with this directive. As a public official, the City Manager has a duty to disclose all evidence of fraud. For this reason, the CMO, in consultation with 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.

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ADMINISTRATIVE PROCEDURES

A. Scope

This directive establishes three key expectations for the City of Denton:

1. Procedures for preventing fraudulent activity and reporting suspected fraud.
2. Procedures to respond to allegations of fraud.
3. An investigation committee comprised of a member of the Legal Department, Human Resources Department and Internal Audit responsible for responding to allegations of fraud. The committee's responsibilities will be to:
 - Respond to fraud allegations through coordination of necessary resources in determining future actions regarding the investigation.
 - Communicate all committee findings and recommendations to the City Manager's Office (CMO).
 - When directed by the City Manager, refer all allegations suspected to be criminal in nature, to the Police Department for investigation.
 - Monitor and coordinate all administrative investigations.
 - Document all allegations and their disposition.

B. Definitions

Fraud is defined as 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:

- 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.
- 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.

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- Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials to the City.
- Destruction, removal or inappropriate use of records, furniture, fixtures and equipment belonging to the City.
- Embezzlement, larceny or any other misapplication of City funds.
- Any official misconduct including the misapplication or misuse of City funds or property.

The **investigation committee** will be comprised of a member of the Legal Department, Human Resources Department and Internal Audit. The committee will serve as a contact for City personnel when suspicions of fraud arise. Further, the committee will respond to any fraud allegations made by citizens or City personnel.

C. Procedures

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 can go outside the normal chain of command and report it directly to their department director, an Assistant City Manager, the City Manager or a member of the investigation committee. Employees who provide information in good faith will be protected pursuant to City of Denton Administrative Directive No. 108.06 (Retaliation Act) as described later in this directive.
2. City employees who are contacted by citizens with evidence or written allegations of fraud shall immediately report it to their department director, a member of the investigation committee, an Assistant City Manager or the City Manager.
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.
4. 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.
5. The investigation committee will determine and coordinate with the

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individuals necessary to conduct different areas of the investigation. When management is not sure whether a crime has been committed, would like to assess the extent of wrongdoing or is not sure if additional risk is imminent, the investigation committee will perform a review to determine if there is reasonable cause to believe fraud has occurred that requires further investigation.

6. The investigation committee, in consultation with the City Manager, will determine if the case should be pursued as an administrative or criminal investigation. If the committee suspects the conduct to be criminal in nature, the committee will recommend that the Police Department take charge of the investigation with the investigation committee providing assistance, if necessary, and serving as a resource to the police. The Police Department will then determine the appropriate actions as the investigation progresses including, without limitation, referral of the matter to the District Attorney's Office for criminal prosecution.
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 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 with the Police Department files while all 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 XIV "Action Taken in Event of Theft" of the City of Denton Policies and Procedures Manual.

D. Personnel Issues

1. ***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, Assistant City Manager or City

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Manager. Upon completion of the investigation, appropriate and timely action will be taken. If the employee is returned to duty, he/she 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.

2. **Rehire** - Employees terminated for violating a provision of this directive shall not be eligible for future employment with the City in any capacity - e.g., a regular, temporary or contract/consulting position unless the termination is overturned by a judicial or administrative procedure.
3. **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 disciplinary action up to and including termination.
4. **Other**
 - a. If an employee's personnel file contains documentation of disciplinary 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 disciplinary action. This response will be placed in his/her personnel file.
 - b. 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 disciplinary action. During an investigation, any employee contacted by the media should refer all questions to the Public Information Office. 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, they should consult with an attorney.
 5. Failure to comply with this section could result in disciplinary action pursuant to City of Denton Policy No.

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109.01.

E. 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 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 head or the Director of the Human Resources Department.

F. Compliance

All City employees are required to comply with this directive. In addition to all the individual requirements for compliance stated within, failure to comply with this Fraud Prevention Directive may result in disciplinary action pursuant to City of Denton Policy No. 109.01 (“Disciplinary Action”) as determined necessary by the City Manager and the appropriate department director.