



NEW YORK UNIVERSITY

Reporting and Investigation of Potential Financial Misconduct

Policy 1.6

Volume 1: Financial Management

Responsible Office: Internal Audit

Effective: July 15, 2004

POLICY STATEMENT

All members of the New York University community have a responsibility to ensure that University funds and resources are used only in activities that support the missions of the University; to protect University funds and resources from theft, misuse, misappropriation and other conduct that may be injurious to the financial welfare and reputation of the University; and, to ensure the integrity of the University's financial records through accurate reporting.

REASON FOR POLICY

New York University funds and resources come from a variety of sources that carry with them fiduciary responsibilities. These responsibilities require the University to use these funds and resources only on expenses and activities that support the missions of the University, to maintain operations according to guidelines established by the University's Board of Trustees, and to comply with all applicable federal, state, and local rules and regulations.

To ensure the financial integrity of the University, all members of the University community are required to exercise responsible stewardship. The University's various financial policies provide the guidelines that help all members of NYU community foster stewardship and avoid situations that may lead to financial misconduct. Mindful disregard or violation of University financial policies for the purpose of personal gain or the gain of families, friends, or associates places the University at risk. Such situations must be reported and investigated according to the guidelines provided in this policy.

The reporting and investigation of potential financial misconduct must conform to established procedures to promote confidentiality and fairness and to help ensure that the conduct of University business is not disrupted.

ENTITIES AFFECTED BY THIS POLICY

All schools, departments, and units of the University

WHO SHOULD READ THIS POLICY

All officers, faculty, and staff of New York University

WEBSITE ADDRESS FOR THIS POLICY

This policy and related materials are found on the website of the Controller's Division (www.nyu.edu/cdv).

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RELATED DOCUMENTS

University Financial Policies

Various policies related to financial management, including:

Business Expenses
Cash Incentive Payments (Human Subjects)
Conflict of Interest
Expense Reimbursement
Petty Cash Funds (Imprest)
Transaction Authority

Other University Documents

Code of Ethical Conduct
Faculty Handbook
Collective Bargaining Agreements
Administrative and Professional Handbook
Student Handbook

Government Documents

OMB Circular A-21
OMB Circular A-110
Anti-Kickback Act of 1986 (41 U.S.C. 51-58)
Freedom of Information Act 1992
Anti Corruption Commission Act 1988
National Science Foundation Policy; Grant Policy Manual 510, Investigator Disclosure Policy, 60 F.R.132, pp. 35810-823 (July 11, 1995)
U.S. Department of Health and Human Services, Objectivity in Research Subpart F-Responsibility of Applicants for Promoting Objectivity in Research for Which Funding is Sought, 42 CFR Part 50, Subpart F

CONTACTS

Direct general questions about this policy to the University's Department of Internal Audit. If you have questions about specific issues, contact the following offices:

Subject	Contact
Conduct of Investigation	Department of Internal Audit
Financial Misconduct	Tel: 212-998-2771
Requesting Preliminary Investigation	
Reporting Potential Misconduct	Internal Audit Director Tel: 212-998-2775
	NYU Compliance "Hotline" Tel: 877-360-7626
	Chair of the Audit Committee, Board of Trustees
Policy Clarification	Department of Internal Audit Tel: 212-998-2771

Reporting and Investigation of Potential Financial Misconduct

DEFINITIONS

These definitions apply to these terms as they are used in this policy.

Term	Definition
Financial Misconduct	Financial misconduct refers to any intentional act to acquire financial gain for oneself or for those of relatives, friends, or associates from or through activities and transactions related to the business of New York University. It also refers to any falsification of records, deliberate misrepresentation in financial reporting to University leadership or external agencies such as bond trustees, donors and grant agencies, rating agencies, and government bodies such as the Internal Revenue Service.
Department Head	Individual with administrative responsibility for the area (school, department, or unit) where financial misconduct is alleged to happen. When the misconduct is believed perpetrated by a faculty member, the Department Head is the College Dean.

Reporting and Investigation of Potential Financial Misconduct

OVERVIEW

Introduction to this Policy

Financial misconduct refers to any intentional act to acquire financial gain for oneself or for those of relatives, friends, or associates from or through activities and transactions related to the business of New York University.

Financial misconduct of any member of the University community results in material or financial detriment to the University. It may subject the University to serious consequences such as penalties, fines, disqualification from participation in federal programs, debarment from research programs, and withdrawal of various kinds of support from donors and agencies. Financial misconduct committed in any area of the University also poses harm to the reputation of the University as a whole and the University's ability to advance its missions of education, research, public service, and patient care.

Financial misconduct may also subject offending individuals to disciplinary action from the University as well as criminal prosecution.

Therefore, to protect the University, its missions, and all its members from undue financial and other risks, this policy provides the guidelines to help everyone properly respond to situations that indicate financial misconduct.

To make sure that the University's response to potential financial misconduct is consistent, effective, and fair, all members of the University community are required to follow the procedures established in this policy on how activities believed to be financial misconduct should be reported and investigated. When reporting suspected financial misconduct, one must be cognizant of the risk of damage to the reputation of an individual who may ultimately be absolved of any wrongdoing. The University espouses confidentiality and ethical conduct at all times.

Situations that Indicate Potential Financial Misconduct

All members of the University community have a responsibility to report known or suspected financial misconduct associated with the conduct of University business. The exercise of this responsibility, however, must always be guided by prudence because, absent a concrete pattern of egregious activities or open display of utter indifference to University policies and procedures, financial misconduct is often difficult to detect and conclusively prove.

Financial misconduct typically involves theft, forgery, or embezzlement. Examples of financial misconduct include, but are not limited to:

- alteration of records including financial reports, attendance and timekeeping reports;
- submission of fraudulent business expenses for reimbursement;
- acceptance of kickbacks from vendors;
- overriding the University's internal controls such as the established review and authorization processes for business expenses;
- falsification or records related to financial transactions funded by external agencies (such as student loan providers and research funding sources);
- falsification or alteration of various records related to accounting and financial reporting;
- falsification or alteration of records related to employee tax reporting and employee benefit plans;
- deliberate misrepresentation in financial reporting to University leadership and other recipients of financial reports, including donors, granting agencies, bond trustees, rating agencies, and other governmental bodies.

Caution: Situations that indicate potential financial misconduct do not confirm culpability. Each must be thoroughly and properly investigated before they can be deemed misconduct that is subject to disciplinary or legal actions.

Reporting and Investigation of Potential Financial Misconduct

Fiduciary and Stewardship Responsibilities

Financial misconduct is a violation of the fiduciary and stewardship responsibilities that officers, faculty and staff of the University are expected to exercise. All have a responsibility to ensure that University funds are used appropriately and to exercise due diligence when generating, reviewing, and approving transactions that commit the University to a financial obligation.

To help all members of the University community understand and fulfill their fiduciary and stewardship responsibilities, policies and procedures on a variety of financial activities and transactions have been developed (see 'Related Documents' section of the this document). All are expected to know these policies and to follow established procedures, as well as seek guidance whenever appropriate from offices or individuals responsible for specific policies.

Reporting and Investigation of Potential Financial Misconduct

PROCEDURES

Reporting Potential Financial Misconduct

When financial misconduct is suspected or uncovered by any member of the University community, it should be reported promptly and in a confidential manner.

To report known or suspected financial misconduct, contact the Audit Director or any audit staff of the University's Department of Internal Audit (see "Contacts" section).

Heads of any school, department, or unit of the University who receive reports of potential financial misconduct from any member of their staff are required to contact Internal Audit. All are advised to refrain from conducting an investigation on their own, or from taking any action to resolve the irregularity before consulting Internal Audit.

University employees who wish to report potential misconduct anonymously may call the NYU Compliance "Hotline" (see "Contacts" section). This service was established according to the policy of the University's Board of Trustees (through its Audit Committee). University employees may also directly call the Office of the Audit Committee Chair of the University's Board of Trustees.

All information regarding known or suspected of financial misconduct is deemed privileged and confidential. The University protects the identity of both those who alert the University to any irregularity and those suspected of wrongdoing.

Investigation of Potential Financial Misconduct

All reports of potential financial misconduct are promptly reviewed by the Department of Internal Audit. The department's auditors evaluate necessary records and information to verify the validity of the reports and to make a preliminary determination whether an investigation is warranted.

Caution: To ensure compliance to all applicable University policies as well as government rules and regulations related to the investigation of potential misconduct, *only Internal Audit should conduct a formal financial investigation.*

The University's Department of Internal Audit has the expertise and the tools to conduct a financial investigation. It is better equipped than any unit of the University in identifying any irregularity as well as in assessing financial and other risks beyond those assumed to be caused by the conduct reported.

When an investigation is in process, all units of the University are required to respond promptly to Internal Audit inquiries and to provide access to relevant records.

Coordination with Internal and External Offices

Internal Audit will request the support of, and coordinate efforts with, other offices within the University and external agencies when necessary.

In concert with University leadership, Internal Audit will develop a risk assessment, giving due consideration to the extent of possible financial consequences, any regulatory compliance issues compromised, and any external reporting obligations that may be necessary. Based on the risk assessment, Internal Audit will provide interim reports to University leadership as the investigation progresses.

Internal Audit focuses investigations on financial matters but will, when necessary, coordinate with the University's Department of Public Safety, the New York City Police Department, or State and Federal police agencies.

When significant financial reporting issues arise in the course of an investigation, or deficiencies in internal control over financial transactions are noted, the auditors will notify the Controller's Office promptly to mitigate risk of continuing losses or misreporting.

In the event that a faculty member is the focus of an investigation, Internal Audit will coordinate with the University Provost and the Dean of the School with which the faculty member is associated to ensure that any actions taken conform to the University's Bylaws and policies specific to faculty.

Reporting and Investigation of Potential Financial Misconduct

Conclusion

Because investigations typically involve sensitive subject matters and non-routine risk, the value of timeliness in completing the review of financial conduct and reporting the results is readily recognized. Internal Audit reporting will be completed as a matter of priority. As warranted by findings, department heads, officers, or the dean of the area involved may offer supplementary information in a concurrent timeframe with the Internal Audit report.

Reporting Results

Internal Audit will prepare a report at the conclusion of the investigation that will summarize issues investigated, procedures followed, conclusions reached, and actions taken by administrative units of the University including the unit on which the investigation centered. The report will be provided to senior officers of the University, including the Senior Vice President for Finance and Budget, Senior Vice President and General Counsel, and the administrative or academic officers responsible for appropriate actions.

When warranted, the Department or School where financial misconduct has been identified will provide a plan of corrective action to safeguard against recurring losses. The Assistant Vice President for Finance/Controller and the Audit Director will assist departments or schools in ensuring improved internal controls.

The conduct and outcome of all investigations that result in the finding of financial misconduct are required to be reported to the Audit Committee of the New York University Board of Trustees.

Disciplinary Action

The initiation of employee discipline, when warranted, is the responsibility of the School or Department. When disciplinary action is being considered, schools and departments are advised to contact the University's Human Resources Department to ensure compliance with collective bargaining agreements and University personnel policies. Human Resources must be informed of any disciplinary action being considered to also ensure that employee rights related to compensation and benefits are protected and harmonious employee relations are maintained.

Individuals who have been suspended from their post cannot be reassigned to their customary duties until the investigation has been completed and Internal Audit has released its recommendations.

Legal Action

When legal action is required, Internal Audit will consult with the University's Office of Legal Counsel. The University has vested the responsibility to interact or communicate with any external legal counsel, whether retained by the University or representing another client, on the University's Office of Legal Counsel. Only the University's Office of Legal Counsel is authorized to respond to any requests from any legal office, as well as to subpoenas and other notices from state and federal judiciary offices.

Claims for Restitution

If the University has suffered a financial loss as the result of financial misconduct, the Audit Director will provide a financial summary to the NYU Insurance Office. The Director of the Insurance Office will initiate insurance claims when warranted. Other action to effect restitution will be carried out under the direction of the Office of Legal Counsel.

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RESPONSIBILITIES

The major responsibilities of offices or individuals involved in the processes subject to this policy are:

Office	Responsibilities
Human Resources Department	<p>Consult with the Department Head when internal discipline involves suspension or termination.</p> <p>Assist in ensuring that any action conforms to collective bargaining agreements and University personnel policies, as well as informed on employee rights including those related to compensation and benefits.</p>
Internal Audit	<p>Respond promptly to reports of suspected or uncovered financial misconduct.</p> <p>Conduct appropriate investigations into reports that have been concluded as valid.</p> <p>Coordinate with relevant offices within the University and external agencies when necessary to ensure the effective conduct of investigations.</p> <p>Notify all appropriate offices within the University of investigation results; advise on appropriate actions.</p>
Office of University Counsel	<p>Advise on appropriate action; determine the need for legal action on a case by case basis.</p> <p>Interact or communicate with external legal offices (including those under the government's judicial system) on behalf of the University as needed.</p> <p>Refer matters to the District Attorney's Office or other outside law enforcement agencies.</p>
School, Department, or Unit	<p>Communicate the University Policy 1.6, Reporting and Investigation of Potential Financial Misconduct, to all staff.</p> <p>Notify Internal Audit promptly and in a confidential manner when financial misconduct is suspected or uncovered.</p> <p>Take no action to investigate or resolve reports of potential financial misconduct made by staff prior to consultation with Internal Audit.</p> <p>Recommend appropriate internal disciplinary measures when there is sufficient evidence of wrongdoing.</p>
University Protection Services	<p>Investigate reports submitted by Internal Audit. Provide assistance necessary to ensure safety, peace, and order within the University.</p>
University Officers	<p>Determine the final disciplinary action.</p>
You	<p>Read and understand University Policy 1.6, Reporting and Investigation of Potential Financial Misconduct.</p>

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