

Policy 1603
Fraud, Waste and Abuse Reporting

Date of Current Revision: May 2019

Primary Responsible Officer: Director of Audit and Management Services

1. PURPOSE

The purpose of this policy is to establish procedures for reporting fraud, waste and abuse involving university property or resources.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND/OR REGULATION

Code of Virginia § 30-138 requires the president to notify the Auditor of Public Accounts, the State Inspector General and the Superintendent of State Police of circumstances suggesting a reasonable possibility that a fraudulent transaction involving university employees has occurred. Code of Virginia § 2.2-3011 provides whistle blower protection for all employees disclosing information about suspected wrongdoing or abuse to an appropriate authority.

3. DEFINITIONS

Abuse

Excessive or improper use of a resource, or to use an item or resource in a manner contrary to the natural or legal purpose. Examples include the intentional destruction, diversion, manipulation, misapplication, maltreatment or misuse of university or commonwealth resources; or extravagant or excessive use of one's position or authority. Abuse can occur in financial or non-financial settings.

Appropriate Authority

A federal or state agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or abuse; or a member, officer, agent, representative, or supervisory employee of the agency or organization. The term also includes the Office of the Attorney General, the Office of the State Inspector General, and the General Assembly and its committees having the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or abuse.

Fraud

The intentional deception perpetrated by an individual, individuals or organization, which could result in a tangible or intangible benefit to themselves, the university, the commonwealth or others and/or could cause detriment to the university, the commonwealth or others. Fraud includes a false representation of a matter of fact (whether by words or by conduct, by false or misleading statements, or by concealment of that which should have been disclosed) that deceives and is intended to deceive. Fraudulent transactions can include, but are not limited to, the following prohibited acts:

- embezzlement
- forgery, falsification or alteration of documents (e.g., timesheets, leave reports, travel vouchers, etc.)
- unauthorized use of university property or resources
- unauthorized access to (or misuse of) computer systems or equipment
- charging personal purchases to the university
- unauthorized use of university employees

Good Faith Report

A report of wrongdoing or abuse that is made without malice and that the person making the report has reasonable cause to believe is true.

Waste

The thoughtless or careless expenditure, consumption, mismanagement, use or squandering of university or commonwealth resources to the detriment or potential detriment of the university or commonwealth. Waste, which may be intentional or unintentional, also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems or controls.

Whistle Blower

An employee who witnesses or has evidence of wrongdoing or abuse and who makes or demonstrates by clear and convincing evidence that he/she is about to make a good faith report of, or testifies or is about to testify to, the wrongdoing or abuse to one of the employee's superiors, an agent of the university, or an appropriate authority.

Wrongdoing

A violation, which is not of a merely technical or minimal nature, of a federal or state law or regulation, local ordinance, or a formally adopted code of conduct or ethics of a professional organization designed to protect the interests of the public or employee.

4. APPLICABILITY

This policy applies to all university departments, activities, employees, students and student organizations.

5. POLICY

The university will not tolerate fraud, theft, waste or abuse of state or university property or other resources. University employees and students will be required to report suspected irregularities or possible fraudulent transactions to Audit and Management Services. All reported allegations will be fully reviewed, and substantiated fraudulent activities will be reported to the proper authorities.

The university will not discharge, threaten, or otherwise discriminate or retaliate against a whistle blower who discloses information about suspected wrongdoing or abuse in good faith and upon a reasonable belief that the information is accurate. Disclosures that are reckless or that the employee knew or should have known were false, confidential by law, or malicious shall not be deemed good faith reports and shall not be protected. In addition, the university will not discharge, threaten, or otherwise discriminate or retaliate against a whistle blower because the

whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action.

Nothing in this policy shall prohibit the university from disciplining or discharging a whistle blower for his/her misconduct or any violation of university policy or law.

6. PROCEDURES

- 6.1 Upon the discovery of circumstances that suggest that a fraudulent transaction may have occurred, it is the responsibility of university employees and students to immediately notify the [Director of Audit and Management Services](#). Upon such notification, the director will ensure that the appropriate vice president and the president are informed of the questionable transaction or specific event.
- 6.2 Audit and Management Services will perform audit procedures to determine whether there is a reasonable possibility that a fraudulent transaction has occurred. Audit and Management Services will also attempt to quantify any losses and make recommendations for improving internal controls.
- 6.3 Employees and students are required to cooperate fully with those performing investigations. Employees, departments, students and organizations (i.e., other than those responsible for conducting investigations pursuant to this policy), shall not conduct investigations on their own since this may compromise official investigations.
- 6.4 If Audit and Management Services determines that there is a reasonable possibility that a fraudulent transaction has occurred and involves a university employee (including student employees), the office will prepare a letter for the president's signature to report the possible fraudulent transaction to the Auditor of Public Accounts, the State Inspector General and the Superintendent of State Police in accordance with § 30-138.A of the Code of Virginia.
- 6.5 Audit and Management Services will also consult with Public Safety for their opinion on whether a reasonable possibility exists that a fraudulent transaction has occurred. Further investigation of the transaction or specific event with the objective of prosecution is the responsibility of Public Safety and the Commonwealth's Attorney. The decision to prosecute is the responsibility of the Commonwealth's Attorney. Audit and Management Services will assist with further investigation if requested.
- 6.6 The university will take any necessary administrative actions and may request restitution of funds. Recovery of funds will be the responsibility of the Assistant Vice President for Finance unless otherwise decided.
- 6.7 University employees and students are encouraged to report instances of waste or abuse to Audit and Management Services. Audit and Management Services will perform any necessary audit procedures and make recommendations for improving internal controls.

6.8 University employees (including student employees), and citizens of the Commonwealth may also anonymously report suspicious activities to the State Fraud, Waste and Abuse Hotline, maintained by the Office of the State Inspector General (OSIG), by calling 1-800-723-1615 or submitting an [online complaint form](#). In addition, employees and citizens may report information to OSIG under the [Whistle Blower Protection Act \(WBPA\) program](#) and be eligible for a reward. However, anonymity and confidentiality are not guaranteed when filing a claim under the WBPA. Audit and Management Services may be required to investigate these activities and report findings to OSIG.

6.9 Audit and Management Services will report incidents involving students to the Dean of Students and, if student organizations are involved, the Associate Vice President for Student Life and Involvement.

7. RESPONSIBILITIES

Employees and students are responsible for notifying Audit and Management Services of circumstances that suggest that a fraudulent transaction may have occurred.

Audit and Management Services is responsible for performing audit procedures to determine whether there is a reasonable possibility that a fraudulent transaction has occurred. The office is also responsible for preparing letters for the president's signature to report possible fraudulent transactions by employees to the Auditor of Public Accounts, the State Inspector General and the Superintendent of State Police in accordance with § 30-138.A of the Code of Virginia. Audit and Management Services will report incidents involving students to the Dean of Students and, if student organizations are involved, the Associate Vice President for Student Life and Involvement.

Public Safety is responsible for performing investigations for the objective of prosecution.

The president is responsible for reporting possible fraudulent transactions by employees to the Auditor of Public Accounts, the State Inspector General and the Superintendent of State Police in accordance with § 30-138.A of the Code of Virginia.

The Office of Human Resources is responsible for posting notices of whistle blower protection in accordance with § 2.2-3013 of the Code of Virginia.

All departments, offices and employees that generate, receive or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) – Records Management.

8. SANCTIONS

Regarding employees (including student employees), sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

Regarding student organizations, sanctions will be commensurate with the severity and/or frequency of the offense and may include withdrawal of recognition and support for the student organization.

Regarding students, sanctions will be commensurate with the severity and/or frequency of the offense and may include suspension or expulsion.

In addition to the above administrative actions, individuals may also be subject to criminal prosecution. (See 6.4 and 6.5)

9. EXCLUSIONS

None.

10. INTERPRETATION

The authority to interpret this policy rests with the president and is generally delegated to the Director of Audit and Management Services.

Previous version: April 2017

Approved by the president: November 2009