FRAUD AND CORRUPTION CONTROL PROCEDURES

Implementation document for the Corruption Prevention policy

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If this is a printed document, refer to the department’s Policy Library for the most recent version.
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1 PLANNING AND RESOURCING

1.1 Corruption Prevention Policy

The Fraud and Corruption Control Framework governs fraud and corruption prevention, detection and response in the department. The Corruption Prevention Policy has been developed under the auspices of this control framework and these procedures are based on them.

The department’s Audit and Risk Committee is responsible for ensuring the currency of the department’s policy and procedures on fraud and corruption and for providing advice to the Secretary of Education (the Secretary) on the effectiveness of fraud and corruption prevention policy and strategy.

A fraud and corruption control management plan is prepared by the Fraud Prevention and Corporate Reporting team and it outlines the department’s actions in implementing and monitoring fraud and corruption prevention, detection and response initiatives. The Fraud Prevention and Corporate Reporting team sits within the Governance and Government Services Directorate.

1.2 Responsibility Structures

All staff have a role in fraud and corruption prevention. There are some positions, groups and committees (listed below) with specific responsibilities that are outlined in sections 1 to 4:

- The department’s Executive;
- The department’s Audit & Risk Committee;
- The Fraud Prevention and Corporate Reporting Team;
- Employee Performance and Conduct Directorate (EPAC);
- Nominated Disclosure Officers;
- All Public Sector Senior Executive Officers;
- All Principals, Managers and Supervisors (includes all of the above).
2 PREVENTION

2.1 Fraud and Corruption Risk Assessment

Fraud and corruption can occur whenever a person supplies or has access to resources or information or has responsibility for decision making. Since this describes almost any workplace activity, all activities should be designed with an awareness of the fraud and corruption risks which arise in the activity and the management controls that can reduce the risk to an acceptable level.

The Fraud Prevention and Corporate Reporting team has a key role in assisting management to identify and control risks, including fraud and corruption risks, through regular audits incorporating risk assessments. However, managers including principals are ultimately responsible for the effective operation of controls within their area’s operations. Management is required to manage the risks associated with their operations. The Fraud and Corruption Risk Guide (intranet only) can assist managers to identify and manage risks. This process is consistent with the risk management process contained in ISO 31000:2009 Risk Management – Principles and Guidelines.

Additional resources useful in the identification of fraud and corruption risks and controls include:

- AS 8001-2008 Fraud and Corruption Control, Standards Australia;
- ISO 31000:2009 Risk Management – Principles and Guidelines;
- The department's Statement of Business Ethics.

2.2 Employee Awareness

All staff have a responsibility to contribute to eliminating fraud and corruption. In particular, staff who have the responsibilities for resources, decision making or information need to be aware of the behaviours that could result in actual or perceived fraud and corrupt conduct. All supervisors need to be aware of the fraud and corruption risks in the activities they supervise.

All staff can develop an understanding through:

- Provision of information on the department’s corruption prevention intranet site, relating to fraud and corruption risks and controls;
- Ongoing awareness of the relevant conduct standards that have been issued by the department, including the Code of Conduct;
- Use of the Fraud and Corruption Risk Guide (intranet only) to assist in identifying the fraud and corruption risks inherent in work activities and the controls to address them;
- Involvement of staff in risk assessment activities including those conducted in conjunction with the Fraud Prevention and Corporate Reporting team;
- Inclusion of questions on ethical issues and ethical practice in staff selection interviews;
- Reference to the Corruption Prevention Policy and the Fraud and Corruption Control Procedures in staff induction resources;
- Inclusion of fraud and corruption prevention strategies in performance agreements where applicable.
2.3 Customer, Community and Supplier Awareness

The incidence of fraud and corruption can be reduced through the education of customers, suppliers and the community about acceptable standards of behaviour expected of department staff and of the customers, suppliers and community members that interact with the department. As expectations about standards of behaviour can differ, it is important that the department outlines its expectations to external parties with whom it interacts. All staff can develop understanding through training and the inclusion of fraud and corruption prevention information in newsletters, letters, invoices, contracts, tenders and on department internet and intranet sites.

The standards of behaviour expected by the department in business relationships with external parties are outlined in the department’s Statement of Business Ethics.

Additional resources for raising customer and community awareness can be found at NSW Independent Commission Against Corruption (ICAC) publications.
3 DETECTION

3.1 Internal Notification Systems

The reporting requirements where fraud and corrupt conduct is suspected are contained in the *Complaints Handling Policy*. The department’s procedures for internal reporting of corrupt conduct are contained in the *Staff Complaint Procedure* and the *Public Interest Disclosures Internal Reporting Guidelines* (intranet only). All staff must immediately report to their supervisor any suspected fraud, corrupt conduct, maladministration or serious and substantial waste, as defined in “Section 6 Appendix – Definitions” of these procedures.

Senior managers must ensure that all cases of suspected corrupt conduct are reported to EPAC. All public sector senior executive officers, principals and managers are to ensure that all cases of suspected corrupt conduct and allegations against department staff in the area of child protection are reported to the Executive Director, EPAC.

3.1.1 Public Interest Disclosures

The legislative requirements for protecting staff who make disclosures of suspected fraud, corrupt conduct, maladministration and serious and substantial waste are contained in the NSW *Public Interest Disclosures Act 1994*.

The *Public Interest Disclosures Internal Reporting Policy* applies this legislation to the department. In particular, the *Public Interest Disclosures Internal Reporting Guidelines* (intranet only) lists Nominated Disclosure Officers who can receive a public interest disclosure. Nominated Disclosure Officers must forward notifications to the Serious Misconduct Investigation Team, and act on disclosures made to them in accordance with the policy.

EPAC maintains policy documents and provides information kits and training for Nominated Disclosure Officers on appointment and/or request.

Any employee who makes a report of suspected fraud or corrupt conduct is protected from reprisal action by the department via the Code of Conduct and the protections afforded by the *Public Interest Disclosures Act 2013*.

3.2 External Notification Systems

The obligation to refer criminal matters to the NSW police is contained in section 316 of the *Crimes Act 1900*.

Where it is reasonably believed that an officer has committed a criminal offence, the matter should be referred to the NSW Police. Generally, in such cases the department would investigate sufficiently to form this view, leaving further investigation to the NSW Police.

The Secretary refers allegations of corrupt conduct to ICAC, in accordance with section 11 of the *NSW Independent Commission Against Corruption Act 1988*.

The requirements to report suspected child protection breaches to the Department of Family and Community Services, the NSW Ombudsman and the Advocate for Children and Young People are contained in *Responding to Allegations Against Employees in the Area of Child*
Protection as well as section 27 (mandatory reporting provisions) of the *Children and Young Persons (Care and Protection) Act 1998*.

The table below contains a list of external reporting actions and the associated groups responsible for each reporting action.

<table>
<thead>
<tr>
<th>Actions required</th>
<th>Groups Responsible</th>
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<tbody>
<tr>
<td>Refer complaints of criminal offences to the NSW Police</td>
<td>Victims of crimes should report those crimes to the NSW Police. All staff are required by law to report serious crimes (punishable by 5 or more years jail) to the NSW Police.</td>
</tr>
<tr>
<td>Refer matters to ICAC, the Ombudsman and the Audit Office of NSW</td>
<td>All staff have the right to report suspected corrupt conduct to the NSW Independent Commission Against Corruption, alleged maladministration to the Ombudsman and suspected waste to the Audit Office of NSW if they do not wish to report internally. Only the Secretary can officially refer departmental matters to the NSW Independent Commission Against Corruption. The Executive Director, EPAC prepares advice on child protection matters for the Secretary.</td>
</tr>
<tr>
<td>Refer matters to the Audit Office of NSW</td>
<td>The Secretary, with the assistance of the Audit Directorate, must report any serious discrepancies that might affect the department’s annual financial audit and departmental Annual Financial Statements to the Audit Office of NSW. The Director, Audit prepares this advice for the Secretary.</td>
</tr>
<tr>
<td>Reporting and referral of child protection matters</td>
<td>All staff must report suspected risks of harm to children and young persons to the school principal or workplace manager. Child protection referrals to the Department of Family and Community Services are the responsibility of school principals and workplace managers.</td>
</tr>
<tr>
<td>Actions required</td>
<td>Groups Responsible</td>
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<tr>
<td>---------------------------------------------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Refer Child Protection matters to the NSW Ombudsman and the Advocate Children and Young People as required</td>
<td>The Executive Director, EPAC</td>
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### 3.3 Detection Systems

Department management are responsible for implementing control mechanisms that minimise the risk of fraudulent transactions and corrupt behaviour. Regular monitoring and checks of medium and high risk operations are undertaken by the Fraud Prevention and Corporate Reporting team to detect anomalies.
4 RESPONSE

4.1 Investigation Systems

Alleged or suspected corrupt conduct is investigated by EPAC or other appropriate departmental staff or referred to the appropriate external agency for investigation. Where appropriate, investigations consider what improvements can be made to policies, procedures and systems within the department.

EPAC maintains a confidential database of all suspected fraud, corrupt conduct and child protection issues. Information about investigation outcomes are provided to the Serious Misconduct Investigation Committee, and the Secretary.

EPAC maintains documentation of investigation standards and oversees their application.

Investigation policies and standards relevant to department staff are found in:

- Section 4.2.2 of this document
- Guidelines for the Management of Conduct and Performance
- Complaints Handling Policy

Further advice can be found in:

- Effective complaint handling guidelines
- A Guide to Conducting Internal Investigations

Notification to external agencies takes place as required in light of legal and policy requirements as detailed in section 3.2 above. If alleged corrupt conduct involves criminal activity it will be referred to the relevant police. If alleged corrupt conduct is investigated by ICAC, or another external agency such as the Ombudsman or the Audit Office of NSW, then their investigation standards will apply.

4.2 Conduct and Disciplinary Systems

4.2.1 Conduct Standards

The conduct standards for department staff is contained in the Code of Conduct, maintained by EPAC. Relevant state office directorates may publish other documents that describe any additional required standards of conduct in their workplaces.

Other legislation and department policy documents that set out conduct standards in areas that have high risk of corrupt conduct include:

- Legislation
  - Ombudsman Act 1974
  - Public Interest Disclosures Act 1994
  - Public Finance and Audit Act 1983
  - Government Sector Employment Act 2013
  - NSW Independent Commission Against Corruption Act 1988
4.2.2 Disciplinary Standards

The disciplinary standards for department staff are contained in various acts, regulations and determinations including:

- *Teaching Services Regulation 2017*
- *Teaching Service Act 1980*
- *Government Sector Employment Act 2013*

These documents set out the behaviours that constitute a breach of discipline and how that breach will be dealt with.

In addition, the *Code of Conduct* sets out expected standards of ethical conduct.

Public sector senior executives, principals, managers and supervisors must develop and maintain staff awareness of the required standards of conduct. All staff should be aware of the relevant documents, policies and procedures, and the department’s expected standards of behaviour. These are outlined in the *Code of Conduct*. 
5 FURTHER INFORMATION

This document is the responsibility of the Fraud Prevention and Corporate Reporting team. Further information can be found on the Audit Directorate intranet site (intranet only).

In addition, further information can be obtained from the Director, Fraud Prevention and Corporate Reporting, by phone, on +612-7184-1495, or email, corruption.prevention@det.nsw.edu.au.

Suggestions about the updating of material in this document should be made to the Director, Fraud Prevention and Corporate Reporting.
6 APPENDIX - DEFINITIONS

Corrupt conduct
Corrupt conduct, as defined in the *Independent Commission Against Corruption Act 1988*, is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.

Corruption Prevention
Corruption prevention includes all organisational features designed to resist or limit fraud and corrupt conduct. These features include accountability and effective and efficient administration. Corruption prevention focuses on improving systems and procedures, changing the attitudes of staff and improving the overall integrity and performance of the organisation. It involves management commitment, staff commitment, resources and networking.

Fraud
Fraud is the use of deceit to obtain unfair advantage to the detriment of others. It may involve money, equipment or academic standing.

Fraud and Corruption Risk Assessment
Fraud and Corruption risk assessment is the overall process of fraud and corruption risk identification, analysis, evaluation and treatment.

Internal Control
Internal control is defined as a process that provides reasonable assurance of the achievement of the following:

- Effectiveness and efficiency of operations including business objectives and safeguarding of resources.
- Reliability of financial reporting including operating information.
- Compliance with applicable laws, regulations, policies and procedures.

Maladministration
Maladministration is defined as conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive, improperly discriminatory and based wholly or partly on improper motives.

Risk Management
Risk management refers to the coordinated activities to direct and control an organisation with regard to risk (*Internal Audit and Risk Management Policy for the NSW Public Sector, tpp 15-03*)

Serious and Substantial Waste
Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of government resources, authorised or unauthorised, which results in significant loss or wastage of public funds or resources.