

CALAVERAS PUBLIC UTILITY DISTRICT POLICIES

Policy Name:	2105 – ASSET PROTECTION AND FRAUD IN THE WORKPLACE		
Approval Authority:	CPUD BOARD OF DIRECTORS	Adopted:	10/13/2020
Resolution No.	Resolution 2020-14	Revised:	

2105.1 Purpose and Scope: To establish policy and procedures for clarifying acts that are considered to be fraudulent, describing the steps to be taken when fraud or other dishonest activities are suspected, and providing procedures to follow in accounting for missing funds, restitution and recoveries.

2105.2 Calaveras Public Utility District (CPUD) is committed to protecting its assets against the risk of loss or misuse. Accordingly, it is the policy of CPUD to identify and promptly investigate any possibility of fraudulent or related dishonest activities against the CPUD and, when appropriate, to pursue available legal remedies.

2105.3 Definitions:

- a) Fraud – Fraud and other similar irregularities include, but are not limited to:
  - 1) Claim for reimbursement of expenses that are not job-related or authorized by District policy;
  - 2) Forgery, falsification, or unauthorized alteration of documents or records (including but not limited to checks, promissory notes, time sheets, independent contractor agreements, purchase orders, budgets, etc.);
  - 3) Misappropriation of District assets (including but not limited to funds, securities, supplies, furniture, equipment, etc.);
  - 4) Inappropriate use of District resources (including but not limited to labor, time, and materials);
  - 5) Improprieties in the handling or reporting of money or financial transactions;
  - 6) Authorizing or receiving payment for goods not received or services not performed;
  - 7) Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data or misappropriation of District-owned or –licensed software;
  - 8) Misrepresentation of information;
  - 9) Theft of equipment or other goods;
  - 10) Any apparent violation of federal, state, or local laws related to dishonest activities or fraud;
  - 11) Seeking or accepting anything of material value from those doing business with the District including vendors, consultants, contractors, lessees, applicants, and grantees. Materiality is determined by the District’s Conflict of Interest Code which incorporates the Fair Political Practices Commission’s regulations;
  - 12) Any other conduct, actions or activities treated as fraud or misappropriation under any federal or state law, rule or regulation.

- b) Employee – In this context, “employee” refers to any individual or group of individuals who receive compensation, either full- or part-time, including members of the Board of Directors, from CPUD. The term also includes any volunteer who provides services to the CPUD through an authorized arrangement with the District or a District organization.
- c) Management – In this context, “management” refers to any manager, General Manager, or other individual who manages or supervises District’s resources or assets.
- d) Internal Audit Committee – In this context, if the claim of fraud involves anyone other than the District General Manager, the Internal Audit Committee shall consist of the General Manager, the District Legal Counsel and Board President. If the claim of fraud involves the District’s General Manager, the Internal Audit Committee shall consist of the Board President, the District Legal Counsel and those persons appointed to the Internal Audit Committee by the Board President. Nothing contained in this policy shall be construed as requiring the General Manager or the Board President to appoint other persons to the Internal Audit Committee. Individuals appointed to the Internal Audit Committee by the General Manager or the Board President other than the District Legal Counsel shall serve at the pleasure of the General Manager or the Board President.
- e) External Auditor – In this context, “External Auditor” refers to independent audit professionals appointed by the District’s Board of Directors to perform annual audits of the District’s financial statements.

2105.4 It is the District’s intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, and length of service or relationship with the District of any party who might be or become involved in or become the subject of such investigation. An employee being investigated for fraud may request representation by a representative of any recognized bargaining unit that represents the employee.

2105.5 The District is responsible for instituting and maintaining a system of internal controls to provide reasonable assurance of the prevention and detection of fraud, misappropriations, and other irregularities. Management should be familiar with the types of improprieties that might occur within their areas of responsibility and be alert for any indications of such conduct.

2105.6 For claims of fraud not involving the General Manager, the General Manager or an Internal Audit Committee appointed by the General Manager shall have primary responsibility for investigation of activity covered by this policy. For claims of fraud involving the General Manager, the Board President or an Internal Audit Committee appointed by the Board President shall have primary responsibility for investigation of activity covered by this policy. The District Legal Counsel shall advise the Committee, the General Manager and/or the Board President on all such investigations.

2105.7 Throughout the investigation, the Internal Audit Committee will inform the General Manager of pertinent investigative findings.

2105.8 An employee will be granted whistle-blower protection when acting in accordance with this policy so long as he or she has not engaged in activity that violates this policy. When informed of a suspected impropriety, neither the District nor any person acting on its behalf shall:

- a) Dismiss or threaten to dismiss an employee providing the information,
- b) Discipline, suspend, or threaten to discipline or suspend such an employee,
- c) Impose any penalty upon such an employee, or
- d) Intimidate or coerce such an employee.

Violations of this whistle-blower protection policy will result in discipline up to and including termination.

2105.9 Upon conclusion of an investigation, the results will be reported to the General Manager or, if the investigation involves the General Manager, the Board President, either of whom shall advise the Board of Directors.

2105.10 Following review of investigation results, the General Manager or the Board, as the case may be, will take appropriate action regarding employee misconduct. Disciplinary action can include employment discipline up to and including termination, referral for criminal prosecution, or both.

2105.11 The General Manager or the District Legal Counsel will pursue every reasonable effort, including court-ordered restitution, to obtain recovery of District losses from the offender, other responsible parties, insurers, or other appropriate sources unless the Board should otherwise direct in consultation with the District Legal Counsel.

2105.12 Procedures:

2105.12.1 Board of Directors Responsibilities

- a) If a Board Member has reason to suspect a fraud has occurred, he or she shall immediately contact the General Manager or the Board President and District Legal Counsel, if the activity involves the General Manager.
- b) The Board Member shall not attempt to investigate the suspected fraud or discuss the matter with anyone other than the General Manager or Board President, as the case may be, and the District Legal Counsel.
- c) The alleged fraud or audit investigation shall not be discussed with the media by any person other than the General Manager or the Board President after consultation with the District's Legal Counsel and any Internal Audit Committee appointed as to the matter.

2105.12.2 Management Responsibilities

- a) Management is responsible for being alert to, and reporting fraudulent or related dishonest activities in their areas of responsibility.
- b) The General Manager should be familiar with the types of improprieties that might occur in his or her area of responsibility and be alert for any indication that improper activity, misappropriation, or dishonest activity did occur or is occurring.
- c) When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.
- d) If the General Manager or Supervisor determines a suspected activity may involve fraud or related dishonest activity, he or she should contact District Legal Counsel. If the activity involves the General Manager, it shall be reported to the Board President or the District's Legal Counsel.

- e) Staff should not attempt to conduct individual investigations, interviews, or interrogations other than as directed by the General Manager or District Legal Counsel. However, management staff are responsible for taking appropriate corrective actions to implement adequate controls to prevent recurrence of improper actions.
- f) Management should support the District's responsibilities and cooperate fully with the Internal Audit Committee, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.
- g) Management staff must give full and unrestricted access to all necessary records and employees to those responsible for identifying, investigating and remedying fraud and related dishonest acts. All District assets, including furniture, desks, and computers, are open to inspection at any time. No District officer, agent or employee has a reasonable expectation of privacy in District property and other resources to preclude such inspection.
- h) In dealing with suspected dishonest or fraudulent activities, great care must be taken. Therefore, management should avoid the following:
  - 1) Incorrect accusations;
  - 2) Alerting suspected individuals that an investigation is underway;
  - 3) Treating employees unfairly; and
  - 4) Making statements that could lead to claims of false accusations or other offenses.
- i) In handling dishonest or fraudulent activities, the General Manager has the responsibility to:
  - 1) Make no contact (unless requested) with the suspected individual to determine facts or demand restitution. Under no circumstances should there be any reference to "what you did", "the crime", "the fraud", "the misappropriation", etc;
  - 2) Avoid discussing the case, facts, suspicions, or allegations with anyone outside the District, unless specifically directed to do so by the General Manager or the Board President; and
  - 3) Avoid discussing the case with anyone inside the District other than employees who have a need to know such as the General Manager, Internal Audit Committee, or the District Legal Counsel.
  - 4) Direct all inquiries from the suspected individual, or his or her representative, to the General Manager, the Board President, or the District Legal Counsel. All inquiries by an attorney representing a suspected individual should be directed to the General Manager or the District Legal Counsel. All inquiries from the media should be directed to the General Manager or the Board President, if the activity involves the General Manager.
  - 5) Take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the General Manager and District Legal Counsel, in conformance with District policy and applicable law.

### 2105.12.3 Employee Responsibilities

- a) A suspected fraudulent incident or practice observed by, or made known to, an employee must be reported to the employee's supervisor for reporting to the General Manager.
- b) When an employee believes his or her supervisor may be involved in inappropriate activity, the employee shall make the report to the General Manager. If the activity involves the General Manager, it shall be reported to the Board President or the District Legal Counsel.

- c) A reporting employee shall refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone, unless requested by the General Manager, Internal Audit Committee, the District Legal Counsel, or law enforcement personnel.

#### 2105.12.4 Internal Audit Committee Responsibilities

- a) Upon assignment by the General Manager or the Board President, an Internal Audit Committee will promptly investigate the allegations.
- b) In all circumstances where there reason to suspect a criminal fraud has occurred, the Internal Audit Committee, in consultation with the General Manager or the Board President and District Legal Counsel, if the General Manager is suspected of involvement in the fraud, will contact the appropriate law enforcement agency.
- c) The Internal Audit Committee shall be available and receptive to relevant, confidential information to the extent allowed by law after consultation with the District Legal Counsel.
- d) If evidence is uncovered showing possible dishonest or fraudulent activities, the Internal Audit Committee will:
  - 1) Discuss the findings with the General Manager;
  - 2) Advise management, if the case involves District staff members, to meet with the General Manager (or District Legal Counsel) to determine if disciplinary action should be taken;
  - 3) Report to the External Auditor such activities to assess the effect of the illegal activity on the District's financial statements;
  - 4) Coordinate with the District's risk manager, General Manager or District Legal Counsel regarding notification to insurers and filing of insurance claims;
  - 5) Take immediate action, after consultation with the District Legal Counsel, to prevent the theft, alteration, or destruction of evidence. Such action shall include, but is not limited to:
    - a) Removing relevant records and placing them in a secure location, or limiting access to those records
    - b) Preventing the individual suspected of committing the fraud from having access to the records.
  - 6) In consultation with the District's Legal Counsel and the local law enforcement agency, the Internal Audit Committee may disclose particulars of the investigation to potential witnesses if such disclosure would further the investigation.
  - 7) If the Internal Audit Committee is contacted by the media regarding an alleged fraud or audit investigation, the Internal Audit Committee will refer the media to the General Manager or Board President, if the activity involves the General Manager.
  - 8) At the conclusion of the investigation, the Internal Audit Committee will document the results in a confidential memorandum report to the General Manager or the Board President for action. If the report concludes that the allegations are founded and the District Legal Counsel has determined that a crime has occurred, the report will be forwarded to the appropriate law enforcement agency.
  - 9) The Internal Audit Committee shall make recommendations to the General Manager as to the prevention of future similar occurrences.

- 10) Upon completion of the investigation, all records, documents, and other evidentiary material, obtained from the department under investigation will be returned by the Internal Audit Committee to the General Manager.

#### 2105.13 Exceptions

There will be no exceptions to this policy unless provided and approved in writing by the General Manager or the Board President and the District Legal Counsel. The Board of Directors reserves the right to amend, delete, or revise this policy at any time by formal action of the Board of Directors.