

COAERS

CITY OF AUSTIN
EMPLOYEES' RETIREMENT SYSTEM

Board Approved Policy

Subject: Fraud, Waste, and Abuse Reporting Policy

Review Committee: Audit and Risk Committee

Date Implemented: March 30, 2023

Date Updated:

Signature of Chairperson:



Yuejiao Liu

City Of Austin Employees' Retirement System
Board Approved Policy
Fraud, Waste, and Abuse Reporting

I. PURPOSE AND SCOPE

The City of Austin Employees' Retirement System ("COAERS" or "System") is committed to maintaining the highest ethical standards and compliance with applicable laws and COAERS policies.

The purpose of this Policy is to encourage and enable good faith concerns regarding the subjects covered by this Policy to be made without fear of reprisal or victimization. COAERS will not permit or tolerate harassment, retaliation, or discrimination against individuals who allege impropriety in good faith.

This Policy shall be applied in coordination with the complaint and grievance procedures set forth in the Ethics Policy, Personnel Policy, and Employee Handbook. Key Staff shall have the meaning set forth in the Ethics Policy. The Personnel Policy and Employee Handbook are referred to collectively as the "Personnel Policies".

II. ROLES AND RESPONSIBILITIES

A. Trustees, Key Staff, and Employees

It is the responsibility of Trustees, Key Staff, and COAERS employees to comply with COAERS standards of conduct set forth in applicable law and policy and to report violations thereof in accordance with this Policy. Reporting violations under the procedures in the Ethics Policy or the Personnel Policies also meets the requirements of this Policy.

B. Audit and Risk Committee

The Audit and Risk Committee will review this Policy at least once annually and recommend to the Board any amendments, as necessary.

C. Board of Trustees

The Board will ensure that proper resources are available and properly allocated annually towards the ongoing execution of this Policy.

III. COMPLAINT DEFINED

For purposes of this Policy a Complaint is an assertion that there is evidence of an action or inaction that is:

- (a) Illegal,
- (b) Violates COAERS Ethics Policy,
- (c) Fraud or theft of COAERS property,
- (d) Wasteful, or
- (e) An abuse of power or authority.

Individuals who do not have Complaints as defined herein, but have good faith concerns about COAERS business operations or the conduct of any Trustee, Key Staff, or employee, are encouraged to bring those issues to someone who can address them properly. For employees, a supervisor or manager is in the best position to address an area of concern. For Trustees, the Board Chair, the Executive Director, or General Counsel is in the best position to address an area of concern. However, if an individual is not comfortable speaking with aforementioned persons or is not satisfied with the response, the individual is encouraged to follow the Complaint process established herein.

IV. FILING A COMPLAINT

The Executive Director will establish an accessible and secure method of receiving Complaints such as a dedicated email address, online submission form, and/or telephone number. The Complaint should be accompanied by any supporting evidence and a description of the grounds for the Complaint.

Once received, the Complaint will be provided to the following persons, excluding any of the following persons against whom the Complaint is made (the "Complaint Recipients").

- (a) General Counsel (serving as the software Administrator),
- (b) Chair of the Board,
- (c) Chair of the Audit and Risk Committee, and
- (d) Executive Director.

Anyone filing a Complaint under this Policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made with malicious or vexatious intent, are knowingly false, or otherwise abuse the process set forth in this Policy as determined after a proper investigation, could result in disciplinary action up to and including termination of employment for cause or termination of the contractual relationship with COAERS.

A complainant may choose to remain anonymous. The complainant may wish to consider identifying themselves in order that a better investigation may be carried out. COAERS will make reasonable efforts to ensure that all information provided throughout the investigation process, including the complainant's name, will be kept in utmost confidence

to the extent allowed by law, and only discussed with other parties to the extent necessary to carry out a complete and fair investigation or as may be required under applicable laws.

V. INVESTIGATIONS PROCEDURE

Upon receipt of a Complaint, a Complaint Recipient will share the Complaint with the remaining Complaint Recipients, except for any individual who is the subject of the Complaint. Regarding all received and forwarded allegations, the Complaint Recipients will determine if there are reasonable grounds to pursue the Complaint through a Formal Investigation. The Complaint Recipients may refer the Complaint for disposition through other means, such as the Ethics Policy or the Personnel Policies.

If the Complaint Recipients determine there are reasonable grounds to pursue a Formal Investigation in accordance with this Policy, a Formal Investigation will be opened by the General Counsel. A Formal Investigation is a process of investigation of a Complaint lead by the General Counsel who will report findings of fact to the Board of Trustees.

The General Counsel will conduct the Formal Investigation in a fair, thorough, and complete manner, respecting the need for discretion and individual privacy for all parties involved to the extent permitted by applicable law. The General Counsel may engage a qualified third party to conduct the Formal Investigation. The process of the Formal Investigation, results of a Formal investigation, including recommendations for any disciplinary action up to and including termination of employment and/or legal action, will be provided to the Board with consideration for privacy and anonymity for all parties involved where permissible.

VI. REPORTING

The General Counsel will inform the Board of the existence and status of Complaints received, the number of ongoing Formal Investigations, and the progress of each Formal Investigation.

VI. RETALIATION PROHIBITED

There shall be no retaliation, reprisals, harassment, or adverse employment consequences with respect to any individual for:

- (a) disclosing good faith Complaints under this Policy; or
- (b) having participated or assisted, in good faith, in any process under this Policy.

An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination. Retaliation includes disciplinary measures, a demotion, termination of employment, any measure that adversely affects the employment or working conditions or a threat to take any of these actions. An employee may complain about a retaliation in accordance with the Personnel Policies or this Policy.

The Texas Government Code (GOV'T § 554.002 (a)) asserts that “A state or local governmental entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.”

Reprisals constitute employee misconduct, which will not be tolerated by COAERS, and will result in discipline up to and including immediate termination of employment for cause. In addition, the employee could be liable for additional penalties under the Texas Government Code (GOV'T § 554.008) where it asserts that:

- (a) A supervisor who in violation of this chapter suspends or terminates the employment of a public employee or takes an adverse personnel action against the employee is liable for a civil penalty not to exceed \$15,000.
- (b) The attorney general or appropriate prosecuting attorney may sue to collect a civil penalty under this section.
- (c) A civil penalty collected under this section shall be deposited in the state treasury.
- (d) A civil penalty assessed under this section shall be paid by the supervisor and may not be paid by the employing governmental entity.
- (e) The personal liability of a supervisor or other individual under this chapter is limited to the civil penalty that may be assessed under this section.

VII. RETENTION OF RECORDS

COAERS will retain any records relating to allegations of questionable activity and investigations for at least seven (7) years or as otherwise required by law.

VIII. LEGAL CONFLICTS

In the case of any conflict between this Policy and state or federal law, the applicable state or federal law shall prevail.

IX. DISCLOSURE OF POLICY

It will be the Executive Director's responsibility to ensure that this Policy, including contact information, is shared with every Trustee, Key Staff, and employee at COAERS. In addition, the contents of this Policy are to be included into the required Ethics Training curriculum.