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Policy Title: Misuse of University Assets

Contact: Senior Vice President Joel D. Valdez

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Approved By: President Likins

I. POLICY STATEMENT: The University of Arizona is responsible for the appropriate use of its assets. In substantiated cases of misuse of those assets, it is the policy of the University to obtain full restitution, to impose administrative sanctions, and to refer violations of criminal statutes for prosecution.

II. PURPOSE: This policy is adopted for the purpose of

- A. Defining, and delineating responsibilities relating to, the misuse of University assets.
- B. Establishing protocols for reporting and handling of incidents involving alleged or actual misuse of University assets.
- C. Providing guidelines for corrective actions when the investigations confirm that misuse has occurred, or is likely to occur.
- D. Misuse of University assets is a violation of the Arizona Board of Regents (ABOR), University Handbook for Appointed Personnel (UHAP), Classified Staff Human Resources Policy (CSHP), the Student Code of Conduct, and other policies of the University. Therefore, this policy is in addition to, but does not substitute for other laws and policies governing employees and students at the University, whether currently in effect or whether established after the adoption of this policy. Employees and students are required to be familiar with all policies governing the appropriate use of University assets.
- E. Disciplinary action against employees or students for misuse of University assets will be pursued under one or more of those policies, using the procedure applicable to that category of employees or students in connection with those policies.

III. DEFINITIONS

Unless otherwise stated, language in this policy is to be given its ordinary meaning consistent with the remedial purpose of this policy. Examples are given by way of illustration only, and specially defined terms are not limited to the examples given. As used in this policy:

- A. "Employee" means an individual who is employed by the Arizona Board of Regents under classifications "faculty," "classified staff," or "academic professional," "administrative professional," or "service professional", as those terms are defined in the

University Handbook for Appointed Personnel, Arizona Board of Regents' Policy Manual, and Classified Staff Employee Handbook, student employees who have authority to impose discipline on other students, graduate students with supervisory or teaching responsibilities, including instructors, whether the individual is paid or unpaid, or any individual who represents or acts on behalf of the University and whose actions may bind the University. For purposes of this policy, "employee" shall include all agents of the University.

- B. "University assets" are items of tangible or intangible property owned by, leased to, licensed to, or in the possession of the University of Arizona. Examples include name, money, land, buildings, improvements, proprietary information, inventory, equipment, accounts receivable, supplies, library volumes, museum pieces, art objects, furniture, materials, intellectual property, campus electronic information resources or internet domain (arizona.edu) software, tools, vehicles, and paid employee time. University assets also include items, which should have rightfully become an asset of the University, but did not due to misuse by an employee. An example is a patent that should have been assigned by an employee but was not.
- C. "Misuse" is the illegal use of University assets and/or uses that are prohibited under this or another University policy, which result in loss, damage or financial liability to the University or gain to the individual or a third party and no benefit to the University. Examples include but are not limited to using University assets for personal purposes, fraud, theft or embezzlement, which violate provisions of criminal law of the State of Arizona; acts (such as disclosure of confidential, proprietary or privileged information) that reduce the value of University assets or expose the University to legal or financial penalties, or are conflicts of interest that benefit only the employee or a third party.
- D. "Corrective Action Plan" (CAP) means a written plan developed by the management of the affected unit following a determination of misuse (or risk of misuse) of University assets, in order to correct and protect the University from future losses or potential losses.

IV. RESPONSIBILITIES OF ALL EMPLOYEES AND STUDENTS

- A. Employees and students may not misuse University assets.
- B. Employees and students have a responsibility to report activities or significant incidents that appear to be misuse of University assets. Employees may report such suspected misuse to any manager or supervisor in the chain of authority (director, department/unit head, dean, or appropriate vice president) or may make a report directly to the Senior Vice President for Business Affairs or Executive Vice President. Employees need not report misuse to their direct supervisors, but may make a report of alleged misuse to any supervisor, vice president or Executive Vice President or to the Senior VP for Business Affairs. Good faith reports of misuse of University assets are subject to the protection of the ABOR policy against whistle blowing as outlined in ABOR Policy Manual, as amended. Reporters of violations of this policy should be aware that some misuses of University assets are *de minimus*, and do not rise to the level to which a University administrator, auditor or the University of Arizona Police Department (UAPD) would consider the use a violation of this policy or of criminal law. However, if, combined with other incidents of reported misuse, the incident is not *de minimus*, the University

supervisor, auditor or UAPD may consider the incident a significant misuse of University assets, warranting an investigation.

- C. Supervisors receiving reports of suspected misuse may take action to satisfy themselves that there is a reasonable basis to suspect that misuse has occurred prior to reporting to their immediate superior or supervisor in the chain of authority. However, before doing so, supervisors should consult with a representative from the Human Resources Department Consulting Services, the Chief of UAPD, the Chief Auditor or the Office of the General Counsel, whose expertise in these matters may provide helpful insights to confirm the appropriateness of a preliminary evaluation or indicate the need for additional assistance.
- D. Employees and/or students involved in any aspect of a preliminary evaluation by the administrator, supervisor or manager, or an investigation under this policy, are responsible for keeping all information regarding the alleged misuse confidential.

V. RESPONSIBILITIES OF ADMINISTRATORS (Vice Presidents, Deans, Department/Unit Heads/Directors)

- A. The Senior Vice President for Business Affairs has overall responsibility for matters concerning known or suspected misuse of University assets. If an allegation of misuse is made against a student, the Dean of Students shall have such responsibility. Attendant to this task is the responsibility for
 1. Ensuring that an investigation is conducted;
 2. Designating, in any case to which this policy applies, a person who is responsible for undertaking steps required under this policy;
 3. Ensuring preparation and implementation of a corrective action plan when misuse of assets is confirmed;
 4. Coordinating the investigative process with the Executive VP and Provost and other senior University officials;
 5. Notifying and updating the University President and General Counsel of confirmed misuse of assets; and
 6. Effecting appropriate reporting to ABOR.
- B. Receiving reports of alleged misuse of University assets.
- C. Exercising good judgment and carefully evaluating the alleged infraction to determine whether it is *de minimus* or whether it does not rise to the level to which a University supervisor, dean, director or department head would consider reporting the infraction to the next level.
- D. Consulting with appropriate administrator(s) to determine who in the chain of authority should be advised of the reported misconduct. In the event that a report of significant misuse of University assets has occurred, the administrator to whom a report has been made shall report the misuse to the Senior Vice President of Business Affairs (SVPBA).
- E. The responsibilities set forth in paragraph IV, above.

- F. Ensuring that matters pertaining to reports of investigation of misuse of University assets are treated as confidential, pending the completion of an audit or investigation.
- G. Where an incident of misuse is confirmed following an investigation:
 - 1. Administering appropriate disciplinary action in accordance with ABOR and University policies and procedures in effect at that time;.
 - 2. Taking steps to recover assets;
 - 3. Taking steps to prevent recurrence; and
 - 4. Developing a Corrective Action Plan, which shall be reviewed and approved by an immediate supervisor.
- H. When a person who is suspected or accused of misuse of University assets is the head of a department/unit/agency, consideration should be given to having all unit management responsibilities of that individual performed by the next higher authority.
- I. Ensuring compliance with the provisions of this policy.
- J. Seeking advice from the UA Attorney's office regarding when the individual who is suspected of misuse of assets should be informed of his or her legal rights, including the right to retain counsel.

VI. The University and its administrators shall follow any other Policies and Procedures of the ABOR or University regarding misuse of assets. By way of example, but without limitation, the following policies may apply:

- A. ABOR Policy regarding Protection of Employees from Reprisal for Whistleblowing and University policies addressing the same;
- B. Conflict of Interest and Commitment Policy;
- C. Classified Staff Policy and Procedures Manual (CSPM);
- D. University Handbook for Appointed Personnel (UHAP);
- E. ABOR and UA Intellectual Property policies;
- F. FRS Policy 9.18, Small Dollar/Direct Purchase Procedures ;
- G. FRS Policy 15, Security, Theft Control, Lost and Damage;
- H. University of Arizona Acceptable Use of Computers and Network, if applicable;
- I. University of Arizona Codes of Conduct;
- J. Provisions of Arizona statutory law; and
- K. Any other policies currently in effect or effected subsequent to the adoption of this policy, which address misuse of University assets.

VII. INVESTIGATIVE PROCESS

- A. General As set forth in paragraph IV (B) above, employees and students are expected to report incidents involving significant misuse of University assets.
- B. Confidentiality
1. Subject to applicable Arizona law, matters pertaining to reports and investigations of misuse of University assets shall be treated as confidential pending the completion of any audit or investigation. University employees responsible for conducting any phase of a confidential investigation shall inform individuals contacted that their identities, and the information they provide, will remain confidential to the extent permitted by law.
- C. Investigation
1. The Internal Audit Department may conduct an investigation of the available evidence and related circumstances to determine whether a thorough or more extensive audit is necessary. If a more thorough or extensive audit is deemed necessary the SVPBA or his/her designee will determine who should conduct that audit.
 2. If, after consulting with General Counsel, it appears to the Senior Vice President for Business Affairs (SVPBA) or the Internal Audit Department that the matter may involve criminal misconduct, s/he shall request an investigation by UAPD.
 3. The Senior Vice President for Business Affairs (SVPBA), UAPD, Internal Audit Department, Deans, Directors and department heads have authority to take immediate action as they determine necessary, to secure and protect University assets and any pertinent accounting and administrative records from misuse, destruction or alteration.
 4. An individual who is accused of misuse or misappropriation of University assets may, at his or her expense, employ and be accompanied by legal counsel during any interviews or meetings with UAPD, internal auditors or others charged by the University to investigate this matter. Should disciplinary action be initiated upon a finding of wrongdoing, the individual shall be entitled to the protections provided under applicable personnel rules of the University and ABOR policies.
 5. If permitted by applicable policies and procedures of the University of Arizona, an individual who is subject to an investigation for misuse of University assets may be placed on administrative suspension with or without pay while an investigation into wrongdoing is pending. Leave with pay, if appropriate, may be imposed by any supervisor in the chain of authority, and shall be imposed in accordance with applicable University and ABOR policies, following consultation with the Human Resources Department, the Provost and the Senior Vice President for Business Affairs.
 6. All investigations and every step thereof shall be conducted consistent with the constitutional rights of those persons being investigated.

D. Post-Investigation Actions

1. The officials conducting the investigation shall make a written report to the SVPBA, subject to their right to expand the scope of their investigation to determine the extent of the misuse, to identify individuals responsible for the improprieties, or to include a review of internal controls of the area in which the misuse occurred.
 2. If the individuals or offices conducting the investigation determine that no further investigation is required, then they shall complete their report to the SVPBA.
 3. If, after consultation with the General Counsel, it appears from the investigation that the individual under investigation has committed a criminal act in violation of Arizona or federal law, the SVPBA shall advise the UAPD of this conclusion if the UAPD previously did not investigate the matter as a violation of criminal law, and thereafter, the UAPD, shall notify and coordinate further actions with the relevant prosecuting agency.
- E. After receipt of a written final investigative report, the SVPBA will inform the Executive Vice President and Provost of the final disposition of the investigation.
- F. The Executive Vice President and Provost and SVPBA shall inform appropriate subordinate supervisors, within their respective areas of responsibility, of the investigative results which affect their units, and direct, if appropriate, that they initiate disciplinary action, as set forth below in paragraph VIII.

VIII. DISCIPLINARY ACTIONS

- A. If the investigator(s) conclude that an employee or student is responsible for misuse of university assets, management or the Dean of Students shall initiate appropriate disciplinary action, in accordance with existing ABOR and University policies including all provisions regarding due process.
- B. All other rules, regulations and statutes governing University business operations shall also apply to disciplinary action taken against an employee for violation of this policy.

IX. ACTIONS WHERE FINDINGS DO NOT SUPPORT CLAIM OF MISUSE

At the conclusion of the evaluation or investigation, if either the supervisor conducting the evaluation of the allegation of misuse or the SVPBA finds insufficient evidence upon which to determine that misuse occurred, or if s/he disagrees with the investigator's findings and recommendations, the University, including the SVPBA, a Department Head, Director, Dean or Supervisor, will undertake diligent efforts to restore the reputations of persons alleged to have engaged in misuse under this policy. They also will make diligent efforts to protect the positions and reputations of those persons who, in good faith, made those allegations. Unless the employee or student so requests, no records of the complaint, investigation or report shall be maintained by the University, except as required by law.

X. REFERENCES AND RELATED POLICIES (These policies, by way of example, but not limitation, also may apply to allegations of misuse of University assets)

- A. ABOR Policy Manual:
http://www.abor.asu.edu/1_the_regents/policymanual/index.html
- B. University Handbook for Appointed Personnel:
<http://web.arizona.edu/~uhap/>
- C. Classified Staff Human Resources Policy Manual:
http://www.hr.arizona.edu/09_rel/clsstaffmanual.php
- D. Use of University property:
http://www.hr.arizona.edu/09_rel/policies/pp414.php
- E. Department of Risk Management and Safety property loss claims procedures:
<http://risk.arizona.edu/insurance/propertyclaims.shtml>
- F. Student Code of Conduct
<http://web.arizona.edu/~dos/uapolicies/scc5308abcd.html>
- G. Student Disciplinary Procedures:
<http://web.arizona.edu/~dos/uapolicies/sdp54015402.html>
- H. Campus Use Policy:
<http://web.arizona.edu/~policy/campus-use.shtml>
- I. Conflict of Interest Policy:
<http://www.vpr.arizona.edu/system/files/COICPolicy.1198.pdf>
- J. ABOR Policy regarding Protection of Employees from Reprisal for Whistleblowing
http://www.abor.asu.edu/1_the_regents/policymanual/chap6/6-914.pdf