

What You Need to Know About EO 813

- I. Executive Order 813 follows the reporting requirements of the State Administrative Manual (Section 20080) and requires campuses to report fiscal improprieties.
- A. All cases of actual *or suspected* fraud, defalcation, theft, or other irregularities involving **state funds and/or state employees** must be reported to:
- 1) the Department of Finance's Office of State Audits and Evaluation
 - 2) the Bureau of State Audits
 - 3) the Chancellor
 - 4) the Executive Vice Chancellor/Chief Financial Officer
 - 5) the University Auditor
 - 6) the Chair of the Trustees' Committee on Audit.

Note: although the State Administrative Manual and the Executive Order state "all cases", the University Auditor, has established a reporting threshold of \$1,000, though cases involving unknown dollar amounts that could potentially amount to \$1,000 or more should be reported. Questions regarding reportable versus non-reportable cases should be directed to the University Auditor at (562) 951-4430. However, keep in mind that if there is any doubt as to whether or not to report, it is best to report.

Note also that even suspected cases must be reported.

"State funds" has a fairly broad definition. A complete listing of state funds can be found in the Department of Finance's Uniform Codes Manual. In addition to the General Fund, state funds include Special Revenue Funds (such as parking revenues), Capital Projects Funds, Debt Service Funds, Enterprise Funds, and Internal Services Funds, among others. Further, funds accounted for under the CSU's Revenue Management Program are still considered state funds.

Remember that auxiliaries may also handle state funds and utilize state employees who may be involved in an irregularity; therefore, those cases must still be reported to all the parties identified above.

- B. All cases of actual *or suspected* theft, defalcation, or fraud involving **non-state funds** (including auxiliary organization funds) must be reported to:
- 1) the Chancellor,
 - 2) the Executive Vice Chancellor/Chief Financial Officer,
 - 3) the University Auditor, and
 - 4) the Chair of the Trustees' Committee on Audit.

C. Notifications under either A or B above must be made in writing not later than the first business day following the actual or suspected theft or irregularity (e.g., the date of its discovery). Though not specified in SAM 20080 or EO 813, the notifications should be signed by the campus president or the VP for Admin/CFO.

D. Notifications will include, at a minimum:

- 1) the sequence of events
- 2) the internal controls that failed
- 3) the means of discovery
- 4) the corrective actions taken
- 5) the actual or estimated dollar amount
- 6) any punitive actions taken or being considered.

In most instances, complete information is probably not available on the first business day following discovery, nevertheless a preliminary notification must be made, with a complete notification made within 30 days.

If the above steps have not been completed within 30 days, a progress report will be submitted every thirty days thereafter until completion.

The Bureau of State Audits and the Office of State Audits and Evaluations agree that completion is interpreted as the time when the campus completes the decisions or actions that are within its authority. For example, if a campus conducts a criminal investigation and turns its findings over to the district attorney, completion occurs on the date the referral is made to the district attorney. Or, if at the conclusion of an investigation, the campus determines its disciplinary or corrective action, that information should be reported to the appropriate parties (as outlined above) and the case is considered complete. However, upon resolution of the criminal cases or if the disciplinary or corrective action is subsequently changed, a follow-up report should be submitted. Progress reports and follow up reports should be submitted to all the same parties required for the initial notification.

The Manager of Investigations in the Office of the University Auditor is responsible for the tracking of EO 813 reports. If the reports are not copied to the appropriate parties or there are other questions regarding their content, the Manager of Investigations will contact the appropriate party at the campus. Please indicate in the report the person to be contacted in the event there are questions. In addition, to aid in the tracking process, please clearly identify whether the notification is the initial, progress, or final report. If it is a progress report, please include a number (for example, Progress Report #1, Progress Report #2, etc.) to aid in the tracking process.

E. Notifications and progress reports of fiscal improprieties of a criminal nature must also be reported under EO 813. The Office of the University Auditor may follow up with the identified contact person to make inquiries pertaining to the notification or progress report.

Frequently Asked Questions

Q: How can a dollar threshold be applied when we may not know the scope of the incident at the initial discovery?

A: Make your best estimate. If it is reasonably possible that the amount could meet or exceed the threshold, report the initial discovery.

Q: What if we think an incident could meet or exceed the dollar threshold and make the report but later discover that, although there is a problem, it is under the dollar threshold?

A: In your next progress report, notify all the appropriate parties of the new information. If it has become a situation that would not have been required to be reported if you'd known then what you know now, indicate what you are or will be doing to resolve the matter, state that this is your final report and explain why.

Q: Is it a reportable incident if the dollar amount cannot be readily determined?

A: This is similar to the question above regarding how you can apply a dollar threshold if the scope is unknown. However, there may be situations when the effect of a fairly serious problem is reflected in a comparatively small dollar amount. For example, if a person in a position to award contracts or otherwise authorize payments engages in a conflict of interest by awarding a contract to their spouse, the effect (particularly if it is caught early) may be less than \$1,000, but having an employee knowingly engage in a conflict of interest is a very serious matter and it should be reported, even though it is under the \$1,000 threshold. As mentioned earlier, when in doubt, you should contact the University Auditor to discuss the scenario or simply err on the side of reporting.

Q: What are some examples of fraud, defalcation, theft, irregularities and fiscal improprieties?

A: Fraud, defalcation, theft, irregularities and fiscal improprieties shall include but not be limited to:

1. Forgery or unauthorized alteration of any document or account belonging to the CSU.
2. Forgery or unauthorized alteration of a check, bank draft, or any other financial document.
3. Misappropriation of funds, supplies, or other CSU assets, including employee time.
4. Impropriety in the handling of money or reporting of CSU financial transactions.
5. Profiting as a result of insider knowledge of CSU information or activities.

6. Unauthorized disclosure of confidential or proprietary information to outside parties.
7. Unauthorized disclosure of investment activities engaged in or contemplated by the CSU.
8. Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the CSU, except as otherwise permitted by law or CSU policy.
9. Inappropriately destroying, removing, or using records, furniture, fixtures, or equipment.
10. Failure to provide financial records required by state or local entities.
11. Failure to disclose conflicts of interest as required by law or CSU policy.
12. Any other dishonest act regarding the finances of the CSU.

Q: As a follow up to the previous question, what are some examples of CSU assets/resources?

A: CSU resources shall include, but not be limited to the following:

1. Cash and other assets, whether tangible or intangible; real or personal property.
2. Receivables and other rights or claims against third parties.
3. Intellectual property rights.
4. Time and effort of CSU personnel and of any non-CSU entity billing the CSU for its efforts.
5. CSU facilities and the rights to use of CSU facilities.
6. The CSU's name.
7. CSU records, including staff and student records.

Q: When would an instance constitute fraud versus improper oversight or poor business judgment?

A: Contact the OUA to discuss this if you have a specific concern. In addition, we provide the following scenario as an example:

A campus needs a software application to allow employees to enter their time worked using an on-line system. A committee is formed to determine the campus's needs. The committee determines that a commercial software application does not currently exist that would adequately address its needs, so they decide to hire someone to design an application for them. Ultimately, an administrator makes a decision to hire a particular contractor. The development and implementation takes longer than expected and there are many problems along the way; staff question the administrator's decision and the efficiency and effectiveness of the software application. Given this information, while this may have been poor business judgment, it is not a reportable issue under EO 813. However, additional information could make this reportable. Specifically, if the administrator (or another staff member

who participated in the decision-making process) had a conflict of interest (personal financial interest) in awarding this work to the contractor, this situation should be reported under EO 813.

Q: Would EO 813 notification be required if discovery occurred due to a whistleblower complaint (e.g., under EO 929)? How do we coordinate between EO 813 notification and EO 929?

A: Yes, an EO 813 notification is required if the discovery occurred due to a whistleblower complaint. The individual(s) assigned responsibility for handling the whistleblower complaint (investigator) should coordinate with the individual responsible for preparing the EO 813 notifications. Though the investigator may be from the campus, the Chancellor's Office, or possibly a contractor, the campus is still responsible for compliance with the EO 813 requirements and should consult with the investigator to obtain updates on the status of the investigation in order to prepare the progress reports. Note that the investigator should not disclose unnecessary detail regarding the confidential investigation and the progress reports may simply consist of a statement that the investigation is progressing.

Q: What's the difference between EO 813 and SAM 20800?

A: SAM 20080 outlines the requirements for reporting fiscal improprieties to the Department of Finance and the Bureau of State Audits. EO 813 reflects those requirements and outlines some additional reporting requirements within the CSU. For example, improprieties not involving state funds or state employees do not need to be reported under SAM 20080, but under EO 813, they should be reported to the appropriate parties within the CSU.

Q: What if the campus needs assistance investigating a situation?

A: If the campus needs assistance investigating a situation either because of some sort of conflict between the campus's investigator and the subject of the investigation, or due to a lack of personnel with investigative experience, the campus president may contact the Chancellor regarding the situation. The Chancellor may then ask the University Auditor to conduct an investigation.