

Client Agency Policy & Operations Manual

SECTION: 30 Management and Fiduciary Operations

NUMBER: SCS-30-040

**TITLE: Non Compliance- Gross Negligence/Fraud/
Embezzlement/Theft**

EFFECTIVE DATE: 4-12-02

APPROVED: Signature on file at the State Controller's Division

**PURPOSE and/or
RESULTS DESIRED:**

This policy sets forth the Shared Client Services (SCS) position on the statewide fiscal compliance when gross negligence, fraud, embezzlement, or theft occurs. It also sets procedures for the investigation of gross negligent non-compliant actions and follow-up business processes.

AUTHORITY:

[ORS 162.405](#) Official misconduct in the second degree.
[ORS 162.415](#) Official misconduct in the first degree.
[ORS 291.015](#) Fiscal responsibilities of department; delegation of fiscal functions.
[ORS 291.100](#) Financial management; duties of Oregon Department of Administrative Services.
[ORS 293.590](#) Department to supervise state agency accounting; furnishing accounting services.

APPLICABILITY:

Client agencies assigned and/or contracting for accounting, budgeting, and financial reporting services with the State Controller's Division, DAS.

DEFINITIONS:

Non-compliance – Failure or refusal to comply with Oregon Revised Statutes, the Oregon Accounting manual, other DAS issued statewide rules and regulations; Secretary of State audit findings and recommendations; State Treasury rules and procedures, DOJ Opinions, Opinions of the Government Standards and Practices Commission, and inappropriate or deceptive actions or gross negligence on the part of the Client Agency employees or members of their Boards and Commissions.

Gross negligence – Readily apparent deviation from the standard of care that a reasonable person would exercise under the circumstances.

Fraud – A knowing misrepresentation of material fact made with intent to induce another to act or fail to act, in order to secure unfair or unlawful gain or advantage.

Embezzlement – The misapplication of entrusted property as defined in ORS 165.095.

Theft – Has all the meanings set forth in [Chapter 164](#) of the Oregon Revised statutes.

POLICY:

With respect to financial management and fiscal integrity, all Client Agencies contracting with the Shared Client Services section of the State Controller’s Division will maintain compliance with:

1. Oregon Revised Statutes
2. Oregon Accounting Manual
3. All other DAS issued statewide rules and regulations
4. Secretary of State audit findings and recommendations
5. State Treasury rules and procedures
6. Opinions of the Government Standards and Practices Commission
7. Relevant opinions of the Attorney General

Shared Client Services is in part responsible for the enforcement of statewide financial management rules, regulations, business processes, and procedures of their contracted client agencies.

Client agencies will be in compliance with DAS Risk Management Division [Employee Dishonesty Policy Manual](#).

GUIDELINES:

SCS will assist Client Agencies in the management and administration of operational compliance with all statewide rules and regulations. Assistance includes policies, training, and fiscal oversight of Client Agency fiscal controls and business transactions. Non-compliance may include but is not limited to:

- I. Excessive, unauthorized or otherwise inappropriate expenditure decisions; waste, abuse or misuse of State/Agency resources; failure to exercise professional due care.
- II. Embezzlement, fraud or theft; willful or grossly negligent failure to comply with the requirements of the Oregon Revised Statutes, the Oregon Accounting Manual and other DAS issued statewide rules and regulations; Secretary of State audit findings and recommendations; opinions of the Government Standards and Practices Commission, relevant opinions of the Attorney General and State Treasury rules and procedures.
- III. Non-compliance is not always a criminal act. However, SCS may refer allegations of criminal, fraudulent, or grossly negligent acts to the appropriate authority for investigation and prosecution.

PROCEDURES: Suspected Fraud - Reported by Client Agency Head

<u>Step</u>	<u>Responsible Party</u>	<u>Action</u>
1.	Client Agency Head	When a violation of this policy is suspected, notify the SCS Manager and request a meeting. If there is evidence, present it at the meeting.
2.	SCS Manager	<p>Receive notification of act and/or evidence. Hold meeting to listen to allegation and receive evidence.</p> <p>If probable cause is not apparent, see SCS policy titled Non-Compliance Errors/Omissions/Negligence.</p> <p>If probable cause is apparent, Notify Risk Management Division, Secretary of State Audits Division, Oregon State Police and the Department of Justice.</p>

Cooperate fully with state investigators from Audits Division, Department of Justice, State Police, and Risk Management.

Open an incident file and document all actions, discussions and decisions.

3. Client Agency Head/Board/Commission Chairperson

Attend meeting with Shared Client Services Manager.

Present allegation and evidence of non-complaint violation. Assist in determining steps to correct the situation and implement mutually agreed actions.

Cooperate fully with the Manager of SCS, the State Controller, the DAS Director of Operations, the Oregon State Police, Secretary of State Audits Division, the DAS Risk Management Division, and the Department of Justice.

Follow-up as necessary to support the investigation.
4. State Controller

Receive Shared Client Services Manager notification.

Confer with Shared Client Services Manager and give direction as needed.

Confer with DAS Director of Operations, Oregon State Police, Secretary of State Audits Division, Department of Justice and DAS Risk Management Division as necessary.
5. SCS Manager

Meet with Client Agency Head and/or Board/Commission Chairperson to discuss the incident and any corrective actions needed to prevent a reoccurrence, including strengthening of SCS policy or procedures.

Receive the final incident report and take actions to finalize the incident.

Work with Risk Management Division to recover any losses.

Work with the Department of Justice and/or State Police on follow-up legal actions.

PROCEDURES: Suspected Fraud - Reported by Agency Employee, Board Member, or other Stakeholder - Not involving Client Agency Head

1. Employee/Stakeholder

When a violation is suspected, notify the Client Agency Head and the SCS Manager to request a meeting. If there is evidence, present it at the meeting.
2. SCS Manager

Receive notification of act and/or evidence. Hold meeting to listen to allegation and receive evidence.

Notify the State Controller and/or Director of Operations of the allegation and meeting. Confer and obtain direction. Determine probable cause.

If probable cause is not apparent, see SCS policy titled Non-Compliance-Errors/Omissions/Negligence.

If probable cause is apparent, notify Risk Management Division, Secretary of State Audits Division, Oregon State Police and the Department of Justice.

Open an incident file. Document all actions, discussions and decisions.

Notify the Client Agency Head and/or Board/Commission Chairperson of initial findings and course of action.

Cooperate fully with state investigators from Audits Division, Department of Justice, State Police, and Risk Management.

3. Client Agency Head/Board/Commission Chairperson

Attend meeting with Shared Client Services Manager.

Present allegation and evidence of non-complaint violation. Assist in determining steps to correct the situation and implement mutually agreed actions.

Cooperate fully with the Manager of SCS, the State Controller, the DAS Director of Operations, the Oregon State Police, Secretary of State Audits Division, the DAS Risk Management Division, and the Department of Justice.

Follow-up as necessary to support the investigation.
4. State Controller

Receive Shared Client Services Manager notification.

Confer with Shared Client Services Manager and give direction as needed.

Confer with DAS Director of Operations, Oregon State Police, Secretary of State Audits Division, Department of Justice and DAS Risk Management Division as necessary.

Follow-up with SCS Manager and Client Agency Head and/or Board/Commission Chairperson to ensure incident completion.
5. SCS Manager

Meet with Client Agency Head and/or Board/Commission Chairperson to discuss the incident and any corrective actions needed to prevent a reoccurrence, including strengthening of SCS policy or procedures.

Receive the final incident report and take actions to finalize the incident.

Work with Risk Management Division to recover any losses.

Work with the Department of Justice and/or State Police on follow-up legal actions.

PROCEDURES: Suspected Fraud - Reported by Agency Employee, Board Member, or other Stakeholder - involving Client Agency Head

1. Employee/Stakeholder

When a violation is suspected, notify the SCS Manager to request a meeting. If there is evidence, present it at the meeting.
2. SCS Manager

Receive notification of act and/or evidence. Hold meeting to listen to allegation and receive evidence.

Notify the State Controller and/or Director of Operations of the allegation and meeting. Confer and obtain direction. Determine probable cause.

If probable cause is not apparent, see SCS policy titled Non-Compliance-Errors/Omissions/Negligence.

If probable cause is apparent, notify Risk Management Division, Secretary of State Audits Division, Oregon State Police and the Department of Justice.

Open an incident file. Document all actions, discussions and decisions.

Notify the Board/Commission Chairperson of initial findings and course of action.

Cooperate fully with state investigators from Audits Division, Department of Justice, State Police, and Risk Management.

- 3.** Board/Commission Chairperson

Attend meeting with Shared Client Services Manager.

Present allegation and evidence of non-complaint violation. Assist in determining steps to correct the situation and implement mutually agreed actions.

Cooperate fully with the Manager of SCS, the State Controller, the DAS Director of Operations, the Oregon State Police, Secretary of State Audits Division, the DAS Risk Management Division, and the Department of Justice.

Follow-up as necessary to support the investigation.
- 4.** State Controller

Receive Shared Client Services Manager notification.

Confer with Shared Client Services Manager and give direction as needed.

Confer with DAS Director of Operations, Oregon State Police, Secretary of State Audits Division, Department of Justice and DAS Risk Management Division as necessary.

Follow-up with SCS Manager and Board/Commission Chairperson to ensure incident completion.
- 5.** SCS Manager

Meet with Board/Commission Chairperson to discuss the incident and any corrective actions needed to prevent a reoccurrence, including strengthening of SCS policy or procedures.

Receive the final incident report and take actions to finalize the incident.

Work with Risk Management Division to recover any losses.

Work with the Department of Justice and/or State Police on follow-up legal actions.

PROCEDURES: Suspected Fraud - Reported by Shared Client Services

1. SCS Staff When a violation is suspected, notify the SCS Manager and request a meeting. If there is evidence, present it at the meeting.

2. SCS Manager Receive notification of act and/or evidence. Hold meeting to listen to allegation and receive evidence.

Notify the State Controller and/or Director of Operations of the allegation and meeting. Confer and obtain direction. Determine probable cause.

If probable cause is not apparent, see SCS policy titled Non-Compliance-Errors/Omissions/Negligence.

If probable cause is apparent, Notify Risk Management Division, Secretary of State Audits Division, Oregon State Police and the Department of Justice.

Open an incident file. Document all actions, discussions and decisions.

If appropriate, notify the Client Agency Head and/or Board/Commission Chairperson of initial findings and course of action.

Cooperate fully with state investigators from Audits Division, Department of Justice, State Police, and Risk Management.

3. Client Agency Head and/or Board/Commission Chairperson (If appropriate) Attend meeting with Shared Client Services Manager.

Present allegation and evidence of non-complaint violation. Assist in determining steps to correct the situation and implement mutually agreed actions.

Cooperate fully with the Manager of SCS, the State Controller, the DAS Director of Operations, the Oregon State Police, Secretary of State Audits Division, the DAS Risk Management Division, and the Department of Justice.

Follow-up as necessary to support the investigation.

4. State Controller Receive Shared Client Services Manager notification.

Confer with Shared Client Services Manager and give direction as needed.

Confer with DAS Director of Operations, Oregon State Police, Secretary of State Audits Division, Department of Justice and DAS Risk Management Division as necessary.

Follow-up with SCS Manager and Client Agency Head and/or Board/Commission Chairperson, as necessary, to ensure incident completion.

- 5.** **SCS Manager** Meet with Client Agency Head and/or Board/Commission Chairperson, as necessary, to discuss the incident and any corrective actions needed to prevent a reoccurrence, including strengthening of SCS policies or procedures.
- Receive the final incident report and take actions to finalize the incident.
- Work with Risk Management Division to recover any losses.
- Work with the Department of Justice and/or State Police on follow-up legal actions.