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# MEMORANDUM

**Date:** May 6, 2008

**To:** Presidents, University System of Georgia

**To:** Chief Business Officers, University System of Georgia

**To:** Chief Academic Officers, University System of Georgia

**CC:** Erroll B. Davis, Jr., Chancellor

**CC:** Chancellor's Cabinet

**From:** Ronald B. Stark, Chief Audit Officer & Associate Vice Chancellor *Michael J. Foster for Ron Stark*

**Re:** Reporting of Employee Malfeasance, Travel Advances – Interim Update

The recent P-Card audit and associated alleged fraud has resulted in a requirement for more formalized reporting of alleged employee malfeasance to both my office and to the Attorney General's Office. Additionally, the General Assembly passed House Bill (HB) 1113 on the last day of the Session. HB 1113 also addressed aspects of P-Card program management, penalties associated with P-Card misuse, and the penalties associated with misuse of travel advances and fraudulent requests to the state for reimbursement.

The purpose of this memo is (1) to outline a new requirement pertaining to reporting of employee malfeasance, and (2) to make each USG institution aware of the changes introduced by HB 1113. The requirements outlined below will be reflected in future revisions of the USG Business Procedures Manual (BPM).

*Reporting of Employee Malfeasance* – Effective immediately, all USG institutions are expected to report all suspected employee malfeasance to my office. Currently, the USG BPM Section 16.4.5 requires institutions to report malfeasance only when it has been "determined that a 'high likelihood' of impropriety greater than \$1000 has occurred." However, the Attorney General's (AG's) Office has since requested that they be provided an opportunity to review all cases of alleged employee malfeasance. The AG's Office has also requested that my office be responsible for coordinating the collection of this information. It is expected that the majority of cases will still be handled by local district attorneys.

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Employee malfeasance generally includes instances of embezzlement, misappropriation, alteration or falsification of documents, false claims, theft of any asset, inappropriate use of computer systems to include hacking and software piracy, bribery or kickback, etc. Note that this requirement applies only to employee malfeasance. Actions by students or outside parties do not fall within the scope of this requirement.

Reports of employee malfeasance should include the following components:

- The institution's name, the institution point of contact to include telephone and email;
- Description of the incident to include incident date and time, location, improper activity, estimated loss to the institution, etc.;
- Known suspect information to include employee name, title, employment status (administrative leave, pending termination, etc.), etc.; and,
- Current case status to include law enforcement involvement and the results of any internal investigation.

Reports should be clearly marked as confidential. It is expected that institutions will report suspected employee malfeasance once an initial determination has been made that employee malfeasance was likely. Institutions are not authorized to negotiate a promise to not report employee malfeasance in return for the employee's resignation, restitution, etc. The decision not to prosecute rests with the Attorney General's Office.

Please submit your reports to my office via email to Ron Stark at [ron.stark@usg.edu](mailto:ron.stark@usg.edu) and to the USG Compliance Officer John Fuchko at [john.fuchko@usg.edu](mailto:john.fuchko@usg.edu). Alternatively, reports may be sent by hard copy ATTN: Mr. Ron Stark and Mr. John Fuchko at the Office of Internal Audit, University System of Georgia, 270 Washington Street, Atlanta, GA 30334.

HB 1113 – HB 1113 introduces multiple new requirements pertaining to both P-Card program administration and the use of travel advances and reimbursement requests. This legislation has not yet been signed by the Governor. However, it is expected that the Governor will sign this legislation. Without attempting to address every point made in the legislation, I would like to highlight the following points:

- Criminal penalties associated with P-Card misuse have been significantly increased;
- Both P-Card cardholders and supervisors may be criminally prosecuted for P-Card misuse – a supervisor that “knowingly intentionally, willfully, wantonly, or recklessly allows or who conspires with an employee who is issued a purchasing card to violate subsection (c) of this Code section shall be subject to immediate termination of employment and criminal prosecution.”
- P-Card misuse that may result in civil and criminal penalties includes:
  - Uses a purchasing card for personal gain;
  - Purchases items on such purchasing card that are not authorized for purchase by such employee;
  - Purchases items in violation of this Code section; or

- o Retains for such employee's personal use a rebate or refund from a vendor, bank, or other financial institution for a purchase or the use of a purchasing card.

This definition of misuse could conceivably include purchase categorized as "policy violations" in addition to the more obvious misuse through personal gain.

- The legislation also specifically addresses travel advances and reimbursement requests as follows:
  - o It shall be unlawful for any person to use any travel advance received from public funds, for nongovernmental purposes or to submit or approve, knowingly or through willful and wanton neglect, a fraudulent request to the state for reimbursement of expenses.

The penalties associated with violation of this law ranges from a misdemeanor of a high and aggravated nature for aggregate amounts less than \$500 to a felony for aggregate amounts of \$500 or greater. The restitution requirements, fines, and prison time associated with these crimes can be found in HB 1113.

We recommend that institutions take the following steps to prepare for implementation of HB 1113:

1. Continue to implement the recommendations outlined in the February 28, 2008, consolidated P-Card report.
2. Be prepared to implement new P-Card policies once issued by the Georgia Department of Administrative Services (DOAS) and the USO. Note that a draft policy that addresses the HB 1113 requirements pertaining to P-Cards has already been drafted by my office and has been reviewed by DOAS, the Office of Planning and Budget, the State Accounting Office, and the State Auditor's Office.
3. Update internal procedures and documents to clearly communicate the various penalties associated with misuse of travel advances and the submittal of fraudulent requests for reimbursement.
4. Review current travel advances outstanding to employees and immediately collect outstanding travel advances. Note that institutions are not authorized to negotiate "payment plans" with employees. Rather, employees are expected to immediately return outstanding travel advances. Outstanding travel advances are those funds that must be accounted for and/or returned to the institution as outlined in BPM Sections 4.9.4 through 4.9.9.

Please do not hesitate to contact my office with any questions or concerns pertaining to the above issues.