

The San Jose Museum of Art's Financial Misconduct Complaints Policy

The San Jose Museum of Art ("SJMA") is committed to complying with all applicable laws and regulations, and to adhering to best governance standards for accounting, accounting controls and audit practices. It is SJMA's policy to treat any and all complaints and concerns about questionable accounting, auditing or other financial matters seriously, and to investigate such complaints and concerns thoroughly and expeditiously.

In support of this commitment, SJMA's Board of Trustees has established the procedures set forth herein for the submission, investigation, and resolution of complaints, reports and concerns by employees, trustees and non-trustee Board committee members regarding accounting, auditing and other financial matters ("FMCP"). This policy shall be posted visibly in the museum's administrative offices and shall be incorporated into SJMA's Employee Manual and SJMA's Board of Trustees Manual. It shall also be provided directly to each new non-trustee Board committee member upon commencement of committee membership.

SJMA prohibits any type of retaliation against individuals who submit complaints or concerns under the FMCP in good faith, even if the complaint or concern is ultimately found to be without merit. However, those who make complaints or provide information that they know to be false or do not reasonably believe to be true and accurate may be subject to disciplinary action, including termination of employment, trustee position, non-trustee Board committee membership or other museum affiliation.

1. Complaints Covered by Financial Misconduct Complaints Policy

Each employee, trustee and non-trustee Board committee member of SJMA has an individual responsibility to report complaints or concerns regarding questionable accounting, auditing or other financial practices or matters promptly per the procedures set forth in the FMCP, or about any acts of retaliation in violation of the FMCP. Complaints and concerns about other matters, such as human resource issues or non-financially related ethical complaints, should be taken to the appropriate supervisor or director as specifically and separately set forth in SJMA's Employee Manual, SJMA's Ethics Code for Staff, Volunteers and Interns, and /or SJMA's Ethics Code for Trustees.

Examples of matters covered by the FMCP include, but are not limited to, the following:

- (1) financial fraud, including bank fraud, or fraudulent statements to any governmental entity;
- (2) violations of applicable rules and regulations related to accounting, internal accounting controls, financial, and auditing matters;
- (3) intentional misstatements, deception or fraud in the preparation, review or audit of any financial statement of SJMA;

- (4) significant deficiencies in or intentional noncompliance with SJMA's internal accounting controls;
- (5) misappropriation, dishonest use or misuse of SJMA assets; and
- (6) retaliation against employees who submit financial misconduct complaints or concerns in good faith.

2. Method by Which to Submit Covered Complaints

Any SJMA employee, trustee or non-trustee Board committee member may submit a complaint or concern with regard to accounting, auditing or other financial matters by writing a letter or sending an electronic message to the Chair of SJMA's Audit Committee. His/her mailing and electronic mail address will be posted visibly in the museum's administrative offices reasonably adjacent to the FMCP.

If the complaint or concern relates to conduct by the Audit Committee Chair, the Chief Financial Officer (CFO) shall substitute for the Audit Committee Chair for all functions under the FMCP, and the complaint should be submitted by writing a letter or sending electronic mail to the CFO. His/her mailing and electronic mail address will be posted visibly in the museum's administrative offices reasonably adjacent to the FMCP.

Employees, trustees or non-trustee Board committee members who submit complaints or concerns are encouraged to identify themselves and provide contact information so that they can be contacted for additional information, if necessary, and the matter may be more thoroughly investigated. However, complaints and concerns may be made anonymously. Anonymous complaints and concerns will be investigated to the greatest extent possible.

If an individual submitting a complaint or a concern identifies himself/herself and provides contact information, the Audit Committee Chair will acknowledge receipt of such complaint or concern.

3. Investigations and Corrective Measures

Following receipt of a complaint or concern, the Audit Committee Chair shall first determine whether it is covered by the FMCP. Unrelated complaints shall be referred to the appropriate department, staff member or Board committee. For covered complaints, the Audit Committee Chair shall consult with the Audit Committee to determine if an investigation and further action is warranted. The Audit Committee shall notify the Board leadership and/or the Executive Director of the investigation, if appropriate. The Audit Committee then shall initiate and direct a thorough investigation, and shall have the authority to retain outside legal counsel, accountants, private investigators, other experts or other resources deemed necessary to conduct a full and complete investigation. SJMA shall provide the appropriate funding to obtain and pay for such additional resources.

Confidentiality shall be maintained to the extent possible, consistent with applicable laws and regulations, as well as the need to conduct a thorough investigation.

Upon the conclusion of the investigation, the Audit Committee shall determine whether and what corrective measures or other recommendations are necessary. These may include but are not limited to the following: sanctions including termination of employment, Board position or Board committee membership, and/or implementation of new accounting, auditing or financial policies and procedures. Recommendations may also be made during the course of the investigation should the Audit Committee Chair deem it appropriate and necessary to do so.

The Audit Committee shall then direct and oversee the implementation of corrective measures or other recommendations, which may involve: working with the Executive Director; working with the Finance, Executive or other Board committee(s); and/or reporting the matter to the appropriate outside legal authority or seeking other external legal measures.

If the Audit Committee Chair is aware of the identity of the complainant, he/she may inform that individual regarding the status or resolution of the matter to the extent possible and appropriate.

4. Audit Committee Reports

At the Audit Committee meetings and/or whenever else the Audit Committee so directs, the Audit Committee Chair shall report on the status of any current or ongoing financial misconduct complaints. The report shall include, but is not limited to, the following: (1) the complainant's position and name, if known; (2) a material description of the substance of the complaint at issue; (3) the status of any investigation; and (4) any findings or recommendations.

5. Non-Retaliation

SJMA shall not knowingly retaliate or take any action harmful against any trustee, non-trustee Board committee member or employee, including interference with any terms and conditions of employment, Board position or Board committee membership, for making a complaint in good faith pursuant to the FMCP or for providing assistance to law enforcement personnel, governmental bodies or persons with supervisory authority over the complaint. Terms and conditions of employment include, but are not limited to: job assignment; promotion; compensation; training; discipline and termination. Retaliation against an employee, trustee or non-trustee Board committee member is considered a serious violation of the FMCP and anyone who engages in such activity may be subject to disciplinary action, termination of employment, Board position, Board committee membership, civil action and/or criminal penalties.

6. Documents

All documents relating to complaints made pursuant to the FMCP (including Audit Committee reports) are deemed confidential and privileged. Access to such documents

will be granted in the sole discretion of the Audit Committee Chair. Such documents shall be retained by SJMA for a minimum of seven years from the date the complaint was received. After that time, such documents may be destroyed unless they are deemed to be relevant to any pending or potential inquiry, investigation, and/or litigation, in which case such documents may not be destroyed and must be retained for the duration of the inquiry, investigation and/or litigation and thereafter as deemed necessary.