Volume II: Appendix 1: Standards of Ethical Conduct – Federal Law Overview

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Introduction

The federal government provides support to Canisius College. Included in this section is a brief overview of some of the laws, regulations, and guidelines that may be used to evaluate the actions of the college as well as its executive officers, faculty, staff, student employees, and others. The college and these individuals are expected to be in full compliance with all federal and state laws.

Document Destruction and The Sarbanes-Oxley Act

The Sarbanes-Oxley Act addresses, among other things, the destruction of litigation related documents and makes it a crime to alter, cover, falsify or destroy any document (or persuade someone else to do it) to prevent its use in an official proceeding.

Anti-Kickback Act of 1986

This act was passed to deter subcontractors from making payments and contractors from accepting payments to improperly obtain or reward with favorable treatment in connection with either a contract or subcontract relating to a prime contact.

Federal Sentencing Guidelines

1991 Federal Sentencing Guidelines define an effective internal control program in the following seven steps:

1. Compliance programs have been established to reduce the prospect of criminal conduct by the employees or agents of the organization.
2. High-level individuals have been assigned responsibility to oversee compliance with the standards and procedures.
3. The organization has taken steps to install monitoring and auditing systems designed to detect criminal conduct.
4. Evidence confirms that substantial discretionary authority has not been delegated to individuals who the organization knows or should have known have a propensity to engage in illegal activities.
5. Standards and procedures have been communicated to all employees and agents through training programs and printed materials.
6. Standards and procedures have been consistently reinforced through appropriate disciplinary mechanisms.
7. Appropriate responses are made to reported offenses, with action taken to prevent recurrence.

Under the legal concept of respondeat superior, or “let the master answer,” the organization is responsible for the wrongful acts of its employees, as long as the employees are acting in their official capacity. Employees and agents are expected to be trained and counseled to act in a lawful and ethical fashion. Establishing a visible “track record” of prevention and detection within an organization is critical. The organization must be proactive in establishing anti-fraud programs and compliance audits.

Foreign Corrupt Practices Act of 1977

The anti-bribery provisions of this act require that books, records and accounts be maintained that accurately and fairly reflect the transactions and disposition of assets, and that a system of internal accounting control be maintained.

National Science Foundation (NSF) Requirements Misconduct in Science

The National Science Foundation developed these regulations to assure that both grant recipients and the NSF had procedures in place to deal with misconduct allegations. These requirements include the following:

- Contracting institutions must develop procedures that respond to allegations of misconduct, which do not include honest misinterpretations or misjudgment of data. There will be no retaliation of any kind against a person who reports or provides information about suspected or alleged misconduct and who has not acted in bad faith;
- Policies and procedures must be developed to ensure an impartial process for: receipt and disposition of allegations of scientific misconduct; notification to the agency; protections of the integrity of the research, research subjects, and the public; observance of legal requirements and responsibilities; protections of the person(s) bringing the allegation; and maintenance of records;
- Awardees are subject to suspension, termination and/or department actions.

Office of Federal Procurement Policy Act Regarding Procurement Integrity

This act states that no competing contractor or any officer, employee, representative, agency, or consultant of such competing contractor shall knowingly:

- Make, directly or indirectly, any offer or promise of future employment with any procurement officer of such agency;
- Offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement officer of such agency;
- Solicit or obtain, directly or indirectly, any proprietary or source selection information regarding such procurement.

The responsible institutional officer must certify, concurrently with submission of the proposal and/or the award, that to the best of his or her knowledge and belief the institution has abided by requirements of the Procurement Integrity regulations.

Family Educational Rights and Privacy Act of 1974 (FERPA)

This act generally protects student records from disclosure. The college’s policy on the disclosure of records and the circumstances under which disclosure will be permissible are set forth in the college’s catalogs, as well as in Volume II of the Canisius College Policy Manual.
In addition to privacy provisions covered under FERPA, this act protects students, employees, and alumni against any anticipated threats to the security of Canisius College-held personally identifiable financial information such as social security number. Employees must protect against disclosure of this information in normal operations, disaster and recovery operations, or as the result of other security threats.

**Health Insurance Portability and Accountability Act (HIPAA)**

This act protects medical records from unauthorized disclosure. The college’s Student Health Center should be consulted for appropriate procedures and guidelines for medical records.

**USA PATRIOT Act**

The USA PATRIOT Act was passed in response to the events 9/11. Of particular concern for colleges are the requirements for the documenting and monitoring of foreign students attending schools in the United States.

**Drug-Free Work Place Act of 1988**

Institutions that receive certain grants and contracts from any federal agency in excess of $100,000 are required to certify that it is complying with statutory requirements designed to create drug-free workplaces.

**Federal Copyright and Patent Laws**

The rights of holders of intellectual property and restrictions on the use and re-use of such property is governed by federal law. These laws affect, among other things, the reuse of original works through photocopying and other means and the downloading of protected material from the Internet.