

Guide to Judiciary Policy

Vol. 1: Governance and Authorities

Ch. 14: Fraud, Waste, or Abuse

[§ 1410 Overview](#)

[§ 1410.10 Definitions](#)

[§ 1410.20 Applicability](#)

[§ 1420 Authorities and Responsibilities](#)

[§ 1420.10 Administrative Office](#)

[§ 1420.20 Circuit Judicial Councils](#)

[§ 1420.30 Court Units and FPDOs](#)

[§ 1430 Allegations of Fraud, Waste, or Abuse](#)

[§ 1430.10 Confidentiality](#)

[§ 1430.20 Whistleblower Protection](#)

[§ 1440 Receipt and Resolution of Allegations](#)

[§ 1440.10 Receipt of Allegations](#)

[§ 1440.20 Resolution of Allegations](#)

[§ 1450 Reporting](#)

[§ 1450.10 Court Units and FPDOs](#)

[§ 1450.20 Administrative Office](#)

[§ 1450.30 Losses Due to Fraud](#)

§ 1410 Overview

- (a) This chapter provides the responsibilities for reporting and responding to allegations of fraud, waste, or abuse of resources for judiciary organizations identified in § 1410.20.
- (b) Guidance on reporting types of wrongdoing that are outside the scope of this chapter:
 - (1) For allegations of judicial misconduct, **see:** Guide, Vol. 2E (Judicial Conduct and Disability Act and Related Materials).
 - (2) For allegations of whistleblower retaliation, **see:** § 1430.20.
 - (3) For allegations related to a judicial decision in a case, **see:** 28 U.S.C. § 1291.

- (4) For allegations of sexual harassment, discriminatory harassment, abusive conduct, discrimination, and retaliation for engaging in fair employment practices (FEP) protected activity (**see:** Guide, Vol. 12, § 220.10.10(d) and AO Manual, Vol. 4, § 320(b)(1)):
 - (A) Court unit and federal public defender organization (FPDO) employees should consult the relevant employment dispute resolution plan (Guide, Vol. 12, Appx. 2A (Model Employment Dispute Resolution Plan) and Appx. 2B (Model Federal Public Defender Organization (FPDO) EDR Plan)).
 - (B) Employees of the Administrative Office of the U.S. Courts (AO) should consult the workplace conduct and protections and employee grievances policies provided in the *AO Manual*.

Note: The Office of Judicial Integrity provides assistance regarding the resources available to address workplace conduct concerns within the judiciary. Similarly, the Office of Fair Employment Practices and the Office of AO Human Resources are available to AO employees seeking assistance in addressing similar concerns.
- (5) Allegations that fall outside of the above categories should be reported to the appropriate member of the employee’s management chain.

§ 1410.10 Definitions	
Abuse	An administrative violation of judiciary, court unit, or organization regulation that impairs effective and efficient operations. The violation may result in federal losses, or denial or reduction of lawfully authorized federal benefits to participants.
Allegation	A claim of misconduct that is believed to have resulted in fraud, waste, or abuse.
Complainant	A person submitting an allegation of fraud, waste, or abuse.
Court units	All U.S. courts and their units, including circuit offices and bankruptcy administrator offices.
Court unit executives	Heads of court units, including circuit executives, district court executives, clerks of court, chief probation officers, chief pretrial services officers, senior staff attorneys, chief circuit mediators, bankruptcy administrators, and circuit librarians.
Federal defender organizations (FDOs)	A term that includes both federal public defender organizations and community defender organizations (CDOs), which are grantees and not organizations within the judicial branch.

§ 1410.10 Definitions	
Fraud	An intentional, wrongful act to obtain either money or some other advantage or benefit from government programs. Fraud includes theft, embezzlement, false statements, illegal commissions, kickbacks, conspiracies, obtaining contracts through collusive arrangements, and similar devices.
Judiciary employees	Employees of the organizations identified in § 1410.20.
Waste	Inappropriate action or omission by those with controls over government resources that results in taxpayers not receiving reasonable value for money in connection with any government-funded activities. Waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.
Whistleblower	<p>Any judiciary personnel with authority to take, direct others to take, recommend, or approve any personnel action may not use such authority to take or threaten to take an adverse employment action against an employee (excluding applicants for employment) because of any disclosure of information:</p> <ul style="list-style-type: none"> (1) by the employee to: <ul style="list-style-type: none"> (A) the appropriate federal law enforcement authority, (B) supervisor or managerial official of the employing office, (C) a judge of the court, or (D) the AO; (2) that the employee reasonably and in good faith believes: <ul style="list-style-type: none"> (A) violates any law, rule, or regulation, or other conduct that constitutes gross mismanagement, (B) represents a gross waste of funds, or (C) poses a substantial and specific danger to public health or safety; and (3) where such disclosure: <ul style="list-style-type: none"> (A) is not specifically prohibited by law, (B) does not reveal case-sensitive information, sealed material, or the deliberative processes of the federal judiciary, and (C) does not reveal information that would endanger the security of any judge.

§ 1410.20 Applicability

- (a) Except as provided in paragraph (b), this policy applies to the following:
 - all federal courts in the judicial branch and their constituent units;
 - bankruptcy administrator offices;
 - FPDOs; and
 - the AO.

- (b) This policy does **not** apply to the Supreme Court of the United States.

§ 1420 Authorities and Responsibilities

§ 1420.10 Administrative Office

- (a) Director
 - (1) The Director serves as the chief administrative officer of the United States courts. 28 U.S.C. § 604(a).
 - (2) The Director has assigned responsibility to the Deputy Director for:
 - (A) coordination of and referral to the responsible judiciary official, as defined in § 1440.10, any allegations reported to or brought to the attention of the AO; and
 - (B) oversight of the fraud, waste, or abuse investigation program.
- (b) Deputy Director
 - (1) The AO Deputy Director is responsible for informing the Judicial Conference Committee on Audits and Administrative Office Accountability (AAOA Committee) of fraud, waste, or abuse allegations reported to the AO and the status of those allegations until they are closed.
 - (2) The Deputy Director's staff is responsible for tracking such allegations and conducting fact-finding activities for allegations involving
 - (A) the AO;
 - (B) anyone doing business with the AO; or
 - (C) a court unit or FPDO, as applicable, upon request of the chief judge. **See:** § 1440.20(c).
- (c) AO Employees
 - (1) **See:** AO Code of Conduct, §§ 220(b), 230, 240.
 - (2) Additional policy on an AO employee's role and responsibility regarding the fraud, waste, or abuse investigation program are provided in *AO Manual*, Vol. 2, Ch. 4.

§ 1420.20 Circuit Judicial Councils

Each circuit judicial council is responsible for — and has the authority to make all orders necessary and appropriate to — the effective and expeditious administration of justice within its circuit. 28 U.S.C. § 332.

§ 1420.30 Court Units and FPDOs

§ 1420.30.10 Courts and Circuits

(a) Chief Judges

- (1) The chief judge has a leadership role in court management and stewardship of resources. Guide, Vol. 13, § 130.30 and Code of Conduct for U.S. Judges (Guide, Vol. 2A, Ch. 2), Canon 3(B), subsections (1), (4), and (5).
- (2) As a result of administrative program delegations and authorities, the chief judge is responsible for ensuring that the court is administered:
 - (A) effectively and efficiently,
 - (B) consistent with statutes and Judicial Conference and circuit judicial council policies, and
 - (C) according to judiciary procedures.
- (3) As a consequence of the above-referenced responsibilities, the chief judge has the authority and responsibility to:
 - (A) ensure that allegations of fraud, waste, or abuse are appropriately addressed; and
 - (B) provide the following to the AO Deputy Director's Office:
 - (i) updates on the status of investigations handled locally (**see:** § 1450.20), and
 - (ii) outcomes of investigations of or by a court unit or FPDO (**see:** § 1450.10(b)).

(b) Court Unit Executives and Their Employees

- (1) Court unit executives must ensure that appropriate systems of internal control are in place to protect assets, including funds and

sensitive information, from fraud, waste, abuse, error, and loss. Guide, Vol. 11, § 140 (Responsibility).

- (2) **See:** Code of Conduct for Judicial Employees (Guide, Vol. 2A, Ch. 3), Canon 1 and Canon 3A.

§ 1420.30.20 Bankruptcy Administrators and Their Employees

- (a) Bankruptcy administrators must ensure that appropriate systems of internal control are in place to protect assets, including funds and sensitive information, from fraud, waste, abuse, error, or loss. Guide, Vol. 11, § 140 (Responsibility).
- (b) The chief judges of the circuit courts of appeals in Alabama and North Carolina appoint the bankruptcy administrators in those districts, respectively. The chief judge is responsible for addressing fraud, waste, or abuse allegations related to the bankruptcy administrator.
- (c) Bankruptcy administrators are responsible for addressing fraud, waste, or abuse allegations regarding the activities and employees of the bankruptcy administrator office.
- (d) **See:** Code of Conduct for Judicial Employees (Guide, Vol. 2A, Ch. 3), Canon 1 and Canon 3A, which apply to bankruptcy administrators and their staff.

§ 1420.30.30 Federal Public Defenders and Their Employees

- (a) Federal public defenders (FPDs) must ensure that appropriate systems of internal control are in place to protect assets, including funds and sensitive information, from fraud, waste, abuse, error, or loss. Guide, Vol. 11, § 140 (Responsibility).
- (b) The chief judges of the circuit courts of appeals appoint FPDs in the circuits. The chief judge is responsible for addressing fraud, waste, or abuse allegations related to the FPD appointed by the court.
- (c) The FPD is responsible for addressing fraud, waste, or abuse allegations regarding the activities and employees of the FPDO.
- (d) **See:** Code of Conduct for Federal Public Defender Employees (Guide, Vol. 2A, Ch. 4), Canon 1 and Canon 3A.

§ 1430 Allegations of Fraud, Waste, or Abuse

- (a) Judiciary employees should inform any of the following officials in their organization, as applicable, of concerns or allegations regarding potential fraud, waste, or abuse:
- their court unit executive or FPD;
 - their chief judge;
 - their circuit judicial council in their circuit via the circuit executive; or
 - AO staff through:
 - (1) the web-based JNet form, or
 - (2) an email to the AO Deputy Director's office at: aodb_Fraud_Waste_Abuse_Complaint@ao.uscourts.gov.
- (b) Court units and FPDOs are encouraged to establish fraud, waste, or abuse reporting procedures. **See:** JNet's Sample Fraud, Waste or Abuse Reporting Procedures page.

§ 1430.10 Confidentiality

The judiciary treats all allegations seriously, including anonymous allegations. However, names and other contact information assist the judiciary in following up on allegations and investigating them thoroughly. **See:** § 1430.20 (Whistleblower Protection).

- (a) When allegations are reported to the AO:
- (1) AO personnel will maintain the confidentiality of a complainant's identity, unless:
 - (A) the complainant has informed the AO investigator that they are not requesting confidentiality;
 - (B) disclosure becomes unavoidable during the investigation; or
 - (C) disclosure becomes necessary for the safety of the complainant or others.
 - (2) If disclosure of the identity of a complainant who has requested confidentiality becomes unavoidable during an investigation, the complainant will be notified before any disclosure unless such notice would be contrary to law or may be detrimental to the safety of the complainant or others.

- (b) Court units and FPDOs are encouraged to establish policies on the confidentiality of a complainant to engender candor regarding potential fraud, waste, or abuse.

§ 1430.20 Whistleblower Protection

- (a) Court Unit and FPDO Employees

The process for addressing whistleblower retaliation complaints is provided in the relevant court unit or FPDO employment dispute resolution plan.

- (b) AO Employees

The process for addressing complaints of whistleblower retaliation is provided under the AO Personnel Act of 1990 (Pub. L. No. 101-474).
See: *AO Manual*, Vol. 4, Ch. 13 (Employee and Management Relations).

Note: The Office of Judicial Integrity provides assistance regarding the resources available to address workplace conduct concerns.

§ 1440 Receipt and Resolution of Allegations

§ 1440.10 Receipt of Allegations

- (a) If the AO receives fraud, waste, or abuse allegations about a court unit or FPDO, the allegations must be referred to the responsible judiciary official, as defined below:
 - (1) the chief judge of the responsible court when the allegations concern a court unit or its activities;
 - (2) the chief judge of the responsible court of appeals when the allegations concern a chief judge of a district or bankruptcy court, FPD, or bankruptcy administrator;
 - (3) the circuit council when the allegations concern a circuit chief judge;
 - (4) the FPD when the allegations concern the FPDO or its staff, other than the FPD; or
 - (5) the bankruptcy administrator when the allegations concern the bankruptcy administrator office or its staff, other than the bankruptcy administrator.

- (b) The AO, as the grantor, has the authority to address allegations of fraud, waste, or abuse regarding CDOs, their staff, and activities within the scope of the annual grant and conditions agreement. If the AO receives allegations concerning a CDO or its staff, they are referred to the Deputy Director.
- (c) If a circuit judicial council, court unit, or FPDO receives allegations concerning its staff or activity, they should be addressed according to local procedures.
- (d) Referrals from Other Government Agencies
 - (1) Some complainants direct their allegations about the judiciary to other government agencies, such as the Office of the Inspector General at the Department of Justice (DOJ) or the Government Accountability Office (GAO). Those agencies may forward such allegations to the AO or directly to the identified judiciary organization.
 - (2) If the AO receives a complaint regarding a court unit or FPDO that appears not to have been forwarded to the responsible official (as defined above in paragraph (a)), the AO will forward the complaint to that official.

§ 1440.20 Resolution of Allegations

- (a) The Director has assigned responsibility to the Deputy Director for day-to-day management of the AO's fraud, waste, or abuse investigation program.
- (b) Court units and FPDOs are encouraged to establish a process for resolving fraud, waste, or abuse allegations.
- (c) The Judicial Conference has authorized the Director to provide investigative assistance related to an allegation at the request of a chief judge, circuit judicial council, federal public defender, or bankruptcy administrator consistent with the authorities defined in § 1440.10. JCUS-SEP 1988, p. 57; JCUS-SEP 2019, pp. 5-6.

§ 1450 Reporting

§ 1450.10 Court Units and FPDOs

- (a) Upon identification of a loss of government resources (e.g., funds, information, property) believed to have resulted from fraud or the fraudulent actions of an employee, the court unit executive or FPD must

take action to satisfy applicable reporting requirements in Guide, Vol. 13, § 1320.30 or Vol. 16, § 590.

- (b) The outcome of any fraud, waste, or abuse investigation of or by a court unit or FPDO must be reported to the AO Deputy Director's Office, including:
 - (1) a description of the allegation(s);
 - (2) whether indicators of fraud, waste, or abuse were found for each allegation;
 - (3) any personnel action taken;
 - (4) any policies or procedures that have been adopted or amended to minimize the risk of recurrence;
 - (5) any referral to the Department of Justice, U.S. Treasury, or other law enforcement organization;
 - (6) the amount of any losses; and
 - (7) recovery efforts for any losses, including the initiation of debt collection activities and the results of those activities.

§ 1450.20 Administrative Office

- (a) AAOA Committee
 - (1) The AO provides the AAOA Committee a confidential summary of the status of allegations of fraud, waste, or abuse concerning the AO, court units, and FDOs.
 - (2) The AO must report the status of fraud, waste, or abuse allegations to the Committee until they have been closed.
- (b) AO's Office of Audit

The Office of the Deputy Director must report allegations and investigations to the AO's Office of Audit if they result in identification of:

- (1) noncompliance with judiciary policy,
- (2) internal control weaknesses, or
- (3) potential improper payments.

- (c) Due to the sensitive nature of allegations and investigations, the AO only provides status reports to the AAOA Committee and appropriate judiciary officials.

§ 1450.30 Losses Due to Fraud

- (a) The chief judge, FPD, bankruptcy administrator or Director, or designee, is responsible for promptly notifying DOJ if a loss was a result of potential fraud. **See:** 31 CFR 900.3. The AO's Office of the General Counsel can assist with reporting to DOJ.
- (b) DOJ has sole authority to take action regarding such a loss, unless the agency returns the claim to the judiciary for further handling. If returned for action, the judiciary must seek to resolve the loss under the standards in 31 CFR 900-904. For debt collection policy, **see:** Guide, Vol. 13, Ch. 14 (Debt Collection).