

Provisions of The Sarbanes-Oxley Act

The Sarbanes-Oxley Act was signed into law on July 30, 2002 as a result of corporate and accounting scandals. While most provisions of this Act apply only to publicly traded companies, two provisions do specifically apply to nonprofit organizations. These two provisions are discussed below.

Whistle-Blower Protection:

An effective method of communicating and reinforcing an antifraud culture with an organization is through the development of a policy on misconduct. The policy should include:

- General overview of the Organization's Code of Ethics and Conduct
- Definitions of misconduct, including fraud and abuse
- Individual reporting responsibilities
- No retaliation statements (harassment, retaliation or adverse employment consequences)
- Where to report violations
- Designate compliance officer who is responsible for investigating
- Confidentiality policy
- Handling of reported violations
- Disciplinary action for violations

The Sarbanes-Oxley Act provides protection for whistle-blowers and imposes criminal penalties for retaliating against those who report suspected misconduct in the organization. No punishment is allowed for reporting misconduct under this provision. The law does not force the individual to show misconduct; only a reasonable belief or suspicion that a fraud exists is required to afford protection of the whistle-blower.

Document Destruction:

Under the Sarbanes-Oxley Act, it is a crime for an organization to destroy, alter, cover up, or falsify a document to prevent its use in an official proceeding. Your organization should have a written, mandatory document retention and periodic destruction policy. This policy should also include guidelines for handling voicemail and electronic files. Policies such as this should

eliminate accidental or innocent destruction. In addition, it is important for administrative personnel to know the length of time records should be retained to be in compliance.

If you have any questions or would like any further advice on the Sarbanes-Oxley Act, please feel free to contact Jason Stephens or one of his associates at Wegner LLP.

Questions?

For information regarding this topic or general questions, please call Jason Stephens, CPA at (608) 274-4020.