September 16, 2011

MEMORANDUM #77-11HR

TO: Agency Administrators

FROM: Bobbie Chappell, Director of Human Resources

VIA: Rip Colvin, Executive Director

RE: JAC Policy Against Fraudulent, Unethical, and other Dishonest Acts

The Justice Administrative Commission (JAC) has received numerous inquiries regarding the Auditor General's request pertaining to fraud policies and procedures. Please see the attached model of the JAC Policy Against Fraudulent, Unethical, and other Dishonest Acts. We are providing this as a courtesy model for your consideration, and possible adoption by your agency, should you opt to do so.

If you have any questions, please do not hesitate to contact me at (850) 488-2415 Ext. 249.

Attachment

SPECIFIC AUTHORITY

F.S. 112.311 et seq.

OBJECTIVE

To guard against fraudulent, unethical and dishonest acts and identify responsibilities for preventing, detecting, reporting, and investigating such.

OVERVIEW

The Justice Administrative Commission (JAC) is committed to the highest standards of moral and ethical behavior. Breaches of these standards, especially through acts involving fraudulent, unethical and other dishonest behavior, are not only costly, but they erode the public's trust and confidence in the integrity of the agency. By issuing this formal policy statement, the JAC hereby reaffirms its longstanding duty and responsibility to aggressively combat such behavior.

This policy is intended to (1) communicate a "zero tolerance" for fraudulent, unethical and other dishonest activities, (2) institute preventive measures designed to deter these activities or make them easier to detect and deter, and (3) provide for the reporting and investigation of such, including providing protection to employees who report violations.

An employee who, in good faith, reports wrongful activity meeting the provisions of Section 112.3187, Florida Statutes (Whistle-blower's Act), is protected against retaliation for making such a report. The law also provides for the individual's identity to remain confidential. Regardless as to whether or not the provisions of the Whistle-blower's Act are met, it is a violation of this policy for anyone to retaliate against an employee for reporting, in good faith, allegations of wrongdoing or participating in the investigation of such.

A. DEFINITIONS

Fraud generally involves a willful or deliberate act or omission with the intention of obtaining an unauthorized benefit, service, property or something of value by deception, misrepresentation or other unethical or unlawful means. Fraud can be committed through many methods, including mail, wire, telephone and the Internet. Fraudulent, unethical and other dishonest acts may include, but are not limited to:

1. Forgery or unauthorized alteration of documents or computer records;
2. Falsification or misrepresentation of reports to management and external agencies, including time sheets, official travel claims for reimbursement or other expense reimbursement reports;
3. Authorizing or receiving payment for time not worked;
4. Misappropriation of funds, securities, supplies or other assets;
5. Impropriety in handling or reporting of money or financial transactions;

NOTE: A copy of this policy will be included in the Personnel File.

6. Engaging in unauthorized activities that result in a conflict of interest;

7. Disclosing confidential or proprietary information to unauthorized individuals;

8. Removal of agency property, records or other assets from the premises without supervisory approval;

9. Unauthorized use or destruction of agency property, records or other agency assets; and

10. Taking information and using it or providing the information that would lead to identity theft.

B. RESPONSIBILITY FOR DETECTION, REPORTING AND PREVENTION

Management shall set the appropriate tone by displaying the proper attitude toward complying with laws, rules and regulations. Management is also responsible for establishing and maintaining proper internal controls that will provide for the security and accountability of the resources entrusted to them. Such controls include, but are not limited to, ensuring that (1) incompatible duties are properly separated, (2) financial transactions are properly authorized and approved, (3) reports of financial activity are periodically reviewed for completeness and accuracy, (4) official personnel actions (i.e., appointments, terminations, promotions) and employee time and leave is properly authorized and approved, (5) assets are physically secured, (6) computer passwords are protected and not shared, (7) confidential and sensitive information is protected from unauthorized access and (8) employees are effectively supervised. In addition, supervisors shall be cognizant of the risks and exposures inherent in their area of responsibility, take appropriate steps to help mitigate those risks and be aware of the related symptoms of fraudulent, unethical and other dishonest actions.

Employees shall be alert to the possibilities of fraud and any indication that unethical or dishonest activity is taking place. Any JAC employee who has knowledge of such activity shall immediately notify their supervisor. The supervisor shall then notify the Executive Director or General Counsel. If it appears to be criminal then the Executive Director or General Counsel will notify the Tallahassee Police Department. If the employee has reason to believe that their supervisor may be involved, the employee shall immediately notify the Executive Director or General Counsel. In all cases, neither the employee nor the supervisor shall investigate the suspected activity nor discuss the matter with anyone other than the person or office to whom the activity was reported. Employees who knowingly make false allegations may be subject to disciplinary action up to and including dismissal. Allegations that are investigated and deemed unsubstantiated are not necessarily indicative of false allegations.

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C. INVESTIGATION

Upon reviewing allegations of fraudulent, unethical or dishonest acts, if the Executive Director determines an investigation is warranted, he/she shall appoint an employee within the JAC to investigate the reported activity after consulting with the General Counsel. In those instances where the investigation by the Executive Director appointee indicates potential criminal activity, the investigation shall immediately be turned over to the appropriate State Attorney Office.

During the investigation, the Constitutional rights of all persons are to be observed. The accused will be afforded the opportunity to respond to the allegations or matters being investigated. The rights of the accused will be safeguarded throughout the investigation.

Pursuant to this policy, all employees are to cooperate fully with those performing an investigation. An employee who does not fully cooperate with an authorized investigation may be disciplined, up to and including termination of employment. An employee may be required to answer any questions that are within the scope of the employee's employment, whether such questions are asked in an investigation conducted by the Executive Director appointee or Human Resources.

The investigation shall be completed expeditiously and in accordance with established procedures. The results of the investigation conducted by the Executive Director appointee shall be communicated, either orally or in writing as determined by the Executive Director.

Allegations or matters of conduct deemed outside the scope of this policy, such as supervisory or personnel-related issues, may be referred to the respective area of management or/of the Human Resources Section for review and appropriate action.

D. ACTIONS

Employees determined to have participated in fraudulent, unethical or dishonest acts will be subject to disciplinary action in accordance with personnel policies and rules. Criminal, civil and/or other administrative actions may also be taken against employees who are found to have participated in unlawful acts. Criminal action falls within the sole purview of local, state or federal law enforcement, prosecuting and judicial authorities. In those instances where disciplinary and/or other administrative action is warranted, the Human Resources Section, or other appropriate office, shall be consulted prior to taking such actions.

I have received, read and understand the "Policy Against Fraudulent, Unethical and Other Dishonest Acts"

Employee Signature: _____ Date: _____

Employee Name: _____

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