



**Ethics Program -- Jacksonville, Florida  
Background Materials**

**Carla Miller, Ethics Officer  
September 2009**

CITY OF JACKSONVILLE



ETHICS OFFICE

September 24, 2009

Mr. Wyman R. Duggan, Chair  
Charter Revision Commission  
117 W. Duval Street, Suite 425  
Jacksonville, FL 32205

Dear Mr. Duggan:

The Ethics Office and the Ethics Commission are pleased to be able to present information on Jacksonville's Ethics program to the Charter Revision Commission.

Enclosed are background materials that may be relevant to the initial discussion and any subsequent inquiries of the Commissioners.

I am available to talk with any of the Commissioners if they have follow up questions. I can be reached on my cell phone (502-2254) or by email, [ethics@coj.net](mailto:ethics@coj.net).

Sincerely,

A handwritten signature in cursive script that reads "Carla Miller".

Carla Miller  
Ethics Officer

xc: Charter Revision Commission Members

CM/ss

# JACKSONVILLE ETHICS COMMISSION

## RESOLUTION OF THE MEMBERS

September 21, 2009

**WHEREAS,** the Jacksonville Ethics Commission is charged by Chapter 602 of the Ordinance Code with making recommendations for legislation deemed necessary to improve the ethics laws of the city; and

**WHEREAS,** in connection with such duties, the members of the Jacksonville Ethics Commission have reviewed the effectiveness of Chapter 602 of the Ordinance Code; and

**WHEREAS,** under Chapter 17 of the Ordinance Code, the Charter Revision Commission is currently in session and charged with making recommendations to the Council and the Legislature concerning the Charter of the Consolidated City of Jacksonville in order to "fulfill the needs of the citizens"; now therefore

**BE IT RESOLVED,** by the Jacksonville Ethics Commission as follows:

1. That the Jacksonville Ethics Commission believes it is in the best interests of citizens of the City of Jacksonville to amend the Jacksonville Charter as follows:

a) To reinstate an Ethics Board into the Charter, as was originally done in the 1968 Consolidation Act (Article 20);

b) To reinstate authority of this Ethics Board to have jurisdiction over ethics and conflict of interest laws for all officers and employees of the consolidated government, including independent agencies and boards;

c) To reinstate the ability of the Ethics Board to subpoena witnesses and documents;

d) To provide a dedicated funding source for the Board of Ethics;


e) To allow the Board to hire staff;


f) To provide a structure for membership on the Board that promotes impartiality (the Ethics Commission will provide recommendations on this structure at a later date).

2. That the members of the Jacksonville Ethics Commission authorize the Chair of the Commission's legislative sub-committee to present this resolution and speak in support of it to the Charter Revision Commission.

3. That this resolution shall become effective upon its approval by the Jacksonville Ethics Commission on this 21st day of September, 2009.

**WITNESS**

By:   
Print Name: Kyle Jensen

**JACKSONVILLE ETHICS COMMISSION**  
By:   
Chairman

Vote:

In Favor: 9 Opposed: 0 Abstained: 0

## Table of Contents

- a) Definitions and Comment
- b) Government Ethics Areas
- c) History of Ethics Initiatives in Jacksonville
- d) Article 20, Original City Charter (Ethics Code); and  
Current Ethics Code, Chapter 602
- e) Information on Ethics Commission  
Ethics Officer  
Inspector General
- f) National Standards for Ethics/Anti-Corruption Programs
- g) Letter from the NAACP
- h) Press

**Tab a**

# DEFINITIONS and COMMENT

## LAW

A rule of conduct established by the legislation of a given community, state, or nation and meant to be enforced.

Criminal laws are investigated and enforced by the State Attorney's Office. There are also federal criminal laws, with jurisdiction resting in the Office of the U.S. Attorney. The Jacksonville Ethics Commission does not, and cannot, have jurisdiction over the investigation or enforcement of criminal laws. Criminal matters, if presented to the Hotline or Ethics Commission, are referred to the appropriate law enforcement agencies.

## ETHICS LAWS

Ethics Laws are essentially "conflict of interest" laws. (Examples: disclosure of interests in contracts and other matters; financial disclosure; gifts, secondary employment; lobbying disclosures; misuse of office or of city property.) The New York City board that handles "ethics" issues calls itself the "Conflict of Interest Board". The Executive Director says that the Board's job is to handle conflicts of interest, not all "ethics" related issues, and that this should be reflected in the title of the board.

There are State of Florida ethics laws (Chapter 112) which are handled by the Florida Ethics Commission. The Jacksonville Ethics Commission handles violations of the local ethics code, Chapter 602 of the Jacksonville Ordinance—the "*Ethics Code*".

The Jacksonville *Ethics Code*. Many of the conflict of interest provisions in the *Ethics Code* were in the original Charter of 1968. In the 17 years of the existence of the Ethics Commission, there have not been (to the knowledge of the Ethics Officer) any allegations of a specific violation of the *Ethics Code*. This might mean that no one is committing any conflict/ethics offenses; or it might mean that people do not know how to make complaints, that the laws are inadequate, or both.

Violations of the *Ethics Code* are punishable as Municipal Code Violations, which are Class A to Class C offenses and carry possible jail sentences. For Class A offenses, the lowest category, there is a possible penalty of 15 days

Public Trust”), “it appears that in the mind of the general public, a broader interpretation of corruption is evolving that incorporates other elements ... seen as destructive to the community. Abuse of power, conflicts of interest, gross mismanagement and waste represent serious abuses of the public trust that often cannot be targeted by those institutions attacking criminal corruption.”

Citizen allegations of “corruption” typically revolve around a conflict of interest situation; many times what happened is “legal” but is perceived to be “unethical or corrupt”. Findings reported in the “National Government Ethics Survey” state that overtly illegal conduct is on a decline nationwide, but abuses of public position and conflicts of interest that may not be illegal are on the rise. Citizens want accountability for this type of activity.

Tab b

## GOVERNMENT ETHICS

(These are the 5 general areas in Ethics activities recognized by the Council on Governmental Ethics Laws, [www.cogel.org](http://www.cogel.org))

### A. Campaign Finance

Contributions; Public financing (There is State law in this area; some municipalities have additional local laws)

### B. Lobbying

Registration and Reporting; Standards of Conduct  
(Jacksonville Ethics Code, Chapter 602)

### C. Public Access (Freedom of Information/Transparency)

State Law (Sunshine—Chapter 112 and 119); also, local Sunshine Compliance act  
(which references Ethics Officer and Ethics Commission)  
Open Meetings; Open Records; Citizen Access to Process

### D. Elections

Handled by the State of Florida; we also have local municipal code sections on elections that used to be part of the Ethics Code.

### E. Ethics (general topics)

(If we currently have any local laws pertaining to these topics, it is starred \*\*)

\*\*Conflicts of Interest (the essence of “ethics” laws in government)

\*\*Post Employment/Revolving Door; \*\*Gifts/Disclosure

Financial Disclosure

\*\*Ethics Commissions

Inspector Generals (Our IG is created by Executive Order)

\*\*Education and Training

\*\*Use of public resources for personal benefit

\*\*Procurement/ Contracting/Vendor education and restrictions

\*\*Hotline and Whistleblower protection laws

Tab c

## History of Jacksonville Ethics Initiatives

October 1, 1968 CONSOLIDATION ACT; The Charter of Consolidated Government included Article 20, the Code of Ethics. This created a Board of Ethics with jurisdiction over all officers and employees of the consolidated government, including the independent agencies. Article 20 included provisions on Conflict of Interest, Financial Disclosure, Gifts, and Use of Public Property. There were also provisions for the Board to issue advisory opinions, investigate complaints, issue subpoenas, compel testimony and levy fines and penalties. Part of the impetus for Consolidation was corruption—in 1966 over one dozen officials were indicted by a Grand Jury.

In the early 1970's, the Board of Ethics was deleted from the Charter. Some of the provisions on conflicts were placed into various sections of the municipal code; some were completely eliminated.

### 1992

The City Council enacted Ordinance 92-78-1134 which created the Jacksonville Ethics Commission. The reasons for creating the Commission, as stated in the original ordinance were as follows:

1. The Consolidated City of Jacksonville was created in 1967 and began operations in 1968, in part, due to the corruption of the old government.
2. With few exceptions, the city government has been free of illegal or unethical conduct by its elected and appointed officials.
3. Even a few breaches of ethics laws can erode the trust of citizens.
4. The government must have the citizen's confidence in order to effectively operate.
5. The Florida Legislature has created a state code of ethics to be followed by all elected officials, including elected officers of the City of Jacksonville.
6. The City has its own ethics ordinances.
7. A local ethics commission could provide a valuable service to the community by providing a forum for consideration of ethics problems and questions.

### 1996

City of Jacksonville Ethics Handbook

- 1 In 1996, after a lengthy review of city, state and federal laws, the Ethics Commission developed the first **Ethics Handbook**.
- 2 The Ethics Handbook provided a broad, general outline of government ethics laws.

### 1999

The City Council enacted Ordinance 97-890 and created a comprehensive Ethics Code for the City.

1. After the publication of the 1996 Ethics Handbook, the Ethics Commission continued the task of delving deeper into researching existing local, state and federal laws related to ethics.

2. The Office of General Counsel worked on a project to consolidate the many existing conflict of interest laws into one "Ethics Code". Many of the provisions once again assembled in one place were from the original Charter's Code of Ethics.
3. The Ethics Code was presented to City Council and the Ethics Commission spent one year reviewing and revising the Code prior to its passage in 1999.
4. The Ethics Code developed aspirational ethics goals for the city, established the position of Ethics Officer for the city; required mandatory ethics training for all city officials and employees.

**1999-2002;** No staff for Ethics Office; run by General Counsel's office and a volunteer Ethics Officer (Carla Miller)

**2002;** Ethics Coordinator hired to assist in the Ethics Office  
(Stacy Reardon served from 2002- May, 2007)

**May, 2003** Ethics Office opening (4<sup>th</sup> floor, City Hall)

**August 2007,** Ethics Officer hired part time (Carla Miller); Inspector General position created; a Hotline for fraud, waste and abuse was created and implemented 9/1/07.

**November, 2007,** Revision to Ethics Code passed by City Council 2007-329 This legislation, amongst other things, expanded the duties of the Ethics Commission so that they could initiate investigations, take citizen complaints and start a hotline.

**January 13, 2009:** City Council bill 2008-839 was enacted and expanded numerous sections of the ethics laws in Chapter 602 of the Code to the Independent Authorities.

Tab d

# Original 1968 Charter

## 1968 Consolidation Act

CHAPTER 67-1320

House Bill No. 3029

AN ACT to create a single consolidated government of Duval County, the city of Jacksonville, the city of Jacksonville Beach, the city of Atlantic Beach, the city of Neptune Beach, and the town of Baldwin, the Duval County air improvement authority, the east Duval County mosquito control district, and the northeast Duval County mosquito control district (all of which are herein called "the former governments"), and all boards, bodies and officers of such former governments; providing for the consolidation of such former governments and their boards, bodies, and officers into a single body politic and corporate pursuant to the powers granted by section 9, article VIII, of the Constitution of the state of Florida; providing that the name of the single government created hereby shall be the city of Jacksonville (herein called the "consolidated government"); providing for the transfer and succession of all the properties, rights, capacities, privileges, powers, franchises and immunities of such former governments to the consolidated government created herein; providing for the powers and organization and territorial limits of the consolidated government created herein; providing for referendum of this act to a popular election by the electors of Duval County; providing an effective date.

*Be It Enacted by the Legislature of the State of Florida:*

### ARTICLE 20

#### CODE OF ETHICS

Section 20.01. *Declaration of Policy.* The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the best interests of the people, the community, and the government; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, the following code of ethics shall apply to all officers and employees of the consolidated government and the Duval County board of public instruction, whether elected or appointed, paid or unpaid, and to officers and employees of other independent agencies where so provided by special laws applicable to such other independent agencies.

Section 20.02. *Conflict of Interest.* No officer or employee of the consolidated government or any independent agency to which this code of ethics applies shall knowingly:

1. Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;

Section 20.07. *Penalties.* The violation of any of the preceding sections 20.02 through 20.06, inclusive, shall be punishable as follows:

- (a) By reprimand; suspension for a period not exceeding six (6) months; reduction in rank; removal from office, employment or service; forfeiture of not more than three (3) months' salary; and loss of retirement or pension benefits, all as and when ordered by the board of ethics, except that no elected official may be suspended or removed from office except as provided in paragraph (b) below.
- (b) In the case of any elected official, by suspension or removal from office, when determined by the council.

Section 20.08. *Contracts Voidable and Rescindable.* Any contract between the consolidated government or any independent agency to which this code of ethics applies and another party shall be voidable or rescindable at the option of the governmental body at any time within a period of one (1) year from the date of execution of such contract if any officer or employee of such governmental body has any interest in such contract and does not disclose such interest in accordance with section 20.03.

Section 20.09. *Board of Ethics.* The civil service board shall act as a board of ethics to enforce the provisions of this code of ethics. The board of ethics shall, on the written request of any officer or employee coming under the code of ethics, render advisory opinions concerning the provisions of this code of ethics. The board may in its discretion publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the individual or individuals involved or concerned. The board shall receive, hear and investigate complaints concerning violations of this code of ethics. In any instance in which the board of ethics finds that a violation of the code of ethics exists, the board of ethics may impose any one or more of the penalties provided under paragraph (2) of section 20.07. In any instance in which the board of ethics determines that a violation of this code of ethics exists which, in the opinion of the board of ethics, justifies the imposition of the sanctions provided in paragraph (b) of section 20.07, the board of ethics shall submit all relevant information related to such case to the council. In hearing and investigating complaints concerning violations of this code of ethics, the board of ethics shall have power to subpoena witnesses, administer oaths, take testimony and require other production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the board of ethics shall be guilty of a misdemeanor and punishable by a fine of not more than \$1,000 (one thousand dollars) or by imprisonment for not more than 90 (ninety) days or both.

2. Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;

3. Disclose confidential information concerning the property, government, or affairs of the governmental body by which he is employed without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;

4. Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however, that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

5. Represent private interests in any action or proceeding against the governmental body by which he is employed;

6. Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which he has a financial interest.

Section 20.03. *Disclosure.* Any officer or employee of the consolidated government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the consolidated government shall disclose such private interest to the council. Any councilman who has a private interest in any matter pending before the council shall disclose such private interest on the records of the council and shall disqualify himself from participating in any decision or vote relating thereto. Any officer or employee of an independent agency to which this code of ethics applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such independent agency shall disclose such private interest to the governing body of such independent agency.

Section 20.04. *Use of Public Property.* No officer or employee of the consolidated government or any independent agency to which this code of ethics applies shall use property owned by such governmental body for personal benefit, convenience or profit except in accordance with policies promulgated by the council or the governing body of such independent agency.

Section 20.05. *Testimony of Public Officials Relating to Public Affairs.* Any officer or employee of the consolidated government who is duly and properly called as a witness before any consolidated government, state, or federal judicial or administrative tribunal, and who shall before such tribunal fail to answer any proper question concerning the performance of his official duties, shall be guilty of a violation of this code of ethics.

Section 20.06. *Political Activities of Certain Officers and Employees.* No officer or employee of the executive branch of the consolidated government (except elected officials and members of the advisory and regulatory boards), shall take any active part in political management or in political campaigns during duty hours. No leaves of absence shall be granted to such officers or employees for the purpose of participating in any political campaign. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

# Section 602

Because of the large size of this document, please refer to

<http://www.municode.com/resources/gateway.asp?pid=12174&sid=9>

for an online version of the  
Jacksonville Code of Ordinances

# Table

**Ethics**

**Commission**

## **ART 9. JACKSONVILLE ETHICS COMMISSION**

### **Sec. 602.901. Jacksonville Ethics Commission.**

There is hereby created the Jacksonville Ethics Commission, the purpose of which is to provide a local forum for consideration and investigation of ethical problems and issues.

(Ord. 97-890-E, § 1)

### **Sec. 602.902. Membership, terms, appointment.**

The Commission shall be composed of nine members each of whom shall be appointed to serve for fixed January 1 to December 31 two-year terms. The terms of the members shall be so staggered that the terms of no more than five members shall expire in any one year. No person shall serve more than two consecutive full terms. If, because of a delay in appointment, a member serves less than a year and one half during the term, then in that event, the term shall not have been considered a full term for purposes of reappointment. A member made ineligible by reason of service of two consecutive full terms may be appointed for another term following a waiting period of two years.

One member shall be appointed by each of the following: The City Council, the Mayor, the School Board, the Civil Service Board, the State Attorney and the Chief Judge of the Circuit Court. The remaining three members shall be appointed by majority vote of the Commission.

No member shall be an elected or appointed official of the City of Jacksonville or any of its independent agencies. No member shall be an active state court judge or an assistant state attorney.

(Ord. 97-890-E, § 1; Ord. 2001-1092-E, § 1; Ord. 2005-1462-E, § 1)

### **Sec. 602.903. Duties and powers.**

(a) (1) Every City officer, candidate for City office, or City employee when in doubt about the applicability and interpretation of any City ethics law to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission with a request for an advisory opinion to establish the standard of public duty. Any officer or employee who has the power to hire or terminate employees may likewise seek an advisory opinion from the Commission as to the application of the provisions of the ethics laws to any such employee or applicant for employment. An advisory opinion shall be rendered by the Commission, and each such opinion shall be numbered, dated and published.

(2) Such opinion, until amended or revoked, shall be binding on the conduct of the officer, employee, or candidate who sought the opinion or with references to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

(b) The Commission is authorized to call upon appropriate agencies of City government for such professional assistance as may be needed in the discharge of its duties. The General Counsel shall provide legal and staffing assistance to the Commission.

(c) The Commission shall assist in the preparation of materials and programs designed to assist persons in complying with the ethics laws. The Commission shall work with the City Ethics Officer(s) and the City's Ethics Office in establishing, presenting, and expanding the City's Ethics Education Program as set forth in Section 602.1001.

(d) The Commission may, upon employee or citizen complaint, or upon its own initiative, seek information and gather facts for the purpose of investigating any circumstance or situation of which the Commission may

become aware that appears to violate or may potentially violate an acceptable standard of conduct for City officers and employees. As a result of such investigation, the Commission may issue public censures, recommend disciplinary action, determine the need for remedial or preventative legislation, and make such recommendations to the Mayor and the Council as it deems appropriate.

(e) It shall be the further duty of the commission to submit to the Council annually a report of its work and recommendations for legislation deemed necessary to improve the ethics laws and their enforcement which shall be dutifully considered by the Council.

(f) The Jacksonville Ethics Commission shall be responsible for documenting compliance with the financial disclosure, gift disclosure and ethics education and certification requirements of this Code for all officers and appointed employees.

(1) The Jacksonville Ethics Commission, through the City's Ethics Office shall report annually the compliance or non-compliance with financial reporting, gift reporting, and ethics education and certification requirements of this Code. The annual report shall be filed with the Mayor, City Council President, City Ethics Officer and the Human Resources Director.

(2) At the close of the reporting period, the Jacksonville Ethics Commission, through the City's Ethics Office, shall notify any individual who has failed to timely comply with financial disclosure, gift disclosure, or ethics education and certification requirements of this Code and allow the individual an additional 90 days to comply with these requirements. After expiration of this additional period, the Ethics Commission may issue a written or oral reprimand of noncompliance.

(g) The Ethics Commission, in coordination with the Ethics Office, is authorized to receive, and may investigate and issue findings with regard to any complaint alleging a violation of this Chapter. All complaints and records shall be confidential as allowed by Section 112.324, Florida Statutes. In support of this power, the Ethics Commission, in coordination with the Ethics Office, is authorized to establish an ethics "hotline" to receive tips and complaints, each of which shall be treated as a complaint with its related confidentiality as authorized by Florida law. The General Counsel, with the assistance of all appropriate and available offices the City, shall assist the Ethics Commission and Ethics Office in the investigation of complaints. The Ethics Commission may refer matters brought to its attention to the State Attorneys' Office or the Florida Commission on Ethics if it determines jurisdiction is vested in, and action is more appropriate if taken by said agencies.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

#### **Sec. 602.904. Cooperation of other City agencies.**

The services of other departments, boards and agencies of the City shall be made available to the Commission at its request, subject to their ability and capacity to provide them. Other City agencies shall cooperate with the Commission in the exercise of the Commission's responsibilities.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

## ETHICS COMMISSION

June, 2009

**Gene Filbert**, Chair (Duval County School Board appointee)

- Masters Degree in Human Resources and Management
- Certified Six Sigma Black Belt
- Blue Cross Blue Shield 14 years

**Kirby Oberdorfer**, Vice-Chair (Chief Judge appointee)

- Law Professor, Coastal Law School
- President Elect, Young Lawyers, Jacksonville Bar

**Helen Ludwig** (Civil Service Board appointee)

- Graduate, Institute for Elected Municipal Officials
- 1993-5 Director, Florida League of Cities
- City Council Member, West Melbourne
- League of Women Voters

**Braxton Gillam** (Mayor's appointee)

- Attorney, Partner—Milam Howard; registered lobbyist
- Jacksonville Bar Association, Board member
- President, Young Lawyers (2004-5)
- Board, Riverside Presbyterian Day School

**Pat Sher** (State Attorney appointee)

- Former Navy nurse; attorney and triple Gator! (B.A, M.A. and law degree from UF).
- Vice Chair, Duval Democratic Party
- Qualified for the Olympics (Marathon), 1984/88

**Dr. Pat Plumlee** (City Council Appointee)

- Professor UNF, Political Science (Chair of Dept. 1991-6)
- Ethics Seminars for thousands of city employees
- has taught: Managing the Modern City; Policy formation; Politics and Public Administration

**Mary Swart** (Ethics Commission appointee)

- Human Resources professional and consultant
- Jacksonville native and educator (Robert E. Lee high school)
- specialist in Labor and Employee relations

**Scott Shine** (Ethics Commission appointee)

- Consultant; Former VP of E-commerce, Bank of America;
- Planning and Marketing for the Nemours Foundation
- candidate for City Council

**Rhonda Peoples-Waters** (Ethics Commission appointee)

- Attorney, former Public Defender
- President, Perkins Bar Association
- President's Award, NAACP; Board of NAACP
- Professor, Florida Community College (business law)

**Ethics**

**Officer**



## OFFICE OF THE MAYOR

**JOHN PEYTON**  
MAYOR

ST. JAMES BUILDING  
117 WEST DUVAL STREET  
SUITE 400  
JACKSONVILLE, FLORIDA 32202

### EXECUTIVE ORDER NO. 07-11

**TO:** All Elected Officials, Department Heads, Division Chiefs, Independent Agencies Authorities, Boards, Commissions and Councils.

**FROM:** John S. Peyton, Mayor

**RE:** Ethics in City Government / The Ethics Officer System

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By virtue of the authority vested in me as Mayor by the Charter and as Chief Executive Officer of the Consolidated Government, it is hereby ordered as follows:

#### **Section 1. Background:**

On May 25, 1999, the City of Jacksonville enacted a comprehensive Ethics Code (the "Code"). In the Code, the City of Jacksonville established a comprehensive ethics officer system designed to assist all officials and employees of the City in their compliance with the letter and spirit of state and city ethics laws. (Jacksonville Ethics Code, Sections 602.1101-1102, *Ordinance Code*). The primary responsibilities of the "Ethics Officer" include the development of policies, programs and strategies to deal with all ethics related issues, and the development of training and education programs. In doing so, the Ethics Officer works with departmental Ethics Officers, one for each department in the City, in coordination with the Mayor's Office. This is the first system of its kind in the United States.

The ethics laws of the State of Florida and the City of Jacksonville are comprehensive and require on-going training. They include laws relating to gifts, open meetings, public records, lobbyists, financial disclosure, voting conflicts, and conflicting employment and contractual relationships. In 1999, Jacksonville was one of the first cities in Florida to establish mandatory training in ethics for elected officials and all employees. For the first time since Consolidation, numerous training sessions have been conducted and all elected officials have been trained in our city's mandatory ethics laws. Several thousand city employees have also been trained in ethics. We need to continue to lead the state in developing additional ethics training utilizing the best available methods, including materials adapted to specific positions, online training and training videos.



When the City of Jacksonville established the Code in 1999, it was cutting edge, trendsetting and nationally recognized. Other cities and counties soon modeled aspects of their ethics programs on Jacksonville's Code, including Tampa and Miami. Eight (8) years of experience within the existing ethics officer structure suggest that an even greater commitment of resources and renewed focus is required to effectively develop and implement the policies and programs that are necessary to effect a thoroughly ethical environment. We desire to set goals and adopt best practices not only from cities across the U.S., but also from corporate America, including standards promulgated by the Sarbanes-Oxley Act and other federal guidelines pertaining to ethics program requirements.

The Code authorizes the Mayor to provide duties for Ethics Officers and the Mayor is committed to taking all action necessary to ensure a transparent ethical environment.

**Section 2. Intent and Purposes:**

As Mayor, it is my intention to implement and secure the highest ethical standards and an environment consistent with our Code's aspirational goals. As stated in the Code, "Ethics is more than the avoidance of criminal behavior. It is a commitment for public servants to take individual responsibility in creating a government that has the trust and respect of its citizens." Even actions that could create the appearance of impropriety should be eliminated. Additional programs and training are necessary. A commitment of additional resources is obligatory. This Executive Order has been issued in order to further these goals.

**Section 3. Policy:**

It is the policy of the City that sufficient resources be dedicated to the establishment of an ethical environment, and that those resources be positively directed toward efficiently and effectively maintaining that environment.

**Section 4. Directive:**

1. The Administration shall take such management, employment or procurement action as is required to ensure the retention or employment of an Ethics Officer whose primary duties and responsibilities with the City are to accomplish the letter and spirit of this Executive Order, the Code, and Florida law.
2. In addition to any other duties required by the Code, the City's Ethics Officer shall:
  - (a) facilitate and enhance programs for the ethics training of, at a minimum, every director, chief, manager, mayoral aide, and procurement employee of the Executive Branch of the City;
  - (b) create informational brochures, pamphlets, notices and bulletins necessary to alert all candidates for appointment to boards and commissions of the ethics laws that govern their official behavior after appointment;
  - (c) develop and implement a program for assisting with and ensuring the compliance with all financial and gift disclosure laws of the State of Florida and the City;

- (d) implement, in coordination with the City's Inspector General and the Office of General Counsel, and with the voluntary support of the Council Auditor's Office, a confidential "Hotline" for the discovery of government waste, fraud, and ethics violations;
- (e) file a report with the Mayor no later than January 15, 2008 setting forth the nature and structure of all programs and projects provided for in this Executive Order;
- (f) file a report with the Mayor no later than July 31, 2008, and each July 31<sup>st</sup> thereafter, setting forth the progress of all programs and projects provided for in this Executive Order;
- (g) meet regularly with the Mayor to discuss the status of the ethics programs;
- (h) work to integrate ethics into procurement, hiring, retention and promotion policies;
- (i) coordinate with the Inspector General with regard to all matters relating to effecting an ethical environment and culture;
- (j) coordinate with the City's Procurement Department in the development and implementation of outreach programs to city vendors on ethics policies and the city's hotline.

3. There shall, through budgetary and administrative processes, be a commitment of adequate resources to accomplish the above including:

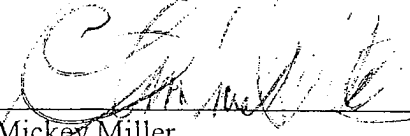
- (a) The Ethics Officer shall be provided priority access to all departmental resources including legal advice, training, human resource guidance, information technology, and public information and video training development. The Ethics Officer shall regularly advise the Mayor on departmental cooperation and delivery of resources;
- (b) A priority focus on the implementation of the confidential citywide "Hotline;"

**Section 5. Applicability:**

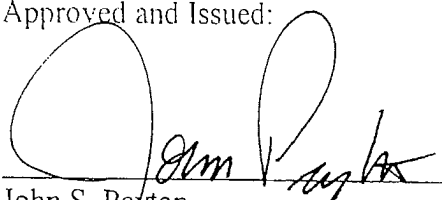
This Executive Order applies to the Executive Branch of the Consolidated City of Jacksonville.

**[The remainder of this page is left blank intentionally. Signature page follows immediately.]**

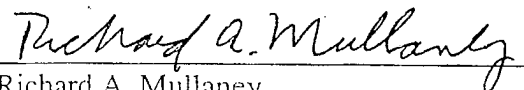
Approved as to conformity  
with sound fiscal policy:

  
\_\_\_\_\_  
Mickey Miller  
Director of Finance

Approved and Issued:

  
\_\_\_\_\_  
John S. Peyton  
Mayor

Approved as to form:

  
\_\_\_\_\_  
Richard A. Mullaney  
General Counsel

August 28, 2007  
\_\_\_\_\_  
Effective Date:

## **F T 11. ETHICS OFFICERS**

### **Sec. 602.1101. City Ethics Officer position established.**

The position of City Ethics Officer is hereby established. The City Ethics Officer shall be appointed by the Mayor and confirmed by the Council. The Ethics Officer shall serve during the term of the Mayor, except that he or she may be removed by the Mayor with the approval of the Council. The Ethics Officer shall not be entitled to Charter Article 17 civil service protections and shall report independently to the Mayor and Council President or their designees. The Ethics Officer may serve in a compensated full or part time employment position with the City or may be an independent contractor.

(Ord. 97-890-E, § 1; Ord. 2007-1090-E, § 1)

### **Sec. 602.1102. Mission and duties of the City Ethics Officer.**

The mission of the City Ethics Officer is to encourage and assist each of the officers and employees of the City to act ethically in all actions. This mission requires that the City Ethics Officer not only encourage compliance with various laws, but more importantly, encourage each employee and officer to adhere to the highest standards of ethical behavior as set forth in aspirational goals of section 602.101 of this Code. In pursuing that broad mission, the duties of the City Ethics Officer include, but are not limited to the following:

- (a) Implement, in coordination with the Office of General Counsel, and with the voluntary support of the Council Auditor's Office, a confidential "Hotline" for the discovery of government waste, fraud, and ethics violations;
- (b) Proactively develop and implement systems for:
  - (1) The timely and accurate preparation of disclosures required by the State and the City;
  - (2) Orienting candidates for boards and commissions of their obligations under the State and City ethics codes;
  - (3) Informing elected and appointed officers and employees of their obligations under State and City ethics codes;
- (c) Facilitate and enhance programs for the ethics training of, at a minimum, every director, chief, manager, mayoral aide, and procurement employee of the Executive Branch of the City.
- (d) Create informational brochures, pamphlets, notices and bulletins necessary to alert all candidates for appointment to boards and commissions of the ethics laws that govern their official behavior after appointment;
- (e) Meet regularly but independently with the Mayor and Council President to discuss the status of the ethics programs;
- (f) Work to integrate ethics into procurement, hiring, retention and promotion policies;
- (g) Coordinate with the City's procurement officials in the development and implementation of outreach programs to City vendors on ethics policies and the City's hotline.
- (h) Develop policies, programs and strategies to deal with all ethics-related matters;
- (i) Develop training and education programs in coordination with the General Counsel and the Jacksonville Ethics Commission;
- (j) Approve the selection and retention of departmental ethics officers;

- (k) Assist departmental and agency ethics officers in training and education;
- (l) Conduct meetings with any or all of the departmental and agency ethics officers as well as senior management to discuss or provide advice on ethics issues;
- (m) Obtain copies of all reports and disclosures made pursuant to State law by persons subject to this Code if such reports and disclosures are substantially similar to reports and disclosures required under this Code and if a person may rely on such State report or disclosure pursuant to Section 602.455 to eliminate filing similar information under this Code;
- (n) Maintain a directory of where all reports and disclosures filed pursuant to this Code may be obtained;
- (o) Encourage compliance with the spirit and letter of ethics laws;
- (p) Review periodically this Code and other applicable laws and regulations and recommend to the Ethics Commission appropriate changes to this Code;
- (q) The City Ethics Officer shall be the liaison between the Ethics Commission and the officers and employees of the city and provide informal guidance to officers and employees regarding state and local ethics laws;
- (r) The City Ethics Officer may seek formal opinions from the Jacksonville Ethics Commission on interpretation of his or her duties or of this Code; and
- (s) Accomplish other duties as requested by the Mayor or Council President.

(Ord. 97-890-E, § 1; Ord. 2007-1090-E, § 1)

### **Sec. 602.1103 Designation of department ethics officer.**

Each Constitutional Officer and the head of each executive department of the City shall appoint an employee to the position of department or office ethics officer with the concurrence of the City Ethics Officer. The City's Ethics Officers are authorized to remove and request a replacement for any department or office ethics officer. Appointment of additional personnel will be at the discretion of the Mayor; except that the Mayor and the Council Secretary are encouraged to provide liaisons to all department ethics officers activities. Each department or office ethics officer's duties are in addition to his or her principal operational role within the department. The Constitutional Officer or the head of the department shall communicate the selection of the department's ethics officer to all employees in the department, while emphasizing his/her personal support for the person and the program. Employees should be encouraged to communicate directly with the department or City Ethics Officer on issues or questions that are ethics-related.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

### **Sec. 602.1104. Responsibilities of the department ethics officer.**

Specific responsibilities assigned to the department or office ethics officer include, but are not limited to the following:

- (a) Conduct periodic meetings with the Constitutional Officer or department director, senior management, and employee groups to discuss or provide advice on ethics issues.
- (b) Conduct a review of and disseminate within his/her department or office the appropriate City, office, and department policies and regulations that relate to the Code of Ethics for employees.
- (c) Assist the City Ethics Officers in the formulation of ethics awareness training sessions, conferences, and seminars that are developed for and presented to department employees.
- (d) Assist the Constitutional Officer or department head in the development of an overall internal

ethics plan.

- (e) Report compliance with the ethics code to the City Ethics Office.
- (f) Make recommendations for improvement in training to the City Ethics Office.
- (g) Accomplish such other duties as are delegated by the City Ethics Office, or Ethics Officers including conducting investigations or complaints as authorized by the City Ethics Officers.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

#### **Sec. 602.1105. Ethics Office Established.**

There is hereby established an Ethics Office staffed and budgeted as may be required. The Ethics Office shall be separately funded and shall provide all manner of assistance to the Jacksonville Ethics Commission, the Ethics Officer, and the Office of General Counsel in the furtherance of their responsibilities set forth in this chapter. All records required to be maintained by the Jacksonville Ethics Commission or the Ethics Officer shall be maintained in the Ethics Office. The Ethics Office shall assist all officers and employees in their disclosure and compliance obligations.

(Ord. 2007-329-E, § 3)

**Editor's note:** Ord. 2007-329-E, § 3, amended the Code by adding a new § 602.1105 and renumbering former § 602.1105 as a new § 602.1106.

#### **Sec. 602.1106. Reporting of violations by Council Auditor.**

The Council Auditor, in addition to the reporting requirements of Section 102.103, Ordinance Code, shall, when she has reasonable grounds to believe that a violation of the City's Ethics Code has occurred, report the facts relating to the probable violation in writing to the General Counsel and the City's Ethics Officer.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

**Note:** See editor's note, § 602.1105.

**Inspector**

**General**

# Office of the Inspector General

**Mission Statement:** To ensure that the Office of the Inspector General and the employees of the City of Jacksonville maintain the highest level of efficiency, accountability, and integrity as we work together to serve the residents of Jacksonville.

The Inspector General is appointed by the Mayor, by executive order, without regard to political affiliation. The appointment is made on the basis of integrity, leadership, demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation or other related fields.

The Inspector General reports and answers directly to the Mayor and is not subject to supervision or control by any other city officer or employee, in order that audit, investigative, and other activities and objectivity remain free from interference. The Office of the Inspector General is operationally independent from the Mayor; and the Mayor will not prevent, impair or prohibit the Inspector General from initializing, carrying out, completing any audit, investigation or review.

This office provides a central point of coordination and responsibility for activities that promote the efficiency, accountability, integrity and transparency in city government and that aid in the prevention of conduct which undermines the integrity of government. Our goal is to prevent misconduct and abuse, expose it if it does occur, and seek appropriate remedies to recover misused public monies.

Above all, the Inspector General's principal objective is to promote ethics, honesty and efficiency in government and to promote the public's trust in government.

## **Suggestions?**

As a means to promote efficiency in government, the Inspector General is interested in your suggestions. You can e-mail your comments and suggestions to [oig@coj.net](mailto:oig@coj.net) . Please note that this submission is not anonymous and the sender's e-mail address will be viewable.

## **The Inspector General's Office and the Ethics Office**

The 10 member staff of the Office of the Inspector General (OIG) and the City of Jacksonville Ethics Officer work closely together, but their functions are different. The Ethics Office and its Ethics Hotline (904) 630-1015 is the best place to report issues of misconduct or ethical violations. If the Ethics Office believes a matter warrants an investigation or an audit, the matter is forwarded to the OIG.

Pam Markham, Inspector General

## EXECUTIVE ORDER NO. 07-09

**TO:** All Elected Officials, Department Heads, Division Chiefs, Independent Agencies, Authorities, Boards, Commissions and Councils

**FROM:** John Peyton, Mayor

**SUBJECT:** Establishing Position of Inspector General in the Mayor's Office.

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By virtue of the authority vested in me as Mayor, by the Charter, and as Chief Executive and Administrative Officer of the Consolidated Government, it is ordered:

**Section 1. Background.** The citizens of the City of Jacksonville, deserve government with integrity and transparency. The purpose of this Executive Order is to establish a full time program of audit, investigation and performance review to provide increased accountability, integrity and oversight of the City and to assist in improving City departmental, divisional, agency and office operations, in all aspects of City operations and business; and to deter, identify and correct fraud, abuse, and illegal acts. Therefore, I believe that a position of Inspector General should be established in the Office of the Mayor. My goal is to prevent misconduct and abuse, expose it publicly, and seek appropriate remedies to recover misused public monies. Above all, the Inspector General's principal objective is to promote ethics, honesty and efficiency in government and to promote the public's trust in government. As used herein, the term "City" means the executive branch of the consolidated government.

**Section 2. Establishment of Inspector General/Independent Position.** There is now established the position of Inspector General within the Office of the Mayor. The Inspector General will be appointed by the Mayor, by separate executive order, without regard to political affiliation, The appointment will be made on the basis of integrity, leadership, demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation or other related fields. The Inspector General will report to and be answerable directly to the Mayor and shall not be subject to supervision or control by any other City officer or employee, in order that audit, investigative, and other activities and objectivity remain free from interference. The Inspector General is also operationally independent from the Mayor; and the Mayor will not prevent, impair or prohibit the Inspector General from initiating, carrying out, completing any audit, investigation or review.

**Section 3. Authority.** The Inspector General is authorized to engage in the following specific functions:

- (a) Audit, evaluate, investigate and inspect the activities, records and individuals with contracts, procurements, grants, agreements, and other programmatic and financial arrangements undertaken by the City; and any other function, activity, process or operation conducted by the City.
- (b) Conduct investigations.
- (c) Audit the economy, efficiency, and effectiveness of the City's operations and functions and conduct reviews of the City's performance measurement system.
- (d) Review the reliability and validity of the information provided by the City performance measures and standards.
- (e) Receive and investigate complaints from any source or upon the Inspector General's own initiative concerning alleged abuses, frauds, and service deficiencies including, but not limited to, deficiencies in the operation and maintenance of facilities.
- (f) Engage in prevention activities, including, but not limited to, review of, rules, regulations, policies, procedures, transactions, training and education.
- (g) Refer matters for criminal, civil or administrative action to appropriate civil, prosecutorial or administrative entities.
- (h) Conduct joint investigations and projects with other oversight agencies.
- (i) Recommend remedial actions to be taken by the City or its departments, divisions, offices or agencies to overcome or correct operating or maintenance deficiencies and inefficiencies that have been identified.
- (j) Issue public reports.
- (k) Monitor implementations of recommendations made by the Inspector General or by any other audit agencies.
- (l) Have full and unrestricted access, as appropriate, to all departments, divisions, offices and agencies of the City.
- (m) Do all things necessary to carry out the functions enumerated in this Section 3.

**Section 5. Professional Standards.** Audits, investigations, inspections, and reviews conducted by the Inspector General will conform to professional standards for Offices of Inspector General, such as those promulgated by the Association of Inspectors General.

**Section 6. Confidentiality.** It is intended that the Inspector General, is "an appropriate local official" as mentioned in Section 112.3188, Florida Statutes (2006). Therefore, all information received or derived by the Inspector General, based upon allegations under Sections 112.3188(1)(a) & (b), Florida Statutes (2006) and an investigation is active, is confidential. Furthermore such information is exempt from the mandatory disclosure requirements of the Florida Public Records Law, as codified in 119.07(1), Florida Statutes (2006) and in Article 1, Section 24(a), Florida Constitution of 1968, as amended.

**Section 7. Inspector General Findings.** The Inspector General shall make findings and reports on all matters investigated, audited or reviewed, pursuant to the authority delegated in this Executive order.

**Section 8. Funding and Resources.** The Inspector General will be funded from the annual budget of the Office of the Mayor. It is the intent of this Executive Order that the Inspector General will receive funding adequate to meet the duties of the Inspector General. Staff work for the Inspector General will be provided from the Administration and Finance department or its successor department. Legal services for the Inspector General shall be provided by the Office of General Counsel.

**Section 9. Annual Report.** The Inspector General shall annually prepare and submit to the Mayor a written report concerning the work and activities of the Inspector General including, but not limited to, statistical information regarding investigations, audits and reviews and the disposition of closed investigations, audits and other reviews performed during the City fiscal year. The first such annual report shall be filed no later than November 15, 2007 and on each November 15 thereafter. The Inspector General shall make copies of the annual report available to all other city employees and to the public at large.

**[Remainder of page left blank intentionally. Signature page follows immediately.]**

Tab f

# EASY ETHICS GUIDELINES

## How to use the Federal Sentencing Guidelines (FSG) to establish or strengthen ethics programs

### Purposes of the FSG:

- a) Prevent and detect criminal conduct and*
- b) Promote an ethical culture*

1. The FSG require that an organization establish procedures to prevent bad conduct and that this is done in a well defined program. You should have an ethics code based on actual known risks and a list of potential conflicts clearly listed. *ASK: do we have an ethics code and clear guidelines on conflicts of interest?*
  
2. Top officials (boards) have a duty to know the ethics program is implemented and effective. Request an annual ethics and compliance report & plan for the future. Train top executives on how to listen and encourage communication from employees. *ASK: Does the ethics program work or is it only a paper program? What is our Director doing to support the program?*
  
3. Ethics personnel must have direct access to top officials and adequate resources. Set up people in each department that can be the “ethics point person” or Departmental Ethics Officer. *ASK: what is the budget for the ethics program? How many*

*people work on the program? Is it being run by one of our top executives?*

4. Hire, Retain and Promote employees consistent with ethics principles; ASK: *do we include questions on ethical behaviors in our annual evaluations?*
5. Ethics training is required and it should be matched to roles and responsibilities of the staff. Train staff on how to make hotline complaints. Engage employees in the training; don't overwhelm them with lots of rules and possible punishments. Use role plays and do videos showing actual work scenarios. Make sure all top personnel, including Boards are trained and that line employees know it. Publish ethics information (including Frequently Asked Questions) on your website. Do confidential interviews with staff (new staff; leaving staff) – ask their opinion on fairness, honesty, openness; ability to report problems. ASK: *what input have employees had in the creation of our training programs?*
6. Create ethics training and statements of policy for agents (vendors and contractors). This would include gifts, conflicts and how to use the Hotline for complaints. ASK: *what do we do to communicate our ethics policies to vendors?*
7. Monitor and Audit program (have a way to keep statistics on program) ASK: *how do we make it mandatory that we receive an annual report on the status of the Ethics program? How do we measure the effectiveness of the program?*

8. Confidential Hotline set up and employees secure that it is confidential and that there will be no retaliation. Staff should know what will be done if they make complaints. **ASK:** *How many hotline calls do we get per year and what is our written process on how they are dealt with?*
9. Assess actual areas that have been problems with ethics in the past. **ASK:** *Where is our log of ethics problems we have had in the past and how they were handled?*
10. Assess the strengths and weaknesses of the “ethical culture”. **ASK:** *Have we done employee surveys/focus groups and interviews on ethics?*

**Federal Sentencing Guidelines 2005: Chapter 8 - PART B - REMEDYING HARM FROM CRIMINAL CONDUCT, AND EFFECTIVE COMPLIANCE AND ETHICS PROGRAM**

**§8B2.1. Effective Compliance and Ethics Program**

(a) To have an effective compliance and ethics program, for purposes of subsection (f) of §8C2.5 (Culpability Score) and subsection (c)(1) of §8D1.4 (Recommended Conditions of Probation - Organizations), **an organization shall—**

- (1) exercise due diligence to prevent and detect criminal conduct; and
- (2) otherwise **promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.**

Such compliance and ethics program shall be reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct. The failure to prevent or detect the instant offense does not necessarily mean that the program is not generally effective in preventing and detecting criminal conduct.

(b) Due diligence and the promotion of an organizational culture that encourages ethical conduct and a commitment to compliance with the law within the meaning of subsection (a) minimally require the following:

(1) The organization shall establish standards and procedures to prevent and detect criminal conduct.

(2) (A) **The organization's governing authority shall be knowledgeable about the content and operation of the compliance and ethics program and shall exercise reasonable oversight with respect to the implementation and effectiveness of the compliance and ethics program.**

(B) High-level personnel of the organization shall ensure that the organization has an effective compliance and ethics program, as described in this guideline. Specific individual(s) within high-level personnel shall be assigned overall responsibility for the compliance and ethics program.

(C) Specific individual(s) within the organization shall be delegated day-to-day operational responsibility for the compliance and ethics program. Individual(s) with operational responsibility shall report periodically to high-level personnel and, as appropriate, to the governing authority, or an appropriate subgroup of the governing authority, on the effectiveness of the compliance and ethics program. To carry out such operational responsibility, such individual(s) shall be given adequate resources,

appropriate authority, and direct access to the governing authority or an appropriate subgroup of the governing authority.

(3) The organization shall use reasonable efforts not to include within the substantial authority personnel of the organization any individual whom the organization knew, or should have known through the exercise of due diligence, has engaged in illegal activities or other conduct inconsistent with an effective compliance and ethics program.

(4) (A) The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program, to the individuals referred to in subdivision (B) by conducting effective training programs and otherwise disseminating information appropriate to such individuals' respective roles and responsibilities.

(B) The individuals referred to in subdivision (A) are the members of the governing authority, high-level personnel, substantial authority personnel, the organization's employees, and, as appropriate, the organization's agents.

(5) The organization shall take reasonable steps—

(A) to ensure that the organization's compliance and ethics program is followed, including monitoring and auditing to detect criminal conduct;

(B) to evaluate periodically the effectiveness of the organization's compliance and ethics program; and

(C) to have and publicize a system, which may include mechanisms that allow for anonymity or confidentiality, whereby the organization's employees and agents may report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.

(6) The organization's compliance and ethics program shall be promoted and enforced consistently throughout the organization through (A) appropriate incentives to perform in accordance with the compliance and ethics program; and (B) appropriate disciplinary measures for engaging in criminal conduct and for failing to take reasonable steps to prevent or detect criminal conduct.

(7) After criminal conduct has been detected, the organization shall take reasonable steps to respond appropriately to the criminal conduct and to prevent further similar criminal conduct, including making any necessary modifications to the organization's compliance and ethics program.

(c) In implementing subsection (b), the organization shall periodically assess the risk of criminal conduct and shall take appropriate steps to design, implement, or modify each requirement set forth in subsection (b) to reduce the risk of criminal conduct identified through this process.

## Commentary

### Application Notes:

#### 1. Definitions.—For purposes of this guideline:

"Compliance and ethics program" means a program designed to prevent and detect criminal conduct.

"Governing authority" means the (A) the Board of Directors; or (B) if the organization does not have a Board of Directors, the highest-level governing body of the organization.

"High-level personnel of the organization" and "substantial authority personnel" have the meaning given those terms in the Commentary to §8A1.2 (Application Instructions - Organizations).

"Standards and procedures" means standards of conduct and internal controls that are reasonably capable of reducing the likelihood of criminal conduct.

#### 2. Factors to Consider in Meeting Requirements of this Guideline.—

(A) In General.—Each of the requirements set forth in this guideline shall be met by an organization; however, in determining what specific actions are necessary to meet those requirements, factors that shall be considered include: (i) applicable industry practice or the standards called for by any applicable governmental regulation; (ii) the size of the organization; and (iii) similar misconduct.

(B) Applicable Governmental Regulation and Industry Practice.—An organization's failure to incorporate and follow applicable industry practice or the standards called for by any applicable governmental regulation weighs against a finding of an effective compliance and ethics program.

#### (C) The Size of the Organization.—

(i) In General.—The formality and scope of actions that an organization shall take to meet the requirements of this guideline, including the necessary features of the organization's standards and procedures, depend on the size of the organization.

(ii) Large Organizations.—A large organization generally shall devote more formal operations and greater resources in meeting the requirements of this guideline than shall a small organization. As appropriate, a large organization should encourage small organizations (especially those that have, or seek to have, a business relationship with the large organization) to implement effective compliance and ethics programs.

(iii) Small Organizations.—In meeting the requirements of this guideline, small organizations shall demonstrate the same degree of commitment to ethical conduct and

compliance with the law as large organizations. However, a small organization may meet the requirements of this guideline with less formality and fewer resources than would be expected of large organizations. In appropriate circumstances, reliance on existing resources and simple systems can demonstrate a degree of commitment that, for a large organization, would only be demonstrated through more formally planned and implemented systems.

Examples of the informality and use of fewer resources with which a small organization may meet the requirements of this guideline include the following: (I) the governing authority's discharge of its responsibility for oversight of the compliance and ethics program by directly managing the organization's compliance and ethics efforts; (II) training employees through informal staff meetings, and monitoring through regular "walk-arounds" or continuous observation while managing the organization; (III) using available personnel, rather than employing separate staff, to carry out the compliance and ethics program; and (IV) modeling its own compliance and ethics program on existing, well-regarded compliance and ethics programs and best practices of other similar organizations.

(D) Recurrence of Similar Misconduct.—Recurrence of similar misconduct creates doubt regarding whether the organization took reasonable steps to meet the requirements of this guideline. For purposes of this subdivision, "similar misconduct" has the meaning given that term in the Commentary to §8A1.2 (Application Instructions - Organizations).

3. Application of Subsection (b)(2).—High-level personnel and substantial authority personnel of the organization shall be knowledgeable about the content and operation of the compliance and ethics program, shall perform their assigned duties consistent with the exercise of due diligence, and shall promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

If the specific individual(s) assigned overall responsibility for the compliance and ethics program does not have day-to-day operational responsibility for the program, then the individual(s) with day-to-day operational responsibility for the program typically should, no less than annually, give the governing authority or an appropriate subgroup thereof information on the implementation and effectiveness of the compliance and ethics program.

4. Application of Subsection (b)(3).—

(A) Consistency with Other Law.—Nothing in subsection (b)(3) is intended to require conduct inconsistent with any Federal, State, or local law, including any law governing employment or hiring practices.

(B) Implementation.—In implementing subsection (b)(3), the organization shall hire and promote individuals so as to ensure that all individuals within the high-level personnel and substantial authority personnel of the organization will perform their assigned duties in a manner consistent with the exercise of due diligence and the promotion of an

organizational culture that encourages ethical conduct and a commitment to compliance with the law under subsection (a). With respect to the hiring or promotion of such individuals, an organization shall consider the relatedness of the individual's illegal activities and other misconduct (i.e., other conduct inconsistent with an effective compliance and ethics program) to the specific responsibilities the individual is anticipated to be assigned and other factors such as: (i) the recency of the individual's illegal activities and other misconduct; and (ii) whether the individual has engaged in other such illegal activities and other such misconduct.

5. Application of Subsection (b)(6).—Adequate discipline of individuals responsible for an offense is a necessary component of enforcement; however, the form of discipline that will be appropriate will be case specific.

6. Application of Subsection (c).—To meet the requirements of subsection (c), an organization shall:

(A) Assess periodically the risk that criminal conduct will occur, including assessing the following:

(i) The nature and seriousness of such criminal conduct.

(ii) The likelihood that certain criminal conduct may occur because of the nature of the organization's business. If, because of the nature of an organization's business, there is a substantial risk that certain types of criminal conduct may occur, the organization shall take reasonable steps to prevent and detect that type of criminal conduct. For example, an organization that, due to the nature of its business, employs sales personnel who have flexibility to set prices shall establish standards and procedures designed to prevent and detect price-fixing. An organization that, due to the nature of its business, employs sales personnel who have flexibility to represent the material characteristics of a product shall establish standards and procedures designed to prevent and detect fraud.

(iii) The prior history of the organization. The prior history of an organization may indicate types of criminal conduct that it shall take actions to prevent and detect.

(B) Prioritize periodically, as appropriate, the actions taken pursuant to any requirement set forth in subsection (b), in order to focus on preventing and detecting the criminal conduct identified under subdivision (A) of this note as most serious, and most likely, to occur.

(C) Modify, as appropriate, the actions taken pursuant to any requirement set forth in subsection (b) to reduce the risk of criminal conduct identified under subdivision (A) of this note as most serious, and most likely, to occur.

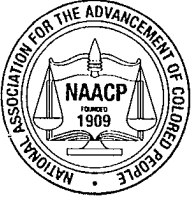
Background: This section sets forth the requirements for an effective compliance and ethics program. This section responds to section 805(a)(2)(5) of the Sarbanes-Oxley Act of 2002, Public Law 107-204, which directed the Commission to review and amend, as

appropriate, the guidelines and related policy statements to ensure that the guidelines that apply to organizations in this chapter "are sufficient to deter and punish organizational criminal misconduct."

The requirements set forth in this guideline are intended to achieve reasonable prevention and detection of criminal conduct for which the organization would be vicariously liable. The prior diligence of an organization in seeking to prevent and detect criminal conduct has a direct bearing on the appropriate penalties and probation terms for the organization if it is convicted and sentenced for a criminal offense.

Historical Note: Effective November 1, 2004 (see Appendix C, amendment 673).

Tab g



Isaiah Rumlin  
*President*

**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE**

**JACKSONVILLE BRANCH**

5422 Soutel Drive • Jacksonville, Florida 32219  
Phone (904) 764-7578 • Fax (904) 764-7572

September 21, 2009

The Charter Review Commission  
ATTN: Jeff Clements  
117 W. Duval Street, Suite 425  
Jacksonville, FL 32205

Dear Honorable Commissioners:

On behalf on the Jacksonville branch of the NAACP and the Jacksonville community, we request you to strongly consider strengthening the powers and the independence of the Jacksonville Ethics Commission. It is important to the members of this community to understand that our local government upholds morals and ethics. Ethics is a vital component that is tied to almost every initiative of our local and national chapter. We ask that you help us to build up this community by committing to ethics excellence and making it a priority as you consider revisions to the City's Charter. Thank you for your consideration of this extremely important matter and your willingness to dedicate your time to this Commission.

Sincerely,

Isaiah Rumlin  
President, Jacksonville Branch NAACP

cc: Ms. Adora Obi Nzewe, President Florida State Conference NAACP  
Jacksonville Ethics Commission

Tab h