

## OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT (ECO)

### INTAKE OVERVIEW AND PROCEDURE

**Purpose:** This procedure establishes protocols for reviewing and tracking all questions and complaints received by the Office of Ethics, Compliance and Oversight for the city of Jacksonville, Florida.

**Authority:** Chapter 602, Part 6 of the Jacksonville Ethics Code.

January 1, 2014

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### OVERVIEW

#### A. **ADVICE**

Many calls and emails come in to the ECO office asking for ethics advice. The areas correspond to section D, (below): "Types of Complaints and Allegations", but the difference is that the act has not yet occurred. Most of these questions can be resolved quickly on the phone or by email. If an inquiry is more complex, legal research may be done and OGC or the State Ethics Commission consulted, especially if the issue concerns an elected official. (Examples: state ethics commission disclosure requirements; gifts; conflicts.)

#### B. **INQUIRIES**

The ECO office may conduct inquiries or studies into facts and circumstances within its jurisdiction under Chapter 602, Part 6. Upon receipt and review of information which may form the basis of a potential violation, the ECO Director may review documents and conduct interviews to assess the situation and to determine the appropriate handling, including potential referrals or complaints to the state or local Ethics Commissions or to law enforcement. Ethics Code, section 602.621(k), (m). After conducting an inquiry, a memorandum will be prepared stating any findings or recommendations.

#### C. **ECO COORDINATION (AGENCIES/DEPARTMENTS):**

The nature of a complaint will help the ECO office determine whether the matter should be referred to one of the following agencies and departments:

1. ETHICS COMMISSION (Jacksonville and Florida). Violations of Florida law Chapter 112 or Jacksonville Municipal Ordinance, Ethics, Chapter 602. If applicable, the referral will be submitted to conform with the formal complaint process of the body. The Jacksonville Ethics Commission also has the power under section 602.921(c) to “review” topics that “appear to violate a standard of ethics conduct” in order to make recommendations to the Mayor or Council. These reviews are on topics listed in the city’s Charter: ethics laws and administration, conflicts of interest, hotline policies, education, procurement, campaign ethics and lobbying. These “reviews” do not focus on an individual. (Ethics areas: Transparency; Secondary employment; gifts; conflicts; lobbying; unlawful lending of money between employees; post employment; misuse of position; failure to attend training; travel; no reporting of “gifts to the city”.) Cases of this nature are referred to the Jacksonville Ethics Commission. The Ethics Commission also has the authority to refer to the state of Florida Ethics Commission if action is more appropriately taken by this agency. Section 602.921(a).
2. LAW ENFORCEMENT. If the complaint is a report of a crime or facts/tips relating to a crime, the case is referred to law enforcement. (Bribery, theft of property or equipment, unauthorized kickbacks or solicitation)
3. HUMAN RESOURCES/EXECUTIVE BRANCH OFFICE. Issues that are purely HR in nature are referred directly to HR. (absenteeism; failure to perform duties; falsified timesheets; mismanagement; unproductive use of time; use of discriminatory or profane language; use of threats or intimidation or verbal abuse.) Until the law is changed, any complaints about election/campaign activities will be referred to HR or General Counsel.
4. INDEPENDENT AUTHORITIES. Cases involving issues with the Independent Authorities will be directly referred to the Ethics Officer for that entity. If requested, the ECO office will assist in the handling.
5. POLICE DEPARTMENT. Cases involving police officers will be forwarded to the Ethics Officer for the Police department.
6. CITY COUNCIL AUDITOR’S OFFICE. Cases involving waste and inefficiencies that may be relevant to potential or pending audits. (Example: use of city cell phones.)
7. OFFICE OF TRANSPARENCY. Public Records and Sunshine issues.

**D. TYPES OF COMPLAINTS AND ALLEGATIONS**

1. ETHICS CODE OFFENSES (conflicts; Ethics Code Chapter 602; Florida law Chapter 112)
2. CRIMINAL OFFENSES (theft, bribery, etc.; if case is rejected by Law Enforcement, it may come back to the ECO office for handling by the Ethics Commission, Human Resources or other entity.)
3. HUMAN RESOURCE/EXECUTIVE BRANCH ISSUES
4. PUBLIC RECORDS/SUNSHINE ISSUES (Issues of excessive fees; failure to timely release).
5. BREACH OF INFORMATION. (Disclosing confidential information to unauthorized persons; unauthorized distribution of written materials)
6. COMPUTER RELATED. (Deletion or destruction of material; pornography; failure to secure computer/data; non-job related web browsing; personal use.)
7. CONTRACTUAL ISSUES. (Conflicts of interest, fraudulent billing; bribery; failure to monitor; illegal bidding practices; improper leases; improper subcontracting; non-compliance with contract or codes/laws.)
8. FALSIFICATION. (Dishonesty or falsification of records.)
9. FINANCIAL IMPROPRIETIES. (Fraud, misappropriation of funds, employee receiving kickbacks or gifts; personal conflicts/interest.)
10. MISUSE OF PROPERTY OR PERSONNEL.
11. MISCELLANEOUS
12. INSUFFICIENT INFORMATION
13. NOT APPLICABLE/NO JURISDICTION (Can be referred to city information line, 630-CITY.)

**E. DISPOSITION OF COMPLAINTS/ALLEGATIONS**

1. ECO director: ADVICE (informal or formal opinion)
2. ECO director: Brief handling and closed
3. ECO director: Inquiry and Report
4. ECO director: management question
5. ECO director: management review
6. ECO director: investigation
7. ECO director: DISMISSAL
8. ECO director: DISMISSAL, lack of resources

(Note: 3-6 shall be assigned a "Case Number" and proceed as a case until disposed of.)

## 9. REFERRALS

- a) Referral to Jacksonville Ethics Commission (by complaint or request for review per section 602.921(c).)
- b) Referral to State Ethics Commission (by complaint)
- c) Referral to Human Resources
- d) Referral to Ethics Officer of Independent Authority
- e) Referral to Ethics Officer of Constitutional Authority
- f) Referral to Jacksonville Sheriff's Office Ethics Officer
- g) Referral to City Council Auditor
- h) Referral to Law Enforcement Agency (information/tip)
- i) Referral to Law Enforcement Agency (follow up on case; consider pulling back to ECO office if prosecution declined for other handling)
- j) Referral to Attorney General/Mayor's office of Transparency
- k) Other (list)

## **PROCEDURES**

The ECO office will screen all incoming calls and documents to ensure that all allegations of wrongdoing are assessed and either handled by the ECO office or referred to another more appropriate agency. The ECO office will encourage all complainants to provide their complaints in writing and to provide as much information as possible.

Incoming information that is clearly unrelated to the mission of the office will only be reported as to the number of such calls monthly. (Examples: wrong numbers; referrals to city information line-- 630-CITY; wrong jurisdiction, etc.)

Intakes will include the following steps, at a minimum, and include supervisory oversight when there is more than one person in the ECO office:

- a) The complainant should submit a written complaint. If this is not possible, the intake person will summarize all relevant information regarding the allegation on a complaint intake form. The information should include the allegation, the names of witnesses and any other information that will clarify the issues of concern so that it can be categorized by type of allegation. If the complaint is of a criminal nature, it will be given a number, and the form will indicate that information or a tip was received pertaining to potential criminal activity.
- b) Complainants calling either the ECO office number or the Hotline during regular business hours will be interviewed by staff and a complaint intake form filled out.
- c) The ECO director shall monitor the hotline for complaints left as a recorded message. (Any other sources of complaints shall also be monitored, such as a

website complaint form, an email, etc.) When the person who called a phone for the ethics office leaves a call back number, the ECO director will call back to obtain any additional information. A complaint intake form will be filled out on all incoming calls pertaining to matters in the jurisdiction of the ECO office.

- d) The complaint will receive an intake number within 5 days (excluding holidays and weekends) of receipt. The intake number shall start with the year and then be a letter. (ex.: 2012-A)
- e) Upon receipt, the complaint shall be assessed for potential statutory whistleblower status per Florida law.
- f) The nature of some complaints may allow the ECO office to quickly refer or close out the complaint. If this is done, then brief notes on the handling shall be written on the "complaint intake form".
- g) Complaints will be assessed as to when the situation occurred. If over 2 years old, it can be dismissed at the discretion of the ECO director. If dismissed for this reason, any possible referrals will also be considered and documentation on the reasons for dismissal will be indicated on the intake form.
- h) Not all complaints will be handled by the ECO office. Complaints will be evaluated based on resources of the office and significance of the complaint.
- i) If not closed out initially by a handling, dismissal or referral, then the complaint shall be categorized as one of the following: a management question, management review, investigation or an inquiry. At this point, the complaint shall be given a Case Number. This is not the final handling of the complaint, but just the initial determination on how it is to be handled.
- j) All complaint intake forms shall be retained in a physical file and periodically scanned and uploaded to a digital file.
- k) When it appears that the complaint does not fall under the ECO jurisdiction, the complaint should be forwarded to the appropriate entity.
- l) Any complaints as to ECO staff shall be immediately forwarded to the Chair of the Ethics Commission.
- m) If possible, the complainant will be notified of the disposition which will be documented on the initial complaint intake form.
- n) Dispositions, per the "intake overview policy" shall be noted on the intake form.

## Definitions

**Advice:** An oral or written response to a question about the ethical implications of a future action.

**Case Number:** the number assigned to a case when opened for an inquiry, review or investigation.

**Complaint/allegation:** any accusation against a city employee or official or a contractor with the city, either verbally or in writing, including walk-ins, faxes, emails, news articles, calls to the hotline or any other phone; made by a citizen, employee, ECO director, or anonymous source.

**Disposition:** how the complaint was handled: referral to department or manager; refer to HR; refer to other entity, or handling in the ECO office.

**Evidence:** case supporting materials gathered to support conclusions and recommendations, such as: sworn statements, witness statements, time sheets, travel vouchers, and other documentation.

**Intake:** the process of collecting, reviewing, and tracking complaint information.

**Intake Number:** the number used to identify an incoming complaint. (This complaint can also later be assigned a Case Number if it is opened up as a case.)

**Limited Review:** assistance which does not rise to an investigation or a management review.

**Inquiry:** a study into the facts and circumstances involving a possible violation of laws within the ECO office jurisdiction under Chapter 602, Part 6 or Part 9 (Ethics Commission) or a situation that does not violate a law, but may need corrective action (602.621(b), (e), (i), (k)). Documents may be reviewed and interviews conducted; a memorandum will be provided at the end of each inquiry as to any findings or recommendations. Referrals can be made depending on the findings (state or local Ethics Commissions by complaint; city council auditor; office of General Counsel, etc.).

**Investigation:** process by which information and evidence is obtained relevant to allegations, complaints or suspected violations.

**Management Referral:** a complaint which is referred to management or another agency for their handling with no required response to the ECO office.

**Management Question:** a complaint which is sent to management with a required response to the ECO office. A review of this response will determine whether an investigation will be initiated.

**Management Review:** a formal review of a program area to determine whether or not it is operating within accepted or written procedures. These may be initiated in response to a complaint or concern that does not name a specific subject or at the request of management as a tool for program improvement. (Typically, these would be referred to the City Council Auditor until the ECO office has a trained person available to do audits.)

**Notification:** an official notification to management as to any policy violations.

**Subject:** a person against whom an allegation or complaint is directed.

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**COMPLAINT INTAKE FORM**

**Intake #** \_\_\_\_\_ **Date/ Time of Receipt:** \_\_\_\_\_

How information received: (Letter/email/hotline/phone/in person/other):

Does the person wish to remain anonymous?

WB protection requested? \_\_\_\_\_ Granted?(date) \_\_\_\_\_

**Complainant Information:**

Name:

Email:

Address:

Daytime Phone:

Cell Phone:

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Are you currently a city employee or official?

Are you a past city employee or official?

Are you a vendor with the city?

Do you do business with the city in any way?

Has this issue been reported to anyone else? Who?

**Summary of Complaint:** (see back: who/what/when and where) or attachments

**Options:** Dismiss (reason); Open Case for further handling (see back)

**COMPLAINT**

(TYPE: 1-13) \_\_\_\_\_

WHO? DEPT? WHEN? WHAT HAPPENED?

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**CASE NUMBER IF OPENED:** \_\_\_\_\_

(TYPE: 1-9; inquiry, management question or review; investigation or referral.)\_\_\_\_\_

Plan:

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**CLOSED:** (DATE AND REASON)