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**2011**

**City of Jacksonville**

**Sunshine Law**

**Public Records Law and**

**Ethics Training Program**

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**LOCAL ETHICS LAWS**

# DEFINITIONS

## LAWS

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. Criminal matters, if presented to the Hotline or Ethics Office 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, along with the State Attorney, handles violations of the local ethics code, Chapter 602 of the Jacksonville Ordinance—the "*Ethics Code*".

## ETHICS

Ethics is a major branch of philosophy that involves analysis of right and wrong conduct. This is also viewed from a character standpoint, such as the Josephson Institute's six "pillars" of character: trustworthiness, fairness, respect, responsibility, caring and citizenship.

The Ethics Office has received many complaints involving "wrong conduct" such as "this wasn't fair" and "this person lied". Since this sort of wrong conduct does not involve conflicts of interest, it is not typically in the

jurisdiction of Ethics Offices or Commissions. In some jurisdictions, bodies such as City Councils have sanctions or censures for violations of this type. (For example, Rep. Joe Wilson was censured for shouting “you lie” to the President. What he did was not illegal or a conflict of interest.) Sometimes, misconduct in this area starts a discussion on whether or not a law needs to be implemented to handle future situations.

## **CORRUPTION**

*Corruption is an abuse of public power for private gain that goes against the public interest. ... Corruption involves a confusion of the private with the public sphere. In essence, corrupt practices involve public officials acting in the best interest of private concerns (their own or those of others) with no regard for, or directly against, the public interest.* (United Nations definition) This definition again reflects a concern with “conflicts of interest”.

There is confusion regarding the definition of this word. Some people define corruption to mean only acts that are illegal, whereas others define it more broadly. As stated in a report of the Ethics Commission of Miami/Dade County, (“A Community’s Resolve to Restore Integrity, Accountability and 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.

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## ETHICS IN A NUTSHELL 2008-1B

Ethics Code Summary (June, 2011)

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This is a brief summary of the current Jacksonville Ethics Code, including changes that went into effect in 2008. This is only an outline to alert you to the issues. Please refer to the full language of the code and your departmental Ethics Officer for specific questions.

See: [www.coj.net](http://www.coj.net) Look under “Ethics Office” for a copy of the entire Ethics Code.

<http://www.coj.net/Departments/Ethics+Office/default.htm>

### Ethics Code:

1. **Gifts. 602.303** Unlawful to receive a fee, gift, tip, loan in exchange for work done in the course of your duties; Exception: small food and flower “appreciation for job well done” gifts.
2. **Lending 602.310(c)** You cannot lend/borrow over \$100 from a subordinate or higher ranking employee; and you cannot do this in an amount of over \$500 from anyone else in your department.
3. **Gifts 602.701** Don’t accept gifts of over \$100 from a person that is a lobbyist; employer of a lobbyist; person who does business with your agency or is subject to permit approval from your agency. . **There is also a \$250 total limit per year from any one person giving you gifts.** You also cannot take a **gift in excess of \$100 (or \$250 in a year)** given to you because of your official position. **Gifts to the “city”** will now be disclosed on the **internet**; if your department gets any such gifts, make sure it is disclosed. Your department’s ethics officer will tell you how to do this.  
**Gift Disclosures:** The local law on gift disclosures was eliminated. Those who are required to file financial and gift disclosures at the State level, continue to do so and will be sent information on this by the Ethics Office.
4. **602.801 Lobbying.** A lobbyist is any paid person who seeks to influence a governmental decision. This is broad and can be someone coming to your department to influence you. You can ask them before they “lobby” you to register with the city. These forms are online, under the City Council site. Lobbyists now have to disclose if they have a financial interest in the issue they are lobbying on.

5. **Secondary Employment 602.403** Since 1999, all full time employees must disclose their secondary employment or business. For full information on the policy, go to: Employee portal on the city's internal website; then Policies, then Ethics.
6. **602.302 Use of Public Property** Cannot use city property for your own benefit, convenience or profit. (example: computers; copying machine)
7. **602.404 Future Employment** (Read this whole section if you are thinking of leaving the city for other employment.) If you had a substantial and decision-making role in a contract in excess of \$250,000, you are prohibited from certain employment for 2 years (see section c of this law for details.)
8. **602.450 Financial Disclosure** If you are required at the **state level** to file financial disclosure forms, that has NOT changed. In the past, local appointed employees had to file a financial disclosure form at the local level. This requirement has been **eliminated**.
9. **602.903 Ethics Commission** The Commission is authorized to establish a confidential HOTLINE for ethics complaints. This hotline is coordinated with the Ethics Officer. The **HOTLINE** number is **630-1015**.
10. **602.1101 Ethics Officer** Each department and agency has a designated ethics officer (DEO—Departmental Ethics Officer) that reports to the Ethics Officer and works to implement ethics policies in their area.

**STATE LAW** Don't forget that there are also State of Florida ethics laws. Generally, as an employee, what you have to be aware of is: 1) **Sunshine Law** (meetings open to the public) **notice and minutes** of these meetings is required); 2) **Public Records Requests** (people have access to government records. These requests all go to the Mayor's Office to handle); and 3) **conflicts in your employment** (you or your family doing business with the city or your department.) Conflicting employment issues are complicated; they will be handled individually-but if you own or work for a company that is doing business with or regulated by the City, you may have a problem and you should get in touch with your departmental ethics officer.

## **PART 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)

## Hotline Report, August 2007-May 2011—Summary (Carla Miller, Ethics Officer)

- There is a full report on the Hotline with recommendations; this is the one page summary. All supporting documentation for the Hotline is available for review.
- Hotline—established by the Mayor, August 2007 (Order 07-1) —to discover “fraud, waste and ethics violations; the Ethics Officer was to set it up; In Dec. 2007, Council passed a bill giving the Ethics Commission the authority for a Hotline for violations of Chapter 602, the Ethics Code.
- Since that time, **395 calls have come in on the line; 15% (59) were opened as cases** for further work by the Ethics Officer, Inspector General or Ethics Commission; all but 6 cases are closed.
- Approximately **30% of the calls were educational** in nature.
- **Direct Cost Savings from Hotline calls: a low of \$579,483 to a high of \$938,527.**
- The direct cost savings more than paid for the entire budget of the Ethics Officer (approximately \$90,000 per year). This has been accomplished by a **part time** Ethics Officer; approximately the equivalent to 1.5 years full time work.
- **The Ethics Officer does not initiate complaints.** All complaints to the Hotline (calls, letters, office visits) are documented chronologically with how it was handled. This is important so that there is oversight on the process and the decision making of the Ethics Officer.
- **Anonymous calls are accepted;** this is a national “best practice” (Sarbanes-Oxley and the FSG, Federal Sentencing Guidelines). The call could result in a complaint if there is other back up evidence. The Ethics Office and Ethics Commission have worked extensively with General Counsel’s office (OGC) on due process procedures for the complaints. One of the ways to protect an accused person is to conduct **any meetings regarding cases in the “shade”, until “probable cause” is established.** This is done with the assistance of OGC. Shade meetings are authorized for local ethics commissions by Florida law and were also approved by the City Council last year in bill #2010-172. This is a safeguard for elected officials and city employees.
- The Ethics Commission has the ability to **“self initiate” complaints;** this is done in a “shade” meeting and probable cause for this complaint must be established. The ability of an Ethics Commission to “self-initiate” complaints was recommended by the State of Florida Grand Jury on Corruption, 2010.
- There is a **culture of fear** observed in people that want to come forward with information; they fear losing their jobs and pensions. We need to protect our whistleblowers.
- Most of the **local ethics laws** in Chapter 602 are old (40 years for some of them); they do not relate to actual risks; they **need to be updated and simplified.**
- It is **faster and more cost effective to have ethics issues handled at the local level.** Some of the Hotline cases that were quickly handled locally could have easily been reported instead to the State of Florida Ethics Commission, which is a time consuming and costly process.
- The current ethics bills pending in City Council (2011- 167, 197 and 232) would increase the city’s effectiveness in fighting corruption.
- Most important is increased communication on issues that concern citizens and employees; education and training should handle at least 90% of the issues. The Mayor and City Council are to be commended for starting the Hotline process; it has increased citizen trust in government.

# ETHICAL PRINCIPLES AND VALUES For Public Servants

## 6 PILLARS OF CHARACTER

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### A. TRUSTWORTHNESS

#### HONESTY

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Public servants should be scrupulously and consistently honest by: (1) being truthful, sincere, forthright, and, unless professional duties require confidentiality or special discretion, candid, straightforward and frank; (2) not cheating, stealing, lying, deceiving, acting deviously, nor intentionally misleading another by omission, half-truth or other means.

#### INTEGRITY

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Public servants should demonstrate integrity by: (1) acting in ways that are consistent with core beliefs and assuring that practices match their principles; (2) honoring and adhering to the principles of public service ethics, the mission and values of their organizations, and their own moral beliefs with courage and character regardless of personal, political, social and economic pressures; (3) expressing and fighting for their concept of what is right and upholding their convictions to the best of their ability.

## **PROMISE KEEPING**

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Public servants should demonstrate trustworthiness by: (1) keeping promises, fulfilling commitments and abiding by the letter and spirit of agreements which bind them; (2) interpreting contracts and other commitments in a fair and reasonable manner and not so as to rationalize noncompliance or create justifications for escaping a commitment; (3) exercising prudence and caution in making commitments, considering unknown or future factors which could make fulfillment of them impossible, difficult or undesirable; (4) seeking to assure that when commitments are made, the nature and scope of the obligations undertaken are clear to all parties.

## **LOYALTY**

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Public servants should demonstrate loyalty by: (1) advancing and protecting the interests of those with legitimate moral claims arising from personal and institutional relationships; (2) safe-guarding confidential and proprietary information; (3) resolving conflicting loyalty

obligations to various parties by placing obligations to the Constitution, the institution of government and fundamental principles of representative democracy above their duty to individuals; (4) refusing to subordinate other ethical obligations such as honesty, integrity, fairness and the obligation to make official and managerial decisions on the merits, without favoritism, in the name of loyalty.

## **B. FAIRNESS**

Public servants should demonstrate fairness by: (1) making official and managerial decisions with impartiality and professional objectivity based on consistent and appropriate standards; (2) demonstrating a commitment to justice, the equitable treatment of individuals and appreciation for diversity in all official and managerial actions; (3) exercising official and managerial authority with open-mindedness and a willingness seek out and consider all relevant information, including opposing perspectives; (4) voluntarily correcting personal or institutional mistakes and improprieties and refusing to take unfair advantage of mistakes or ignorance of citizens; (5) scrupulously employing open, equitable, and impartial

processes for gathering and evaluating information necessary to decisions.

### **C. RESPECT FOR OTHERS**

Public servants should demonstrate respect for others by: (1) acknowledging and honoring the right of those affected by official and managerial decisions to autonomy, privacy, and to be treated with dignity; (2) treating others with courtesy and decency; (3) exercising official and managerial authority in a way that provides others with the information they need to make informed decisions about their own lives, about matters within the scope of their professional duties, and information necessary to the exercise of citizenship responsibilities.

### **D. RESPONSIBILITY / PURSUIT OF EXCELLENCE**

Public servants should be accountable by: (1) accepting personal responsibility for the foreseeable consequences of actions and inactions; (2) recognizing their special opportunity and obligation to lead by example; (3) making decisions that take into account long term interests and the need to exercise leadership for posterity.

Public servants should seek to perform their duties with excellence by: (1) being diligent, perseverant, reliable, careful, prepared, and informed; (2) giving a full day's work for a full day's pay; (3) continually seeking to develop knowledge, skills and judgment necessary to the performance of their duties.

### **E. CARING AND CONCERN FOR OTHERS**

Public servants should demonstrate a concern for the well-being of all those affected by their actions by: (1) striving to carry out official and managerial responsibilities with a firm commitment to maximize benefits and minimize harm; (2) being caring, considerate and, to the extent compatible with official duties, kind, compassionate and generous in all their actions.

### **F. CITIZENSHIP**

Public servants should act as responsible citizens and uphold the rule of law by: (1) honoring and respecting the principles and spirit of representative democracy and setting a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules; and (2) exercising their civic duties and rights by voting and, to the extent compatible with official duties, expressing informed views and demonstrating social consciousness and a commitment to public service.

# 5 PRINCIPLES OF PUBLIC SERVICE ETHICS

## 1. INDEPENDENT OBJECTIVE JUDGMENT

Decisions are to be made on the merits, using only proper criteria without partiality or prejudice and done without any conflicts of interest.

- Every public decision must be made based on the public employee's best judgment as to merits – the proper criteria for selection
- Even when a public employee has broad discretion, the discretion must be exercised legally, intelligently and fairly using only proper considerations

A public employee should safeguard the ability to make independent, fair and impartial judgments by scrupulously avoiding financial, social and political relationships that might compromise (or give the appearance of compromising) objectivity, independence or honesty. If a decision cannot be made objectively on the merits because of a real or apparent conflict or a bias or prejudice, the public employee should reveal these factors to a supervisor and, if possible, withdraw from the matter.

## 2. DEMOCRATIC LEADERSHIP

Honor and respect democratic principles; observe the letter and spirit of laws in good faith

- Obey all laws and rules.
- Avoid schemes that undermine spirit of law.
- Use leadership power only in manner consistent with representative democracy.

## 3. PUBLIC ACCOUNTABILITY

Government is to be conducted openly (transparently), efficiently, equitably and honorably so the public can make informed judgments and hold public officials accountable.

- Take affirmative steps to avoid waste, inefficiency, illegality or unintended consequences.
- Take necessary actions, including reporting, to prevent unlawful or unethical use of public position, authority of resources.

#### **4. PUBLIC OFFICE AS A PUBLIC TRUST**

Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.

- Bribery – don't provide favors or exercise official authority or influence in exchange for any thing of value.
- Personal benefits – though ethics laws permit some gifts, public employees following the highest ethical standards refuse to accept all gifts, favors, or other benefits:
  - from persons who want something from them or their agency (includes travel and meals; special discounts, loans investment opportunities; gratitude gifts)
  - that would not be given to you if you were not in a government position.
- Misuse of authority – don't use official power or influence to confer financial or other undue personal benefits on family, friends or oneself.
- Misuse of public property – don't use government facilities, equipment, services, staff, or other government property for personal benefit for any purpose other than the public interest.
- Misuse of position – don't use title, badge, ID cards, letterhead or the prestige of office for personal gain

## **5. RESPECTABILITY**

Safeguard public confidence in the integrity of government by avoiding appearances of impropriety and conduct unbefitting a public official.

Public servants who appear to do wrong, actually do wrong by eroding the trust between citizens and their elected officials. Therefore, there is an ethical obligation to protect the appearance of propriety almost as great as to actually produce its reality.

Public employees should not engage in any conduct which they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers the perception that they have used their public position improperly or otherwise have not conducted themselves in accord with the ethical principles of public service.

## History of the Jacksonville Ethics Commission

### Ordinance 92-78-1134

1. On October 27, 1992, the City Council passed Ordinance 92-78-1134 which created the Jacksonville Ethics Commission
2. The sponsor of the Ordinance was Councilman Matt Carlucci.

### Reasons for Creating Ethics Commission (as stated in the original ordinance)

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 the laws that are related to government ethics.

### 1999 – Ordinance 97-890

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 ethics commission picked up the pace of its work when Mayor John Delaney announced that he wanted to develop and pass a “Jacksonville Ethics Code.” The code was to be comprehensive and reflect the highest ethical standards and be a model for city governments.
3. The ethics commission spent countless hours of research, deliberation and had an excellent give and take working relationship with administration and leadership of the City Council. As a result, the a comprehensive ethics code was passed in 1999.

### Membership of Jacksonville Ethics Commission

1. Nine members
2. One member appointed by each of the following:
  - City Council

- Mayor
- School Board
- Civil Service Board
- State Attorney
- Chief Judge of the Circuit Court
- Three members appointed by majority vote of the Commission

In 2010, a Charter amendment was passed on Ethics. See bill #2010-616 which called for an Independent Ethics Commission and an Office of Ethics, Compliance and Oversight.

Two bills implementing this Charter amendment are currently pending with City Council: bills 2011-167 and 197.