

**Department of Elder Affairs
Ethics Audit****FINAL AUDIT REPORT*****Background***

In January 2007, Governor Crist issued Executive Order 07-01, directing the immediate adoption and implementation of a Code of Ethics by the Office of the Governor, applicable to all employees within the Office of the Governor, as well as the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the Governor's purview. It requires each executive agency secretary to designate an individual at his or her agency to act as the agency's chief ethics officer, who will make reasonable efforts to ensure employees responsible for adhering to this code become familiar with relevant ethics, public records and open meeting requirements.

This code imposed standards that were above and beyond the requirements of the "Code of Ethics for Public Officers and Employees" set forth in Chapter 112, Part III, Florida Statutes. As a result, the department revised its operating procedures to comply with both the Florida Statutes and the Governor's Code of Ethics as noted by DOEA Policy #550.30 Code of Ethics (Amended 2/12/07).

Merriam-Webster's Dictionary defines ethics as a noun meaning the discipline dealing with what is good and bad and with moral duty and obligation, or a set of moral principles governing an individual or a group. The 2008 Sterling Criteria for Organizational Performance Excellence states "Organizations should stress ethical behavior in all stakeholder transactions and interactions. Highly ethical conduct should be a requirement of and should be monitored by the organization's governance body."

Since November 1991, the United States Sentencing Commission's "Federal Sentencing Guidelines Manual" has encouraged organizations to establish an effective compliance and ethics program to reduce and eliminate the likelihood of criminal conduct within an organization. This provides the structural foundation from which an organization may self-police its own conduct. The prevention and detection of criminal conduct is facilitated by this program, which will assist an organization in encouraging ethical conduct and in complying fully with all applicable laws. An effective program includes establishing standards and procedures, high-level oversight, due diligence in hiring and promoting, effective communication (including training), compliance monitoring, enforcement and preventive measures.

Finally, the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing* requires the Internal Audit function "evaluate the design, implementation and effectiveness of the organization's ethics-related objectives, programs and activities." To comply with this mandate, internal auditors must accomplish a wide scope of audits and examinations, including those concerned with evaluating the effectiveness of internal controls, monitoring the operation of the organization's code of conduct system, and ascertaining compliance with relevant requirements for confidential reporting of legal and ethical violations.

Audit Scope and Objectives

The scope of this audit focused on actions taken by the department to communicate, monitor and enforce ethical standards and procedures applicable to its employees. Our objectives were to determine whether the DOEA ethics program is in compliance with applicable laws, regulations and executive orders; determine the effectiveness of the department's background check policy; and determine if the department effectively communicates the standards and procedures for ethics compliance through training and/or publications.

Findings and Recommendations

The department is materially compliant with the seven elements necessary for a successful ethics and compliance program noted in the background section above. Our tests further revealed that conducting background checks was effectively performed and also revealed the department in material compliance for employee receipt acknowledgment forms of the department's ethics policy. However, we noted some areas for improvement below.

FINDING 1

Effective communication of the department's ethics standards, policies and procedures can be improved.

Executive Order 07-01 Governor's Code of Ethics states, "Each agency secretary is further directed to attend training on the subjects of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures. Thereafter, each agency secretary will arrange for similar training of his/her employees on an annual basis."

The Department made efforts to comply with this executive order via employee orientation training, which covers elements of ethics, public records and equal opportunity. This training is required of all employees. Employees are also required to attend on-line Florida Sunshine Law and Public Records Act training.

Based on this and the results of our survey (SEE APPENDIX A & B), the department has established an ethical climate for employees. However, improvements can be made in the areas of communication and training of ethics standards and procedures especially in the areas of complaint management. The department has hired a training coordinator to improve training opportunities for staff. At the time of our audit, course curricula were under development.

There is a general DOEA Employee Acknowledgement Form, which employees are required to sign, acknowledging their understanding of their responsibility to review policies and procedures and request any necessary clarification from their supervisor. Employee's specific knowledge of the department's ethics policy may be confusing, because of the generalized nature of this form and the commingling of the ethics policy amongst other policies and procedures. This confusion weakens conformity with ethics standards. Recurring training and communication efforts alleviate this issue.

We **recommend** the department develop and implement an annual training program for all employees on ethics standards and procedures. This strengthens conformity with Executive Order 07-01 and improves employees' understanding of the complaint process for any ethical transgressions noted. Training can be in a classroom environment or via Web-based programs for geographically dispersed locations.

FINDING 2

The notification process, upon completion of employees' background checks, needs improvement.

The department's Criminal History Background Check Policy #550.20 states the following: "VII. 1. Supervisors' Responsibilities. Supervisors are responsible for the following:
H. Receiving the report of the criminal history background check from the Bureau of General Services."

Section 9. D. 1. c. of the policy further states:
“Notify the hiring authority or immediate supervisor and the division director who supervises the designated position that the screening has been completed and the employee is authorized to begin or continue working.”

Our review of the background check policy indicates a weakness in notifying hiring supervisors of the completion of background checks for designated new hires.

There is no established process on notifying hiring supervisors that background checks are complete for designated new hires. Without timely notification of background check completions, supervisors may be unaware that potential new hires may not qualify for their positions.

We **recommend** hiring supervisors be e-mailed once background checks are completed to conform with the Department’s Criminal History Background Check Policy #550.20.

FINDING 3

Technical corrections are needed for the department’s ethics policies and procedures.

The following criteria were reviewed to assess regulatory compliance for DOEA’s Code of Ethics #550.30:

- Chapter 112, Part III, Code of Ethics, F.S.
- Article I, Section 24, Open Meetings, Florida Constitution
- Chapter 119, Public Records, F.S.
- Section 110.233, Political Activities and Unlawful Acts Prohibited, F.S.
- Section 104.31, Political Activities of State, County, and Municipal Officers and Employees, F.S.
- Section 287.17, Limitation on use of motor vehicles and aircraft, F.S.
- Section 455.654, Patient Self-Referral Act of 1992, F.S.
- Chapter 775, F.S, Florida Criminal Code
- Federal Hatch Political Activities Act 5th United States Code, 1501-1506
- Chapter 60L- 36, Conduct of Employees,

Florida Administrative Code (F.A.C.)

- Chapter 60L- 39, Florida State Employees’ Charitable Campaign, Florida Administrative Code (F.A.C.)

We noted the following while reviewing regulatory criteria with the department’s Code of Ethics Policy #550.30:

- The reference to Section 455.654, F.S. Patient Self-Referral Act of 1992 should be updated to Section 456.053, F.S.
- Part X. D. of the Code of Ethics #550.30 should reference section 112.3215, F.S. instead of s. 112.32155, F.S.
- Section 110.233, F.S. Political Activities and Unlawful Acts Prohibited is listed as an authority in DOEA Code of Ethics #550.30, there is no further discussion of these prohibitions in the actual policies and procedures. The department should consider a section in Policy #550.30 pertaining to this statute.
- In Part X. A. of the DOEA Code of Ethics #550.30, on page 9 of 15, item A. 4. mentions, “If the answer to this question is “no,” the employee must proceed to Question No. 6.” There is no question No. 6 to proceed toward.
- In Part X. E. page 13 of 15, there is a reference to Section 112.3145(b), F.S. This appears to be an incorrect reference and it is unclear as to which section of Florida Statutes this paragraph is referring to.
- In Part XI. C. & F. regarding dual employment and application for exemptions, it appears inefficient to seek approval from the Governor’s chief ethics officer when the department’s ethics officer approval would be more efficient.

A comprehensive review of the department’s Code of Ethics Policy #550.30 was not conducted prior to our audit. This may have led to some of the technical errors noted. Without recurring reviews of departmental policies and procedures, a weakening of conformity with regulatory standards can occur.

We **recommend** the department review and update its Code of Ethics #550.30 with the technical corrections previously mentioned in the finding along with any other necessary corrections.

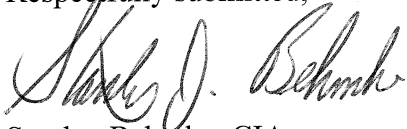
Audit Methodology

Our audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors. Accordingly, our assessment of the DOEA Ethics Program included observations and interviews with management and staff and the use of analytical procedures in the review and testing of records and reports regarding compliance with governing laws, policies and procedures.

Closing

We thank the staff and management of the Department of Elder Affairs for their cooperation in completing the Ethics Survey and for their cooperation and professionalism during the course of our audit. Program responses to the recommendations are attached at the end of this report.

Respectfully submitted,



Stanley Behmke, CIA
Inspector General

Audit conducted by:

Tony Hernandez, CIA
Director of Internal Audit

Audit supervised by:

Stanley Behmke, CIA

Attachments

APPENDIX A

Question #	Survey Question	Responses		
		Positive %	Neutral %	Negative %
4	The department's ethics policy provides me with guidance to make decisions/choices on the job.	77%	17%	6%
5	I understand the personnel (disciplinary) consequences for violating department ethics policy.	88%	6%	6%
6	I understand the civil consequences of violating State and department ethics policies.	85%	10%	5%
7	I understand there are criminal consequences for violating the law, specifically: Falsification of Records/Visits and Breach of Confidential Information.	94%	3%	3%
8	Legal/ethical conduct is demonstrated and reinforced in my work unit.	83%	11%	6%
9	Department leaders effectively communicate and demonstrate the ethical attitudes and behavior expected of all employees.	74%	16%	9%
10	There is an expectation from my supervisor that I will use department ethical guidelines in all aspects of my job.	91%	7%	2%
11	I feel comfortable approaching my supervisor or other management within the department to raise ethics questions.	82%	7%	11%
12	Other than my supervisor, I am aware of others within the department that I can turn to for guidance when facing unique ethics situations.	78%	12%	10%
13	The ethics trainings that I have received in the past have been helpful in making decisions.	71%	21%	8%
14	I understand the security requirements associated with accessing confidential data through computer related resources, such as CIRTIS or other systems.	91%	4%	5%
15	I understand my responsibility as it relates to my job, when offered a gift (i.e., lunch, flowers, candy, etc.)	94%	2%	4%
16	I feel I can file a complaint (inappropriate workplace behavior, misuse of state resources, discrimination, sexual harassment, etc.) without it being held against me.	66%	19%	16%
17	People in my work unit who identify problems or concerns have NOT been treated poorly.	55%	35%	10%

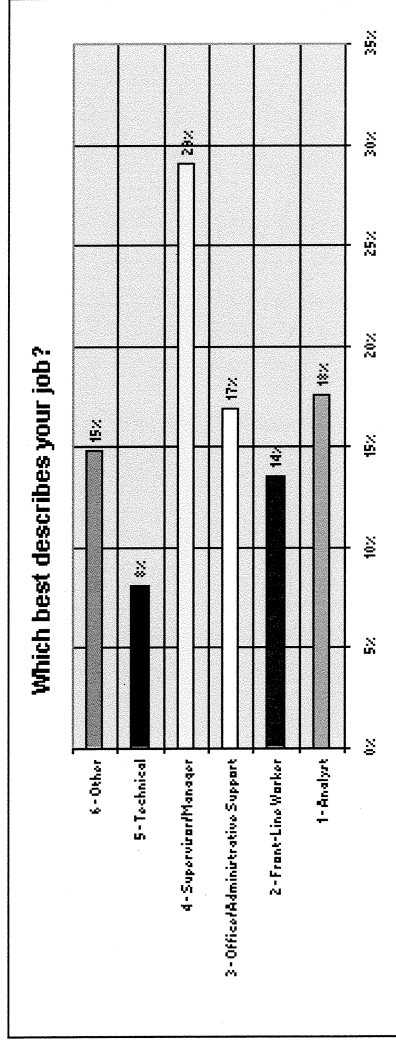
APPENDIX B

1 Please provide your office location. Free form response.

2 What is your program area? Free form response.

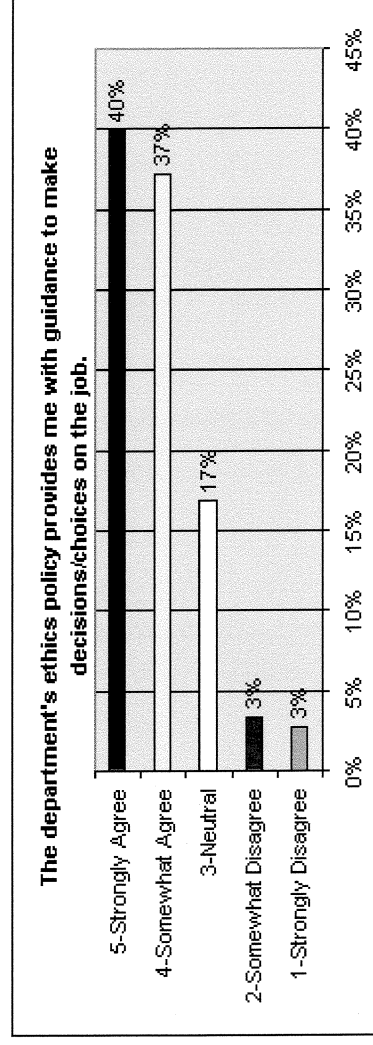
3 Which best describes your job?

Choices	Percent Response	Response Count
1 - Analyst	18%	26
2 - Front-Line Worker	14%	20
3 - Office/Administrative Support	17%	25
4 - Supervisor/Manager	29%	43
5 - Technical	8%	12
6 - Other	15%	22



4 The department's ethics policy provides me with guidance to make decisions/choices on the job.

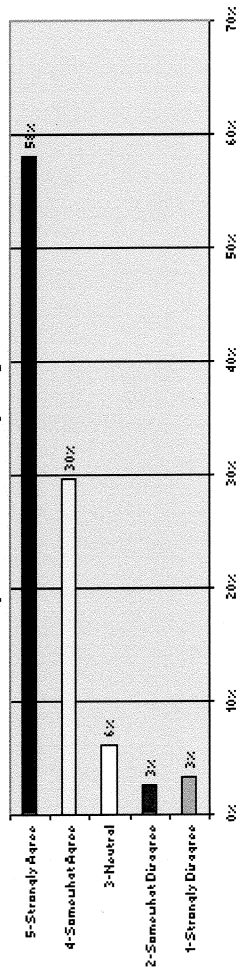
Choices	Percent Response	Response Count
1-Strongly Disagree	3%	4
2-Somewhat Disagree	3%	5
3-Neutral	17%	25
4-Somewhat Agree	37%	55
5-Strongly Agree	40%	59
Positive Total:		77%
Negative Total:		6%



5 I understand the personnel (disciplinary) consequences for violating department ethics policy.

Choices	Percent Response	Response Count
1-Strongly Disagree	3%	5
2-Somewhat Disagree	3%	4
3-Neutral	6%	9
4-Somewhat Agree	30%	44
5-Strongly Agree	58%	86
PositiveTotal:		88%
Negative Total:		6%

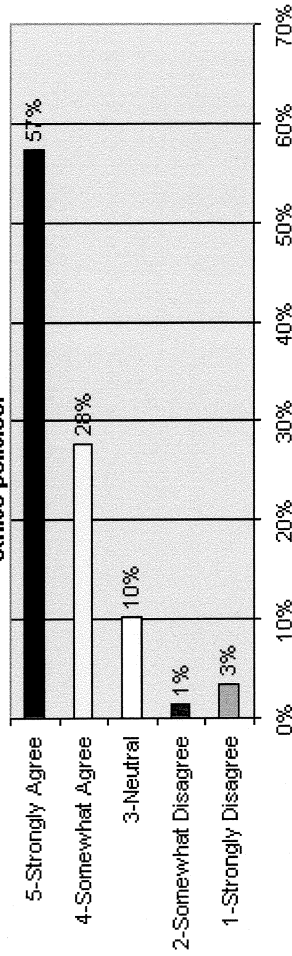
I understand the personnel (disciplinary) consequences for violating department ethics policy.



6 I understand the civil consequences of violating State and department ethics policies.

Choices	Percent Response	Response Count
1-Strongly Disagree	3%	5
2-Somewhat Disagree	1%	2
3-Neutral	10%	15
4-Somewhat Agree	28%	41
5-Strongly Agree	57%	85
PositiveTotal:		85%
Negative Total:		5%

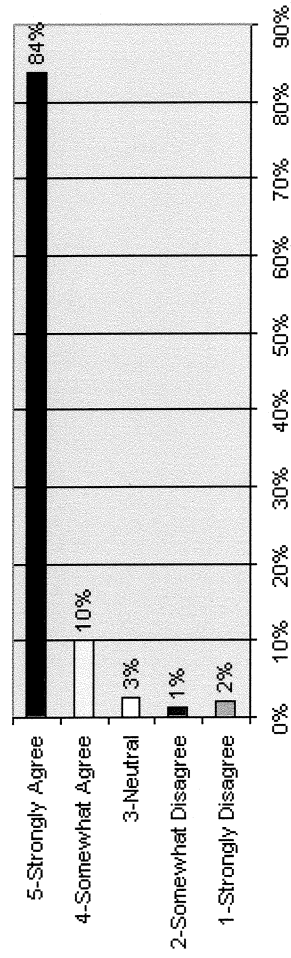
I understand the civil consequences of violating State and department ethics policies.



7 I understand there are criminal consequences for violating the law, specifically: Falsification of Records/Visits and Breach of Confidential Information.

Choices	Percent Response	Response Count
1-Strongly Disagree	2%	3
2-Somewhat Disagree	1%	2
3-Neutral	3%	4
4-Somewhat Agree	10%	15
5-Strongly Agree	84%	124
Positive Total:		94%
Negative Total:		3%

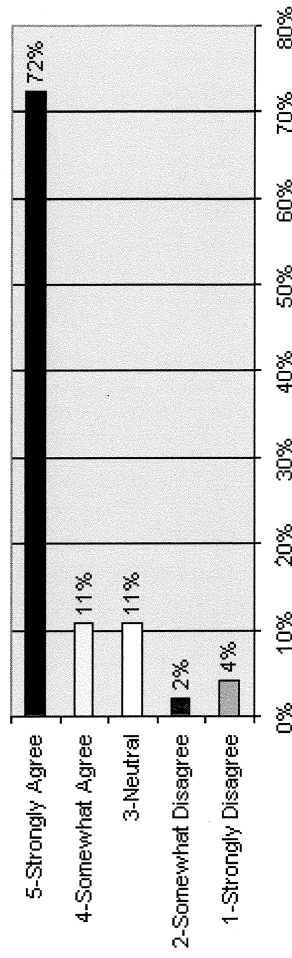
I understand there are criminal consequences for violating the law, specifically: Falsification of Records/Visits and Breach of Confidential Information.



8 Legal/ethical conduct is demonstrated and reinforced in my work unit.

Choices	Percent Response	Response Count
1-Strongly Disagree	4%	6
2-Somewhat Disagree	2%	3
3-Neutral	11%	16
4-Somewhat Agree	11%	16
5-Strongly Agree	72%	107
Positive Total:		83%
Negative Total:		6%

Legal/ethical conduct is demonstrated and reinforced in my work unit.



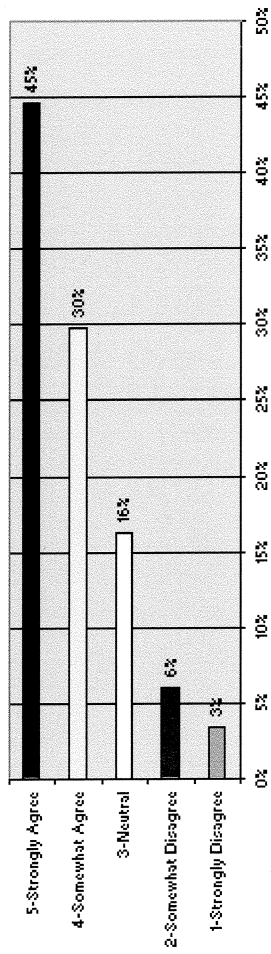
9 Department leaders effectively communicate and demonstrate the ethical attitudes and behavior expected of all employees.

Choices	Percent Response	Response Count
1-Strongly Disagree	3%	5
2-Somewhat Disagree	6%	9
3-Neutral	16%	24
4-Somewhat Agree	30%	44
5-Strongly Agree	45%	66
Positive Total:		74%
Negative Total:		9%

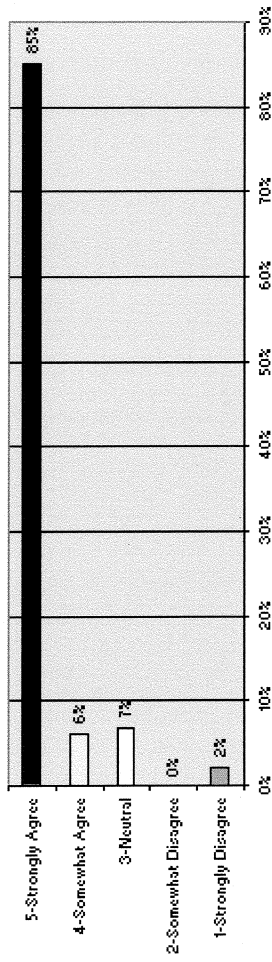
10 There is an expectation from my supervisor that I will use department ethical guidelines in all aspects of my job.

Choices	Percent Response	Response Count
1-Strongly Disagree	2%	3
2-Somewhat Disagree	0%	0
3-Neutral	7%	10
4-Somewhat Agree	6%	9
5-Strongly Agree	85%	126
Positive Total:		91%
Negative Total:		2%

Department leaders effectively communicate and demonstrate the ethical attitudes and behavior expected of all employees.



There is an expectation from my supervisor that I will use department ethical guidelines in all aspects of my job.



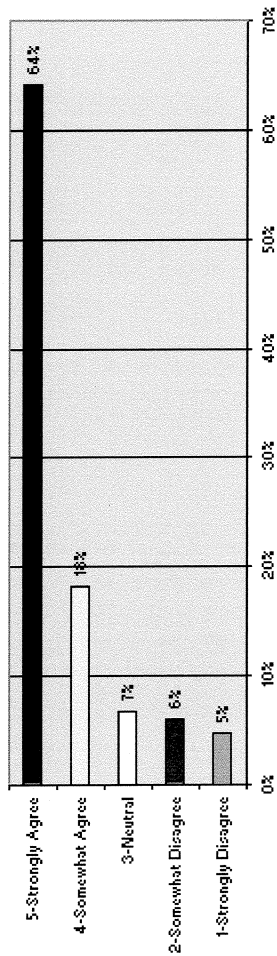
11 I feel comfortable approaching my supervisor or other management within the department to raise ethics questions.

Choices	Percent Response	Response Count
1-Strongly Disagree	5%	7
2-Somewhat Disagree	6%	9
3-Neutral	7%	10
4-Somewhat Agree	18%	27
5-Strongly Agree	64%	95
PositiveTotal:		82%
Negative Total:		11%

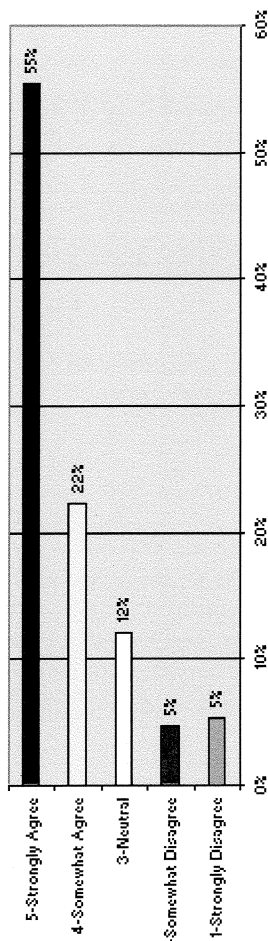
12 Other than my supervisor, I am aware of others within the department that I can turn to for guidance when facing unique ethics situations.

Choices	Percent Response	Response Count
1-Strongly Disagree	5%	8
2-Somewhat Disagree	5%	7
3-Neutral	12%	18
4-Somewhat Agree	22%	33
5-Strongly Agree	55%	82
PositiveTotal:		78%
Negative Total:		10%

I feel comfortable approaching my supervisor or other management within the department to raise ethics questions.



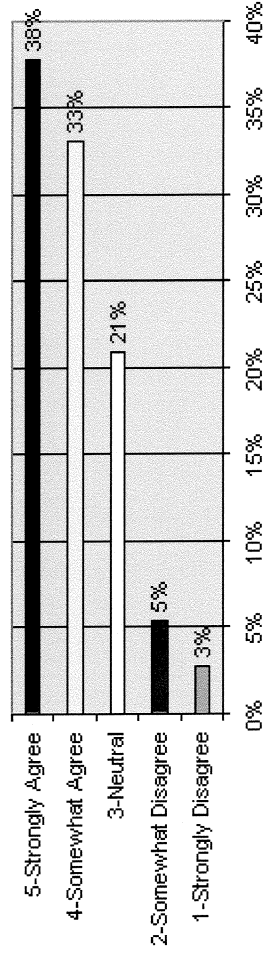
Other than my supervisor, I am aware of others within the department that I can turn to for guidance when facing unique ethics situations.



13 The ethics trainings that I have received in the past have been helpful in making decisions.

Choices	Percent Response	Response Count
1-Strongly Disagree	3%	4
2-Somewhat Disagree	5%	8
3-Neutral	21%	31
4-Somewhat Agree	33%	49
5-Strongly Agree	38%	56
Positive Total:		71%
Negative Total:		8%

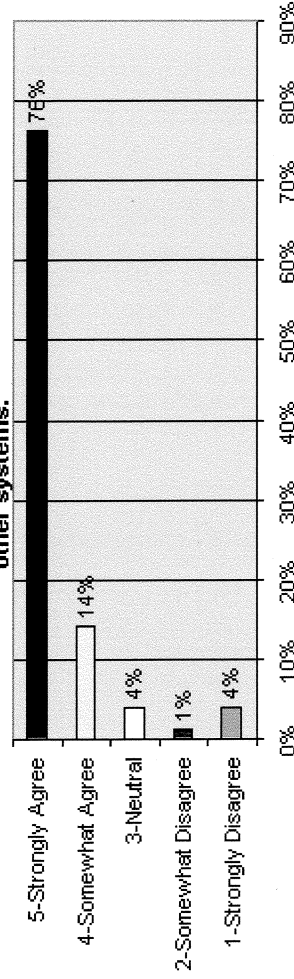
The ethics trainings that I have received in the past have been helpful in making decisions.



14 I understand the security requirements associated with accessing confidential data through computer related resources, such as CIRT's or other systems.

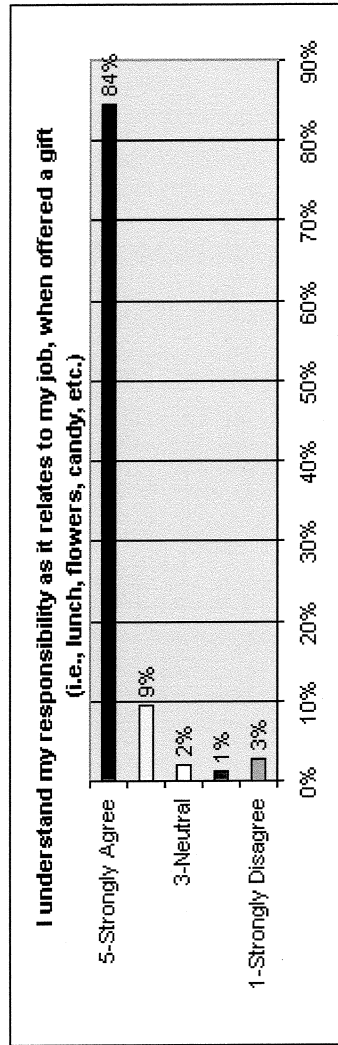
Choices	Percent Response	Response Count
1-Strongly Disagree	4%	6
2-Somewhat Disagree	1%	2
3-Neutral	4%	6
4-Somewhat Agree	14%	21
5-Strongly Agree	76%	113
Positive Total:		91%
Negative Total:		5%

I understand the security requirements associated with accessing confidential data through computer related resources, such as CIRT's or other systems.



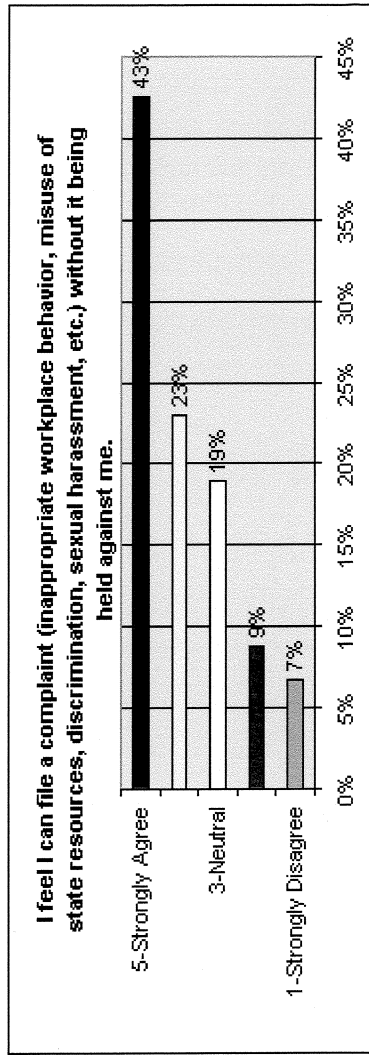
15 I understand my responsibility as it relates to my job,
when offered a gift (i.e., lunch, flowers, candy, etc.)

Choices	Percent Response	Count
1-Strongly Disagree	3%	4
2-Somewhat Disagree	1%	2
3-Neutral	2%	3
4-Somewhat Agree	9%	14
5-Strongly Agree	84%	125
PositiveTotal:		94%
Negative Total:		4%



16 I feel I can file a complaint (inappropriate workplace
behavior, misuse of state resources, discrimination,
sexual harassment, etc.) without it being held against
me.

Choices	Percent Response	Count
1-Strongly Disagree	7%	10
2-Somewhat Disagree	9%	13
3-Neutral	19%	28
4-Somewhat Agree	23%	34
5-Strongly Agree	43%	63
PositiveTotal:		66%
Negative Total:		16%



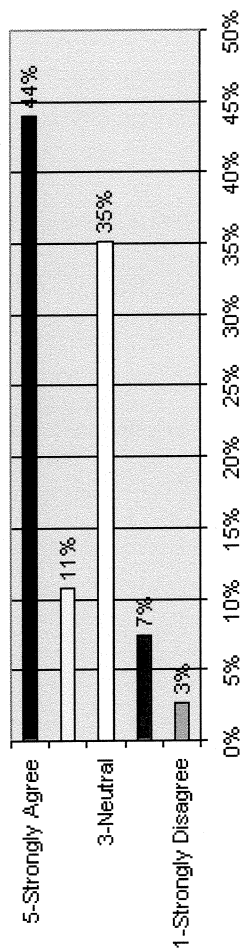
17 People in my work unit who identify problems or concerns have NOT been treated poorly.

Choices	Percent Response	Response Count
1-Strongly Disagree	3%	4
2-Somewhat Disagree	7%	11
3-Neutral	35%	52
4-Somewhat Agree	11%	16
5-Strongly Agree	44%	65
Positive Total:		55%
Negative Total:		10%

18 Comments

Free form response.

People in my work unit who identify problems or concerns have NOT been treated poorly.



Florida Department of Elder Affairs
Office of Inspector General
Audit Response for DOEA Ethics Audit
#06-07-A-002

INSTRUCTIONS: WRITE YOUR RESPONSE ONLY IN THE HIGHLIGHTED AREAS.

Finding #	1.
Finding Title	Effective communication of the department's ethics standards, policies and procedures can be improved.
Status Date	June 2008
Report Date	June 2008
Contact Person	Carol Carr, Division Director
Program/Unit	Internal & External Affairs
Phone Number	414-2011
Anticipated Completion Date	Third quarter 2008
Recommendation	We <u>recommend</u> the department develop and implement an annual training program for all employees on ethics standards and procedures. This strengthens conformity with Executive Order 07-01 and improves employees' understanding of the complaint process for any ethical transgressions noted. Training can be in a classroom environment or via Web-based programs for geographically dispersed locations.
Program Response	We have reviewed the availability of existing commercial training and find that it does not address the specific requirements of the revised DOEA Code of Ethics. We will work with the agency Chief Ethics Officer to develop a web-based training program for use by our employees.

Florida Department of Elder Affairs
Office of Inspector General
Audit Response for DOEA Ethics Audit
#06-07-A-002

INSTRUCTIONS: WRITE YOUR RESPONSE ONLY IN THE HIGHLIGHTED AREAS.

Finding #	2.
Finding Title	The notification process, upon completion of employees' background checks, needs improvement.
Status Date	June 2008
Report Date	June 2008
Contact Person	Carol Carr, Division Director/ Fran Brooks, Bureau Chief
Program/Unit	Internal & External Affairs/ General Services and Human Resources
Phone Number	414-2011/ 414-2046
Anticipated Completion Date	June 2008
Recommendation	We <u>recommend</u> hiring supervisors be e-mailed once background checks are completed to conform with the Department's Criminal History Background Check Policy #550.20.
Program Response	We concur with this recommendation. The assistant to the Director of Internal & External affairs or her backup will e-mail the appropriate hiring supervisor and division director once the background check has been completed. The e-mail will advise that the background check is complete and provide a name and number of the contact the supervisor may call to obtain the results.

Florida Department of Elder Affairs
Office of Inspector General
Audit Response for DOEA Ethics Audit
#06-07-A-002

INSTRUCTIONS: WRITE YOUR RESPONSE ONLY IN THE HIGHLIGHTED AREAS.

Finding #	3.
Finding Title	Technical corrections are needed for the department's ethics policies and procedures.
Status Date	June 2008
Report Date	June 2008
Contact Person	Terry Walsh
Program/Unit	General Counsel
Phone Number	414-2074
Anticipated Completion Date	July 2008
Recommendation	We <u>recommend</u> the department review and update its Code of Ethics #550.30 with the technical corrections previously mentioned in the finding along with any other necessary corrections.
Program Response	The Chief Ethics Officer has reviewed and revised DOEA's existing Code of Ethics to make the corrections noted and to include changes to it associated with v.3 of the Code of Ethics issued by the Executive Office of the Governor.