

FLORIDA DEPARTMENT OF EDUCATION



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Commissioner of Education



May 9, 2011

Dr. Eric J. Smith
Commissioner of Education
325 West Gaines Street, Suite 1514
Tallahassee, Florida 32399-0400

Dear Commissioner Smith:

We have completed our audit of organization ethics and have attached a copy of the report for your information. Management's response is included with the report.

Our audit found that the Department's ethical environment can be strengthened through the following actions:

- Completing the implementation of revisions to existing ethics related policies in response to *Executive Order 11-03*.
- Complying with annual training for employees as stated in the Department's *Code of Ethics* policy.
- Consider implementing the following best practices: include the chief ethics officer designation and role in the applicable position description; better communicate to employees a method to confidentially report concerns; and further emphasize the sanctions for ethical violations in future training.

Greater detail of these issues is included in the report which was presented to the chief ethics officer to help guide future improvement efforts.

Sincerely,

A handwritten signature in cursive script that reads "Ed W. Jordan".

Ed W. Jordan

Attachment

ED W. JORDAN, CIG, CIA, CFE
INSPECTOR GENERAL

325 W. GAINES STREET, SUITE 1201 • TALLAHASSEE, FL 32399-0400 • (850) 245-0403 • www.fldoe.org

Copy to: Lois Tepper
Linda Champion
Office of the Auditor General
Office of Chief Inspector General
Office of Program Policy Analysis and Government Accountability



FLORIDA DEPARTMENT OF EDUCATION

Office of Inspector General



May 2011

Report No. 10/11-06A

Enterprise Ethics Audit: Florida Department of Education

Overview

The Office of Inspector General (OIG), Florida Department of Education (Department) has participated in an enterprise ethics audit coordinated by the Governor's Chief Inspector General in response to *Executive Order 11-03* and the revised *Code of Ethics*. The *Executive Order* and revised *Code* apply to all executive agencies under the purview of the Governor. The Department is under the purview of the State Board of Education, who would need to adopt any revised policy before implementation. We have elected to review our ethics environment in an effort to comply with the Governor's policy. The OIG identified two areas needing improvement and three best practices to consider.



We recommend the Department:

- Complete the implementation of revisions to existing ethics related policies in response to *Executive Order 11-03*.
- Comply with annual training for employees as stated in the Department's *Code of Ethics* policy.
- Consider implementing the following best practices: include the chief ethics officer designation and role in the applicable position description; better communicate to employees a method to confidentially report concerns; and further emphasize the sanctions for ethical violations in future training.

Background

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 2011 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."

In January 1999, Governor Jeb Bush issued *Executive Order 99-20*, directing the Executive Office of the Governor/Lieutenant Governor to provide training on ethics to each executive agency head. It was the desire of the Governor that such agencies will, thereafter, arrange for similar ethics training to all employees on an annual basis. Another stipulation of the *Order* declared that each executive agency shall designate an Ethics Officer to undertake appropriate measures to ensure that the employees responsible for adhering to the *Code of Ethics* become familiar with all relevant ethics requirements. In January 2007, Governor Charlie Crist issued *Executive Order 07-01*, which

also directed immediate adoption and implementation of a *Governor's Office Code of Ethics* and a *Code of Personal Responsibility*. *Executive Order 07-01* both reinforced and built upon sections of *Executive Order 99-20*.

In January 2011, Governor Scott issued *Executive Order 11-03*, directing the immediate adoption and implementation of a revised *Code of Ethics (Code)* by the Office of the Governor. 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 that the employees responsible for adhering to this *Code* become familiar with relevant ethics, public records and open meeting requirements. Each agency was directed to implement any agency-specific adjustments to the *Code* within 45 days of the date of the order. This *Code of Ethics* imposes more stringent requirements than the *Code* it revises.

The Governor's Chief Inspector General has called on all inspectors general to come together to conduct an enterprise wide evaluation of each agency's ethical climate. Over 20 state agencies have participated in this audit. Each team will provide a report to their agency head. The Chief Inspector General will provide a roll-up report to the Governor based on findings and recommendations listed in the agency reports.

Audit Results

On March 8, 2011, an ethics climate survey was distributed to 2,723 individuals with a Department

(fldoe.org) email address. This included approximately 300 contracted or other personnel who are not Department employees and approximately 150 Other Personal Services (OPS) employees. A breakdown of respondent position type is included in Appendix A. The survey response rate was approximately 41%. The survey asked employees to rate their view of the ethical behavior of senior management, supervisors, and coworkers, as well as rate ethics related training and policies. Overall employee opinion on ethical behavior was highly positive as shown in Table A below.

In addition to the enterprise climate survey questions, employees were asked if they personally knew of any unethical behavior or fraud in the agency. Approximately 13% of respondents answered yes.

An enterprise ethics compliance questionnaire was completed as part of the inter-agency audit. The compliance questionnaire helped identify areas of compliance, two areas needing improvement and three potential best practices to consider for the Department. The following are examples of Department compliance:

- The Department designated a chief ethics officer.
- The Department distributed an email to all staff encouraging the review and adherence to the revised *Code* and discussed revisions to *Section IV. Current Statutory Code of Ethics*.
- The chief ethics officer provided an ethics briefing discussing the revised *Code* to senior Department management on March 7, 2011.

Table A

Question	Positive Response*	Negative Response*	No Opinion*
My agency's senior management models and promotes ethical behavior.	83%	9%	7%
My supervisor models and promotes ethical behavior.	90%	6%	3%
My coworkers model and promote ethical behavior.	90%	6%	3%
I have been adequately trained by my agency to know what constitutes ethical and unethical behavior.	72%	16%	10%
My agency's ethical guidance, including code of conduct, policy and/or other guidelines, is clear and comprehensive.	77%	5%	16%

Source: Climate survey results supplied on 3/23/11, compiled by the Florida Department of Transportation using Survey Monkey. *Percentages listed may not total 100% due to skipped questions. Additional survey results, including response rates, are available in Appendix A.

Areas Needing Improvement

1. The Department has not fully implemented adjustments to existing policies as directed in *Executive Order 11-03*.

Executive Order 11-03 calls for several actions to be taken by agencies under the purview of the Governor, including the review of current policies in light of the revised *Code*. The ethics officer informed the OIG that the Department has reviewed *The Executive Order* and the *Code* in an effort to identify any differences from current policy. We also were informed that plans have been made to make the Department's ethics policies consistent with the revised *Code*.

Section 1. of the *Order* directs agencies to implement agency specific adjustments to existing policies by February 18, 2011. The Department is preparing an updated on-line version of its *Code of Ethics*, but has not yet fully implemented changes due in part to obligations associated with the Legislative Session and the absence of a full State Board of Education to adopt the new *Code of Ethics*.

The Association of Certified Fraud Examiners (ACFE) article titled *Tone at the Top: How Management Can Prevent Fraud in the Workplace* recommends that management communicate to employees what is expected of them in an effort to set the right tone. Current policies are crucial in conveying what is expected of employees. We recommend the Department:

- Complete the implementation of revisions to the ethics related policies in a timely manner.

2. The Department has not provided annual training to employees as directed in its *Code of Ethics* policy.

The Department revised its *Code of Ethics* policy effective July 1, 2007. The policy directs the chief ethics officer to "ensure that the Department provides annual training for officers and employees" on subjects mirrored in the revised *Code*. Currently, the Department provides new employee orientation, including information on ethics and sexual harassment. The Division of Vocational Rehabilitation and the Division of Blind

Services have provided ethics related training to their staff, but annual training is not currently provided on a Department-wide basis. Approximately 34% of the climate survey respondents stated they received ethics training within the last year.

Policies and procedures connect management's vision to the agency's day to day operations. To help ensure that policies are understood by all employees, we recommend the Department:

- Provide annual training in compliance with the *Department Code of Ethics* policy.

Best Practices to Consider

The United States Government Accountability Office (GAO) issued an *Internal Control Management and Evaluation Tool* in August 2001 to assist in determining how well an agency's internal control is designed and functioning. In a commitment to competence, the *GAO Evaluation Tool* directs management to identify and define the tasks required to fill a position/role. This may be accomplished with formal position descriptions defining tasks required for a role. The position description should be up-to-date and clearly communicated to the employee. Department employees receive a position description; however, the chief ethics officer role was not defined in their position description.

We recommend the Department:

- Include the chief ethics officer designation and role, to include defined tasks, in the applicable position description.

The climate survey distributed to Department employees provided the opportunity for comments. Approximately 130 comments were provided, including 13 concerns with reporting anonymity or retaliation; 13 concerns with favoritism, including the hiring process; and 23 concerns with actions by management. Seventy-nine percent (79%) of respondents indicated that they know how to report suspected unethical behavior and fraud within the agency; however, only 57% of respondents agreed/strongly agreed that unethical conduct is appropriately handled by management. The *ACFE's Tone at the Top* lists important steps to

take to communicate the message of responsibility and accountability to employees. This list includes implementing a confidential hotline, establishing a whistleblower policy, and implementing effective disciplinary measures.

We recommend the Department:

- In addition to the current website, communicate to employees on a periodic basis a method to confidentially report suspected fraud and/or unethical behavior, while informing employees of their rights under *Florida's Whistle Blower Act*.
- Further emphasize the sanctions for ethical violations in future training.

Objectives and Scope

The objectives of this audit were to evaluate the agency's implementation of the *Office of Governor's Executive Order Number 11-03, Ethics and Open Government*; and evaluate the design and effectiveness of agency ethics-related objectives, guidance, and activities in order to identify areas of potential weakness and best practices that could be shared among all State agencies.

The audit scope focused on current Department policies and procedures, the current ethical climate of employees, and recent actions taken by the Department pertaining to ethics and open government.

Methodology

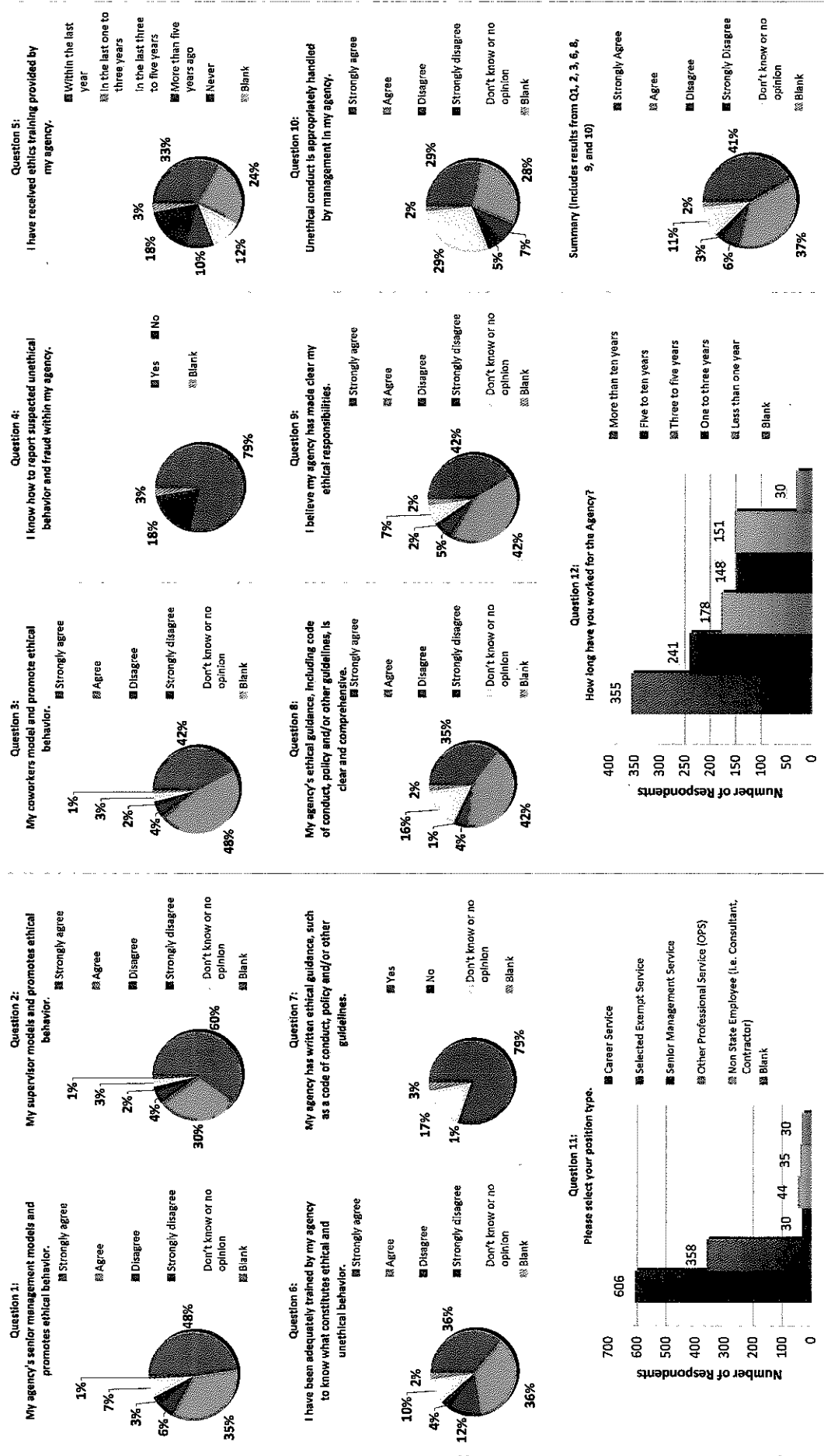
This audit was conducted in accordance with *The International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditing. The audit team achieved these standards by:

- Researching applicable statutes, rules, policies and procedures, executive orders, and judicial reports.
- Completing an ethics related compliance questionnaire.
- Conducting an ethical climate survey of Department employees.
- Meeting and working with key Department staff.

Closing Comments

The OIG would like to recognize and acknowledge Department management and staff for their assistance during the course of this audit. The fieldwork and audit results relied on participation from Department employees.

Ethical Climate Survey Results - DOE - 1,103 Respondents



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Dr. Eric J. Smith
Commissioner of Education



Received
5/6/11

MAY 5 2011

Office of the General Counsel
Advisory Commission

MEMORANDUM

TO: Ed Jordan, Inspector General

FROM: Linda Champion, Deputy Commissioner
Lois S. Tepper, Interim General Counsel *let jsc*

RE: Audit of Organizational Ethics
(OIG 10/11-06A)

DATE: May 5, 2011

Response to Audit of Organizational Ethics

Finding One:

The Department of Education has not been directed to comply with Executive Order 11-03 by the State Board of Education, nor has the State Board of Education adopted any adjustments to the existing Code of Ethics to make it consistent with the new Code of Ethics contained in the Executive Order. The implementation of revisions is being done in a timely manner respectful of the desire to have a new Code of Ethics approved by a full State Board of Education. When all Board members have been appointed, the Code of Ethics will be presented for their approval and the Department will continue with implementation.

Finding Two:

The Department has provided ethics training to the Commissioner's Direct Reports on an annual basis in keeping with the Code of Ethics. The Department is in the process of creating computer-based training for Ethics and Open Government which will be available in the summer of 2011, and be required of all employees on an annual basis.

OFFICE OF THE GENERAL COUNSEL

Memorandum to Ed Jordan, Inspector General
May 5, 2011
Page Two

Best Practices:

The General Counsel of the Department has served as the Chief Ethics Officer for many years; however, the position description of the General Counsel has now been amended to include these duties.

The computer-based training to be required of all Department employees will include the method for confidentially reporting suspected fraud or unethical behavior and will identify the sanctions for ethical violations. This training will include informing employees of their rights under *Florida's Whistle Blower Act*.