



**POLICY: 6Hx28: 1-10**

Responsible Official: Vice President, Policy and General Counsel, and Internal Auditor

Specific Authority: 1001.61, 1001.65, and 1004.70, F.S.

Law Implemented: 112.311 et seq., F.S.

Effective Date: 06-16-2009

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## **Policy Against Improper Activities; Whistleblower Protection**

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**Policy:**

- I. Members of the District Board of Trustees and College employees shall be governed at all times by the applicable provisions of the Code Of Ethics For Public Officers And Employees (ss. 112.311-112.326, F.S.), as may be amended from time to time, with regard to matters including:
  - A. Solicitation or acceptance of gifts
  - B. Doing business with one's agency
  - C. Unauthorized compensation
  - D. Misuse of public position
  - E. Conflicting employment or contractual relationship
  - F. Disclosure or use of certain information
  - G. Voting conflicts.
  - H. Filing statements of financial interests
- II. Members of the District Board of Trustees and College employees shall be governed at all times by the applicable provisions of the Florida Government in the Sunshine Law, Section 286.011,

Florida Statutes, and the Public Records Act, Chapter 119, Florida Statutes, and related statutes and rules, all as may be amended from time to time.

- III. Valencia College, under the governance of its District Board of Trustees, is committed to the highest standards of moral and ethical behavior. Breaches of these standards, through acts of gross mismanagement, malfeasance, misfeasance, gross waste of public funds or gross neglect of duty by the College, its employees or independent contractors, or through any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by the College, its employees or independent contractors which creates and presents a substantial and specific danger to the public's health, safety, or welfare (Improper Activities), are not only costly, but tend to erode the public's trust and confidence in the integrity of the College. By issuing this formal policy statement, the College hereby reaffirms its duty and responsibility to aggressively combat such conduct and performance.
- IV. This policy is intended to (1) communicate clearly that Improper Activities are strictly prohibited, unacceptable, and will not be tolerated (2) institute preventive measures designed to deter these activities or make them easier to detect and stop, and (3) provide for the reporting and investigation of such activities, including providing protection to persons who report violations.
- V. It is the policy of Valencia College to ensure that employees who have knowledge of Improper Activities or suspected Improper Activities shall report such knowledge to the appropriate authority for investigation and corrective action. In order to encourage reporting of such information without fear of reprisal, it shall be the policy of the College to prohibit and redress adverse personnel action taken against employees for making such a protected disclosure. An employee who, in good faith, reports wrongful activity meeting the provisions of Section 112.3187, Florida Statutes (Whistleblower's Act), is protected against adverse personnel actions (Retaliation) for making such a report. The law also provides for the reporting individual's identity to remain confidential, unless the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.
- VI. Internal Controls: Responsibility for Detection, Reporting and Prevention College employees at all levels of management shall set the appropriate tone by displaying the proper attitude toward complying with laws, rules and regulations. Supervisors are also responsible for establishing and maintaining proper internal controls that will provide for the security and accountability of the resources entrusted to them. Such controls include, but are not limited to, ensuring that (1) incompatible duties are properly separated, (2) financial transactions are properly authorized and approved, (3) reports of financial activity are periodically reviewed for completeness and accuracy, (4) official personnel actions (ex: appointments, terminations, promotions) and employee time and leave is properly authorized and approved, (5) assets are physically secured, (6) computer passwords are protected and not shared, (7) confidential and sensitive information is protected from unauthorized access, and (8) employees are effectively supervised. In addition, employees shall be cognizant of the risks and exposures inherent in their area of responsibility, take appropriate steps to help mitigate those risks and be aware of the related symptoms of

Improper Activities. Employees shall be alert to the possibilities of Improper Activities and for any indication that Improper Activities are taking place.

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**Procedure:**

**I. Reporting Improper Activities**

- A. Any person may report Improper Activities or suspected Improper Activities. Improper Activities are defined as acts of gross mismanagement, malfeasance, misfeasance, gross waste of public funds or gross neglect of duty by the College, its employees or independent contractors, or any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by the College, its employees or independent contractors which creates and presents a substantial and specific danger to the public's health, safety, or welfare.
- B. Allegations of Improper Activities may be reported anonymously. Any College employee who has knowledge of Improper Activities by the College, its trustees, employees or independent contractors shall report such knowledge to the College. The employee is not responsible for investigating the activity or for determining fault or corrective measures; appropriate College officials are charged with these responsibilities.
- C. Improper Activities generally involve a willful or deliberate act or omission with the intention of obtaining an unauthorized benefit, service, property or something of value by deception, misrepresentation or other unethical or unlawful means. Improper Activities may occur through many methods, including mail, wire, telephone and the internet. Improper Activities may include, but are not limited to:
  - 1. Forgery or unauthorized alteration of documents or computer records;
  - 2. Falsification or misrepresentation of reports to management and external agencies, including time sheets, official travel claims for reimbursement and/or other expense reimbursement reports;
  - 3. Authorizing or receiving payment for time not worked (e.g., for non-exempt employees);
  - 4. Misappropriation of funds, securities, supplies or other assets;
  - 5. Impropriety in handling or reporting of money or financial transactions;
  - 6. Engaging in unauthorized activities that result in a conflict of interest;
  - 7. Disclosing confidential or proprietary information to unauthorized individuals;

8. Removal of College property, records or other assets from College premises without supervisory approval;
9. Unauthorized use or destruction of College property, records or other College assets;
10. Taking information and using it in an unauthorized manner or facilitating identity theft; and
11. Knowingly making false allegations of Improper Activities.

- D. Normally, a report by a College employee of allegations of Improper Activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit. However, when there is a potential conflict of interest or for other reasons, such reports may be made to another College official whom the reporting employee may reasonably expect to have either responsibility over the affected area or the authority to review the alleged Improper Activity on behalf of the College.
- E. All supervisors who receive such reports should immediately report them to the Office of Organizational Development and Human Resources and the Internal Auditor, who in consultation with the supervisor and the appropriate Vice President and/or Campus President, or designees, will monitor and may participate in any resulting investigation. In all cases, the reporting employee shall not discuss the matter with anyone other than the person or office to whom the Improper Activity was reported.
- F. When the alleged Improper Activity involves the President or a Vice President, such reports should be made to the Internal Auditor. The office of the Internal Auditor may be contacted at [InternalAudit@valenciacollege.edu](mailto:InternalAudit@valenciacollege.edu), or by telephone at 407-582-5557.
- G. Employees who knowingly make false allegations of Improper Activities may be subject to disciplinary action up to and including dismissal. It is important to note that allegations of Improper Activities that are investigated and deemed unsubstantiated are not necessarily indicative of false allegations.

## II. Investigations

- A. Upon review of allegations of Improper Activities, if it is determined that an investigation is warranted, the Office of Organizational Development and Human Resources and the Internal Auditor may participate in or monitor the investigation of the reported Improper Activity in consultation with other administrators, as appropriate. In those instances where the investigation indicates criminal activity, the investigation shall immediately be turned over to the appropriate law enforcement authorities.
- B. All employees are to cooperate fully with those performing an investigation pursuant to this policy/procedure. An employee who does not fully cooperate with an authorized investigation may be disciplined, up to and including termination of employment. An

employee may be required to answer any questions that are within the scope of the employee's employment.

- C. The investigation shall be completed expeditiously and in accordance with established procedures. The results of the investigation conducted shall be communicated in writing, to the Internal Auditor, the College President or appropriate Vice President or other administrator.
- D. Allegations or matters of conduct deemed outside the scope of this policy, such as harassment, discrimination, supervisory or other personnel-related issues, may be referred to the respective area of management or the Office of Organizational Development and Human Resources for review and appropriate action.
- E. Following the receipt of the results of an investigation, which written communication will identify the designated Appeals Officer (an Executive Officer of the College) for the matter, the Accused may seek to have a "cause" finding reviewed or the Complainant may seek to have a "no cause" finding reviewed with the Appeals Officer. An appeal is secured by filing a written request with the designated Appeals Officer within ten (10) calendar days of receipt of the results. Upon acceptance of an appeal, the Appeals Officer shall notify all relevant parties, including but not limited to the Internal Auditor and the Vice President of Organizational Development and Human Resources.
- F. The Appeals Officer shall review the results of the investigation for the sole purpose of determining whether College policy was followed in making a final determination, including whether appropriate processes were followed in conducting the investigation. The issues raised on appeal shall be limited to those raised in the original investigation, and issues not previously raised, or new issues that could have been raised but were not, are precluded on appeal. Should the Appeals Officer determine that additional facts are needed, he or she shall inform the Internal Auditor.
- G. The Appeals Officer shall complete the review expeditiously and provide a written decision to all parties who were advised of the results of the investigation. The written decision may either confirm or reject the results of the original investigation. The decision by the Appeals Officer shall be final and after his or her decision is issued, the matter shall be closed. Should no appeal be taken upon expiration of the appeal period identified herein, the matter shall be deemed final and closed.

### **III. Actions**

- A. Employees determined to have participated in Improper Activities will be subject to disciplinary action in accordance with College policies and procedures. In those instances where disciplinary and/or other administrative action is warranted, the College's Office of Organizational Development and Human Resources, or other appropriate office, shall be consulted prior to the taking of such actions.

- B. Criminal, civil and/or other administrative actions may also be taken against these employees. Criminal action falls within the sole purview of local, state or federal law enforcement, and prosecuting and judicial authorities.

#### IV. Whistleblower Protection Procedures

- A. Pursuant to the provisions of Sec. 112.3187, F.S., any employee who believes he or she has been subjected to an adverse personnel action for (1) reporting Improper Activity, or (2) for refusing to engage in Improper Activity that would result in a violation of law ("Retaliation" or "Retaliatory Conduct"), should report such conduct, in a written and signed complaint, within sixty (60) days of its occurrence, to the appropriate supervisory personnel (if such supervisory personnel is not the source of or otherwise involved in the retaliatory conduct).
- B. Any supervisory employee who receives such a report of Retaliation, or who otherwise is aware of such prohibited Retaliatory Conduct, is required to advise the Internal Auditor and other appropriate College personnel of any such report or knowledge of Retaliatory Conduct. The supervisor will coordinate the investigation.
- C. If the employee believes that reporting such Retaliatory Conduct to the appropriate supervisor is for any reason inappropriate, unacceptable or will be ineffectual, or if the report to the supervisor has been made and the Retaliatory Conduct has not ended, the employee shall report the Retaliatory Conduct directly to the Internal Auditor, who will coordinate the investigation.
- D. All Internal complaints of Retaliation will be investigated promptly and with discretion, and all information obtained will be handled on a "need to know" basis. At the conclusion of an investigation, the results of the investigation shall be communicated, in writing, to the Internal Auditor.
- E. Following the receipt of the results of an investigation, which written communication will identify the designated Appeals Officer (an Executive Office of the College) for the matter, the Accused may seek to have a "cause" finding reviewed or the Complainant may seek to have a "no cause" finding reviewed by the Appeals Officer. An appeal is secured by filing a written request with the designated Appeals Officer within ten (10) calendar days of receipt of the results. Upon acceptance of an appeal, the Appeals Officer shall notify all relevant parties, including but not limited to the Internal Auditor and the Vice President of Human Resources.
- F. The Appeals Officer shall review the results of the investigation for the sole purpose of determining whether College policy was followed in making a final determination, including whether appropriate processes were followed in conducting the investigation. The issues raised on appeal shall be limited to those raised in the original investigation, and issues not previously raised, or new issues that could have been raised but were not, are precluded on appeal. Should the Appeals Officer determine that additional facts are needed, he or she shall inform the Internal Auditor.

- G. The Appeals Officer shall complete the review expeditiously and provide a written decision to all parties who were advised of the results of the investigation. The written decision may either confirm or reject the results of the original investigation. The decision by the Appeals Officer shall be final and after his or her decision is issued, the matter shall be closed. Should no appeal be taken upon expiration of the appeal period identified herein, the matter shall be deemed final and closed.
- H. At the conclusion of an investigation, as appropriate, remedial and/or disciplinary action will be taken where the allegations of Retaliatory Conduct are verified and/or otherwise substantiated.
- I. The provisions of these procedures with respect to whistleblower protection procedures shall protect employees who disclose information on their own initiative in a written and signed complaint, who are requested to participate in an investigation, hearing, or other inquiry conducted by the College, any state agency or federal government entity; or who refuse to participate in any adverse personnel action prohibited by this section; or who file a written and signed complaint with their supervisor or to the Internal Auditor. The provisions of these procedures with respect to whistleblower protection procedures shall not be applicable when an employee discloses information known by the employee to be false.

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**Related Items:**

- 2009 Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees
- 2009 Government-in-the-Sunshine Manual
- Section 112.3187, Florida Statutes (Whistleblower's Act)

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**Policy****History:**

Replaced former Policies 6Hx28:01-00, 6Hx28:02-00, 6Hx28:02-01, 6Hx28:02-02, 6Hx28:02-03, 6Hx28:02-05, 6Hx28:04-01 and 6H28:04-02; Adopted 11-20-01; Formerly 6Hx28:01-09; Amended 6-16-09

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Replaced former Policies 6Hx28:01-00, 6Hx28:02-00, 6Hx28:02-01, 6Hx28:02-02, 6Hx28:02-03, 6Hx28:02-05, 6Hx28:04-01 and 6H28:04-02; Adopted 11-20-01; Formerly 6Hx28:01-09; Amended 6-16-09; Amended 3-20-14