

# POLICY AGAINST FRAUDULENT, UNETHICAL, AND OTHER DISHONEST ACTS

Approved: February 1, 2020

Effective: February 1, 2020

Office: Administrative Services

Topic No.: 21-02-015



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## **SPECIFIC AUTHORITY**

ss. 112.311, Florida Statutes, et seq.

## **OBJECTIVE**

To guard against fraudulent, unethical, and dishonest acts (collectively referred to as "bad acts") that compromise the Guardian ad Litem Program (GAL) and list staff and management responsibilities for preventing, detecting, reporting, and investigating such acts.

## **OVERVIEW**

GAL is committed to the highest standards of ethical behavior. Breaches of these standards, especially through bad acts involving fraudulent, unethical, and other dishonest behavior, are not only costly, but they erode the public's trust and confidence in JAG's integrity and competence. By issuing this policy, GAL hereby affirms its duty and responsibility to aggressively combat behaviors that affect the JAG's abilities to perform its duties.

This policy is intended to: (1) communicate a "zero tolerance" for fraudulent, unethical, and other bad acts; (2) institute preventive measures at GAL designed to deter these bad acts as well as make them easier to detect; (3) require all employees to report suspected incidences of fraud, unethical, and other bad acts; and (4) provide for the reporting and investigation of such, including providing protection to employees who report violations.

## **A. DEFINITIONS**

Fraud generally involves 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. Fraud can be committed through many methods, including mail, wire, telephone, and the Internet. Fraudulent, unethical, and other bad acts may include, but are not limited to, the following:

1. Forgery or unauthorized alteration of documents or computer records;
2. Falsification or misrepresentation of information to management, external agencies and entities, including time sheets, claims for travel or other reimbursement.

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3. Failure to report a material fact to management, external agencies and entities that may lead to a wrongful financial gain (e.g., failing to disclose the receipt of an overpayment).
4. Requesting, authorizing or receiving payment for time not worked;
5. Misappropriation of funds, securities, supplies, or other assets;
6. Impropriety in handling or reporting of money or financial transactions;
7. Engaging in unauthorized activities that result in a conflict of interest;
8. Disclosing confidential or proprietary information to unauthorized individuals;
9. Removal of agency property, records, or other assets from the premises without supervisory approval;
10. Unauthorized use or destruction of agency property, records, databases, or other agency assets; and
11. Taking and using information or providing information that could lead to identity theft.

### **B. RESPONSIBILITY FOR DETECTION, REPORTING, AND PREVENTION OF FRAUD AT GAL**

1. Management Responsibility
  - a. Management shall demonstrate the appropriate respect for complying with all laws, rules, and regulations. Management is 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 (e.g., appointments, terminations, promotions) and employee time and leave are 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 trained and supervised. In addition, supervisors 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 fraudulent, unethical, and other dishonest actions.
  - b. Management shall be alert to the possibilities of fraud and any indication that

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unethical or dishonest activity is taking place. Upon receiving a report of an allegation involving fraud, unethical behavior or other bad act, management shall immediately notify the General Counsel. Management shall not investigate the suspected bad act or discuss the matter with anyone other than the person who reported the bad act to them and the appropriate person to whom the bad act is subsequently reported.

### **2. Employee Responsibility**

- a. Employees shall also be alert to the possibilities of fraud and any indication that unethical or other bad act is taking place.
  - b. Any GAL employee, who has a reasonable belief based upon articulable facts that such bad act has occurred or is occurring, shall immediately notify GAL management, specifically his or her supervisor. If the supervisor is a potential participant in the unethical or bad act, the GAL employee shall directly notify the General Counsel. The employee shall NOT investigate the suspected bad act or discuss the matter with anyone other than the person or office to whom the activity was reported.
3. Employees making good faith reports are protected. An employee who, in good faith, reports wrongful activity meeting the provisions of s. 112.3187, Florida Statutes (Whistle-blower's Act), is protected against retaliation for making such a report. The law also provides for the individual's identity to remain confidential. Regardless as to whether the provisions of the Whistle blower's Act are met, it is a violation of this policy for anyone to retaliate against an employee for reporting, in good faith, allegations of wrongdoing, or participating in the investigation of such allegations.
4. Employees knowingly making false reports are not protected. Employees who knowingly make false allegations may be subject to disciplinary action up to and including dismissal. Allegations that are investigated and deemed unsubstantiated are not necessarily indicative of false allegations.

### **C. INVESTIGATION**

Upon receiving and reviewing allegations of fraudulent, unethical, and other bad acts, the General Counsel will determine whether an investigation is warranted. If an investigation is warranted, the General Counsel, will decide whether the GAL should conduct an investigation or whether the matter involves potential criminal acts that must be immediately turned over to one of the following: the Department of Financial Services' Office of Fiscal Integrity, the Florida Department of Law Enforcement, or the State Attorney's Office. Whistle-blower Act investigations will be conducted and reported in accordance with section 112.3189, Florida Statutes.

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## **Administrative Investigation**

If the General Counsel determines the need for an administrative investigation, the Executive Director in consultation with the General Counsel shall appoint an employee within GAL to investigate the reported bad act.

Upon appointment, the Appointee in an expeditious manner shall:

1. Receive and review the allegations of fraudulent, unethical, and other bad acts;
2. Review all relevant documents and evidence;
3. Identify and interview potential witnesses;
4. Interview the GAL staff member alleged to have committed the fraudulent, unethical, and other bad acts; and
5. Analyze all information and prepare a report with findings. At any time during the administrative investigation, if the Appointee suspects that criminal activity has taken place, the Appointee shall consult with the Executive Director and the General Counsel on whether the administrative investigation should be suspended and the matter referred to the proper law enforcement agency.

The results of the investigation conducted by the Appointee shall be communicated in writing, to the Executive Director.

During the administrative investigation, the Constitutional rights of all persons are to be observed. The accused will be afforded the opportunity to respond to the allegations or matters being investigated. The rights of the accused will be safeguarded throughout the investigation.

Pursuant to this policy, all employees are to cooperate fully with those performing an administrative investigation. An employee-witness who does not fully cooperate with an authorized administrative investigation may be disciplined up to and including termination of employment. However, in accordance with the 5th and 14th Amendments of the Constitution of the United States, self-incriminating statements made by an employee-witness may not be used against the employee-witness in any subsequent criminal proceeding.

## **D. ACTIONS**

Employees determined to have participated in fraudulent, unethical, or other bad acts will be subject to disciplinary action in accordance with personnel policies and rules. Employees who fail to report known or suspected fraudulent, unethical, or other bad acts as required by this policy may also be subject to disciplinary action in accordance with personnel policies and rules. Criminal, civil, and/or other administrative actions may also be taken against employees who are found to have participated in unlawful acts. Whether

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a criminal action is pursued falls within the sole purview of local, state, or federal law enforcement, as well as prosecuting and judicial authorities.

### **E. OTHER REPORTING METHODS**

GAL and the State of Florida provide other methods to report possible wrongful activity. These methods are supplemental and the utilization of one or more of the following methods does not excuse an employee from complying with the requirement of this policy to report any knowledge of fraudulent, unethical, or other bad acts to their supervisor or other appropriate person addressed in Section B of this policy.

1. Any method provided by s. 112.3187, Florida Statutes. (Whistle blower's Act).
2. Employees may also report possible wrongful activity anonymously. Methods to make anonymous reports include but are not limited to:
  - Calling the General Counsel's Office at 1-850-922-7213;
  - By mail to the Guardian ad Litem Program, Attention: General Counsel, at PO Box 10628, Tallahassee, FL 32302; or

Note: Anonymous complaints for which no corroboration can be found will be retained by GAL but will not be placed in any employee's personnel file.

I have received, read, and understand the "Policy Against Fraudulent, Unethical, and Other Dishonest Acts."

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Name (PRINT): \_\_\_\_\_

**NOTE: A copy of this acknowledgement will be placed in the employee's personnel file.**