

The Virginia Indigent Defense Commission

Policy and Procedure Committee Meeting
1604 Santa Rosa Road, Suite 200
Richmond, Virginia 23229
February 22, 2018

The meeting was called to order at 11:10am by David Walker. Other Commission members in attendance were Professor Hank Chambers and Jim Hingeley. Committee members not in attendance were Karl Hade and Delegate Chris Collins. Administrative staff included Executive Director, David Johnson; Deputy Director, Maria Jankowski; and Office Manager, Diane Zubke.

With three committee members in attendance quorum requirements have been met.

The first order of business is approval of the agenda and minutes.

Mr. Hingeley made a motion to approve the agenda. Professor Chambers seconded the motion. The motion carried.

Professor Chambers moved to approve the February 26, 2016 meeting minutes. Mr. Hingeley seconded the motion. The motion carried.

The next order of business is the proposed policy changes.

Ms. Jankowski said by statute we are required to review the policies every year but not required to do an overhaul every year. We divide the policies based on subject matter and have the subject matter expert review their sections for any necessary changes. Changes related to each department are reviewed by the director of that department. The whole document is reviewed by the Executive Director and Deputy Director.

We will go through and highlight what is material versus non-material or anything we were required to change at the state level.

Chapter 3 Section 3.5 Workplace Harassment

Second to last paragraph requires employees to report harassment to the Public Defender or Executive Director. The recommendation of staff is to add "or Human Resources Director." This is helpful in the event the complainant is not comfortable going to the boss with an allegation of harassment.

There was discussion regarding the best way to properly word the reporting of and who should report sexual harassment in the policy manual.

Mr. Johnson said Karen Michael will be speaking at our management conference in April and he would feel better answering that question after the conference. If it turns out this is not enough, we do not need to wait a year for the policy committee to meet to make an amendment but can do so in March at the full Commission meeting.

There was discussion regarding how the supervisor is to report sexual harassment.

Mr. Johnson said the supervisor is to bring it to the attention of the Public Defender, Human Resources Director, or the Executive Director.

Mr. Johnson said he would like to bookmark the paragraph on sexual harassment, have our management conference and informally run it by Karen Michaels and then make changes.

There was discussion regarding the duty to report sexual harassment.

Mr. Johnson said we will discuss the reporting requirement with Karen Michaels at the management conference, craft some alternatives that take all of the positions, circulate by email to this committee, and then take it to the full Commission in June.

Ms. Jankowski said our rule as it is now, all employees have a duty to report and that would include the complainant, the coworker, everyone.

Mr. Johnson said we will ask the committee today to act on the highlighted wording which is to add Human Resources Director in the reporting requirements.

There was discussion regarding religion and sex in item 3, this is redundant.

3. Other conduct...Take out religion, sex.

Section 3.7 Alcohol and Controlled Substance Policy

Ms. Jankowski said our HR Director pointed out in the prohibited behavior section our previous language could be read to suggest putting an inebriated person in a car and sending them out on a public highway.

Paragraph C. Prohibited Behavior

Last sentence to read: "Any employee discovered to be under the influence of alcohol or a controlled substance while on the job shall be required to leave the premises and shall be subject to disciplinary action."

There was discussion regarding disciplinary action and how to handle if a situation arises.

Section 3.11 Outside Employment

- B. Take out "Full-time"
- D. Add "annually" to the last sentence

Ms. Jankowski said prior approval for outside employment needs to be revisited every year, particularly if a new public defender is in the office. If you have received permission to work an outside job this is a reminder to make sure your current supervisor is aware of it.

Mr. Johnson said the outside employment cannot be related to your position with the agency. An attorney is not allowed to practice law on the side.

There was discussion regarding part time employment and outside employment.

Chapter 4 Hours of Work and Holidays

Section 4.0 Standard Hours of Work

Add to the last paragraph

Falsifying one's leave record, "including failure to submit leave,"

Failing to submit leave is prohibited and shall be considered grounds for disciplinary action up to, and including, termination. Just to make it clear falsifying includes being silent.

There was discussion regarding leave and reporting it.

Chapter 5 Compensation

Section 5.4 Payroll Procedures

Ms. Jankowski said these are not material changes; we have to change because it is inaccurate. We need to add the language "for salaried employees"

- C. Pay Periods. Pay periods for salaried employees are from the...
- D. Pay Dates. Remove the last sentence. "The calendar is published in a newsletter that is distributed to all employees and is available from the Administrative Office." This is inaccurate.

Wage employees are on a bi-weekly schedule and salary employees are on a bi-monthly schedule.

There was discussion regarding pay periods.

Chapter 8 Performance Management

Section 8.3 Types of Discipline

Ms. Jankowski said as clarification to add if a written reprimand is done it goes into the personnel file.

- D. Written Reprimand
Remove "field office" in the second sentence.

There was discussion regarding written reprimands.

Chapter 9 Grievance Procedure

9.2 Complaint Content and Deadline Compliance

Remove iii. This is inaccurate. We no longer do this.

Change title to read Grievance Content and Deadline Compliance

Chapter 10 Reimbursement to Employee

Section 10.3 Lodging

Remove G.

G. When two or more employees travel...

Section 10.4 Meals and Incidental Travel Expenses (M&IE)

We are suggesting adding to G. 3. Late fees “due to the negligence of the employee”

Section 10.5 Transportation

There is a material change and a non-material change.

The material change is to no longer require the Executive Director’s approval for airfare.
Remove the second paragraph.

The other changes are a restatement of the policies that already exist. Just to clarify, we get many questions regarding travel vouchers.

All of item M. is replaced with this new language.

M. Routine Business Travel & Non-VIDC Related Training: Employees are permitted to use their personally owned vehicle when a State-owned vehicle or OFMS rental vehicle is not available, or when the use of a personally owned vehicle is cost-beneficial to the agency.

1. Generally, a personal automobile is considered cost beneficial under the following circumstances:
 - i. When routine travel is planned for distances up to 150 miles per day, the Business Standard Mileage Rate will apply. For overnight travel, consider the average daily mileage over the period the State vehicle would otherwise be needed.
 - ii. Miles driven over 150 per day, the Fleet Rate will automatically apply, unless exceptions are met and included with the Expense Reimbursement Form.

Exceptions:

- a. Determine that current state contract vendor rental car is not available or not cost beneficial. Attach a copy of the Trip Calculator to the Expense Report for verification
- b. Carpool with at least one other employee
- iii. Examples of other factors that can be considered in the analysis are below:
 - a. Distance to the nearest rental vehicle location and the hours of operation.
 - b. Administrative time required to obtain the rental vehicle.
 - c. The type of vehicle required and the number of travelers.
- iv. When an emergency exists and is approved by the Executive Director.

VIDC Conference Related Travel: When employees attend a conference or meeting hosted by the VIDC, in order to get the Business Standard Mileage Rate when using his/her personal vehicle; the driver must determine the most cost beneficial out of the following:

1. Determine that a State-owned vehicle is not available
2. Determine that the current state contract vendor rental car is not available or not cost beneficial. Attach a copy of the Trip Calculator to the Expense Report for verification

- 3. Carpool with at least one other employee when feasible
- N. Employees electing to use their personal vehicle as a matter of convenience will be reimbursed for mileage at the Business Standard Mileage Rate.
- U. When renting vehicles out of state, the traveler must select the current state contract vendor and type of vehicle available and acquire any commercial rate or government discount available when the vehicle is rented.

Remove “Enterprise rental car” and replace with “current state contract vendor”

- V. The traveler must follow the policy below for air and rail travel.

Remove 1. “Written approval by...”

Section 10.7 Registration Fees and Policy

Item D.1. Remove last sentence “Acceptable documentation includes...”

Mr. Johnson said he asked the investigators during the semi-annual investigator conference about their concern about our firearms policy. There was a lot of discussion about them carrying firearms. He heard from eleven out of the fifty three investigators, ten of whom favored a change in the policy to allow them to carry concealed firearms while conducting Commission business. One responded that he did not need a gun. The vast majority of the chief public defenders were against carrying a concealed firearm.

There was discussion regarding concealed firearms, investigators, and policy.

Professor Chambers made a motion to recommend to the full Commission adopting the policy changes as outlined by staff with the direction of edits to be made. Mr. Hingeley seconded the motion. The motion carried.

There was no further business.

Professor Chambers made a motion to adjourn. Mr. Hingeley seconded the motion. The motion carried.

The meeting adjourned at 12:45pm

Respectfully Submitted:

Approved By:

Diane D. Zubke, Office Manager

David J. Johnson, Executive Director