

**The Virginia Indigent Defense Commission  
Policy and Procedure Committee Meeting  
1604 Santa Rosa Road, Suite 200  
Richmond, Virginia 23229  
January 29, 2015**

The meeting was called to order at 11:05 am by Committee Chair, David Walker. Other Commission members in attendance were Tom Chaffe, Eddie Macon (designee for Karl Hade) and Carmen Williams. One Committee member not in attendance was Senator McEachin. Administrative staff included Executive Director, David Johnson; Deputy Director, Maria Jankowski; and Administrative Assistant, Diane Pearson.

With four committee members in attendance, quorum requirements have been met.

The first order of business is approval of minutes.

Mr. Macon made a motion to approve the November 8, 2012 Policy and Procedure Committee meeting minutes. Ms. Williams seconded the motion. The motion carried.

The next order of business is the policy and procedure changes.

Ms. Jankowski said the Budget and Finance Director and the IT Director are both new. They have had minimal contributions thus far. They have been tasked with going through their prospective sections to do a thorough cleanup. She has asked them to some extent to follow the state rule and indicate that we follow the state rule. Some are processes that do not need to be in our policies. For instance, we have a travel brochure; therefore we can take it out of the policy manual and indicate to refer to the travel brochure.

Mr. Johnson added that we have a July 30<sup>th</sup> deadline for corrections to be submitted. For now we are just fixing and streamlining some items as best we can today.

There was discussion about the IDC being an independent, at-will agency.

Being an at-will agency makes us much different than the executive branch. We are not part of the judicial or executive branch. Some of the policies apply to us and some do not. We have to follow FOIA. Under Ms. Hudson the budget and finance department found that it was much simpler to frequently follow many of the state guidelines. If we do it their way, particularly with procurement, we will not get in any trouble. Some of it is best practices and would not be considered truly policies.

Ms. Jankowski's goal is to take the hundred page policy and procedure manual and reduce it to just a policy manual and hopefully make it more user friendly and people will read it.

Our military leave policy is not our policy it is the State's policy and is four pages outlining in great detail the rules. Only the rules that apply to our employees need to be in our policy manual.

Mr. Johnson said the goal is to make the policy more user friendly. We are required by statute to do an annual review.

Chapter 10, Section 10.5 Travel Planning  
Page 90

Ms. Jankowski said for travel planning we used to require employees to pay training registration fees up front and then get reimbursed. This is not best practice. The state has a requirement to use the State's small purchase card because if we do not meet a minimum we get charged a fee. This actually saves time for the employee and for the fiscal department to not have to go through the whole reimbursement process.

Mr. Johnson added that we have to get an exception when we do not use the small purchase card.

There was discussion regarding travel requirements.

Ms. Jankowski said the intent today is to go through everything with the committee and then take it to the full Commission in March and at the management conference we will make it part of training.

Chapter 2, Section 2.0 Standards of Employee and Professional Conduct  
Page 6

We want to make it clear that all employees properly identify themselves. This applies in all forums and media including but not limited to electronic, digital, and internet communications.

There was discussion regarding misleading identifying information.

Ms. Jankowski said that the impetus of adding this language is because more and more communications are not happening face to face.

Section 2.5 Professional Organizations  
Page 11

Ms. Jankowski said the only proposed change for this section is in sub paragraph (ii) add:

3. Any other national organization approved by the Executive Director.

We were approached by the National Association of Public Defenders regarding membership for our public defenders so we looked into it to see if there is a value for our attorneys.

There was discussion regarding organizations the public defenders belong to and the budgets for these memberships.

Mr. Johnson said the NACDL (National Association of Criminal Defense Lawyers) was added to the list at the suggestion of a Commission member who was the president of the NACDL. The NLADA (National Legal Aid and Defender Association) was added at the suggestion of another Commission member. If there is a benefit for us then it would be worth it to join.

Ms. Jankowski said the discussion suggested in Section 2.5 to change A (ii) to read:  
Public Defenders – In addition to the dues paid for all full time attorneys, if requested by the Public Defender, the Commission authorizes payment for membership in the Criminal Law Section of the Virginia State Bar and any other organization approved by the Executive Director.

Mr. Chaffe made a motion that the Policy and Procedure Committee recommend to the full Commission the above proposed change in Section 2.5 as stated by Ms. Jankowski. Mr. Macon seconded the motion. The motion carried.

Chapter 3, Section 3.9 Employee Duty to Report Criminal Charges and Convictions  
Page 27

Ms. Jankowski said this is being brought to your attention because an employee last year was charged with and convicted of being drunk in public. It is neither a Class 1 or Class 2 misdemeanor. Under our policies that did not have to be reported.

Mr. Johnson said that he took care of the situation but the question is do we want to expand or change the wording.

There was discussion regarding the types of violations and what should be reported and to whom.

Mr. Chaffe made a motion to recommend to the full Commission to change the following:  
Section 3.9 A. to read: Notice required. All Commission employees must immediately notify the Public Defender or in the case of the administrative office, the Executive Director, in writing, of any criminal arrests, charges, indictments, violation of any court order, and the disposition thereof, and to remove paragraph B. Mr. Macon seconded the motion. The motion carried.

Section 3.11 Weapons Policy  
Page 29

Ms. Jankowski said that every year we get a call from an employee wanting a firearm.

Mr. Johnson added that some calls have been about prohibiting firearms. The question is do we have to be defenseless, the answer is yes.

There was discussion regarding all types of weapons, including sling shots and dirks or daggers and the distinction of a weapon or a firearm and none should be allowed in an office.

Mr. Macon made a motion to recommend to the full Commission to substitute "firearms" for "weapons". It would read: Firearms prohibited. Employees are prohibited at any time while on any property owned, leased, or otherwise controlled by the Commission or elsewhere in the scope of their employment, from possessing any firearm as defined in Section 18.2-308 (A) of the Code of Virginia. Ms. Williams seconded the motion. The motion carried.

Section 3.12 Outside Employment  
Page 30

Ms. Jankowski said that this is an attempt to simplify this section. Her suggestion is in A. (i) to eliminate the word "criminal" and "in the jurisdiction of the Public Defender office where they are employed" and all of (ii) because the second half of C. references back to (ii) and to delete that reference as well. The intent would be to make it clear that if you are a full time attorney you cannot have a private practice of law. This would not mean that you could not take a day off and represent a family member in a non-criminal case.

Mr. Macon made a motion to recommend to the full Commission for A. (i) to read: Full-time attorneys employed by the Commission are prohibited from engaging in the private practice of law, remove (ii) and remove C. (ii). Mr. Chaffe seconded the motion. The motion carried.

Chapter 4, Section 4.3 Teleworking  
Page 35

Ms. Jankowski said that we have a four page section on teleworking and is an arrangement that we disallow.

Mr. Johnson said that teleworking came about several years ago on a directive from the Governor's office for state agencies but it does not work for us because of our unique mission.

If you work from home you have to make sure your home is OSHA compliant. If an employee gets hurt at home while teleworking it is a workers compensation claim that can be very complicated and time consuming. Any alternative work site has to be safe.

There was discussion regarding the COOP plan that Ms. Jankowski explained is in place in case of a flood or other catastrophic event that prevents employees from getting to the office. This is a state mandate. Every office has alternative work sites.

Mr. Johnson added that COOP has been used a few times. We have had flooding and a lightning strike.

The proposal is to replace the first paragraph in this section to read:  
The Virginia Indigent Defense Commission has carefully considered the viability of teleworking and has concluded that it is counter to the agency's unique mission. Teleworking is a viable work arrangement only in instances where an employee needs to work from an alternate location in case of an emergency that requires the activation of the COOP plan.

We also propose to delete the remainder of Section 4.3.

Chapter 5, Section 5.0 Salaries  
Page 39

Ms. Jankowski said that the way the policy is written it describes pay bands and we do not have pay bands. We had pay bands when the agency was the Public Defender Commission.

We propose to replace paragraph A. language with:  
Salary Structure – All position classifications within the field offices are assigned an entry-level salary. All new hires and promotions are hired at the entry-level salary. Entry-level salaries for employees in the Administrative Office are determined and approved by the Executive Director.

There was discussion regarding the different position levels and salary ranges.

Ms. Jankowski said that paragraph C. could be taken out as well.

Mr. Macon made a motion to recommend to the full Commission replacing language in paragraph A as stated and to remove paragraph C. Mr. Chaffe seconded the motion. The motion carried.

Section 5.5 Direct Deposit and Payline  
Page 44

Ms. Jankowski said there is another change for something that does not exist. We require everyone to have direct deposit. The proposal is to delete (iii) that reads:

If an employee cancels their direct deposit, they will be given one pay period to submit updated direct deposit information or they will be required to enroll in the EPPI card program.

Chapter 6 Leave Policies  
Page 49

Ms. Jankowski said in paragraph C.1.b. we would like to remove the last sentence: In reviewing the request for approval, the agency should consider, among other things, the circumstances necessitating leave and whether the employee could have anticipated the need.

We would also like to delete 2.b. that reads: If the time requested for leave conflicts with Commission operations, the employee's request can be approved for an alternate time. This is common sense and not policy.

Section 6.3 Workers' Compensation  
Page 55

Ms. Jankowski said in paragraph A. we would like to insert "work related" in the first sentence after "who suffer a". The sentence will read:

All employees salaried and hourly who suffer a work-related injury or occupational disease are entitled to benefits required by the Virginia Workers' Compensation Act (WCA).

This is consistent with the Workers' Compensation Act.

Chapter 11 Computer Use Policy  
Section 11.0 Overview and General Provisions  
Page 103

Ms. Jankowski said at the suggestion of our new IT Director we need to add in the first paragraph "VITA ITRM Security Policy SEC519" to the first sentence after "Procedures Manual".

To the Scope, after broadband services, add "Cloud Computing".

To the Website and social media paragraph add to the beginning of the second sentence "Unless authorized by the Executive Director," ...

After having the discussion regarding social networking, The Fairfax Public Defender Office started a Facebook page. We wanted them to go through us and for the Executive Director to give approval.

Mr. Johnson added that they did this as a pilot.

Section 11.2 Access and Data Security  
Page 105

Ms. Jankowski said this is partially internal process and probably not policy but in the past in the administrative office there has been some conversation about the system access form, who signs off on it, and who approves it. We are not sure if this is truly policy or internal process. To the extent that much of it is internal process we are suggesting in paragraph A.1., to delete that sentence. We would also suggest taking out the sentence that reads: The Form and Agreement must be submitted to the Human Resources Department of the Commission. This is internal process and not policy.

Ms. Jankowski said we had originally referenced ACeS which is the Attorney Certification System as our sensitive system. It is not a sensitive system. Our Case Management System is a sensitive system. We would like to substitute CMS for ACeS.

Also in paragraph C.1., add to the last sentence after agency, “utilizing the Case Management System (CMS).”

In paragraph C.2.a., after media, add that is not encrypted and approved by the Information Technology Director.

In paragraph C.2.c., after or, add Software As A Service (SaaS)

Section 11.3 Hardware  
Page 107

Ms. Jankowski said we would like to simplify and there is no need to give examples because soon those examples will be obsolete.

In paragraph C. we would like to eliminate “including but not limited to a personal computer, laptop, Smartphone or hand held device”.

Section 11.4 Software  
Page 108

Ms. Jankowski said it has been suggested that paragraph C. be changed to:

Unless authorized by the Executive Director, no employee is permitted to install software on Commission owned systems.

Delete paragraph D. as well.

Paragraph E, change to paragraph D. and add the word “software” after computer.

Mr. Macon moved to recommend to the full Commission the changes in Section 11.4. Ms. Williams seconded the motion. The motion carried.

Mr. Chaffe made a motion to recommend to the full Commission the adoption of the proposed changes to: Section 4.3 Teleworking; Section 5.0 Salaries; Section 5.5 Direct Deposit; Section 6.0 Leave Policies; Section 6.3, Workers' Compensation; Section 10.5 Travel Planning; Section 11.0 Computer Use Policy; Section 11.2 Access and Data Security, and Section 11.3 Hardware. Mr. Macon seconded the motion. The motion carried.

There was no further business.

Mr. Macon made a motion to adjourn. Ms. Williams seconded the motion. The motion carried.

The meeting adjourned at 1:05pm

Respectfully Submitted:

Approved By:

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Diane Z. Pearson, Administrative Assistant

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David J. Johnson, Executive Director