

The following standard procedures apply to all Jemez Mountains Electric Cooperative offices and will be effective December 21, 2011.

DATE

PURPOSE

To establish the procedures that will be followed to address reports of potentially illegal or unethical conduct by any party.

ACCOUNTABILITY

The individual(s) designated by the General Manager will be accountable for fulfilling the duties listed in this procedure. The Board of Trustees is responsible to ensure all reported allegations are adequately investigated and resolved or brought to conclusion. All actions shall be tracked appropriately from intake to corrective action or completion.

DEFINITIONS

- I. **Baseless Allegations:** Allegations made with reckless disregard for their truth. Employees making such allegations may be subject to disciplinary action up to and including termination and/or legal claims by individuals accused of such conduct.
- II. **Fraudulent or Dishonest Conduct:** A deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Examples of such conduct include, but are not limited to: forgery or alteration of documents; unauthorized alteration or manipulation of computer files; fraudulent financial reporting; misuse of resources such as funds, supplies, or other assets; authorizing or receiving compensation for goods or services not received; authorizing or receiving compensation for hours not worked.
- III. **Misconduct or Improper Actions:** (may be used interchangeably) includes unsafe working conditions, environmental violations, and fraudulent or dishonest conduct.
- IV. **Whistleblower:** An employee who informs a manager, supervisor, member of the Board of Trustees, or law enforcement official about an activity which that person reasonably believes to be unsafe, fraudulent, or dishonest.

PROCEDURES

I. Reporting Misconduct

In most cases, employees should first discuss their concern with their immediate supervisor. If, after speaking with his or her supervisor, the whistleblower continues to have reasonable grounds to believe the concern is valid and the supervisor is not responsive, the whistleblower should then follow the chain of command and report the concern to the immediate supervisor's supervisor. If the supervisor is a subject of the concern, or if the whistleblower is uncomfortable speaking with his or her supervisor for any reason, the whistleblower should report his or her concern to the Human Resources Manager. If the General Manager is the subject of the concern, the concern should be reported to the Chairman. If requested, the employee will submit a signed, written report detailing the basis for the employee's belief that misconduct has occurred. All whistleblower records will be protected records and shall be maintained in accordance with JMEC Records Management Policy and Procedures.

- II. Any whistleblower-related concern received by any means by members of the JMEC Board of Trustees, General Counsel, the General Manager, any manager or supervisor, or employee shall be forwarded immediately to the Human Resources Manager.

- III. Certain concerns require immediate action and may include:
 - A. Threat of violence or physical harm to employees, consumers, or members.
 - B. Threat of business interruption.
 - C. Notice of a high-risk incident expected to happen within the next 24 hours.
- IV. All personnel involved in the investigation will keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. There is no such thing as an “unofficial” or “off the record” report.
- V. Supervisors are required to report misconduct to their managers, or if the supervisor finds it difficult to report his or her concern to their manager, he or she can make a report to any manager or to the General Manager. Managers are required to report misconduct to the General Manager.
- VI. **A manager or supervisor faced with suspected misconduct:**
 - A. Should not contact the person suspected to further investigate the matter or demand restitution;
 - B. Should not discuss the case with anyone other than the General Manager, the representative designated by the General Manager to investigate the allegations, or the Association’s legal Counsel;
 - C. Should direct all inquiries from any attorney retained by the suspected individual to the General Manager;
 - D. Should direct all inquiries from the media to the General Manager.

HANDLING ALLEGATIONS

PROCEDURES FOR INVESTIGATING REPORTS OF MISCONDUCT

All allegations will be dealt with promptly and in a manner intended to protect confidentiality as much as possible, consistent with the need to conduct a full and fair investigation.

- I. The General Manager will appoint a representative to investigate allegations. The representative *will begin investigation* within thirty (30) days after receiving the complaint and will attempt to complete the investigation within thirty (30) days. Criminal allegations will be referred to the proper law enforcement agency.
 - A. **Concerns involving the General Manager:** If the General Manager is the subject of a concern, the individual who initially receives the concern shall conduct a preliminary assessment. If the preliminary assessment reveals that the concern warrants further investigation then that individual shall report the concern directly to the Board president. The Board President will then report to the full Board and engage an independent third party to investigate the concern and report back to the board on the results of the investigation for appropriate follow-up action and conclusion.

- B. Concerns not involving the General Manager: Following a preliminary assessment, if the individual initially receiving the allegation believes it warrants further investigation, then the independent third party shall be responsible for investigating the allegation and reporting the results of this further investigation to the referring supervisor, the Human Resources Manager, and the General Manager. If the investigation indicates that there has been or likely has been a violation of law, accounting or audit standards, or JMEC policy, then the supervisor who receives the report of the results of the investigation will consult with the Human Resources Manager and the General Manager to determine the appropriate follow-up action and conclusion
- II. Reasonable care should be taken in dealing with suspected misconduct to avoid baseless allegations, premature notice to persons suspected of misconduct, disclosure of suspected misconduct to others not involved with the investigation and violations of a person's rights under the law.
- III. If the investigation concludes that fraudulent or dishonest conduct occurred, the employee responsible for such fraudulent or dishonest conduct will be subject to disciplinary action up to and including termination. The employee reporting the improper conduct shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation will be kept confidential.
- IV. If the investigation concludes that fraudulent or dishonest conduct has not occurred, the investigating representative will explain to the employee who reported the concern the reason for the determination. The complaining employee may then appeal the findings to the Board of Trustees within thirty (30) days of receiving the report from the investigating representative.
- V. Whistleblowers who believe that they have been retaliated against may file a written complaint with the Human Resources Manager or the General Manager. A proven complaint of retaliation shall result in a proper remedy for the person harmed and the initiation of disciplinary action, up to and including termination, against the retaliating person. This protection from retaliation is not intended to prohibit managers or supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid behavior or performance-related factors.

THE WHISTLEBLOWER

The whistleblower will be informed of the progress and/or outcome of the investigation in a timely manner unless: (a) the whistleblower reported the allegation anonymously and left no means for follow-up, (b) indicates his or her preference not to be informed, (c) this would be detrimental to the whistleblower, JMEC or the investigation or (d) there are other, sound reasons not to inform the whistleblower. The individual responsible for investigating the concern is also responsible for determining whether follow-up with the whistleblower would be detrimental or whether other reasons exist not to inform the whistleblower.

- I. **Cooperation:** All whistleblowers are encouraged to cooperate with the investigation of allegations, which may include steps such as personal interviews, requests for and review of documents, and requests for written statements signed by the whistleblower. Whistleblowers should not discuss the investigation, including any interviews or document requests, with anyone unless specifically instructed to do so by the Board or the third-party investigator.
- II. **Acting in Good Faith:** Anyone reporting an allegation must act in good faith and have reasonable grounds for believing the information provided in a reported allegation indicates a violation of law, JMEC ethics or other policies, or a matter of fraud, waste or abuse. Allegations that are made maliciously, recklessly, or with knowledge of their falsity will be viewed as a serious disciplinary offense for employees and subject to disciplinary action up to and including termination of employment.

- III. **Confidentiality:** Reports of allegations, and any investigations regarding allegations, will be kept confidential consistent with the need to protect the whistleblower from reprisal and the need to conduct an adequate investigation. The whistleblower has the option to report an allegation anonymously. However, anonymity may limit the investigators' ability to conduct a complete and thorough investigation. Further, when an allegation is found to be made in bad faith, the anonymity of the whistleblower will not be guaranteed. JMEC employees who violate the confidentiality of Whistleblower information will be subject to disciplinary action up to and including termination.

These procedures align with BOT Policy 117.
