OFFICE OF INSPECTOR GENERAL

INTERNAL AUDIT UNIT

Ethics Culture at Department of Health

A-1011EOG-015 **May 19, 2011**

SUMMARY

The Department of Health's (DOH) Office of Inspector General participated in a multi-agency enterprise audit of organizational ethics at the request of the Executive Office of the Governor, Office of Chief Inspector General.

The purpose of our audit was to evaluate DOH's implementation of the Office of the Governor's Executive Order Number 11-03, *Ethics and Open Government*. We wanted to evaluate the design and effectiveness of the agency's ethics-related objectives, guidance, and activities in order to identify areas of potential weakness and best practices that could be shared among all agencies.

To accomplish our objectives, we reviewed applicable law, rules, policies, and procedures; interviewed appropriate agency personnel; collected and evaluated relevant documentation; and evaluated risks and selected internal controls to determine whether the controls were in place and working effectively. We also conducted an agency-wide survey to better understand the ethical climate and culture within DOH. The survey was sent to approximately 23,000 DOH e-mail addresses. See **EXHIBIT A** to review survey results.

The audit was conducted in conformance with *International Standards for the Professional Practice of Internal Auditing*, issued by the Institute of Internal Auditors, as provided by Section 20.055(5)(a), *Florida Statutes,* and as recommended by Quality Standards for Audits by Offices of Inspector General (*Principles and Standards for Offices of Inspectors General*, Association of Inspectors General).

Overall we found DOH's ethics policy to be as stringent as the Office of the Governor's revised Code of Ethics. DOH's Office of Workforce Development provides ethics training through a computer-based training model called Trak-It. Some county health department (CHD) consortiums provide alternative classroom-based training. An ethics course for DOH employees working at CHDs in the Northeast Florida Consortium includes a conversation of a good ethical working environment that is captured in DOH's seven values of excellence, commitment to service, accountability, empowerment, integrity, respect, and teamwork.

We also learned that DOH's Office of Contract Administration includes a presentation on ethics to DOH's new contract managers during Basic Contract Managers' Training. The presentation discusses ethics in purchasing, open government, public records; nepotism; accepting gifts; and other issues that promote working in an ethical culture within DOH.

However, the following issues were identified and should receive additional review and corrective action by management:

- DOH has not developed the concept of an ethics program that proactively addresses culture and communicates management's values and level of expectations of an ethical work environment.
- Employees were required to sign an ethics Pledge Form that did not attest the employee read or received DOH's ethics policy.
- DOH's ethics policy and ethics training did not address contract employees.
- DOH's revised training policy was not updated to require annual training related to Equal Opportunity.

This report includes only the results of our audit of DOH. Any best practices that may be identified among agencies participating in this project are planned to be included in a consolidated report published by the Office of Chief Inspector General.

INTRODUCTION

Section 20.055, *Florida Statutes,* charges DOH's Office of Inspector General responsibility to provide a central point for coordination of activities that promote accountability, integrity, and efficiency in government. Audits are conducted to review and evaluate internal controls necessary to ensure the fiscal accountability of DOH.

This audit was performed in cooperation with other state agencies at the request of the Executive Office of the Governor, Office of Chief Inspector General.

Audit fieldwork took place February through March 2011 at DOH headquarters in Tallahassee. The audit was conducted by Office of Inspector General audit staff Mark H. Boehmer, Certified Public Accountant, Senior Management Analyst II, Lead Auditor, under the supervision of Michael J. Bennett, Certified Internal Auditor, Director of Auditing.

BACKGROUND

To provide an overall look at ethics in state government in Florida, the Governor's Chief Inspector General called upon all inspectors general to simultaneously conduct an enterprise-wide evaluation of each agency's ethical climate. More than 20 state agencies participated in this project. Each agency is providing an agency-specific report to their respective agency head. Based on findings and recommendations in agency reports, the Chief Inspector General will provide a roll-up report to the Governor.

Chapter 112, Part III, *Florida Statutes*, is the state's statutory Code of Ethics. Governor Rick Scott issued Executive Order Number 11-03, *Ethics and Open Government*, in January 2011 directing the immediate adoption and implementation of a revised Code of Ethics (Code) by the Office of the Governor that incorporates and exceeds the current requirements of the statutory Code of Ethics set forth in Chapter 112, Part III, *Florida Statutes*. The Governor's Code also applies to the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the purview of the Governor.

The Executive Order directed agency secretaries to implement any agency-specific adjustments to the Code by February 18, 2011.

Previous to this Executive Order, DOH had existing written policies and procedures related to ethics and ethics-related training. During our examination, we reviewed DOH's draft policies

intended to update these existing policies in light of the Governor's Code. Our comments in this report are based on the original draft versions provided to us at the beginning of the audit, although revisions to the draft continue to be made. DOH has not published a final version, awaiting review by its newly-appointed State Surgeon General, as well as consideration of the results of this report and the consolidated report published by the Office of Chief Inspector General.

FINDINGS, RECOMMENDATIONS, AND MANAGEMENT'S RESPONSES AND CORRECTIVE ACTION PLANS

The following findings and recommendations address issues that should receive additional review by management.

FINDING 1 – *DOH has not developed the concept of an ethics program that proactively addresses culture and communicates management's values and level of expectations of an ethical work environment.*

The Executive Office of the Governor's Code of Ethics (Code) directs that each agency secretary designate a chief ethics officer that "will make reasonable efforts to ensure that the employees responsible for adhering to this code (or their respective agency's code) become familiar with relevant ethics, public records and open meeting requirements."

DOH has a recently-appointed ethics officer that is appropriately placed in DOH's Office of General Counsel. DOH is organizationally structured such that all DOH-sponsored training, including ethics-related issues, is managed by the Office of Workforce Development.

Regular meetings to discuss ethics issues with executive management, including messaging of expectations, were not previously conducted.

In a recent presentation by the Association of Certified Fraud Examiners entitled *Tone at the Top: How Management Can Prevent Fraud in the Workplace*, it was explained that "tone at the top" refers to the ethical atmosphere that is created in the workplace by the organization's leadership. Whatever tone management sets will have a trickle-down effect on employees of the company. If the tone set by managers upholds ethics and integrity, employees will be more inclined to uphold those same values. Employees pay close attention to the behavior and actions of their bosses, and they follow their lead. In short, employees will do what they witness their bosses doing. …It is crucial to a company's success for executives and management to set an ethical example (or tone) of how their employees should behave in the workplace".

DOH provides an annual ethics presentation to all DOH employees that covers the subjects of ethics, public records, open meetings, records retention, and proper personnel procedures. The presentation discusses awards, gifts, political activities, secondary and dual employment, and other issues that could violate the code of ethics laws (Chapter 112, Part III, *Florida Statutes*).

DOH has not developed the concept of an ethics program that proactively encompasses communicating culture and values. DOH's ethics training presentation has not included a discussion of management's values and level of expectations of DOH's employees working within an ethical work culture ("tone-at-the-top") in DOH's day-to-day operations, by daily

promoting an environment that includes such issues as DOH's seven values (excellence, commitment to service, accountability, empowerment, integrity, respect, teamwork).

RECOMMENDATION:
We recommend the Office of Workforce Development together with DOH's ethics officer incorporate messaging of executive management's expectations of what constitutes a strong ethical culture and work environment into its annual ethics training. More frequent messaging could also be added outside of the annual training.

MANAGEMENT'S RESPONSE AND CORRECTIVE ACTION PLAN:
We agree with this recommendation. The Office of Workforce Development will set a meeting with DOH's ethics officer to discuss the next steps for modifying the Ethics online training, including adding a recorded message from Dr. Farmer, DOH Surgeon General.

Anticipated completion date:
August 1, 2011

FINDING 2 – *Employees were required to sign an ethics Pledge Form that did not attest the employee read or received DOH's ethics policy.*

DOH was not able to document that employees received a copy of DOH's ethics policy.

The Executive Office of the Governor's Code of Ethics (Code) requires employees of that office, including certain executive management of DOH, sign a Pledge that attests the employee has been provided a copy of the Code.

DOH employees are expected to sign a similar Pledge upon completion of DOH's ethics training presentation that attests the employee has been provided a copy of the Code. In signing, the employee attests he/she has been provided a copy of the Code, completed DOH's Code of Ethics presentation, is committed to maintaining an honest, ethical, and open system of government, and pledges to honestly and faithfully comply with the letter and spirit of DOH's Code of Ethics as well as requirements of Chapter 112, Part III, *Florida Statutes*.

DOH's draft ethics policy explains "employees are expected to review and comply with this policy. However, the Pledge form does not verify or have the employee attest that the signee has received a copy of DOH's ethics policy or read a summary of its content.

RECOMMENDATION:
We recommend that the Office of Workforce Development incorporate delivery of DOH's ethics policy into the hands of DOH employees and have the employee attest that they have reviewed DOH's ethics policy.

MANAGEMENT'S RESPONSE AND CORRECTIVE ACTION PLAN:
We agree with this recommendation. Once the training has been updated in collaboration with DOH's ethics officer, the Office of Workforce Development will create a way for the student taking the training in Trak-It to download the policy and include in the attestation that they have read it.

Anticipated completion date:
August 1, 2011

FINDING 3 – *DOH's ethics policy and ethics training did not address contract employees.*

Chapter 112 (Part III), *Florida Statutes*, is cited as the Code of Ethics for Public Officers and Employees as adopted by the Legislature. Foremost among the goals of this Code is to promote the public interest and maintain the respect of the people for their government.

DOH has a large number of contract employees that work shoulder-to-shoulder with DOH employees in many of its offices, CHDs and Children's Medical Services (CMS) Area Offices. Yet, DOH's draft code of ethics applies only to employees, defined as Career Service, Selected Exempt Service, Senior Management Service, and Other Personal Services. The draft ethics policy did not address contract employees of DOH. One contract we examined does explain that contract employees are subject to Provider policies and procedures and, "may also be subject to DOH policies".

Although expected to abide by DOH's ethics policy, there was no written communication of DOH's ethics policy to contract employees. Neither DOH's ethics policy nor training policy requires ethics training of contract employees in DOH's work environment.

The citizens of Florida and other DOH stakeholders typically make no distinction between DOH employees and DOH contract employees when it comes to appearances of impropriety. Unethical behavior by DOH contract employees will still cast a negative perception on DOH as a whole.

RECOMMENDATIONS:

We recommend DOH's ethics officer incorporate into the Department's ethics policy management's expectation of how ethics, and a strong ethics culture and environment apply to the Department's many contract employees.

We also recommend DOH's Office of Workforce Development require ethics training of the Department's contract employees that supports the Department's updated ethics policy.

MANAGEMENT'S RESPONSE AND CORRECTIVE ACTION PLAN:

3a - The language in DOH employment contracts will be modified to have contracted employees abide by DOH's ethics policy. This may be feasible in the upcoming contract cycle beginning July 1, 2011 with the renewal of the fiscal or contract year. In addition, either the ethics policy or the contract management policy will be amended to recognize that explicit language should be included in all contracts for employees, consultants, etc., recognizing their abidance with DOH ethics policy.

Anticipated completion date:
November 30, 2011

3b – The Office of Workforce Development has no objection to this and has already begun to incorporate this requirement into the draft training policy. Our DOH training policy proposed revisions include a requirement specifying what trainings a contract employees must complete.

Anticipated completion date:
June 30, 2011

FINDING 4 – *DOH's revised training policy was not updated to require annual training related to Equal Opportunity.*

The Governor's Code of Ethics directs that each agency secretary attend training on the subjects of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures, and that thereafter each agency secretary arrange for similar training of his or her employees on an annual basis".

DOH's training policy, DOHP 300-1-10, *Training* required Equal Opportunity training within 30 days of an employee's hire date. While the draft policy was updated to require ethics training (and

related issues) annually, it was not updated to require equal opportunity training annually.

RECOMMENDATION:
We recommend the Office of Workforce Development amend its training policy to require employees' annual training on the topic of equal opportunity.

MANAGEMENT'S RESPONSE AND CORRECTIVE ACTION PLAN:
The Office of Workforce Development has no objection to this and has already begun to incorporate this requirement into the draft training policy. Our DOH training policy proposed revisions include a requirement specifying that mandatory trainings be completed annually.

Anticipated completion date:
June 30, 2011

EXHIBIT A

AGENCY-WIDE SURVEY OF ETHICAL CLIMATE AND CULTURE

The following pages illustrate the results of an agency-wide survey sent to approximately 23,000 DOH e-mail addresses. With 6,521 surveys completed and returned, we experienced an approximate 28% response rate.

1. 1. My agency's senior management models and promotes ethical behavior.

	Response Percent	Response Count
Strongly agree	36.1%	2,346
Agree	**43.7%**	**2,837**
Disagree	7.7%	501
Strongly disagree	5.1%	332
Don't know or no opinion	7.3%	476
	answered question	**6,492**
	skipped question	**29**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	34.52%	35.91%	**48.19%**	37.76%	22.51%
Agree	**45.83%**	**44.54%**	32.87%	**44.85%**	**31.41%**
Disagree	6.31%	7.57%	8.36%	6.18%	19.90%
Strongly Disagree	3.93%	5.10%	5.01%	3.89%	13.61%
Don't Know or No Opinion	9.40%	6.88%	5.57%	7.32%	12.57%
	100.00%	100.00%	100.00%	100.00%	100.00%

2. 2. My supervisor models and promotes ethical behavior.

	Response Percent	Response Count
Strongly agree	**48.1%**	**3,113**
Agree	38.4%	2,486
Disagree	6.1%	396
Strongly disagree	3.6%	231
Don't know or no opinion	3.8%	248
answered question		**6,474**
skipped question		**47**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	**56.15%**	**45.86%**	**55.62%**	**57.27%**	30.73%
Agree	33.69%	40.20%	32.87%	32.95%	**37.99%**
Disagree	5.02%	6.46%	4.21%	2.05%	16.20%
Strongly Disagree	2.39%	3.58%	5.06%	3.86%	5.03%
Don't Know or No Opinion	2.75%	3.90%	2.25%	3.86%	10.06%
	100.00%	100.00%	100.00%	100.00%	100.00%

3. 3. My coworkers model and promote ethical behavior.

	Response Percent	Response Count
Strongly agree	29.6%	1,911
Agree	**54.0%**	**3,481**
Disagree	9.3%	600
Strongly disagree	2.4%	156
Don't know or no opinion	4.7%	302
answered question		**6,450**
skipped question		**71**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	32.81%	28.59%	39.55%	30.82%	19.46%
Agree	**54.25%**	**54.96%**	**43.22%**	**54.11%**	**48.11%**
Disagree	7.78%	9.40%	9.32%	7.53%	17.84%
Strongly Disagree	1.68%	2.50%	1.98%	2.05%	5.41%
Don't Know or No Opinion	3.47%	4.55%	5.93%	5.48%	9.19%
	100.00%	100.00%	100.00%	100.00%	100.00%

4. 4. I know how to report suspected unethical behavior and fraud within my agency.

	Response Percent	Response Count
Yes	83.6%	5,320
No	16.4%	1,045
answered question		6,365
skipped question		156

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Yes	**81.83%**	**84.04%**	**86.00%**	**84.84%**	**70.81%**
No	18.17%	15.96%	14.00%	15.16%	29.19%
	100.00%	100.00%	100.00%	100.00%	100.00%

5. 5. I have received ethics training provided by my agency (choose the appropriate time period).

	Response Percent	Response Count
Within the last year	**48.7%**	**3,126**
In the last one to three years	34.1%	2,191
In the last three to five years	7.9%	508
More than five years ago	4.3%	276
Never	5.0%	320
answered question		**6,421**
skipped question		**100**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Within the last year	37.18%	**50.93%**	**42.98%**	**57.81%**	33.14%
Last one to three years	**40.91%**	33.09%	41.57%	25.41%	**35.43%**
Last three to five years	11.55%	7.32%	5.34%	8.86%	9.14%
More than five years ago	4.57%	4.17%	2.81%	3.73%	10.86%
Never	5.78%	4.49%	7.30%	4.20%	11.43%
	100.00%	100.00%	100.00%	100.00%	100.00%

6. 6. I have been adequately trained by my agency to know what constitutes ethical and unethical behavior.

	Response Percent	Response Count
Strongly agree	37.4%	2,404
Agree	**49.1%**	**3,156**
Disagree	6.3%	404
Strongly disagree	2.0%	128
Don't know or no opinion	5.1%	330
answered question		**6,422**
skipped question		**99**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	36.82%	37.21%	**43.50%**	43.35%	18.71%
Agree	**49.82%**	**50.26%**	41.53%	**43.81%**	**45.03%**
Disagree	5.90%	5.87%	8.19%	5.96%	16.37%
Strongly Disagree	1.93%	1.75%	1.69%	2.75%	7.60%
Don't Know or No Opinion	5.54%	4.90%	5.08%	4.13%	12.28%
	100.00%	100.00%	100.00%	100.00%	100.00%

7. 7. My agency has written ethical guidance, such as a code of conduct, policy and/or other guidelines.

	Response Percent	Response Count
Yes	**87.5%**	**5,524**
No	1.1%	68
Don't know or no opinion	11.4%	718
answered question		**6,310**
skipped question		**211**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Yes	**90.26%**	**87.74%**	**82.10%**	**89.72%**	**73.72%**
No	0.49%	1.05%	1.99%	0.70%	3.85%
Don't Know or No Opinion	9.26%	11.20%	15.91%	9.58%	22.44%
	100.00%	100.00%	100.00%	100.00%	100.00%

8. 8. My agency's ethical guidance, including code of conduct, policy and/or other guidelines, is clear and comprehensive.

	Response Percent	Response Count
Strongly agree	32.4%	2,087
Agree	**51.4%**	**3,313**
Disagree	4.3%	279
Strongly disagree	1.1%	70
Don't know or no opinion	10.8%	694
answered question		**6,443**
skipped question		**78**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	31.38%	32.24%	38.31%	35.70%	18.62%
Agree	**52.57%**	**51.72%**	**42.82%**	**52.17%**	**53.79%**
Disagree	3.35%	4.56%	5.07%	2.52%	6.21%
Strongly Disagree	0.60%	0.94%	2.25%	1.14%	5.52%
Don't Know or No Opinion	12.10%	10.53%	11.55%	8.47%	15.86%
	100.00%	100.00%	100.00%	100.00%	100.00%

9. 9. I believe my agency has made clear my ethical responsibilities.

	Response Percent	Response Count
Strongly agree	36.4%	2,324
Agree	**51.0%**	**3,262**
Disagree	4.8%	305
Strongly disagree	1.3%	86
Don't know or no opinion	6.5%	414
answered question		**6,391**
skipped question		**130**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	36.73%	35.83%	**43.94%**	42.79%	16.05%
Agree	**50.30%**	**52.13%**	42.82%	**47.91%**	**50.00%**
Disagree	4.48%	4.57%	5.35%	2.56%	16.67%
Strongly Disagree	1.09%	1.10%	2.54%	1.86%	5.56%
Don't Know or No Opinion	7.39%	6.37%	5.35%	4.88%	11.73%
	100.00%	100.00%	100.00%	100.00%	100.00%

10. 10. Unethical conduct is appropriately handled by management in my agency.

	Response Percent	Response Count
Strongly agree	23.2%	1,493
Agree	**36.5%**	**2,347**
Disagree	11.5%	740
Strongly disagree	6.4%	413
Don't know or no opinion	22.4%	1,444
answered question		**6,437**
skipped question		**84**

	Central Office	CHDs	CMS Area Offices	Other Work Location	Respondent did not identify work location
Strongly Agree	18.44%	23.68%	30.53%	26.21%	9.70%
Agree	**36.41%**	**37.14%**	**35.57%**	**33.56%**	**27.27%**
Disagree	9.82%	11.84%	10.64%	7.82%	21.82%
Strongly Disagree	5.27%	6.54%	5.32%	4.14%	16.97%
Don't Know or No Opinion	30.06%	20.80%	17.93%	28.28%	24.24%
	100.00%	100.00%	100.00%	100.00%	100.00%

RESPONSES BY POSITION TYPE

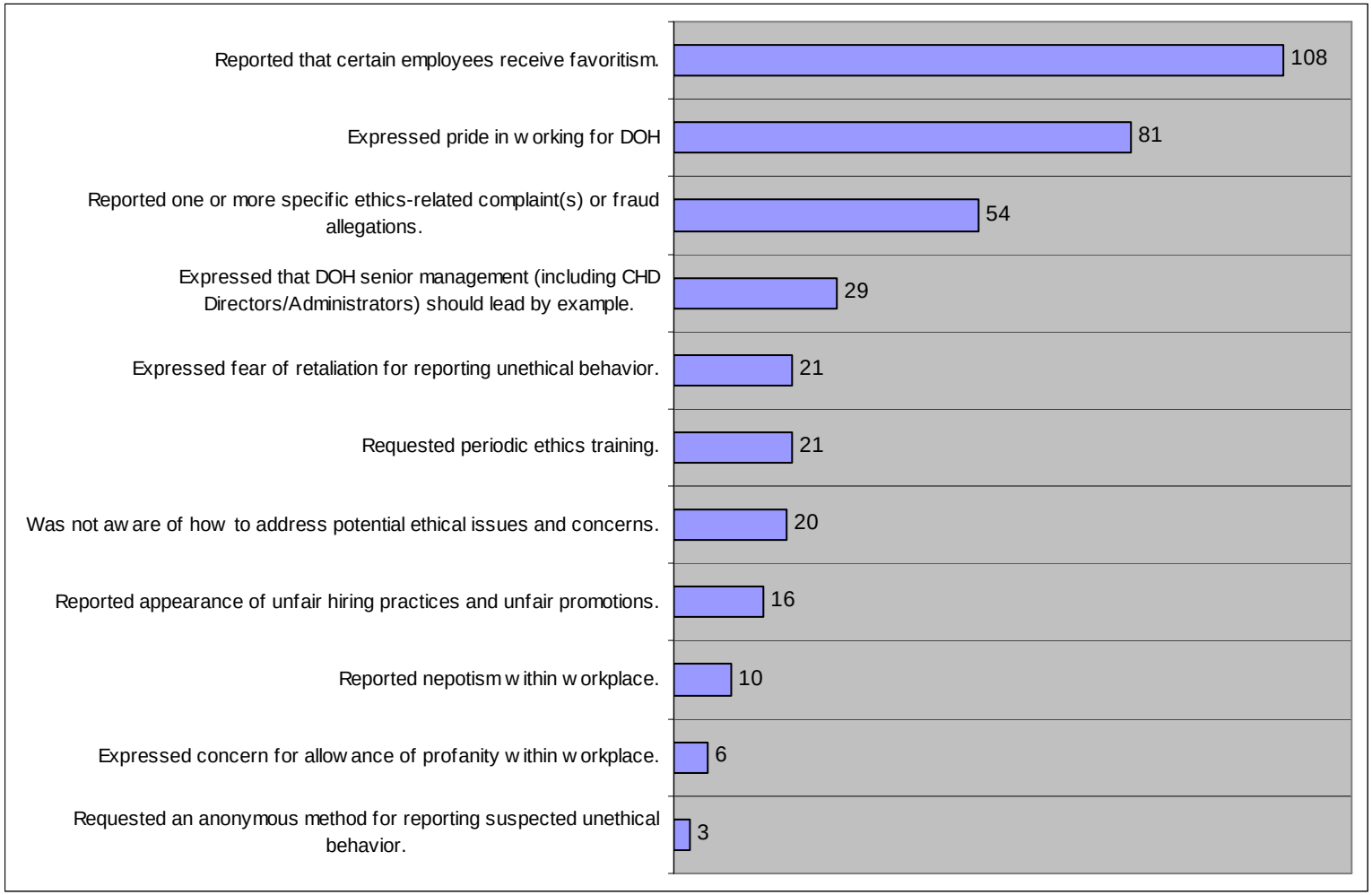
	Response Percent	Response Count
Career Service	**71.2%**	**4,558**
Selected Exempt Service	19.1%	1,221
Senior Management Service	1.0%	64
Other Professional Service (OPS)	7.1%	452
Non State Employee (i.e. Consultant, Contractor)	1.6%	105
	answered question	**6,400**
	skipped question	**121**

How long have you worked for the Agency:

	Response Percent	Response Count
Less than one year	9.3%	594
One to three years	17.0%	1,090
Three to five years	14.1%	905
Five to ten years	22.5%	1,438
More than ten years	**37.1%**	**2,377**
	answered question	**6,404**
	skipped question	**117**

COMMENTS MADE BY RESPONDENTS TO SURVEY

We analyzed the 741 comments made by respondents and categorized the comments by type. While some comments were few, we highlighted them here to communicate to management the perceptions throughout DOH and concerns of the workforce. There were 372 general comments that were not identifiable to one of the categories in the following chart.



REPORT DISTRIBUTION

Pursuant to Section 20.055(5)(b), *Florida Statutes*, this report is a public record as defined by Section 119.011(12), *Florida Statutes.*

CLOSING COMMENTS

We would like to thank DOH's executive management, DOH's ethics officer, and the Office of Workforce Development for their cooperation and assistance to us during the course of this audit. We particularly want to thank all persons within DOH that responded to the Agency-wide Survey of Ethical Climate and Culture.