

Whistle-blower Act, tax credit vouchers

Number: INFORMAL

Date: July 22, 2003

The Honorable Ron Klein
Senator, District 30
404 South Monroe Street
Tallahassee, Florida 32399-1100

RE: WHISTLE-BLOWER'S ACT.

Dear Senator Klein:

Thank you for your letter dated July 10, 2003, requesting that this agency investigate recent allegations of violations of the Whistle-blower's Act and alleged failures in oversight by the Department of Education of tax credit vouchers and alleged cover-up efforts by the department. We received your letter over the weekend and began our review on Monday, the 14th of July.

While it is true that this office did, until 1999, have investigatory authority over whistle-blower complaints, the Legislature amended the Whistle-blower's Act in Chapter 99-333, Laws of Florida, to eliminate this agency's responsibilities and to redirect those powers and duties to the Florida Commission on Human Relations.[1] After a review of the legislative history of Chapter 99-333, Laws of Florida, I believe that, as a member of the Florida Senate during the 1999 legislative session, you voted for these changes.[2] Thus, this office is no longer authorized to investigate allegations of violations of the Whistle-blower's Act.

The Whistle-blower's Act authorizes the Florida Commission on Human Relations to receive and investigate complaints from employees alleging retaliation by state agencies and to protect employees from prohibited personnel practices.[3] The commission is instructed to forward to the Department of Law Enforcement or other appropriate agencies or legislative entities "disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds." [4] Thus, the statutory scheme provides for the investigation of these allegations and contemplates the involvement of law enforcement agencies should evidence of criminal activities be discovered.

Accordingly, under the current legislative scheme as adopted by the Florida Legislature, it may be appropriate for the Florida Commission on Human Relations to investigate these allegations. The commission may be reached at 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida 32301; telephone (850) 488-7082. The commission is authorized to share its findings of any criminal misconduct with the appropriate law enforcement agencies. I regret that this office could not be of more direct assistance to you in this matter, but trust you will understand that our inability to become more directly involved is the result of statutory limitations rather than a lack of concern.

Sincerely,

Charlie Crist
Attorney General

CC/tgh

[1] See ss. 21 and 22, Ch. 99-333, Laws of Florida.

[2] See Journal of the Senate, Vol. I, p. 765, Regular Session March 2 through April 30, 1999; Vote Report on S2426, 1999 Regular Session, dated 4/23/99, flsenate.gov.

[3] See s. 112.31895(3)(a)1.-2., Fla. Stat.

[4] See s. 112.31895(3)(a)5., Fla. Stat.