

1.1.C.1 Code of Ethics

I Policy Index:



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II Policy:

The Department of Corrections (DOC) expects from its staff members unflinching honesty, respect for the dignity and individuality of human beings and a commitment to professional service.

III Definitions:

Code of Ethics:

A set of rules describing acceptable standards of conduct.

Conflict of Interest:

Any action by any staff member which adversely affects the interests of the DOC.

Contraband:

Any item(s) introduced or found in the facility, including improperly possessed drugs (whether illegal or legal) and weapons, that are expressly prohibited by those legally charged with the responsibility for the administration and/or operation of the facility.

Dangerous Weapon:

Any firearm, stun gun, knife, or device, instrument, material or substance, whether animate or inanimate, which is calculated or designed to inflict death or serious bodily harm, or by the manner in which it is used is likely to inflict death or serious bodily harm.

Corporal Punishment:

Any act of inflicting punishment directly on the body, causing pain or injury.

Staff Member:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

Offender:

An offender is any person sentenced or remanded to the custody of the SD DOC that is confined in a prison, jail, or other correctional facility that houses those convicted of crimes. Includes Federal inmates and U.S. Marshal holds in the custody of the SD DOC, a parolee (under parole or suspended

sentence supervision by SD Parole Services or under parole or supervision of another state) or a juvenile (either in DOC placement, private placement or aftercare).

Volunteer:

People from the community who freely choose to do or provide direct and/or indirect services to offenders or staff at a facility. These people are not compelled to do so and are not compensated for the services by the State.

Sexual Harassment:

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions (physical conduct) of a derogatory or offensive sexual nature; and
(2) Repeated verbal comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Sexual Misconduct:

Includes prior acts of institutional sexual abuse, sexual abuse in the community, and sexual harassment.

Sexual Abuse:

Engaging or attempting to engage in sexual activity by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.

IV Procedures:**1. General Standards of Conduct:**

- A. Any effort by any staff member to realize personal gain through association with the DOC beyond compensation provided by the State of South Dakota or their private employer, is a violation of public trust.
- B. Any effort by any person to influence any staff member to violate a law, breach a rule or regulation, or to act in a manner contrary to the standards of ethical conduct described in this policy is a violation of public trust.
- C. The DOC has zero tolerance for sexual abuse and/or sexual harassment. All allegations of sexual abuse and/or sexual harassment occurring in the workplace involving a staff member shall be investigated and appropriate services shall be offered to all identified victims of the sexual abuse or sexual harassment. The DOC shall respond to every identified perpetrator, including referral to law enforcement for possible criminal prosecution if the investigation supports sexual abuse or misconduct has occurred. The state will protect the confidentiality of such allegations to the extent possible.
 1. Any sexual abuse and/or sexual harassment involving a DOC staff member and an offender is expressly forbidden and is a violation of DOC policy. Additionally, sexual abuse involving an offender may constitute a violation of state law (See Section F. of this policy).
 2. DOC staff are required to immediately report to their supervisor or human resource manager any knowledge, suspicion or information they may have regarding:
 - a. An incident of sexual abuse or sexual harassment that may have occurred involving a DOC staff member.

- b. Any retaliation or adverse treatment that may have occurred against an offender or staff member who reported the sexual misconduct or sexual harassment.
 - c. Any staff member whose negligence or violation of staff duties and responsibilities may have contributed to the sexual misconduct or sexual harassment.
 3. A staff member who fails to report the above may be subject to disciplinary action, including termination of employment.
- D. The following activities or relationships between staff members and offenders are prohibited:
 1. Accepting gifts or favors from any offender, any family member of an offender, or the agent of any offender or his/her family.
 2. Providing gifts or favors to any offender, a family member of any offender or the agent of any offender or his/her family, except as authorized in the official performance of a staff member's duties.
 3. Developing inappropriate relationships with offenders. A staff member will not become emotionally, romantically, financially or sexually involved with any offender.
 4. Engaging in any form of business or for-profit enterprise with any offender.
 5. Purchasing items directly from any offender.
 6. Providing personal recommendation(s) or endorsement(s) for any offender to a court, board, public agency, employer, etc. other than as authorized through the performance of the staff member's assigned job duties (See SDCL § [24-1-26](#)).
 - a. This does not preclude DOC employees from fully cooperating with requests for offender information from the Parole Board (See SDCL § [24-15A-12](#)).
 - b. Volunteers may provide the Board of Pardons and Paroles with information regarding an offender.
 7. Providing legal advice to, or receiving legal advice from, any offender and/or his/her family member.
 8. Acting as a sponsor for any offender, or allowing any offender released to the community to reside in a staff member's home, unless first approved by the Warden, Superintendent, Executive Director of Pardons and Paroles or Secretary of Corrections.
 - a. Normally, exceptions will be limited to a staff member who is an immediate family member to the offender.
 - b. Any staff member who becomes aware of an offender residing with a staff member is obligated to check on the appropriateness of the situation and/or report the situation to their supervisor (See section on [Reporting Violations](#)).
 - c. Volunteers may assist an offender with re-entry programming.
- E. Every staff member is prohibited from:
 1. Accepting any form of bribe or unlawful inducement.

2. Performing duties under the influence of intoxicants or illegal drugs, or consuming intoxicants, or using illegal drugs while on duty, or unlawfully manufacturing, distributing, dispensing or possessing such substances in the workplace or while on duty.
3. Violating or disobeying established rules, regulations, policies, operational memorandums, lawful orders, or oral and/or written directions from a supervisor.
4. Discriminating against any offender on the basis of race, religion, national origin, creed, gender, disability, political views or other individual characteristics.
5. Inflicting corporal punishment (See SDCL § [24-2-9](#)), brutality, cruelty, abuse or neglect upon any offender; including intentionally demeaning or humiliating any offender.
6. Being in possession of any dangerous weapon(s) not specifically authorized by Secretary of Corrections or his/her designee, policy or operational memorandum while on duty, or introducing any dangerous weapon(s) or item(s) declared as contraband into a DOC facility without proper authorization.
 - a. Personal firearms stored in personal vehicles on property owned, leased or occupied by the DOC must be secured as follows:
 - 1) In a locked vehicle.
 - 2) Stored in such a way that it cannot be identified as a firearm from outside the vehicle.
 - 3) In accordance with South Dakota law.
7. Engaging in critical discussion of staff members or offenders in the presence of offenders.
8. Releasing personally identifiable information that is not in the public domain, and if improperly disclosed, could be used to steal a person's identity, violate the individual's right to privacy or otherwise bring harm to the person, without prior authorization from the Warden, Superintendent, Director, Secretary or his/her designee
9. Withholding information that could threaten the safety and/or security of the DOC, its facilities, staff members, offenders, visitors or the public.
10. Endangering the well being of staff members, offenders, visitors or the public through negligence.
11. Disrupting the efficiency and morale of the DOC, its facilities and its staff members; e.g. deserting a post or walking off the job.
12. Creating a hostile/negative work environment.
13. Stealing State property or careless, negligent use of State property, including using State equipment for personal gain (See ARSD [55:10:01:06](#) & [55:10:07:04\(12\)](#)).
14. Fraudulently using or abusing sick leave.
15. Failing to maintain a satisfactory work attendance record based on established working hours (See ARSD [55:10:01:08](#)).
16. Having any financial interest in any contract or business conducted by the DOC (See SDCL §§ [1-15-12](#) and [24-1-25](#)).

17. Accepting gratuities, service, money or any type of gift or thing of value from a company, contractor or vender that does business, or actively aspires to do business with the State of South Dakota, except as authorized.

Note: This does not apply to promotional items or activities associated with business conferences where vendors provide unsolicited promotional gifts and/or food/beverages that are customary and are regularly and normally offered to customers, potential customers or the general public for the purpose of public relations and/or advertising.

- a. Staff may accept unsolicited gifts or tokens of appreciation from representatives of another state, foreign country, tribe, (gifter) intended to be personal in nature, or when the gift or token is prompted by a personal friendship or professional relationship between the DOC and/or staff member and the gifter and is not intended to influence the staff member's performance/non-performance of his/her duties or to gain influence with the DOC.
 - b. Such gifts or tokens should be accepted when refusal to accept the gifts or tokens may cause offense, embarrassment or otherwise adversely affect relations between the DOC, and/or staff member and the gifter.
 - c. Staff who receive such gifts or tokens of appreciation will notify the Warden, Director, Superintendent or Secretary of Corrections within 2 business days of receipt.
 - d. When practical, gifts or tokens of appreciation accepted by the DOC and/or staff member should be displayed in a common area of the facility.
19. Failing to abide by the standards of dress and grooming (See DOC policy 1.1.C.5 [Staff Dress and Grooming Standards](#)).
 20. Engaging in outside business or personal activities on State time or using State property for anything other than State functions (See ARSD [55:10:01:06](#)).
 21. Utilizing any offender for labor or services that personally benefit the staff member.
 22. Ordering or purchasing parts, supplies or materials directly from offenders in which such transaction would directly benefit the offender.
 23. Misrepresenting or intentionally omitting relevant facts in the performance of job duties; either verbally or in writing.
 24. Engaging in any harassing or discriminatory behavior within the workplace or while on duty (See DOC policy 1.1.C.2 [Supervision of Offenders](#) and DOC policy 1.1.C.10 [Harassment and Discrimination Policy](#)).
 25. Being disrespectful in demeanor, tone or actions to fellow staff members.
 26. Engaging in conduct that reflects unfavorably on the DOC, destroys confidence in the operation of services, or adversely affects the public trust in the DOC.
 27. Failing to disclose personal conduct committed by the staff member that occurred prior to employment with the DOC that may reflect unfavorably on the DOC or destroy confidence in the operation of DOC services, or adversely affect the public trust in the DOC.
 28. Stealing, or attempting to steal personal property or money belonging to any offender.

29. Failing to notify the DOC of the lapse, expiration, suspension or revocation of any license or certification necessary for the employee to perform their assigned duties.
 30. Selling any supplies to the DOC or State which directly benefits the employee or any firm or corporation which the employee may be interested (See SDCL § [1-15-12](#)).
- F. In addition to possible disciplinary action and/or termination, the following are a violation of State law and may result in criminal prosecution:
1. Sexual penetration with an inmate (See SDCL § [24-1-26.1](#)) is a Class 6 felony (See SDCL § [22-6-1 \(9\)](#)), punishable by a maximum sentence of two (2) years imprisonment in the state penitentiary or a fine of four thousand dollars (\$4000), or both (See [Attachment 1](#) for SDCL § [24-1-26.1](#)).
 2. Any staff member assigned to a DOC juvenile corrections facility who knowingly engages in an act of sexual contact or sexual penetration with a juvenile offender whose actions (sexual contact or sexual penetration) does not otherwise constitute a felony is guilty of a Class 6 felony if the juvenile offender is an adult and a Class 4 felony if the juvenile offender is a minor (See SDCL § [22-22-7.6](#) and [Attachment 1](#)).
 3. [24-2-22](#). Possession of unauthorized articles with intent to deliver to prisoner as felony. Any employee or other person who delivers or procures to be delivered, or possesses with the intention to deliver, to any inmate in the state penitentiary, or deposits or conceals in or around any facility or place used to house inmates, or in any mode of transport entering upon the grounds of any facility or place and its ancillary facilities used to house inmates, any article which is unlawful for an inmate to possess pursuant to state law or the rules of the Department of Corrections with the intent that any inmate obtain or receive such article, is guilty of a Class 6 felony (See [Attachment 1](#)).
 4. [24-11-48](#). Delivery of certain unauthorized articles to person incarcerated as a felony. No employee or other person may deliver or procure to be delivered, or have in such person's possession with intent to deliver, to any person incarcerated in a jail or a juvenile detention facility, or deposit or conceal in or around any jail or in or around a juvenile detention facility, or in any mode of transport entering the grounds of any jail or juvenile detention facility and its ancillary facilities used to house inmates or juveniles, any article or thing prohibited pursuant to § [24-11-47](#) with intent that any inmate obtain or receive the same. A violation of this section is a Class 6 felony.
- G. The violation of any criminal law, either while on duty or while off-duty may be considered a breach of the DOC Code of Ethics.
- H. Staff members have an affirmative obligation to seek advice from their supervisor or Bureau of Human Resources manager if they have questions concerning this code of ethics.

2. Reporting Violations:

- A. It is the responsibility of every staff member to promptly report any breach of the DOC code of ethics by a staff member to their supervisor(s) or Bureau of Human Resources manager.
- B. Any staff member who has been arrested or charged with, or who has reasonable knowledge they will be arrested or charged with 1) any felony; or 2) any crime (including misdemeanors) must report the incident to their supervisor at the beginning of the next working day.

1. This includes but is not limited to any sex offense, use, possession or distribution of illegal drugs and/or driving under the influence (See SDCL § [32-23-1](#)).
2. This includes temporary and/or permanent domestic or stalking protection orders issued by any court and served upon a staff member.
 - a. Staff should contact their supervisor when and if the order is terminated by the court or the order has officially expired.
3. Minor violations such as parking or speeding tickets do not need to be reported, unless the violation(s) result in the revocation or suspension of a staff member's driver's license or privilege to drive.

3. Investigations:

- A. Staff members will cooperate fully and truthfully with any investigation ordered by the Secretary, Warden, Director or Superintendent.
- B. Failure to cooperate by the staff member may be grounds for disciplinary action, including termination.

4. Disciplinary Sanctions:

- A. Violation by any staff member of this code of ethics may be grounds for disciplinary action, including termination.

5. Acknowledgment of Review:

- A. Each new staff member will have access to this policy during their pre-service training and will be required to sign the SDCL Signature Form (See [Attachment 1](#)) and the [Receipt and Acknowledgement – DOC Policies](#) form found in DOC policy 1.1.D.1 [Staff Training Requirements](#) acknowledging they are fully aware of, have reviewed, understand and agree to abide by this policy.
- B. Each staff member will have access to this policy during annual training and will be required to sign the [SDCL Signature](#) form (See [Attachment 1](#)) and the [Receipt and Acknowledgement – DOC Policies](#) form located in DOC policy 1.1.D.1 [Staff Training Requirements](#) acknowledging they are fully aware of, have reviewed, understand and agree to abide by the Code of Ethics.

6. Staff Appeal:

- A. A staff member may appeal disciplinary action and/or termination of employment pursuant to ARSD Chapter § [55:10:07](#) and [55:10:09:02](#) within 14-days of notification of the disciplinary action or termination. The appeal may be filed in accordance with the departmental grievance procedure (See DOC policy 1.1.C.4 [Staff Grievances](#)).

V Related Directives:

SDCL §§ [1-15-12](#), [22-6-1 \(9\)](#), [22-22-7.6](#), [24-1-25](#), [24-1-26](#), [24-1-26.1](#), [24-2-9](#), [24-2-22](#), [24-11-48](#) and [32-23-1](#).

ARSD [55:10:07](#), [55:10:01:06](#), [55:10:01:08](#), [55:10:07:04](#) and [55:10:09:02](#).

DOC policy 1.1.C.2 – [Supervision of Offenders](#)

DOC policy 1.1.C.4 -- [Staff Grievances](#)

DOC policy 1.1.C.5 – [Staff Dress and Grooming Standards](#)
DOC policy 1.1.C.10 – [Harassment and Discrimination Policy](#)
DOC policy 1.1.D.1 – [Staff Training Requirements](#)

[Bureau of Human Resources Employee Handbook Click here](#) or go to:
<http://bhr.sd.gov/forms/policies/Handbook.pdf>

VI Revision Log:

March 2002: **Added** # 22, 23, 24, and 25 to General Standards of Conduct section D. **Added** reference to Administrative Rules in #15 & #18 under General Standards of Conduct section D. **Added** section E under General Standards of conduct. **Added** Attachment 1. **Re-lettered** section F, added on-duty language. **Removed** previous section A from Investigations. **Added** section on Acknowledgement of Review. **Added** supervisor to Reporting Violations B.

January 2004: **Added** definitions for Contraband and for Volunteer. **Revised** item C.4 under General Standards of Conduct from “profitable” to “for-profit”. **Revised** items D.18 and D.19 under General Standards of Conduct from “inmate, parolee or juvenile under DOC commitment” to “offender”.

January 2005: **Clarified** the limitations on writing recommendations for any offender. **Added** OMs to the list of things that staff cannot violate. **Added** unauthorized weapon possession while on duty to the list of things prohibited by staff. **Deleted** the section title of “distribution” and moved the information into other areas of the policy. **Added** information on who is authorized to order an investigation. **Clarified** language in the section on “Acknowledgment of Review”. **Added** #12 and #25 to actions prohibited by staff. **Clarified** what adverse actions with law enforcement must be reported to a supervisor or the personnel office.

January 2006: **Added** specific guidelines regarding offenders on aftercare living with a staff member and reporting of such violations. **Deleted** information/reference to SDCL § 22-30A-22. **Changed** CEO to specific facility/agency supervisor titles. **Revised** the policy statement. **Revised** the definitions of contraband, offender and volunteer. **Added** private employer to approved sources of remuneration. **Added** reference to DOC policy 1.1.C.10. **Clarified** the change in penalties for a Class 6 felony effective 7/1/06. **Clarified** language on staff member throughout the policy.

December 2006: Minor style/format changes throughout the policy. **Updated** the penalties for a Class 6 felony. **Revised** the definition of offender. **Expanded** on the prohibited activities regarding confidential information.

December 2007: **Revised** the definition of offender. **Revised** remuneration provided by the DOC to remuneration provided by the State of South Dakota under the section on General Standards of Conduct.

November 2008: **Revised** formatting of policy and attachment in accordance with DOC policy 1.1.A.2. **Replaced** remuneration with compensation in ss (A), **added** purchasing favors or gifts in ss (C1) **added** new ss (C7) regarding not providing or receiving legal advice from offenders and/or family and **revised** ss (D20) to state that purchasing solely or personal use from DOC is prohibited and **added** note that this does not prohibit the purchase of products from DOC for work of state related events within the General Standards of Conduct. **Revised** ss (A and B of Acknowledgment of Review) to include reference to the SDCL Signature Form and the Receipt and Acknowledgment form attached in DOC policy 1.1.D.1. **Added** reference to DOC policy in section V. **Revised** title of Attachment 1.

November 2009: **Revised** minor grammatical errors throughout the policy. **Added** reference to SDCL 22-6-1 (9) in ss (E-1 of General Standards of Conduct) and section V. **Added** hyperlinks.

March 2010: **Added** reference to clemency in ss (C6), **added** new ss (C61) and **added** new ss (D17 and Note) regarding taking money, etc. all within General Standards of Conduct. **Added** SDCL 24-15A-12 to Section V.

October 2010: **Added** Prison Industries in ss (D21) and **added** items for personal use from Prison Industries within ss (D21 Note) both within (General Standards of Conduct).

October 2011: **Changed** the definition of Offender **Added** “legal advice to” and “their” to Section 1 C. 7. **Deleted** “such living arrangements” and **Replaced** with “such exceptions” and **Added** “staff who are an” and “member to the offender” to Section 1 C. 8.a. **Added** “or unlawfully manufacturing, distributing, dispensing or possessing such substances in the workplace or while on duty”. to Section 1 D. 2.

Added “oral and/or written” to Section 1 D. 3. **Added** a. “Staff members may not store firearms in personal vehicles parked on property owned, leased or occupied by the DOC.” to Section 1 D. 6. **Added** “State property or careless, negligent” and **Deleted** “misusing” **Replaced** with “use of” to Section 1 D. 13. **Added** “or accepting” and “or thing of value” and “contractor or vender” to Section 1 D. 17. **Deleted** “those activities” and **Replaced** with “anything other than State functions” to Section 1 D. 18. **Added** (also referred to as Pheasantland Industries)” and Added reference to PI policy to Section 1 D. 21. **Added** “directly” and “which directly benefit the offender” to Section 1 D. 23. **Added** “or intentionally omitting relevant” to Section 1 D. 24 **Added** 29 “Stealing or attempting to steal personal property or money belonging to any offender” to Section 1 D **Added** 30 “Failure to notify the DOC of the lapse, expiration, suspension or revocation of any license or certification necessary for the employee to perform their assigned duties”. to Section 1 D. **Added** 31. “Staff may not sell any supplies to the DOC or state government which directly benefits the employee of any firm or cooperation which the employee may be interested” to Section 1 D. **Deleted** “the disciplinary sanctions outlined in this policy” and **Replaced** with “possible disciplinary action and/or termination” to Section 1 E. **Added** 2. “Includes Ex Parte, temporary and permanent domestic or stalking protection orders issued by any recognized court and served upon a staff member” to Section 2. B. **Added** a. “Staff should contact their supervisor when and if the court grants an order to withdraw the order, or when the term of the order has officially expired” to Section 2 B. 1 **Added** Section 6 Employee Appeal.

December 2012: **Deleted** “Non-Public” and **Replaced** with “Public. **Updated** cited ARSD **Added** definition of “Dangerous Weapon” **Added** 32. to Section 1 D.

February 2013: **Added** definition of “Sexual Abuse” **Added** new C. and C. 1. and C. 2 a. b. c. and C. 3 within Section 1 **Renumbered** subsections that followed. **Deleted** A. “Only the SOC, a Warden, the Director of Juvenile Services, the STAR Academy Superintendent, the Director of Classification/Community Services or the Executive Director of the Board of Pardons and Paroles may order an official investigation of their subordinate staff under the terms of this policy” in Section 3 **Renumbered** subsections that followed. **Deleted** 32 (previous reference to sexual abuse) in Section 1 D. **Deleted** “on supervised release” from Section 1 D. 8 b. **Added** “gratuities” and **Deleted** “special event tickets” and **Added** “beverages that are customary and are regularly and normally offered to customers, potential customers or the general public as samples for public relations and/or advertising purposes” in Section 1 E. NOTE. **Added** new 18 and a. b. c. in 18 and **Renumbered** subsections that followed in Section 1 E. **Added** “has been arrested or charged with or has reasonable knowledge they will be arrested or charged with 1) any felony; or 2) any crime (including misdemeanors). This includes but is not limited to any sex offense, use, possession or distribution of illegal drugs” in Section 2 B. 1 **Added** BHR Employee Handbook to Related Directives.

November 2013: **Added** “sentenced or remanded to the custody of the SD DOC” in the definition of “Offender” **Updated** language in Section 1 E. 8 **Deleted** 22 and 23 in Section 1 E **Deleted** “Staff members may not store unauthorized firearms in personal vehicles parked on property owned, leased or occupied by the DOC” and **Replaced** with “Personal firearms stored in personal vehicles on property owned, leased or occupied by the DOC must be secured as follows: In a locked vehicle, Store in a way that it cannot be identified as a firearm from outside the vehicle. In accordance with South Dakota law” in Section 1 E. 6. a. **Added** 4. to Section 1 F. **Updated** language in Section 1 F. 2.

April 2014: **Added** b. to Section 1 D. 6. **Added** c. to Section 1 D. 8

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

05/21/2014

Date

