

1.1.C.6 Outside Employment

I Policy Index:



Date Signed: 12/19/2013
Distribution: Public
Replaces Policy: 1C.20
Supersedes Policy Dated: 01/24/2013
Affected Units: All Units
Effective Date: 12/23/2013
Scheduled Revision Date: November 2014
Revision Number: 12
Office of Primary Responsibility: DOC Administration

II Policy:

Employees of the Department of Corrections (DOC) may take outside employment provided, in the opinion of their supervisor, there is no conflict with working hours, the employee's efficiency, or the interests of state government. Employees of the DOC may not engage in outside business or personal activities while on duty, nor may state government property be used for anything but state government functions.

III Definitions:

Employee:

For the purposes of this policy, an "employee" is any person employed by the DOC, full or part time.

Outside Employment:

Any employment other than the state employee's employment with the DOC in which the work performed or services provided by the employee is for compensation, gain, income, or other personal benefit, including self employment.

Conflict of Interest:

Any outside employment activity that is illegal, inconsistent, incompatible, or in opposition to the duties, functions and/or responsibilities of employment with the DOC.

IV Procedures:

1. General Standards for Outside Employment for DOC Employees:

- A. Outside employment will not interfere with the effective performance of an employee's DOC position.
- B. Outside employment will not occur during DOC work hours where the DOC employee is also being compensated by the DOC without appropriate leave; nor will the employee use DOC/State materials, supplies, property, telephones or equipment for or in connection with outside employment (See DOC policy 1.1.C.12 [Staff Use of State Computers](#)).

- C. Outside employment may not present a potential conflict of interest between the employee's duties within the DOC and duties for the outside employer. Example:
 - 1. DOC employees will not occupy a management or decision making position with an employer that currently does business or actively aspires to do business with the DOC/State of South Dakota nor may a DOC employee use their position with an outside employer to in any way influence any relationship between the outside employer and the DOC.
 - 2. The DOC employee shall be held accountable for any conflict of interest that occurs with or as a result of engagement in outside employment.
- D. DOC employees will not accept outside employment or gratuities where there is a clear or generally perceived conflict of interest with their DOC job (See DOC policy 1.1.C.1 [Code of Ethics](#)). The DOC prohibits its employees from outside employment that includes participating in the administration and/or operation of outside community programs and organizations that are funded in whole or in part by DOC monies or by grants administered by the DOC.
- E. Outside employment may not constitute a threat to the status or dignity of the DOC employee or the DOC/State. Example:
 - 1. Employment in establishments that sell pornographic or sexually-oriented materials, (books, magazines, sexual devices, videos) or establishments where sexually-oriented entertainment, and/or services are sold, observed or generally engaged in or offered.

2. Required Authorization for Outside Employment:

- A. Full-time and part-time DOC employees must, prior to engaging in any outside employment, request and obtain written permission from their supervisor and the chief executive officer (CEO) of their unit by submission of the DOC [Outside Employment Form](#) (See [Attachment 1](#)).
 - 1. Permission may be revoked when/if the supervisor and/or CEO determines an employee's engagement in outside employment is not in the best interest of the DOC, i.e. the DOC employee fails to perform adequately while on duty with the DOC or the employee receives disciplinary action during the performance of their state duties that is in any way related to their outside employment.
- B. DOC employees who engage in outside employment must have a completed copy of the DOC [Outside Employment Form](#) (See [Attachment 1](#)) on file with the unit's personnel manager.
- C. DOC employees who engage in outside employment must inform their DOC supervisor of any outside employment change(s) that could reasonably be considered contrary to any aspect of this policy.
- D. The provisions of SDCL § [3-8-3](#), SDCL § [4-3-9](#) and ARSD § [55:10:01:06](#) still apply (See [Attachment 2](#)).

3. Restrictions:

- A. Requests by an employee for outside employment or business activity will generally not be granted under the following conditions:
 - 1. New DOC employees (full or part time) who are on probation.

- a. Does not apply to new employees who have secured outside employment prior to being hired by the DOC.
 2. DOC employees who are on medical or other leave due to sickness, temporary disability, or an injury sustained while on-duty with the DOC and who are receiving worker's compensation through the DOC/State.
 3. When the duties of outside employment would be incompatible or inconsistent with the performance of the employee's DOC duties or outside employment interferes with the employee's position within the DOC.
 4. When the duties of outside employment would be undignified or would tend to lower the prestige of the DOC/State, the employee or otherwise discredit public service.
 5. The hours of the outside employment may impair the DOC employee's ability and availability to efficiently and adequately perform their assigned duties, assignments and/or responsibilities within the DOC. DOC assigned on-call duty, staff recall during emergency situations and overtime shall have priority over outside employment commitments.
- B. The restrictions described herein are not all-inclusive and do not exclude or excuse other misconduct identified by DOC management/supervisors determined to be detrimental to the good order and discipline of the DOC.

4. Acknowledgment of Review:

- A. Each staff member will review this policy at least annually and sign the Receipt and Acknowledgement form contained 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.

V Related Directives:

SDCL § 3-8-3 and § 4-3-9
ARSD § 55:10:01:06
DOC policy 1.1.C.1 – [Code of Ethics](#)
DOC policy 1.1.C.12 -- [Staff Use of State Computers](#)
DOC policy 1.1.D.1 – [Staff Training Requirements](#)

VI Revision Log:

March 2002: Added definition of Employee. Removed previous section E on General Standards for Outside Employment. Added section on Acknowledgement of Review.

December 2003: Changed "shall" to "will" throughout the policy. Changed signature block.

January 2005: Revised the policy statement. Revised the definition of "employee". Corrected attachment 2.

January 2006: Added a reference to DOC policy 1.1.C.1. Clarified that a completed copy of the outside employment form needs to be on file with the Department's personnel manager.

December 2006: Clarified that the policy must be reviewed at least annually.

December 2007: No changes made.

November 2008: Revised formatting of policy and attachment in accordance with DOC policy 1.1.A.2. Revised minor wording throughout policy.

November 2009: Deleted ss (E of General Standards for Outside Employment for DOC Employees) regarding DOC employees not taking money, etc., excluding promotional items associated with business conferences. Added hyperlinks.

November 2010: Revised formatting of Section I.

January 2012: Deleted Non-Public Replaced with Public policy. Added definition of "Outside Employment" and "Conflict of Interest" Added "or property" to Section 1 B. Added C. E. and E. 1. to Section 1. Deleted "or business activity, either with or without compensation" from Section 2 A. Added 1. to Section 2 A. Added C. to Section 2 and Renumbered previous C. to D. Added Section 3 "Restrictions" and Renumbered "Acknowledgement of Review" to Section 4.

December 2012: Added "telephones or equipment" and Added "or in connection with" to Section 1 B. Deleted "company" and Replaced with "employer" and Added "nor may a DOC employee use their position with an outside employer to in any way influence any relationship between the outside employer and the DOC" in Section 1 C. 1. Add 2. to Section 1 C. Added "The DOC prohibits employees from outside employment that includes participating in the administration and/or operation of outside community programs and organizations that are funded in whole or in part by DOC monies or by grants administered by the DOC" in Section 1 D. Added "employee" to Section 3 A. 4. Added "adequately" to Section 3 A. 5. Added "and availability" and Added "assignments or responsibilities" and Added "DOC assigned on-call duty, staff recall during emergency situations and overtime has priority over outside employment" in Section 3 A. 5. Added B. to Section 3.

November 2013: Added a. to Section 3 A. 1.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

12/19/2013

Date

Attachment 1: Outside Employment Form

The **Outside Employment Form** is located on the state's WAN.

A copy may be printed using **Microsoft Word** as follows:

1. Click [here](#) to access the **Outside Employment Form** by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Outside Employment Form**.

OUTSIDE EMPLOYMENT FORM	
Employees of the State of South Dakota may engage in outside employment, subject to all of the following conditions as determined by the employee's agency.	
1. The outside employment shall not interfere with the work hours or efficient performance of the employee's state position.	
2. The outside employment shall not conflict with the interests of the agency or the State of South Dakota, and	
3. The outside employment shall not be the type that would give rise to criticism or suspicion of conflicting interests or duties.	
Employee's Name: _____	
Agency: _____	Employee #: _____
<i>I hereby request approval for the following outside employment:</i>	
Business Name: _____ Type of Business: _____	
Business Address: _____	
Job Title: _____	
Description of Work: _____	

Working Hours: _____	Number of hours per week: _____

_____	_____
Employee Signature	Date
=====	
Supervisor Recommendations: _____	

Approval _____	Disapproval _____

_____	_____
Supervisor Signature	Date
=====	
Approval _____	Disapproval _____
Special Conditions: _____	

_____	_____
Secretary/Director/Warden or Superintendent	Date
Revised March 2013	

Attachment 2: SDCL and Administrative Rule Governing Outside Employment

South Dakota Codified Law and Administrative Rules that Apply to Outside Employment by DOC Employees:

SDCL § 3-8-3. Salaried state officer retaining money received as theft. Any officer receiving a salary from the state who shall keep or retain any money, emolument, fee, or perquisite, paid to or received by him for the performance of any duty or duties connected with his office, or in any manner paid to him as such officer or by reason of his holding such office is guilty of theft. It is the intent and meaning of this section that no officer receiving a salary from the state shall keep or retain any money, emolument, fee, or perquisite paid to him by reason of his holding such office, other than the annual salary payable to such officer as provided by the Constitution.

SDCL § 4-3-9. Failure of state officer or employee to pay receipts into treasury as theft. Any salaried state officer or employee who shall fail or refuse to pay into the state treasury any and all money, emoluments, fees, perquisites, or other property received by him for the performance of any duty or duties connected with his office or in any manner paid to him as such officer or employee by reason of his holding such office or employment as is provided in this chapter, and within the time provided therein is guilty of theft.

ARSD § 55:10:01:06. Outside activities. Employees of the state may take outside employment provided, in the opinion of their appointing authority, there is no conflict with working hours, the employee's efficiency, or the interests of state government. Employees of the state may not engage in outside business or personal activities while on duty, nor may government property be used for anything but government functions.