



<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES</p>		POLICY NUMBER 1.1.C.1	PAGE NUMBER 1 OF 8
		DISTRIBUTION: Public	
		SUBJECT: Staff Code of Ethics	
RELATED STANDARDS:	None	EFFECTIVE DATE: June 01, 2023	
		SUPERSESION: 02/07/2022	
DESCRIPTION: Personnel	REVIEW MONTH: May	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to expect from its staff, unfailing honesty, respect for the dignity and individuality of human beings, and commitment to professional service. The DOC requires all staff to familiarize themselves with, and to abide by, all rules and regulations pertaining to the staff member's position, duties, and conduct within the department.

II. PURPOSE

The purpose of this policy is to provide employees with a clear understanding of the department's values and expectations for ethical conduct and professional and compassionate public service and to provide the opportunity for each employee to commit to such conduct and service.

III. DEFINITIONS

Code of Ethics:

A set of rules describing acceptable standards of conduct necessary to protect the health, safety, and integrity of staff and offenders which applies to each Department of Corrections staff member.

Corporal Punishment:

Any act of inflicting non-fatal, physical punishment directly on the body which causes pain or injury.

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.

Disciplinary Action (Staff):

May include suspension without pay, reduction in salary, demotion, or termination/dismissal (See ARSD 55:10:07:04).

Personal Benefit:

Financial gain or special consideration for a person or person's family or friends.

Social Media:

Web-based technology that allows interactive dialogue and includes but is not limited to, print, broadcast, digital and online services, such as blogs, collaborative projects, content communities, and social networking sites. Social media

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sites include but are not limited to Facebook, LinkedIn, MySpace, Blogger and Twitter, Tumblr, Instagram, SnapChat, TikTok, Google and blogs, as well as video and photo-sharing sites such as Flickr and YouTube.

IV PROCEDURES

1. Standards of Conduct:

**Note: The standards of conduct contained within this policy are in place to ensure staff members are aware of the basic expectations for their behavior, on and off duty, and to establish formal rules of ethical conduct. These guidelines operate in conjunction with state statute. This policy is not intended to contain an exhaustive list of ethical conduct or standards of conduct that apply to staff.*

This policy does not constitute an employment contract or guarantee of continued employment. The DOC reserves the right to change this policy and its contents at any time. Nothing in this policy limits the authority of the Bureau of Human Resources (BHR) to establish or revise human resources policy. This policy is adopted to guide the internal operations of the DOC and does not create a legally enforceable interest or limit the secretary or designee's authority to affect the status of any staff member.

Additional standards of conduct are located in the State Employee Handbook, which is available on the Bureau of Human Resources website at <https://bhr.sd.gov/forms/policies/Handbook.pdf>.

- A. A DOC staff member's position, title, authority, and work-based relationships may offer the opportunity to further the staff member's own private interests or interests of friends, relatives, or persons with whom the staff member is affiliated. The public may lose confidence in the integrity of the department if it perceives a staff member is using public office to serve a private interest. Accordingly, it is expected that staff members will not use department information, property, time, or relationships developed through their position, to serve private interests, and that staff shall avoid situations and actions that may adversely impact the public's trust.
 1. Any effort by a staff member to realize personal benefit through association with the department beyond compensation provided by the State of South Dakota, is a violation of public trust.
 2. Staff may not use their official position to secure special privileges or advantages for themselves or others or engage in activities that constitute a conflict of interest.
 3. Staff may not knowingly use funds or property entrusted to them in violation of public trust, or in a manner that results in a direct financial benefit to the staff member. Violation constitutes theft.
 4. Staff shall avoid impropriety and the appearance of impropriety in all activities.

- B. Any effort by any person to influence a staff member to violate law, breach rules, regulations, or laws, 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 sexual harassment. All allegations of sexual abuse or sexual harassment occurring in the workplace will be investigated. Appropriate services will be offered to all identified victims of the sexual abuse or sexual harassment. The DOC will respond to every identified perpetrator, including referral to law enforcement for possible criminal prosecution, if the investigation supports sexual abuse or sexual misconduct has occurred. Applicable state laws protecting the victim shall apply.
 1. Pursuant to SCDL 22-22-7.6 it is a felony offense for any DOC staff member to involve in sexual relations with any DOC offender.
 2. Any sexual abuse or sexual harassment involving a DOC staff member and an offender is expressly forbidden and a violation of DOC policy. Additionally, sexual abuse involving a staff member and offender may constitute a violation of state law (see section 1.G in this policy).
 3. DOC staff are required to directly report to a supervisor or human resource manager, any knowledge, suspicion, or information they have regarding the following:
 - a. An incident of sexual abuse or sexual harassment that may have occurred involving a DOC staff member and offender.

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- b. Any retaliation or adverse treatment that may have occurred against an offender or staff member who reported an incident of sexual misconduct or sexual harassment.
 - c. Any staff member whose negligence or violation of duties, responsibilities, or failure to abide by the code of ethics, may have contributed to sexual misconduct or sexual harassment.
 4. A staff member who fails to report an incident of sexual misconduct or sexual harassment, may be subject to disciplinary action, including termination of employment.
- D. Certain standards of conduct apply to staff who supervise offenders. Staff shall conduct themselves and perform their duties, in such a way as to set a positive example for offenders and command respect. The following conduct by staff is prohibited:
1. Soliciting, trading, bartering, or accepting any gift or compensation from any offender, family member of any offender, or agent/representative of any offender.
 2. Developing or engaging in inappropriate relationships with offenders or fraternizing with an offender. Staff shall not become emotionally, romantically, financially, or sexually involved with any offender. Staff is expected to maintain appropriate, professional boundaries with offenders and their family.
 - a. This includes using social media to engage in unauthorized communications with an offender or to contact offender's family or agent/representative of the offender for the purpose of initiating or engaging in unauthorized activity or prohibited conduct. Any contact attempts by an offender via any social media platform must be reported to a supervisor
 - b. Staff is required to promptly disclose to their supervisor, any relationship that exists between the staff member and an offender supervised by the staff member.
 3. Engaging in any outside form of personal business or for-profit enterprise with any offender or agent/representative of an offender.
 4. No staff member may provide information to assist an offender in procuring clemency, i.e., personal recommendation, endorsement, or input. Staff may provide information related to the offender, such as records and facts, upon request from the Board of Pardons and Parole, court, or governor, pursuant to SDCL § 24-1-26.
 - a. At the request of the Board of Pardons and Parole, staff may furnish any requested record, fact, or opinion in reference to an offender that may be in their possession or for which they have knowledge of.
 5. Acting as a sponsor for any offender, or allowing any offender released from DOC custody to reside in a staff member's home/cohabitation, unless such arrangements have been fully disclosed in advance and approved by the warden, director, secretary of corrections, or designee.
 - a. Exceptions may be granted to staff who are immediate family of the offender.
 - b. DOC volunteers may assist offenders with re-entry programming.
- E. A staff member committing the following misconduct may be subject to disciplinary action (ARSD 55:10:07:04):
1. Accepting any form of a bribe or unlawful inducement; or providing or attempting to provide, a bribe or unlawful inducement to a staff member to commit an unlawful act or violate department policy.
 2. Staff are prohibited from performing assigned duties or reporting for duty under the influence of illegal drugs or substances; or unlawfully manufacturing, distributing, dispensing, possessing, or using illegal drugs or substances (See ARSD 55:05:02:02 and SDCL § 3-6F-1). Staff are prohibited from performing duties under the influence of alcohol or medications (includes valid prescriptions or other lawful substances), or when use of the substance(s) has rendered the staff member incapable of safely performing their duties.
 - a. Staff shall report to their supervisor any narcotic, barbiturate, hallucinogenic drug, central nervous system stimulant, or intoxicant which has been prescribed to them and for which they are taking.
 - b. Under the influence is defined as the presence of any measurable or detectable amount of illegal drugs or substance, alcohol, or medication in a staff member's system.

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- c. Staff may be ordered to submit to a drug screen test. Refusal by staff to submit to a drug screen test requested pursuant to ARSD 55:05:05:02 or ARSD 55:05:05:03, shall be considered the equivalent of a confirmed test result.
- d. No staff member may refuse to submit to a scientific test to measure alcohol blood level when reporting to duty or while on duty, if reason exists which supports the staff member is or may be under the influence of alcohol.
- e. Staff whose test results support a positive indication, are subject to disciplinary action (ARSD 55:05:07:03).
- f. Staff convicted of a violation of criminal drug law, or who admit in court to a criminal drug violation, are subject to disciplinary action.
3. No staff member may be insubordinate, neglectful, or unwilling to follow lawful orders, or fail to perform officially designated duties.
4. Discriminating against or demonstrating prejudice against any person, group, or organization on the basis of race, religion, national origin, creed, gender, disability, political views, or other individual characteristics.
5. Inflicting or contributing to, any act of corporal punishment (See SDCL § 24-2-9), brutality, cruelty, abuse, neglect, or excessive use of force upon any offender.
6. Knowingly introducing contraband into a DOC facility; or knowingly and intentionally facilitating offender access to contraband.
 - a. Possession of personal firearms within the perimeter of any DOC institution is prohibited (see [Executive Order # 2019-16](#)).
 - b. Personal firearms and duty firearms may be stored in vehicles on property owned, leased, or occupied by the DOC, provided the firearm is secured as follows:
 - 1) The vehicle is locked.
 - 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. Knowingly or intentionally releasing or disclosing personally identifiable information (PII) to an unauthorized person, or in an unauthorized manner, or for an unauthorized purpose. PII is information, obtained through the course of a staff member engaging in assigned duties, that is protected from disclosure by law or is otherwise intended to be held in confidence.
 - a. PII includes certain information about an individual that is documented, recorded, and kept by the DOC, including:
 - 1) Any information used to distinguish or trace a person's identity
 - 2) Any information directly linked or linkable to an individual person, such as medical, employment, or financial information, that is not identified as being public.
8. Withholding or failing to disclose information that may compromise the safety and/or security of staff, offenders, or the public, or threatens the orderly operation of the DOC or its facilities.
9. Endangering the well-being of staff, offenders, visitors, or the public through willful, reckless, or negligent misconduct or actions, or willful, reckless, or negligent violation of law, rules, or policies.
10. Disrupting the efficiency and morale of the DOC, its facilities, or staff, to include deserting an assigned post or walking off the job.
11. Theft of state property; or careless, negligent use of state property; or using state equipment, materials, or property for personal gain (See ARSD 55:10:01:06 and 55:10:07:04(12)). Staff shall protect and conserve state property, equipment, and supplies entrusted to them.
12. Fraudulent use of leave (using sick leave for purposes other than as permitted), abuse of leave, excessive tardiness, or absenteeism, or failing to properly notify supervisors or designees when requesting leave. Requests to use leave shall be provided upon the staff member's knowledge of the need to use leave and made as soon as possible prior to the start of staff person's scheduled workday.
13. Failing to maintain a satisfactory work attendance record based on established working hours; or having unreported or unauthorized absences (See ARSD 55:10:01:08).
14. Having any financial interest in any contract or business conducted by the DOC (See SDCL § 24-1-25). No staff member who approves, awards, administers, or supervises staff who approve, award, or administer contracts involving the expenditure of DOC funds or sale or lease of DOC property, may have a pecuniary interest in the contract (See SDCL § 5-18A-17.6).

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15. Accepting gratuities or gifts (property/object, service, money, or thing of value), compensation, or remuneration from any company, contractor, or vendor that does business or actively aspires to do business with the State of South Dakota, except as authorized by DOC. ***Note:** This does not apply to promotional items or activities associated with business conferences where vendors have provided the organizers of the conference promotional items/gifts and/or food and/or beverages, which are then distributed for immediate consumption to the attendees at the conference.
 - a. Staff may accept unsolicited gifts or tokens of appreciation from representatives of another state, foreign country, or tribe (the 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 or staff member and the gifter, and the intent of the gifter is not to influence the performance or non-performance of the staff member or to gain influence with the DOC.
 - b. Gifts or tokens may be accepted when refusal to accept the gift or token may cause offense or embarrassment to the department, or otherwise adversely affect relations between the department and the gifter or those represented by the gifter.
 - c. Staff who accept such gifts or tokens will notify the warden, director, or secretary of corrections within two (2) business days of acceptance of the gift or token. If the warden, director, secretary, or designee determines the gift or token is a violation of policy, state law, or not in the best interest of the department, the gift or token shall be immediately returned.
 - d. When practical, gifts or tokens accepted by staff member on behalf of the department should be displayed in a common or public area of a DOC owned or leased facility.
 16. Failing to abide by the standards of staff dress and grooming.
 17. Engaging in outside business on state time; or using state property or materials for anything other than state functions (See ARSD 55:10:01:06).
 18. Misrepresenting or intentionally omitting relevant facts, or intentionally falsifying a record, document, or report, either verbally, electronically, or in writing.
 19. Engaging in conduct that reflects unfavorably on the DOC, undermines confidence in the operation of services provided by the DOC, or adversely affects the public's trust in the DOC.
 20. Theft or attempted theft of personal property or funds belonging to any offender; or knowingly or intentionally failing to protect an offender's personal property or funds held by the DOC.
 21. Failing to properly notify a supervisor of the lapse, expiration, suspension, revocation, or termination of any required license, certification, or legal status necessary to the performance of the staff member's assigned duties and responsibilities.
 22. Selling any supplies to the DOC or state which directly and personally benefits the staff member or any firm or corporation which the staff member may have an interest (See SDCL § 1-15-12).
 23. Engaging in harassing, threatening, or violent behavior while on duty, or making threats to bully or harass another while on duty. The DOC does not tolerate any form of violence (physical or verbal), including intimidation, threats, or violent acts in the workplace. All allegations of staff violence or harassment shall be investigated, and corrective action shall be promptly administered, as warranted. This includes any retaliation or adverse treatment against an offender or staff member for reporting violations or cooperating in any investigation.
- F. The DOC does not monitor staff's personal use of social media. However, the DOC may investigate and take responsive action when it becomes aware of, or suspects staffs' conduct or communication on a social media site adversely impacts the DOC, violates applicable DOC policies, is inconsistent with the mission, vision, and values of the DOC, or compromises the staff member's ability to adequately perform his/her assigned duties.
1. The DOC will follow-up and investigate threats of violence posted by any staff member within a social media platform which are reported or otherwise become known to the DOC. Staff who become aware of threats of violence posted to social media by a DOC staff member shall promptly report this to their supervisor.
 2. Staff will not use social media to communicate with staff members, offenders, or supervisors, convey official DOC business or discuss job duties, responsibilities, or work-related information, without prior permission from their supervisor.

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G. Staff shall comply with all laws (federal, state, and local) during the performance of all official duties. The following are examples of conduct which is a violation of law and may result in criminal prosecution and disciplinary action:

1. SDCL § 24-1-26.1. Sexual penetration with an offender 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.
2. SDCL § 22-22-7.6. Any person employed at any jail or juvenile correctional facility, who knowingly engages in an act of sexual contact or sexual penetration with another person in detention and under the custodial, supervisory, or disciplinary authority of the person so engaging, and which act of sexual contact or sexual penetration does not otherwise constitute a felony pursuant to the provisions of Chapter 22-22, is guilty of a Class 6 felony if the victim is an adult, and a Class 4 felony if the victim is a juvenile. A juvenile correctional facility pursuant to this section is a juvenile detention facility as defined in subdivision 26-7A-1(16) or a juvenile facility operated by the Department of Corrections under § 1-15-1.4.
3. SDCL § 22-21-4. No person may use or disseminate any visual recording or photographic device to photograph or visually record any other person without clothing or under or through clothing, for the purpose of viewing the body or undergarments worn by the other person, without the consent or knowledge of the person, with the intent to self-gratify, harass, or embarrass and invade the privacy of the person, under circumstances in which the other person has a reasonable expectation of privacy. Violation is a Class 1 misdemeanor. Violation is a Class 6 felony if the victim is seventeen (17) years of age or younger and the perpetrator is at least twenty-one (21) years old.
4. SDCL § 24-2-22. Possession of unauthorized articles with intent to deliver to prisoner as a felony. Any employee or other person who delivers or procures to be delivered, or possesses with the intention to deliver, to any offender in the state penitentiary, or deposits or conceals in or around any facility or place used to house offenders, or in any mode of transport entering upon the grounds of any facility or place and its ancillary facilities used to house offenders, any article which is unlawful for an offender to possess pursuant to state law or the rules of the Department of Corrections with the intent that any offender obtain or receive such article, is guilty of a Class 6 felony.
5. SDCL § 24-11-48. Delivery of certain unauthorized articles to person incarcerated is 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 offenders or juveniles, any article or thing prohibited pursuant to § 24-11-47 with intent that any offender obtain or receive the same. A violation of this section is a Class 6 felony.

H. Staff with questions concerning the above information have an affirmative obligation to seek clarification from a supervisor or Bureau of Human Resources manager.

2. Supervision:

- A. Dating/romantic/sexual relationships between a supervisor and an employee who is within the direct supervisory chain of command of the supervisor, or when the supervisor is in a position to influence the employment status of an employee is prohibited.
- B. No supervisor may directly or indirectly hire, evaluate, promote, terminate, discipline, or compensate any staff member with whom he/she is related by blood, marriage, or adoption, unless an exception has been approved by the secretary of corrections.
- C. Supervisors who fail to immediately report such conflict/relationship may be subject to disciplinary action.

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- D. The DOC reserves the right to investigate and, when appropriate, take prompt action, if an actual or potential conflict of interest arises concerning a staff member and supervisor that has not been properly reported or disclosed or a supervisor is found to have engaged in an inappropriate consensual romantic, sexual, or dating relationship with a staff member they supervise.

3. Reporting:

- A. It is the responsibility of every staff member to promptly report any knowledge of misconduct, or a breach of the code of ethics, standards of conduct, or conflict of interest, to their supervisor(s), BHR manager, or other appropriate authority. Failure to report misconduct, or a breach of the code of ethics, standards of conduct, or conflict of interest may result in disciplinary action.
- B. Staff must report any public official, including fellow staff, who has knowingly used funds or property entrusted to them in violation of public trust and whose use of such funds or property results in a direct financial benefit to the person.
- C. Staff must report any violation or suspected violation of a law or rule, abuse of funds, abuse of authority, or substantial and specific danger to public health or safety, to their supervisor, unless providing such report is a violation of law.
- D. Any staff member who has been arrested or charged, or who has reasonable knowledge they will be arrested or charged with any felony or misdemeanor crime, must report this information to their supervisor the next business day. Violation of criminal law, either on or off duty by a staff member, may be a breach of the code of ethics.
1. Minor violations, such as parking or speeding tickets, or violations which result in a fine or bond forfeiture which is less than two hundred dollars (\$200) do not require reporting, unless the violation(s) results in the revocation, termination, or suspension of any required license relevant to the staff person's duties.
 2. Staff authorized by the DOC to carry a DOC issued firearm, must immediately report to their supervisor any adverse legal action, finding, condition, or status that may prohibit or impede their ability to possess a firearm safely and legally.
- E. Staff who report violations/misconduct in good faith through their chain of command or other appropriate authority, will not be retaliated against or subject to adverse treatment. Staff self-reporting violations, misconduct, or who provide false report or make a report with reckless disregard for the truth remain subject to disciplinary action.

4. Investigations:

- A. Staff members will cooperate fully and truthfully with any legitimate investigation ordered by the secretary, warden, director, or other staff member with proper authority to order such an investigation.
- B. Failure to cooperate with an investigation may be grounds for disciplinary action, including termination.

5. Disciplinary Action:

- A. Conduct by any staff member within or outside the scope of employment that violates the code of ethics or is included in the just causes listed in ARSD 55:10:07:04, is prohibited and shall subject the staff member to disciplinary action.

6. Staff Appeal:

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- A. A staff member may appeal disciplinary action pursued by the department or its representative for alleged violations of the code of ethics, within fourteen (14) days of notification of the disciplinary action. Appeals shall be filed in accordance with departmental grievance procedures (ARSD Chapter § 55:10:07 and 55:10:09:02).
- B. A current copy of the state grievance procedure may be obtained through the human resource office and DOC policy 1.1.C.4 *Staff Grievances*.

V. RESPONSIBILITY

The director of prisons is responsible for the annual review and revision of this policy.

VI. AUTHORITY

- A. **SDCL** §§ 1-15-1.14, 1-15-12, 3-6F-1, 5-18A-17.6, 22-6-1(9), 22-21-4, 22-22-7.6, 24-1-25, 24-1-26, 24-1-26.1, 24-2-9, 24-2-22, 24-11-47, 24-11-48, 26-7A-1(16)
- B. **ARSD**: 55:05:02:02, 55:05:05:02, 55:05:05:03, 55:05:07:03, 55:10:01:06, 55:10:01:08, 55:10:07:04, 55:10:07:04(12), 55:10:09:02

VII. HISTORY

May 2023
January 2022
December 2019
December 2018
June 2018
March 2018
December 2016
May 2016
December 2015
August 2015

ATTACHMENTS

None.