

1.1.C.6 Staff Outside Employment

I Policy Index:



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Office of Primary Responsibility: DOC Administration

II Policy:

Employees of the Department of Corrections (DOC) may engage in outside employment, provided the outside employment is not incompatible with the discharge of the employee's official DOC duties, or conflicts with the employee's regular hours of employment with the DOC.

III Definitions:

Conflict of Interest:

Any outside employment activity that is illegal, inconsistent, incompatible or in opposition to an employee's duties, functions or responsibilities with the DOC.

Employee:

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

Employment:

Providing a service, whether or not in exchange for a fee or other service. Does not include volunteer work or services.

Outside Employment:

Any secondary employment, contract or work agreement made by an employee of the DOC with another party/employer, in which the work performed or services provided by the employee is for compensation, gain, income or personal benefit. This includes self-employment, owning a business, holding any elected or appointed public office, or holding a position in a public party or organization.

IV Procedures:

1. General Standards for Outside Employment for DOC Employees:

- A. DOC employees will not engage in outside employment that is not compatible with the full and proper discharge of the employee's duties and responsibilities within the DOC, or presents a conflict of interest with the employee's employment with the DOC. Outside employment will not interfere with or impair and employee's capacity to perform his/her DOC job duties in an acceptable manner.

- B. Outside employment will not occur during hours which the employee is scheduled to work for the DOC, unless the employee has requested and been approved for leave.
- C. Employees will not use DOC materials, supplies, property, equipment or resources for or in connection with, outside employment.
- D. Outside employment will not be incompatible, create a conflict of interest, impair or create an appearance of impairing, an employee's independence of judgement or action while performing assigned DOC duties. Example:
 - 1. DOC employees will not occupy a management or decision-making position with an outside employer that is currently engaged in business, or actively aspiring to engage in business with the DOC/state, nor may a DOC employee use his/her position with the DOC to influence any relationship between an outside employer and the DOC.
 - 2. A DOC employee that engages in uncompensated outside employment that arises out of, or is in any way connected with the employee's position within the DOC, including knowledge gained therein, is required to receive prior supervisory approval before engaging in such outside employment. Any such involvement shall be consistent with all applicable state laws.
- E. Outside employment may not demean the employee's position or status with the DOC, discredit the employee's position as a public servant, or constitute a threat to the dignity of Corrections as a professional occupation. Example:
 - 1. Employment in any establishment that derives over one-half of its total income from the sale of pornographic or sexually-oriented materials, (books, magazines, sexual devices, videos) or where sexually-oriented entertainment and/or services are sold, observed or generally engaged in or offered.
 - 2. Employment with an employer found to be willfully and negligently operating in violation of applicable local, state or federal laws or contrary to established regulations.

2. Required Authorization for Outside Employment:

- A. Prior to engaging in outside employment, employees must disclose to their supervisor their intent to engage in outside employment. Employees may be required to obtain written permission from their supervisor and the Warden, Director or designee by submitting an Outside Employment form (See [Attachment 1](#)). Completed forms which contain only vague, general descriptions and details of the outside employment may be denied.
 - 1. Permission to engage in outside employment may be revoked anytime by the approving authority, if it is determined an employee's engagement in outside employment is not in the best interest of the DOC or contrary to the legitimate penological interests of the DOC.
- B. DOC employees engaging in outside employment may be required to have a completed Outside Employment form on file with the unit's Bureau of Human Resource office, at the discretion of the approving authority.
- C. DOC employees engaging in outside employment must disclose any actual or potential conflict of interest related to their outside employment as soon as they become aware of a conflict. Employees must promptly inform their supervisor anytime they become aware of changes in the conditions of the outside employment that are contrary to this policy.

- D. The provisions of SDCL § [3-8-3](#), SDCL § [4-3-9](#) and ARSD § [55:10:01:06](#) apply (See [Attachment 2](#)).

3. Limitations and Restrictions:

- A. To be eligible for outside employment, the employee must, after review and consideration by the approving authority, be in good standing with the DOC.
1. Employees who have utilized excessive sick time, have a poor attendance record, low leave balance or significant history of disciplinary action, may have approval for outside employment terminated or rescinded, or their request for outside employment denied. The DOC may apply certain limits, restrictions, requirements or conditions upon approval of an employee's request for outside employment.
- B. Requests by an employee to engage in outside employment may be denied if any of the following conditions exist at the time of the request:
1. New employee (full or part time) on probation.
 - a. Does not apply to new employees already engaged in outside employment upon entering employment with the DOC. Employees must disclose outside employment to their supervisor upon hire or assignment to the DOC.
 2. Employees on extended leave.
 3. When compelling evidence exists supporting the outside employment will likely contradict the policy, mission or legitimate penological interests of the DOC.
 4. When outside employment is incompatible or inconsistent with the employee's performance of his/her assigned DOC duties; or the employment negatively interferes with or affects the employee's position within the DOC.
 5. When the hours of the outside employment are likely to impair the DOC employee's ability to efficiently perform or complete assigned duties or responsibilities within the DOC. Employees assigned to on-call duty with the DOC and those required to report to duty during emergency situations by the DOC, are required to be available as instructed by their supervisor and fully comply with and fulfill their DOC job duties and responsibilities.
- C. The restrictions and limitations described herein are not intended to be all-inclusive and do not exclude or excuse any employee misconduct not included in this policy.
- D. The employee's supervisor is responsible for monitoring the impact of the outside employment on the employee's performance of his/her DOC duties. The supervisor has authority to recommend to the approving authority that the employee's approval to engage in outside employment be suspended, revoked or denied.
- E. The Warden, Director or Secretary may direct supervisors to conduct annual reviews of employees approved for outside employment to verify the employment remains compatible with the full and proper discharge of the employee's duties and responsibilities within the DOC. Employees may be required to renew their request for outside employment, as directed by the Warden, Director or Secretary.
- F. Neither this policy nor its application may be the basis for establishing a constitutionally protected liberty, property or due process interest in any employee.

V Related Directives:

SDCL § 3-8-3 and § 4-3-9
ARSD § 55:10:01:06
DOC policy 1.1.C.12 -- *Staff Use of State Computers*

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. **Added** 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.

November 2014: **Deleted** Section 4. “Acknowledgment of Review”

November 2015: **Reviewed** with no changes.

November 2016: **Added** “or adversely affect his/her availability for shifts, assignments, or responsibilities with the DOC, or adversely affect the employee’s mental or physical capacity to fulfill their job duties” in Section 1 A. **Deleted** E. in Section 1. **Added** 2. to Section 1 D.

July 2017: **Added** definition of “Employment” and **Revised** definition of “Outside Employment” **Added** “DOC employees will not engage in outside employment that is not compatible with the full and proper discharge of the employee’s duties and responsibilities within the DOC and **Added** “or impair and employee’s capacity to perform his/her DOC job duties in an acceptable manner and **Deleted** “the satisfactory performance of the employee’s assigned job duties with the DOC or adversely affect his/her availability for shifts, assignments, or responsibilities with the DOC, or adversely affect the employee’s mental or physical capacity to fulfill their job duties” in Section 1 A.

Added 2. to Section 1. E. **Deleted** “Prior approval is not required for uncompensated outside employment totally unrelated to the employee’s employment with the DOC” in Section 1 D 2.

Added “disclose to their supervisor their intent to engage in outside employment. Employees may be required to” and **Added** “Forms which contain only vague, general descriptions may be denied” in

Section 2 A. **Added** "it is determined pursuant to DOC policy and procedure that such outside employment is not in the best interest of the DOC/state" and **Deleted** "for actions or conditions that exist which are contrary to this or other DOC policies. The employee will be given reasonable time to terminate the outside employment" in Section 2 A. 1. **Added** disclose any actual or potential conflict of interest related to outside employment as soon as they become aware of the conflict" in Section 2 C. **Added** A. and 1. to Section 3. **Added** 4. to Section 3 B. **Added** D. to Section 3.
November 2017: **Added** E. to Section 3.
November 2018: **Reviewed** with no changes.
November 2019: **Added** F. to Section 3.

Mike Leidholt (original signature on file)

Mike Leidholt, Secretary of Corrections

11/14/2019

Date

Attachment 1: Outside Employment Form

The **Outside Employment Form** is located at:

<M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Outside Employment.doc>

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.