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		CODE OF ETHICS AND CONDUCT	

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SUMMARY OF REVISIONS/REVIEW

Significant revisions throughout. Please read carefully.

APPROVED:



Scott R. Frakes, Director
 Nebraska Department of Correctional Services

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PURPOSE

The provisions of this Administrative Regulation (AR) shall apply to all employees of the Nebraska Department of Correctional Services (NDCS) concerning a set of professional standards of ethics and conduct.

GENERAL

This Department has been charged with the responsibility for providing inmates/parolees with opportunities for rehabilitation in an atmosphere conducive to rehabilitation. That responsibility is unique among state agencies, and warrants a code of ethics and conduct for all employees. The Nebraska State Statutes identify the responsibilities of the Agency Director to appoint or remove employees of NDCS as well as to delegate appropriate powers and duties to the agency employees. This Code of Ethics and Conduct supplements these Nebraska statutes.

PROCEDURES

- I. Employees will conduct themselves in a professional and ethical manner, whether on or off duty.
 - A. Employees will keep their conversations and all interactions with and within the hearing of inmates/parolees on a professional level at all times. Employees will also report any (other than incidental), off duty contact with an inmate/parolee, their families or friends, as well as any family or close personal relationship they have with an inmate or parolee.
 - B. Employees will keep their conversations and all interactions with staff and the public on a professional level at all times and promote positive and appropriate working relationships.
 - C. Employees will bring in only authorized articles for authorized purposes and will provide inmates and parolees and their families or friends only authorized items for authorized purposes.
 - D. Employees will follow all laws, policies, procedures, rules and post orders. These include, but are not limited to:
 - 1. Employees will not accept, issue or solicit bribes, financial benefit or profit from the work of or from one who receives a financial benefit from the work of, gifts, gratuities, loans, or favors of any kind from inmates/parolees or their family and friends.
 - 2. Employees, any contracted/authorized contractor or volunteer are prohibited from engaging in any form of sexual activity with an inmate/parolee. Prohibition also includes implied threats, coercion, intimidation and/or preferential treatment that could influence an inmate/parolee to consent to participate in sexual activity. Persons choosing to sexually abuse an inmate/parolee are subject to discipline, including termination, and shall be referred to the county attorney for criminal prosecution. Sexual abuse of an inmate/parolee in the first degree is a Class IIA felony; sexual abuse in the second degree is a Class IIIA felony. It is not a defense to the charge that the inmate/parolee consented to sexual activity or sexual penetration.

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3. Employees are prohibited from using cruel, inhumane or corporal punishment, excessive force or in any way mistreating individuals under NDCS care, custody and control.
 4. Employees shall only provide public information pertaining to an inmate/parolee, except on an approved basis or to an authorized individual.
 5. Employees are prohibited from bringing weapons of any type, concealed or otherwise, onto NDCS property. No firearms, drugs, weapons, intoxicants or other contraband articles are to be left in employee vehicles parked on NDCS property. However, employees shall leave tobacco, tobacco-related products or substitutes in their vehicles left on NDCS property.
 6. Employees are prohibited from discriminating against other employees, inmates/parolees. Forms of discrimination include: sexual, racial, gender, religious, national origin, ancestry, age, or disability status. All discrimination or workplace harassment incidents will be immediately reported to the supervisor. Supervisory personnel shall not knowingly allow or condone incidents or situations of a discrimination or workplace harassment nature.
 7. Employees shall not report to work under the influence of alcohol or substances that are illegal under Nebraska or federal law. Employees are prohibited from unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol in the work place. All employees are subject to random drug screens. Employees shall not bring into any state facility or building any substances that could be used to create a hallucinogenic effect or could impair one's judgment. An employee taking prescription or over-the-counter medication or substances that has the potential to impair work performance will notify his/her supervisor prior to the beginning of the work shift. The supervisor is responsible for determining if the employee can perform his/her assigned duties safely, and for taking appropriate action where needed.
- E. Employees shall be truthful in their dealings with staff and inmates. Employees are prohibited from providing false information or attempting to deceive any supervisor, investigator or other NDCS employee whether verbally or in writing.
 - F. Employees can only bring in personal cell phones or other electronic devices into a Facility/Program with prior approval of the Warden/Program Administrator. Use of personal devices to record video, audio or take pictures of state business related activity is allowed only if approved in advance by Warden/Program Administrator or designee. State issued devices cannot record non-business related activity.
 - G. An employee's use of social networking sites or other internet sites which have an adverse impact on either their or the agency's performance or credibility is prohibited.
 - H. Use of the Department's name, identity, including a photo of a facility/program, slogan, logo or other identification/property on a website or social networking site for personal reasons or private commercial use is only allowed with prior approval by the Director or designee.
 - I. Employees shall maintain professional boundaries with inmates/parolees. Examples of failing to maintain professional boundaries, include, but are not limited to: working for the

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parole, pardon, commutation of sentence or other appeal of any inmate/parolee unless authorized via proper channels and writing letters on behalf of an inmate/parolee in an unofficial capacity and aiding and/or abetting an inmate/parolee in acts that disrupt or violate institutional or departmental policy.

- J. Employees will only wear agency issued uniforms while on duty, including directly in route to or from the employee's work site
- K. Employees are required to promptly report any violation of NDCS rules, in full to his/her direct supervisor. This includes rules violated by employees as well as inmates/parolees. In cases of violations by a supervisor, the employee shall report the information to the next highest supervisor in his/her chain of command or designee. NDCS rules include violation(s) of this Code of Ethics and Conduct Policy, other agency rules and regulations, State Personnel Rules, Labor Contracts, or city, state, or federal laws/rulings. Employees cannot knowingly or deliberately withhold information concerning rule violations.
- L. Any employee who is arrested or issued a citation for a violation of the law, other than a minor traffic violation, must immediately notify the Warden/Program Administrator of his/her alleged violation of law.
- M. Employees having law enforcement responsibilities may be requested to submit to polygraph examination on issues involving their employment.
- N. Employees, while operating a state vehicle, shall obey all state laws and only use the vehicle as authorized. This includes, but is not limited to the following: not consuming any alcoholic beverages prior to or while operating a state vehicle; not transporting alcoholic beverages or illegal drugs; not taking prescription drugs or other substances that could impair the ability to drive before or while operating a state vehicle; not taking any form of illegal drug substance in Nebraska or under federal law, either in or out of a state vehicle; wearing seat belts; not carrying radar detectors; not wearing headphones, ear phones or other similar devices; not smoking; not taking or making calls from a cellphone, unless it is 'hands-free'; and, not texting from a cellphone while the vehicle is in operation.
- O. Employees shall be good stewards of the State's resources, to include using state property only for authorized work purposes.
- P. Employees shall lock any vehicle parked on NDCS property and keep ignition keys with them.
- Q. Employees shall remain at their assigned post until provided with proper authorized relief
- R. Employees shall obey a lawfully given direct order by a supervisor.
- S. Employees shall remain awake and be in an attentive condition at their assigned Duty station. Sleeping or being in an inattentive state at a post places the security of the institution, the inmate population or other employees at risk.
- T. Employees are personally responsible for the accuracy of their time records. Employees will take all necessary steps to have regular, dependable reporting habits, including reporting to work on time, and proper use of earned leave or compensatory time.

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II. FRAUD OR SUSEPCTED FRAUD

Employees shall not engage in any act of fraud. Staff shall report any knowledge of fraud, suspected fraud or any allegation of fraud. An employee can file such reports through their chain of command up to including the Agency Director or to the State Auditor of Public Accountants at 402-471-2111. Employees can also contact the Agency Controller at 402-479-5756 or the Assistant Controller at 402-479-5976, as well as to the Administrative Services State Accounting Administrator at 402-471-0600, the State Internal Control Coordinator at 402-471-2581, and State Ombudsman at 402-471-2035 and/or the Attorney General at 402-471-3297.

The State Auditor of Public Accountants will keep reports of fraud confidential unless legal action is taken. Questions regarding suspected fraud and process for reporting fraud will also be addressed during Internal Fiscal Audits. All reports will also be reviewed and referred for investigation in the appropriate manner. The Controller is responsible for maintaining information regarding fraud for appropriate reporting outside NDCS.

III. CONFLICTS OF INTEREST

- A. Employees will avoid activities, including any additional employment, which poses a conflict with their job responsibility or credibility as employees of NDCS. Employees wishing to engage in additional employment shall submit a completed Outside Employment Action Request Form (see Attachment A) to their Warden/Program Administrator. The Administrator reviews the request for determining any conflict of interest, and notifies the employee of approval or disapproval.
- B. The Agency Director has discretion, by law, to approve exceptions to the Nepotism/Fraternization policy. In the event any operation of the shift or the Facility/Program is adversely impacted by an approved exception, management will revisit the approval which may result in one of the employees transferring to a different shift or Facility/Program. Refer to A R 112.03, *Employee Selection Policy* for the NDCS policy on nepotism/fraternization.
- C. Employees may be requested to act in their official capacity or in a matter of public record in a court of law. However, employees are prohibited from representing a person or acting as an expert witness for pay before a government body when the action or non-action of the government body is non-procedural and involves personal opinion or discretion.

IV. FINANCIAL ACCOUNTABILITY - Employees, upon learning of any of the following conflicts of interest, shall send written notice to the Nebraska Accountability and Disclosure Commission, which will determine whether or not any action should be taken to resolve the conflict of interest. The employee shall take such steps as the Commission prescribes to remove him/herself from the situation in which there is a conflict. Copies will be provided to the Warden/Program Administrator, and the Agency Human Resources Administrator.

- A. Employees are prohibited from having any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of their duties in the public interest.

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- B. An employee will not enter into any contracts with NDCS on their own behalf or on behalf of any business in which the employee or a member of the employee's family has an interest.
- C. Employees shall not use or authorize the use of his or her position or any confidential information received through his or her state employment to obtain financial gain, other than compensation provided by law, for himself, or herself, a member of his or her family or a business which with the individual is associated.
- D. Employees are prohibited from giving the impression that any person or business can improperly influence them in the performance of their official duties, or be subject to influence by friendship, rank, position or influence of any party or person. This means employees cannot accept gifts of value or loans from persons doing business with the agency or state which are intended to or which appear to influence the official relationship between the business, and the employee or employing agency. Prohibition includes: 1) a gift of travel or lodging to the employee, or reimbursement for such so that a member of the employee's family can accompany the employee in the performance of their official duties; or 2) a member of the employee's family accepting a gift of travel or lodging or reimbursement for such so that an employee's immediate family member can travel with the employee in the performance of his or her job duties.
- E. An employee shall not use or authorize the use of personnel, property, resources or funds under his/her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.

V. **POLITICAL ACTIVITIES**

Employees are prohibited from participating in political activities while performing official state duties, and are prohibited from using their state job to distribute or receive political favors. If the salary of an employee is paid completely directly or indirectly by federal funds the employee is covered by the federal Hatch Act, and is prohibited from being a candidate for a partisan office.

REFERENCE

I. **Administrative Regulation**

- A. AR 111.05, *Use of Tobacco Products by Employees and Inmates*
- B. AR 112.03, *Employee Selection Policy*
- C. AR 112.13, *Drug Free Work Place Policy*

II. **ATTACHMENTS**

- A. Outside Employment Action and Private Business Interest/Ownership Request (DCS-A-per-026-pc REV 7/10)
- B. Receipt of NDCS Rules and Regulations (DCS-A-per-066-pc REV 05/13)

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III. ACA STANDARDS

- A. Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4024 and 4-4069
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-3A-07 and 4-ACRS-7E-13.