



# Virginia Department of Corrections

## Human Resources

### Operating Procedure 135.3

#### *Standards of Ethics and Conflict of Interest*

#### **Authority:**

Directive 135, *DOC Expectations of Employees*

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Incarcerated Offender

#### **ACA/PREA Standards:**

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### REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

*The content owner reviewed this operating procedure in April 2021 and necessary changes have been made.*

### COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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## DEFINITIONS

**Business** - Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit (COV §2.2-3101, Definitions)

**Conflict of Interest** - A set of circumstances that creates a risk that professional judgment or actions regarding official duties will be unduly influenced by personal interests

**Coworker** - Any professional associate (employee or contractor) within the Department. Includes individuals at different supervisory levels, in different organizational units, or work locations across the Department.

**Contract** - Any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly whether or not such agreement is executed in the name of the Commonwealth. Contract includes a subcontract only when the contract of which it is a part is with the employee's own governmental agency. (COV §2.2-3101, Definitions) Contracts include but are not limited to: state contracts, eVA purchase orders, vendor contracts, and memoranda of agreement.

**Dependent** - Son, daughter, father, mother, brother, sister or any other individual, whether or not related by blood or marriage, if such individual receives from an employee or provides to an employee more than one half of their financial support

**Employee** - Any individual that is employed by a Department of Corrections Organizational Unit and is covered by COV §2.2-2900, Virginia Personnel Act. et seq. or is employed on an at will basis or appointed by the Governor.

**Ethics** - Moral principles and perceptions of right versus wrong that govern a person's behavior or the conducting of an activity. Ethical behavior tends to be good for both the Agency and the individual and involves demonstrating respect for key moral principles that include honesty, fairness, equality, dignity, diversity, and individual rights.

**Fair Market Value** - The price that a good or service would bring between a willing seller and a willing buyer in the open market after negotiations; if the fair market value cannot be determined, the actual price paid for the good or service will be given consideration.

**Family Member** - The employee's spouse, parent/step parent, child/step child, grandparent, grandchild, sibling, uncle, aunt, nephew, niece, first cousin, and in-laws (father, mother, sibling, son, daughter)

**Gang/Security Threat Group (STG)** - A group of individuals who: (a) possess common characteristics that distinguish them from other persons or groups of persons and who, as an entity, pose a threat to the safety and security of staff, the facility, inmates or the community; (b) have a common distinctive goal, symbolism or philosophy; (c) possess identifiable skills or resources, or engage in unauthorized/illegal activities. Criminal street gangs, terrorists (domestic & international), radical extremists, hate groups, cults, and neighborhood cliques are examples of a Gang/STG

**Gang Member or Associate** - A person whose self-proclamation, activity, behavior, or status as a recognized gang leader, member, or associate, or whose activity or behavior indicates gang involvement.

**Gift** - Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value; it includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. (COV §2.2-3101, Definitions.)

**Immediate Family** - The employee's spouse, regardless of whether they reside in the same household as the employee; any individual residing in the same household as the employee who is a dependent of the employee, or whom the employee is a dependent; any individual who has a child in common with the employee whether or not the employee and that individual have been married or have resided together at any time as long as there is a legally enforceable financial relationship between them; or any individual who cohabits or who within the previous 12 months has cohabitated with the employee and any children of either of them then residing in the same household as the employee. With regard to the receipt of gifts, "immediate family" also will mean an

employee's child, grandchild, parent, grandparent, brother, sister, or brother's or sister's spouse or children, if such individual knew or should have known that the gift was given because of the employee's position as an employee. (Executive Order 2 (2014), *Personnel Directive Prohibiting the Receipt of Certain Gifts; Establishment of Executive Branch Ethics Commission*)

**Legitimate Public Purpose** - Any activity that is intended to promote the interests of the DOC, including but not limited to, attendance at training and educational events and conferences designed to improve the efficiencies and effectiveness of public service or to enhance the knowledge and skills of employees relative to their official duties

**No Conflict** - Outside employment that will not influence the employee's conduct in the performance of their official duties as a DOC employee, nor allow the employee to be part of negotiations or procurement of a contract that involves the employer that they work for as a second job and DOC

**Organizational Unit Head** - The person occupying the highest position in a DOC unit, such as a correctional facility, regional office, probation and parole office, Virginia Correctional Enterprises (VCE), Academy for Staff Development, Corrections Construction Unit, Agribusiness Unit, and individual headquarters unit e.g., Human Resources, Offender Management, Internal Audit.

**Personal Interest** - A financial benefit or liability accruing to an employee or to a member of the employee's immediate family; this benefit is defined by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv) above. (COV §2.2-3101, *Definitions*)

**Personal Interest in a Contract** - A personal interest an employee has in a contract with a governmental agency, whether due to being a party to the contract or due to a personal interest in a business that is a party to the contract. (COV §2.2-3101, *Definitions*)

**Personal Interest in a Transaction** - A personal interest of an employee in any matter considered by the DOC; such personal interest exists where an employee or a member of their immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. (COV §2.2-3101, *Definitions*)

**Real Property** - Tangible assets including but not limited to land or equipment that have value (monetary, charitable, historical, etc.) as determined by the DOC

**Significant Other** - Spouse, life partner, cohabitating adult, individual in a personal relationship that exceeds a professional or casual acquaintance relationship; includes family members

**Subordinate** - An employee in a lower position or rank, generally subject to or under the authority of a person in a higher position or with higher rank

**Supervisor** - An employee in a higher position or rank, generally overseeing or directing the work of others, or in a direct administrative relationship to someone in a lower level position

**Transaction** - Any matter (business, trust, recommendation, or exchange of currency, goods, or services) considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated (COV §2.2-2101, *Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions*)

**Value** - The actual cost or fair market value of an item or items, whichever is greater; if the Fair Market Value cannot be determined, the actual amount paid for the item will be given consideration. For food and beverages,

the value includes a proportional amount of any tip, a portion of which was for the food item or beverage.



## PURPOSE

This operating procedure ensures that all Department of Corrections employees and service providers understand and comply with requirements to act professionally and ethically, and to respect the privacy of fellow employees and individual inmates/probationers/parolees.

## PROCEDURE

### I. P.R.I.D.E.

- A. The Virginia Department of Corrections (DOC) strives to be an ethical and professional organization that prides itself in serving the citizens of the Commonwealth of Virginia.
- B. The DOC has adopted the acronym [P.R.I.D.E.](#) to symbolize the DOC Code of Ethics and to guide its employees, contract employees, volunteers, and interns in the performance of their duties.

**P. R. I. D. E.**: *Professionalism, Respect, Integrity, Dignity, Excellence*

**Professionalism**: I will carry out my duties in an objective and competent manner with respect for humanity.

**Respect**: I will respect the rights of all people. All individuals will be valued for their own uniqueness and treated with dignity.

**Integrity**: I will conduct myself in a trustworthy and honest manner and make decisions consistent with the values and principles of the Department.

**Dignity**: I will uphold the criminal justice system and perform my professional responsibilities with poise and self-respect.

**Excellence**: I will always do my best as a Corrections professional.

### II. General Conduct

- A. This operating procedure applies to all employees, contract personnel, consultants, volunteers, interns, and any other person providing services to DOC inmates/probationers/parolees. (5-ACI-1C-22; 4-4069; 4-APPFS-3C-02; 1-CTA-1C-12)
- B. Organizational Unit Heads will ensure that all employees, contract personnel, consultants, volunteers, interns and any other person providing services to inmates/probationers/parolees under the purview of the DOC will be advised of and comply with policies, procedures, protocols, and regulations governing standards of ethics and conflict of interest including but not limited to:
  - 1. Operating Procedure 010.3, *Correspondence Management and Customer Service*
  - 2. Operating Procedure 025.1, *Public Access to DOC Public Records*
  - 3. Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*
  - 4. Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*
  - 5. Operating Procedure 102.2, *Recruitment, Selection and Appointment*
  - 6. Operating Procedure 135.1, *Standards of Conduct*
  - 7. Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*
  - 8. Operating Procedure 135.4, *Alcohol and Other Drug Testing*
  - 9. Operating Procedure 135.5, *Workplace Violence*
  - 10. Operating Procedure 145.3, *Equal Employment Opportunity, Anti-Harassment, and Workplace Civility*
  - 11. Operating Procedure 220.1, *Gifts and Donations*
  - 12. Occupational group professional standards of ethics



- C. Employees of the DOC must conduct themselves by the highest standards of ethics so that their actions will not be construed as a conflict of interest or conduct unbecoming an employee of the Commonwealth of Virginia.
- D. Employees in DOC supervisory and managerial positions must be especially mindful of how their words and deeds might be perceived or might affect or influence others. Therefore, they may be held to a higher standard for misconduct and violations of this operating procedure based on their scope of authority and influence, status as a role model, and ability to significantly impact the employment status and direct the work of others.
- E. The DOC expects all employees, contract personnel, consultants, volunteers, interns and any other person providing services to inmates/probationers/parolees to conform to a high professional, ethical, and moral standard of conduct.
1. When faced with an ethics issue or dilemma, employees are expected to evaluate the situation based on compliance with local, state, and federal law, state and DOC policy and procedure, and the DOC values and code of conduct using their best ethical judgement in order to determine the most appropriate course of action.
  2. An employee's questions or concerns related to this operating procedure or ethics issues should be proactively discussed within the employee's chain-of-command, or with an appropriate Human Resources or Internal Audit employee.
  3. The [Virginia Conflict of Interest and Ethics Advisory Council](#) is available and required to accept requests for and issue formal advisory opinions on conflict of interest and ethics issues.
- F. All employees are responsible for promptly reporting any known or suspected violations of this operating procedure to their immediate supervisor, respective chain-of-command, or an appropriate Human Resources or Internal Audit employee.
1. Criminal activity, waste, fraud, mismanagement, improper financial practices, and any other questionable illegal activity must be reported to the Internal Audit Director.
  2. In lieu of reporting these suspected violations directly to the Internal Audit Director, employees may use the [Fraud, Waste, and Abuse Hotline](#) (toll-free at (800) 723-1615, Monday through Friday, 8 a.m. - 5 p.m., excluding state holidays. The number is only toll-free in Virginia.) Alternatively, the employee may follow their established chain-of-command in reporting suspected violations; see Operating Procedure 030.2, *Internal Audit*.
- G. Employees must conduct themselves and perform their duties in such a way as to avoid any appearance of, or perception of impropriety, in order to set a good example for inmates/probationers/parolees. No person connected with the DOC will use their official position to secure special privileges or advantages for themselves or others, or engage in activities that constitute a conflict of interest. (5-ACI-1C-22; 4-4069; 4-ACRS-3A-07; 4-APPFS-3C-02; 2-CO-1C-24; 1-CTA-1C-12)
- H. All employees, contract personnel, consultants, volunteers, interns, and any other person providing services to inmates/probationers/parolees are prohibited from knowingly accepting any gift or gratuity, or engaging in personal business transactions that would provide them a benefit not available to the general public with an offender or an offender's immediate family. (4-APPFS-3C-02)
- I. DOC facilities and equipment are provided for official business use only.
1. The DOC has the right to monitor offices and facilities as needed to ensure the safety and security of employees and inmates/probationers/parolees and to protect public safety.
  2. DOC approved security video monitoring equipment may be used to monitor and record employee, visitor, and offender movements and actions.
  3. Intercom systems and other audio systems may be used to monitor and record employee, visitor, and offender conversations.



4. State telephones, computer systems, and data are subject to monitoring which may include but is not limited to network traffic, application and data access, keystrokes, user commands, email and Internet usage, telephone usage, and message and data content; see Operating Procedure 310.2, *Information Technology Security*, for more information.

### III. Prohibited Conduct

- A. Employees, contractors, interns, and volunteers are prohibited from engaging in activities that constitute a conflict of interest that adversely affects the DOC. (5-ACI-1C-22; 4-4069; 4-APPFS-3C-02; 2-CO-1C-24; 1-CTA-1C-12)
- B. The rules listed below are intended to be illustrative, but not all-inclusive examples of prohibited conduct. No employee, contractor, intern, or volunteer is permitted to:
  1. Solicit or accept money or other things of value for services performed within the scope of their official duties, except the compensation, expenses, or other remuneration paid by the DOC.
    - a. This does not prohibit the acceptance of special benefits that may be authorized by law.
    - b. It does prohibit the acceptance of frequent flyer points or other similar benefits from airlines or hotels for the employee's personal use, but they may be accepted and used for future DOC business purposes.
    - c. The acceptance of such benefits must be reported to the Organizational Unit Head. In accordance with *State Travel Regulations*, the Organizational Unit Head must report balances and business uses on a quarterly basis to the DOC Chief Financial Officer or authorized designee; see Operating Procedure 240.1, *Travel*.
  2. Offer or accept money or any other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency.
  3. Offer or accept money or other thing of value for or in consideration of the use of their public position to obtain a contract for any person or business with any governmental or advisory agency.
  4. Access or use any confidential information acquired due to their position, but that is not available to the public, for their personal benefit or that of another party.
  5. Accept any money, loan, gift, favor, service, business or professional opportunity that reasonably could influence the employee in the performance of their official duties; see the *Gifts to Employees* section of this operating procedure.
  6. Accept a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter affecting the donor.
  7. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of their public office for private gain.
  8. Accept any business or professional opportunity when the employee knows that there is a reasonable likelihood that the opportunity is being afforded to influence their conduct in the performance of official duties.
  9. Use their public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.
- C. The authority of DOC supervisory or management staff is not restricted by provisions of this operating procedure in the governance of employee conduct in order to take disciplinary action, in accordance with applicable policy, procedures, state regulations and laws.

### IV. Gifts to Employees

- A. No DOC employee or member of their immediate family will solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100





within any calendar year for themselves or a member of their immediate family from any person that they or a member of their immediate family knows or has reason to know is:

1. A lobbyist registered pursuant to COV §2.2-418 et seq, *Registration of Lobbyists*
  2. A lobbyist's principal as defined in COV §2.2-419, *Definitions*
  3. A person, organization, or business who is or is seeking to become a party to a contract with the DOC or over which they have the authority to direct DOC activities.
  4. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition. (COV §2.2-3103.1, *Certain gifts prohibited.*)
    - a. Gifts include any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It will include services as well as gifts of transportation, local travel, lodgings, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense are incurred.
    - b. An employee may be reimbursed for legitimate travel and related expenses incurred while engaging in an activity that serves a legitimate public purpose.
- B. Employees and their immediate family may accept unsolicited gifts valued at less than \$100.00, from any one source whether as a single gift or a cumulative total of gifts over the course of calendar year, unless a reasonable person having knowledge of the circumstances would conclude that the employee may unduly favor the source or be influenced by the source when performing the employee's official duties. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.
- C. The following items do not constitute a gift and are not subject to the requirements of this operating procedure:
1. Printed informational or promotional material
  2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or delivered to a charitable organization or to a state governmental or advisory agency and is not claimed as a charitable contribution for federal income tax purposes
  3. A gift or inheritance from the following individuals provided the individual is not acting as an agent or intermediary for someone other than the individuals authorized below.
    - a. Employee's spouse, significant other, child, nephew, niece, aunt, uncle, first cousin
    - b. Employee or their spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, step-sister, or their spouse
    - c. The brother or sister of the employee's spouse
    - d. Any individual with whom the employee is engaged to be married
  4. Anything of value provided by an individual based on a personal friendship unless there is reason to believe that, under the circumstances, the gift was provided due to the employee's official position and not the personal relationship.
    - a. The following circumstances must be considered when making a determination as to whether a gift was given based on personal friendship.
      - i. History of the relationship to include any previous exchange
      - ii. Whether the employee knew that the individual giving the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift
      - iii. Whether the employee knew that the individual giving the gift also gave the same or similar gifts to other state employees
    - b. It will be the responsibility of the employee to show that the gift was given based on a personal friendship.
  5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission pass is used.



6. Honorary degrees
  7. Payment or reimbursement of reasonable legitimate travel and related expenses to include:
    - a. Expenses incurred by an employee in order to engage in an activity that serves a legitimate public purpose including but not limited to air, train, bus, and taxi fare or rental car charges
    - b. The cost of meals and lodging, and expenses related to attendance at an event that has a legitimate public purpose such as costs of registration, admission, tickets, food, refreshments, instruction, and materials
    - c. Food or beverages consumed while attending an event at which the employee is performing their official duties related to their public service
    - d. Food and beverages received at or registration or attendance fees waived for any event at which the employee is a featured speaker, presenter, or lecturer.
    - e. Travel paid for or provided by the government of the United States, any of its territories, or any state, or any political subdivision of such state.
    - f. Travel related to an official meeting of the Commonwealth of Virginia, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to 26 U.S. Code §501(c) (3), *Exemption from tax on corporations, certain trusts, etc.* affiliated with such entity to which such person has been appointed or elected or is a member by virtue of their employment
    - g. See Operating Procedure 240.1, *Travel*, for specific guidance on travel approval and for application of *State Travel Regulations* for travel expenses, advances, and reimbursements.
  8. Attendance by an employee at a widely attended event that is open to the public or to a wide range of individuals and where attendance serves a legitimate public purpose or the employee attends by virtue of being the spouse or significant other of an invited public official who attends without charge.
    - a. A DOC employee or a member of their immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event.
    - b. Widely attended event means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals;
      - i. Who share a common interest
      - ii. Who are members of a public, civic, charitable, or professional organization
      - iii. Who are from a particular industry or profession
      - iv. Who represent persons interested in a particular issue (COV §2.2-3103.1, *Definitions*)
  9. Attendance by an employee at a political or inaugural event where the employee is invited to attend by the elected official, the candidate, or their authorized representative
  10. Any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public
  11. Something of value given to an employee by a governmental or advisory agency related to the employee's service as an employee or upon their retirement
  12. Unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service
  13. A prize in a competition that was widely available, or an award from a charitable, religious, civic, or educational group
  14. A gift of a value of less than \$20.00
- D. In the context of this operating procedure, anything of value will include:

1. Pecuniary items to include money or a bank bill or note
  2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money
  3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money
  4. A stock, bond, note, or other investment interest in an entity
  5. A receipt given for the payment of money or other property
  6. A gratuity, favor, special privilege, or exception
  7. The provision of services
  8. Lodging
  9. A meal, or other food or beverage, or both
  10. Entertainment, including a ticket to an event, or hospitality
  11. The provision of travel or the payment or reimbursement of travel expenses
  12. A right in action (a right to begin and prosecute an action in the courts, as for the purpose of enforcing a right or redressing a wrong)
  13. A tangible good, property, or an interest in a tangible good or property
  14. A loan or forgiveness of indebtedness
  15. A work of art, antique, or collectible
  16. An automobile or other means of personal transportation
  17. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty
  18. An honorarium or compensation for services
  19. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an employee of the DOC, or the sale or trade of something for reasonable compensation that would not be available to a member of the public
  20. A promise or offer of employment
  21. Any other thing of value that is pecuniary or compensatory in value to a person
- E. DOC employees must comply with COV §2.2-4371, *Prohibition on solicitation or acceptance of gifts; gifts by bidders, offerors, contractor or subcontractors prohibited* concerning the acceptance of personal gifts.
1. No DOC employee having official responsibility for a procurement transaction will solicit, demand, accept, or agree to accept from a bidder, offeror, contractor, or subcontractor any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The DOC may recover the value of anything conveyed in violation of this subsection.
  2. No bidder, offeror, contractor, or subcontractor will confer upon any DOC employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

**V. Prohibited Transactions**

- A. No employee will have a personal interest in a contract with the DOC, other than negotiated contracts for employment (specific positions only). Employees cannot be part of negotiations or procurement of a contract that involves an employer that they work for in secondary employment outside of regular working hours.
- B. No employee will have a personal interest in a contract with any other agency of state government unless such contract is:
  - 1. Awarded as a result of competitive sealed bidding or competitive negotiation as defined in COV §2.2-4301, Definitions; or
  - 2. Awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.
- C. No employee on behalf of the DOC may participate in the sale, lease, or exchange of real property when the employee has a real interest in the property.
- D. Employees having a personal interest in any transaction involving the DOC will disqualify themselves from acting on behalf of the DOC in such transaction. The employee's disqualification will be noted in the DOC record of the transaction.
- E. The Organizational Unit Head must approve any financial transactions between inmates/probationers/parolees, inmates/probationers/parolees and employees, or inmates/probationers/parolees and volunteers. (5-ACI-1B-23; 4-4047; 4-ACRS-7D-30; 4-APPFS-3C-02)
- F. No DOC employee, such as a doctor, nurse, or architect, may enter into a separate contract for services with the DOC.

**VI. Disclosure Statements****A. State Filers**

- 1. Employees in positions designated by the Governor must file a disclosure statement of personal interests on appropriate forms as furnished by the Secretary of the Commonwealth upon assuming employment and annually on or before February 1, see *Governor's Executive Order 8 (2018), Designation of Executive Branch Officers and Employees Required to File Financial Disclosure Statements*.
  - 2. In addition to the above-mentioned positions, the Department will designate a list of other senior-level positions required to file. These positions have responsibility affecting legislative policies and rule-making authority or substantive authorization and decision-making regarding 1) policy, 2) contracts and procurement, 3) audits, 4) licensure, 5) inspections and investigations, and 6) investments or other financial matters.
- B. All "State filers" are required to complete training regarding the *State and Local Government Conflict of Interests Act* and the *Virginia Public Procurement Act* within two months of their start date in a disclosure designated position and every two years thereafter. The *Virginia Conflict of Interest and Ethics Advisory Council* through the Commonwealth of [Virginia Learning Center](#) offers this on-line training.
  - C. "State filers" will be personally responsible for paying a penalty for Statements of Economic Interest received after the deadline.
  - D. Refusal or failure to file is considered a violation of Va. Code 2.2-3115 and constitutes a Class 1 misdemeanor (per Va. Code 2.2-3120) and malfeasance of employment (per Va. Code 2.2-3122).

**VII. Supervision and Employment of Family Members (1-CTA-1C-01)**

- A. No employee will be employed in a position where they serve as the immediate supervisor for their family



member or in the direct chain-of-command of their spouse, significant other, or any other relative residing in the same household.

- B. There may be periodic or emergency situations of short duration in which a supervisor may be required to supervise a significant other, i.e., acting as “duty officer” at a facility, and may have management responsibilities for their significant other. This situation should be closely managed and limited as much as possible by the Organizational Unit Head.
- C. No employee may initiate or participate in employment-related decisions that involve a direct benefit to their family member, significant other, or any other relative residing in their household. These decisions include but are not limited to the following: serving on an interview panel, hiring, transfer, recognition, compensation, and leave requests.

#### VIII. Consensual Romantic or Sexual Relationships/Sexual Harassment in the Workplace

- A. The DOC strictly prohibits acts of sexual harassment, retaliation, or inappropriate behavior by any employee. Appropriate action will be taken against persons, who engage in these types of misconduct, see Operating Procedure 145.3, *Equal Employment Opportunity, Anti-Harassment, and Workplace Civility*. (5-ACI-1C-09; 4-4056; 4-ACRS-6A-05; 2-CO-1C-11; 1-CTA-1C-14)
- B. All employees are responsible for compliance with this operating procedure regarding consensual romantic or sexual relationships with coworkers.
- C. All DOC Units must provide a workplace environment that reflects its values, and is equitable, fair, and free from coercion, sexual harassment, and intimidation.
- D. During work hours and/or on state property, employees are expected to conduct themselves in an appropriate, professional manner that is not disruptive to others or to overall productivity. Failure to comply with these expectations of professionalism may result in disciplinary action commensurate with the offense; see Operating Procedure 135.1, *Standards of Conduct*, for additional information.
- E. Any action or event occurring either during or outside of work hours (off-duty conduct) that, in the judgment of the Director, undermines the effectiveness of the employee or the DOC, or is disruptive to the work environment, may be considered a violation of the *Standards of Conduct*.
- F. Employees involved in a romantic or sexual relationship with a co-worker, regardless of each party’s level of seniority or position, must disclose the existence of a sexual or romantic relationship to the Organizational Unit Head.
  - 1. The Organizational Unit Head, in consultation with the Human Resource Officer, will review the circumstances of the relationship to determine the potential for legal issues, whether any conflict of interest exists, and/or whether the work environment or productivity could be adversely affected by the relationship.
  - 2. When a conflict-of-interest, potential risk, or problem within the workplace is identified due to a relationship among coworkers, the Organizational Unit Head, with the assistance of the Human Resource Officer, will work with both parties of the relationship to identify a mutually agreeable solution.
    - a. If agreement cannot be reached, the Organizational Unit Head, in consultation with the Regional Administrator, member of senior management, or appropriate Deputy Director, will determine how to mitigate the issues created by the relationship.
    - b. Options for resolving the problem(s) created by the relationship include, but are not limited to the following: a reallocation of duties, or reassignment of one or both parties to other positions, units, or work locations within the Department.
  - 3. Failure to promptly report the relationship could result in disciplinary action under Operating Procedure 135.1, *Standards of Conduct*.





4. Supervisors are strictly prohibited from dating or engaging in a romantic or sexual relationships with subordinates. A subordinate includes anyone in a supervisor's direct chain-of-command. Note: If the Organizational Unit Head determines the work environment is adversely affected by the romantic, or sexual relationship of a supervisor and subordinate who is in an indirect line of supervision (i.e. corrections officer and sergeant on different shifts and breaks), such relationships may be deemed inappropriate for the workplace and may be grounds for discipline under Operating Procedure 135.1, *Standards of Conduct*.
  5. Romantic or sexual relationships between supervisors and subordinates undermines the respect for supervisors with the other employees, undermines the supervisor's ability to make objective decisions, may result in favoritism or perceived favoritism, may lower morale among co-workers, and/or open could result in future charges of harassment or retaliation. Additionally, supervisory/subordinate relationships may bring about complaints from co-workers and create a liability for the DOC.
  6. Initiation of, or engagement in a romantic or sexual relationship with a subordinate is a violation of Operating Procedure 135.1, *Standards of Conduct*, and will be treated as a Group I, Group II, or Group III offense depending on the impact on the work environment.
    - a. The evidence to substantiate the adverse effect on the work environment to support the issuance of a written notice must be documented.
    - b. Failure to disclose a prohibited sexual or romantic relationship with a subordinate will be treated as a Group III offense.
- G. Relationships with inmates/probationers/parolees ~~offenders~~ who are DOC employees will be guided by Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*.
- H. Political Activities (5-ACI-1A-24; 4-4024; 4-ACRS-7E-13; 4-APPFS-3C-02; 2-CO-1A-29; 1-CTA-1C-01)
- I. DOC employees are encouraged to exercise their right to vote for the political candidates of their choice.
- J. Because of the potential for conflict or appearance of a conflict of interest; the possibility of compromising the neutrality, efficiency, or integrity of DOC programs; and to comply with Federal law, an employee of the DOC may not:
1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office
  2. Directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes
- K. All DOC employees elected to political office in the Commonwealth of Virginia will complete a [Request for Permission to Secure Employment Outside Regular Working Hours](#) 135\_F2.
1. The employee will note the term of office on the form and approval will be valid for the full-term of office and annual updates are not required.
  2. A copy of the completed approved [Request for Permission to Secure Employment Outside Regular Working Hours](#) 135\_F2 must be forwarded to the Director of Human Resources.
- L. All DOC employees will notify the Director and the Director of Human Resources when they become a candidate for any elected office in the Commonwealth of Virginia.
1. Candidacy is established when the employee submits the *Certificate of Candidate Qualification*, SBE-501(4), to the Office of the General Registrar in the locality of the residence or with the Department of Elections, depending on the requirements for the office sought.
  2. Candidates for Constitutional Offices must file a *Statement of Economic Interest* form with their local General Registrar.

3. These requirements are necessary to document DOC compliance with federal and state laws concerning employee participation as candidates in partisan elections.

M. Any DOC employee whose salary is financed in whole or in part by appropriations, loans, or grants made by the United States or a Federal agency is prohibited from being a candidate for public elective office in any partisan election. Partisan elections are defined by participation of political parties in the election.

#### IX. Public Presentations

A. When employees are representing the DOC, writings and presentations concerning the DOC will be considered regular work for which no additional compensation may be accepted.

B. When employees are not representing the DOC, employees will clearly identify that what they say is their individual opinion and not that of the DOC.

#### X. Ownership of Data

A. Data collected or property invented or created by employees as part of DOC employment, using DOC resources, will be the property of the Commonwealth of Virginia, and will be available for use as needed by any authorized employee.

B. Non-authorized release of such data is prohibited.

C. Data may be released to the public if such is dictated by a *Freedom of Information Request* and complies with COV §2.2-3800 *et seq.*, *Data Collection & Dissemination Practices Act*.

#### XI. Outside Activity

A. Any employee who performs work for or receives compensation from a person or business that is performing contract work for a DOC Unit should ensure that this situation does not create a violation of this operating procedure or COV §2.2-3100 *et seq.*, *State and Local Government Conflict of Interests Act*. Employees and Organizational Unit Heads should consult with their Human Resources Officer for guidance.

B. All employees who have outside employment, second jobs, or own a business must ensure that business relationships cannot be perceived or construed as being a conflict of interest.

C. No employee will engage in any other employment or activity that is prejudicial to the DOC's operations, either in another agency or outside of the state service, or in any private business, or in the conduct of a profession during the hours for which they are employed to work, or outside such hours in a manner or to an extent that affects or is deemed by the employing agency as likely to affect their usefulness as an employee or that is likely to be in violation of the *State and Local Government Conflict of Interests Act*.

D. Outside employment or business relationships between supervisors and subordinates may create a conflict of interest and must be disclosed and approved.

E. The DOC is a unique work environment. Its mission, in part, is to house and/or supervise inmates/probationers/parolees who have violated the laws of the Commonwealth of Virginia.

1. DOC employees are expected to conduct themselves in a manner, either directly or indirectly, that will not bring reproach on the DOC.

2. This extends to activities while working as well as activities outside of the employee's DOC work hours.

3. Management has the right to deny a request for a second job if that activity may be viewed as inconsistent with the mission of the DOC.

F. Regardless of the outside employment being considered, any outside employment request may be denied if it is in violation of the *State and Local Government Conflict of Interests Act*.





- G. No full-time salaried or hourly wage employee of a P&P Office or Community Corrections Alternative Program will be approved for outside employment with any agency or organization engaged in the investigation, supervision, or provision of treatment services to alleged or active juvenile or adult criminal inmates/probationers/parolees without the written approval of the Organizational Unit Head.
1. Written approval must also be granted by the Regional Operations Chief.
  2. If approval is granted based on a finding of “no conflict”, the employee may obtain outside employment that provides custodial, educational, or treatment services to persons or groups which may include alleged or active juvenile or adult criminal inmates/probationers/parolees.
- H. DOC funds, inventory, and property should be used for authorized and legitimate DOC business purposes.
1. All employees have a responsibility to protect and safeguard DOC assets from loss, theft, misuse, and waste.
  2. Employees may not use DOC property and resources in the performance of outside employment or for personal gain. Property and resources includes but is not limited to computer, email, telephone, printers, and other office equipment and supplies; confidential information that has been acquired by reason of their position with the DOC and is not available to the public; and other information, technology, and fiscal resources..
- I. Full-Time Employees’ Requests for Outside Employment
1. The DOC considers itself the primary employer for all of its full-time employees. Therefore, prior to accepting outside employment, including ownership of a business, the full-time employee must submit a [Request for Permission to Secure Employment Outside Regular Working Hours](#) 135\_F2 for approval.
  2. Full-time employees may not accept payment for services from any person or organization other than the DOC without written approval of the Organizational Unit Head documented on a [Request for Permission to Secure Employment Outside Regular Working Hours](#) 135\_F2.
  3. The written approval will only be made for a maximum of one year or a specified period less than one year. The DOC will give the employee two weeks’ notice in writing if conditions change with the employee's employment with the DOC so that a withdrawal of the outside employment authorization is required.
  4. Failure to obtain permission for outside employment may result in disciplinary action under the *Standards of Conduct*.
- J. Any questions regarding the propriety of an employee’s outside work or activity should be directed to the Director of Human Resources, Regional Operations Chief, or designee. The Office of the Attorney General or the *Virginia Conflict of Interest and Ethics Advisory Council* may make a determination when there are questions regarding outside employment of DOC employees.

## XII. Gang Membership or Affiliation

- A. Gang involvement by employees undermines the safety and security of facilities, the supervision of inmates/probationers/parolees in the community, and the operations of the DOC as a whole.
- B. Gang membership or association with a gang is prohibited for employees of the DOC.
- C. Gang membership or association with a gang is considered a Group III Offense under the *Standards of Conduct* and requires termination.
- D. DOC personnel must be vigilant in:
1. Identifying any employees or vendors who are gang members or have gang affiliations
  2. Recruiting and selecting future employees and vendors to ensure that we do not employ people who are gang members or have gang affiliations.



E. Gang membership or association with a gang is prohibited for employees of other agencies, volunteers, interns, or vendors who work within the confines of a facility or who work with inmates/probationers/parolees under DOC supervision. (changed 4/1/21)

F. Applicants who are gang members or associated with a gang will not be employed by the DOC.

### XIII. Solicitation Rules for DOC Work Locations

A. Neither employees nor other representatives may solicit in person for profit-making entities (e.g., Amway, Avon, catalogue companies, cell phone companies, to include self-employment, etc.) within any DOC work location including the parking lots. Nor are representatives or employees allowed to deliver goods within the building or facility.

B. Supplemental Insurance Companies (approved vendors) who have been approved for payroll deductions, colleges, and universities and Virginia Governmental Employees' Association (VGEA) may be allowed to solicit for business within DOC Units (within a general area of the administration building) but may not attend employee meetings nor visit employees at their workstations.

1. Such visits must be coordinated with the Human Resource Officer at major institutions, Benefits Unit in the Office of Human Resources at Headquarters, or Organizational Unit Head at a worksite other than a major institution or Headquarters.

2. Employees can be allowed to see these representatives before or after work hours, during breaks, during lunch periods, or if approved, by their supervisor, during work hours.

3. These organizations may be allowed to visit Community Corrections locations at the discretion of the Organizational Unit Head.

C. Companies that administer Employee State Benefits (e.g., Deferred Compensation, Long Term Care) may be permitted to address employee meetings or meet with employee groups to explain specific state benefits. This also includes the Virginia Credit Union.

D. Employees may solicit for non-profit and not-for-profit entities (for example, Boy/Girl Scouts of America, Indian Guides, School Bands, etc.) as long as the solicitation is not done on state time for either the seller or the buyer.

1. Organizational Unit Heads may set a general policy on whether they will allow employees to solicit for non-profit or not-for-profit entities but may not allow some and deny others.

2. A display in the work area of a box of candy, etc. does not constitute solicitation, but neither the buyer nor seller can do the purchase on state time.

3. The Organizational Unit Head may choose to not allow displays for non-profit and not-for-profit entities within the work unit.

E. The following will be allowed to solicit funds on state time as part of the state and DOC sponsorship of these organizations:

1. The Commonwealth Virginia Campaign (CVC)

2. Special Olympics

3. DOC Employee Assistance Fund

4. Any other charitable organizations designated by the Chief of Corrections Operations, a Deputy Director or Regional Operations Chief

5. Any other charitable organizations designated by the Director

F. Notifications from companies (e.g., discount clubs, financial institutions, entertainment venues) offering discounts to state or DOC employees may be posted on bulletin boards or in common areas for periods not to exceed 30 days or a time period established by the Organizational Unit Head.



## REFERENCES

26 U.S. Code §501(c) (3), *Exemption from tax on corporations, certain trusts, etc.*

COV §2.2-418 et seq., *Registration of Lobbyists*

COV §2.2-419, *Definitions*

COV §2.2-2101, *Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions*

COV §2.2-3100 et seq. *State and Local Government Conflict of Interests Act*

COV §2.2-3103.1, *Certain gifts prohibited*

COV §2.2-3800 et seq., *Government Data Collection and Dissemination Practices Act*

COV §2.2-4301, *Definitions*

COV §2.2-4371, *Prohibition on solicitation or acceptance of gifts; gifts by bidders, offerors, contractor or subcontractors prohibited*

Executive Order 2 (2014), *Personnel Directive Prohibiting the Receipt of Certain Gifts; Establishment of Executive Branch Ethics Commission*

Executive Order 8 (2018), *Designation of Executive Branch Officers and Employees Required to File Financial Disclosure Statements*

Operating Procedure 010.3, *Correspondence Management and Customer Service*

Operating Procedure 025.1, *Public Access to DOC Public Records*

Operating Procedure 030.2, *Internal Audit*

Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*

Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*

Operating Procedure 102.2, *Recruitment, Selection and Appointment*

Operating Procedure 135.1, *Standards of Conduct*

Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*

Operating Procedure 135.4, *Alcohol and Other Drug Testing*

Operating Procedure 135.5, *Workplace Violence*

Operating Procedure 145.3, *Equal Employment Opportunity, Anti-Harassment, and Workplace Civility*

Operating Procedure 220.1, *Gifts and Donations*

Operating Procedure 240.1, *Travel*

Operating Procedure 310.2, *Information Technology Security*

## ATTACHMENTS

None

## FORM CITATIONS

[Request for Permission to Secure Employment Outside Regular Working Hours](#) 135\_F2

