

<b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES	POLICY		
	CODE OF ETHICS AND CONDUCT		
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#### SUMMARY OF REVISIONS/REVIEW

Minor grammar changes throughout. PROCEDURE – I.D.7. – Language added. I.K. – Language updated. I.M. – Language updated. I.G. – Deleted section. I.H. – Deleted section. I.U. – New section referencing Policy 002.02, Social Media.

APPROVED:



Scott R. Frakes, Director  
 Nebraska Department of Correctional Services

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## PURPOSE

The provisions of this Policy establish professional standards of ethics and conduct applicable to all team members of the Nebraska Department of Correctional Services (NDCS).

## GENERAL


NDCS 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 team members. Nebraska State Statutes identify the responsibilities of the Agency Director to appoint or remove team members of NDCS as well as to delegate appropriate powers and duties to the agency team members. This Code of Ethics and Conduct policy supplements these Nebraska statutes. (1C-22)

## PROCEDURES

### I. PERSONAL ACCOUNTABILITY

Team members will conduct themselves in a professional and ethical manner, whether on or off duty.

- A. Team members will keep their conversations and all interactions with and within the hearing of inmates/parolees on a professional level at all times. Team members 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. Team members will keep their conversations and all interactions with team members and the public on a professional level at all times and promote positive and appropriate working relationships.
- C. Team members 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. See Policy 203.13, *Security and Control – Team Member Searches* for a list of prohibited items.
- D. Team members will follow all laws, policies, procedures, rules and post orders. These include, but are not limited to:
  1. Team members 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. Team members, 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 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


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that the inmate/parolee consented to sexual activity or sexual penetration.

3. Team members are prohibited from using cruel, inhumane or corporal punishment, excessive force or in any way mistreating individuals under NDCS care, custody and control.
4. Team members shall only provide public information pertaining to an inmate/parolee, on an approved basis or to an authorized individual.
5. Except as provided below, team members are prohibited from bringing weapons of any type, concealed or otherwise, onto NDCS property. No drugs, weapons, intoxicants or other contraband articles are to be left in team member vehicles parked on NDCS property. Team members may leave tobacco, tobacco-related products or substitutes in their vehicles left on NDCS property.

A team member who holds a current and valid permit to carry a concealed handgun issued pursuant to the Concealed Handgun Permit Act, may leave a handgun in his or her motor vehicle in the parking lot on NDCS property as long as prior to exiting the vehicle, the handgun is locked inside the glove box, trunk or other compartment of the vehicle, a storage box securely attached to the vehicle or if the vehicle is a motorcycle, a hardened compartment securely attached to the motorcycle.


6. Team members are prohibited from discriminating against other team members, 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. Team members shall not use or possess illegal drugs on or off duty, nor shall team members possess or use legally prescribed controlled substances in an unlawful manner either on or off duty. Team members shall not report to work under the influence of alcohol or substances that are illegal under Nebraska or federal law. Team members are prohibited from unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol in the work place. All team members are subject to random drug screens. Team members 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. A team member 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 team member can perform his/her assigned duties safely, and for taking appropriate action where needed.
- E. Team members shall be truthful in their dealings with other team members and inmates. Team members are prohibited from providing false information or attempting to deceive any supervisor, investigator or other NDCS team member whether verbally or in writing.
  - F. Team members shall not bring in personal cell phones or other electronic devices into a Facility/Program. State issued devices cannot record non-business related activity. See policy 104.06, *Computer Equipment, Telephone Usage and Information Systems*.

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- G. Team members shall maintain professional boundaries with inmates/parolees. Examples of failing to maintain professional boundaries, include, but are not limited to: working for the parole, pardon, commutation of sentence or other appeal of any inmate/parolee unless authorized via proper channels; 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 facility or department policy.
- H. Team members will only wear agency issued uniforms while on duty, including directly in route to or from the team member's work site.
- I. Team members are required to promptly report any violation of NDCS rules, in full to his/her direct supervisor. This includes rules violated by team members as well as inmates/parolees. In cases of violations by a supervisor, the team member 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. Team members cannot knowingly or deliberately withhold information concerning rule violations. (Attachment A)

Prompt notification requirements include the expectation of both:

- 1. Verbally reporting information of an urgent nature or serious rule violation immediately to the shift supervisor and/or direct supervisor.
- 2. Submitting a written report of alleged misconduct, suspicious behavior, serious rule violations or any other information pertinent to the safety, security and good order of the institution no later than the conclusion of their tour of duty.
- J. Any team member 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.
- K. Team members who are required to maintain a license/certification (Ex: Driver's License) for their current position and lose their license/certification for any reason or do not currently have said license/certification must notify the Warden/Program Administrator within three (3) business days.
- L. Team members having law enforcement responsibilities may be requested to submit to polygraph examination on issues involving their employment.
- M. Team members, 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 drug or substance which is illegal 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 an emergency; and not texting from a cellphone while the vehicle is in operation.

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- N. Team members shall be good stewards of the State's resources, to include using state property only for authorized work purposes.
- O. Team members shall lock any vehicle parked on NDCS property and keep ignition keys with them.
- P. Team members shall remain at their assigned post until provided with proper authorized relief
- Q. Team members shall obey a lawfully given direct order by a supervisor.
- R. Team members 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 facility, the inmate population or other team members at risk.
- S. Team members are personally responsible for the accuracy of their time records. Team members 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.
- T. Workers of other private or public organizations, including individual contractors, performing essential job functions within NDCS are accountable to the Program/Section Administrator for which they work.
- U. For use of social networking sites, see Policy 002.02, *Social Media*

## II. FRAUD OR SUSPECTED FRAUD


Team members shall not engage in any act of fraud. Team members shall report any knowledge of fraud, suspected fraud or any allegation of fraud. A team member can file such reports through their chain of command up to and including the Agency Director or to the State Auditor of Public Accounts at [402-471-2111](tel:402-471-2111). Team members can also contact the Agency Controller at [402-479-5756](tel:402-479-5756), the Assistant Controller at [402-479-5976](tel:402-479-5976), the Administrative Services State Accounting Administrator at [402-471-0600](tel:402-471-0600), the State Internal Control Coordinator at [402-471-2581](tel:402-471-2581), and/or the Attorney General at [402-471-3297](tel:402-471-3297).

The State Auditor of Public Accounts will keep reports of fraud confidential unless legal action is taken. Questions regarding suspected fraud and the 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 or designee is responsible for maintaining information regarding fraud for appropriate reporting outside NDCS.

## III. CONFLICTS OF INTEREST

- A. Team members will avoid activities, including any additional employment, which poses a conflict with their job responsibility or credibility as team members of NDCS. Team members wishing to engage in additional employment, or have a private interest in/own a business either as an individual or through a family member or as a business partner, shall submit a completed Outside Employment and Private Business Interest/Ownership Form (Attachment B) to their Warden/Program Administrator. The Administrator reviews the request for determining any conflict of interest, and notifies the team member of



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approval or disapproval.

- B. Wardens/Program Administrators have the authority to approve exceptions to the Fraternization Policy. The Agency Director has discretion, by law, to approve exceptions to the Nepotism 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 team members transferring to a different shift or facility/program. Refer to Policy 112.03, *Team Member Selection Policy*, for the NDCS policies on nepotism and fraternization.

In the event that current agency team members become involved in a close, personal relationship or have a change in status resulting in an immediate family relationship, a request for an exception to the Fraternization and/or Nepotism policy must be initiated by the team members consistent with the process identified for team member selection in Policy 112.03, *Team Member Selection Policy*.


- C. Team members may be requested to testify in their official capacity in a matter of public record such as a court of law or legislative committee hearing. Team members who have received a subpoena to testify in court may be provided a statutory witness fee as prescribed in statute. Hourly wage team members may also be allowed their regular hourly rate of pay if they have received a subpoena to testify as a factual witness in civil or criminal litigation involving the NDCS, NDCS inmates, or matters occurring in any NDCS facility.

Team members may not testify in an official capacity on behalf of NDCS and NDCS Administration without proper authorization.

#### IV. FINANCIAL ACCOUNTABILITY

Team members, 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 team member 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 Talent Director.

- A. Team members 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.
- B. A team member will not enter into any contracts with NDCS on their own behalf or on behalf of any business in which the team member or a member of the team member's family has an interest.
- C. Team members shall not use or authorize the use of his/her position or any confidential information received through his/her state employment to obtain financial gain, other than compensation provided by law, for himself/herself, a member of his/her family or a business which with the individual is associated.
- D. Team members 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

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team members 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 team member or employing agency.

Prohibition includes:

1. A gift of travel or lodging to the team member, or reimbursement for such so that a member of the team member's family can accompany the team member in the performance of their official duties.
  2. A member of the team member's family accepting a gift of travel or lodging or reimbursement for such so that a team member's immediate family member can travel with the team member in the performance of his/her job duties.
- E. A team member 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 (1A-24)

Team members 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 a team member is paid completely directly or indirectly by federal funds the team member is covered by the federal Hatch Act, and is prohibited from being a candidate for a partisan office.

#### REFERENCE

##### I. STATUTORY REFERENCE


- A. Hatch Act

##### II. NDCS POLICIES

- A. Policy 002.02, *Social Media*
- B. Policy 104.06, *Computer Equipment, Telephone Usage and Information Systems*
- C. Policy 111.05, *Use of Tobacco Products by Team Members and Inmates*
- D. Policy 112.03, *Team Member Selection Policy*
- E. Policy 112.13, *Drug Free Work Place Policy*

##### III. ATTACHMENTS

- A. Receipt of NDCS Rules and Regulations (DCS-A-per-066-pc REV 09/18)
- B. Outside Employment Action and Private Business Interest/Ownership Request (DCS-A- per-026-pc REV 12/16)

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IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)

- A. Expected Practices for Adult Correctional Institutions (ACI) (5<sup>th</sup> edition): 5-ACI-1A-24, 5-ACI-1C-22
- B. Standards for Adult Community Residential Services (ACRS) (4<sup>th</sup> edition): 4-ACRS-3A-07