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Applicability: All DDSN State Employees, Temporary Staff and Volunteers

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS (DDSN). THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. DDSN RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

South Carolinians deserve good government, which includes, in part, citizens having the highest degree of confidence in the conduct of state officials and employees. Citizens depend on state officials and employees to make lawful, ethical decisions and expect them to serve the interests of the people, not their own, which is demonstrated by remaining free from favoritism, undue influence, and all forms of impropriety, real or perceived.

All state officials and employees are bound by the State Ethics Act (Ethics Act). In addition, this Code of Conduct (Code) is intended to provide clear guidance, setting forth stringent and uniform standards of official conduct. Much of this Code merely restates in simple terms the

rules that currently exist in the Ethics Act. All DDSN employees are bound by this Code and continue to be bound by all federal and state laws, including the Ethics Act.

DDSN's General Counsel has been appointed as the Ethics Officer who will be responsible for assisting employees with questions concerning ethical conduct. In all cases of uncertainty, employees must seek guidance from the Ethics Officer.

## **GENERAL POLICY**

Five (5) ethical principles are central to all of the rules contained in the Code:

**Honesty:** Employees should be truthful and sincere in all interactions with the public and with each other.

**Fairness:** Employees should seek to make impartial, just, and equitable decisions.

**Integrity:** Employees should always act in a manner that instills public confidence and should avoid participating in any matter where a real or perceived conflict of interest exists.

**Respect:** Employees should demonstrate respect to others at all times.

**Loyalty:** Employees should remain loyal to the State and the citizens they serve and should not engage in any conduct that calls into question this loyalty.

Employees should be guided, first and foremost, by these ethical principles while performing their individual job duties and responsibilities. The following more specific rules are intended to be an application of these principles. Violation of any of these principles is grounds for discipline up to and including termination.

## **EIGHT STANDARDS OF CONDUCT**

### **I. Gifts and Other Things of Value**

DDSN employees work hard and it is understandable that citizens and businesses may want to show gratitude for quality customer service, a good working relationship, or a job well done. Acceptance of these gifts by state employees; however, has the potential to create real or perceived favoritism toward particular customers, vendors, or businesses, undue influence, or a real or perceived conflict of interest. Thus, the best practice is to avoid this situation.

**Rule 1:** **Except as provided below, employees may not accept a gift or anything of value for themselves from an individual or entity given as a result of their employment with the State.**

### **Clarifications:**

Offering, giving, soliciting, or receiving any gift of value under circumstances from which it could reasonably be inferred that the gift was intended for the purposes of influencing any official action on the employee's part is strictly prohibited. Employees are reminded that they are bound by all restrictions and limitations as outlined in the State Ethics Act, S.C. Code Ann. § 8-13-705, with regard to offering, giving, soliciting, or receiving anything of value.

Gifts given because of a relationship that existed before their employment with the State or for reasons other than their employment with the State are not prohibited.

Gifts given by your employer and co-workers are not prohibited. Gifts are not prohibited as long as they do not violate the ethical principles of this directive.

Promotional, informational, or educational items, such as calendars, pamphlets, or pens, given to the employee as a result of your state employment with a value of less than \$10 are not prohibited by this rule. These items; however, shall at no time be prominently displayed in the agency to create an appearance of favoritism or endorsement of a particular product, vendor, or business.

Acceptance of a personalized trophy or plaque with a value of less than \$150 is not prohibited by this rule.

Items given to an employee, division, or DDSN, not otherwise excluded from this rule and not easily returned may be donated to a charity or placed in a common area for the enjoyment of all DDSN employees. These items may not be retained for the benefit of any one employee or particular group of employees. Any items donated or retained by DDSN for the benefit of all employees must be approved by the State Director, and DDSN must retain a file documenting all of these items.

Employees may not receive compensation for speaking; however, may accept a meal provided in conjunction with the speaking engagement where all participants are entitled to the same meal. In addition, employees may accept or be reimbursed for actual and reasonable travel and lodging expenses related to the speaking engagement.

Gifts that include travel, lodging and/or meal expenses paid for on behalf of an employee to participate in a work-related event, which could otherwise have been paid for by DDSN, is a gift to DDSN not the individual employee, and is not prohibited with the following two exceptions:

1. A state agency may never receive any gift from a lobbyist; and,
2. A state agency may receive a gift from a lobbyist principal up to the amounts prescribed by the State Ethics Commission.

## **II. Conflicts of Interest**

DDSN employees have a duty of loyalty to the State as their employer. Certain dealings outside of work, both personal and financial, have the potential to create an actual or perceived conflict in fulfilling this duty to the State. Employees should avoid these situations by limiting certain dealings outside of their employment or removing themselves from particular matters.

**Rule 2:** Employees may not make, participate in, or influence a governmental decision in which the employee, a family member, an individual with whom the employee is associated, or a business with which the employee is associated has an economic interest.

**Refer to DDSN Directive 413-09-DD: Outside Employment, for information on employment outside of DDSN. The State Director must receive written approval from the Governor before engaging in outside employment. If the State Director seeks to be employed by another state agency or institution of higher education, the State Director must still obtain the approvals as required by S.C. Code Ann. § 8-11-170 (2019).**

**Employees may not have an economic interest in a contract with the State or its political subdivisions if employees are authorized to perform an official function relating to the contract.**

**Recusal:** Employees must report, in writing, any actual or perceived conflicts to DDSN's Ethics Officer, who will review and determine whether a conflict exists. Reporting should occur within 14 calendar days of the identification of the conflict. If the Ethics Officer determines no conflict exists, the Ethics Officer must document, in writing, the basis for the determination. If it is determined that a conflict exists, the employee must immediately remove themselves from the decision, vote, or process. The Ethics Officer must keep written documentation of all recusals.

**Definitions:**

For purposes of this rule, a "*family member*" includes a spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and an individual claimed by the employee as a dependent for income tax purposes.

For purposes of this rule, an "*individual with whom the employee is associated*" means an individual with whom the employee (or a member of the employee's immediate family) have a mutual business interest, and any business of which the employee or a member of the employee's immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth \$100,000 or more at fair market value, and which constitutes five percent (5%) or more of the total outstanding stock of any class.

For purposes of this rule, a "*business with which the employee is associated*" means a business of which the employee or a member of the employee's immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth \$100,000 or more at fair market value, and which constitutes five percent (5%) or more of the total outstanding stock of any class.

For purposes of this rule, "*official function*" means writing or preparing the contract specifications, acceptance of bids, award of the contract, or other action on the preparation or award of the contract.

### **III. Financial Disclosures**

Employees that affect the daily decisions of DDSN are more accountable through financial disclosure to the public.

The current law expressly requires the first and second levels of an agency to file a disclosure report, which could be limited to an agency head and a chief of staff, if that position exists. Additional employees that serve in important decision-making positions should also be required to file a disclosure report.

#### **Rule 3: State employees who are:**

- (1) Agency heads;**
- (2) Chief, deputy, or assistant administrative officials or directors of a division, institution, facility, or department;**
- (3) Chief finance employees; and**
- (4) Chief purchasing employees are required by statute to annually file a Statement of Economic Interests with the State Ethics Commission pursuant to S.C. Code Ann. § 8-13-1110 (Supp. 2021).**

**DDSN will examine its organizational structure to determine if additional employees, because of their positions in the agency, should file a Statement of Economic Interests. Upon a determination that you should file, DDSN will notify you, in writing, of the filing requirement. Such employees, if not already required to file with the State Ethics Commission, must file a Statement of Economic Interests with the Department of Administration.**

### **IV. Use of State Resources**

State resources are limited, and the public must trust state officials and employees to be good stewards of these resources. The public should have confidence that state resources are being used for the benefit of all citizens, the owners of the property, and not as personal property of state employees.

**Rule 4: Employees may only use state resources and/or property for conducting official business, except that incidental use of state property is permitted as long as it does not result in additional public expense. Incidental use is infrequent and minimal.**

**Employees may never use state resources for private business and/or financial gain.**

**Employees shall not permit others to access or use any assigned equipment, including state cars, laptops, cell phones, or other electronic devices, except as authorized by the agency.**

**Employees may never use state personnel, equipment, materials, or facilities for political campaigns.**

**Unless specifically required by the agency to perform a job function, employees may not use social media, including, but not limited to Facebook, Instagram, and Twitter, while on duty or through the use of state resources or equipment.**

## **V. Confidentiality**

Many times the State requires its citizens and businesses to file personal information. The State has a duty to protect this information. The public must be able to trust that employees with access to this information will protect its confidentiality and not use the information for personal or financial gain.

**Rule 5: Employees must not disclose restricted or confidential information acquired through their employment to any unauthorized person or entity.**

**DDSN will only provide employees access to data required to perform their job duties and will regularly re-examine employee access levels to ensure that they remain aligned with job duties.**

**Employees must only access, review, or examine data as necessary to perform their job function and not for any unlawful or improper purpose, including personal curiosity.**

**Employees must only use information gained through their employment in furtherance of official business.**

**Employees must protect the integrity of agency data and strive to diligently protect all restricted and confidential information from unauthorized disclosure.**

**DDSN will designate in writing, information that is deemed restricted or confidential for purposes of this rule. The Ethics Officer will maintain this information.**

## **VI. Nondiscriminatory Work Environment**

**Rule 6: Employees must promote a nondiscriminatory work environment that provides equal employment opportunities to all employees and applicants without regard to race, color, religion, sex, gender, genetic information, national origin, age, veteran status, disability, or any other status protected by federal or state law.**

## **VII. Post-Employment Restrictions**

Employees gain many valuable skills and connections while employed by DDSN. It is understandable that employees may one day want to use these skills and connections outside of state employment. Citizens must have confidence; however, that while employed with the State, employees are working solely for the benefit of the State and not using their position to create

opportunities for themselves upon their departure that could result in a conflict of interest. The following post-employment rules are found in current state law and are not intended to limit employment opportunities of state employees; instead, it prohibits individuals from engaging in certain activities on behalf of individuals or entities with state government.

**Rule 7:** For one (1) year following the employee's departure from state government, the former employee may not represent another individual or entity before the employee's former agency in a matter you directly and substantially participated in during employment (S.C. Code Ann. § 8-13-755 (2019)). Employees may not participate directly in the procurement of a contract and then depart the State agency and accept employment with an individual contracting with the governmental body if the contracts fell or would have fallen under their official responsibilities (S.C. Code Ann. § 8-13-760 (2019)).

### **VIII. Reporting Requirements and Whistleblower Protections**

At times, employees are aware that others are committing wrongdoing within an agency, but for various reasons, may have chosen not to report the misconduct. This may create the perception that this type of behavior is condoned by the agency. Citizens must be able to trust that state employees are doing all they can to prevent wrongdoing and at all times are protecting the interests and property of the State.

**Rule 8:** Employees must report an intentional violation of this Code of Conduct or any federal or state law or regulation by any agency employee, whether temporary or full-time, including a co-worker, subordinate, supervisor, senior manager, or any other employee.

**You must report any action by DDSN that results in substantial abuse, misuse, destruction, or loss of substantial public funds or resources.**

**Violation of any of these principles is grounds for discipline up to and including termination.**

#### **Reporting Requirements:**

DDSN designates the following process for such reports to be made to the appropriate authority. Depending on the facts of each case, the appropriate authority may be the DDSN General Counsel, DDSN Human Resources, the State Director, the DSN Commission Chairperson, or the State Ethics Commission. If you are uncertain who the appropriate authority is, contact the Ethics Officer.

These Whistleblower reports must be made verbally or in writing as soon as possible after the employee first learns of the wrongdoing, but no later than 180 days of the date the reporting employee first learns of the wrongdoing (S.C. Code Ann. §8-27-10 (2019)). This Whistleblower report must include the date of disclosure, the name of the employee making the report, the nature of the wrongdoing, and the date or date range of when the conduct occurred. If the Whistleblower report is oral, the DDSN Ethics Officer, or other state official to whom the report

is made must reduce the report to writing. This is separate from reporting requirements related to Abuse or Neglect, see DDSN Directive 534-02-DD: Procedures for Preventing and Reporting Abuse, Neglect, or Exploitation of People Receiving Services from DDSN or a Contracted Provider Agency.

**Good Faith Requirement:**

All reports of wrongdoing must be made in good faith. An employee may be disciplined or terminated for making a report that he or she knows or reasonably should know is false.

**Whistleblower Protections:**

An employee who files a report within the specified time frame, to the appropriate authority, and in good faith, is considered a whistleblower. Whistleblowers may not be demoted, lose compensation, or be dismissed or suspended from employment as a result of filing a report of wrongdoing.

Nothing prevents an agency from disciplining or terminating a whistleblower for causes independent of the filing of a report of wrongdoing.

**Code of Conduct Training:**

The Department of Administration's Division of State Human Resources has developed a web-based training video on the requirements of this Code, located on the Department of Administration's website. The training includes specific examples and hypothetical situations to provide concrete guidance to employees.

Every employee must review this initial web-based training video on this Code and certify, in writing, their understanding of this Code. Thereafter, all employees must receive annual refresher training on the Code and re-certify their understanding. All new employees must receive training on the Code within one (1) week of employment and certify their understanding of its requirements.



Barry D. Malphrus  
Vice Chairman



Stephanie M. Rawlinson  
Chairman

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