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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 SC DEPARTMENT OF DISABILITIES & 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.

PURPOSE

The purpose of this directive is to establish disciplinary guidelines to address charges of off-duty misconduct by South Carolina Department of Disabilities and Special Needs (DDSN) employees, temporary staff, and volunteers.

POLICY

DDSN requires its employees, temporary staff, and volunteers to obey the laws of the United States, the State of South Carolina, and local jurisdictions. DDSN values the health, safety and

well-being of each individual it serves and must operate in a manner that safeguards its consumers and workforce. In the event off-duty misconduct or allegations of off-duty misconduct occur in circumstances that may diminish confidence in the employee's ability to successfully perform his/her job responsibilities, appropriate steps shall be taken in accordance with this policy. DDSN employees, temporary staff, and volunteers who may also work with DSN Boards/providers are subject to disciplinary actions (as outlined in this policy) if charges of misconduct are brought to the attention of DSN Board/provider employers by law enforcement or other agencies with appropriate legal authority.

OFF-DUTY MISCONDUCT

For purposes of this directive, off-duty misconduct includes:

- A. Charge or allegation of abuse, neglect or exploitation of a child or vulnerable adult in this or any other jurisdiction;
- B. Conviction, plea of guilty, or plea of no contest or admission of guilt to a charge of abuse, neglect or exploitation of a child or vulnerable adult in this or any other jurisdiction;
- C. Charges or allegations of "Offenses Against the Person in this or any other jurisdiction;"
- D. Conviction of "Offenses Against the Person in this or any other jurisdiction;"
- E. Conviction, plea of guilty, plea of no contest, or admission of guilt to a felony; a crime punishable by a sentence of more than one (1) year (regardless of the sentence actually imposed, if any); or a crime of moral turpitude in this or any other jurisdiction;
- F. Charges of unlawful use, possession or distribution of an illegal or controlled substance, as defined in DDSN Directive 334-04-DD: Drug-Free Workplace and Alcohol and Drug Testing for Employees;
- G. Charges or allegations of misrepresentation, dishonesty, untruthfulness or fraud, in circumstances which reflect adversely on the employee's suitability for continued employment; and
- H. In the case of an employee holding a job-related professional license or certification (including a driver's license) as a requirement of their employment, conduct prohibited or defined as grounds for suspension, censure, or revocation of the professional certifications or licensure by the governing board or issuing body of the certification or license.

Procedural Guidelines

- A. Training on this directive will be provided to all new employees as part of orientation.

B. Reporting of Misconduct

An employee, temporary staff, or volunteer who is arrested or otherwise charged with misconduct as listed above, or is listed on the Child Abuse and Neglect Registry, shall notify their Human Resources (HR) office within 72 hours (3 days) of the date of the arrest, charge, conviction, listing or loss of license, and set forth any and all circumstances concerning the charges and accusations.

Failure to comply with the reporting requirements of this policy will constitute cause for employee disciplinary action up to and including dismissal from employment. The employee is required to complete a detailed written report using the Employee Report of Arrest or Loss of Licensure Form (HR ER-01), and confidentially submit it to the regional HR director and his/her Senior Manager or Facility Administrator. Employees, temporary staff, and volunteers are required to cooperate with HR and management to provide all requested information.

C. Confidentiality

The report will be handled confidentially. No information about the employee's off-duty conduct will be placed in an employee's permanent personnel record until deemed appropriate by the Director of Human Resources and General Counsel. If the report and supporting documents are not to be filed in the personnel file, the Regional HR Director will securely retain them separately for three (3) years and destroy them.

D. Process and Possible Disciplinary Actions

1. Employees who are accused of off-duty misconduct may be reassigned or suspended pending the resolution of the charges or accusation. The employment agreement between DDSN and temporary staff and volunteers who are accused of or charged with misconduct may be amended to reflect a reassignment of duty or terminated.
2. The Senior Manager or Facility Administrator and HR will meet with the employee, temporary staff, or volunteer to provide him/her an opportunity to explain the circumstances of the reported incident. A determination of appropriate action to be taken will be made only after this meeting has occurred.
3. The fact that an employee, temporary staff, or volunteer has been arrested, charged with misconduct, or suffered a loss of licensure will not necessarily result in immediate disciplinary action or separation from employment. Any disciplinary action arising from such circumstances will depend upon:
 - a. The nature and seriousness of the offense;
 - b. The nature of the employee's position, responsibilities, and minimum requirements for the position as employed by DDSN;

- c. The employee's work history; and,
 - d. The likely effect the charges will have on public confidence in DDSN to care for individuals with intellectual disabilities and related developmental disabilities.
4. Any action taken will comply with HR regulations of the State of South Carolina and DDSN Directive 413-01-DD: Standards of Disciplinary Action. An affected employee will retain his/her rights under established policies for grievance and review of such decisions. Temporary staff and volunteers do not have State employee grievance rights.
 5. A suspension may be administered verbally; but HR staff shall provide the employee with a written letter of explanation within 48 hours. The letter will outline the conditions of the suspension, including the conditions necessarily met to be returned to work, and any applicable covered employee rights. Such suspension shall be without pay, and may exist for the duration of the period it takes the employee to resolve the charges or accusation, not to exceed 180 calendar days. If the employee is unable to resolve the charges within 180 calendar days, he/she will be separated from employment.
 6. If/when it is subsequently determined or adjudicated that the employee was not guilty of the misconduct charged or the charges are dismissed, the employee shall be returned to his/her former or like job. Temporary staff and volunteers may be returned to work with his/her former job responsibilities. Written documentation from the relevant judicial body or licensing board/agency is required before such reinstatement may occur.
 7. If the employee is unable to resolve the charges or accusations, or is unable to regain the licensure/certification that is a required condition of DDSN employment within 180 calendar days, the employee will be separated from employment and the work agreement of temporary staff and volunteers will be terminated.
 8. It shall be the affected employee's responsibility to keep HR and executive management updated on the status of charges of misconduct.

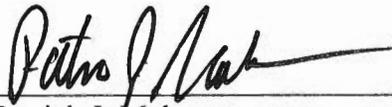
Pre-Trial Intervention and Case Settlement

For purposes of this policy, a dismissal of charges of off-duty misconduct due to Pre-Trial Intervention (PTI) programs shall not be considered a determination that the employee, temporary staff, or volunteer was found "not guilty" of the misconduct. Rather, an employee, temporary staff, or volunteer who elects to participate in PTI programs must successfully complete the process before reinstatement may occur if he/she has been suspended or removed from duty.

In either case, it is possible the employee may be reinstated (without back pay) or disciplined up to and including separation from employment, and temporary staff or volunteers may be returned to duty (without back pay) or have their work agreement terminated.

An employee, temporary staff, or volunteer who has suffered the loss or suspension of a license or certification that is required as a condition of their particular employment with DDSN must provide official written documentation outlining the reinstatement of said license in order to be restored to employment with DDSN.

This directive supplements DDSN Directive 413-01-DD: Standards of Disciplinary Action.



Patrick J. Maley
Deputy Director



Mary Poole
State Director

To access the following attachments, please see the agency website page "Current Directives" at: <https://www.ddsn.sc.gov/providers/directives-and-standards/current-directives>.

Attachment: Employee Report of Arrest/Conviction/Child Abuse Registry/Loss of License

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