



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

Policy:	DOC 1.3.2 PERFORMANCE AND CONDUCT
Chapter 3:	ADMINISTRATION AND MANAGEMENT
Section 1:	Human Resources
Effective Date:	January 26, 1996 Page 1 of 4 and Attachments
Revised:	March 1, 2021
Signature:	/s/ Brian Gootkin, Director

I. POLICY

The Department of Corrections protects the rights of employees, enforces high standards of professional conduct, and provides guidelines of performance and conduct for Department employees.

II. APPLICABILITY

All divisions, facilities, and programs Department-owned and contracted, as specified in contract.

III. DEFINITIONS

Contraband – Any item possessed by an offender or found within the facility that is illegal by law, prohibited by policy or procedure, or unauthorized by those legally charged with the administration and operation of the facility.

Criminal Conduct – A charge or conviction of a violation of city, county, state, or federal law including all felonies and serious misdemeanors, including but not limited to: assault, sexual assault, traffic violations, i.e., hit and run, driving under the influence (DUI), reckless driving, or other violations by staff that could result in the imposition of a jail sentence and/or suspension or revocation of the violator's driver license.

Department Employee – A person employed by the Department of Corrections who has attained permanent status or is eligible to attain permanent status, as provided in *2-18-601, MCA*; volunteers, interns, temporary and short-term workers; this term does not include service providers.

HIPAA – The Health Insurance Portability and Accountability Act (1996) which defines nationally recognized regulations for the use and disclosure of an individual's health information.

Service Providers - This term includes contracted persons or other vendors providing service whose assignment is primarily on Department premises, e.g. facility or program office.

IV. DEPARTMENT DIRECTIVES

A. On-the-Job Performance

1. Employees are responsible for performing duties as specifically assigned either orally or in writing, and as guided by the attached [Code of Ethics](#) and Department policies.

2. Employees and service providers with access to protected health information must read and sign the [HIPAA Confidentiality Agreement](#).

B. Off-the-Job Conduct

1. Employees will maintain ethical standards that contribute to public safety and trust, and do not reflect negatively on the reputation of corrections professionals.
2. Employees and service providers are expected to comply with all laws and inform the Department of any criminal charges that may affect Department or personal credibility or affect a person's ability to perform in his or her assigned capacity.
3. Employees and service providers who have been arrested for any criminal offense other than minor traffic offenses (except D.U.I.) must notify their supervisor and provide information on their status through final disposition.
4. If an employee is incarcerated or detained and unable to report for work, he or she must contact the immediate supervisor to request a leave of absence for each scheduled shift; failure to request a leave of absence will be considered absence without approval and may result in disciplinary action up to and including dismissal.
5. The supervisor will conduct an inquiry upon notification of an employee's involvement in criminal conduct including gathering facts and consulting Human Resources.

C. Gun Control Act

1. Employees authorized because of their positions to carry or be issued firearms who are subject to any disqualifying cause under the federal Lautenberg Act of 1996 must notify their supervisors and continue to provide information on their status through final disposition of any such disqualifier.
2. The Department is prohibited from providing firearms or ammunition to any individual who fits any of the following criteria:
 - a. is convicted of a felony offense;
 - b. is a fugitive from justice, i.e. fleeing from custody or prosecution;
 - c. is an unlawful user of or addicted to a controlled substance;
 - d. is adjudicated as a mental defective or committed to a mental institution;
 - e. is an illegal alien;
 - f. has received a dishonorable discharge from the military;
 - g. has denounced U.S. citizenship;
 - h. is subject to a restraining order; or
 - i. has been convicted of a misdemeanor crime of domestic violence.

D. Unacceptable Performance and Conduct

1. Performance and conduct behavior unacceptable for Department employees includes, but is not limited to, the following:
 - a. violation of law;
 - b. violation of policy, directives, or other employer regulations;
 - c. neglect or failure to carry out assigned duties and responsibilities;

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- d. assaulting, injuring, abusing, intimidating, threatening, endangering, or withholding reasonable necessities from an offender;
- e. committing theft, damage, or unauthorized use or possession of state property or property of any offender;
- f. assaulting, endangering, stalking, or maliciously intimidating or harassing another person;
- g. falsifying any department record;
- h. unauthorized dissemination of confidential information;
- i. abuse of sick leave or excessive tardiness;
- j. unauthorized use of state time, equipment, or facilities for private business or personal use;
- k. failure to remain alert and vigilant while on the job;
- l. failure to follow applicable dress codes;
- m. employee negligence resulting in damage or loss of state property;
- n. using, possessing, controlling, or transferring tobacco in unauthorized areas;
- o. loaning, duplicating, or other use of keys that breach the security of the workplace;
- p. failure to maintain a courteous, productive and otherwise acceptable working relationship with fellow workers and the general public;
- q. use of any illegal drugs;
- r. use of any prescription medications not prescribed by a medical professional;
- s. use or misuse of any prescribed or over-the-counter substance that may impact the effective performance of duties and responsibilities not reported in advance to the appropriate supervisor;
- t. unauthorized use, possession, control, or transfer of contraband in violation of specific division or facility policy and procedures;
- u. sabotaging, impeding, interfering, or failing to cooperate with any authorized Department or law enforcement investigation; and
- v. failure to timely report policy violations, or job-related illegal or unethical behavior to the appropriate authority;
- w. failure to timely self-report an arrest, conviction, or professional disciplinary action against a professional license required by the position; and
- x. failure to self-report potential conflicts of interest to the appropriate administrator prior to acting in possible violation of this policy.

E. Standards of Conduct

1. The Department of Corrections abides by all applicable laws, regulations, and policies related to state employee Standards of Conduct, including those linked below.
 - a. [State Ethics Policy](#);
 - b. [Employee's Guide to Standards of Conduct in Montana State Government](#); and
 - c. [Political Activity of Public Officers and Employees](#)

F. Disclosure Requirements

1. You may not solicit or accept employment or engage in negotiations or meetings to consider employment with a person whom you regulate in your official duties without first giving written notice to your supervisor or department director.

2. If you are a member of a quasi-judicial board or commission or a board, commission or committee with rulemaking authority, and have a conflict created by a personal or private interest that gives rise to the appearance of impropriety, you must disclose the interest creating the conflict prior to participating in official actions.
3. Prior to acting in a manner that may affect your public duty, including the award of a permit, contract, or license, you must disclose the nature of the private interest that creates the conflict. This disclosure must be in writing to the Secretary of State and must list the amount of private interest, the purpose and duration of your services, any compensation you have received, and other relevant information. If you perform the act involved, you must publicly declare and record the nature of the conflict including all of the elements required previously for the Secretary of State.

G. Code of Ethics and HIPAA Confidentiality Agreement

1. Supervisors will ensure that all employees read and sign the attached [Code of Ethics](#), incorporated fully herein, and return the form to Human Resources.
2. Employees and service providers with access to protected health information will read and sign the [HIPAA Confidentiality Agreement](#) and return the form to Human Resources.

V. CLOSING

Two main principles apply to your conduct in your job: public trust and public duty. By keeping these in mind as you do your job on a day-to-day basis, you will be able to carry out your duties for the benefit of the people of the state and avoid taking actions that would cause you to depart from your public duty and violate the public's trust.

Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts which will take precedence to the extent applicable.

Questions concerning this policy should be directed to Human Resources.

VI. REFERENCES

- A. 2-2-101 through 2-2-304, MCA; 45-7-307, MCA
- B. Title 18 U.S.C. Chapter 44, Gun Control Act of 1968
- C. Montana Operations Manual, Ethics Policy
- D. [Ethics - Standards of Conduct for State Employees; Department of Administration](#)
- E. 4-4069; ACA Standards Supplement, 2008
- F. 3-JTS-1C-23, ACA Standards for Juvenile Correctional Facilities, 2003
- G. 3-3068, ACA Standards for Adult Probation & Parole Field Services, 3rd Edition
- H. DOC Policies 1.3.12 Staff Association and Conduct with Offenders; 1.1.17 Prison Rape Elimination Act (PREA); 3.1.17 Searches and Contraband Control; 3.1.19 Investigations

VII. ATTACHMENTS

[Code of Ethics](#)

[HIPAA Confidentiality Agreement](#)