
Chapter 6 – Performance Evaluation and Standards of Conduct

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Section I Performance Evaluation

Purpose

The purpose of this policy is to provide for the regular evaluation of all employees.

Scope

This policy applies to all employees, including local department directors.

A. Definitions

1. Acknowledgement of Outstanding Contribution

Used to document and recognize employee's outstanding contribution to the agency during the performance evaluation cycle.

2. Anniversary date

The annual day and month that corresponds to the effective date of an employee's hire, rehire, promotion, demotion, redefinition or other change in an employee's classification.

3. Annual performance evaluation

An annual assessment of an employee's performance of core responsibilities and performance measures.

4. Begin date

The date that an employee begins employment in a position.

5. Classification change

A change in an employee's position classification as a result of a promotion, demotion, redefinition, or other change in an employee's employment classification.

6. Conditional status period

A twelve (12) month period of evaluation to assess the performance of employees who have successfully completed a 12 month probationary period in a permanent position and have been promoted, demoted, redefined or otherwise had a change in classification. These employees retain grievance rights.

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7. Core responsibilities

Broad sets of major duties or functions that are primary to the type of work performed by an employee. These job responsibilities normally remain relatively consistent during the performance cycle.

8. Counseling memorandum

A written summary of a discussion or meeting that a supervisor has had with an employee regarding misconduct, substandard performance, performance that needs improvement or failure to meet expectations.

9. Disciplinary action

Action taken by a supervisor in response to an employee's conduct in violation of the Standards of Conduct or policy, or to address substandard performance of work responsibilities.

10. Employee development plan

A component of the performance evaluation form that lists personal learning goals identified by the employee and/or the supervisor for the performance evaluation cycle. The plan identifies learning steps, goals that need to be taken, and resources needed, including training, coaching or other learning methods.

11. Essential functions

The job functions that must be performed in order to meet the business need for creating a position. For Americans with Disabilities Amendments Act (ADAA) purposes, these are the job responsibilities that an employee must be able to perform, with or without a reasonable accommodation. These are functions that normally cannot be transferred to another position without lowering the classification of the source position.

12. Evaluation date

The month and day each year when an employee's performance of the core responsibilities and performance measures is assessed.

13. Interim evaluation

An evaluation that is conducted six months into the performance evaluation cycle to document and assess an employee's progress toward meeting performance measures. It is strongly recommended that all employees have an interim evaluation.

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14. Merit increase

An increase in compensation based on an employee's performance of job responsibilities at an overall performance rating of "meets expectations" or higher.

15. Notice of Improvement Needed form

Form used to document substandard performance or performance that does not meet the performance measures recorded on the performance evaluation form.

16. Performance coaching

Ongoing feedback and follow-up meetings provided to an employee to clarify expectations, acknowledge exceptional performance, or document and address substandard performance.

17. Performance evaluation cycle

The annual cycle of assessing employees' performance of job responsibilities and performance measures. The cycle consists of performance planning, ongoing feedback, and performance evaluation.

18. Performance evaluation

A means of assessing an employee's performance of job responsibilities and performance measures. This is usually an annual assessment comprised of a completed evaluation form and a conference between the employee and supervisor to review the written performance evaluation.

19. Performance improvement plan

A plan completed by an employee's immediate supervisor to address substandard performance or standards of conduct violations. This plan can be used at any time during the performance evaluation cycle, and must be used with any required re-evaluation plans developed after the annual performance evaluation.

20. Performance measures

Measures that are used to assess each core responsibility, special assignment or agency objective, which describe the complexity, accountability, and results of major responsibilities, assignments and objectives in a specific, measurable, attainable and relevant way. This is a component of the performance evaluation form.

21. Performance planning

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The phase of the performance evaluation cycle during which the supervisor updates the employee work description, identifies the core responsibilities and performance measures, creates an employee development plan and conducts a performance planning meeting with the employee.

22. Overall Performance rating

The overall assessment of an employee's performance during the performance evaluation phase of the performance evaluation cycle. There are four options for ratings: "outstanding"; "exceeds expectations"; "meets expectations"; or, "needs improvement".

23. Probationary period

The twelve (12) month period during which an employee who is newly hired or re-hired is in an introductory, at-will period of employment that enables the employee and agency to assess the employee's suitability for the position. These employees do not have access to the grievance procedure during the probationary period.

24. Re-evaluation process

A process for the re-evaluation of an employee who has received an overall performance rating of "needs improvement" at the annual performance evaluation. The re-evaluation process should begin with the establishment of a performance improvement plan no more than ten (10) days after the annual performance evaluation meeting and should include a re-evaluation of the employee's performance during a specific timeframe, not to exceed 180 days. The performance improvement plan must be approved by the reviewer before it can be presented to the employee or become effective.

25. Reviewer

The immediate supervisor of an employee's supervisor. This is the person or local board designated to review an employee's work description, performance plan, performance rating, re-evaluation plan, and who responds to appeals of performance ratings. For local directors, this may be their local board or the VDSS Regional Director when the local director acts as the local board.

26. Special assignments

Additional job duties or responsibilities that are not core responsibilities or essential functions.

27. Substandard performance

Performance that does not meet the performance measures, the supervisor's expectations, the requirements of the standards of conduct or applicable policy.

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28. Supervisor

The employee who oversees an employee's performance, develops work descriptions and performance plans, conducts performance evaluations and assessments, and determines performance ratings.

29. Termination

The involuntary separation of an employee from employment.

30. Work Profile

A brief job description, performance plan, core responsibilities, performance measures, employee development goals, and description of the physical demand requirements of a job.

B. Performance Evaluation Cycle

The performance evaluation cycle involves establishing performance planning, providing ongoing feedback that includes performance coaching, and an annual performance evaluation.

1. Performance Planning

The performance management cycle begins each year with the performance planning phase. During this phase, the performance plan is shared with the employee. This should be done at the beginning of the performance evaluation cycle.

a. Responsibilities of the Supervisor

The supervisor should use this time to communicate performance expectations to the employee.

i. Develop or modify each employee's performance plan on the performance evaluation form.

a) Identify the core and essential responsibilities of each employee's position. These may be prioritized based on the importance to the agency mission and the work unit.

b) Essential responsibilities will be designated within the core responsibilities.

c) Special assignments may be added to the performance plan.

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- d) Identify the performance measures that correspond to each core responsibility, essential responsibility and/or special assignment. Measures should be SMART: specific, measurable, attainable, relevant and timely. They must be set at a level of performance that is clear to the supervisor, reviewer and employee.
 - e) Create an employee development plan for each employee that includes a learning plan, learning goals, and needed resources. This may be accomplished with input from the employee.
- ii. Have the reviewer approve and sign the performance plans.
 - iii. Review the performance plan with each employee.
 - iv. Have each employee sign the performance plan and provide each employee with a copy before the signed original is placed in the employee personnel file.
- b. Responsibilities of the Employee

The employee has a role in the performance planning phase that consists of the following:

- i. completely understanding the core responsibilities, special assignments, learning goals, and the employee development plan;
 - ii. asking clarifying questions as needed; and,
 - iii. requesting resources needed in order to be successful.
- c. Employee Performance Plan and Evaluation Form

The performance plan for local departments is documented in the LDSS Employee Performance Plan and Evaluation (EPPE) form. This form incorporates the components of the former work profile form.

2. Responsibilities related to the Local Director

The locality Board of Supervisors/City Council or local board of social services structure determines who completes the performance plan and the performance evaluation for the local director.

- a. If the locality has appointed an administrative board, the local board chair must prepare the performance plan and complete the performance evaluation.
- b. If the locality has appointed an advisory board, the administrative entity must prepare the performance plan and complete the performance evaluation.

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- c. If the locality has appointed an advisory board and the local director is the administrative entity (when the local director is acting as the local board), the locality Board of Supervisors/City Council or designee must determine who will prepare the performance plan and complete the performance evaluation.
- d. Performance plans and evaluations for local directors should be completed in collaboration with VDSS Regional Directors.

3. Performance Coaching

a. General Principles

Supervisors should work with employees and provide coaching throughout the performance evaluation cycle to facilitate employee success and address minor, first-time or substandard performance issues.

b. Formal and informal Feedback

- i. Performance coaching provides formal and informal feedback for minor or first instances of substandard performance.
- ii. Formal feedback may be utilized to document substandard performance through counseling memorandum, interim evaluations, or the issuance of a written notice or notice of improvement needed at any time during the performance evaluation cycle.
 - a) All such notices issued must be approved and signed by the reviewer.
 - b) Employees must receive copies of formal feedback documentation.
 - c) Original documentation of formal feedback, including interim evaluations and/or notices of improvement needed, must be retained in the supervisor's confidential files for use during the annual performance evaluation.
- iii. When providing coaching to address an employee's performance, supervisors should:
 - a) observe the employee's work to inform coaching so it is relevant feedback; and,
 - b) review the employee's work products and results.
- iv. For employee performance that meets or exceeds expectations, take time to understand performance that is working and the reason for the employee's success.

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- v. For employee's who are not meeting expectations or performance measures during the annual performance evaluation cycle:
 - a) focus attention on any specific aspect of the employee's performance that is not meeting the performance measures or expectations;
 - b) schedule a meeting to discuss substandard performance;
 - c) advise the employee ahead of time regarding the purpose of the meeting;
 - d) discuss alternative solutions for bringing performance up to expectations and for meeting performance measures;
 - e) schedule follow-up meetings to measure progress toward agreed upon solutions to improve performance;
 - f) seek solutions from the employee;
 - g) recognize the employee's successes and improvements;
 - h) communicate consequences for failure to improve performance;
 - i) document key elements of each coaching session/meeting.
- vi. VDSS Regional directors should provide performance coaching for the local department directors in their region, as needed.
- vii. Employees may have a role in the ongoing feedback about their performance by:
 - a) being receptive to feedback;
 - b) documenting their own performance and accomplishments;
 - c) providing feedback about their own performance to their supervisor;
 - d) offering solutions; and,
 - e) requesting resources needed to be successful.

C. Performance Improvement Plan

1. Substandard Performance

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Significant, sustained or repetitive substandard performance that occurs during or at the end of the performance evaluation cycle, in violation of the Standards of Conduct, or results from a “needs improvement” overall performance rating on an interim or annual performance evaluation should be addressed through a performance improvement plan.

2. A performance improvement plan should consist of the following:
 - a. a timeframe of 30 to 180 days to enable the employee to improve performance;
 - b. the performance improvement plan may be developed by the supervisor with the employee’s input, or the supervisor alone, if they cannot agree;
 - c. the performance improvement plan should be attached to a notice of improvement needed form, written notice form, or re-evaluation;
 - d. the employee must be given a copy of the notice of improvement needed form, written notice form, or re-evaluation and the performance improvement plan.
 - e. originals of the notice of improvement needed form, written notice form, or re-evaluation, and performance improvement plan, and any other documentation of substandard performance must be kept in a supervisor’s file until after the completion of the evaluation or re-evaluation at the end of the probationary period, conditional status period, or performance evaluation cycle.

D. Performance Evaluations

1. Interim Evaluations

- a. Newly hired or rehired employees must serve a twelve (12) month probationary period.
- b. Employees who have successfully completed a probationary period and who have been promoted, demoted, redefined or had a change in classification must serve a twelve (12) month conditional status period.
 - i. Such employees retain their grievance rights.
- c. All employees should have an interim evaluation, six (6) months into the performance evaluation cycle.

2. A “needs improvement” Overall Rating During the Interim Evaluation

- a. When a probationary or conditional status employee’s interim evaluation has an overall rating of “meets expectations” or above, the employee will attain regular or restricted status if the end of probationary or conditional status period evaluation is also an overall rating of “meets expectations” or above.

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- b. An overall rating of “needs improvement” on a probationary or conditional status period interim evaluation:
 - i. will result in the development of a performance improvement plan, and
 - ii. an extension of probation or conditional status for up to six (6) additional months, or demotion (for conditional status employees only), or termination.
- c. Employees must be notified when they attain regular or restricted status.
- d. Regular or restricted status employees who receive an overall rating of “needs improvement” on the interim evaluation should be provided with a performance improvement plan.

3. End of Probationary or Conditional Status Period Evaluation

At the end of the probationary or conditional status period, a performance evaluation must be conducted in the eleventh month, but no later than two weeks before the end of the probationary or conditional status period unless good cause can be shown for a delay in conducting the evaluation.

- a. If substandard performance occurs and does not result in termination before the end of the probationary or conditional status period, the following options may be exercised for an overall performance rating of “needs improvement” at the end of probation or conditional status period evaluation:
 - i. the probationary or conditional status period may be extended for up to six (6) months with a performance improvement plan and re-evaluation;
 - ii. conditional status period employees may be demoted;
 - iii. the probationary or conditional status period employee may be subject to termination.

4. Annual Performance Evaluation Date

- a. An annual performance evaluation is required of all employees. For every employee there shall be established a performance evaluation date; this date shall be as follows:
 - i. For employees who have successfully concluded the probationary period, the date that the employee ended probationary status shall be the annual performance evaluation date.

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- ii. For employees who have successfully completed the conditional status period after a change in classification status, the date that the employee's classification changed shall be the annual performance evaluation date;
 - iii. For all regular, restricted status or permanent employees, the anniversary or evaluation date shall be the annual performance evaluation date; or,
 - iv. For local departments that choose to evaluate all employees at the same time annually regardless of the anniversary date or evaluation date, all permanent employees and all employees who have successfully concluded the probationary or conditional status period, should be provided interim evaluations until all employees can be evaluated at the same time each year.
- b. The annual performance evaluation should be conducted at least one month prior to the annual performance evaluation date, unless extenuating circumstances result in a delay.

E. Conducting the Performance Evaluation

1. Performance Evaluation – Local Director

- a. Directors receiving an original appointment must serve a twelve month probationary period.
- b. During the probationary period, a probationary progress review must be conducted. The same performance management options listed above apply to an overall rating of "needs improvement" on the probationary progress review or the end of probationary period evaluation.
- c. Thereafter, directors must receive an annual performance evaluation.
- d. The annual performance evaluation shall be conducted subject to the same process as indicated for all other local department employees below.

2. Performance Evaluation – All Local Department Employees

During the performance evaluation phase of the performance evaluation cycle, employees' performance during the performance evaluation period are assessed against the performance measures and expectations set for their core responsibilities, essential functions and special assignments.

The following types of leave taken must not be used to reduce an employee's overall performance rating: overtime/compensatory, special duty leave, worker's compensation, military, or, Family and Medical Leave.

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- a. Employees may be provided with the opportunity to conduct a self evaluation using the performance evaluation form.
- b. The supervisor may review the employee's self evaluation, if applicable, and then complete a performance evaluation on the employee.
 - i. The supervisor must provide a rating for each performance measure and provide an overall performance rating.
 - ii. Any rating other than "meets expectations" requires supervisor comments.
 - iii. An overall rating of "outstanding", "exceeds expectations", or, "needs improvement" must be supported by documentation of acknowledgment of outstanding contribution, counseling memoranda, written notices based on the standards of conduct, notice of improvement needed, or documentation from performance coaching.
- c. The supervisor provides the completed performance evaluation, with recommendations, to the reviewer for approval and signature.
 - i. The reviewer may make comments or change the recommendations of the supervisor.
 - ii. The performance evaluation should not be presented to the employee until the reviewer and supervisor agree on the recommendations and overall performance rating.
- d. The performance evaluation cannot be shared with the employee until it has been approved and signed by the reviewer.
- e. The supervisor must conduct an evaluation meeting with the employee to review the performance evaluation.
- f. The employee may provide comments, if desired, then sign and date the performance evaluation after the evaluation meeting.
 - i. If the employee refuses to sign the evaluation form, the supervisor should note on the form that the employee refused to sign it.
 - ii. The employee's refusal to sign does not negate or in any way impact the validity of the performance evaluation.
- g. The employee should be provided with a copy of the signed evaluation form.
- h. The performance evaluation becomes part of the employee's personnel file after the performance evaluation meeting has been conducted.

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- i. The information in the performance evaluation should not be disclosed or available to anyone other than those authorized to access the employee's personnel file without the employee's written consent.
3. Re-evaluation Process for Overall Performance Ratings of "Needs Improvement"
 - a. The supervisor must develop a re-evaluation and performance improvement plan for permanent employees who receive a "needs improvement" overall performance evaluation rating.
 - i. the performance improvement plan must be developed within ten (10) workdays of the performance evaluation meeting in which the employee received the overall rating of "needs improvement", unless extenuating circumstances result in a delay;
 - ii. the performance improvement plan must establish performance measures for a timeframe not to exceed 180 days and be approved by the reviewer;
 - iii. if the core responsibilities and/or performance measures remain the same as the original performance plan, they must be copied into a new performance evaluation form labeled "re-evaluation";
 - iv. the supervisor should meet with the employee to discuss the recommendations for meeting the performance measures in the re-evaluation period;
 - v. a re-evaluation must be done regardless of whether the employee appeals the performance evaluation;
 - vi. the reviewer should approve and sign the re-evaluation before it is presented to the employee or the employee signs it;
 - vii. the re-evaluation process terminates if the employee transfers to or obtains another position;
 - viii. the employee's performance re-evaluation should be conducted two weeks before the re-evaluation period ends;
 - ix. if the re-evaluation results in an overall rating of "needs improvement", the employee may be demoted or terminated from employment;
 - x. at any time during the re-evaluation period, the employee may be subject to disciplinary action in the form of a written notice based on the Standards of Conduct or the issuance of additional notices of improvement needed.
 4. Appeal of the Performance Evaluation or Re-evaluation
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An employee who does not agree with the performance evaluation completed by the supervisor, may appeal to the reviewer for another review as follows:

- a. within ten (10) workdays of the employee's performance evaluation meeting, the employee may provide a written appeal to the reviewer;
- b. the reviewer must discuss the appeal with the employee and the supervisor;
- c. the reviewer should provide a written response to the appeal within five (5) workdays of discussing the appeal;
- d. the reviewer's written response must indicate:
 - i. agreement with the performance evaluation as it is written;
 - ii. a decision to have the supervisor revise the performance evaluation comments or ratings;
 - iii. a decision that the reviewer will revise the performance evaluation comments or ratings; or,
 - iv. a decision that the reviewer will conduct a completely new performance evaluation.

5. Merit Increases

- a. Local departments must set the overall performance evaluation rating that makes an employee eligible for any merit increases that local department elects to award based on performance.
- b. Only employees who achieve the overall performance rating set by their local department may be eligible to receive a merit increase.
- c. Employees who receive an overall performance rating of "needs improvement" or who have active Standards of Conduct violations are not eligible for a merit increase in that same performance evaluation cycle.
- d. The length of leave taken may impact whether an employee qualifies for any merit increases during that performance evaluation cycle.

6. Deviation in Performance Evaluation Policy

In local jurisdictions where there is a performance evaluation policy that applies uniformly to all local government employees, the local department of social services

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may deviate to that policy provided it is approved by VDSS HR as being in substantial conformity with this policy.

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Section II Workplace Violence

Purpose

The purpose of this policy is to address violence in the workplace.

Scope

This policy applies to all employees.

A. Definitions

1. Third Parties

Individuals who are not LDSS employees, such as relatives, acquaintances, clients or strangers.

2. Weapon

A weapon is any device or instrument or material, including firearms, pepper spray or mace that is designed or used to attack or defend against an opponent or adversary.

3. Workplace

Any location where an employee performs work-related activities. This includes, but is not limited to, the local department's buildings and the surrounding perimeters, including the parking lots, field locations, alternative work locations and travel to and from work assignments.

4. Workplace Violence

Any physical assault, threatening behavior or verbal abuse occurring in the workplace by employees or third parties. It includes, but is not limited to, beating, stabbing, suicide, shooting, rape, attempted suicide, acts of intimidation, stalking, and harassment of any nature. Oral and written statements, gestures, or expressions that communicate to a reasonable person a direct or indirect threat of physical harm or psychological harm are included in this definition.

B. Prohibited Actions

Workplace violence is prohibited. Actions that may constitute workplace violence include, but are not limited to:

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1. Injuring another person physically;
2. Engaging in behavior that creates a reasonable fear of injury or psychological harm to another person;
3. Brandishing, or using a weapon while on the LDSS premises or engaged in LDSS business without legal cause or authority;
4. Threatening to injure an individual or to damage property;
5. Committing injurious acts to a person or to LDSS property;
6. Uncontrolled anger that manifests itself in some physical act; and,
7. Any act deemed to be “workplace violence.”

C. Policy Violations

Employees violating this policy are subject to disciplinary action up to and including termination.

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Section III Outside Employment and Conflicts of Interest

Purpose

The purpose of this policy is to address outside employment, to set forth standards for ethical conduct, and to provide guidelines on conflict of interest.

Scope

This policy applies to all employees.

A. Definitions

1. Anything of value

Any item gift, gratuity, service or other item valued above \$30.

2. Business interest

Means a business gain or advantage, or anything regarded by the beneficiary as a business gain or advantage, including a business benefit to any other person or entity in whose welfare he is interested.

3. Benefit

Means a gain, advantage, or anything regarded as a gain or advantage.

4. Conflict of interest

Any conduct prohibited under the *Code of Virginia* as a conflict of interest; also, any conduct or activity that places an employee's personal interest, gain or benefit above the business, interest or operations of the local department.

5. Gift

Means 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. "Gift" shall not include any offer of a ticket or other admission or pass unless the ticket, admission, or pass is used. "Gift" shall not include honorary degrees and presents from relatives. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, or nephew; a person to whom the donee is engaged to be married; the donee's or his spouse's parent,

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grandparent, grandchild, brother, or sister; or the donee's brother's or sister's spouse.

6. Gratuity

Means the same as gift.

7. Honorariums

Any monetary gift for an appearance, speech, or article written.

8. Items (s) of value

Any gift, gratuity or service valued at \$30 or more; same meaning as anything of value.

9. Nominal value

Any gift, gratuity, or service valued at \$30 or less.

10. Outside employment

Any compensated activity that an employee engages when not engaged in employment activity at or on behalf of the local department.

11. Personal interest

Means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist 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, \$10,000 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, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 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 (i) or (iv) above.

12. Professional standards

Standards in this policy section that pertain to the conduct of local department employees in their work on behalf of the local department.

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13. Remunerative activity

Any outside employment, contracting, operation or financing of a business, engagement in professional activities or other activity that an employee undertakes when not working at or on behalf of the local department.

14. Special consideration

Same meaning as a benefit.

15. Stipend

Any monetary amount provided to cover expenses.

16. Token gift

Any gift or item valued at less than \$30.

B. Summary of Prohibited Activities

1. An employee may not engage in a remunerative activity without prior approval by the Director. A remunerative activity does not include stock or bond ownership in publicly traded companies or other passive income from such companies.
2. Accepting anything of value for work performed on behalf of the LDSS or because of an association with the LDSS.
3. Engaging in a transaction or a contract that constitutes a conflict of interest under any of the following *Code of Virginia* sections, as amended: the State and Local Government Conflict of Interests Act, §§ 2.2-3100 *et. seq.*; the *Ethics in Public Contracting provisions of §2.2-4367 et. seq.*; the *Virginia Governmental Frauds Act, §18.2-498.1 et. seq.*; or, any local ordinance passed pursuant to §2.2-3104.2.
4. Engaging in activities that may compromise services delivered by the LDSS by violating professional standards.

C. Outside Employment

1. Prior to engaging in a remunerative activity, an employee must obtain approval of the Director as follows:
 - a. An employee must complete a written request to engage in outside employment and submit it to the Director.
 - b. The employee should be provided with a prompt response (normally within three workdays).

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- c. Permission should not be withheld unless there are reasonable grounds to believe that the time and effort required to engage in such activity would interfere with the employee's duties for the LDSS, would constitute a conflict of interest under the Conflict of Interest Act, or would compromise the integrity of the duties performed by the LDSS (e.g., operation of or employment with a child care center or other entity regulated by the LDSS).
2. Approval to engage in remunerative activities may be withdrawn in the following circumstances:
 - a. When work performance and/or production declines.
 - b. When flexibility in scheduling local department work activities is compromised.
 - c. When the remunerative activities create a dual relationship with clients, customers, and/or entities with whom the LDSS serves (e.g., serving as a guardian ad litem for a child receiving services from the LDSS); or,
 - d. When a conflict of interest under any section of the Code of Virginia is made known.

D. Gifts and Other Items of Value

1. Items of value for work performed for the LDSS or received because of the employee's association with the LDSS must be declined or, in the case of honorariums and stipends, turned over to the LDSS.
2. Notwithstanding this rule, an employee may accept (1) free participation in an event or dinner to which he or she has been invited as a member of a group or organization or (2) may accept a meal or other event of value greater than \$30, provided approval of the Director has been given and such acceptance does not constitute a conflict of interest under any section of the *Code of Virginia*.
3. Although token gifts may be accepted, they should be declined in all circumstances when the intent of the giver is to obtain special consideration.

E. Conflict of Interest

1. Under the State and Local Government Conflict of Interests Act, §2.2- 3100 *et. seq.* of the *Code of Virginia*, an employee may not have a personal interest (in a transaction or contract of the LDSS. The personal interest can arise through the activities of the employee or a family member. Additional employment or other remunerative activity may fall within the prohibited activities. Engaging in a conflict of interest is a criminal offense. Every employee should be familiar with the Conflict of Interests Act. For protect from prosecution, an employee should seek an opinion from the local government attorney, Office of the Attorney General, or

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Commonwealth Attorney prior to engaging in an activity that might constitute a conflict of interest.

Those involved in procurement activities should also be aware of the restrictions found in the Ethics in Public Contracting Act, § 2.2-4367 *et. seq.* of the *Code of Virginia*.

2. All local employees should be further aware of the provisions of the *Virginia Governmental Frauds Act, §18.2-498.1 et. seq.*, and, any local ordinance passed pursuant to §2.2-3104.2 of the *Code of Virginia* which limits the monetary value of any gifts to local employees and requires disclosure of receipt of any such gifts.

F. Ethical and Conflict of Interest Standards

1. General Ethical Standards

It is every employee's obligation to make sure that on the job conduct enhances the public's trust in the LDSS and its mission. Therefore, when engaged in work activities, every employee should:

- a. Avoid activities which conflict or may appear to conflict with the best interest of the LDSS and its clients. Activities such as having a personal involvement with a current or potential vendor, grantee, or recipient of services fall within this category. If the relationship is disclosed to the Director and it is deemed appropriate, the relationship can continue;
- b. Ensure that travel, entertainment, and related expenses are reasonable and incurred solely for the business of the LDSS and not for personal gain or benefit;
- c. Decline a gift, gratuity, favor, food, transportation, lodging or entertainment for performance of LDSS duties or offered to influence decisions made on behalf of the LDSS. Exceptions to this rule would be promotional items of nominal value. If uncertain as to the value of the gift in question or of the appearance of impropriety, clarification should be sought from the Director;
- d. Refrain from participating in or otherwise influencing the selection of staff, consultants, or vendors who are relatives or personal friends;
- e. Disallow personal beliefs and practices whether they be religious, life style, dietary, etc., from entering into a professional relationship with a client;
- f. Show respect for and be courteous to co-workers, clients, and the public;
- g. Disclose all potential conflicts of interest in any matter to the Director; and,
- h. Ensure that all information, which is confidential, privileged or nonpublic, is not disclosed to third parties.

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This list is not exclusive and other actions may constitute a breach of these general ethical standards.

2. Professional Standards

A social worker or eligibility worker must always maintain the highest professional standards and shall:

- a. Maintain the best interest of the client as the primary professional obligation;
- b. Carry out professional duties and obligations with integrity and objectivity;
- c. Have and maintain competence in the provision of client services;
- d. Not exploit the relationship with a client for personal benefit, gain or gratification;
- e. Protect the confidentiality and privacy of all information acquired from the client or others regarding the client and the client's family unless:
 - i. The client authorizes in writing the release of specified information;
 - ii. The information is released under the authority of a statute or an order of a court of competent jurisdiction; or
 - iii. Is otherwise authorized by the *Code of Virginia*;
- f. Not allow another profession, occupation, affiliation, or calling to affect the professional relationship with the client; and,
- g. Develop and maintain the required skills and competence to perform the job.

This list is not exclusive and other actions may constitute a breach of these professional standards.

3. Disclosure of Conflicts

Any known or possible breaches of this policy, the Conflict of Interest Act, or other applicable sections of the *Code of Virginia* should be disclosed. The disclosure should be made to the Director as soon as possible. All reports of possible breaches will be treated confidentially to the fullest extent permitted by law. All reports will be investigated and, if needed, appropriate action taken. Any Retaliation against a person who suspects and in good faith reports suspected violations is a violation of this policy.

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Section IV Standards of Conduct

Purpose

The purpose of this policy is to establish standards of conduct, minimum expectations for work performance and workplace behavior, and disciplinary consequences for violations. Accordingly, this policy sets forth (1) standards for employee conduct; (2) disciplinary offenses; and, (3) corrective actions that may be imposed.

Scope

This policy applies to all employees.

A. Standards of Conduct

The following standards are not all-inclusive but are intended to be illustrative of minimum expectations for acceptable work performance and workplace behavior.

1. Attendance

- a. An employee should report to work as scheduled.
- b. If an employee cannot report as scheduled, the employee should:
 - i. Arrange planned absences, including reporting to work late or leaving work early, in advance with supervisors.
 - ii. Report unexpected absences, including reporting to work late or having to leave early, to supervisors as promptly as possible.
- c. While at work, an employee should:
 - i. Perform assigned duties and responsibilities during work time.
 - ii. Adhere to scheduled break and lunch times.
 - iii. Avoid engaging in personal matters when not on a scheduled break or lunch time.
- d. Overtime work:

An employee is expected to work overtime hours including weekends, holidays, evenings and emergency duty when directed by the supervisor or local Director.

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A non-exempt employee (as defined by the Fair Labor Standards Act) should not work overtime hours unless expressly directed to do so by the supervisor or local Director.

2. Satisfactory Work Performance

- a. An employee is expected to meet established performance measures on a sustained basis.
- b. An employee is expected to abide by all LDSS policies and directives.
- c. An employee who does not understand a policy is expected to ask for guidance from the supervisor or local Director.

3. Report Circumstances that May Affect Satisfactory Work Performance

- a. An employee should report to the supervisor any conditions or circumstances that prevent or impede satisfactory work performance.
- b. An employee should advise the supervisor of unclear instructions or procedures that may affect satisfactory work performance.
- c. An employee must report to the supervisor the following:
 - i. Criminal convictions.
 - ii. Convictions of a moving vehicle offense (if the employee uses the LDSS vehicle or transports clients).
 - iii. Child or Adult Protective Services complaints.
 - iv. Hatch Act violations.

B. Disciplinary Offenses

The offenses set forth below are not all-inclusive but are intended as examples of unacceptable behavior for which specific disciplinary actions may be warranted. Accordingly, any offense that undermines the effectiveness of LDSS' operations may be considered unacceptable and treated in a manner consistent with the provisions of this section.

1. Grouped According to Severity

The offenses listed below are organized into three groups according to the severity of the behavior, with Group I being the least severe. Mitigating and aggravating circumstances may generally be considered in determining the appropriate level of discipline.

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Conduct listed at one level may under certain circumstances be issued at a higher or lower level.

a. Group I

These offenses include facts and behaviors that are less severe and are such that the accumulation of four Group I written notices will normally result in termination:

- i. Unsatisfactory attendance or excessive tardiness.
- ii. Abuse of LDSS time, including unauthorized time away from the work station, use of LDSS time for personal business, leaving the work site unattended, or abuse of sick leave.
- iii. Use of obscene words or gestures.
- iv. An incidence of inadequate or unsatisfactory work performance.
- v. Disruptive behavior.
- vi. Conviction of a moving traffic violation while using an LDSS-owned vehicle or while transporting clients.
- vii. Sleeping on the job.

b. Group II

These offenses include acts and behavior that are more severe in nature and are such that an accumulation of two Group II written notices or offenses normally should warrant removal.

- i. Refusal to follow a supervisor's instructions, perform assigned work, or otherwise comply with workplace rules and policies.
- ii. Knowingly or with careless indifference violating a safety rule where there is not a threat of bodily harm.
- iii. Leaving the work site during work hours without permission.
- iv. Failure to report to work as scheduled without proper notice to the supervisor.
- v. Unauthorized use or misuse of LDSS property including computers or records.
- vi. Neglect of duties, indifference to critical time periods or other work demands.
- vii. Carelessness in recording and maintaining LDSS records.

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- viii. Breach of client confidentiality or unauthorized disclosure of LDSS information.
- ix. Violation of the Alcohol and Other Drugs Policy.
- x. Violation of the Equal Employment Opportunity Policy.

c. Group III

These offenses include acts and behavior of such a serious nature that a first Group III written notice or offense normally warrants removal.

- i. Absence without proper authorization or a satisfactory reason.
- ii. Falsifying a public record, including, but not limited to, employment records, vouchers, reports, insurance claims, time records, leave records, or other LDSS documents.
- iii. Damaging or defacing LDSS records, LDSS property or property of other persons.
- iv. Theft or unauthorized removal of LDSS records, LDSS property, or the property of other persons.
- v. Gambling on LDSS property or during work hours.
- vi. Fighting and/or other acts of violence in the workplace or while engaged in LDSS business.
- vii. Knowingly or with careless indifference violating safety rules where there is a threat of physical harm.
- viii. Participating in any kind of work slowdown or similar concerted interference with LDSS operations.
- ix. Illegal possession or use of firearms, dangerous weapons, or any possession of explosives in the workplace.
- x. Threatening, coercing or physically assaulting persons associated with the LDSS (including, but not limited to employees, supervisors, clients, visitors, and contractors).
- xi. Criminal conviction for conduct occurring on or off the job that clearly is related to job performance or are of such a nature that to maintain the employee in the position could constitute negligence in regard to LDSS' duties to the public or to other LDSS employees.

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- xii. Failure of an employee whose job requires carrying a firearm or who has authorization to carry a firearm to report conviction for the “misdemeanor crime of domestic violence”.
- xiii. Appropriating or otherwise using LDSS information for personal advantage or gain.
- xiv. Refusal to work overtime hours, holidays, weekends, evenings, or in emergency situations.

C. Counseling

1. While it is hoped that most performance and behavior problems can be resolved through informal counseling, counseling is not a prerequisite to formal disciplinary action.
2. Counseling should consist of a private discussion between the employee and the supervisor regarding the nature and significance of the actions constituting the offense and the desired course of action to improve the employee’s performance and/or behavior.
3. Documentation of Counseling
 - a. Counseling may be informal and given without written documentation.
 - b. Counseling may be documented by a letter or memorandum separate from the Written Notice form.
 - c. Documentation regarding counseling should be retained in the supervisor’s files, not in the employee personnel file, except as used to support subsequent formal disciplinary action.
 - d. Counseling memoranda are not grievable.

D. Procedures for Implementing Disciplinary Actions

1. Disciplinary Action

Disciplinary action is taken through the issuance of a Written Notice and may also include a:

- a. Suspension;
- b. Transfer or demotion along with a disciplinary salary action; or
- c. Termination.

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2. Procedures Regarding Issuance of Written Notices

- a. The active life of a Written Notice shall be:
 - i. Group I offense is active for two years.
 - ii. Group II offense is active for three years.
 - iii. Group III offense is active for four years.
 - iv. A Written Notice that is no longer active may not be considered for the accumulation of Written Notices.
 - v. A Written Notice whether active or not may be used in any type of proceeding to show that the employee had knowledge of a rule, prior warning of misconduct, or pattern of unacceptable conduct. Inactive and active Written Notices may be considered when determining mitigating or aggravating factors.
- b. Active Written Notices should be kept in the employee's personnel files.
 - i. A Written Notice must be removed from an employee's personnel file when the Written Notice is vacated by the LDSS or not upheld in a grievance proceeding.
 - ii. A Written Notice so vacated shall not be destroyed but shall be retained in a grievance file or separate confidential file.
 - iii. A Written Notice vacated may not be counted towards the accumulation of Written Notices.

3. Mitigating and Aggravating Circumstances

- a. Mitigating and aggravating circumstances, such as discussed below, may be considered in determining the level of discipline and/or any suspension or termination:
 - i. Mitigating circumstances include:
 - a) Factors that in the interest of fairness would compel a reduction in the disciplinary action such as an employee's long service and/or prior satisfactory work performance.
 - b) Mitigating circumstances may result in:
 - (i) An employee's demotion or transfer with a disciplinary salary reduction and/or suspension, as an alternative to termination;
 - (ii) A suspension for less than thirty (30) days; or

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- (iii) The issuance of a lesser Group Written Notice for a higher level offense.
 - ii. Aggravating circumstances:
 - a) Factors that existed prior to the offense or which occurred in conjunction with the misconduct that would justify the issuance of a higher level of discipline such as:
 - (i) Willful deliberate misconduct; or,
 - (ii) Conduct that caused severe harm to others or to the LDSS.
 - b) Aggravating circumstances may result in more severe discipline or termination rather than a suspension. For example, a serious infraction of a personnel rule may result in the issuance of a Group III Written Notice.
4. Disciplinary Actions for Specific Offenses
- a. For Group I offenses or an unsatisfactory pattern of attendance:
 - i. The disciplinary action for a Group I offense generally consists of the issuance of a Written Notice with no other employment action.
 - ii. Group I Written Notices are cumulative.
 - a) Upon the accumulation of two active Group I Written Notices, the employee normally should be suspended without pay for up to five workdays.
 - b) If the employee is not suspended, the employee should be notified that a subsequent Written Notice for any level of offense may result in suspension or termination.
 - c) A fourth active Group I Written Notice should result in termination.
 - b. For Group II offenses:
 - i. The disciplinary action for a Group II offense generally consists of the issuance of a Written Notice only, or a Written Notice and a suspension without pay for up to ten workdays.
 - ii. Group II Written Notices are cumulative.
 - a) A second active Group II Written Notice generally results in termination.
 - b) A Group II Written Notice following two active Group I Written Notices should result in termination.
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- c) If the employee is not terminated from employment, the employee should be notified that a subsequent Written Notice for any level of offense may result in suspension or termination.
 - c. For Group III offenses:
 - i. The disciplinary action for a Group III offense generally consists of the issuance of a Written Notice and termination.
 - ii. Mitigating factors may result in a suspension in lieu of termination.
 - iii. If discharge is not taken due to mitigating factors, the employee should be notified that any subsequent disciplinary action will likely result in termination.
- 5. Notice of Contemplated Disciplinary Action
 - a. Prior to any disciplinary suspension, demotion, and/or transfer with a salary reduction, or a termination, an employee should be given oral or written notification of the offense and an explanation of the LDSS's basis for the contemplated disciplinary action.
 - b. Employees should be given a reasonable opportunity to respond after receiving notice of the contemplated discipline.
 - c. Advance notice of contemplated disciplinary action is not required under certain circumstances.
 - i. An employee may be immediately removed from the work area, without providing advance notice, when the employee's continued presence:
 - a) May be harmful to the employee, other employees, clients, and/or patients;
 - b) Makes it impossible for the LDSS to conduct business;
 - c) May constitute negligence in regard to the LDSS's duties to the public and/or other employees; or
 - d) May destroy LDSS records.
 - ii. As soon as possible after an employee's removal from the work area, the employee should be provided with written notice of the contemplated disciplinary action and provided a reasonable opportunity to respond before taking any contemplated disciplinary action.
 - d. Written Notice

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A Written Notice form should state the offense and the disciplinary action and the employee's right to grieve the disciplinary action. A copy of the Written Notice shall be placed in the employee's personnel file.

E. Procedures Related to Suspension

1. Suspended Employees Access to Premises

- a. The employee on suspension is not allowed on the LDSS's premises, except to file and process a grievance, or to fulfill previously scheduled court obligations.
- b. If an employee is on suspension and is required to report for court proceedings, the employee will be compensated for each hour worked.

2. Suspensions During Investigation or Court Action

- a. A suspension or administrative leave may be imposed during:
 - i. An investigation of an employee's conduct by his or her LDSS when having the employee remain on the premises may jeopardize or compromise the investigation;
 - ii. An investigation involving the employee's conduct by the State Police and/or other federal, state, or local law enforcement agencies; or
 - iii. A court proceeding that the employee is a party to.

b. Notice of Suspension

An employee should receive notification of a suspension imposed during an investigation or court action by written memorandum and not by the Written Notice form.

c. Application of Accrued Annual Leave

- i. At an employee's request, and at the LDSS's option, the employee's accrued annual leave may be used to cover the period of suspension so that there is no loss of earnings.
- ii. If, following the conclusion of the investigation, the LDSS determines that no disciplinary suspension or termination is appropriate; the accrued annual leave that was used during the period of suspension must be reinstated.

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d. Disciplinary Suspension

If the LDSS determines that a disciplinary suspension is warranted, the period of suspension that the employee has served pending the investigation or court action shall count towards the period of disciplinary suspension.

e. Suspension Pending LDSS Investigation

i. Length of Suspension

- a) The period of suspension pending an LDSS investigation shall be limited to ten (10) workdays.
- b) If the LDSS does not make a decision regarding disciplinary action within ten workdays, the employee shall be permitted to return to work (at the same or a different position with no loss in pay) pending completion of the LDSS investigation or placed on administrative leave.

ii. The Investigation Concludes No Employee Misconduct

If the LDSS investigation clears the employee of any misconduct, the LDSS must reinstate the employee with back pay for the period of suspension or charge the time on suspension to administrative leave with pay.

f. Suspension Pending Investigation by Law Enforcement Agencies or Court Action.

i. Length of Suspension

The ten (10) day limit on the period of suspension that applies to suspensions pending LDSS investigations shall not apply if:

- a) The court action or investigation by law enforcement agencies involves alleged criminal misconduct on the part of the employee; and
- b) The misconduct under investigation is of such a nature that to retain the employee could constitute negligence in regard to the LDSS's duties to the public and other LDSS employees.

ii. Upon the conclusion of an investigation by law enforcement agencies or of a court action, the LDSS has the discretion to:

- a) Impose disciplinary action, including termination; or
- b) Reinstate the employee with full back pay if the employee is cleared of all misconduct.

g. Disciplinary Suspensions of Exempt Employees

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- i. When necessary to impose a suspension for an exempt employee for an infraction of a minor safety rule, the suspension period must be in increments of full days.
- ii. Suspension of an exempt employee for an infraction of a safety rule of major significance may be applied for less than a full day. Safety rules of major significance are defined as rules intended to prevent serious danger to the workplace or to other employees.

3. Pay and Benefits During Suspension

The provisions regarding compensation and benefits set forth below apply to suspensions, whether initiated pending an investigation or court action, or imposed for disciplinary reasons.

- a. All suspensions are without pay, except that an employee suspended pending an investigation or court action may be allowed to use accrued annual leave to receive pay.
- b. The employee may also be placed on paid or unpaid administrative leave, at the discretion of the local Director.
- c. Performance Increases and Leave Accrual
 - i. An employee's eligibility for performance increases may be affected by the time on suspension.
 - ii. No annual or sick leave will be earned while on suspension.
 - iii. Suspensions exceeding 14 calendar days shall affect an employee's length of service for purposes of annual and sick leave accrual.
- d. Insurance
 - i. Health Insurance
 - a) A suspended employee's health insurance coverage continues until the end of the month in which the suspension began.
 - b) If the length of the period of suspension results in a termination of health plan coverage, the suspended employee is to be provided a COBRA Notice and a Continuation of Health Plan Coverage form and may elect to continue his or her group insurance coverage as well as that for covered dependents by paying the monthly insurance premiums (both the employee's and the LDSS' contribution) in advance each month.

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c) Upon Reinstatement

- (i) If an employee is reinstated with back pay covering any portion of the suspension, the LDSS shall make appropriate refund(s) to the employee for any health plan premiums that the employee paid to continue employee coverage (or other premium payments that the LDSS provides as a benefit) during the suspension.
- (ii) If an LDSS reinstates a suspended employee without back pay, there shall be no reimbursement for any portion of health plan premiums that the employee paid to continue coverage.

F. Use of the Grievance Procedure

An eligible employee may challenge a disciplinary action through the grievance procedure.

G. Non-Disciplinary Terminations

An employee unable to meet the employment requirements for the position due to circumstances such as those listed below may be removed and will not have access to the grievance procedure:

1. Driver's license and driving record related job requirements:
 - a. When a driver's license is required for the job;
 - b. the loss of the driver's license;
 - c. a driving record that would disqualify an employee from coverage under the LDSS's insurance policies without a special exception being made; or
 - d. a driving record that would place the LDSS in a negligent situation if a client was transported by the employee.
2. Incarceration.
3. Loss of license or certification required for the job.
4. Conviction of one of the criminal offenses referred to as "barrier crimes" in § 63.2-1719 of the *Code of Virginia*, as amended.
5. Founded Child or Adult Protective Services complaint.

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Section V Alcohol and Drugs

Purpose

The purpose of this policy is to establish procedures that will maintain a work environment free from the adverse effects of alcohol and controlled substances.

Scope

This policy applies to all employees.

A. Definitions

1. Alcohol

Any product defined as such in the Alcohol Beverage Control Act, § 4.1-100 of the *Code of Virginia*, as amended.

2. Conviction

A finding of guilty (including a plea of guilty or *nolo contendere*), or imposition of sentence, or both, by any judicial body charged with the responsibility of determining violations of the federal or state criminal drug laws, alcohol beverage control laws, or laws that govern driving while intoxicated.

3. Criminal Drug Law/Statute

Any criminal law governing the manufacture, distribution, dispensation, use, or possession of any controlled drug.

4. Controlled Drug/Substance

Any substance defined as such in the Drug Control Act, Chapter 34, Title 54.1 of the *Code of Virginia*, as amended, and/or Schedule I through V of the Controlled Substance Act (21 U.S.C. § 801) and whose manufacture, distribution, dispensation, use or possession is controlled by law.

5. Reasonable suspicion

Belief that an employee, vendor, contractor or client is under the influence of a controlled substance based on observed behavior.

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B. Employee Responsibilities

1. No employee shall unlawfully manufacture, dispense, possess, use, or distribute any controlled substance, prescribed medication, or alcohol while at work.
2. No employee shall dispense, possess, use, or distribute any controlled substance, or alcohol while at work.
3. No employee shall consume alcoholic beverages immediately before work, during work hours, or while at work during breaks or lunches.
4. No employee shall be impaired by alcoholic beverages or controlled substances during work hours.
5. No employee shall represent the LDSS in an official capacity while impaired by alcohol or controlled substances.
6. If an employee is using prescription or non-prescription medication that may impair performance of duties, the employee shall report the nature of the impairment to his or her supervisor and not use equipment, vehicles or machines without permission.
7. An employee who has reason to believe that the performance of another employee is impaired by alcohol, controlled substances, and/or medication shall immediately notify the supervisor.

C. Drug and Alcohol Screening

1. Reasonable Suspicion Testing

The LDSS reserves the right to test all employees, regardless of position, for the presence of controlled substances and/or alcohol under the following situations:

- a. Upon reasonable suspicion that an employee is using a controlled substance and/or alcohol or is under the influence of a controlled substance and/or alcohol.
- b. Upon returning to work:
 - i. After a serious on-duty or off-duty accident that involved the use of alcohol and/or a controlled substance; or
 - ii. After the employee has previously tested positive for controlled substances or alcohol use while on duty.

2. Random Testing

The LDSS reserves the right to test all employees and applicants in safety sensitive positions for the presence of controlled substances and/or alcohol under the following situations:

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- a. After a conditional offer of employment;
- b. On a random basis;
- c. Upon returning to work after a serious on-duty or off-duty accident that involved the use of alcohol and/or a controlled substance or after the employee has tested positive for controlled substances, or alcohol use while on duty.

3. Refusal to Submit to Test

Applicants for safety sensitive positions who refuse to submit to a pre-employment controlled substance and/or alcohol test shall be removed from consideration for employment. Employees who refuse to submit to a controlled substance and/or alcohol test will be subjected to disciplinary action up to and including termination.

4. Reporting Requirements

Employees must notify the Director in writing of a conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction. The LDSS must inform any federal contracting or granting entity from which the LDSS has received a grant or award of financial assistance within ten (10) calendar days after receiving notice that an employee has been convicted of a criminal drug statute violation in the workplace.

5. Violations

- a. A positive test result for alcohol or controlled substances.
- b. The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol or other controlled substances in the workplace;
- c. A criminal conviction for a:
 - i. Violation of any criminal drug law, based upon conduct occurring either at or away from the workplace; or
 - ii. Violation of any alcohol beverage control law or law that governs driving while intoxicated, based upon conduct occurring at the workplace or during work time; and
- d. An employee's failure to report a conviction of any offense, as required above.
- e. Failure to abide by the employee responsibilities listed above.

D. Disciplinary Action

1. Violation of Policy

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An employee who commits any violation, as described above, shall be subject to the full range of disciplinary actions up to and including termination.

2. Severity of Discipline

The severity of disciplinary action for violations of this policy shall be determined on a case-by-case basis. Mitigating circumstances that may be considered in determining the appropriate discipline include whether the employee voluntarily admits to and seeks assistance for an alcohol or other controlled substance problem.

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Section VI Political Activities

Purpose

The purpose of this policy is to ensure employees' understanding of the Hatch Act, and the limitations that it imposes on their political activities as public employees.

Scope

This policy applies to all employees.

A. Prohibited Activities

1. An employee may not:
 - a. Be a candidate for public office in a partisan election (an election in which one of more of the candidates was elected as, or is, a representative or a political party whose presidential candidates received votes in the preceding presidential election).
 - b. Use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office.
 - c. Directly or indirectly, coerce, attempt to coerce, command, or advise another employee to pay, lend, or contribute anything of value to a party, committee, organization, LDSS, or person for political purposes.
2. No employee shall threaten another employee with an adverse employment action for not voting for a certain candidate, require another employee to contribute to a political fund, influence an employee to buy tickets to a political fund raising event or similar event, or advise other employees to take part in a political activity.

B. Permissible Activities

1. An employee may take an active part in:
 - a. Participation in political party management which includes membership in, as well as holding office, in political parties, attendance and participation at political conventions, volunteer work for partisan candidates, political parties, etc.
 - b. Participating in partisan political elections, which includes campaigning for candidates in partisan elections by making speeches, writing letters, drafting speeches, and soliciting voters to support or oppose a candidate as well as attending political meetings or rallies.

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- c. Fundraising for political candidates or parties including making financial contributions and soliciting and collecting political contributions (provided such contributions are given voluntarily).
2. An employee may hold a partisan office if appointed to a vacancy but cannot subsequently campaign for that office.
3. An employee may serve as an election official at the polls and may serve as a poll watcher, checker, or challenger for a political party or candidate in a partisan election.

C. Penalties for Violating the Law

If the federal Merit System Protection Board finds that a violation of this policy warrants dismissal from employment, the LDSS is required to terminate the employee. Notwithstanding what action might be taken by the federal government, the LDSS may discipline the employee for violating this policy and such discipline could result in termination.

D. Further Information

1. The full text of the Hatch Act regulations are found in Title 5 of the Code of Federal Regulations part 151 (§§ 1501-1508).
2. An employee can seek an advisory opinion from the Office of Special Counsel at this address: *HATCHACT@osc.gov*.

E. Deviation to Locality Policy

An LDSS may use this policy or deviate to the policy of its locality if VDSS HR determines that such locality policy is in substantial compliance to this policy.