

# PROFESSIONAL STANDARDS & CONDUCT

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## **PROFESSIONAL STANDARDS & CONDUCT**

### **PERSONAL APPEARANCE**

#### **Location**

[https://www.ncdps.gov/emp/HR/DPS\\_Personal\\_Appearance\\_Policy\\_Approved\\_10112013.pdf](https://www.ncdps.gov/emp/HR/DPS_Personal_Appearance_Policy_Approved_10112013.pdf)

#### **Policy**

It is the expectation that each employee's dress, grooming, and personal hygiene within the Department of Public Safety should be appropriate to the work situation. Employees are expected at all times to present a professional, businesslike image. Departures from conventional dress or personal grooming and hygiene standards are not permitted. Therefore, this policy has been developed to provide guidelines to managers, supervisors and employees in the Department of Public Safety.

This policy covers all Department of Public Safety employees in non-uniformed positions and unless other standards (e.g., safety/security, injuries) apply.

#### **Division, Section, or Work Location Standards**

The nature of business in the operating Divisions, Sections or Work locations may result in additional, more specific dress code requirements. Each employee is responsible for complying with the Departmental requirements as well as any additional standard operating procedures in the Division, Section or work location.

#### **Disciplinary Action**

Depending on the nature of the attire and at the discretion of the manager, any employee who fails to meet the standards of this policy may be sent from the work unit to change their attire in order to meet the guidelines set forth in this policy and will be required to use his/her leave for the time away from the work unit. Upon a second incident of failure to comply with this policy, the employee shall be sent to change attire and may be subject to disciplinary action. Further instances of violating the policy will subject the employee to disciplinary action, up to and including dismissal

### **WORKPLACE VIOLENCE**

#### **Location**

[http://www.oshr.nc.gov/Guide/Policies/8\\_Workplace%20Environment%20and%20Health/Workplace%20Violence.pdf](http://www.oshr.nc.gov/Guide/Policies/8_Workplace%20Environment%20and%20Health/Workplace%20Violence.pdf)

#### **Purpose**

The Department of Public Safety prohibits violence in the work place in order to provide a safe and healthy work environment for our employees. Workplace violence includes, but is not limited to, intimidation, bullying, stalking, threats, physical attack, domestic violence or property damage and includes acts of violence committed by State employees, clients, customers, relatives, acquaintances or strangers against State employees in the workplace.

#### **Provisions**

This policy applies to:

- All full-time and part-time employees with either a permanent, probationary, trainee, time-limited permanent or temporary appointment;
- All individuals employed as temporary employees through an employment agency; and,
- All individuals employed on a contractual basis with the Department of Public Safety

This policy applies to any incident occurring at the work site regardless of the original source of the incident and further applies to such employees while working in any location related to his/her employment. This policy applies to the conduct of an employee while functioning in the course and scope of employment as well as off-duty violent conduct that has a potential adverse impact on a State employee's ability to perform the assigned duties and responsibilities.

This policy applies to acts of violence, intimidation, and inappropriate aggression occurring between employees or directed at employees by persons other than clients (i.e. inmates, probationers, etc.) of this agency. Offender related incidents are covered under other Division specific policies. The policy would apply, however, to incidents directed at employees by relatives or friends of offenders.

#### **Procedure for Reporting Violence**

All employees of the Department share in the responsibility of creating and maintaining a work environment free from all forms of threatening behaviors. Therefore, employees shall report any and all violations of this policy to his/her supervisor, another authorized supervisor, or the manager immediately but at least within 24 hours of the occurrence of the policy violation(s). The employee may report his/her concerns verbally or in writing, however, if the report is verbal the employee shall be advised to follow-up in writing.

Following a report of a policy violation, the employee shall be expected to cooperate fully with his/her supervisor and management during the internal investigation of the policy violation. An employee's failure to cooperate during an internal investigation or hindering an internal investigation shall be considered unacceptable personal conduct and may result in disciplinary action up to and including dismissal.

NOTE: In the event of an emergency representing a threat of immediate harm, local law enforcement personnel may be contacted.

#### **Prohibited Actions**

It shall be a violation of this policy to:

- Engage in workplace violence as defined in this policy;
- Fail to report a threat of workplace violence;
- Fail to investigate a report of a threat of workplace violence;
- Use or possess a weapon in violation of the Department of Public Safety policies and procedures or State law governing the use and possession of such weapons/firearms.
- Misuse authority vested to any employee of the State of North Carolina in such a way that it violates this policy. Per OSHR;s policy

Violations of this policy shall be considered unacceptable personal conduct and shall result in discipline up to and including dismissal in accordance with the Department's Disciplinary Policy.

An employee may possess a weapon, provided possession:

- Is in compliance with North Carolina law; and
- Is authorized by the Secretary of the Department of Public Safety or designee; or,

- Is by an employee who is a certified law enforcement officer; or,
- Is required as a part of the employee's job duties with the Department of Public Safety; or,
- Is connected with training received by the employee in order to perform responsibilities of their job with the Department of Public Safety.

**Employee Responsibility**

- Report signs of potential and actual workplace violence.
- Cooperate with managers during an internal investigation into allegations of potential or actual workplace violence.

NOTE: All employees are encouraged to be alert to the possibility of violence on the part of employees, former employees, customers, and strangers. Any report of violence shall be handled in a confidential manner, with information released in accordance with State Policy and Procedures.

**UNLAWFUL WORKPLACE HARASSMENT**

**Location**

<https://www.ncdps.gov/emp/Policies/EEO/UWHPCpolicy.pdf>

**Purpose**

The Department of Public Safety is committed to providing a workplace environment that reasonably accommodates all qualified employees and agents of the Department so that they may fulfill their essential job functions and carry out the mission of the Department of Public Safety in a professional manner and to the best of their ability. All employees and agents of the Department are expected to act in a manner consistent with standards of personal conduct that contributes to a professional working environment in all departmental workplaces. The Department has ZERO TOLERANCE for violations of the unlawful workplace harassment policy and for retaliation.

**(3) Steps to Understanding Unlawful Workplace Harassment (WPH):**

1. Must be based on one or more of the following categories:

| <b>Category:</b>           | <b>Definition:</b>   |
|----------------------------|--|
| <b>Race</b>                | Includes all races (African American, Caucasian, Hispanic, etc.)   |
| <b>Color</b>               | Color of skin, including shade of skin within a racial group.  |
| <b>Religion</b>            | The worship and service of God or the supernatural; institutionalized system of religious attitudes, beliefs, and practices.   |
| <b>Sex</b>                 | Gender. Includes sexual harassment and pregnancy but does NOT include sexual orientation or sexual preference.   |
| <b>Genetic Information</b> | Includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family medical history. |
| <b>National Origin</b>     | National birth site.   |
| <b>Age</b>                 | Persons 40 years old and over.   |
| <b>Disabling Condition</b> | Physical or mental impairment which substantially limits one or more major life activity; a record of such an impairment; or a person regarded as having such an impairment.   |
| <b>Retaliation</b>         | Adverse treatment which occurs because of opposition to Unlawful Workplace   |

2. Includes Unwelcomed or Unsolicited Speech or Conduct

Unwelcomed or Unsolicited Speech/Conduct could include, but is not limited to, the following:

- a. Threats of physical violence or harm; displaying items that imply such a threat;
- b. Slurs, epithets, humiliating and derogatory jokes or comments concerning national origin, ethnicity, race, color, handicap, age, religion, or gender;
- c. Off-color, sexually suggestive, sexist or risqué email, stories, jokes, items, songs, personal accounts, or pictures;
- d. Questioning others about personal matters, including the nature, existence or details of relationship with spouses or lovers, sexual preferences or history;
- e. Physical touching other than handshakes, including rubbing, hugging, stroking, kissing, or grabbing any part of someone else's body or personal items on their body without their consent;
- f. Sexually aggressive conduct, including bumping, cornering, or touching in any manner the area around (or clothing on) someone's buttocks, upper leg, thigh, crotch, chest or breasts; and
- g. Sexual advances, requests for sexual favors, comments containing sexual language or references with sexual innuendo or implications, obscene gestures.

NOTE: The department respects the constitutionally protected right of free speech. However, conduct or language that constitutes unlawful workplace harassment is NOT legally protected as free speech.

3. Creates one of the following:

Hostile Work Environment (HWE) - An environment that a reasonable person would find hostile or abusive and one which the person who is the object of the harassment in fact perceives to be hostile and abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, the severity of the conduct, and whether the conduct is physically threatening or humiliating, or unreasonably interferes with an employee's work performance.

OR

Constitutes Quid Pro Quo Sexual Harassment - Unwelcomed sexual advances, requests for sexual favors or other verbal or physical conduct when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment, OR
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.

**Immediate Duty to Report and ZERO Tolerance**

Every employee has a duty to report immediately conduct which he or she reasonably believes constitutes unlawful workplace harassment. The Department has a ZERO TOLERANCE stance against workplace harassment. The failure of an employee to report conduct that reasonably appears to violate the unlawful workplace harassment policy negatively impacts the Department's ability to identify and eliminated unlawful workplace harassment. Therefore, it is imperative that every employee report conduct he or she reasonably believes may violate the unlawful workplace harassment policy.

### **Cultural Diversity**

The Department recognizes that on occasion employees engage in conversation or conduct with (or within sight or hearing of) co-workers at the workplace concerning current affairs or other matters of personal interest. Additionally, the Department appreciates that the workplace brings together culturally diverse individuals who may have differing viewpoints and sensitivities. As a result, a conversation, music, conduct or a personal item that one individual finds enlightening or amusing may be offensive to someone else who sees, hears or is exposed to it.

The lawful balancing of free speech with the prohibitions on unlawful workplace harassment (and admonitions regarding professional conduct) does not guarantee that one will never be exposed in the workplace to any word or conduct that one may find personally offensive. Nevertheless, the Department desires for all employees to work in an environment that is reasonably culturally sensitive and one that enhances work performance. Therefore, employees are encouraged to promptly and politely advise an offending co-worker (or the co-worker's manager) when exposed to speech, conduct or any matter that is personally offensive, so that the situation may be resolved as quickly and amicably as possible. Managers are encouraged to consult as needed with the Department's Legal or EEO office when conflicts arise resulting from social and cultural diversity in the workplace.

### **Relationship between Employees**

While the Department does not prohibit romantic or personal relationships between employees, supervisory level personnel are strongly discouraged from seeking to date, dating, or engaging in romantic or intimate personal relationships with subordinate level personnel. Such relationships have a significant potential for creating disruption at the work site, including generating complaints of favoritism and allegations of harassment by the subordinate if the relationship fails. Also, a relationship involving supervisory personnel and subordinate level personnel may create problems within the work unit by questioning the Department's philosophy of fair play in providing equal opportunity to all qualified individuals.

Advisory Note: The Department will not tolerate workplace disruption related to such relationships whether involving similarly ranked employees or supervisors and subordinates. Further, management may transfer or make other work assignment changes to minimize potential workplace disruption or liability.

### **Procedure for filing a Complaint**

An applicant for State employment, probationary State employee, former probationary State employee, career State employee or former career State employee (hereafter referred to as complainant) alleging unlawful discrimination, harassment or retaliation shall first file a complaint with the agency Equal Employment Opportunity (EEO) Officer or Affirmative Action (AA) Officer within **15 calendar days** of the alleged discriminatory or retaliatory act that is the basis of the complaint. If the complainant alleges facts that would constitute unlawful discrimination, harassment, or retaliation as prohibited by law, the complaint will be investigated as a part of the EEO Informal Inquiry. The investigation will determine if the facts support a finding that there is reasonable cause to believe the alleged act rises to the level of unlawful discrimination, harassment or retaliation.

The agency has **45 calendar days** from receipt of the complaint to investigate and respond to the complainant, unless the complainant and the employer mutually agree in writing to extend the time

due to occurrences that are unavoidable or beyond the control of either party. Any extension shall not exceed 15 calendar days.

At the conclusion of the investigation, the agency shall communicate the outcome of the investigation in writing to the complainant. If there is reasonable cause to believe that unlawful discrimination, harassment, or retaliation occurred, management shall take appropriate action to resolve the matter. If the complaint is successfully resolved, the complainant will sign a letter of agreement with the agency detailing the terms of the resolution. The agency shall ensure that the terms of the agreement under the control of the agency are implemented. If the complaint is not successfully resolved, then the complainant may continue the process by filing a formal grievance within **15 calendar days** of the written response from the EEO Informal Inquiry.

In filing a formal grievance, the complainant may bypass the Informal Discussion with Supervisor process. At any point in the grievance process, the complainant/grievant has the right to bypass discussions with or review by the alleged offender. Time spent in the EEO Informal Inquiry is not a part of the formal internal grievance process.

#### **External Filing of a Discrimination Charge**

The complainant alleging unlawful discrimination, harassment or retaliation has the right, at any time, to bypass or discontinue the EEO Informal Inquiry or the formal internal grievance process and file a charge directly with the Equal Employment Opportunity Commission. The complainant may not, however, file a contested case with the Office of Administrative Hearing if the internal process has not been completed. The charge must be filed within **180 calendar days** of the alleged event or action that is the basis of the complaint.

Information about filing an EEOC charge can be found at:

<http://www.eeoc.gov/employees/charge.cfm> or by calling the EEOC regional offices located in Raleigh, Greensboro and Charlotte at 1-800-669-4000.

Information about filing through the Civil Rights Division of the Office of Administrative Hearings can be found at: <http://www.ncoah.com/civil/> or by calling (919) 431-3036.

## **PRISON RAPE ELIMINATION ACT (PREA)**

### **Location**

<https://www.ncdps.gov/Index2.cfm?a=000003,000008,002438>

### **Policy**

The Prison Rape Elimination Act (PREA) was enacted by Congress to address the problem of sexual abuse of persons in custody in all public and private correctional institutions. The North Carolina Department of Public Safety has adopted a standard of zero tolerance of sexual abuse and sexual harassment of offenders/juveniles by staff, other offenders/ juveniles, volunteers, contract agents, or individuals having custody of or responsibility for the safety, security, care and/or treatment of offenders/juveniles. As an employee of the NC Department of Public Safety it is your responsibility to do whatever is necessary to reduce incidents of sexual abuses and sexual harassment and respond appropriately when they do occur. This means reporting sexual incidents between offenders or juveniles and unprofessional relationships between an offender / juvenile and staff, volunteer, contractor, vendor or agent.

### **Provisions**

In addition, pursuant to North Carolina General Statute 14-27.7(a), "If a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section."

As a result, if an employee engages in sexual relations with an offender or juvenile of the Department of Public Safety, the employee is subject to the department's disciplinary process as well as criminal prosecution. Failure to report knowledge of such behavior will subject an employee to disciplinary actions up to and including dismissal.

**Definition of Sexual Abuse and Harassment:**

Sexual Abuse of an inmate, detainee, or juvenile by a staff member, contractor, or volunteer includes any of the following acts, with/without consent of the inmate, detainee, or juvenile:

- a. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; to include kissing.
- b. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- c. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- d. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or juvenile, and
- e. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
- f. Voyeurism by a staff member, contractor, or volunteer: an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual Harassment:

- a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- b. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Such acts are prohibited regardless of the offender's consent to the act. Such acts are prohibited and the NC General Statutes provide that offenders or juveniles are unable to consent to the act.

**PERSONAL DEALINGS WITH OFFENDERS AND JUVENILES**

DPS employees are required to maintain professional relationships with offenders in accordance with the laws, regulations, and general statutes governing such relationships. No employee shall

discuss his/her personal affairs, including work related issues, with an offender of this agency. In addition to not engaging in sexual abuse with offenders or juveniles, DPS employees shall not:

- Borrow anything from an offender or juvenile,
- Lend anything to an offender or juvenile,
- Accept any gift or personal service from an offender or juvenile, except as specified by law, regulation, or directive;
- Tip an offender or juvenile,
- Make gifts to or perform personal services for an offender or juvenile,
- Sell or give any offender any intoxicating drink, barbiturate or stimulant drug, or any narcotic, poison or poisonous substance, except upon the prescription of a physician,
- Convey to or from an offender or juvenile any letters or oral messages or any instrument or weapon by which to effect an escape, or that will aid in an abuse or riot,
- Trade with an offender or juvenile for clothing or stolen goods, or
- Sell to an offender or juvenile any article forbidden by Divisions
- Use abusive, indecent, or profane language in the presence of an offender or juvenile,
- Curse an offender or juvenile,
- Knowingly make or maintain contact with or in any way associate with a member of an offender's family or close associates (i.e. friends, etc.), unless his/her assigned duties require such an association or unless he/she has been specifically authorized to do so by the Division Director or designee,
- Knowingly enter into a business relationship with an offender/ juvenile or their family member or close associate.

This list is not an all-inclusive list. Any time an employee is in doubt about an issue regarding dealings with an offender(s) or juvenile(s), the employee has an obligation to ask questions of his/her supervisor or other appropriate manager for clarification.

#### **Contacts with Offender's Family & Close Associates**

If an employee is contacted by the family or close associate of an offender, the employee shall immediately report this fact to his/her supervisor.

Any employee who knowingly associates with an offender's family member or close associate in violation of this policy or fails to notify his/her supervisor that an offender's family member or close associate has contacted him/her shall be subject to disciplinary action up to and including dismissal.

#### **Reporting Prior Relationships with Offenders**

Relationships between an employee and an offender that existed prior to employment or incarceration, probation, etc. shall be reported by the employee to his/her supervisor as soon as the employee becomes aware that the individual is now an offender and will be/is assigned to the facility or office where the employee works or under the supervision of the employee. Situations where the offender will not be assigned to the facility where the employee works but where the employee will be placed on the offender's list of approved visitors shall also be reported to the supervisor with a written follow-up. Any other situation where an employee may knowingly initiate a relationship with an offender or an inmate shall be reported by the employee to his/her supervisor verbally with a written follow-up requesting approval of the relationship prior to the employee making contact with the offender or inmate. Employees shall be responsible for bringing the above-cited situations or any other situation that could be considered personal to the attention of their supervisor and when in doubt about a particular situation, the employee shall be responsible for asking questions to seek clarification of their obligations under policy.

### **Contacts with Juvenile's Family & Close Associates**

Staff shall report any relationship between a staff member and a juvenile's family that existed prior to the juvenile's admission and/or commitment immediately to the supervisor.

Staff shall not make or have contact with any member of a juvenile's family, unless assigned duties require such an association, or unless specifically authorized by the Facility Director. This includes any visits with the juvenile's family while off-duty.

A staff member shall immediately report any contact with a juvenile's family member that occurs outside of the professional responsibilities to his supervisor.

### **Limits to Cross Gender Viewing and Searches**

The NC Department of Public Safety is required under the national standards to Prevent, Detect, and Respond to Prison Rape under the Prison Rape Elimination Act (PREA) Standards §115.15 to implement limits to cross-gender viewing and searches. If you are hired to work in a facility which houses inmates, offenders or juveniles, this standard will require the following:

- a. Shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- b. Shall not permit cross-gender pat-down searches of female persons in confinements, absent exigent circumstances. Facilities shall not restrict female persons in confinements' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
- c. Shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female persons in confinements.
- d. Shall implement policies and procedures that enable persons in confinements to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a housing unit.
- e. Shall not search or physically examine a transgender or intersex persons in confinement or under supervision for the sole purpose of determining the person's genital status. If the person's genital status is unknown, it may be determined during conversations with the person's, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- f. Shall conduct cross-gender pat-down searches, and searches of transgender and intersex persons in confinements, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

### **Hiring and Promotion Prohibition**

NCDPS is prohibited from hiring and promoting persons who may have contact with offenders or juveniles under its supervision. If you have ever engaged in:

- a. Sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution or
- b. Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, or coercion, or if the victim did not consent or was unable to consent or refuse, or
- c. Administratively adjudicated to have engaged in the activities described, you MUST report this to your supervisor immediately.

Failure to report may result in disciplinary action up to and including dismissal and may result in criminal charges against the employee.

### **Disciplinary Action**

Violations of this policy may result in disciplinary action up to and including dismissal and may result in criminal charges against the employee.

## **LIMITATION OF POLITICAL ACTIVITY**

### **Location**

[http://www.oshr.nc.gov/Guide/Policies/3\\_Employment%20and%20Records/Limitation%20of%20Political%20Activity.pdf](http://www.oshr.nc.gov/Guide/Policies/3_Employment%20and%20Records/Limitation%20of%20Political%20Activity.pdf)

### **Policy**

G.S. 126, Article (5) clearly delineates what State employees may and may not do relevant to political activity during regularly scheduled working hours. No State employee subject to the Personnel Act or temporary State employee shall:

- Take any active part in managing a campaign, or campaign for political office or otherwise engage in political activity while on duty or within any period of time during which he/she is expected to perform services for which he/she receives compensation from the State;
- Otherwise use the authority of his position, or utilize State funds, supplies or vehicles to secure support for or oppose any candidate, party, or issue in an election involving candidates for office or party nominations, or affect the results thereof.

No head of any State department, agency, or institution or other State employee exercising supervisory authority shall make, issue, or enforce any rule or policy the effect of which is to interfere with the right of any State employee as an individual to engage in political activity while not on duty or at times during which he/she is not performing services for which he receives compensation from the State. A State employee who is or may be expected to perform his/her duties on a 24 hour per day basis shall not be prevented from engaging in political activity except during regularly scheduled working hours or at other times when he/she is actually performing the duties of his office. The willful violation of this subdivision shall be a misdemeanor.

No State employee or official shall use any promise of reward or threat of loss to encourage or coerce any employee subject to the Personnel Act to support or contribute to any political issuer, candidate, or party. Any State employee subject to the Personnel Act, probationary State employee, or temporary State employee who without probable cause falsely accuses a State employee or a person appointed to State Office of violating this section shall be subject to disciplinary action up to and including dismissal. Failure to comply with G.S. 126, Article 5 is grounds for disciplinary action which, in cases of deliberate or repeated violation, may include dismissal or removal from office.

### **Notification Procedure**

The employee shall, prior to filing for an elective office, notify the appropriate manager in writing of an intent to seek an elective office. The manager shall review the employee's notification to determine if the elective office would create any conflict of interest for the employee and/or the Department and if the elective office would be full-time, part-time, or time-limited. The employee shall be notified in writing of approval or disapproval.

### **Appeal Process**

Should an employee disagree with the approving managers final decision, the employee may appeal the decision to the Secretary of the Department by filing his/her grievance with the Personnel Director, 214 W. Jones Street, MSC 4203, Raleigh, NC 27699-4203 within (15) calendar days of receipt of the manager's decision.

### **REPORTING THEFT OR MISUSE OF STATE PROPERTY**

G.S. 114-15.1 requires that the Department Head report any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property to the State Bureau of Investigation (SBI) within (10) days of receipt of such information. As a result, all employees are required to adhere to the following steps when reporting information:

1. All information shall be reported to the supervisor/manager immediately or no later than 72 hours after discovery.
2. The supervisor/manager shall immediately report this information to the Facility/Section Head.
3. The Facility/Section Head shall complete a State Property Incident Report (SBI-78 Form) in entirety and email it to the Director of Internal Audit as soon as possible. The Facility/Section Head shall report suspected criminal activity concerning the misuse of state property, such as suspected theft of state property, to local law enforcement authorities immediately.
4. Internal Audit will report the incident to the SBI.

All employees shall cooperate fully with SBI officials during an investigation. Failure to comply with these procedures or knowingly reporting false information shall be considered unacceptable personal conduct and may result in disciplinary action up to and including dismissal.

### **ALCOHOL AND DRUG FREE WORKPLACE**

Executive Leadership is currently reviewing and finalizing a DPS Policy regarding Alcohol and Drug use. Until that agency wide policy is signed in to effect, the division policies that are currently in place continue to apply related to alcohol and drug use. If you have any questions regarding alcohol and drug use, you should discuss it with your supervisor or HR staff.

### **EMPLOYEE GIFT BAN**

#### **Location**

<http://www.doa.state.nc.us/pandc/documents/ExecutiveOrder24GiftBan.pdf>

[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_133/GS\\_133-32.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_133/GS_133-32.html)

#### **Policy**

Executive Order 24 that was signed by Governor Perdue extends the provisions of General Statute 133-32 to all employees of the State of NC.

#### **Provisions**

As an employee, you are not permitted to accept gifts or favors from contractors working or seeking to work with the Department of Public Safety. Further, a violation of North Carolina General Statute §133-32 is a Class 1 misdemeanor and failure to abide by Executive Order 24 and North Carolina General Statute §133-32 will be considered unacceptable personal conduct and grounds for disciplinary action, up to and including dismissal.

## CRIMINAL CONVICTIONS WITH FIREARMS

### Location

[http://www.justice.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm01117.htm](http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm01117.htm)

[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-415.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-415.1.html)

### Policy

The Department of Public Safety must adhere to the federal “Domestic Violence Offender Gun Ban” at 18 U.S.C. § 922(g)(9) and the North Carolina Felony Firearms Act at N.C.G.S. §14-415.1. The federal statute prohibits the possession or use of weapons by persons convicted of misdemeanors involving domestic violence and the state law prevents gun possession or use by persons convicted of a felony.

### Provisions

To determine whether a misdemeanor conviction triggers the firearm prohibitions, the following definition is given in the statute at 18 U.S.C. § 921(a)(33)(A)(ii): “the term ‘misdemeanor crime of domestic violence’ means an offense that: (i) is a misdemeanor under federal or state law; and (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.”

As a result of these prohibitions, the Department may not hire individuals subject to these prohibitions into positions that in the course of duty may handle firearms.

Employees are required to report criminal offenses. If subject to these prohibitions, the prohibition may result in a re-evaluation of the employee’s employment status.

## CRIMINAL OFFENSES AND MOTOR VEHICLE OFFENSES

### Policy

All employees, including those employees in other pay status (i.e. exhausting vacation leave, sick leave, military leave, etc.) or on leave without pay, are required to report to his/her supervisor any civil or criminal charge(s) for which they receive formal notice, excluding minor traffic non-moving violations where the maximum possible punishment is a fine and no personal injury is involved. This applies to offenses occurring in North Carolina and any other jurisdiction, foreign or domestic, whether federal, state, territory, commonwealth, or other governmental entity. Formal notice includes, but is not limited to:

- |                     |                                |                         |
|---------------------|--------------------------------|-------------------------|
| 1. Arrest           | 6. Permanent restraining order | 11. Order to Show Cause |
| 2. Detention        | 7. Warrant for arrest          |                         |
| 3. Citation         | 8. Order for arrest            |                         |
| 4. Criminal summons | 9. Bill of information         |                         |
| 5. Civil summons    | 10. Notice from DMV            |                         |

In addition, all employees are required to report to his/her supervisor any motor vehicle offense which could result in immediate suspension or revocation of the employee’s driver’s license if convicted of the charged offense, either individually or in combination with previous or other violations. Examples of violations that must be reported include:

- Driving While Impaired (DWI)
- Driving Under the Influence (DUI)

- Speeding over 55 mph and over 15 mph

NOTE: This is not an all-inclusive list. When employees have questions about what should be reported, they have a duty to seek clarification from the work unit supervisor/manager.

**Notification Process:**

Once charged, an employee must report the offense to their supervisor/manager immediately upon returning to work or within 24 hours, whichever is sooner. Failure to notify your supervisor of an arrest or criminal charge in accordance to this policy is considered unacceptable personal conduct and may result in disciplinary action up to and including dismissal. In addition, employees in positions that may handle firearms are subject to the federal “Domestic Violence Offender Gun Ban” at 18 U.S.C. § 922(g)(9) and the North Carolina Felony Firearms Act at N.C.G.S. §14-415.1. Criminal offenses that relate to these prohibitions may result in employee termination. Refer to the section in the Orientation Manual on “Criminal Convictions with Firearms Prohibitions” for more information.

Once the employee has gone to court, the employee shall submit a certified true copy of the court disposition (with original raised seal/stamp from the Clerk of Courts Office) to their supervisor/manager within 48 hours of the disposition.

**Disciplinary Action**

Disciplinary action may be issued based on the documented behavior and is separate and apart from the criminal proceedings. Discipline may be issued at the time of being charged or may be issued after the court disposition and is normally considered on a case-by-case basis. If you are a certified officer, it is important to be aware that any disciplinary action that is initiated by the Department does not preclude any action that may be taken by the Criminal Justice Standards Division.

**CRIMINAL OFFENSES FOR CERTIFIED OFFICERS**

**Policy**

Arrests and criminal offenses of certified officers are required to be reported to the Criminal Justice Standards Division. Work units report certified officer’s criminal offenses to DPS Personnel and DPS Personnel reports these offenses to the Criminal Justice Standards Division.

After the employee has gone to court and a court disposition has been issued, the work unit will report the disposition to DPS Personnel and DPS Personnel will report the disposition to the Criminal Justice Standards Division. If a certified officer is convicted of a misdemeanor offense while employed as a criminal justice officer, their Criminal Justice certification may be suspended for three (3) years, based on the decision of the Criminal Justice Standards Division. Commission or conviction of a felony while employed as a criminal justice officer will result in the suspension of Criminal Justice certification.

Please note that according to the Criminal Justice Administrative Code, “Convicted” or “Conviction” means and includes:

- Verdict or Finding of Guilty or
- Plea of Guilty or
- Plea of No Contest, Nolo Contendere, or the Equivalent

In addition, if an employee is charged with an offense but it is dismissed in court, the charge still has to be reported to the Criminal Justice Standards Division. Criminal Justice will investigate the

offense and if they find that there is reason to believe that the employee committed the offense, regardless of the court disposition, they still may revoke certification.

NOTE: Although DPS Personnel notifies the Criminal Justice Standards Division of certified employee's criminal offenses, ultimately, it is the certified officer's obligation and responsibility to ensure that criminal offenses are reported to Criminal Justice Standards Division.

## **DOMESTIC VIOLENCE ORDERS**

### **Policy**

All employees are required to report within 24 hours to his/her supervisor any domestic violence order. The employee shall be reassigned to a post not requiring the use of a firearm. The granting of any temporary reassignment of duty is subject to the availability of appropriate positions and may be to a different division. Should the order exceed a 12-month period, employment status shall be reevaluated.

NOTE: Employees in positions that may handle firearms are subject to the federal "Domestic Violence Offender Gun Ban" at 18 U.S.C. § 922(g)(9). Criminal offenses that relate to this may result in employee termination. Refer to the section in the Orientation Manual on "Criminal Convictions with Firearms Prohibitions" for more information.

## **PROVIDING CELL PHONES TO INMATES**

Effective December 1, 2014 any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction of the Department of Public Safety or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate for delivery to an inmate, is guilty of a Class H felony.

## **STATE VEHICLE USE**

### **Location**

<http://www.ncmotorfleet.com/documents/mfmregs.pdf>

### **Provisions**

Below is a summary of the provisions set forth by the Department of Administration, Motor Fleet Management division.

State-owned passenger-carrying vehicles shall be driven only by state employees and used for official state business only. It shall be unlawful for any state employee to use a state-owned vehicle for any private purpose whatsoever.

Parking citations are the responsibility of the assigned driver or the driver's agency at the time of issue. If a parking citation is not paid within a two-week period, a notice is sent to MFM and forwarded to the assigned driver. Excessive unpaid parking citations may constitute vehicle abuse.

It is the responsibility of the individual driver to observe all state motor vehicle laws and ordinances. All violations and fines shall be the responsibility of the driver or agency. Abuse of motor vehicle laws and ordinances may result in denial of the use of a State vehicle.

The possession of firearms and weapons, concealed or otherwise, is prohibited in state-owned vehicles except by sworn law enforcement officers.

Under no circumstances may a state employee operate a state-owned vehicle while under the influence of intoxicating beverages, drugs or substances, or transport (except in performance of law enforcement duties) these items in a state owned vehicle.

Hitchhikers are not allowed to ride in any state-owned vehicle.

Spouses and children are permitted to accompany state employees on trips in state-owned vehicles when sufficient space is available and when all travel is strictly for official state business. Family pets are not permitted in state-owned vehicles. Leader dogs for blind persons and other officially certified assistance dogs are excluded from this restriction.

When an employee is required to use a state-owned vehicle for travel while away from his/her work station, the vehicle may be used for travel to obtain meals and other necessities, but not for entertainment or any personal purposes. A state employee may not use a state-owned vehicle for obtaining meals and other necessities unless he/she is in travel status, approved commuter status, or approved office-in-home.

In accordance with the General Statutes of North Carolina and Motor Fleet Management regulations, the driver and all passengers must wear seat belts (lap and shoulder belt even if the vehicle is equipped with an air bag) whenever the vehicle is in motion. The General Statutes of North Carolina also requires children to be protected by safety restraints. All children less than age 8 or who weigh less than 80 pounds, must be in a child restraint system that meet federal standards when riding in passenger vehicles. The law covers all persons, not just parents, who operate a vehicle in which a child is a passenger.

In accordance with North Carolina General Statute; GS130A-493, smoking is prohibited in state-owned vehicles.

In according with North Carolina General Statute GS20-137.3(a)(1), using additional technology (ie, text messaging, etc.) while operating a vehicle. It is unlawful.

## **TRAVEL POLICY**

### **Location**

<https://www.ncdps.gov/emp/Policies/Controller/DPSTravelPolicywithnewrates01282015.pdf>

### **Provisions**

This policy incorporates state and federal regulations related to travel reimbursement rates and subsistence allowances and shall be consistently applied in conjunction with the Office of State Budget and Management (OSBM) policies. As travel regulations change depending on budgetary restrictions, any employee who may need to travel for work related reasons should consult with their supervisor and the link above for current travel requirements, processes, forms, and restrictions.

## **INTERACTING WITH THE MEDIA**

Responding to news media inquiries promptly is good customer service. In order to provide accurate and comprehensive response, all media inquiries should be handled through coordination with the DPS Communications Office. DPS staff should always inform their supervisor of media inquiries and work with the appropriate communications officer before responding.