
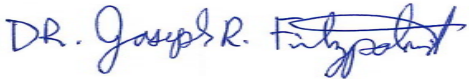


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POLICY NUMBER: 3.5		
CHAPTER 3: PERSONNEL		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
EFFECTIVE DATE: June 18, 1990	LATEST REVISION: April 14, 2015	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Entire Maine Department of Corrections

III. POLICY

It is the policy of the Department to require ethical and professional conduct of all employees. Although every circumstance of misconduct cannot possibly be addressed in this policy, this Code provides an overall framework of standards to assist employees in understanding the Department's expectations for appropriate conduct. In addition to this code, employees are expected to adhere to all federal and state statutes, rules and regulations, departmental policies, directives, post orders, training, or any other form of instruction.

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V. ATTACHMENTS

None

VI. PROCEDURES

Procedure A: Code of Conduct, General

1. All Department of Corrections employees are required to read and follow this Code of Conduct policy and complete Code of Conduct training on an annual basis.
2. If clarification or interpretation of any section of this policy is considered necessary by an employee or if an employee believes his or her actions may give the appearance of conflict with this policy, the employee is responsible for seeking clarification or interpretation from the employee's immediate supervisor, and following the appropriate chain of command, if further clarification is needed.
3. Within the Department, the Commissioner, or designee, shall be the final authority regarding any clarification or interpretation of this policy.
4. Any violation of this policy or other misconduct subjects an employee to appropriate disciplinary action by the Commissioner, or designee. This includes engaging in prohibited conduct or inciting, encouraging or assisting another person to engage in prohibited conduct. This also includes failing to report prohibited conduct when required by law or when the prohibited conduct may impact safety or security or violates confidentiality. In addition, this includes failing to take appropriate corrective action in response to prohibited conduct, if the employee is a supervisor. Finally, this includes failing to intervene as required by law (e.g., in a use of excessive force situation, PREA violation).
5. Off-duty conduct may be the proper subject of Department review and corrective action where there is a nexus between the off-duty conduct and the workplace.
6. An employee shall not be retaliated against for reporting misconduct in good faith and in accordance with this Code of Conduct.

Procedure B: Conflicts of Interest

1. Conflict of Interest: Employees shall not engage in any activity which, directly or indirectly, constitutes a conflict of interest. A conflict of interest is created whenever an employee has a relationship with any entity or person that has a potential for causing the employee to be influenced to take a course of action adverse to the interests of the Department. Employees are not precluded from serving on boards or committees within the scope of their official duties as representatives of the Department. An employee shall not engage in any business, transaction or activity of any nature which is in conflict with the proper

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discharge of the employee's duties and with the public interest, such as but not limited to:

- a. accepting compensation, other than allowed by law for the performance of his or her duties as a Department employee;
- b. using his or her position to secure contracts with the Department for self, family, friends, business associates or others;
- c. engaging in any political activity prohibited by law such as being a candidate in any partisan election, holding a partisan elective office, or directly or indirectly using official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office;
- d. attempting to influence the Department for the employee's own purposes; or
- e. engaging in any other activity that would constitute a violation of 5 M.R.S.A. Sections 18-19 or 17 M.R.S.A. Section 3104, including, but not limited to, benefiting from or having a financial interest in any contract with the State (other than as an employee of the Department).

2. Personal Statements Made as a Private Citizen: When an employee makes a public statement to a public official or to staff at another agency or may appear to represent the Department about a Department issue, but has not been authorized as a spokesperson for the Department, the employee shall clearly indicate he or she is making a personal statement(s) as a private citizen and not representing the views, statements or positions of the Department, e.g. when appearing before the Parole Board, Pardon Board, court, etc. When making such a statement, an employee shall not use Department resources, including, but not limited to, Department time, and shall not wear a Department uniform, Department identifiers or anything with the Department logo.
3. Prior Relationship with Client: An employee shall report, in writing, to the Chief Administrative Officer, or designee, or Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable, if the employee becomes aware that he or she is or was related by blood or marriage or has or has had a friendship or dating, sexual, household, or business relationship with a prisoner or a resident of the Department or a person under supervision of the Department and if the employee has responsibilities that might affect the person or might bring the employee into contact with the person while in the custody or under the supervision of the Department.

Procedure C: Personal Conduct

1. Abuse/Neglect of Residents: Employees shall not abuse or neglect residents in juvenile facilities. Such conduct violates state statutes.
2. Alcohol and Drug Free Workplace: In order to comply with Department Policy 3.13, Alcohol and Drug Free Workplace, employees are prohibited from using,

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purchasing, distributing, or selling alcohol, or illegal drugs, or abusing or misusing prescription drugs in the workplace. This prohibition shall apply while employees are engaged in any work-related activity, which includes performance of Department business during scheduled work periods, periods of overtime, and meal breaks, and occasions having a connection with the job or the Department, except for social functions after work hours. Employees shall not appear for duty, or be on duty, while under the influence of intoxicants or marijuana to any degree whatsoever, or with an odor of intoxicants or marijuana about their person. Employees shall not transport, bring into, nor possess or place in a State vehicle or facility or office any alcoholic beverage or illegal drug, except in the proper performance of their duties. The personal use and possession of prescribed drugs shall be in compliance with the prescribers' directions.

3. Alcohol Establishments or Medical Marijuana Dispensaries: Employees shall not enter bars, taverns, liquor stores, breweries, distilleries, wineries, medical marijuana dispensaries, or other establishments the primary purpose of which is to manufacture or sell alcohol or marijuana while on-duty or at any time while in uniform or while displaying department issued identification or equipment, except in the proper performance of their duties. Employees shall not purchase or receive alcohol or medical marijuana while on-duty or at any time while in uniform or while displaying department issued identification or equipment.
4. Conduct Unbecoming: While representing or appearing to represent the Department, either with or without authorization, employees shall be civil in their speech and actions with the public, staff, prisoners, residents, persons under supervision in the community, and all other persons; shall not use profanity, be abusive, or display any behavior that might bring discredit upon the Department and shall be professional when dealing with others.
5. Contraband: Employees shall not bring or attempt to bring into, possess, or dispense or attempt to dispense in a departmental facility or any other place accessible to prisoners or residents items that are considered contraband or non-allowable property for a prisoner or resident in the facility (e.g., cell phones, medications not prescribed by a facility provider, weapons, tobacco products, etc.), except as approved in writing by the Commissioner, or designee, or the Chief Administrative Officer, or designee.
6. Criminal Associations: An employee shall avoid associations or dealings with persons known to be currently involved in criminal activities, except in the proper performance of their duties.
7. Notification of Criminal Activity - Facility: If an employee becomes aware of any criminal activity that has the potential to threaten the safety of prisoners or residents, facility staff, visitors, volunteers, interns or other persons or the security of a departmental facility, the employee must provide an immediate verbal notification to the Chief Administrative Officer, or designee. The employee shall follow up with written notification as soon as possible.

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8. Criminal Conduct: No employee shall violate any Federal or State criminal law. Should an employee be summonsed, arrested, or formally charged for any such violation, or have a Protection from Abuse Order issued against him or her, the employee shall immediately report it in writing to the Chief Administrative Officer, or designee, or Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The employee must also report the outcome in writing once his or her case has been adjudicated.
9. Department Property: An employee shall not sell, exchange, give, loan, take, or use for unofficial purposes departmental property or, through neglect or intention, damage, destroy or lose departmental property. This does not preclude the sharing of Department property, other than a uniform, identification or issued equipment, between co-workers in the proper performance of their duties.
10. Destroying Records: An employee shall not destroy, alter or remove Department records except as approved in writing by the Commissioner, or designee, Chief Administrative Officer, or designee, or Regional Correctional Administrator, or designee, and shall comply with all requirements regarding preservation of public records. This does not include destroying surplus copies. Also, this does not include amending a record to correct an error or add additional information provided that the fact that there has been an amendment is documented on the record itself or, in the case of an electronic record, is traceable.
11. Disobeying a Lawful Order: No employee shall disobey any lawful command, order or instruction, either verbal or written, of any supervisor or other employee designated as in charge in a specific situation. If the employee believes that an order may be an unlawful order, the employee shall attempt to contact a higher level supervisor immediately for guidance. If the order requires immediate action, the employee may refuse to follow the order if the employee believes in good faith that it is unlawful and has explained the justification for this belief to a supervisor at the time or as soon thereafter as possible. The employee shall document the justification in writing as soon as possible.
12. Excessive Force: Employees are prohibited from using force or threatening the use of force upon a prisoner, resident or any other person, except to the extent allowed by law, policy and training as set forth in Department policies, Department Adult Facility Policy 14.17, Use of Force, Department Juvenile Facility Policy, 9.18, Use of Force, Adult Community Corrections Policy 14.23, Use of Force and Juvenile Community Corrections Policy 11.1, Use of Force.
13. False Statement: No employee shall knowingly make any false statement or misrepresentation of any work-related material fact, oral or written, with the intent to mislead any person or entity, except in the proper performance of their duties.
14. Gifts: No employee shall, directly or indirectly, give, solicit, or accept gifts from an entity or person on account of his or her position as a Department employee, or from any person who is or has been in the last year a prisoner, resident or person under supervision in the community. The only exception is the

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acceptance of a gift of nominal value that a reasonable person would not be influenced by, such as a pen, calendar etc. Additionally, any attempt to present a gift or bribe to an employee shall be immediately reported in writing to a supervisor fully describing the situation and those involved. This prohibition does not include an item made by prisoners or residents approved by the Commissioner, or designee, for an official award presentation or other event.

15. Harassment, Discrimination and Retaliation: No employee shall engage in any conduct that constitutes harassment, discrimination or retaliation. Discrimination or harassment includes verbal or non-verbal communication or conduct related to race, color, sex, ancestry or national origin (including limited English proficiency), age, religion, genetic information, physical or mental disability, sexual orientation, whistleblower activity, or the previous assertion of a claim or right under the Maine Workers' Compensation Act. Such discrimination or harassment violates federal and state statutes and Department Policy 3.8, Prohibition on Employee Discrimination and Harassment.

16. Hazing: No employee shall haze or conspire to engage in hazing of any staff or encourage, permit, condone, or tolerate any hazing activities. Hazing is defined as any action or situation that recklessly or intentionally endangers the mental or physical health of a person and includes but is not limited to the following: harassing, persecuting, or ridiculing with meaningless, difficult, or humiliating tasks or acts or exacting humiliating performances or playing practical jokes on other individuals that are meant to demean or embarrass. This prohibition pertains to behavior on or off Department owned or leased property and applies whether or not the participants or others perceive the behavior as "voluntary". The implied or expressed consent of any person toward whom an act of hazing is directed does not relieve any individual from responsibility for his or her actions nor does the assertion that the conduct or activity was not part of an official organizational event or was not officially sanctioned or approved by the department.

17. Improper Contact: An employee of the Department shall refrain from making personal contacts with persons who are known to the employee to be currently or in the last year to have been prisoners or residents of a Department facility or currently are or have in the last year been under departmental supervision in the community, unless it is authorized by the Chief Administrative Officer, or designee, or Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable, and/or in the proper performance of their duties. If one of these contacts is inadvertently made or is unavoidable due to circumstances, it shall be reported by the employee as soon as possible and in writing to his or her supervisor. Employees are not authorized to access official records to determine whether persons are or have been in the custody or under the supervision of the Department in order to avoid improper personal contacts.

18. Neglect of Duty: An employee shall not feign illness or injury, avoid responsibilities, or shirk or be derelict in his or her duties.

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19. Obstruction of an Investigation: Employees of the Department shall cooperate and be truthful in all investigations authorized by the Commissioner, or designee, as allowed by law and collective bargaining agreements. No employee shall interfere with, obstruct or hinder, or advise any other person to interfere with, obstruct or hinder, in any manner, any investigation. This does not prohibit advising an employee of his or her rights as set out in law or the applicable bargaining agreement.
20. Over-familiarity: Employees shall not become overly familiar with or have a non-professional relationship with any person in custody or under supervision in the community beyond the normal course of fulfilling their duties. Employees shall avoid any appearance of impropriety with any person in custody or under supervision in the community. Employees shall not share with any person in custody or under supervision in the community any detailed personal information about themselves or about any other person, whether directly, indirectly or by negligent conduct.

Examples of prohibited conduct, whether direct or indirect, include but are not limited to: giving or receiving non-work related letters, messages, money, personal mementos, pictures, telephone numbers; non-work related contact or visits with a family member of any person in custody or under supervision in the community; conversation of a romantic or sexual nature; or financial involvement with any person in custody or under supervision in the community.

21. Sexual Misconduct: An employee shall not engage in sexual misconduct, including violations of the Prison Rape Elimination Act (PREA), Maine statutes, and departmental policy concerning sexual misconduct, as defined in Department Policy, 6.1, Sexual Misconduct (PREA and Maine Statutes), General. Employees shall report any PREA violation, whether committed by staff, volunteers, interns, or prisoners or residents.
22. Tobacco: Employees are prohibited from using bidis, cigarettes, cigars, cigarillos, little cigars, dip, electronic cigarettes or e-cigarettes, hookahs, kreteks, pipes, snus, chew, snuff, any object giving off or containing any substance giving off tobacco smoke, hookah smoke, nicotine or non-nicotine vapor, or any smokeless tobacco product in any enclosed area of a state facility or office, state vehicle, outdoor area under the control of the Department at which employees perform services for the Department; in any place not open to the sky into which the public is invited or allowed, and all rest rooms made available to the public.

Facilities and offices may continue to designate areas outdoors for tobacco use provided that each designated area is a minimum 20 feet from windows, entryways, vents, doorways or other openings to prevent environmental tobacco smoke from circulating into the enclosed areas.

23. Use of Prescribed Medication: An employee who is intending to report for work shall notify the Office of Employee Relations Equal Employment Opportunity Coordinator, or designee, through the Human Resources Office, of his or her use

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of a prescribed medication that could reasonably be expected to affect the work to be performed.

Procedure D: Reporting Requirements

1. Supervisors Responsibility to Report Discrimination and Harassment: A supervisor receiving a complaint of discrimination or harassment shall contact the Office of Employee Relations EEO Coordinator assigned to the Department and the Department's Director of Human Resources as soon as possible after a complaint is received, even if the complainant requests that no action be taken.
2. Reporting Misconduct: All employees are required to report to an appropriate authority any other act of misconduct by staff, volunteers, or student interns, including but not limited to, conduct involving drugs, escape, sexual misconduct, workplace safety or excessive use of force. Reporting of workplace harassment shall be in accordance with Department Policy 3.8, Prohibition on Employee Discrimination and Harassment.
3. Reporting Security Breaches: All employees are required to report to his or her supervisor any security breaches that they become aware of or observe. Examples include, but are not limited to, malfunctioning security equipment, inspection or security checks not being completed or not being completed properly, any drug trafficking, escape plans, disturbances, or other threats.

Procedure E: Uniform, Identification and Issued Equipment

1. Department Name/Logo: An employee is prohibited from using the Department's name, identity, logo, photo of a facility or program, or other identifying information for private commercial use or on a website or social networking site or otherwise for personal reasons in such a way that it appears that he or she is representing the Department or in a way that might bring discredit upon the Department.
2. Uniform/ID/Equipment - Improper Display: An employee shall not wear a Department uniform, or display Department identification, logo or issued equipment or any portion thereof in a manner that might bring discredit upon the Department.
3. Uniform/ID/Equipment: An employee required or allowed to wear a uniform or carry identification or equipment issued by the Department shall wear the uniform and/or carry the identification and equipment only while in the course of performing his or her duties or as allowed by law. Incidental wearing of a Department uniform or apparel containing the Department name or logo, such as while shopping on the way to or from work, is allowed provided alcohol is not purchased.
4. Uniform/ID/Equipment - Other: An employee shall not sell, exchange, give, loan, or take a Department uniform, identification or issued equipment, or, through neglect or intention, damage, destroy or lose a Department uniform, identification

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or issued equipment. An employee shall not leave in a location accessible to any person in custody or under supervision in the community any part of his or her uniform, identification or issued equipment.

Procedure F: Confidentiality

1. Confidentiality – Client Information: An employee shall maintain confidentiality of information pertaining to prisoners, residents, and persons under supervision in the community. Federal and state laws and the following Department policies address confidentiality: Adult Facility Department Policy 11.2, Confidentiality of Prisoner Information; Juvenile Facility Department Policy 22.2, Confidentiality of Resident Information; Juvenile Community Corrections Policy, 8.1 Confidentiality of Juvenile Community Services Client Information.
2. Confidentiality – CORIS Information: An employee shall not print or make an electronic or other copy of CORIS information, remove CORIS information from Central Office, a facility, or a community corrections office, or transmit CORIS information, except in the proper performance of his or her duties.
3. Confidentiality – Documents, Photos, Audios, Videos. An employee shall not print or make an electronic or other copy of any document, photo, audio, or video, remove any document, photo, audio, or video from Central Office, a facility, or a community corrections office, or transmit any document, photo, audio, or video, except in the proper performance of his or her duties.
4. Confidentiality - Other Information: An employee shall not disseminate other confidential information obtained in his or her capacity as a departmental employee, except in the proper performance of his or her duties.
5. Confidentiality – Improper Access: An employee shall not access confidential information for unofficial purposes, including, but not limited to, for his or her personal knowledge or to share with others.
6. Confidentiality – Reporting Violations: An employee shall report to his or her supervisor as soon as possible any apparent or suspected violation of confidentiality or breach of security related to confidential information.
7. Confidentiality of Passwords: An employee shall maintain security regarding his or her passwords and password protected programs by not sharing this information inappropriately with other persons or by leaving passwords or open password protected programs where they would be visible to an unauthorized person.
8. Confidential Policies and Security Practices: An employee shall not discuss, Department policies or manuals designated as confidential, post orders, critical incident plans, or security practices, except in the proper performance of his or her duties, and shall secure written and electronic copies of any documents

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constituting or referring to the above so that the documents cannot be viewed by anyone other than authorized departmental staff.

9. Inappropriate Dissemination of Confidential Information: An employee shall not obtain access to or disseminate confidential information, whether in his or her capacity as a departmental employee or otherwise, beyond that needed to perform official responsibilities.
10. Using Another Staff Person's Password: An employee shall not use another staff person's computer password or access another staff's files without appropriate permission.
11. Violation of News Media Policy: Employees shall forward all media inquiries to the Commissioner, or designee.

Procedure G: Leave and Attendance

1. Absent Without Leave: An employee shall not be absent from duty without approval obtained through appropriate procedures.
2. Impairment: No employee shall report to work or be on duty when his or her judgment, reflexes, mood, or mental or physical condition has been impaired by alcohol, drugs, medication (prescription or non-prescription), or other substance.
3. Punctual Attendance Required: All employees shall be punctual in reporting to work and attending work related events, including, but not limited to, training, meetings, appointments, etc.
4. Work Injury Notification: An employee injured while at work shall notify his or her supervisor and submit required written reports as soon as possible.

Procedure H: Communication/Equipment

1. Information Technology Resources: State-owned or State-leased information and technology equipment and resources under the control of the State of Maine shall be used only for internal and external communications that serve legitimate state government functions and purposes. For the purpose of this policy, State-owned or State-leased information and technology equipment and resources shall include, but not be limited to: hardware, software, data, internet, intranet, servers, instant messaging, e-mail, desktop/personal computers, laptops, notebooks, PDAs, smart phones, pagers, tablet PCs, telephone voice mail system, video/audio/web conferencing equipment, audio or video recording devices, interactive whiteboards, printers, fax or copy machines with memory or hard drives, media including disk drives, diskette drives, optical disks (CD), tape drives, and Universal Serial Bus (USB) drives (jump/flash drives), and any emerging technology containing a processor and/or memory. Any personal use must be of an incidental nature and not interfere with official activities or

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otherwise be authorized. This is further addressed in the State of Maine's E-Mail Usage and Management Policy.

2. **Social Media:** The Department's computer systems shall not be used for accessing social media except for official purposes or for incidental use. Employees are prohibited from posting official agency information on his or her personal media site and an employee's personal use should not be attributable to the agency or the employee's job function. This does not prohibit an employee from posting general information about his or her job, such as place of work, position, awards, etc. provided that confidential information is not revealed and the posting does not make it appear that he or she is representing the Department and does not bring discredit upon the Department. Further information about use of social media is described in greater detail in the State of Maine's Electronic Communications Policy.

VII. Professional Standards

ACA:

- ACI - 4-4069** A written code of conduct shall require employees to conduct themselves and perform their duties in such a way as to set a good example for prisoners and thereby command their respect. The code of conduct shall prohibit employees from using their official position to secure privileges for themselves or others and from engaging in activities that constitute a conflict of interest. This code is available to all employees.
- 4-ACRS-3A-07** Employees model desired behaviors in accordance with a facility's code of conduct. Employees reinforces proper offender behavior and corrects offender misbehavior.
- 4-ACRS-7C-01** Employees acknowledge that they have reviewed facility work rules, conduct, regulations, conditions of employment, and related documents.
- 4-JCF-6D-02** Employees acknowledge that they have reviewed policies and procedures, facility work rules, regulations, conditions of employment, and related documents including a written code of conduct. These documents are made accessible and available to all employees.

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