

DHHS POLICIES AND PROCEDURES

Section IV:	General Administration
Title:	Conflict of Interest
Current Effective Date:	10/17/05
Revision History:	7/26/05 (Policy was formerly titled “Ethical Conduct”)
Original Effective Date:	2/1/02

Purpose

The work of state government is a public trust. It is essential that public employees be independent and impartial in order to maintain the confidence and trust of North Carolina's citizens. All employees of the North Carolina Department of Health and Human Services (NC DHHS) have a duty to the people of NC to uphold that public trust, prevent conflicts of interest, avoid the appearance of a conflict of interest and work at all times to use their position for the public good. It is in the public interest that DHHS establish a policy on conflict of interest which sets forth a code of behavior to be followed by all DHHS employees. The purpose of this policy is to provide guidance to DHHS employees on the maintenance of the public trust and the avoidance of conflicts of interest.

Policy

This policy sets forth guidelines of behavior for all DHHS employees that are consistent with federal and state laws. It is essential that public employees remain independent, impartial and free from conflicts of interest and improper influences in order to work to advance public interest and not for any personal benefit. DHHS employees must decide all matters on the merits alone. Even the appearance of partiality or preferential treatment is a violation of the policy.

For purposes of this policy, when referring to DHHS employees, this designation will encompass all state employees working on behalf of the DHHS.

Additionally, the Secondary Employment Policy provides further examples of potential conflicts of interest as well as the process for requesting and gaining approval of secondary employment.

Implementation

The Secretary of DHHS will enforce this policy. Division/facility/school directors are expected to abide by this policy and ensure that all employees under their jurisdiction follow

it. Failure to comply with the policy will be grounds for disciplinary action up to and including dismissal from employment with DHHS or contract termination.

1. DHHS Conflict of Interest Acknowledgement Form

Effective immediately, all DHHS employees that have direct influences on: 1) the evaluation, review and/or selection processes of any type of contract or vendor by any method; 2) any type of awards process; 3) administration of contracts; or 4) procurement of services or goods through contracts or by other means are required to sign an acknowledgement of this policy. Effective immediately, each division/facility/school director and unit management team shall ensure that each of their employees that has a direct influence on any of the aforementioned processes will sign a Conflict of Interest Acknowledgement Form (attached herein) before performing any work in regard to procurement of services or goods, evaluations of proposals, selection of vendors for contracts or any type of contract administration. Going forward, each division/facility/school director and unit management team shall ensure that for any change of job assignment that introduces a new employee to any of the aforementioned processes, the new employee shall sign a Conflict of Interest Acknowledgment Form. Signing the Acknowledgement Form (attached to this policy) certifies this policy has been read and that the employee has had an opportunity to ask questions for clarification. The original signed form will be maintained in the employee's personnel file in the respective division/facility/school as a matter of official record.

If an employee refuses to sign the acknowledgement form, the manager should note that the policy and form were reviewed with the employee. The manager should note the refusal of signature on the form, date and sign the form and place it in the employee's personnel file. Refusal to sign the policy does not exempt the employee from adhering to the policy.

2. Conflicts of Interest

A conflict of interest is a situation in which an employee's private interest, usually of a financial or economic nature, conflicts or raises a reasonable question of conflict with the employee's public duties and responsibilities.

DHHS employees should not work on a matter if a reasonable person who is aware of the circumstance would question their ability to be impartial in the matter. Employees should consult with their supervisor and human resources manager to assist them in resolving any question of perceived loss of impartiality.

- A. It is the duty of all DHHS employees to review programs, policies and activities of the department to identify and report to their supervisor and/or human resources manager any potential, real, or perceived conflicts of interest

- B. When a conflict of interest is identified, the DHHS employee will disclose it in writing through appropriate management channels to the division/facility/school director, general counsel, and DHHS Secretary.
- C. When a conflict of interest is identified, the division/facility/school director will determine whether the employee needs to be removed from participation in the matter.
- D. No DHHS employee will draft, negotiate, evaluate, administer, accept or approve any contract or subcontract or procurement of any type on behalf of the state if he/she or his/her immediate family has, directly or indirectly, any financial interest in such a contract or subcontract.
- E. No DHHS employee or member of his/her immediate family may use the employee's position to profit from, directly or indirectly, an interest in real or personal property.
- F. No DHHS employee or member of his/her immediate family may accept any business or professional opportunity when such person knows, or reasonably should know, that the opportunity is being afforded to him/her with the intent to influence the performance of official duties.

3. Gifts and Favors

- A. A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having a monetary value. It includes services as well as training, transportation, local travel, lodgings and meals.
- B. A favor is any opportunity, service, accommodation, use of facility or other benefit made available for less than fair market or normal value.
- C. No DHHS employee (or family member) may request or receive any personal gift or favor from any contractor, subcontractor, supplier or other business entity or individual that has a present, past or anticipated financial interest in any matter under the jurisdiction of DHHS.

Contractors, vendors and businesses that the state contracts with, have an agreement with, or procures any type of service or commodity from, are considered an "outside source." A gift given by an outside source may be considered inappropriate and influential therefore can not be accepted. If the employee cannot determine if the situation is a conflict or not, they should consult with their supervisor and/or human resources manager to assist them in resolving any question.

The policy does **not** prohibit the receipt of:

- Advertising or souvenirs of nominal value (such as sample products given away at conferences);
- Samples of nominal value for DHHS use only;
- Door prizes, food and beverages furnished at meetings, banquets, seminars, professional association meetings, trade group or industry meetings, as long as the food and beverages are equally available to all persons in attendance and the employee is participating in his/her official capacity.

4. Seminars

Free seminars can be accepted if offered to a wide audience and would be beneficial to allow the employee(s) to obtain information and advance their knowledge to help them in their position with the state. Employees wishing to attend a free seminar should consult with and obtain approval from their supervisor and human resources manager before attending. If the offer is accepted by the state from a vendor with whom the state customarily does business, it is recommended that in accepting, it be acknowledged by all parties, there is no obligation on the part of the state relating to this matter or any other future procurement of services or commodities. If the primary purpose of the seminar is to demonstrate the vendor's product or services, the employee is obligated to provide any vendor that requests the same level of exposure to their product. *The state cannot afford even the appearance of being partial to the vendor.*

5. Trials of Products or Services

Before entering into an agreement with a vendor to test or try a product or service, contact the DHHS Office of Procurement and Contract Services for approval.

6. Consultation

Management as well as other employees of DHHS are urged to consult with the department's general counsel when conflict of interest arises under this policy. All attorneys are subject to Canon IV of the North Carolina Annotated Rules of Professional Conduct, which requires that the lawyer preserve the confidence of the client. It is the policy of the department that this attorney/client relationship be preserved. Such consultation is intended to generate full and frank disclosure of facts for proper initial representation of the client and advice on seeking further legal assistance.

For questions or clarification on any of the information contained in this policy, please contact The Office of General Counsel. For general questions about department-wide policies and procedures, contact the DHHS Policy Coordinator.

DHHS Conflict of Interest Policy Acknowledgement Form

I certify that I am a state employee working for or on behalf of the DHHS and that I have been given a copy of, and have had the opportunity to read and discuss the DHHS Conflict of Interest Policy and understand my obligations and duties as described therein.

I understand that this policy was approved by the Secretary of the DHHS and these obligations and duties are not specific to any individual agency or institution of the department, but are applicable to all state employees of the department.

I understand that failure to observe and abide by these obligations may result in disciplinary action which may include dismissal and/or contract termination.

I also understand that in some cases, failure to observe and abide by these obligations may result in criminal or other legal actions.

Furthermore, I have been informed that **the department will retain this signed agreement on file for future reference.**

PRINT NAME: _____

Employee/Contractor Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____