

DHHS POLICIES AND PROCEDURES

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| Section IV: | General Administration |
| Title: | Foundations Supporting and Supported By DHHS |
| Current Effective Date: | 03/12/09 |
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Purpose

To avoid potential conflicts of interest and to limit DHHS contributions to appropriate levels by establishing administrative policies for private nonprofit foundations (“DHHS-related foundations”) whose sole purpose is to support the services and programs of the North Carolina Department of Health and Human Services (NC DHHS).

Policy

This policy is restricted to those foundations where in the Articles of Incorporation, the DHHS-related foundation expresses its intent to support the services and programs of the Department. Per N.C. Gen. Stat. § 55A-1-40(17) *“Non-profit corporation” means a corporation intended to have no income or intended to have income none of which is distributable to its members, directors, or officers...* A non-profit is not required to be tax exempt.

All of the policy statements below apply to “private nonprofit foundations whose sole purpose is to support the services and programs of the department” and employees that assist those foundations which receive DHHS contributions of employee time, supplies, materials, equipment usage, and/or physical space:

1. DHHS agencies and employees may assist DHHS-related foundations that support the mission and goals of DHHS facilities and programs and the clients, patients, or residents who are currently served by those facilities and programs. DHHS agencies shall not assist or support (personnel, materials, equipment, space, etc.) foundations that are direct providers of services for clients, patients and/or consumers for whom the DHHS facility has a service or support responsibility.
2. The maximum DHHS personnel contribution to any single foundation is 20 hours per month per DHHS employee, and a maximum of 720 hours per year of all DHHS employees combined. An exception to the annual total may be made in writing by the secretary. Additional employee support may be provided on a volunteer basis using annual leave, community service leave or on the employee’s own time.

3. All DHHS contributions, including employee time, supplies, materials, equipment usage such as copiers, and/or physical space, must be documented.
4. DHHS employees shall not serve as board members on the board of a DHHS-related foundation that is directly associated with the division/office where the employee works. DHHS employees may serve on the board of another DHHS- related foundation that is not directly associated with the employee's division/office. DHHS employees may serve as ex-officio board advisors for any DHHS-related foundation.
5. It is the responsibility of the division/office director of a DHHS- related foundation to ensure that DHHS employees of his or her division/office do not serve on the board(s) of foundation(s) that are directly related to his or her division/office.
6. DHHS employees shall not receive any monetary compensation from DHHS-related foundations for any aspect of their service. DHHS-related foundations may pay DHHS employee travel costs or other reimbursable costs up to the allowable state rates when the employee is engaged in foundation business. Such reimbursement must be approved in advance by the DHHS employee's supervisor and disclosed in the foundation's annual report to the department.
7. DHHS employees shall not accept any gifts from DHHS-related foundations, except token gifts of insubstantial value. DHHS employees shall never receive or accept any gift for influencing selection of or recommending the use of goods, wares, merchandise, materials, supplies, services, or equipment. All gifts made by the foundation to DHHS employees must be disclosed in the foundation's annual report to the department.
8. DHHS agencies and employees shall provide support only to DHHS-related foundations that comply with the department's conflict of interest policies to avoid any real or perceived conflict of interest. (See DHHS *Conflict of Interest Policy* in the General Administration section of the departmental policy manual.)
9. DHHS shall maintain rights (whether intellectual property or otherwise) to any products and materials (such as educational materials) developed by the DHHS-related foundations with the contributions of DHHS employees and/or the use of DHHS resources.
10. DHHS agencies and employees shall provide support only to DHHS-related foundations that have signed a Memorandum of Agreement that ensures the foundation understands and agrees to comply with all aspects of this policy when receiving support from DHHS.
11. DHHS agencies and employees shall provide support only to DHHS-related foundations that have an open meeting policy recognizing that there may be need for closed sessions for purposes such as conferring with attorneys, discussing personnel issues or the purchase of property.

12. DHHS agencies and employees shall cease to provide support (DHHS employee time, supplies, materials, equipment and physical space) to a DHHS-related foundation if all aspects of this policy are not fully met.

Implementation

Accountability for Compliance

The director of the DHHS facility that is associated with and providing support to a foundation shall have responsibility for assuring compliance with this policy. The responsible director shall establish monthly, quarterly or annual reporting as needed to track compliance.

Direct Client Services

DHHS-related foundations interested in providing direct client services, such as community-based transitional services to individuals leaving state facilities, must establish new and separate legal entities to provide these services.

Documentation of DHHS Support

DHHS employee time, supplies, materials, equipment, and physical space contributions to DHHS-related foundations shall be documented. The record shall show all contributing employees' names, position titles, position number, capacity in which they provided support, and the total hours per month per employee of DHHS compensated time provided. The record shall also document any contributions of DHHS purchased supplies and materials, usage of any DHHS equipment, and/or DHHS physical space. These records shall be subject to audit by the DHHS Office of Internal Audit and the Office of the State Auditor.

The responsible director shall submit to the Office of the DHHS Controller an [Annual Report of DHHS Support to a Foundation](#) within 45 days of the foundation's fiscal year end that provides documentation of all DHHS support to the foundation. The directors of other divisions or offices shall submit to the responsible director an [Annual Report of DHHS Support to a Foundation](#) within 30 days of the foundation's fiscal year end that provides documentation of the other division or office's support to the foundation. When DHHS support ceases, a report will be required for the year it ceases and the following fiscal year. These reports shall also be subject to audit by the DHHS Office of Internal Audit and the Office of the State Auditor.

DHHS Employee Participation on Board of Directors

It is the responsibility of the division/office/facility/school director of the related division that operates the associated facility to ensure that DHHS employees do not serve on any DHHS-related foundation's board. Any DHHS-related foundations not in compliance with this policy on the effective date of this policy shall have one (1) year to achieve compliance.

Foundation Reporting

For fiscal years beginning on or after July 1, 2006, DHHS-related foundations should follow the applicable procedures according to the annual income received.

Nonprofit organizations with less than \$500,000 in annual income shall within six (6) months from the nonprofit's fiscal year end:

- Submit an affidavit from the chief officer of the organization providing and attesting to the use of state employee assistance or other state services (certification and sworn statement for DHHS-related foundation);
- Submit a report (reporting for DHHS-related foundation annual income less than \$500,000) from the chief officer of the organization providing basic information and financial accounting or audit; and
- All forms and audits shall be in a format approved by the Secretary of DHHS.

Nonprofit organizations with an annual income of \$500,000 or more shall within six (6) months from the nonprofit's fiscal year end:

- Submit an affidavit from the chief officer of the organization providing and attesting to the use of state employee assistance or other state services (certification and sworn statement for DHHS-related foundation);
- Submit a report (reporting for DHHS-related foundation annual income equal to or greater than \$500,000) from the chief officer of the organization providing basic information;
- Submit an annual audit of the organization providing and attesting to the financial condition of the organization and the expenditure of funds or use of state employee services or other state services; and
- All forms and audits shall be in a format approved by the Secretary of DHHS.

The DHHS Controller has been designated to receive these reports. Please submit all forms and audits to: DHHS Controller, Attention: Audit Resolution Branch, 2019 Mail Service Center; Raleigh, NC 27699-2019.

Exceptions

Per G.S. 143B-164.18, the limitation contained in this policy on the hours of service DHHS employees may provide to a nonprofit foundation does not apply to any foundation whose sole purpose is to support the Governor Morehead School. Any limitation on the hours of service shall be determined by the Director of the Office of Education Services with the approval of the Board of Directors of the Governor Morehead School. All other items contained in this policy shall apply.

In addition, per G.S. 143B-139.4(c), the limitation on hours of service shall not apply to employees of the Office of Rural Health and Community Care that have been assigned by the secretary to serve as matching resources to nonprofit organizations working to establish health care programs that will improve health care access while controlling costs.

References

G.S. 143B-139.4
G.S. 143B-164.18

For questions or clarification on any of the information contained in this policy, please contact the [DHHS Controller's Office](#). For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).