

# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	SECTION NUMBER	PAGE NUMBER
		02-116D	1 of 1
		<b>SUBJECT:</b>  <b>HUMAN RESOURCES: Conflict of Interest: Relationships on the Job and Outside Employment</b>	
<b>Approved By:</b>   Secretary of Corrections		Original Date Issued: 03-18-15 Replaces Version Issued: N/A <b>CURRENT VERSION EFFECTIVE: 03-18-15</b>	

<b>APPLICABILITY:</b>	<input type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input checked="" type="checkbox"/> DEPARTMENT-WIDE
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## POLICY STATEMENT

Employment by the Department of a person or officer of the state who has a family or household member employed by, in the custody of, or under the supervision of the Secretary of Corrections shall be permitted, so long as the person or officer would not be in a position to directly or indirectly supervise the family or household member, and/or no breach of security or rules of confidentiality would occur. No person or officer of the state employed by the Department of Corrections shall use his or her official position to secure privileges or advantages for such a family or household member.

No employee shall advocate or cause the employment, appointment, promotion, transfer, or advancement to any office or position of the state, of a member of such officer's or employee's household or family member. No employee shall participate in an action relating to the employment or discipline of a member of the officer's or employee's household or a family member. (ACI 3-4067; APPFS 3-3068)

Personal relationships between supervisors and subordinates or employees under the supervisor's span of control shall be prohibited, to avoid situations that may affect a supervisor's judgment, or that may affect a supervisor's ability to effectively supervise subordinates or other employees in his or her span of control; to avoid the appearance of conflict; and to promote professionalism among staff of the Department.

Employees of the Department of Corrections shall not use their official position, nor shall they disclose or use confidential information acquired in the course of their official duties, to advance their own or someone else's economic interests, or to secure additional privileges and advantages for themselves or others. (ACO 2-1C-24, ACI 3-4067, APPFS 3-3068) Employees may engage in outside employment or enterprise to the extent that it does not constitute a conflict of interest, (ACI 3-4067, APPFS 3-3068) interfere with the performance of their duties, or impair their ability to respond to a request to return to work in emergency situations.

## DEFINITIONS

**Advancement:** To aid the progress of another in any way, to cause an event to happen earlier, to assist in an improvement in a person's rank, position, or value.

**Appointing Authority:** As defined in IMPP 02-109, any person or group of persons empowered by the constitution, by statute, or by lawfully delegated authority to make appointments to positions in the State service pursuant to K.A.R. 1-2-9. Anytime this term is used in this IMPP, it can be read as referring to the "appointing authority or designee".

**Family Member:** A person's spouse (including common-law), parent, grandparent, brother, sister, half siblings, children, grandchildren, first cousin, niece, nephew, aunt or uncle and any parent or child of a preceding or

subsequent generation as noted by the prefix of "great". Where applicable, each of these categories includes foster, step, adoptive or in-law relationships.

Household Member: A person having legal residence or co-tenancy in the employee's place of residence or any person who has had legal residence and/or lived within the employee's place of residence at any time within the past twelve months.

Outside Employment: An employment other than employment with the Kansas Department of Corrections.

Post-incarceration Supervision: The supervision of offenders for any type of release from a KDOC facility, to include parole, conditional release, and post-release supervision.

Prohibited Personal Relationship: More than mere social interaction, including, but not limited to, dating, cohabitation, co-tenancy, or romantic involvement with another person.

Span of Control: Any area in which a supervisory employee may have some impact, including giving directions, assigning duties, conducting performance reviews, in whole or in part, sitting on promotion boards, or otherwise having any impact on the terms or conditions of employment.

Supervisory/Subordinate Relationship: Includes any person over whom the supervisor has a supervisory responsibility, and shall include the entire chain of command within the Department.

Work area: Any KDOC facility or satellite unit, Parole Office, or Central Office division.

## **PROCEDURES**

### **I. When Family or Household Members Are in the Custody or Under the Supervision of the Secretary of Corrections**

- A. When a person is applying for employment at a facility within which a family or household member is housed, the following procedures shall be followed:
  - 1. The warden/superintendent shall evaluate the position for which the person is applying to determine whether a potential breach of security would occur if the person were employed in that position.
  - 2. The person shall be denied employment for any position within a facility housing a family or household member if the warden/superintendent determines that a breach of security would occur.
  - 3. An otherwise qualified applicant may be considered for any other position where direct or indirect supervision would not occur.
- B. When a person is applying for employment at a facility other than the one within which a family or household member is housed, that person shall be considered for employment in any position for which they are otherwise eligible.
- C. When a person is applying for employment at a parole office in which a family or household member is under post-incarceration supervision, the following procedures shall be followed:
  - 1. The parole director shall evaluate the position for which the person is applying to determine whether:
    - a. the person would be in direct or indirect supervision over the family or household member; and/or
    - b. a potential breach of rules of confidentiality would occur if the person were employed in that position.

2. The person shall be denied employment for any position within a parole office supervising a family or household member if the parole director determines that the person would be in direct or indirect supervision over the family or household member and/or a breach of rules of confidentiality would occur as a result of the employment.
  - a. An otherwise qualified applicant may be considered for any other position where direct or indirect supervision would not occur and where a breach of rules of confidentiality would not occur.
- D. When a person is applying for employment at a parole office other than the one under which a family or household member is supervised, they shall be considered for employment in any position for which they are otherwise eligible.
- E. When a person is applying for employment at a KDOC Central Office Division while a family or household member is committed to the custody of the Secretary of Corrections or is currently being supervised by parole services, the following procedures shall be followed:
  1. The appointing authority shall evaluate the position for which the person is applying to determine whether:
    - a. the person would be in direct or indirect supervision over the family or household member; and/or
    - b. a potential breach of rules of confidentiality would occur if the person were employed in that position.
  2. The person shall be denied employment for a position within Central Office if the appointing authority determines that the person would be in direct or indirect supervision over the family or household member and/or if a breach of rules of confidentiality could occur as a result of the employment.
    - a. An otherwise qualified applicant may be considered for any other position in Central Office where direct or indirect supervision would not occur and where a potential breach of rules of confidentiality would not occur.
- F. When a current employee becomes aware that a family or household member is incarcerated within any of the Department's facilities, the following procedures shall be followed:
  1. The employee shall:
    - a. immediately make a verbal report of all pertinent facts to his or her immediate supervisor; and
    - b. file a written report with the warden/superintendent prior to the end of the employee's tour of duty on that day.
  2. The warden/superintendent shall determine whether the continued employment of an individual who has a family or household member incarcerated within the facility would constitute a breach of security.
  3. If the warden/superintendent determines that a breach of security would exist by the continued employment of the person, the warden/superintendent may take any of the following actions:
    - a. Transfer the offender to another facility;

- b. Adjust the employee's work schedule to ensure minimal contact with the offender family or household member;
  - c. To the extent possible, change or modify the employee's job duties to nullify the potential breach of security;
  - d. With the employee's permission, arrange for the transfer of the employee to another facility; and/or
  - e. Any satisfactory alternative action that is approved by the Deputy Secretary of Facility Management.
- G. When a current employee becomes aware that a family or household member is supervised by the parole office where the employee is employed, the following procedures shall be followed:
- 1. The employee shall:
    - a. immediately make a verbal report of all pertinent facts to the immediate supervisor; and
    - b. file a written report with the parole director prior to the end of that business day.
  - 2. The parole director shall determine whether the continued employment of the person would result in the employee's having direct or indirect supervision over the parolee and/or result in a breach of the rules of confidentiality.
  - 3. If the parole director determines that direct or indirect supervision and/or a breach of the rules of confidentiality would exist by the continued employment of the person, the parole director may take any of the following actions:
    - a. To the extent possible, change the employee's work schedule and/or job duties to ensure minimal contact with the offender family or household member;
    - b. With the employee's permission or the written approval of the Secretary of Administration, arrange for the transfer of the employee to another parole office;
    - c. Arrange for the supervision of the offender by a different employee from a different district office or from a different region, whichever is sufficient to remedy the conflict; and/or
    - d. Any satisfactory alternative action that is approved by the Deputy Secretary for the Division of Community and Field Services.
- H. When a Central Office employee becomes aware that a family or household member is incarcerated within a KDOC facility or is under the supervision of parole services, the following procedures shall be followed:
- 1. The employee shall:
    - a. immediately make a verbal report to his or her immediate supervisor; and
    - b. file a written report with the appointing authority prior to the end of the business day.
  - 2. The appointing authority shall determine whether the continued employment of the person would constitute a conflict of interest and/or a potential breach of security or confidentiality.

3. If the appointing authority determines that a conflict of interest or a potential breach of security or confidentiality would be created by the continued employment of the person, the appointing authority may arrange for the transfer of the employee to another position within Central Office or any other satisfactory alternative action.
- I. Failure to report that a family or household member is incarcerated in a facility or under the supervision of a parole office as provided herein may subject the employee to disciplinary action, up to and including dismissal, if it is shown that the employee knew or should have known of the family or household member's incarceration or supervision.

## **II. When Family or Household Members Are Employed Within the Same Work Area**

- A. When an employee becomes aware that a family or household member is employed within the work area where the employee is also employed, the following procedures shall be followed:
  1. The employee shall:
    - a. immediately make a verbal report of all pertinent facts to the employee's immediate supervisor; and
    - b. prepare a written report to the warden/superintendent, parole director or appointing authority on the same day and prior to the end of the employee's tour of duty.
  2. The warden/superintendent, parole director or appointing authority shall determine whether the individuals are employed in a manner that would constitute either a conflict of interest or a violation of Governmental Standards and Conduct by virtue of being family or household members.
  3. If the warden/superintendent, parole director or appointing authority determines that either a conflict of interest or violation of Governmental Standards and Conduct exists, the warden/superintendent, parole director or appointing authority may take any of the following actions:
    - a. Adjust the employees' work schedules to ensure that family or household members are assigned to different shifts;
    - b. To the extent possible, change or modify one or both of the employees' job duties to nullify the violation of Governmental Standards and Conduct;
    - c. With the permission of the employee or written approval from the Secretary of Administration, arrange for the transfer of one employee to another KDOC facility; and/or
    - d. Any satisfactory alternative action, that substantially conforms with accepted State and departmental human resources practices.
  4. All Department of Corrections employees and contract personnel within a facility or parole region are directly or indirectly supervised by the warden/superintendent or parole director who is the appointing authority for that facility or parole region. Likewise, a person who acts as appointing authority in the absence of the warden/superintendent or parole director is often placed in the delegated position of directly or indirectly supervising all personnel within the facility or parole region. Under no circumstance shall an employee be hired, promoted, demoted, or transferred into a position that would create a conflict of interest or violation of Governmental Standards and Conduct.

### **III. Prohibited Personal Relationships Between Supervisors and Subordinates**

- A. No supervisor shall engage in a prohibited personal relationship with any employee with whom he or she has a supervisory/subordinate relationship or any employee within the supervisor's span of control.
  - 1. A supervisor who is involved in a prohibited personal relationship with any employee with whom he or she has a supervisory/subordinate relationship or any employee under his or her span of control shall immediately report the existence of the relationship to the appointing authority. Failure of a supervisor to disclose the existence of a prohibited personal relationship to the appointing authority shall be grounds for formal disciplinary action.
  - 2. Upon receiving notification of the existence of a prohibited relationship, the appointing authority shall make a determination to:
    - a. Reassign the supervisor; and/or
    - b. Take such other corrective action as is necessary to ensure compliance with this policy.
- B. The Department discourages any financial dealing between a supervisor and an employee that creates a monetary indebtedness of one to the other. In order to assure that no conflict of interest is created, participants in any financial arrangement that may result in an indebtedness between a supervisor and an employee in excess of \$1,999.00 must provide the appointing authority with a detailed written report prior to finalizing the dealings.

### **IV. Outside Employment**

- A. Employment in any business or activity that would allow a KDOC employee to take advantage of his or her position with the Department for personal gain or profit shall be considered conflicting employment, enterprise, or activity and is forbidden.
- B. Serving (either as an officer, member of the board of directors, or in any capacity for consideration) the interests of any corporation, company, association, partnership, or private business that transacts business with the Kansas Department of Corrections for compensation when such employee holds a State position of review or control over such business transactions shall be considered conflicting employment, enterprise, or activity.
  - 1. Nothing contained herein shall prohibit a departmental employee from being employed by a contractor of the Department, so long as:
    - a. The employee was not involved in the review of the contractor's proposal or the negotiation of the contract; and
    - b. Neither the employee nor an employee directly supervised by the employee has responsibilities with regard to oversight or implementation of the Department's contract.
  - 2. Pursuant to the limitations imposed above, an appointing authority shall generally be excluded from any type of employment or other association with any corporation, company, association, partnership, or business that transacts business with his/her organizational unit.
  - 3. Questions regarding the propriety of an actual or proposed association with a contractor shall be directed to the appropriate Deputy Secretary. As necessary and/or appropriate, the Deputy Secretary shall seek an opinion from the Kansas Commission on Governmental Standards and Conduct.

- C. Using for private gain the time, facilities, equipment, or supplies of the State shall be considered conflicting activity and is forbidden.
- D. Outside employment that would prevent an employee from reporting for duty within one hour in an emergency, or when otherwise required to be present by the appointing authority, shall be considered conflicting employment, enterprise, or activity and is forbidden.
- E. Employment that will prevent the employee from performing his or her job in an efficient and capable manner shall be considered conflicting employment, enterprise, or activity and is forbidden.
  - 1. Employment that places the employee in a subordinate position under offenders currently within departmental supervision shall be construed to prevent the employee from performing his or her job in an efficient and capable manner, and shall be considered conflicting employment, enterprise, or activity and is forbidden.
  - 2. Employment that places the employee in a non-subordinate position with relation to co-workers who are offenders currently within departmental supervision shall not, in and of itself, be considered conflicting employment, enterprise, or activity and is not forbidden.
    - a. However, any employee engaging in any employment, enterprise, or activity approved under the provisions of this IMPP who, at a time subsequent to the approval, becomes aware of the presence of departmentally supervised offenders at the outside job site shall notify his or her appointing authority in writing of this fact no later than the close of his or her next workday with the Department.
    - b. Subsequent to a review of the particulars of the employee's individual situation, the appointing authority shall advise the employee in writing that the previous approval of the outside employment has been either continued or rescinded.
    - c. If the employee is dissatisfied with the decision of the appointing authority, he or she may, within five (5) working days of receiving the decision, submit a written appeal to his or her Deputy Secretary or, where appropriate, to the Secretary of Corrections for a final determination.
    - d. The Deputy Secretary or the Secretary of Corrections shall issue a final determination to the employee within five (5) working day of receiving the appeal.
- F. Using confidential information to advance one's own or someone else's economic interests shall be considered conflicting activity.
- G. Use of one's status as a corrections employee in the performance of outside employment shall be considered conflicting employment, enterprise, or activity.
- H. Serving as a law enforcement officer (as defined by K.S.A. 22-2202) or performing other law enforcement or security related work for another public or private organization shall not, in and of itself, be considered conflicting employment, enterprise, or activity. It shall be emphasized to the outside employer and the employee that the Department is the primary employer and such outside employment activities are conditional on the employee's being available, alert, and attentive to perform Department related duties, including recall for emergencies or overtime. However, any employee who wishes to engage in this type of work outside of his or her employment with KDOC shall obtain permission in advance, and such employment is prohibited unless permission is obtained in advance.
  - 1. Employees wishing to engage in outside law enforcement/corrections employment shall submit to the appointing authority a completed Employee's Application for Permission to

Engage in Outside Law Enforcement/Corrections Employment (Attachment A, Form #02-116-001).

2. The appointing authority shall review the application and render a decision within five (5) working days of receipt.
3. If the employee is not satisfied with the decision made by the appointing authority, the employee may, within five (5) working days after receiving the decision, submit the application to the appropriate Deputy Secretary or, where appropriate, to the Secretary of Corrections for a final determination.
  - a. The Deputy Secretary or the Secretary of Corrections shall return a final determination to the employee within five (5) working days of receiving the employee's application.
- I. Employment that would create liability exposure for the Department under the Fair Labor Standards Act shall be considered conflicting employment and is forbidden.
- J. In the event conflicting employment is discovered, the appointing authority may order that previously authorized outside employment be discontinued.
- K. Employees engaging in any activity falling in the categories listed in this Section or employees failing to discontinue outside employment if ordered to do so shall be subject to disciplinary action, up to and including dismissal.
- L. The appointing authority may review an employee's outside employment situation at any time to determine its propriety.
- M. All applicants for positions in the Department shall be advised of the requirements relative to outside employment.
- N. At the request of the employee, the appointing authority shall determine whether a potential conflict of interest might exist if the employee were to be employed or engaged in the enterprise or activity under consideration.
- O. The employee's immediate supervisor shall consult with the employee to establish the full details of the proposed employment, enterprise, or activity and advise the appointing authority of the findings.
- P. The appointing authority may consult with human resources staff, legal counsel, or the appropriate Deputy Secretary for guidance and/or a decision.
- Q. If it is determined that the proposed employment, enterprise, or activity is in conflict with State employment, the employee shall be so notified in writing.
- R. An employee who engages in any outside employment and who is subject to being called back to duty shall notify the appointing authority in writing (Attachment B, Form #02-116-002) and provide a telephone number for his or her place of outside employment where they can be contacted if an emergency call-back is necessary.
- S. While on non-disciplinary paid or unpaid leave from a position with the Department, no employee shall engage in outside employment during his or her normally assigned work hours with the Department without prior approval by the Appointing Authority. Non-disciplinary leave includes, but is not limited to, sick leave, Worker's Compensation, FMLA, military, funeral, and jury/court duty.
  1. The use of pre-approved vacation or accumulated compensatory time leave is excluded from the restrictions provided in this section.

2. Under no circumstances shall an employee who is on leave from employment with the Department due to a Worker's Compensation covered injury participate in outside employment requiring the performance of duties that are comparable to the essential functions of the employee's normally assigned duties or of adjusted duties available to the employee under the Return to Work Program (IMPP 02-108).

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

### **REPORTS REQUIRED**

None.

### **REFERENCES**

K.A.R. 1-2-8  
K.S.A. 22-2202(13), 46-215 et seq., 46-246a, 19-40-4  
IMPP 02-108  
ACO 2-CO-1C-24  
ACI 3-4067  
APPFS 3-3068

### **ATTACHMENTS**

<b>Attachment</b>	<b>Title of Attachment</b>	<b>Page Total</b>
A	Employee's Application for Permission to Engage in Outside Law Enforcement/Corrections Employment	1 page(s)
B	Outside Employment in Non-Law Enforcement and Non-Corrections Positions Contact for Emergency Call-Back Purposes	1 page(s)

**EMPLOYEE'S APPLICATION FOR PERMISSION  
 TO ENGAGE IN OUTSIDE LAW ENFORCEMENT/CORRECTIONS EMPLOYMENT**

1. Name of Employee	2. Title
3. Facility or Office	4. Present Location/Post and Shift
5. Request is hereby made for permission to engage in the outside employment described in detail as follows: _____ <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"> <span>Name of Employer</span> <span>Address</span> <span>Phone Number</span> </div> <p>Maximum number of hours per week to be devoted to outside employment: _____.</p> <p>If approved, on what date would you begin working? _____</p> <p>If this is a temporary job, when is it scheduled to end? _____</p> <p>What would be your expected hours and days to work at the outside job?</p> <p>_____ to _____ Sun.    _____ to _____ Tues.    _____ to _____ Thurs.    _____ to _____ Sat.</p> <p>_____ to _____ Mon.    _____ to _____ Wed.    _____ to _____ Fri.</p> <p>Describe duties to be performed if approved:</p>  <p>I hereby certify that my services in connection with the outside employment referred to above are conditional on my being available, alert and attentive, and will not have a direct or material bearing on, nor conflict with, nor infringe on my duties with or responsibilities to the Kansas Department of Corrections, including recall for emergencies or overtime, and that the statements made herein are complete and correct.</p> <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 5px;"> <span>Signature of Employee</span> <span>Date</span> </div>	
This request for permission to engage in outside employment or business is: ___ Approved ___ Denied  If denied, reason for denial:   <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 20px;"> <span>Appointing Authority's Signature</span> <span>Date</span> </div>	
___ I am not satisfied with the response from my appointing authority and wish to appeal the decision to the Deputy Secretary or the Secretary of Corrections.  Final determination: ___ Approved ___ Denied Comments:   <div style="display: flex; justify-content: space-between; font-size: small; margin-top: 20px;"> <span>Secretary</span> <span>Date</span> </div>	

**OUTSIDE EMPLOYMENT IN NON-LAW ENFORCEMENT AND NON-CORRECTIONS POSITIONS**

**CONTACT FOR EMERGENCY CALL-BACK PURPOSES**

1. Name of Employee: \_\_\_\_\_  
Position Title \_\_\_\_\_
2. Current Location/Post and Shift: \_\_\_\_\_
3. Outside Employer: \_\_\_\_\_ Phone Number: \_\_\_\_\_
4. Scheduled Hours and Days of Work with Outside employer: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

I understand that, as an employee of the Department of Corrections, I am subject to being called-back or called-in if necessary for the continued safe operations of my facility/office. Further, I acknowledge and understand that my employment with the Department of Corrections has priority over any other employment in which I may engage and that I must report for duty within one hour if called to do so while performing work for an outside employer.

Employee's Signature: \_\_\_\_\_ Date \_\_\_\_\_

Copy Distribution: 1 – Employee 2. – Employee's Personnel File 3. – Rostering Office File