

 <p>CD-032200</p>	<h1 style="text-align: center;">NEW MEXICO CORRECTIONS DEPARTMENT</h1> <p style="text-align: center;"><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i> Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
	ISSUE DATE: 09/06/85	REVIEW/REVISED: 08/13/15
	EFFECTIVE DATE: 10/07/85	
TITLE: Code of Ethics		

AUTHORITY:

- A. NMSA 1978, Sections 10-16-1 through 10-16-18, 33-1-6, and 51-1-1 through 51-1-54, as amended.
- B. Federal Hatch Act, U.S. Code Chapter 73, Title 5 (PL103-94) as amended.
- C. Policy *CD-010100*.
- D. *Piscottano v. Murphy*, 511 F.3d 247 (2nd Cir. 2007)

REFERENCES:

- A. ACA Standard 2-CO-1A-29, 2-CO-1C-04, and 2-CO-1C-24, *Standards for the Administration of Correctional Agencies*, 2nd Edition.
- B. ACA Standard 4-4024, 4-4069 and 4-4281-6, *Standards for Adult Correctional Institutions*, 4th Edition.
- C. ACA Standard 1-CTA-1C-12, *Standards for Correctional Training Academies*, 1st Edition.
- D. ACA Standards 4-APPFS-3C-02, *Standards for Adult Probation and Parole Field Services*, 4th Edition.
- E. ACA Standard 2-CI-5A-2 and 2-CI-5A-8, *Standards for Correctional Industries*, 2nd Edition.

PURPOSE:

Establish the requirements for ethical conduct by New Mexico Corrections Department (NMCD) employees and other applicable personnel and to guard against conflicts of interest that may have an adverse affect on the Department including political practices. **[2-CO-1C-24] [4-4069] [1-CTA-1C-12] [4-APPFS-3C-02]**

APPLICABILITY:

All full-time and part-time Department employees, volunteers to the Department, public or private employees of other agencies doing work for the Department, and consultants and contractors hired directly by the Department.

FORMS:

None

ATTACHMENTS:

Policy/Procedure Acknowledgement Attachment (CD-032201.A)

DEFINITIONS:

- A. Code of Ethics: A set of rules describing acceptable standards of conduct for all applicable personnel of the Department.
- B. Conflict of Interest: Any personal action or inaction motivated by the possibility of personal gain or personal interest which adversely affects the interest of the Department or conflicts with the person's duty to the Department.
- C. Department: The New Mexico Corrections Department.
- D. Investigation: Any inquiry sanctioned by the Corrections Department into the alleged misconduct of staff, or any other matters relevant to the Corrections Department.
- E. Security Risk Group: An organization, association, or group of three (3) or more persons, whether formal or informal, which has a common name and/or common identifying signs or symbols, whose members individually and/or collectively engage in a pattern of criminal activity.

POLICY: [2-CO-1C-04]

- A. The highest possible level of professional, ethical and honest conduct shall be required of all applicable personnel, especially NMCD employees with regard to all matters related to State or NMCD concerns, thereby promoting the protection of the NMCD and facilitating the recruitment and retention of the highest caliber of employees. These high standards shall be maintained by requiring compliance with the NMCD **Code of Ethics**.
- B. Campaigning, lobbying, and political practices shall conform to governmental statutes and regulations and shall be governed by **Code of Ethics. [2-CO-1A-29] [4-4024] [4-APPFS-3C-02]**
- C. Each NMCD employee shall be issued a copy of the current NMCD Code of Ethics by the appropriate human resource administrator. Each employee shall be required to read and sign the Code of Ethics each time it is revised. Immediate supervisors and/or human resource administrators shall sign as witnessing the signature. The signature page shall be filed in individuals' personnel files. The Code of Ethics shall be brought to the attention of other applicable personnel at the beginning of their engagement with the NMCD, and a record made thereof.
- D. Violation of this policy or the NMCD Code of Ethics may be grounds for disciplinary action or cause to terminate any contract.

- E. Personnel are prohibited from accepting any gift or gratuity from an offender or an offender's immediate family or from engaging in personal business transactions with the offender or the offender's immediate family. **[4-APPFS-3C-02]**

- F. Inmates shall be treated with respect in the workplace. **[2-CI-5A-8]**

- G. Inmates shall be protected from personal abuse, corporal or unusual punishment, humiliation, mental abuse, personal injury, disease, property damage, harassment or punitive interference with the daily functions of living, such as eating and sleeping. **[2-CI-5A-2]**



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

08/13/15
Date

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AUTHORITY:

Policy *CD-032200*

PROCEDURES: [2-CO-1C-04]

A. Personal Conduct:

1. Employees of the NMCD shall conduct themselves in a manner that reflects the highest level of professionalism, ethics, and credibility as an employee of the State.
2. Employees shall be loyal to the State and devote their full working days to their duties and the business of New Mexico.
3. Under no circumstances shall employees give rise to a conflict of interest or the appearance of a conflict of interest with the State or with the NMCD.
4. Applicable personnel shall refrain from any conduct that adversely affects the interests of the NMCD or adversely affects the employee's ability to perform his/her duties.
5. Employee actions which adversely affect the NMCD or its interests or adversely affect the employee's ability to perform his/her duties include, but are not limited to:
 - a. Any action which demonstrates negligence or intentional misconduct by an employee.
 - b. Any action which would fit within the definition of just cause, or misconduct as defined in the State Personnel Board rules and regulations.
 - c. Any action which is reported in the newspaper, television other media, or through legitimate and proven reports, which tends to show or does show the NMCD in a bad light or which could cause a negative perception of the NMCD or its abilities to fulfill its obligations or duties.

- d. Any action or inaction that leads any supervisor, NMCD management, or the employee's co-workers to believe that the employee no longer has the ability to fully, adequately, or effectively perform his or her duties.
 - e. Any action or inaction which is improper, intentional or deceptive that affects an employee's credibility.
 - f. Failure to report any of the above actions to a supervisor, NMCD manager, or director.
6. Conduct that is unprofessional, unethical, dishonest or illegal, both on and off duty that may reflect negatively on, conflict with, or adversely affect the Department's interests, mission, vision, goals or standards is prohibited.
- a. This specifically includes affiliation or association with or membership in security risk groups, as defined.
 - b. Employees shall be provided an opportunity to disclose their intentional engagement(s) with a security risk group. It shall be the employee's responsibility to seek written clarification and authority from the Secretary of Corrections or his/her designee regarding his or her ongoing or proposed engagement(s) in any security risk group. The employee will be given written clarification within ten (10) working days regarding whether or not their association or affiliation is a security risk. If association or affiliation is deemed a security risk, the employee will then be given the opportunity to resign employment or disassociate with the group.
 - c. Any employee who fails to seek and obtain this written clarification or authority to first join or associate or continues an existing association or affiliation in any security risk group without the express written authority of the Secretary, or his/her designee, is subject to disciplinary action, up to and including immediate termination.
 - d. Due to the inherent responsibilities of management, there will be zero-tolerance for this type of conduct for supervisors and managers. Supervisors and managers who have been found to have associated or affiliated with a security risk group shall be just cause for immediate termination without benefit of self-disclosure.
7. Employees must give their best efforts, achieve the standards set for their jobs and contribute to and improve the quality of services provided by the NMCD.
8. Employees shall support and affirmatively promote the mission, goals, objectives, directives, written and verbal, and other lawful expectations of the NMCD.

9. To “affirmatively promote” includes actively seeking to achieve the lawful directives of supervisors and management in a positive manner and to be responsive to the reasonable requests of other employees and the public.
10. Employees have the responsibility to know their duties and to perform them efficiently, effectively, safely and correctly.
11. Employees are required to cooperate with management and other employees to achieve the legitimate objectives of their positions, to maintain a positive work attitude, and to adhere to all organizational directives, verbal and written, as well as customs and practices that are established.
12. Employees are required to adjust to the changes that occur in their jobs and to advance their jobs, their knowledge and professional development by keeping abreast of changes in their current field and jobs as well as new jobs if assigned.

While employees have the right to make their own choices in matters of personal concern, they shall not let personal conditions or problems adversely affect their responsibilities to the public and the NMCD.

13. Personnel wearing NMCD uniforms or bearing other insignia of employment by the NMCD during off-duty hours shall not act in a manner that adversely affect the NMCD's interests. Personnel off duty or on duty shall not use either their badge or office or their position as a NMCD employee to seek personal favor or advantage from others. **[2-CO-1C-24]**
14. Consumption of alcoholic beverages on the premises or grounds of any facility or office is expressly prohibited, except at personal residences with the consent of the legal occupant.
 - a. The use or possession of illegal drugs or other illegal substances at any time or place is expressly prohibited.
 - b. Being under the influence of alcohol or illegal drugs on institutional grounds or while on duty for the NMCD is also prohibited. This policy will be strictly enforced and personnel found in violation will be subject to disciplinary action.
15. It is a violation of the Code of Ethics to engage in any conduct that violates civil or criminal law as it adversely affects the interests of the NMCD or the person's ability to perform his/her duty to the NMCD.
16. The NMCD is a law enforcement agency and has the duty to incarcerate, supervise and rehabilitate those who have been convicted of violating the criminal law, all employees, but particularly correctional officers, probation and parole officers and their supervisors who are charged with, arrested, or convicted of a

criminal offense, including domestic disputes, must promptly submit a written report of such fact to his/her supervisor.

- a. This includes the offenses of Driving While under the Influence of Intoxicating Liquor or Drugs (DWI or DUI) and Driving While having a Suspended or Revoked License, but does not include minor traffic violations.
- b. Also, an employee must submit a report in writing to his/her supervisor if the employee's driver's license is suspended or revoked.

B. On-Duty Conduct: [2-CI-5A-2]

1. Applicable personnel will bear in mind that the chief purpose of the NMCD is to enforce the commitment orders of the courts and to supervise offenders under its charge while aiding them in their rehabilitation process.
2. Employees will respect and protect the civil and legal rights of all persons placed in the NMCD's custody or under its supervision. **[2-CI-5A-8]**
3. Applicable personnel will serve each case with appropriate concern for the individual's welfare and with no goal of personal gain.
4. Relationships with the public, colleagues, probationers, parolees and inmates will be of a professional nature and promote improvement of the NMCD's quality of service.
5. Statements critical of others or their agencies will be made only as these are verifiable and constructive in purpose, and made in a personal capacity.
6. Applicable personnel will respect the importance of all elements of the criminal justice system and cultivate professional cooperation with each segment of that system.
7. In any public statement, applicable personnel will clearly distinguish between those statements that are personal views and those that are authorized statements and positions taken on behalf of the NMCD.
8. Employees will conduct themselves in compliance with all laws and regulations so as to not subject their profession, colleagues and NMCD to criticism.
9. No applicable personnel shall give or accept any gifts or gratuities to or from, or engage in any personal business with probationers, parolees, inmates, or their immediate families, agents or close friends except for the purchase of approved inmate hobby crafts.

10. Personnel will not become unduly familiar with any probationer, parolee, inmate or detainee or their immediate families, agents or close friends, excepting interactions incidental to, and necessary for, the operation of the Returning Citizen Program. (CD-113300)
 - a. Undue familiarity is that degree of familiarity with such a person that goes beyond the degree of familiarity necessary for the employee to perform his or her duties on behalf of the NMCD.
 - b. Some examples of undue familiarity are:
 - Any financial or business transactions,
 - Loaning or giving items to such persons,
 - Writing or exchanging notes, letters or pictures,
 - Engaging in telephone conversations,
 - Spending an unusual amount of time alone with such persons, except as necessary to perform duties on behalf of the NMCD.
 - c. It is inappropriate for NMCD employees to display affection toward or have an intimate or personal relationship with persons under the NMCD's supervision as such relationships interfere with the proper supervision of probationers, parolees, inmates or detainees.
 - d. Undue familiarity also includes any behavior or act of a sexual nature towards an offender by a NMCD employee, contractor, volunteer, visitor or NMCD representative. This includes but is not limited to:
 - Sexual assault.
 - Sexual abuse.
 - Sexual contact.
 - Conduct of a sexual nature.
 - Kissing and or hugging.
 - Sexual gratification of any party.
 - Obscenity or unreasonable invasion of privacy.
 - e. Sexual misconduct also includes conversations or correspondence of a romantic, intimate, or sexual nature between an offender and any NMCD employee, contractor, volunteer, visitor, or NMCD representative. Such conduct compromises the professional relationship personnel have with people under their care, custody, supervision or control that can interfere with proper supervision or compromise security. [4-4281-6]
11. The actions of applicable personnel are to be in accordance with prescribed rules and regulations relevant to their Division or Unit within the NMCD.

12. Applicable personnel are expected to perform their assignments in a manner that reflects professional judgment, honesty, prudence and sincere interest in the State and the NMCD.
13. Applicable personnel shall maintain an attitude of courtesy and service to NMCD employees, inmates, and other individuals who have contact with the NMCD.
14. Applicable personnel who are insubordinate or fail or refuse to follow the directives or orders of their supervisors or other managers acting within their appropriate authority are subject to disciplinary action. Insubordination includes, but is not limited to:
 - a. Situations where an employee fails or refuses to follow the directive or order of a supervisor or manager if the directive or order involves matters within the manager's or supervisor's jurisdiction or authority, even if the manager or supervisor is outside that employee's normal chain of command.
 - b. Any employee who has questions or concerns about following an order or directive given by a supervisor or manager outside his or her normal chain of command must immediately bring forth his or her concerns and fully disclose the order or directive to his or her supervisor, bureau chief or division director, as appropriate, for consideration.
 - c. Employees shall not subvert the order or directive of the supervisor or manager outside their normal chain of command by going to another person or supervisor and, without fully disclosing the order or directive, attempt to avoid complying with the order or directive.

Any employee's failure to fully inform and disclose the order or directive to his or her director, accompanied by the employee's failure to follow the order or directive, shall be considered insubordination.
15. Applicable personnel shall protect and conserve State government property, including equipment, supplies and other property entrusted or issued to them. They shall not willfully damage or otherwise misuse State government property, including vehicles, equipment, tools and instruments.

C. Personnel Investigations:

1. Applicable personnel may be required to participate in an investigation, provide a statement or submit to a polygraph examination in any investigation concerning the provisions of this code, any other suspected misconduct or any other matters relevant to the Corrections Department.
2. Corrections Department personnel shall be truthful, accurate, forthright and complete in their statements. Failure to do so shall be grounds for dismissal.

3. NMCD employees shall be required to provide a statement or fully and completely answer any and all questions posed to him or her during an NMCD-related investigation or polygraph examination. Failure to do so shall be grounds for dismissal. Any volunteer or contractor is also subject to the immediate termination of his or her contract for such a failure to cooperate or participate in an investigation.
4. A conclusive determination that a NMCD employee provided a deceptive or untruthful answer to any question posed by an investigator or polygrapher shall be grounds for dismissal. Any volunteer or contractor who engages in such behavior is also subject to the immediate termination of his or her contract.
5. Employees of the NMCD, as defined in the applicability section of this code, may be required to submit to a drug or alcohol test in accordance with State Personnel Board Rules. An employee's refusal to comply with testing requirements or examiner, or requirements necessary to conduct the test, shall be grounds for dismissal.
6. NMCD employees placed on administrative leave during an investigation shall be required to comply with all written conditions of such leave. Failure to do so shall be grounds for dismissal.

D. Outside Employment:

All employees shall be expected to place the responsibility and obligations of their position and assignment with the NMCD first, and shall only be permitted to engage in outside employment subject to the following conditions.

1. There shall be no conflict of interest or conflict of activity between the outside employment and the work of the NMCD.
 - a. Whether a particular outside employment gives rise to suspicion or conflict of interest or incompatibility of employment must be determined on the facts of each individual situation.
 - b. To this end, any employees contemplating or currently involved in outside employment will prepare a statement outlining this employment.
 - c. This statement, following review by the appropriate Warden, Region Manager, Division Director, or Deputy Secretary, will be filed in the individual's personnel file and reviewed annually at the time of annual evaluation for accuracy.

2. All present employees and all new employees entering the NMCD must have the prior written approval of the appropriate Warden, Region Manager, Division Director, or Deputy Secretary before obtaining outside employment.
3. Any outside employment shall not interfere with the work of the NMCD. Failure to disclose and obtain authorization of outside employment may result in disciplinary action.
4. Any outside employment may be terminated by order of the Secretary if, in his opinion, such work is adversely affecting the efficiency, quality and effectiveness of the employee's work with the NMCD.
5. No outside employment shall be conducted on NMCD premises nor shall office equipment, supplies, machines, vehicles or technical data be used for such employment.
6. Authorized outside employment shall not occur during the hours the employee is scheduled to work for the NMCD unless annual leave is authorized.

E. Conflict of Interest:

1. Every employee who has a financial interest which he or she believes or has reason to believe may be affected by actions of the NMCD shall disclose the precise nature and value of such interest. The disclosures shall be made in writing to the NMCD Secretary before entering State employment, and during the month of January every year thereafter.
2. Under no circumstances shall applicable personnel give rise to a conflict of interest or the appearance of a conflict of interest with the State or NMCD. Such conflicts of interest include, but are not limited to, the following:
 - a. No employee shall directly or indirectly acquire a financial interest in a business that may be directly affected by any official act of the employee.
 - b. No employee may directly or indirectly make any bids for the purchase of property put up at a public sale by the NMCD. Applicable personnel shall not accept any procurement bid from nor award a contract to a person, organization, firm, corporation, or other entity who directly or indirectly participates in the preparation of specifications for purchase.
 - c. An employee shall not engage directly or indirectly in a financial transaction as a result of or primarily relying on information obtained through his or her State employment.

- d. No employee may directly or indirectly accept or give any compensation, gift, ban, entertainment, favor or service which would tend to give an appearance of impropriety or which might interfere in the discharge of official duties.

F. Disclosure or Misuse of Information:

1. Applicable personnel shall not directly or indirectly use official information that is not available to the general public or contract with the State for the purpose of furthering a private interest or allow such use of official information obtained through or in connection with his or her State employment.
2. Applicable personnel shall not, except as specifically authorized, disclose any official information which represents a matter of confidence or trust or any other official information of such character that its disclosure or use would be contrary to the best interest of the State, the NMCD, or the client and/or inmate being served.

Information concerning an inmate's, client's, or other State employee's personal life, social history and private affairs is confidential information and shall not be the subject of casual conversation or gossip.

3. Official records of the NMCD are the property of the NMCD and will be filed according to the rules of the NMCD. Personnel will not remove records or copies thereof from the NMCD without lawful authority.
4. Except as set out below, applicable personnel are prohibited from tape recording, video recording or otherwise electronically recording the acts of others or conversations with or among other personnel while at or on any work site, unless all persons proposed to be so recorded have consented to being so recorded.
5. It is a violation of this Code of Ethics to make or use any such recording; as such recordings cause undue suspicion, stress and other problems in the workplace. Employees who violate this provision are subject to disciplinary action.
 - a. This provision does not apply to employees who record investigations, interviews or serious incidents in accordance with their duties; to those employees who record oral response hearings in accordance with their duties or to any other employees who need to legitimately record events in accordance with their duties.

Although it is not required to obtain the express consent of the persons whose actions or words are being recorded in these situations, the persons who are being recorded shall be provided with notice that they are being recorded to the extent practicable.

- b. Furthermore, in circumstances which justify the need for surreptitious recording, such as an investigation into allegations of continuing and on-going sexual harassment or verbal harassment, the Cabinet Secretary or Deputy Secretary may authorize surreptitious recording to the extent permitted by law.

G. Gratuity: [4-APPFS-3C-02]

- a. Applicable personnel shall not give or accept any favor or gratuity to or from any person, firm, corporation or other entity which would affect or appear to affect the person's judgment in the performance of his or her duties in an impartial manner. This does not apply in the case of an occasional non-pecuniary gift that is insignificant in value, a public award, or a loan made in the ordinary course of business.
- b. Supervisors shall not place themselves in positions of potential indebtedness to their subordinates.
- c. Supervisors will not permit persons subordinate to them to provide them with representation in grievance matters or lawsuits.

H. Political Activities: [2-CO-1A-29] [4-4024]

1. NMCD employees whose principal employment is financed in full or part by the United States or a federal agency are subject to the Hatch Act.
2. Political activities prohibited to NMCD employees include holding of partisan political office, soliciting or handling political contributions, distribution of campaign literature and soliciting political support for a party faction or candidate while on duty with the State. All incumbents are prohibited from:
 - a. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose;
 - b. Directly or indirectly coercing, attempting to coerce, commanding, or advising a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose;
 - c. Threatening to deny promotions to any incumbent who does not vote for certain candidates, requiring incumbents to contribute a percentage of their pay to a political fund, influencing subordinate incumbents to buy tickets to political fund-raising functions and similar events, advising incumbents to take part in political activity, and matters of a similar nature;

- d. Engaging in political activity while on duty;
- e. Being an officer of a political organization; and
- f. Engaging in political activity during work hours or in any way using State equipment, supplies, etc., in any political activity.

I. Discrimination/Harassment:

Applicable personnel will not harass or discriminate against any employee, prospective employee or other person having business with the NMCD on the basis of race, color, sex, sexual orientation, national origin, religion, age, or disability (collectively referred to as a protected class). (Refer to CD-033200, Unlawful Discrimination/Sexual Harassment.) Examples of discrimination/harassment include, but are not limited to:

- Innuendos, verbal abuse, jokes, or "teasing" based on a protected class;
- Unwanted physical contact such as hugging, patting, stroking or grabbing body parts;
- Statements or acts of a sexual nature about a person's physical attributes or sexual activity;
- Displaying pictures, objects, or materials or using terms of a disparaging, demeaning or derogatory nature to refer to any person of a certain protected class;
- Making obscene gestures or suggestive or insulting sounds
- Indecent exposure;
- Suggesting or demanding sexual favors or activity in relation to any condition of employment,
- Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain protected class; and
- Retaliation against an individual who has made a discrimination complaint or otherwise engages in a protected activity.

J. Enforcement:

All employees of the NMCD will familiarize themselves, as a part of their orientation training, with general rules and regulations, as contained in the NMCD's Administrative Policies and Procedures Manual and with the more specific rules and regulations set forth by each division and institution within the NMCD.

All employees, contract personnel, and volunteers shall sign the **Policy/Procedure Acknowledgement** Attachment (*CD-032201.A*) which shall be retained in their personnel file.

All employees, contract personnel, and volunteers are required to report policy or procedure violations or violations of the code of ethics to their immediate supervisor or

Division Director, failure to report violations may result in disciplinary action and may be grounds for employment termination or cause to terminate any contract.



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

08/13/15
Date

NEW MEXICO CORRECTIONS DEPARTMENT
Policy/Procedure Acknowledgement

(CD-032200-01, Code of Ethics)

I, _____, acknowledge that I have received a copy of policy *(CD-032200)* and Procedure *(CD-032201)* and I further acknowledge that it is my responsibility to become familiar with this policy/procedure and recognize that violations may result in disciplinary action. If I have questions or if I do not understand any provision of this policy/procedure, I will ask my supervisor.

_____ **Code of Ethics**

Employee's Signature

Date

Witness's Signature

Date

Original = Employee File
Copy = Employee