west virginia
DIVISION OF PERSONNEL | GUIDE

EMPLOYEE CONDUCT EXPECTATIONS

DISCLAIMER

This document is intended to serve as a reference guide for employee conduct for employees in agencies covered by the West Virginia Division of Personnel (DOP). The general information it contains should not be construed to constitute a DOP policy, nor shall it supersede any law, rule, or policy. In case of any inconsistencies, the statutory and regulatory provisions prevail.

This document is written with the understanding that the DOP is not engaged in rendering legal services. If legal advice or assistance is required, the services of an attorney should be sought.

Supervisors and employees should also refer to policies, rules, and regulations, as well as consult with the human resources office within his or her respective agency. For technical assistance concerning specific situations, employees and agencies may contact the DOP Employee Relations Section at (304) 414-1853.

The purpose of this publication is to provide general guidance regarding employee conduct expectations. Agencies are encouraged to develop agency-specific policies based on the general information provided within this document.

Agencies must communicate basic principles regarding expected standards of conduct and ensure State government workplaces are safe, productive, and secure for State employees and the public they serve. Employees are expected to observe a standard of conduct that will not reflect discredit on the abilities and integrity of employees of the State of West Virginia or create suspicion with reference to employee capability in discharging their duties and responsibilities. Employees are charged to conduct their duties in a manner to ensure public confidence in the integrity and impartiality of State government.

This document is not all-inclusive, and agency management has the authority to address any unacceptable behavior not specifically mentioned herein.

Nothing in this document or any other document, policy, or Rule of the Division of Personnel shall be interpreted to conflict with or to eliminate or modify in any way the employment status of at-will/classified-exempt employees, or to constitute a contract of employment, express or implied.

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Attendance and Punctuality

Attendance and punctuality are essential parts of an employee's job performance. Employees are to report for work fit for duty as scheduled, commence work promptly at the appointed time, and comply with established procedures for requesting and reporting absences and tardiness. Unacceptable punctuality and attendance are grounds for corrective and disciplinary action and may be reflected in the performance evaluation.

Confidentiality

West Virginia Executive Branch Agencies maintain confidential information, including but not limited to Protected Health Information (PHI), financial information, Social Security numbers, passwords, and other Personally Identifiable Information (PII) on State employees, clients, and citizens. All employees with access to privileged information must take appropriate precautions to preserve the privacy, confidentiality, integrity, and accessibility of confidential information from threats, unauthorized access, use, or disclosure through proper management and physical and technical controls.

Employees may only access information necessary for the performance of their official duties and in compliance with applicable policies. At no time shall confidential information be used or disclosed for personal or non-work-related purposes. Accessing confidential information acquired as a public servant for non-business purposes, including, but not limited to, for-profit, personal gain, personal knowledge, grievances, or improperly disclosing or using confidential information to benefit personal interests, is a violation of the Ethics Act and a criminal misdemeanor. Violations of these policies may result in the loss of access privileges, disciplinary action, dismissal, and, when appropriate, civil and criminal prosecution. Employees must immediately report any apparent or suspected security breaches to their supervisor. For more information on privacy, visit the West Virginia State Privacy website.

Criminal Activity, Fraud, Waste, and Abuse

Criminal activity, fraud, waste, abuse, or the concealment of such will not be tolerated. For the purposes of this document, criminal activity is defined as a finding of responsibility for a crime by a court of law or a juvenile court, including, but not limited to, any finding of "guilty except by reason of insanity," "not guilty by reason of insanity," or similarly worded findings. A plea of "guilty" or "no contest" is also considered a conviction for the purpose of this document unless a subsequent court decision has dismissed the charges. Concealment is an act of omission and is defined as the act of refraining from disclosure, especially an act by which one prevents or hinders the discovery of something.

Employees may be required to report any citation or arrest no later than five (5) calendar days from the date of the incident, which occurs while the employee is on duty as well as any off-duty citation or arrest in which a reasonable nexus exists between the off-duty infraction and the employee's job responsibilities or that may impact the employee's ability to perform their assigned job duties. If an employee is unsure if a reasonable nexus exists, he or she should contact their human resources designee immediately.

Failure to report such incidents within the expected timeframe may result in disciplinary action, up to and including dismissal. Employees found to have committed or concealed a criminal act or incident(s), including failure to report fraud, waste, or abuse of state funds, are subject to disciplinary action, up to and including dismissal, depending upon the severity of the offense and the nexus to the employee's job responsibilities.

Discipline and Corrective Action

There are standards of acceptable job performance, ethical behavior, and professionalism defined by the supervisor or manager that each State employee is expected to maintain. Corrective and disciplinary measures may be imposed when employees do not perform at an acceptable standard or when their conduct interferes with, embarrasses, or is detrimental to the agency's operation. Corrective and disciplinary action may include, but is not limited to, training, corrective counseling, improvement plans, verbal or written reprimands, suspensions without pay, and demotions with prejudice. If corrective and disciplinary action fails to resolve the unacceptable behavior, or the severity of the offense warrants it, an employee may be subject to dismissal. Generally, each case must be evaluated on its own merits, ensuring fairness through the principles of progressive discipline and consistency in penalties for similar offenses. Steps typically observed in the progressive discipline process may be omitted based on the seriousness of the offense and/or the employee's merit system coverage as a classified, classified-exempt, exempt, or temporary employee. Employees who are covered by the Public Employees Grievance Procedure may grieve any disciplinary action.

Dress and Appearance

Employees are to comply with dress code policies established by his or her respective agencies. Employees are expected to dress in a professional manner that is appropriate to the work assignment and that is normally acceptable in professional business establishments. Denim jeans of any color and T-shirts are not acceptable attire; however, an appointing authority may make exceptions only when the duties of the position necessitate it. Clothing is not to be worn in such a manner as to be inappropriately revealing or to expose undergarments. Employees are expected to wear clothing that is clean and in good repair and observe a high standard of personal hygiene. Perfume, cologne, and/or other scented products should not be excessive or distracting. An appointing authority may impose additional restrictions on the use of scented products.

All employees are prohibited from wearing clothing or jewelry or displaying accessories while engaged in work that depicts or alludes to obscenity, violence, or sex; use of controlled substances; or conveying political or religious opinions or unsuitable slogans. Discreet jewelry is acceptable in most circumstances. However, where there are concerns about productivity, safety, or public image, agencies may restrict jewelry, accessories, and other forms of personal expression, commonly considered alongside dress and grooming (e.g., body piercings, tattoos). The appointing authority or designee reserves the right to address all situations not explicitly outlined in any formal agency policy in a manner consistent with the policy's stated purpose. Tattoos containing words or images that depict or allude to the items referenced in the previous paragraph shall not be visible while engaged in work.

Dress or appearance standards resulting from a sincerely held religious conviction should be discussed with a supervisor. Reasonable accommodations shall be considered on an individual basis. More information is available in the DOP policy DOP-P3, *Agency Dress Codes*.

Drugs and Alcohol

In compliance with the DOP policy DOP-P2, *Drug- and Alcohol-Free Workplace*, employees are prohibited from using, possessing, purchasing, manufacturing, distributing, dispensing, selling, or having in the body system alcohol and illegal drugs. The use and possession of legal drugs must be in the manner in which they are intended. Abuse or misuse of over-the-counter or prescription drugs or other intoxicants in the workplace is prohibited.

Provisions of the *Drug- and Alcohol-Free Workplace* policy shall apply to any area where work is conducted, including parking areas provided by the State, even if not owned, leased, or operated by the State and while employees are engaged in any work-related activity, which includes the performance of agency business during scheduled work periods, periods of overtime, meal breaks, and/or social occasions having a connection with the job or the agency. When reasonable suspicion exists that an employee has reported to work under the influence of alcohol or illegal drugs or is impaired due to abuse or misuse of controlled substances, prescription medication, or other intoxicants, the employee may be subject to medical assessment and/or alcohol and/or drug testing. Employees who violate the policy are subject to disciplinary action, up to and including dismissal, and may be required to participate in a drug rehabilitation program as a condition of continued employment or reemployment.

Ethics Act

The West Virginia Governmental Ethics Act provides a code of ethical conduct to guide public officials and employees, helping them avoid conflicts between their personal interests and public responsibilities. The independence and impartiality of public officials and employees are essential to maintaining the confidence of our citizens in the operation of a democratic government.

The basic principle underlying the standards created by the Ethics Act is that those in public service should use their positions for the public's benefit and not for their private gain or the private gain of another. Of particular concern are the acceptance of gifts or gratuities, political activity, secondary employment issues, and conflicts of interest, including the use of public office for private gain.

The West Virginia Ethics Commission is responsible for educating and advising public servants regarding the Act and for enforcing the Act. Employees with specific questions or who desire more information may contact the Ethics Commission at (304) 558-0664 or visit their website at www.ethics.wv.gov.

Gambling, Betting, and Lotteries

Employees are not permitted to engage in gambling activities while on State property, owned or leased, or while engaged in work activity. Examples of prohibited activities include, but are not limited to, permitting the solicitation of a lottery and selling/purchasing raffle tickets unless for charitable organizations as defined in the Solicitation section of this document. Within the applicable provisions of state law, appointing authorities may permit exceptions for students, clients, patients, inmates, residents, etc., entrusted to the care of the State of West Virginia. For more information, contact the Ethics Commission at (304) 558-0664 or at www.ethics.wv.gov.

Harassment and Discrimination

Harassment and discrimination in any form are prohibited in the workplace. This includes, but is not limited to, harassment and discrimination based upon race, color, religion, sex, national origin, age, disability, and protected activity (i.e., opposition to prohibited discrimination or participation in the complaint process) or status explicitly defined as protected under applicable federal and/or State law as well as non-discriminatory hostile workplace harassment (bullying). Illegal and non-discriminatory hostile workplace harassment will not be tolerated within the workplace and will result in appropriate disciplinary action, up to and including dismissal.

Retaliation against an employee for engaging in a legally protected activity is unlawful and will not be tolerated.

Legally protected activity may include, but is not limited to:

a) Filing a Workers' Compensation claim;
b) Reporting an instance of waste or wrongdoing as provided in the Whistleblower law;
c) Filing a complaint with the U.S. Equal Employment Opportunity Commission;
d) Filing a complaint with the West Virginia Human Rights Commission;
e) Filing a complaint with the State and/or federal Department of Labor;
f) Filing a grievance with the Public Employees Grievance Board;
g) Filing a complaint with the U.S. Occupational Safety and Health Administration; and
h) Serving as a witness, assisting a complainant, or participating in an investigation

Sexual harassment is prohibited by State and federal anti-discrimination laws, including but not limited to where: (1) submission to such conduct is made a term or condition of employment, either explicitly or implicitly; (2) submission to or rejection of such conduct by an individual is used as the basis for personnel actions affecting such individual; or (3) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Non-discriminatory hostile workplace harassment is a form of harassment commonly referred to as "bullying " that involves verbal, non-verbal, or physical conduct that is not discriminatory in nature but is so atrocious, intolerable, extreme, and outrageous in nature that it exceeds the bounds of decency and creates fear, intimidates, ostracizes, psychologically or physically threatens, embarrasses, ridicules, or in some other way unreasonably overburdens or precludes an employee from reasonably performing his or her work. Although the scope of the Civil Rights Act of 1964 does not extend to protect employees who are not members of a protected class from unlawful employment discrimination, an employee can still impute liability upon an employer for the infliction of emotional distress if the employer fails to take corrective action when an employee provides notice of nondiscriminatory workplace harassment that has subsequently created a hostile work environment for the employee.

Non-discriminatory hostile workplace harassment involves the repeated unwelcome mistreatment of one or more employees, often involving a combination of intimidation, humiliation, and sabotage of performance, which may include, but is not limited to:

a) Unwarranted constant and destructive criticism;
b) Singling out and isolating, ignoring, ostracizing, etc.
c) Persistently demeaning, patronizing, belittling, and ridiculing; and/or,
d) Threatening, shouting at, and humiliating, particularly in front of others

Employees who believe they have been harassed or are alleging illegal harassment have a duty to promptly report the incident or complaint to the agency's EEO Coordinator/Counselor or his or her immediate supervisor. Individuals also have the right to file such complaints with the West Virginia Human Rights Commission and/or the United States Equal Employment Opportunity Commission (EEOC).

Nondiscriminatory hostile work environment claims are not within the jurisdiction of the EEO. Employees must address such complaints through their manager/ supervisor, the Public Employees Grievance Board grievance procedure (*if applicable*), or litigation.

Reports of harassment and complaints shall be handled in accordance with DOP policy DOP-P6, *Prohibited Workplace Harassment*.

Health and Safety/Workplace Security

Employees are responsible for taking precautions to protect themselves and co-workers from unnecessary hazards to health and safety. Employees shall comply with the required use of safety equipment and report any hazardous or unsafe working conditions to their immediate supervisor. In compliance with DOP policy DOP-P15, *Workplace Security*, the possession by an unauthorized individual of any firearm or dangerous/deadly weapon in the workplace, or the exhibition of threatening behavior, is prohibited. If an unsafe act or situation is observed or if an employee is injured, a supervisor must be notified immediately, and an incident report must be made.

Information Technology Resources

Employees will be provided access to State-provided information technology resources to support business activities and only on an as-needed basis to perform their jobs and professional roles. Employees should have no expectation of privacy in the use of state-provided technology resources, including, but not limited to, the West Virginia Office of Technology (WVOT) Network, including email, and the use of wireless access points. In accordance with the WVOT policy, Acceptable Internet Usage (WVOT-PO1022), excessive use of the Internet by personnel inconsistent with business needs is considered a misuse of State resources. Minimal, incidental, personal use may be permissible provided it is limited to break periods, does not interfere with the legitimate business of the State, and is not in violation of State, department, or agency policy. Information accessed or exchanged through the network is the property of the State. All Internet and Network activity is monitored and may be examined by WVOT. The State reserves the right to retrieve computer records and review usage history for legitimate business reasons, including, but not limited to, recovery of system failures, State operational standards, investigations of alleged wrongful acts, location of lost data, and investigation of suspected failure to comply with agency e-mail and Internet use policies.

Solicitation and transmission of political, obscene, profane, harassing, discriminatory, derogatory, or intimidating material or messages are specifically prohibited. The State's communication systems shall not be used in a manner that violates any policy, rule, or law. More information on this subject, including all WVOT policies, is available on their website at www.technology.wv.gov.

Insubordination

Employees are expected to adhere to the reasonable and legal directives of their supervisors. An employee's refusal to perform any lawful directive from his or her supervisor constitutes insubordination and is grounds for disciplinary action. However, refusal to obey a superior's order based on a good-faith belief that the order violates a law, regulation, or policy may not be considered a willful refusal to obey, provided the employee informs the supervisor or his or her manager of that belief. An employee is expected to respect authority and does not have the unfettered discretion to disobey or ignore clear instructions. Insubordination encompasses more than an explicit order and subsequent refusal or intentional failure to carry it out. It also involves a flagrant or willful disregard for an employer's implied directions. Choosing to perform other work, or refusing or failing to perform work as assigned or directed by a supervisor, may be considered insubordination.

Nepotism

As provided in the DOP *Administrative Rule* (143CSR1), no appointing authority may influence or attempt to influence the employment or working conditions of his or her immediate family. Immediate family consists of the parents, children, siblings, spouse, parents-in-law, children-in-law, grandparents,

grandchildren, step-parents, step-siblings, stepchildren, foster children, individuals in an *in loco parentis* relationship, and individuals in a legal guardianship relationship. It is the responsibility of the appointing authority to administer the employment of relatives of any agency employee consistently and impartially.

Employees may not directly supervise a member of his or her immediate family. More specifically, no employee shall review or audit the work of a member of his or her immediate family, or take part in discussions concerning employment, assignment, compensation, discipline, or related matters involving such a member. In the event an individual, through marriage, adoption, etc., is placed in a prohibited business relationship with a member of his or her immediate family, the situation must be resolved within thirty (30) calendar days. Resolution may be achieved through the transfer, reassignment, or resignation of one of the involved employees, or through other accommodations that protect the public interest.

The West Virginia Ethics Commission defines nepotism as favoritism shown or patronage granted in employment or working conditions by a public official or public employee to relatives or persons with whom the public official or public employee resides without consideration of other applicants or qualifications required to perform the job. The Ethics Act provides that a public official or public employee may not knowingly and intentionally use their office or the prestige of their office for their private gain or that of another person. The Ethics Commission has determined that nepotism constitutes private gain and is therefore a violation of the Act.

News Media and Publicity

To ensure that each agency speaks with one informed voice on sensitive matters, agencies may prohibit employees from issuing media releases concerning official State business without prior approval from the appropriate authority or designee. All requests for information from the news media must be referred to, and all correspondence to the news media must be sent from the designated authority.

Off-Duty Conduct

Employees engaging in lawful or unlawful unacceptable activity or behavior while not at work may still be subject to disciplinary action if the misconduct:

- is substantial and not frivolous, trivial, or inconsequential;
- reflects adversely on the employee's ability to do his or her job;
- impairs the efficient operation of the employing agency; and,
- bears a substantial relationship to duties directly affecting the rights and interests of the public.

As provided in the Criminal Activity, Fraud, Waste, and Abuse section of this document, employees are expected to report any citations or arrests during the employee's off-duty hours if the citation or arrest may impact the employee's ability to perform assigned duties.

Off-duty conduct involving the exercise of free speech in publicly criticizing the employer is acceptable only if the criticism is in regard to a matter of public rather than personal concern.

For example, complaining about a personal work schedule would not constitute a matter of public concern; a matter of public concern would be bringing to the public's attention concerns such as wrongdoing or violation of the law by the employer. Whether an employee's speech addresses a matter of public concern must be determined by the content, form, and context of a given statement. The *West*

Virginia Whistle-blower Law protects public employees against discharge, discrimination, or retaliation when they, in good faith, report any instances of waste or wrongdoing.

Political Activity

The federal Hatch Act (5 U.S.C., Chapter 15) restricts the political activity of individuals principally employed by State or local executive agencies who perform duties in connection with programs financed in whole or in part by federal loans or grants, regardless of the source of salary or merit system coverage. In addition, State law contains restrictions on the political activity of State employees. Employees subject to political activity laws continue to be covered while on annual or sick leave or while on a leave without pay status. Any DOP-classified employee in a position not connected with a federally funded activity who becomes a candidate for any permitted paid public office must be placed on a leave of absence without pay for the period of such candidacy, commencing upon the filing of the certificate of candidacy.

In compliance with the West Virginia Code, State **DOP-classified** employees **ARE** permitted to do the following:

- Serve as a poll clerk or worker
- Be a candidate for or serve as a delegate to any state or national political party convention
- Voluntarily campaign for a candidate or party during non-work time, off of State property, and without use of State supplies or equipment within the provisions of Election Guidelines and law, so long as they are not paid a fee other than actual expenses incurred
- Voluntarily sell tickets to political affairs to individuals other than employees of the DOP classified service during non-work hours
- Voluntarily erect campaign signs on private property, as long as the property is not used as a State office or official office site by the State
- Voluntarily attend political dinners, rallies, and dances
- Voluntarily serve on campaign committees for a candidate, so long as not receiving compensation for services
- Be a candidate for paid local partisan or non-partisan elective office (except the court of record) by taking a leave of absence commencing with the filing date
- Voluntarily make a monetary contribution to a political party or candidate, not to exceed limitations established by law
- Voluntarily display campaign stickers, posters, etc., on a personal vehicle at such times as the vehicle is not being utilized for County Health Department or State business
- Wear campaign buttons, display bumper stickers, or wear apparel with political logos or endorsements during no-work time off State property, and out of State-issued uniforms
- Be a candidate for unpaid non-partisan local or State office or unpaid partisan local office. A leave of absence is not necessary to be a candidate for an unpaid elective office permitted by statute
- Campaign for, hold elective office in, or membership in political clubs or organizations

In compliance with West Virginia Code, political activities **DOP-classified** employees **ARE NOT** permitted to engage in include, but are not limited to, the following:

- Sell tickets to political affairs to employees of the DOP classified service
- Serve as a campaign financial agent or treasurer for a political committee or candidate
- Be a candidate for any partisan or non-partisan national, state-paid public office, or court or record, including local

- Be a member of any national, State, or local committee of a political party
- Hold any paid elective or appointive office
- Solicit or receive any assessment, subscription, or contribution from employees in the DOP-classified service
- Use, or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, for the purpose of influencing the vote or political action of any person
- Post or distribute campaign literature in a State office building or during work hours. This includes employee organization bulletin boards
- Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, organization, agency, or person for political purposes
- Wear apparel with political logos or endorsements, or wear campaign buttons during work hours if their position requires they be observed by or be in contact with the public, or wear State uniform or insignia
- Organize or conduct political rallies or events

Information regarding additional restrictions on political activity of State employees can be found on the DOP website. Specific inquiries can be directed to the DOP Employee Relations Section at (304) 414-1853.

Due to the numerous criteria governing lobbying activities, employees are urged to call the West Virginia Ethics Commission at (304) 558-0664 for answers to specific questions before engaging in any lobbying activity.

Romantic Fraternization

Romantic fraternization between a supervisor and subordinates in a direct reporting relationship and between an employee and a client, patient, inmate, or resident whom the employee serves may be prohibited. Prohibitions may be established through agency-specific policies, rules, and regulations. Examples of prohibited conduct include, but are not limited to, dating, romantic emails and text, and instant messages; adult subject jokes, cartoons, e-mails, text messages, and internet sites; and participating in a romantic/intimate relationship. A romantic relationship between a supervisor and a subordinate could be viewed as nepotism and, as such, may constitute a violation of the DOP *Administrative Rule* (143CSR1) and/or the Governmental Ethics Act. Such a relationship can result in decreased employee morale and claims of third-party discrimination.

Other Employment/Certain Volunteer Activity

Generally, employees may hold other employment or participate in volunteer activities as long as they do not interfere with or conflict with their primary State employment. However, other employment/volunteer activity that would result in a conflict of interest or interfere with primary State employment cannot be approved.

The WV Ethics Act restricts public officials and public employees from holding second jobs, including for-profit and nonprofit entities. While the Ethics Act establishes minimum standards, agencies may adopt stricter standards.

Additionally, in accordance with DOP policy DOP-P21, *Other Employment and Certain Volunteer Activities*, DOP-classified employees must obtain their supervisor's approval before engaging in other

employment or certain volunteer activities. Employees may not hold paid elective or appointive public office while employed in a DOP-classified position.

Smoking in the Workplace

The working environment should present no unnecessary risk of physical harm or discomfort from environmental tobacco smoke. The State must ensure the right to a smoke-free environment for each State employee, applicant, client, visitor, and member of the public as they conduct business with or receive services from the State. Smoking includes burning or vaporizing tobacco products or other substances in a cigarette, cigar, pipe, electronic cigarette, or by other means or equipment to inhale and exhale the smoke or vapor, and is restricted in the workplace in compliance with DOP policy DOP-P1, *Smoking Restrictions in the Workplace*, and county ordinances.

Receptacles for extinguishing and disposing of tobacco products are provided in designated outdoor smoking areas. Littering in the State of West Virginia is a crime punishable by a fine and/or a sentence to perform community service at the discretion of the court. Therefore, employees observed improperly extinguishing or disposing of tobacco products on State property may be subject to such penalties if issued a citation by the proper authority, as well as disciplinary action.

Solicitation

The State of West Virginia does not permit individuals or organizations to solicit donations, distribute literature, sell merchandise, or hold events in work areas owned by the State; however, solicitation may be permitted in non-work areas, such as lobbies, with prior authorization from the building/facility administrator or the Director of General Services. Provided that requests for donations to or selling of raffle tickets for charitable organizations, defined as non-profit organizations approved by the West Virginia State Employees Combined Campaign or Community Shares of West Virginia and registered with the Secretary of State, shall be permitted. Solicitation includes, but is not limited to, distributing literature or information; product sales regardless of source or beneficiary; sale of fundraising items sponsored by churches, schools, fraternal organizations, athletic organizations, booster organizations, etc.; and requests for charitable donations to non-profit organizations.

Employees may participate in solicitation activities, whether selling, buying, or obtaining information, only in authorized areas during break, meal, and non-work hours, and are not permitted to use office supplies, equipment, or resources for such activities. Furthermore, employees are not at any time to engage in prohibited political activity while in any room or building occupied for the discharge of official duties by any officer or employee of the State of West Virginia. This statement includes electronic transmissions and telephone solicitation, whether originated by employees or non-employees. The State of West Virginia may prohibit the solicitation, distribution, and posting of materials on or at State property by any employee or non-employee, except as authorized by W. Va. Code §29-6-26.

Surveillance

Agencies may prohibit employees from recording audio or video of conversations, meetings, or conferences without prior supervisory approval and the approval of the parties being recorded. Exceptions may be made for employees who present medical certification of the need to use a recording device as a reasonable accommodation. Such a restriction does not apply to open public meetings. Employees discovered that making such recordings may be subject to disciplinary action, up to and including dismissal.

Cameras of any type may be prohibited by an appointing authority in restricted areas. The use of video surveillance and equipment, i.e., cameras, phone cameras, personal digital assistant cameras, video recorders, etc., is strictly prohibited in areas where there is an expectation of privacy or where confidential information may be copied and/or transmitted. Subjects who are photographed must give written permission in advance unless authorized by work rule, policy, or statute. Video conferencing, web conferencing, and audio conferencing equipment are to be used for business purposes only; misuse will not be tolerated.

The above prohibitions do not apply to any federal, State, or local government security or law enforcement personnel or other employee (e.g., Investigator) who, because of the nature of his or her work, is duly authorized by his or her appointing authority to utilize surveillance and recording equipment while engaged in his or her official capacity.

Telephone Use

Employees are not to interrupt the orderly conduct of business to accept or place personal telephone calls. Employees are expected to limit personal telephone calls to scheduled breaks and meal periods. However, circumstances may arise in which an employee needs to make or receive a personal call during work time. Such calls should be of limited occurrence and duration and should be conducted in non-public areas. The State telephone service, including mobile devices, should not be used for personal business when charges may occur.

Each agency has the authority to regulate the use of State-owned telephones and personal mobile devices during work hours. The use of handheld mobile communication devices is prohibited while operating a State vehicle. Agency-specific policies may restrict the use of mobile devices while operating a personal vehicle, while engaged in any work-related activity during scheduled work hours, meal breaks, and/or social occasions connected to the job.

Theft

As a precautionary measure, employees are responsible for ensuring that State supplies, equipment, and personal property are properly secured. Employees should refrain from bringing excessive amounts of money or personal valuables to work. Employees will not be reimbursed for stolen or damaged personal property. Any apparent or suspected incidents of theft, misappropriation, or suspicious behavior are to be reported immediately to a supervisor. Theft of State or personal property is grounds for disciplinary action up to and including dismissal.

Use of Equipment, Supplies, and Services

Employees are to use State-owned equipment, supplies, and services safely and efficiently for business purposes only. Employees are prohibited from using official mailing addresses, mailrooms, facilities, and mailroom staff for receiving or mailing personal mail and packages. Equipment should be kept clean and in good working condition. Employees are responsible for all State equipment and supplies issued to them. All State-owned equipment, property, and supplies must be surrendered upon request.

Workplace Behavior

While on duty, on meal breaks, travel, and/or social occasions having a connection with the job, employees shall not:

a) Engage in intimidating and/or threatening behavior;

b) Engage in sexual innuendos such as sounds, expressions, gestures, etc.
c) Use foul or abusive language;
d) Make disrespectful, humiliating, insulting, or degrading comments to or about others;
e) Engage in inappropriate public displays of affection;
f) Make individuals the subject of practical jokes, pranks, gags, or ridicule;
g) Engage in any behavior that is disruptive to orderly operations; or,
h) Sleep while on duty unless specifically authorized by the appropriate authority.

The foregoing list is by no means an all-inclusive list. Employees are not to engage in such behavior when dealing with any individual, including but not limited to coworkers, customers, clients, residents, inmates, consumers, vendors, citizens, etc. When responding to inappropriate behavior, agencies must take into consideration the subjective nature of such offenses. The behavior must be evaluated based on what would be considered offensive to a reasonably prudent person.

Workplace Searches

As public employers, State agencies may open and inspect public properties for work-related purposes, as employees have no expectation of privacy in the use of State-owned equipment or property. Additionally, based on a reasonable, good-faith, objective suspicion of a present danger or concealment of alcohol, illegal drugs, controlled substances, prohibited weapons, or stolen property, an agency may search not only an employee's work area, locker, or desk, but also personal property, which may include a briefcase, purse, lunch box, or backpack. Only under compelling circumstances should an employee's person or clothing be searched. The advice of legal counsel is recommended prior to any search of an employee's person or clothing. When possible, searches should be coordinated with the Division of Protective Services. The Division of Protective Services may be contacted by calling 304-558-9911. For more information concerning workplace searches, please refer to the DOP policy DOP-P15, *Workplace Security policy*.

RELATED TOPICS

Employee Personnel Records

Employee personnel files are maintained by the employing agency. The agency personnel file generally contains information concerning an employee's employment history; job applications; educational credentials and certifications; correspondence regarding changes in employment status; discipline and commendations; training records; benefit enrollment forms; and tenure within the agency. Employees who wish to review their agency file should contact the human resources or payroll office within his or her agency. Medical information, Employment Eligibility Verification Forms (Form I-9), Human Rights complaints, Equal Employment Opportunity complaints, and grievance records are to be maintained in separate files at the agency.

Employees are responsible for reporting changes in name, address, telephone number, marital status, or the number of dependents to their agency's human resources or payroll offices as soon as possible. Promptly reporting these changes will keep personnel files current and will prevent delays in processing important tax and benefit information. Employees should also keep all information regarding beneficiaries for retirement and insurance purposes up to date. Failure to keep beneficiary status current may result in loss of coverage.

Employee Referral Program

The Employee Referral Program provides employees and their families with a link to available services for a variety of issues that impact them professionally or personally. The program provides individuals seeking assistance with confidential referrals for treatment with independent, off-site professionals who offer assistance in a wide range of subjects, such as grief and loss, financial difficulties, stress management, trauma, physical and mental health, substance abuse, recovery, and other areas of difficulty.

Participation in the program is voluntary. Costs to the employee for participation in such programs are based upon the individual's health insurance coverage. Employees with State insurance should contact the Public Employees Insurance Agency at (304) 558-7850 or 1-888-680-7342 regarding coverage and may contact their agency's human resources office for other employee assistance options.

For a copy of the employee referral brochure, please see your supervisor or call DOP at (304) 558-3950. Additional information regarding the Employee Referral Program is available on the DOP website at Employee Referral Program (wv.gov).

Public Employees Grievance Procedure

Employees with concerns about working conditions or any aspect of their employment should discuss the matter with their supervisor. Every attempt should be made to resolve problems at the lowest administrative level possible. However, for situations that cannot be resolved informally, employees hired for permanent classified positions under the DOP merit system may initiate a formal grievance through the Public Employees Grievance Procedure administered by the Public Employees Grievance Board. Eligible employees who choose to exercise their grievance rights must submit their grievance on the prescribed form within fifteen (15) working days of the notice of the action. As provided in the statute, an eligible individual may proceed to Level Three of the Procedure upon the agreement of the chief administrator or when dismissed, suspended without pay, demoted, or reclassified, resulting in a loss of compensation or benefits. Copies of the grievance statement must be provided to the Public Employees Grievance Board at 103 Michigan Avenue, Building 18, Charleston, West Virginia, 25311, and the Director of the Division of Personnel, State Capitol Complex, 1900 Kanawha Boulevard, East, Building 3, Suite 500, Charleston, West Virginia, 25305. Details regarding the grievance procedure, as well as grievance forms, are available at the Board's website at www.pegb.wv.gov, or you may telephone the Board at (304) 558-3361 or toll-free at (866) 747-6743.

For assistance with the grievance process, contact the Employee Relations Section of the DOP at (304) 414-1853.

RESPONSIBILITIES

It is the responsibility of each supervisor and/or manager to:

a) Discuss and distribute a copy of the Employee Conduct Expectations to each current employee and to new employees during orientation.

b) Address unacceptable standards of conduct through progressive corrective and disciplinary action.

c) Report any violation of policy, rules, regulations, or statutes to their superior and the agency's human resources office immediately.

It is the responsibility of each employee to:

a) Ensure State government workplaces are safe, productive, and secure for State employees and the public they serve.

b) Observe a standard of conduct that will not reflect discredit on the abilities and integrity of employees of the State of West Virginia or create suspicion with reference to employees' capability in discharging their duties and responsibilities.

c) Employees are charged with conducting their duties in a manner that ensures public confidence in the integrity and impartiality of state government.

d) Consult with their supervisors or the human resources office within their respective agency for agency policies, rules, or regulations regarding conduct expectations.

REFERENCES

a) West Virginia Division of Personnel *Administrative Rule*, W. VA. CODE R. §143-1-1 *et seq*.

b) West Virginia Division of Personnel Policy DOP-P2, *Drug- and Alcohol-Free Workplace*

c) West Virginia Division of Personnel Policy DOP-P15, *Workplace Security*

d) West Virginia Division of Personnel Policy DOP-P21, *Other Employment, and Certain Volunteer Activities*

e) West Virginia Division of Personnel Policy DOP-P1, *Smoking Restrictions in the Workplace*

f) West Virginia Division of Personnel Policy DOP-P6, *Prohibited Workplace Harassment*

g) W. VA. CODE §3-8-1 *et seq*., §5-11-1 *et seq*., §5A-8-21, §6-10-1, §6B-1-1, §6B-1-1 *et seq*. §6C-1-1, §6C-2-1 *et seq*. §17-2A-5, §18-10A-1, §21-3-1, §21-3-17, §21-3-20, §23-5A-4, §29-6-20, §52-3-1, §61-6-9, §61-7-14, and §62-10-3

h) Title VII of the U.S. Civil Rights Act of 1964, 42 U.S.C. 2000e-2(a)

i) Hatch Act (5 U. S. C., Chapter 15 – Political Activity of Certain State and Local Employees)