

1081.0.0 ETHICAL STANDARDS FOR DHHS EMPLOYEES

1081.1.0 Employee Conduct

Public employment is a public trust. DHHS employees must not only avoid any potential conflict of interest, but also must avoid any appearance of impropriety. DHHS employees must conduct themselves so as to foster public confidence in the integrity of state government.

1081.2.0 Definitions

1081.2.1 Close personal relationship - The relationship between spouses, between any persons sharing a household, and any of the following relationships, including step and in-law relationships: child, parent, sibling, grandparent, grandchild, half-sibling, cousin, niece and nephew.

1081.2.2 Confidential information - Information exempt from disclosure under the Arkansas Freedom of Information Act.

1081.2.3 Conflict of interest - All prohibited activities as defined in Section 1081.3.0 except the prohibited activities defined in 1081.2.11-1081.2.13 of that section.

1081.2.4 DHHS employee - Any full or part time regular, emergency, or extra help salaried employee of DHHS, and any nonsalaried individual performing personal services for DHHS.

1081.2.5 Earned income - Anything of value received in return for services or labor.

1081.2.6 Financial disclosure statement - A statement required by Title 21, Chapter 8, Subchapter 2, of the Arkansas Code.

1081.2.7 Financial Interest:

- A. Notes, stock certificates, bonds, contracts, or other evidence of, or actual ownership interest in, any firm, corporation, or enterprise. The term does not mean demand deposits, time deposits, or other types of deposits that do not vest an ownership interest in any firm, corporation, or enterprise.
- B. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$1,000 per year, or its equivalent.
- C. Ownership or interest in any business.
- D. Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any management position.

- 1081.2.8 Financial relationship - A financial interest held by the employee or a person with whom the employee has a close personal relationship.
- 1081.2.9 Gift – Any payment, entertainment, advance, services, or anything valued at over \$100.
- 1081.2.10 Household - A place of residence.
- 1081.2.11 Procurement - The buying, purchasing, renting, leasing or otherwise obtaining of any commodities or services. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- 1081.2.12 Regulatory agency - Any state board, commission, department or officer authorized by law to make rules or to adjudicate contested cases except those in the legislative or judicial branches.
- 1081.2.13 Supervision - The authority, whether or not exercised, to do one or more of the following on a full time, part time, interim, or acting basis: (1) hire, terminate, or promote the employee or the employee's rating supervisor, (2) set compensation, (3) evaluate performance, (4) impose discipline, (5) review disciplinary actions, (6) approve leave requests, or (7) approve travel reimbursement requests.

1081.3.0 Prohibited Activities

No DHHS employee may:

- A. Use his or her position to secure special privilege or exemption, either for personal gain or for the benefit of any person with whom the employee or a person in close personal relationship with the employee has a financial relationship. This includes the approval of an account which draws or authorizes the drawing of a warrant or order to compensate any of the above.
- B. Accept employment or engage in any activity while serving as a DHHS employee which might reasonably be expected to require or induce the employee to disclose any confidential information.
- C. Disclose confidential information or use confidential information for the gain or benefit of the employee or a person in close personal relationship to the employee.
- D. Receive a grant from, or contract with, DHHS without the express written approval of the DHHS Director or his/her designee.

- E. Receive a license issued by DHHS other than a long term care facility administrator license or other license similarly conditioned on objective testing and scoring.
- F. Participate in any proceeding or application, request for ruling or other determination; claim or controversy; or other particular matter relating to any DHHS contract, subcontract, solicitation or proposal in which, to the employee's knowledge, the employee or a person in close personal relationship to the employee is making or has made arrangements for prospective employment, is negotiating, or has a financial interest, whether directly or through a business or close personal relationship.
- G. Be in the employment of any party contracting with DHHS, while involved in procurement.
- H. Participate on any public or private board, commission, advisory committee or governing body which has applied for or is receiving any financial or administrative assistance from DHHS, exclusive of reimbursable expenses for meals, lodging and travel/mileage commensurate with attendance requirements, or is subject to DHHS regulation, certification or licensure. No DHHS employee may participate in any discussion or proceedings of any public or private board, commission, advisory committee or governing body relative to any future application to receive any financial or administrative assistance, certification, or licensure from DHHS. Attendance and participation at meetings solely in the course and scope of DHHS employment for the purpose of providing information is not prohibited.

The DHHS Director or his/her designee may make an exception when the employee's participation does not present a conflict of interest. All employees must report, in writing, to their division director or the division director's designee any involvement on any board, commission, advisory committee or governing body that receives, or is eligible to receive, financial assistance or administrative assistance from DHHS. If there is a conflict, or the appearance of a conflict, the employee must disclose to the board the information which may be a conflict or create the appearance of a conflict and must not participate in the matter until full disclosure has been made. (Consistent with Ark. Code Ann. § 19-11-715, however, the statute is not presently applicable to professional and consultant services contracts.)

- I. Fail to disclose to the DHHS Director or his/her designee and the Department of Finance and Administration (DFA) Director any benefits received from any state contract with a business or organization in which the employee or a person in close personal relationship to the employee has a financial interest.
- J. Fail to disclose the existence of a blind trust as required in 1081.5.0.

- K. Be employed in a supervisory relationship to or subject to the same supervisor as any person with whom the employee has a financial or close personal relationship.
- L. Supervise or be supervised by any person with whom the employee has a close personal relationship.
- M. Fail to notify the employee's division director or the division director's designee if the employee becomes the supervisor of, or subject to the supervision of, a person with whom the employee has a close personal relationship or is employed in a supervisory relationship to or subject to the same supervisor as any person with whom the employee has a financial or close personal relationship.
- N. Receive a gift for the performance of the duties and responsibilities of their office or position. (An employee is not prohibited from receiving an item conferred to show appreciation for the employee's job performance so long as the value of the item does not exceed \$100.)

1081.4.0 Financial Disclosure Statements

1081.4.1 Persons required to file:

- A. DHHS employees who are employed on a regular salary basis shall be required to disclose each source of income in excess of \$500 earned during any calendar year from governmental sources other than the employee's regular salary from employment, and any income exceeding \$1,500 earned during any calendar year from employment or from professional or consultant services rendered for any public agency.
- B. DHHS employees serving by appointment on any state, county or local board, agency, commission, or department or similar entity who are authorized or charged by law with the exercise of regulatory authority through rule-making or adjudication or are authorized to receive or disperse state or federal funds shall file.

1081.4.2 Time and manner of filing:

- A. Statements must be filed with the Secretary of State before January 31 of each year.
- B. The statements shall be filed on forms provided by the Secretary of State.
- C. On or before the last day of December of each year, division directors or their designees will notify all employees and members of boards or commissions attached to their divisions/offices of the fact that all Financial Disclosure

Statements must be filed with the Secretary of State on or before the last day of January of each year.

1081.5.0 Blind Trusts

An employee shall not be deemed to have a conflict of interest regarding matters pertaining to financial interests when the employee or any person with whom the employee has a close personal relationship holds that financial interest in a blind trust. The existence of any such blind trust must be disclosed to the DFA Director.

1081.6.0 Disqualification Statements and Waivers

Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the DHHS Director or his/her designee and the DFA Director, and shall withdraw from further participation in the transaction or proceeding involved. In reference to conflict of interests governed by Ark. Code Ann. § 19-11-70 *et seq.*, upon written request by an employee, the DFA Director may grant an employee a written waiver from this provision and may grant permission to proceed with the transaction or proceeding to the extent and upon such conditions as may be specified. Such waiver may be granted when the interest of the state so requires or when the ethical conflict is insubstantial or remote. For an employee to proceed on all other conflict of interests, a written waiver must be obtained from the DHHS Director or his/her designee. Such waiver may be granted when the interest of the state so requires or when the ethical conflict is insubstantial or remote.

1081.7.0 Restrictions on Former Employees in Matters Connected with their Former Duties

1081.7.1 Within the limitations specified in Ark Code Ann. § 19-11-709, where the state is a party, a former employee shall be disqualified from acting as a principal or agent for anyone other than the state in connection with any judicial or other proceeding, application, request for ruling, contract, claim, charge or controversy in which the employee participated personally, or in matters which were within the employee's official responsibility.

1081.7.2 A former employee shall not sell or attempt to sell commodities or services to the state for one year following the date employment closed, unless the former employee's last annual salary did not exceed \$10,500.

1081.7.3 Disqualification of Partners:

A. When partner is a state employee: Where the state is a party, a partner of an employee shall not knowingly act as an agent or principal for anyone other than the state in connection with any judicial or other proceeding, application, request for a ruling, or other determination, contract, claim, change, or

controversy in which the employee either participates personally or which is the subject of the employee's official responsibility.

- B. When partner is a former state employee: Where the state is a party, a partner of a former employee shall not knowingly act as an agent or principal for anyone other than the state where such former employee is barred under this section.

NOTE: Nothing in this section is intended to preclude a former employee from accepting employment with private industry solely because the former employee's employer is a contractor with the state, or to preclude an employee, a former employee, or a partner of an employee or former employee from filing an action as a taxpayer for alleged violation of Ark Code Ann. § 19-11-702 *et seq.*

1081.8.0 Civil and Administrative Remedies Against Employees and Non-Employees Who Breach Ethical Standards

Employees violating ethical standards may be subject to one or more of the following:

- A. Criminal penalties
- B. DHHS discipline up to and including termination
- C. One or more of the following imposed by the DFA Director:
 - 1. Oral or written warnings and reprimands
 - 2. Forfeiture of pay without suspension
 - 3. Suspension with or without pay for specified periods of time
 - 4. Termination of transactions
 - 5. Suspension or debarment from being a contractor or subcontractor under any state contract
 - 6. Termination of employment

1081.9.0 Recovery of Values Transferred or Received in Breach of Ethical Standards by Employees and Non-Employees

The value of anything received by an employee or non-employee in breach of the ethical standards shall be recoverable by the state.

1081.10.0 Prohibited Personal Relationships

1081.10.1 All job applicants will be asked whether they have a close personal relationship with any person presently employed who would be in a supervisory relationship to, or subject to the same supervisor as the applicant should the applicant be selected. Those answering "yes" will not be hired for that position. Any employee discovered

to have falsified his/her application will be terminated in accordance with DHHS Policy 1085, Minimum Conduct Standards for DHHS Employees, 1085.1.1.6.

1081.10.2 Upon notification that employees with a close personal relationship are supervisor and subordinate, the division director or the division director's designee will not fill any positions which are in (1) an affected employees' classification(s) or (2) an affected employees' work unit(s) until the conflict of interest is resolved according to the procedure set out in 1081.10.3 below.

1081.10.3 Affected employees may elect to choose between themselves who will be transferred. This request must be in writing and approved by both employees and the division director or the division director's designee. This transfer will be accomplished by offering the employee to be transferred any existing or the first available vacancy occurring within 90 working days in the same classification and grade. If the employees fail to submit a joint written request for transfer within ten working days of notification of a conflict of interest, the employee with the least tenure (total years in a job classification) will be designated for transfer by the division director or the division director's designee. If the employee refuses an offer of transfer to a position in the same grade and classification during the time frame provided, the employee will be terminated without prejudice. If a vacancy in the same classification and grade does not become available during the 90 working days from the employee's notification, the employee will be terminated without prejudice.

1081.11.0 Initiating Section/Department Contact

Office of Finance and Administration
Human Resources/Support Services Section
Policy and Administrative Program Management
P.O. Box 1437 – Slot W403
Little Rock, AR 72203-1437
Phone: 501/682-6760

Replacement Notation: This rule replaces DHS Policy 1081 dated April 15, 1999.