

DST POLICIES AND PROCEDURES

DST Reference: OST-POL-5018-ALL
Title: Ethics and Conduct Policy (Tier 1)
Chapter: Legal
Current Effective Date: July 9, 2024
Original Effective Date: November 15, 2019

Applies to: NC Department of State Treasurer – All staff of the Department of State Treasurer

Keywords: Code of Conduct, Compliance Officer, Conflicts of Interest, Ethics, Fraud, Gift Ban, Hotline, Improper Conduct, Mitigation, Recusal, State Property, Vendor

I. Background

The Department of State Treasurer (Department or DST) has established high standards of conduct, including transparent and ethical practices. This commitment to integrity is fundamental to our mission of providing exemplary fiduciary oversight and customer service, and it is expected of us by the State’s citizens, our customers, retirement beneficiaries, members of the State Health Plan, local governments, and the financial communities with whom we interact. Individual and collective adherence to this commitment is essential for maintaining public trust in the Department and for making decisions on behalf of the citizens of North Carolina that are in their best interest, free from competing influences.

II. Purpose & Coverage

Toward that goal, this Policy establishes a Code of Conduct and ethical practices for the Department’s workforce that are based on identifying, avoiding, and mitigating Conflicts of Interest. In addition, this Policy establishes an Ethics and Conduct Hotline so staff can safely and effectively report improper activity, including violations of DST policy.

This Policy applies to all Department staff members, whether full-time, part-time, permanent, temporary, time-limited, or contract staff, including interns and volunteers, in all operations of the Department. It may be supplemented by approved ethics or conduct policies or codes developed for specific divisions or sections within the Department.¹

Generally, this Policy addresses the following directives:

- 1) all DST employees should remain objective and impartial when making decisions on behalf of the Department, including avoiding the appearance of a Conflict of Interest;
- 2) DST employees should not accept gifts from any individual or entity conducting business with DST or proposing to conduct business with DST;
- 3) DST employees should use State property carefully and properly; and
- 4) DST employees should comply with North Carolina law regarding registering as a lobbyist following their employment with DST.

¹ Appendix C “SLGFD Staff Recommendations or References Memo from Debbie Tomasko and Cindy Aiken to SLGFD Staff dated June 18, 2024” is a conflict-of-interest memorandum only applicable to new and current State and Local Government Finance Division staff.

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III. Acknowledgments

This Policy shall be provided by DST’s Human Resources section (HR) to all new Employees as part of their onboarding and orientation process. All new DST Employees will review the provisions of this Policy and sign and date the Acknowledgment Form in **Appendix A** or complete a similarly worded electronic acknowledgment.

On an annual basis, current Employees are required to review and acknowledge their awareness and understanding of this Policy either by completing the Acknowledgement Form in **Appendix A** or completing an electronic acknowledgment. The Compliance Officer is responsible for collecting the annual acknowledgments from Employees. All completed acknowledgments will be maintained in the individual employee’s paper or electronic HR personnel file and will be subject to the same confidentiality requirements as other personnel information. Employees may also be required to attend training on this Policy from time to time.

IV. Definitions

Conflict of Interest – A Conflict of Interest occurs when an Employee’s personal or familial interest may directly or indirectly influence their ability to remain objective and make impartial decisions when performing their public or fiduciary duties. A Conflict of Interest includes an **actual** Conflict of Interest, a **potential** Conflict of Interest, or circumstances that create the **appearance** of a Conflict of Interest.

- A personal interest includes, but is not limited to, a financial, social, professional, civic, or political interest of the Employee.
- A familial interest means a benefit derived by an Employee’s spouse, lineal descendent, lineal ascendant, sibling, an Employee’s spouse’s lineal descendent, spouse’s lineal ascendant, spouse’s sibling, or the spouse of any of these individuals.

DST Gift Ban – The DST Gift Ban is the DST policy to adopt former Governor Beverly Perdue’s Executive Order 24 signed October 1, 2009 (**Appendix B**). The Executive Order and this Policy extend the Vendor Gift Ban of N.C. Gen. Stat. § 133-32 to **all** DST Employees, prohibiting all DST Employees from accepting gifts from Vendors or Proposed Vendors unless an exception applies.

Employee – An Employee is any person working (most often for compensation) for DST; including full-time, part-time, permanent, temporary, time-limited and contract staff, including interns and volunteers.

Gift – A Gift is anything of value given or received without obligating the recipient to give or pay anything of value in return.

Proposed Vendor – A Proposed Vendor is any service provider, investment manager, supplier, or other entity (i) who has submitted a proposal or bid to the Department to do business with DST or with whom DST is seeking to do business and (ii) of whom an Employee knew, or reasonably should have known, due to his or her job duties, is seeking to do business with DST or with whom DST is seeking to do business. An entity is no longer a Proposed Vendor if any bid submitted is no longer being considered, the entity is no longer actively seeking to do business with DST, or DST is not actively seeking to do business with the entity.

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Vendor Gift Ban – The Vendor Gift Ban refers to N.C. Gen. Stat. § 133-32, which (i) prohibits service providers and suppliers from giving Gifts to State agency Employees who are charged with preparing plans, specifications, or estimates for public contracts; awarding or administering public contracts; or inspecting or supervising construction and (ii) prohibits those same State agency Employees from accepting such Gifts.

Vendor – A Vendor is any service provider, investment manager, supplier, or other entity that provides goods or services to DST.

V. Roles & Responsibilities

Compliance Officer – Responsible for reviewing Conflicts of Interest as reported by Employees, supervisors, or managers and recommending actions to mitigate such conflicts; recording items received by Employees as impermissible Gifts and donating or disposing of those items; and managing the DST Ethics and Conduct Hotline by taking verbal or written reports of alleged improper conduct and investigating those reports. The Compliance Officer can be reached at DST.ComplianceOfficer@nctreasurer.com.

Director of Internal Audit – May be asked to assist the Compliance Officer in the investigation of a report to the Ethics and Hotline. Staff may also report improper governmental activity to the Director of Internal Audit for investigation by the Compliance Officer.

Division Director – Responsible for establishing the oversight process and resources necessary to implement mitigation measures outlined by the Compliance Officer when a Conflict of Interest is identified.

General Counsel – Responsible for overseeing compliance with DST’s Ethics Policies and may assist the Compliance Officer in the investigation of reports to the Ethics and Conduct Hotline. The General Counsel may designate another attorney to assist.

Human Resources (HR) – Responsible for providing this Policy to all new Employees for their review and signature as part of the onboarding process and for maintaining completed Acknowledgment Forms in personnel files. Also responsible for assisting the General Counsel and others with enforcement of DST’s policies and procedures, including this Policy.

VI. Policy

The Department’s internal controls and operating procedures are intended to detect, prevent, and deter improper activities, including identifying and addressing actual, potential, or apparent Conflicts of Interest or undue influence. The Department intends this Ethics and Conduct Policy to serve as a valuable resource for those in whom the public has placed its trust.

The Department’s workforce is expected to use this Policy to make decisions about their own conduct and the conduct of fellow staff members. In making these decisions, Employees shall be free from intimidation and harassment. Further, Employees shall be protected from discrimination and retaliation when taking appropriate action under this Policy.

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A. DST Code of Conduct

Each person is responsible for creating and maintaining a workplace environment that promotes ethical and legal behavior. Personal performance is measured against a backdrop that focuses on a continued commitment to comply with this Policy, all other Department policies, and legal and regulatory requirements. Employees are instrumental in fulfilling the obligations of the Department and providing real value to its customers, the citizens of North Carolina.

Employees may raise ethics-related issues with their supervisor, the Director of Internal Audit, the Chief of Staff, the General Counsel, or the Compliance Officer. They may also submit a verbal or written report to the [Ethics and Conduct Hotline](#), using DST's internal intranet site.

This Policy establishes the following DST Code of Conduct for **ALL** Employees to follow. The DST Code of Conduct sets forth high-level expectations of conduct for all DST Employees, in all functions of the Department.

DST Code of Conduct

Department Employees shall:

1. Properly administer the obligations of the Department;
2. Perform all duties diligently, effectively, efficiently, and without undue influence;
3. Be familiar with and comply with all laws, regulations, and policies applicable to the Department and impartially apply them to everyone;
4. Proactively identify all Conflicts of Interest and take appropriate steps to mitigate conflicts when they arise;
5. Evaluate all decisions so the best service is provided without sacrificing fiscal responsibility;
6. Not accept impermissible Gifts or favors from any Vendor or Proposed Vendor doing business or seeking to do business with DST;
7. Be stewards of State property (i) to use it carefully and properly, (ii) at no time use State resources for personal benefit or gain, and (iii) to report its improper use;
8. Use care and discretion in the handling of confidential information and not disclose or use such information for their own or another's personal gain or private advantage;
9. Maintain a professional attitude in everyday dealings with colleagues, customers, Vendors, other agencies, and the public at large;
10. Refrain from engaging in any form of retaliation, harassment, or intimidation of any Employee for taking appropriate action under this Policy or another Departmental policy.

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The following provisions outline the Department's expectations for all DST Employees in various situations.

B. Conflicts of Interest

All Employees must proactively identify actual, potential, or apparent Conflicts of Interest (as defined in **Section IV** above) and take appropriate steps to mitigate conflicts when they arise.

NOTE: *Employees should know and understand what a Conflict of Interest is by carefully reviewing how it is defined in this Policy. Conflicts of Interest may arise in a wide variety of contexts, such as when negotiating a contract or when exercising oversight as part of one's job duties. Most understand that a Conflict of Interest may arise when an Employee is interacting with a private entity or person, but a Conflict of Interest may also arise when interacting with a government agency or other public entity.*

1. Mitigating a Conflict of Interest

When an Employee believes a Conflict of Interest may develop or has developed, appropriate steps shall be taken to mitigate the conflict in order to avoid interference with the Employee's official obligations. More specifically, the Employee shall take the following actions to address and mitigate any Conflict of Interest:

- a. The Employee shall disclose verbally or in writing² to their supervisor or to the Compliance Officer the nature of an actual, potential, or apparent Conflict of Interest in relation to his or her job duties within **two (2) business days** of the Conflict of Interest arising.³
- b. If notified, the supervisor shall report the nature of the Conflict of Interest to the Compliance Officer within **two (2) business days** of receipt.

Conflicts of Interest may be brought to the attention of the Compliance Officer by personnel other than the Employee or the Employee's supervisor. Regardless of the source of the reported conflict, the Compliance Officer will conduct the analysis as outlined in this Policy.

- c. The Compliance Officer will review the information provided and, in consultation with the General Counsel as needed, determine if a Conflict of Interest exists. If a conflict is identified, the Compliance Officer will specify what mitigation measures are required to address and mitigate the conflict.

² DST Employees who are "covered persons" under the Ethics Act are required to "submit in writing [to DST] the reasons for "abstaining from an official action due to a conflict of interest. N.C.G.S. § 138A-36(b).

³ Tier 2 Employees under the Tier 2 Supplemental Ethics Policy must follow the reporting requirements of that policy when a Conflict of Interest arises related to solicitations of employment or subsequent employment.

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- d. If a conflict is identified, the following mitigation measures may be considered and implemented:
- (i) *Designation of a replacement for the Employee with the conflict.* A replacement for the Employee with the conflict may be designated. This person shall handle all matters that would have been the responsibility of the conflicted Employee but for the Conflict of Interest. The conflicted Employee shall be recused and separated from the matter in question.
 - (ii) *Partial Recusal.* Partial recusal may be appropriate. This may include having the conflicted Employee complete only limited portions of the task while other persons complete the remaining portions.
 - (iii) *Notice to other Employees.* Other Employees working on the matter should be informed that the conflicted Employee has been recused from working on the matter and that staff should not share information or discuss the matter with the conflicted Employee.
 - (iv) *Identification of the anticipated duration of the recusal.* The duration of the Conflict of Interest may be identified. Due to the disruption that recusal may cause, the duration of the replacement and separation should be as short as reasonably possible but at least until the conflict is eliminated. In general, the recusal should not last longer than three months.
 - (v) *Provision of notice to affected parties.* Notice may be provided to affected parties. For example, if a Conflict of Interest arises between an Employee and a Vendor, that Vendor should be informed, at least, that a replacement has been designated and the anticipated duration.
 - (vi) *Awareness to the Employee.* The potential for a Conflict of Interest may be flagged and brought to the attention of the Employee. This may occur based on information disclosed by the Employee where a Conflict of Interest has not yet arisen requiring mitigation measures but could arise in the future.
 - (vii) Any other actions may be taken to further the purposes of this Policy.
- e. The Compliance Officer will inform the Employee, the Employee's supervisor, the Division Director, and the General Counsel if a Conflict of Interest is identified, along with the mitigation measures necessary to mitigate the conflict. A summary of the Compliance Officer's review and information considered in the analysis may also be provided.

The Division Director, with advice from the General Counsel as needed, shall be responsible for ensuring mitigation measures are implemented. To successfully implement required mitigation measures, the Division Director or Employee's supervisor may need to inform other management team members of the identified conflict and the mitigation measures.

- f. The Compliance Officer shall document in writing all actual, potential, or apparent Conflicts of Interest identified along with the actions needed for mitigation. The

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Compliance Officer shall also follow-up as needed to ensure any mitigation measures are implemented and document the conclusion of the Conflict-of-Interest matter.

By taking the above-described actions, the Employee will have demonstrated that he or she made a good-faith effort to address and mitigate the Conflict of Interest at issue.

Information disclosed to the Compliance Officer is not considered confidential information. The Compliance Officer may disclose information received pursuant to this Policy to other staff, as necessary to effectuate the purposes of this Policy.

NOTE: *This Policy is intended to encourage the disclosure and reporting of all ethics related issues, including Conflicts of Interest, whether actual, potential, or apparent, to minimize the risk of any actual or perceived impropriety by the Department. Information disclosed in compliance with this Policy shall not be used to intimidate, harass, discriminate, or retaliate against Employees; it shall only be used for purposes consistent with the Department’s commitment to transparency, ethical conduct, and promoting trust and accountability.*

2. Failing to Disclose a Conflict of Interest

If it is found that an Employee had a Conflict of Interest that was not reported to a supervisor or to the Compliance Officer and the work obligation has already been completed or substantially completed, the supervisor shall report the Conflict of Interest to the Compliance Officer. The Compliance Officer shall notify the Division Director, Employee’s supervisor, and General Counsel of the reported conflict and review whether the Conflict of Interest interfered or could have interfered with the objective and impartial performance of the Employee’s work obligation without undue influence. If necessary, appropriate action will be taken in accordance with this Policy (see **Section VIII. Enforcement**).

C. **Gift Ban; Donation of Impermissible Gifts**

On October 1, 2009, Governor Beverly Perdue announced a gift ban for all cabinet agency employees through Executive Order No. 24, which extended the application of N.C. Gen. Stat. § 133-32. North Carolina General Statute § 133-32 prohibits any officer or Employee of a governmental agency charged with preparing plans, specifications, or estimates for contract; awarding or administering contracts; or inspecting or supervising construction from accepting Gifts from service providers, suppliers, or other entities doing business or seeking to do business with the State. This prohibition is referred to in this Policy as the “Vendor Gift Ban.”

By and through this Policy, DST is adopting Executive Order No. 24 and extending its application (i.e., application of the Vendor Gift Ban) to **all DST Employees**. Accordingly, **all DST Employees are prohibited from accepting any Gift or item of value from any Vendor or Proposed Vendor (hereinafter referred to as the “DST Gift Ban”) unless an exception applies.**

If Employees receive an unsolicited item from a person or entity outside of DST, they must identify the giver of the item and whether the giver is a Vendor or Proposed Vendor of DST. Employees should question why the item was received and should consult with their supervisor or the Compliance Officer about whether the item is a permissible Gift under this Policy.

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1. Gift Ban Exceptions

The DST Gift Ban is not intended to be stricter than the Vendor Gift Ban found at N.C. Gen. Stat. § 133-32. Where an exception permits a Gift to be accepted under N.C. Gen. Stat. § 133-32, that exception may permit a DST Employee to accept the gift.⁴ Some of the permissible exceptions under N.C. Gen. Stat. § 133-32(d) include advertising items or souvenirs of nominal value. For purposes of this Policy, a “nominal” Gift is an item with a fair market value of not more than twenty-five dollars (\$25.00).

2. Refusing or Donating Impermissible Gifts

Any DST Employee who receives or is offered a Gift that is prohibited under this Policy or otherwise prohibited under State law shall:

- immediately refuse or return the Gift;
- pay fair market value for the Gift. If a Gift is offered and paid for, this must be reported to the Compliance Officer for tracking; or
- if refusal, return, or payment is not viable, provide the Gift to the Compliance Officer who will record receipt of the Gift in a tracking log and cause the Gift to be donated, if possible, or properly disposed of.

D. **Use of State Property; Mandatory Reporting Requirement**

1. General Process

State Employees must use all State property carefully and properly. This includes, but is not limited to, using telephones, equipment, copiers, fax machines, computers, and e-mail for business purposes during work hours. While personal calls are occasionally necessary, they are to be limited in frequency and duration.

DST Employees shall be familiar with all provisions of N.C. Gen. Stat. § 143B-920 related to the misuse of State property. This statute mandates that any person employed by the State:

who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, state-owned personal property, buildings, or other real property, shall as soon as possible, but not later than **three (3) days** from receipt of the information or evidence, report such information or evidence to his [or her] immediate supervisor, who shall in turn report

⁴ DST Employees who are Tier 2 Employees under the Supplemental Ethics Policy (Tier 2) are required to follow the Gift Ban provisions of the N.C. State Government Ethics Act (Ethics Act) which may be more restrictive than the Vendor Gift Ban. In addition, employees of DST who are “covered persons” are required to follow the Gift Ban provisions of the Ethics Act regardless of the application of the Tier 2 policy. Tier 2 Employees must bear in mind that, depending on the circumstances, a Gift permitted under N.C. Gen. Stat. § 133-32 may still be impermissible under the Ethics Act.

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such information or evidence to the head of the respective department, agency, or institution.

In addition, N.C. Gen. Stat. § 14-91 makes it a felony for a State Employee who has been entrusted with State property to knowingly and willfully embezzle, convert, or misapply that property or otherwise abuse that trust. Both Employees and non-employees can be guilty of misuse of State-owned property, under various laws, including theft, arson, vandalism, unauthorized access to or damage to computer systems, and unauthorized personal use of State resources.

2. Procedure for Reporting Theft, Misuse of State Property

- a. DST Employees shall report information or evidence to their supervisor **as soon as possible but no later than three (3) days** after receipt of information or evidence tending to suggest that someone is violating the law against misuse of State-owned property, unless the suspected misuse involves the supervisor, in which case the matter must be reported directly to the DST Chief of Staff and the General Counsel.
- b. The supervisor, if notified, shall then provide a written report, **within two (2) business days**, to the Chief of Staff and the General Counsel regarding the suspected misuse.
- c. Within a reasonable time after receipt of the written report, **but no later than 10 days from receipt**, the Treasurer, in conjunction with the Chief of Staff or the General Counsel, is required under N.C. Gen. Stat. § 143B-920 to report such information, excluding damage or loss resulting from motor vehicle accidents or unintentional loss of property, in writing to the Director of the State Bureau of Investigation.

The Chief of Staff and General Counsel shall coordinate an internal investigation of the reported theft, damage, or misuse of State property, and may enlist the assistance of other staff as necessary. A review may be conducted by the Director of Internal Audit to identify control weaknesses or breakdowns in procedure that allowed the situation to occur and to recommend corrective action.

NOTE: *State statute mandates the above reporting procedure for incidents involving misuse of State property. Circumstances may arise, however, where reporting misuse to a supervisor is not feasible. In these circumstances, such reports may be made to the DST Ethics and Conduct Hotline as soon as possible, as further explained in **Section VII**. The DST Ethics and Conduct Hotline does not eliminate an Employee's responsibility to report misuse of State property under the statute but is intended to provide an alternative mechanism for making those required reports.*

E. Lobbying

North Carolina's lobbying statutes prohibit Constitutional officers (the Treasurer) from registering as a lobbyist within **six months** after leaving office. In addition, the lobbying statutes prohibit *all* other State employees from registering as a lobbyist to lobby the State agency that formerly employed them within **six months** after leaving employment. N.C. Gen. Stat. § 120C-304(b) and (c).

VII. DST Ethics and Conduct Hotline

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The Department has established an internal Ethics and Conduct Hotline for the reporting of suspected improper activities within the Department, including violations of policy. Employees are encouraged to report evidence of improper activity by DST or any DST Employee, including but not limited to:

- A violation of State or federal law, rule, or regulation;
- A violation of a provision of this or other DST policy;
- Fraud, waste, or abuse;
- Misappropriation of State resources;
- Performance of a job-related act that is a substantial and specific danger to public health and safety; or
- Gross mismanagement, gross waste of money, or gross abuse of authority.

A. Reporting Allegations of Suspected Improper Activities

Any Employee may report allegations of suspected improper activities within the Department. Allegations of suspected improper activities may be reported anonymously. Reports of alleged improper use or disclosure of protected health information (PHI) as defined by the Department's HIPAA Privacy Manual [SHP-POL-1001-ALL] should be made to the State Health Plan's Compliance Officer/HIPAA Privacy Officer. Investigation into those reports will be conducted according to the HIPAA Privacy Manual.

Generally, an Employee should report alleged improper activity within the Department to his or her supervisor or other appropriate administrator or Division Director. However, if circumstances make such reporting difficult or problematic, such reports may be made to the DST Ethics and Conduct Hotline.

A report can be filed by:

- (i) Calling the Hotline phone number at 919-814-3900 (may remain anonymous);
- (ii) Submitting an electronic report using the [Ethics and Conduct Hotline Report Form](#) online (may remain anonymous);
- (iii) Submitting written information directly to the Compliance Officer, General Counsel, or Director of Internal Audit electronically or by hard copy; or
- (iv) Meeting with the Compliance Officer, General Counsel, or Director of Internal Audit.

Names and contact information are not required when submitting a report, but not providing this may limit the investigator's ability to obtain additional information and to fully investigate the matter reported.

Reports to the Hotline should be made in good faith based on allegations the person reasonably believes to be true. No report should contain allegations that are unfounded or made recklessly, maliciously, or with the foreknowledge that the allegations are false.

B. Investigation of Reports

Upon receipt of a report to the Hotline, the Compliance Officer, and the General Counsel as necessary, shall determine whether a reasonable basis exists for commencing an investigation into the report. If the

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General Counsel is unable or unavailable to assist with the review and investigation of a report, the Director of Internal Audit may be asked to assist.

In making this determination, the Compliance Officer, and the General Counsel as necessary, may conduct an initial, informal inquiry and may enlist the assistance of other appropriate parties based on their oversight, responsibility, or expertise.

The investigation of reports of alleged improper governmental activities shall be prompt. To the extent permitted by applicable law, all reports of alleged improper activities within the Department will be handled in a confidential manner pursuant to this Policy.

Additional information about the Hotline can be found in the [Ethics and Conduct Policy FAQs](#) on Compass.

VIII. Enforcement

The General Counsel shall have the authority to interpret and apply this Policy. If a violation of this Policy is substantiated, the following may occur:

- a) enhanced controls or additional procedures may be implemented to prevent the Policy violation or its contributing circumstances from reoccurring;
- b) the Employee(s) may be required to undergo additional training, including training on the requirements of this Policy; and
- c) disciplinary action may be taken in accordance with State disciplinary policies, up to and including dismissal.

Any DST Employees found to have violated any state or federal laws, rules, or regulations shall face appropriate, case-specific disciplinary action up to and including dismissal. Conflicts of Interest or unethical behavior that defrauds the Department or a Vendor or Proposed Vendor or otherwise violates state or federal law may also be subject to criminal prosecution or civil litigation. In addition, the Department reserves the right to report violations of this Policy to regulatory bodies, professional licensing bureaus, and other professional organizations.

IX. Related Statutes, Rules, and Policies

- [N.C. Gen. Stat. § 14-91](#) embezzlement of State Property by public officers and employees;
- [N.C. Gen. Stat. § 14-234](#) on public officers or employees benefitting from public contracts; exceptions
- [N.C. Gen. Stat. § 14-234.1](#) on misuse of confidential information acquired during State employment
- [N.C. Gen. Stat. § 126-84 through § 126-88](#) on reporting employee or agency violations of law, fraud, misappropriation of State resources, dangers to public health or safety, or gross mismanagement, waste of money, or abuse of authority
- [N.C. Gen. Stat. § 133-32](#) on prohibitions of gifts from current or potential contractors, subcontractors or suppliers

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- [N.C. Gen. Stat. § 143B-920](#) on misuse of State Property and requirement to report
- DST [Secondary Employment Policy](#), [OST-POL-3610-ALL]
- Office of State Human Resources Policies, including the [Disciplinary Action](#) and [Personnel Records](#) Policies
- [Former Governor Beverly Perdue Executive Order No. 24 Regarding Gifts to State Employees](#)

References

[FAQs - Ethics and Conduct Policy \(Tier 1\)](#)

X. Revision/Review History

Version	Date Approved	Description of Changes
1.0	11/15/2019	New policy; combines prior DST ethics policies: <i>Prohibition of Gifts to State Employees</i> [OST-POL-5013-ALL]; <i>Use of State Property; Reporting Theft and Misuse of State Property</i> [OST-POL-5015-ALL] and <i>Policy on Conduct and Ethics</i> [OST-POL-1003-ALL], rescinds these separate policies; creates new Conflict of Interest reporting requirements for all staff
2.0	11/13/2020	Clarify Compliance Officer review process to include notification to Employee, Employee’s supervisor, Division Director and General Counsel; added position title and division to Acknowledgment form; removed Appendix B FAQs and added linked access, also updated FAQs
3.0	1/26/2022	Updated definition of Conflict of Interest; added as a mitigation measure notice to the Employee to flag a situation where a Conflict of Interest could arise; updated Hotline process to involve General Counsel and not Director of Internal Audit; updated Tier 1 FAQs
4.0	11/1/2023	Clarified that an impermissible Gift can be purchased at fair market value; revised definition of Vendor; increased amount of a “nominal gift” from \$10 to \$25; added lobbying prohibition; added new Appendix B Executive Order; updated point of contact; other clarifications
4.1	5/6/2024	Technical change to update the Ethics Hotline phone number.
4.2	7/9/2024	Added Appendix C – SLGFD Staff Recommendations or References Memo and Footnote 1

Appendix

Appendix A – Acknowledgment Form

Appendix B – Governor Beverly Perdue’s Executive Order 24, signed October 1, 2009

Appendix C – SLGFD Staff Recommendations or References Memo from Debbie Tomasko and Cindy Aiken to SLGFD Staff dated June 18, 2024

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For questions or clarification on any of the information contained in this policy, please contact the policy owner or designated contact point: DST.ComplianceOfficer@nctreasurer.com. For general questions about department-wide policies and procedures, contact the [DST Policy Coordinator](#).

APPENDIX A

ACKNOWLEDGMENT FORM – ETHICS & CONDUCT POLICY (TIER 1)

I hereby acknowledge that I have received, read, and understand the above DST Ethics and Conduct Policy (Tier 1) [OST-POL-5018-ALL], that I understand it applies to my position, and that I intend to comply with its provisions to the best of my abilities. I acknowledge that failure to comply with the provisions of the Policy, including signing this Form, may result in disciplinary action up to and including dismissal.

Print Name: _____

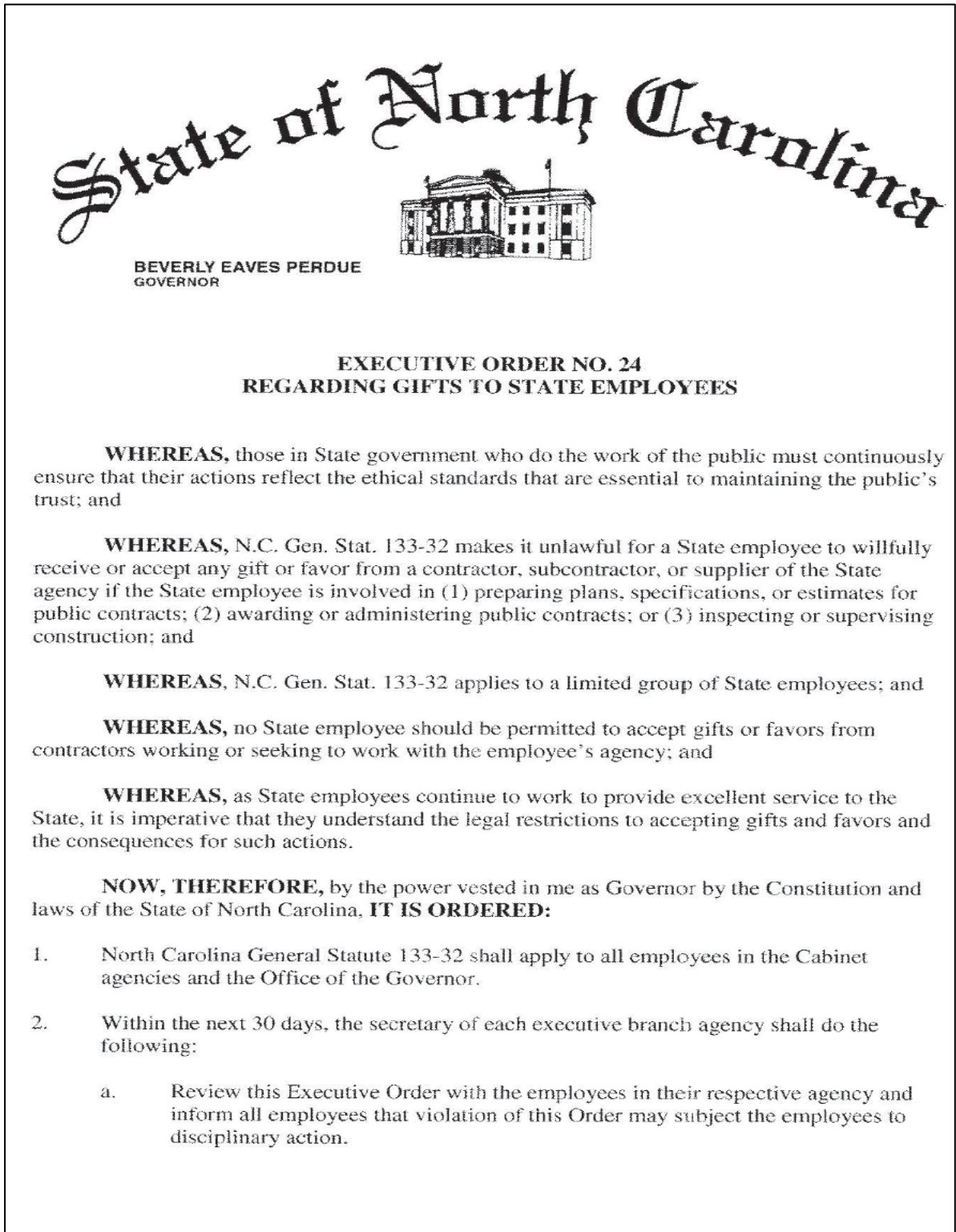
Division: _____ Position Title: _____

Signature: _____

Date: _____

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Appendix B – Governor Beverly Perdue’s Executive Order 24, signed October 1, 2009



WHEREAS, those in State government who do the work of the public must continuously ensure that their actions reflect the ethical standards that are essential to maintaining the public’s trust; and

WHEREAS, N.C. Gen. Stat. 133-32 makes it unlawful for a State employee to willfully receive or accept any gift or favor from a contractor, subcontractor, or supplier of the State agency if the State employee is involved in (1) preparing plans, specifications, or estimates for public contracts; (2) awarding or administering public contracts; or (3) inspecting or supervising construction; and

WHEREAS, N.C. Gen. Stat. 133-32 applies to a limited group of State employees; and

WHEREAS, no State employee should be permitted to accept gifts or favors from contractors working or seeking to work with the employee’s agency; and

WHEREAS, as State employees continue to work to provide excellent service to the State, it is imperative that they understand the legal restrictions to accepting gifts and favors and the consequences for such actions.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

1. North Carolina General Statute 133-32 shall apply to all employees in the Cabinet agencies and the Office of the Governor.
2. Within the next 30 days, the secretary of each executive branch agency shall do the following:
 - a. Review this Executive Order with the employees in their respective agency and inform all employees that violation of this Order may subject the employees to disciplinary action.

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- b. Review N.C. Gen. Stat. 133-32 with all employees in their respective agency and inform all employees that violation of N.C. Gen. Stat. 133-32 is a Class 1 misdemeanor and may subject the employees to disciplinary action.
- c. Review with all employees in their respective agency any additional policies or rules that the agency may have regarding the acceptance of gifts, meals, or favors by employees in the agency.
- d. Distribute this Executive Order, N.C. Gen. Stat. 133-32, and any relevant agency policies to all employees in the agency and require employees to certify, in writing, that they have received a copy of and are responsible for complying with this Executive Order, N.C. Gen. Stat. 133-32, and any internal policies.
- e. As a part of new employee orientation for their respective agency and in conjunction with the Office of State Personnel, establish a process to provide a copy of all documents specified in Section 2d above to new employees and require new employees to certify, in writing, that they have received a copy of and are responsible for complying with the provisions of this Executive Order, N.C. Gen. Stat. 133-32, and any internal policies.
- f. Provide a report to the Governor's Ethics Officer concerning compliance with the directives of this Executive Order and any recommendations for changes to policies or state law regarding acceptance of gifts by State employees.

The Office of State Personnel shall assist the secretaries of the executive agencies to ensure that the documents specified in Section 2d above are provided to employees through the new employee orientation process and that new employees certify that they have received a copy of such documents as provided in Section 2e above.

The State Ethics Commission shall discuss this Executive Order and N.C. Gen. Stat. 133-32 in their training for State employees who are covered by the Ethics Act.

The Department of Administration shall include a provision regarding this Executive Order and N.C. Gen. Stat. 133-32 in all new RFPs, the North Carolina General Contract Terms and Conditions, and all other contracts under the authority of the Department of Administration, the Department of Transportation, the Office of Information Technology Services, and all other cabinet agencies to inform contractors of the requirements of this Order and the statute. The department shall also notify current contractors regarding the provisions of this Order and N.C. Gen. Stat. 133-32.

The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order.

DST POLICIES AND PROCEDURES

This Executive Order shall be effective immediately and shall remain in effect until rescinded. This Executive Order shall supplement, but shall not supersede, existing agency policies regarding the acceptance of gifts and favors by agency employees.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this first day of October in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

DST POLICIES AND PROCEDURES

Appendix C - Appendix C – SLGFD Staff Recommendations or References Memo from Debbie Tomasko and Cindy Aiken to SLGFD Staff



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER

STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

To: Staff of the State and Local Government Finance Division (SLGFD)

From: Debbie Tomasko, SLGFD Director and Deputy Treasurer; Cindy Aiken, Assistant General Counsel

Date: June 18, 2024

Re: SLGFD Staff Recommendations or References

Staff have asked whether making certain recommendations or suggestions is permissible in light of the DST Ethics and Conduct Policy (Tier 1) [OST-POL-5018-ALL](#) (the “DST Ethics Policy”) which applies to all Department staff members, whether full-time, part-time, permanent, temporary, time-limited, or contract staff, including interns and volunteers, in all operations of the Department. Specifically, this memo reviews the following:

1. May an SLGFD staff member give a professional reference, recommendation, referral, or suggestion for an individual to a prospective employing unit of government or public authority over which SLGFD has oversight authority?
2. May an SLGFD staff member give a reference, recommendation, referral, or suggestion for a third-party vendor offering professional services to a unit of government or public authority over which SLGFD has oversight authority?
3. May an SLGFD staff member give a recommendation, referral, or suggestion to a third-party vendor that the vendor contact, or respond to an RFP issued by, a specific unit of government or public authority over which SLGFD has oversight authority?

Short answer to all 3 questions: No. However, we may refer the public to all information on our website, including the [audit resources page](#).

The DST Ethics Policy addresses the following directive (among others) in Section II:

“1) all DST employees should remain objective and impartial when making decisions on behalf of the Department, including avoiding the appearance of a Conflict of Interest: . . .” (emphasis added.)

The DST Ethics Policy has an expansive definition of “conflict of interest” which covers more situations than you might expect, primarily because it includes “*circumstances that create the appearance of a conflict of interest*”. See the Definitions on page 2 of the DST Ethics Policy:

“Conflict of Interest – A Conflict of Interest occurs when an Employee’s personal or familial interest may directly or indirectly influence their ability to remain objective and make impartial decisions when performing their public or fiduciary duties. A Conflict of Interest includes an actual Conflict of Interest, a potential Conflict of Interest, or circumstances that create the appearance of a Conflict of Interest.”

DST Reference:	OST-POL-5018-ALL
Title:	Ethics and Conduct Policy (Tier 1)
Chapter:	Legal
Current Effective Date:	July 9, 2024

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DST POLICIES AND PROCEDURES

- A **personal interest includes**, but is not limited to, a financial, social, **professional**, civic, or political interest of the Employee.

- A **familial interest means** a benefit derived by an Employee's spouse, lineal descendant, lineal ascendant, sibling, an Employee's spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, or the spouse of any of these individuals."

We are charged with the obligation of remaining *objective and impartial* when performing our *public duties*. SLGFD staff have a *professional interest* or relationship with units of local government and public authorities. The *appearance of and potential conflicts of interest* could arise.

Staff may be placed in an awkward position while performing public duties after a staff member gave a prior reference, recommendation, or even suggestion regarding a governmental employee or service provider. This situation creates a question of an "*appearance of a conflict of interest*." Staff may have their objectivity and impartiality questioned while performing the following typical SLGFD public duties:

- approving auditor contracts and/or invoices,
- fiscal and/or debt analysis,
- fiscal monitoring and/or oversight,
- providing "corrective" advice or guidance, and
- actively performing the functions of finance staff after the LGC takes control of the financial affairs of a unit.

The fact of providing any reference, recommendation, suggestion, or referral could in fact "*influence* [our staff's] *ability to remain objective and make impartial decisions*."

We appreciate the fact that SLGFD staff want to remain helpful to the local governments and public authorities, and we all strive to perform our duties with objectivity and impartiality. However, the DST Ethics Policy requires a strict standard of avoiding all *appearances* of conflicts of interest that may *directly or indirectly* influence us (emphasis added).

All staff are urged to periodically re-read the DST Ethics Policy [OST-POL-5018-ALL](#).¹ Please contact Debbie Tomasko and Cindy Aiken with additional questions. Staff who are subject to the Supplemental Ethics Policy (Tier 2) [OST-POL-5019-ALL](#)² should read that policy as well.

¹ This guidance will be made a part of the DST Ethics Policy for future reference and use by SLGFD staff.

² For SLGFD staff who are "covered persons" under the State Government Ethics Act (Chapter 138 of the N.C. General Statutes), this SLGFD guidance supersedes G.S. 138A-31(b)(7)d. which otherwise permits a covered person to provide "a letter of character reference" for individuals seeking employment. See G.S. 138A-15(g). Due to the appearance of a conflict of interest, such letters of character reference should not be provided as outlined above.