



EMPLOYEE ETHICAL OBLIGATIONS (CODE OF ETHICS)

Selected provisions addressing ethical considerations and obligations for state employees. This is not a complete inventory of state law, but highlights some statutes affecting state employees. It is the MnSCU Board of Trustees' expectations that all MnSCU employees (including faculty) observe both the letter and spirit of these provisions as well as any applicable provisions of collective bargaining agreements or personnel policies and procedures.

If questions regarding individual's compliance with the various statutory provisions arise, inquires should be directed to the employee's supervisor or the institution's Director of Human Resources. Any matters involving possible misuse of state funds or property should be reported to the MnSCU Office of Internal Auditing.

Part 1. SOLICITATION

Minnesota Stat. 43A.38, subd. 4, governs this issue.

(a) An employee shall not use or allow the use of state time, supplies or state-owned or leased property and equipment for the employee's private interests or any other use not in the interest of the state, except as provided by law.

Part 2. OUTSIDE EMPLOYEMENT

Minnesota Stat. 43A.38, subd. 4, governs this issue.

Minnesota law does not prohibit state employees from accepting employment outside their state positions, however, such outside employment must be consistent with the Minnesota Code of Ethics for Executive Branch Employees contained in M.S. 43A.38. The Code of Ethics defines the obligations of State Executive Branch employees in the following areas:

- Acceptance of gifts; favors
- Use of confidential information
- Use of state property
- Conflicts of interest

Since the Code defines obligations of employees, all MnSCU employees should be aware of the provisions of the Code. Accordingly, the Code of Ethics should be distributed to all current employees and should be provided to all new employees at the time of hire.

The Code outlines circumstances which constitute a conflict of interest for state employees. These circumstances may arise in conjunction with employment outside the college/university. As a result, to avoid actual or perceived conflicts of interest in outside employment, the employee must provide immediate written notice to the President (for campus employees) or the Chancellor (for Presidents and Chancellor's Office employees) regarding the specifics of an employment that may give the perception of a conflict of interest. Colleges/universities should provide notice to all employees outlining their obligation to provide written notice of possible conflicts.

1/30/96

Part 3. MISUSE OF STATE TELEPHONE SERVICE

Minnesota Statutes Section 10.47 – Telephone service; oversight

Each member, officer, or employee in the legislative, judicial, and executive branches shall report any evidence of misuse of long-distance telephone service to the chief officer of the legislative body, judicial branch, executive office, or executive agency, and to the legislative auditor when appropriate. The legislators, judges, constitutional officers, head of executive departments and agencies, and state employees, and where appropriate, refer the evidence to other authorities.

Part 4. MINNESOTA GOVERNMENT DATA PRACTICES ACT

Minnesota Statutes Section 13.09 – Penalties

Any person who willfully violates the provisions of this chapter or any rules adopted under this chapter is guilty of a misdemeanor. Willful violation of this chapter by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

Part 5. CONFLICTS OF INTEREST

Minnesota Statutes Section 15.054 – Public employees not to purchase merchandise from governmental agencies; exceptions; penalty.

No officer or employee of the state or any of its political subdivisions shall sell or procure for sale or possess or control for sale to any other officer or employee of the state or the subdivision, as appropriate, any property or materials owned by the state or subdivision except pursuant to conditions provided in this section. Property or materials owned by the state or a subdivision, except real property, and not needed for public purposes, may be sold to an employee of the state or the subdivision after reasonable public notice at public auction or by sealed bid for the employee I the highest responsible bidder and is not directly involved in the auction or sealed bid process. Requirements for reasonable public notice may be prescribed by other law or ordinance so long as at least one week's published or posted notice is specified. A state employee may purchase no more than one motor vehicle from the state in any 12-month period. A person violating the provisions of this section is guilty of a misdemeanor. This section shall not apply to the sale of property or materials acquired or produced by the state or subdivision for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the state or a political subdivision from selling or possessing for sale public property if the sale or possession for sale is in the normal course of the employee's duties.

Minnesota Statutes Section 15.43 – Acceptance of advantage by state employee; penalty.

Subdivision 1. Financial interest of agents. No employee of the state or of the University of Minnesota in direct contact with suppliers or potential suppliers to the state or the university, or who may directly or indirectly influence a purchasing decision or contract by establishing specification, testing purchased products, evaluating contracted services, or otherwise has official involvement in the purchasing or contracting process may;

- 1) Have any financial interest or have any personal beneficial interest directly or indirectly in contracts or purchase orders for goods or services used by, or purchased for resale or furnished to a department or agency of the state or the university; or
- 2) Accept directly or indirectly from a person, firm, or corporation to which a contract or purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than items of nominal value. No such employee may further accept any promise, obligation or contract for future reward.

Subdivision 2. Textbooks exempted. Textbooks, software, and other course materials authored by an employee of the Minnesota state colleges and universities or of the University of Minnesota may be used as required course material. Instructors in state institutions and at the university may accept free samples of textbooks and related teaching materials.

Subdivision 3. Other exemptions. The commissioners of human services and corrections may by rule prescribe procedures for the acceptance of gifts from any person or organization, provided that such gifts are accepted by the commissioner, or a designated representative of the commissioner, and that such gifts are used solely for the direct benefit of patients or inmates under the jurisdiction of the accepting state officer.

Subdivision 4. Penalties. A violation of this section is a misdemeanor.

Minnesota Statutes Section 16A.138 – Officials not to except appropriation.

When there has been an appropriation for any purpose it shall be unlawful for any state board or official to incur indebtedness on behalf of the board, the official, or the state in excess of the appropriation made for such purpose. It is hereby made unlawful for any state board or official to incur any indebtedness in behalf of the board, the official, or the state of any nature until after an appropriation therefore has been made by the legislature. Any official violating these provisions shall be guilty of a misdemeanor and the governor is hereby authorized and empowered to remove any such official from office.

Minnesota Statutes Section 16A.139. Misappropriation of money.

It is illegal for any official or head of any state department, or any employee thereof, to use moneys appropriated by law, or fees collected for any other purpose than the purpose for which the moneys have been appropriated, and any such act by any head of a department, or any state official, is caused for immediate removal of the official or head of a state department from the position held with the government of this state.

Minnesota Statutes Section 43A.32 – Political activities

Subdivision 1. Prohibition. No employee shall, directly or indirectly, during hours of employment solicit or receive funds for political purposes, or use official authority or influence to compel an employee in the classified service to apply for membership in or become a member of any political organization, to pay or promise to pay any assessment, subscription, or contribution or to take part in any political activity.

Subdivision 2. Leaves of absence for elected public officials, candidates, except as herein provided any officer or employee in the classified service shall:

- a) Take leave of absence upon assuming an elected federal office or an elected state office other than state legislative officer or, if elected to state legislative office, during times that the legislature is in session;
- b) Take leave of absence upon assuming any elected public office other than enumerated in clause (a) if, in the opinion of the commissioner, the holding of the office conflicts with regular state employment; and
- c) Upon request, be granted leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office.

All requests for opinions of the commissioner and all opinions from the commissioner under the provisions of clause (b) shall be in writing and shall be delivered by mail or by use of a facsimile machine.

The commissioner shall issue an opinion under the provisions of clause (b) within seven calendar days of receipt of the request.

Subdivision 3. Leave of absence. No executive branch officer or employee in the unclassified service who is covered by a collective bargaining agreement, and no executive branch officer or employee in the classified service, may be required to take a leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office. Said officers and employees shall take leave of absence upon assuming an elected federal office or an elected state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session.

Part 4. STATEWIDE ELECTRONIC COMMUNICATION AND TECHNOLOGY ETHICS

POLICY: The State of Minnesota provides a variety of electronic tools such as telephones, computers, facsimile machines, pagers, electronic mail (e-mail) systems, Internet access and a browser for employees whose job performance would be enhanced by the technology. The State faces the challenge of making maximum use of the benefits of such tools, meeting legal requirements for access to information, and providing adequate protection for proprietary information. This policy memorandum governs access to and the appropriate use of this technology during time periods before and after work and during break periods by State employees in the executive branch.

Employee access to and use of electronic tools such as e-mail and the Internet is intended for business-related purposes. Limited and reasonable use of these tools for occasional employee personal purpose that does not result in any additional costs of loss of time or resources for their intended business purpose is permitted.

DEPARTMENT HEAD RESPONSIBILITY: Appointing authorities are encouraged to use this policy as a framework for issuing their own departmental policies. Modifications may be made to accommodate individual departmental needs so long as they do not enlarge or diminish what the statutes allow.

EMPLOYEE RESPONSIBILITY: Executive branch employees are responsible for appropriate use of e-mail and internet access. They are expected to adhere to the highest ethical standards when conducting State business and to follow the Code of Ethics and related State statutes applicable to executive branch employees. For example:

Minn. Stat. SS43A.38, Subd. 4 provides: “USE OF STATE PROPERTY. (a) An employee shall not use or allow the use of state time, supplies, or state owned or leased property and equipment for the employee’s private interest or any other use not in the interest of the state, except as provided by law.

(b) An employee may use state time, property, or equipment to communicate electronically with other persons including, but not limited to, elected officials, the employer, or an exclusive bargaining representative under chapter 179A, provided this use, including the value of time spent, results in no incremental cost to the state or results in an incremental cost that is so small as to make accounting for it unreasonable or administratively impracticable.”

Minn. Stat. SS43A.39, Subd. 2 provides: “NONCOMPLIANCE. Any employee who intentionally fails to comply with the provisions of Chapter 43A shall be subject to disciplinary action and action pursuant to Chapter 609.”

Managers and supervisors are responsible for ensuring the appropriate use of all electronic tools, including e-mail and Internet access through training, supervising, coaching and taking disciplinary action, when necessary. Each agency is responsible for establishing internal policies regarding password management, encryption, data practices, monitoring access, records retention, and the like, and for communicating those policies to staff. Each agency will ensure that the responsible authorities within their agencies know who can access what, using what technology, and under what conditions.

APPROPRIATE USE: State employees need to use good judgment in Internet access and e-mail use. They are expected to ensure that e-mail messages are appropriate in both the types of e-mail messages created and the tone and content of those messages. Employee use of e-mail and the Internet must be able to withstand public scrutiny without embarrassment to the agency or the State of Minnesota.

Examples of INAPPROPRIATE USE include, but are not limited to:

- Illegal activities
- Wagering, betting, or selling
- Harassment and illegal discrimination
- Fund-raising for any purpose unless agency sanctioned
- Commercial activities, e.g., personal for-profit business activities
- Promotion of political or religious positions or activities
- Receipt, storage or transmission of offensive, racist, sexist, obscene or pornographic information.
- Downloading software (including games, wallpaper, or screen savers) from the Internet unless agency-sanctioned.
- Non-State employee use.

The traditional communication rules of reasonableness, respect, courtesy, common sense, and legal requirements also apply to electronic communication. For example, actions that are considered illegal such as gambling and harassment are not up to the discretion of individual agencies or individual managers or supervisors: these actions

break the law whether the behavior is conducted on e-mail or by another means of communication, and they may subject the employee to disciplinary action up to and including discharge.

Employees should be aware that they may receive inappropriate and unsolicited e-mail messages. Any such messages should be reported immediately to the employee's supervisor and any other designated official within the employee's agency.

While employees may make personal use of State technology such as e-mail and Internet access, the amount of use during working hours is expected to be limited to incidental use or emergency situations. Excessive time spent on such personal activities during working hours will subject the employee to disciplinary action.

UNION USE: In the interest of maintain effective labor-management relationships and efficient use of State time and resources, State e-mail systems may be used by employee representatives of the union for certain union activities. Approved uses include posting of meeting notices, investigation and administration of grievances, contract interpretation questions, union election results, and notification of arbitration and unit determination decisions.

State owned property or services including the e-mail system may not be used for political activities, fund-raising, campaigning for union office, union organizing activities, or solicitation of employees for union membership.

Union use of electronic communication technology is subject to the same conditions as employee use of such technology, as set forth in this Policy Memorandum. This includes the conditions set forth in the paragraph below entitled, "Monitoring."

MONITORING: Electronic communication devices such as telephone, facsimile machines, pagers, State e-mail systems and Internet access are State property. Like other State resources, they are intended to be used for State business and other agency-sanctioned activities. The State reserves the right to monitor all use of e-mail and Internet resources at the time of use, during routine post-use audits, and during investigations.

Data that agencies maintain electronically are government data and, as such, are subject to classification and access under the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. Employees should understand that electronic data are not completely secure. For example, e-mail messages can be altered by a recipient and re-transmitted as if from the original sender, or data can be illegally accessed. They should also understand that e-mail messages and Internet transactions, including those they delete or erase from their own files, may be backed up or recorded and stored centrally for system security and investigative purposes. They may be retrieved and viewed by someone else with proper authority at a later date. It is the user's responsibility to use care in communicating information not meant for public viewing.

Because the e-mail and Internet systems are not secure, employees should not send any data classified as not public (private or confidential data on individuals or nonpublic or protected nonpublic data not on individuals) over the e-mail or Internet systems unless the data are encrypted or encoded.

RECORD RETENTION SCHEDULES: Record retention schedules are the same regardless of the medium used to create or store the record. See Minn. Stat. SS138.17. As a result, some e-mail messages may be official records of the agency and must be retained in accordance with the agency's record retention schedule appropriate for the type, nature and content of the record. Improper disposal may subject the employee and the agency to legal sanctions and other administrative or legal consequences.

This policy memorandum was developed with the assistance of State human resources managers and information technology and policy managers under the auspices of the departments of Employee Relations and Administration. It will be updated and revised as needed. If you have questions, please contact your agency human resources office of the designated official in your agency.

Signed
Karen Carpenter, Commissioner
MN Department of Employee Relations

Signed
Elaine Hansen, Commissioner
MN Department of Employee Relations.

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