State of South Carolina

Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

<u>MEMORANDUM</u>

TO: Governor's Office Staff

FROM: Swati Patel, Chief Legal Counsel and Ethics Officer

SUBJECT: Adoption of a Code of Conduct

DATE: July 1, 2015

Effective July 1, 2015, all employees of the Office of the Governor, Executive Control of State, shall follow the rules set forth in the Governor's Office Code of Conduct, which has been implemented pursuant to Executive Order 2014-23 and which mirrors the Governor's Code of Conduct Task Force's recommendations. If a staff member has any questions about the Code of Conduct, please contact the Legal Office. A copy of the Code of Conduct is enclosed.

GOVERNOR'S OFFICE CODE OF CONDUCT

Five Ethical Principles

Five ethical principles are central to all of the rules contained in the Code:

> **Honesty** – Employees should be truthful and sincere in all interactions with the public and with each other.
>
> **Fairness** – Employees should seek to make impartial, just, and equitable decisions.
>
> **Integrity** – Employees should always act in a manner that instills public confidence and should avoid participating in any matter where a real or perceived conflict of interest exists.
>
> **Respect** – Employees should demonstrate respect to others at all times.
>
> **Loyalty** – Employees should remain loyal to the State and the citizens they serve and should not engage in any conduct that calls into question this loyalty.

Employees should be guided, first and foremost, by these ethical principles while performing their individual job duties and responsibilities. The following more specific rules are intended to be an application of these above principles.

Eight Standards of Conduct

1. Gifts and Other Things of Value

Most state employees work hard, and it is understandable that citizens and businesses may want to show gratitude for a good working relationship or a job well done. Acceptance of these gifts by state employees, however, has the potential to create real or perceived favoritism toward particular customers, vendors, or businesses, undue influence, or a real or perceived conflict of interest. Thus, the best practice is to avoid this situation.

> **Rule 1** – *Except as provided below, you may not accept a gift or anything of value for yourself from a person or entity that is or could be seeking services from or doing business with the State and given as a result of your employment with the State.*

Clarifications:

Gifts given because of a relationship that existed before your employment with the State or reasons other than your employment with the State are not prohibited.

Gifts given by your employer and co-workers are not prohibited.

Promotional, informational, or educational items, such as calendars, pamphlets, or pens, given to you as a result of your state employment with a value of less than $10 are not prohibited by this rule. These items, however, shall at no time be prominently displayed in the agency to create an appearance of favoritism or endorsement of a particular product, vendor, or business.

Acceptance of a personalized trophy or plaque with a value of less than $150 is not prohibited by this rule.

Items given to an employee, department, or the Governor's Office, not otherwise excluded from this rule, not easily returned may be donated to a charity or placed in a common area for the enjoyment of all Governor's Office employees. These items may not be retained for the benefit of any one employee or particular group of employees. Any items donated or retained by the Governor's Office for the benefit of all employees must be approved by the appropriate staff member in the Governor's Office, and the Governor's Office must retain a file documenting all of these items.

Employees may not receive compensation for speaking; however, they may accept a meal provided in conjunction with the speaking engagement where all participants are entitled to the same meal. In addition, employees may accept or be reimbursed for actual and reasonable travel and lodging expenses related to the speaking engagement.

Gifts that include travel, lodging and/or meal expenses paid for on behalf of an employee to participate in a work-related event, that could otherwise have been paid for by the Governor's Office, is a gift to the Governor's Office, not the individual employee, and it not prohibited with the following two exceptions: (1) a state agency may never receive any gift from a lobbyist; and (2) a state agency may receive a gift from a lobbyist principal up to the amounts prescribed by the State Ethics Commission.

2. Conflicts of Interest

State employees have a duty of loyalty to the State as their employer. Certain dealings outside of work, both personal and financial, have the potential to create an actual or perceived conflict in fulfilling this duty to the State. Employees of the Governor's Office should avoid these situations by limiting certain dealings outside of their employment or removing themselves from particular matters.

> **Rule 2** – *You may not make, participate in, or influence a governmental decision in which you, an immediate family member, an individual with whom you are associated, or a business with which you are associated has an economic interest.*
>
> *You may not have outside employment which creates a real or perceived conflict of interest or is incompatible with the duties and expectations of state employees. Outside employment must be approved in advance, in writing, by the appropriate Governor's Office staff member. If the agency director seeks to be employed by another state agency or institution of higher education, he/she must receive the appropriate approvals pursuant to S.C. Code Ann. § 8-11-170.*

You may not have an economic interest in a contract with the State or its political subdivisions if you are authorized to perform an official function relating to the contract.

You may not do anything that would give the public a reasonable basis to think that anyone can improperly influence you in your official duties of the Governor's Office by reason of kinship, rank, position, or influence.

Recusal: You must report, in writing, any actual or perceived conflicts to the Governor's Office ethics officer, who will review and determine whether a conflict exists. If the ethics officer determines no conflict exists, he/she must document, in writing, the basis for the determination. If it is determined that a conflict exists, you must immediately remove yourself from the decision, vote, or process. The ethics officer must keep written documentation of all recusals.

<u>Definitions:</u>

For purposes of this rule, an "*immediate family member*" includes a child residing in your home, your spouse, or an individual claimed by you as a dependent for income tax purposes.

For purposes of this rule, an "*individual with whom you are associated*" means an individual with whom you or a member of your immediate family mutually has an interest in any business of which you or a member of your immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth $100,000 or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

For purposes of this rule, a "*business with which you are associated*" means a business of which you or a member of your immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth $100,000 or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

For purposes of this rule, "*official function*" means writing or preparing the contract specifications, acceptance of bids, award of the contract, or other action on the preparation or award of the contract.

3. Financial Disclosures

Employees that affect the daily decisions of the State are more accountable through financial disclosure to the public.

Rule 3 – *State employees who are (1) agency heads; (2) chief, deputy, or assistant administrative officials or directors of a division, institution, facility, or department; (3) chief finance employees; and (4) chief purchasing employees are required by statute to annually file a Statement of Economic Interests with the State Ethics Commission pursuant to § 8-13-1110 of the South Carolina Code of Laws.*

The Department of Administration must examine the organizational structure of the Governor's Office to determine if additional employees, because of their positions in their agencies, should file a Statement of Economic Interests. Upon a determination that additional employees should file, the Department of Administration must notify, in writing, the agency director and the employee of the filing requirement. Such employee, if not already required to file with the State Ethics Commission, must file a Statement of Economic Interests with the State Ethics Commission.

4. Use of State Resources

State resources are limited, and the public must trust state officials and employees to be good stewards of these resources. The public should have confidence that state resources are being used for the benefit of all citizens, the owners of the property, and not as personal property of state employees.

Rule 4 – *You may only use state resources and/or property for conducting official business, except that incidental use of state property is permitted as long as it does not result in any additional public expense. Incidental use is infrequent and minimal.*

You may never use state resources for private business and/or financial gain.

You shall not permit others to access or use any assigned equipment, including state cars, laptops, cell phones, or other electronic devices, except as authorized by the Governor's Office

You may never use state personnel, equipment, materials, or facilities for political campaigns.

Unless specifically required by the Governor's Office to perform a job function, you may not use social media, including but not limited to Facebook, Instagram, and Twitter, while on duty or through the use of state resources or equipment.

5. Confidentiality

Many times the State requires its citizens and businesses to file personal information. The State has a duty to protect this information. The public must be able to trust that employees with access to this information will protect its confidentiality and not use the information for personal or financial gain.

Rule 5 – *You must not disclose restricted or confidential information acquired through your employment to any unauthorized person or entity.*

Agencies must only provide to employees access to data required to perform their job duties and must regularly re-examine employee access levels to ensure that remain aligned with job duties.

You must only access, review, or examine data as necessary to perform your job function and not for any unlawful or improper purpose, including personal curiosity.

You must only use information gained through your employment in furtherance of official business.

You must protect the integrity of Governor's Office data and strive to diligently protect all restricted and confidential information from unauthorized disclosure.

Each agency must designate, in writing, information that is deemed restricted or confidential for purposes of this rule and must notify employees of such designation.

6. **Nondiscriminatory Work Environment**

Rule 6 **–** *You must promote a nondiscriminatory work environment that provides equal employment opportunities to all employees and applicants without regard to race, color, religion, sex, gender, genetic information, national origin, age, veteran status, disability, or any other status protected by federal or state law.*

7. **Post-Employment Restrictions**

Employees gain many valuable skills and connections while employed by the State. It is understandable that these employees may one day want to use these skills and connections outside of state employment. Citizens must have confidence, however, that while employed with the State, employees are working solely for the benefit of the State and not to use their position to create opportunities for themselves upon their departure that could result in a conflict of interest. The following post-employment rules are found in current state law and are not intended to limit employment opportunities of state employees; instead, they prohibit individuals from engaging in certain activities on behalf of persons or entities with state government.

Rule 7 **–** *For one year following your departure from state government, you may not represent another person or entity before your former agency in a matter you directly and substantially participated in during employment. [Section 8-13-755] You may not participate directly in the procurement of a contract and then depart the state agency and accept employment with a person contracting with the governmental body if the contracts falls or would fall under your official responsibilities. [Section 8-13-760]*

8. **Reporting Requirements and Whistleblower Protections**

At times, employees are aware that others are committing wrongdoing within an agency but for various reasons choose not to report the misconduct. This may create the perception that this type of behavior is condoned by the Governor's Office. Citizens must be able to trust that state employees are doing all they can to prevent wrongdoing and at all times are protecting the interests and property of the State.

> Rule 8 - *You must report an intentional violation of this Code of Conduct or any federal or state law or regulation by any agency employee, whether temporary or full-time, including a co-worker, subordinate, supervisor, senior manager, or any other employee.*
>
> *You must report any action by your employing agency, board, or commission that results in substantial abuse, misuse, destruction, or loss of substantial public funds or resources.*

Reporting Requirements**:**

Reporting intentional violations of this code will directly to the Governor's Office ethics officer. These reports must be made verbally or in writing as specified by the agency as soon as possible after the employee first learns of the wrongdoing but no later than **14 days (template timeframe is 180 days)** of the date the reporting employee first learns of the wrongdoing. This report must include the date of disclosure, the name of the employee making the report, the nature of the wrongdoing, and the date or date range of when the conduct occurred. If the report is oral, the agency designee, Department of Administration employee, or other state official to whom the report is made must reduce the report to writing.

Good Faith Requirement**:**

All reports of wrongdoing must be made in good faith. An employee may be disciplined or terminated for making a report that he or she knows or reasonably should know is false.

Whistleblower Protections**:**

An employee who files a report within the specified time frame, to the appropriate authority, and in good faith, is considered a whistleblower. Whistleblowers may not be demoted, lose compensation, or be dismissed or suspended from employment as a result of filing a report of wrongdoing.

Nothing prevents an agency from disciplining or terminating a whistleblower for causes independent of the filing of a report of wrongdoing.

###