

Meeting Notice
SOUTH DAKOTA ATHLETIC COMMISSION
Department of Labor and Regulation Conference Room
811 E. 10th Street
Sioux Falls, South Dakota
August 17, 2018 11:00 a.m. CDT

Proposed Agenda

- A. Call to Order
- B. Approval of the Agenda
- C. Open Forum: 5 minutes for the public to address the Commission
- D. Approval of Meeting Minutes of April 20, 2018 and June 18, 2018
- E. Financial Report as of June 30, 2018
- F. Old Business
 - 1) Update on MMA Event 2018-006 (Sioux Falls)
 - 2) Update on MMA Event 2018-007 (Huron)
 - 3) Update on MMA Event 2018-008 (Watertown)
 - 4) Contest Fee Structure
- G. New Business
 - 1) Request for MMA Event on September 29, 2018 (Sparta Combat League)
 - 2) Internal Control Board Code of Conduct and Conflict of Interest Policy for Use by State Authority, Board, Commission, and Committee Members
- H. Other Business
- I. Announcements
- J. Next Meeting: October 26, 2018
- K. Adjourn

Meeting Minutes
SOUTH DAKOTA ATHLETIC COMMISSION
Best Western Plus Ramkota Hotel
3200 W. Maple Street, Sioux Falls, SD
April 20, 2018 11:00 a.m. CDT

Chairman Lohff called the meeting to order at 11:04 am. Stalley called the roll. A quorum was present.

Members Present: Mike Kilmer, Lee Lohff, and Verle Valentine

Members Present via Telephone: Margaret Gillespie, Richard Little

Others Present: Jennifer Stalley, executive secretary, and Amber Mulder, Department of Labor Legal Counsel

Kilmer made a motion to approve the agenda. Valentine seconded the motion. **MOTION PASSED.**

Lohff asked for any public comments. There were none.

Valentine made a motion to approve the January 26, 2018 and February 9, 2018 meeting minutes. Kilmer seconded the motion. **MOTION PASSED.**

Kilmer made a motion to approve the March 31, 2018 financial statement. Little seconded the motion. **MOTION PASSED.**

Kilmer moved to recommend the Athletic Commission Records Retention Policy to the Records Destruction Board for final approval. Valentine seconded the motion. **MOTION PASSED.**

Stalley provided the Commission with an update on MMA Event 2018-001, Boxing Event 2018-002, MMA Event 2018-003, MMA Event 2018-004 and MMA Event 2018-005.

Kilmer made a motion to approve the event request by Fury Fights for a mixed martial arts events on October 20, 2018 in Watertown, South Dakota on the condition the promoter complies with all the condition placed on the promoter for MMA Event 2018-004 and the promoter provides one pair of size appropriate gloves per competitor for the event. Valentine seconded the motion. **MOTION PASSED.**

The Commission discussed the contest fee structure, specifically the fee imposed on gross revenue from television and pay-per-view rights. The Commission asked for additional information on the contest fees in other jurisdictions for a continued discussion on the matter at the next meeting.

Kilmer made a motion to renew the contract with Midwest Solutions for executive services for the Commission under the terms of the current contract. Gillespie seconded the motion. **MOTION PASSED.**

Lohff noted the Commission will meet next on August 17, 2018 at 11:00 am via teleconference. Lohff noted additional event requests may necessitate an additional meeting before this scheduled meeting.

Gillespie made a motion to adjourn. Little seconded the motion. **MOTION PASSED.**

The meeting adjourned at 12:27 p.m.

Respectfully Submitted,

Richard Little, Secretary

Draft

Meeting Minutes
SOUTH DAKOTA ATHLETIC COMMISSION
Via Teleconference
June 18, 2018 12:00 p.m. CDT

Chairman Lohff called the meeting to order at 12:07 p.m. Stalley called the roll. A quorum was present.

Members Present via Telephone: Mike Kilmer, Lee Lohff, Richard Little, and Verle Valentine

Members Absent: Margaret Gillespie

Others Present: Jennifer Stalley, executive secretary, and Amber Mulder, Department of Labor Legal Counsel

Kilmer made a motion to approve the agenda. Little seconded the motion. The Commission voted by roll call. Little, Valentine, Kilmer and Lohff voted aye. **MOTION PASSED.**

Lohff asked for any public comments. There were none.

Little made a motion to approve the event request by Bellator MMA for a mixed martial arts event on August 17, 2018 at the Sanford Pentagon in Sioux Falls on the condition the promoter comply with all Commission rules and deadlines. Kilmer seconded the motion. The Commission voted by roll call. Little, Valentine, Kilmer and Lohff voted aye. **MOTION PASSED.**

Kilmer made a motion to approve the event request by Knockout Events for a mixed martial arts event on September 15, 2018 in DeSmet on the condition the promoter comply with all Commission rules and deadlines. Little seconded the motion. The Commission voted by roll call. Little, Valentine, Kilmer and Lohff voted aye. **MOTION PASSED.**

Lohff noted the Commission will meet next on August 17, 2018 at 11:00 am in Sioux Falls.

Kilmer made a motion to adjourn. Valentine seconded the motion. The Commission voted by roll call. Little, Valentine, Kilmer and Lohff voted aye. **MOTION PASSED.**
The meeting adjourned at 12:16 p.m.

Respectfully Submitted,

Richard Little, Secretary

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 06/30/2018

AGENCY BUDGET UNIT	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
10 1039	LABOR & REGULATION SOUTH DAKOTA ATHLETIC COMMISSION					
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS				
1039000887	6503	4293070	PROMOTER LICENSE	300.00	1,800.00	
ACCT: 4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		300.00	1,800.00	*
1039000887	6503	4299080	EVENT FEE	1,000.00	32,760.97	
1039000887	6503	4299081	CONTESTANT REGIST FEE	.00	5,625.00	
1039000887	6503	4299082	JUDGE REGISTRATION FEE	.00	750.00	
1039000887	6503	4299083	REFEREE REGISTRATION FEE	.00	350.00	
1039000887	6503	4299084	SECOND REGISTRATION FEE	.00	4,250.00	
1039000887	6503	4299085	TIMEKEEPER REGIST FEE	.00	75.00	
1039000887	6503	4299087	AMATEUR EXEMPTION FEE	.00	100.00	
ACCT: 4299		OTHER LIC, PRMTS, & FEES (NON-GOVERNMENTAL)		1,000.00	43,910.97	*
ACCT: 42		LICENSES, PERMITS & FEES		1,300.00	45,710.97	**
1039000887	6503	4920045	NONOPERATING REVENUES	.00	1,450.13	
ACCT: 4920		NONOPERATING REVENUE		.00	1,450.13	*
ACCT: 49		OTHER REVENUE		.00	1,450.13	**
CNTR: 1039000887				1,300.00	47,161.10	***
COMP: 6503				1,300.00	47,161.10	****
B UNIT: 1039				1,300.00	47,161.10	*****

AGENCY BUDGET CENTER	UNIT	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
10	1039	10390		LABOR & REGULATION SOUTH DAKOTA ATHLETIC COMMISSION SD ATHLETIC COMMISSION		
COMPANY NO	6503			PROFESSIONAL & LICENSING BOARDS		
1039000887	6503	51010100		F-T EMP SAL & WAGES	23.83	1,045.15
1039000887	6503	51010300		BOARD & COMM MBRS FEES	.00	2,400.00
ACCT: 5101				EMPLOYEE SALARIES	23.83	3,445.15
1039000887	6503	51020100		OASI-EMPLOYER'S SHARE	1.82	279.90
1039000887	6503	51020200		RETIREMENT-ER SHARE	1.43	62.74
1039000887	6503	51020600		HEALTH/LIFE INS -ER SHARE	3.84	130.19
1039000887	6503	51020800		WORKER'S COMPENSATION	.04	1.76
1039000887	6503	51020900		UNEMPLOYMENT COMPENSATION	.01	.43
ACCT: 5102				EMPLOYEE BENEFITS	7.14	475.02
ACCT: 51				PERSONAL SERVICES	30.97	3,920.17
1039000887	6503	52030200		AUTO PRIV (IN-ST.) L/RTE	.00	141.68
1039000887	6503	52030300		AUTO-PRIV (IN-ST.) H/RTE	.00	2,492.70
1039000887	6503	52031000		LODGING/IN-STATE	.00	717.68
1039000887	6503	52031200		INCIDENTALS-TRAVEL-IN ST.	.00	10.00
1039000887	6503	52031400		TAXABLE MEALS/IN-STATE	.00	219.00
1039000887	6503	52031500		NON-TAXABLE MEALS/IN-ST	.00	402.00
1039000887	6503	52032300		AUTO-PRIV. (OUT-STATE) H/R	.00	40.32
1039000887	6503	52032600		AIR-COMM-OUT-OF-STATE	.00	388.40
1039000887	6503	52033000		LODGING/OUT-OF-STATE	.00	407.68
1039000887	6503	52033200		INCIDENTALS-OUT-OF-STATE	.00	50.00
1039000887	6503	52033500		NON-TAXABLE MEALS/OUT-ST	.00	204.00
ACCT: 5203				TRAVEL	.00	5,073.46
1039000887	6503	52040200		DUES & MEMBERSHIP FEES	.00	200.00
1039000887	6503	52040900		MANAGEMENT CONSULTANT	1,177.05	35,743.67
1039000887	6503	52041600		WORKSHOP REGISTRATION FEE	.00	100.00
1039000887	6503	52042000		CENTRAL SERVICES	114.64	2,079.68
1039000887	6503	52043600		ADVERTISING-NEWSPAPER	.00	610.09
1039000887	6503	52045300		TELECOMMUNICATIONS SVCS	.00	399.54
1039000887	6503	52045900		INS PREMIUMS & SURETY BDS	.00	815.00
1039000887	6503	52049600		OTHER CONTRACTUAL SERVICE	.00	658.16
ACCT: 5204				CONTRACTUAL SERVICES	1,291.69	40,606.14
1039000887	6503	52050280		OFFICE SUPPLIES	.00	261.35
1039000887	6503	52053100		PRINTING-STATE	18.32	107.42
1039000887	6503	52053500		POSTAGE	.00	799.89
ACCT: 5205				SUPPLIES & MATERIALS	18.32	1,168.66
1039000887	6503	5228000		OPER TRANS OUT -NON BUDGT	70.02	193.58
ACCT: 5228				NONOP EXP/NONBGTD OP TR	70.02	193.58
ACCT: 52				OPERATING EXPENSES	1,380.03	47,041.84

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STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2018

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AGENCY	10	LABOR & REGULATION		
BUDGET UNIT	1039	SOUTH DAKOTA ATHLETIC COMMISSION		
CENTER-5	10390	SD ATHLETIC COMMISSION		
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH
COMP :	6503	PROFESSIONAL & LICENSING	BOARDS	1,411.00
CENTER:	10390000887			1,411.00
B UNIT:	1039			1,411.00
				YEAR-TO-DATE
				50,962.01

				50,962.01

				50,962.01

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STATE OF SOUTH DAKOTA
MONTHLY EXPENDITURE REPORT
FOR PERIOD ENDING: 06/30/2018

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AGENCY 10 LABOR & REGULATION
BUDGET UNIT 1039 SOUTH DAKOTA ATHLETIC COMMISSION
CENTER-5 10390 SD ATHLETIC COMMISSION

COMP	CENTER	ACCOUNT	DOCUMENT NUMBER	POSTING DATE	JY APPL OR PAYMENT #	SHORT NAME	VENDOR NUMBER	VENDOR GROUP	AMOUNT	DR/CR
COMPANY NO 6503										
COMPANY NAME PROFESSIONAL & LICENSING BOARDS										
6503	1039000887	51010100	CGEX180529	06/01/2018					23.83	DR
	OBJSUB:	5101010	F-T EMP SAL & WAGES						23.83	DR *
	OBJECT:	5101	EMPLOYEE SALARIES						23.83	DR **
6503	1039000887	51020100	CGEX180529	06/01/2018					1.82	DR
	OBJSUB:	5102010	CASI-EMPLOYER'S SHARE						1.82	DR *
6503	1039000887	51020200	CGEX180529	06/01/2018					1.43	DR
	OBJSUB:	5102020	RETIREMENT-ER SHARE						1.43	DR *
6503	1039000887	51020600	CGEX180529	06/01/2018					3.84	DR
	OBJSUB:	5102060	HEALTH/LIFE INS.-ER SHARE						3.84	DR *
6503	1039000887	51020800	CGEX180529	06/01/2018					3.84	DR
	OBJSUB:	5102080	WORKER'S COMPENSATION						3.84	DR *
6503	1039000887	51020900	CGEX180529	06/01/2018					.04	DR
	OBJSUB:	5102090	UNEMPLOYMENT COMPENSATION						.04	DR *
	OBJECT:	5102	EMPLOYEE BENEFITS						.01	DR *
	GROUP:	51	PERSONAL SERVICES						7.14	DR **
6503	1039000887	52040900	18SC100004 1223	06/22/2018	00511528	MIDWESTSOL	12199902		30.97	DR ***
	OBJSUB:	5204090	18SC100004 1223						177.05	DR
6503	1039000887	52040900	18SC100004 1223	06/22/2018	00511528	MIDWESTSOL	12199902		1,000.00	DR
	OBJSUB:	5204090	MANAGEMENT CONSULTANT						1,177.05	DR *
6503	1039000887	52042000	PL805064	06/20/2018					114.64	DR
	OBJSUB:	5204200	CENTRAL SERVICES						114.64	DR *
	OBJECT:	5204	CONTRACTUAL SERVICES						1,291.69	DR **
6503	1039000887	52053100	CD805042	06/06/2018					18.32	DR
	OBJSUB:	5205310	PRINTING-STATE						18.32	DR *
	OBJECT:	5205	SUPPLIES & MATERIALS						18.32	DR **
6503	1039000887	52280000	T108-112	06/28/2018					43.53	DR
	OBJSUB:	5228000	T108-135						26.49	DR
6503	1039000887	52280000	T108-135	06/06/2018					70.02	DR *
	OBJSUB:	5228000	OPER TRANS OUT -NON BUDGT						70.02	DR **
	OBJECT:	5228	NONOP EXP/NONBGTD OP TR						1,380.03	DR ***
	GROUP:	52	OPERATING EXPENSES						1,411.00	DR ****
	COMP:	6503							1,411.00	DR *****
	CNTR:	1039000887							1,411.00	DR *****
	B. UNIT:	1039							1,411.00	DR *****

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STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 06/30/2018

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AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1039 SOUTH DAKOTA ATHLETIC COMMISSION

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1039000887	1140000	156,393.79	DR	BOXING COMMISSION FUND
COMPANY/SOURCE TOTAL 6503 887			156,393.79	DR *	
COMP/BUDG UNIT TOTAL 6503 1039			156,393.79	DR **	
BUDGET UNIT TOTAL 1039			156,393.79	DR ***	

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BUDGET UNIT 1039

AVAILABLE FUNDS AS OF: 06/30/2018
FY YEAR REMAINING: 0.0%
PAY DAYS REMAINING: 0

FINAL MONTHLY

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DATE 07/14/2018

CENTER NAME SOUTH DAKOTA ATHLETIC COMMISSION

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	MONTHLY EXPENDITURES	YEAR-TO-DATE AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	55,740.00	13.00	0.00	0.00	50,768.43	4,984.57	156,393.79
BUDGETED TOT	55,740.00	13.00	0.00	0.00	50,768.43	4,984.57	
ALL COMP TOT	55,740.00	13.00	0.00	0.00	50,768.43	4,984.57	

TOTAL BUDGETED:

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE AVAILABLE	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	7,356.00	0.00	0.00	23.83	3,445.15	3,910.85	53.2
5102 EMPLOYEE BENEFITS	1,014.00	0.00	0.00	7.14	475.02	538.98	53.2
5203 TRAVEL	3,600.00	0.00	0.00	0.00	5,073.46	1,473.46	0.0
5204 CONTRACTUAL SVCS	41,783.00	0.00	0.00	1,291.69	40,606.14	1,176.86	2.8
5205 SUPPLIES & MATRLS	2,000.00	0.00	0.00	18.32	1,168.66	831.34	41.6
TOTALS	55,753.00	0.00	0.00	1,340.98	50,768.43	4,984.57	8.9

BREAKOUT BY COMPANY:

COMPANY	PROFESSIONAL & LICENSING BOARDS	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES	YEAR-TO-DATE AVAILABLE	BUDGET AVAILABLE	PCT AVL
COMPANY 6503-I	7,356.00	0.00	0.00	23.83	3,445.15	3,910.85	53.2
	1,014.00	0.00	0.00	7.14	475.02	538.98	53.2
	3,600.00	0.00	0.00	0.00	5,073.46	1,473.46	0.0
	41,783.00	0.00	0.00	1,291.69	40,606.14	1,176.86	2.8
	2,000.00	0.00	0.00	18.32	1,168.66	831.34	41.6
PS SUBTOTALS	8,370.00	0.00	0.00	30.97	3,920.17	4,449.83	53.2
OE SUBTOTALS	47,383.00	0.00	0.00	1,310.01	46,848.26	534.74	1.1
COMPANY 6503-I TOT	55,753.00	0.00	0.00	1,340.98	50,768.43	4,984.57	8.9

CENTER NAME	SOUTH DAKOTA ATHLETIC COMMISSION									
COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE			
6503-I	55,740.00	13.00	0.00	21,442.15	50,768.43	16,457.58-	156,437.32			
BUDGETED TOT	55,740.00	13.00	0.00	21,442.15	50,768.43	16,457.58-				
ALL COMP TOT	55,740.00	13.00	0.00	21,442.15	50,768.43	16,457.58-				

TOTAL BUDGETED:

OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	MONTHLY EXPENDITURES YEAR-TO-DATE	BUDGET AVAILABLE	PCT AVL
5101 EMPLOYEE SALARIES	7,356.00	0.00	0.00	23.83	3,445.15	53.2
5102 EMPLOYEE BENEFITS	1,014.00	0.00	0.00	7.14	475.02	53.2
5203 TRAVEL	3,600.00	0.00	0.00	0.00	5,073.46	0.0
5204 CONTRACTUAL SVCS	41,783.00	0.00	21,442.15	1,291.69	40,606.14	0.0
5205 SUPPLIES & MATRLS	2,000.00	0.00	0.00	18.32	1,168.66	41.6
TOTALS	55,753.00	0.00	21,442.15	1,340.98	50,768.43	0.0

BREAKOUT BY COMPANY:

COMPANY	6503-I	PROFESSIONAL & LICENSING BOARDS	TOT
5101000	EMPLOYEE SALARIES	7,356.00	0.00
5102000	EMPLOYEE BENEFITS	1,014.00	0.00
5203000	TRAVEL	3,600.00	0.00
5204000	CONTRACTUAL SVCS	41,783.00	0.00
5205000	SUPPLIES & MATRLS	2,000.00	0.00
PS SUBTOTALS	8,370.00	0.00	0.00
OE SUBTOTALS	47,383.00	0.00	0.00
COMPANY 6503-I	TOT	55,753.00	0.00

Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members

Purpose

The purpose of this code of conduct and conflict of interest policy (“Code”) is to establish a set of minimum ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. With the exception of those under the purview of the Unified Judicial System, this Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter “Boards” and “Board member(s)”). A Board may add provisions to, or modify the provisions of, the Code. However, any change that constitutes a substantive omission from the Code must be approved by the State Board of Internal Control.

Conflict of Interest for Board Members

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

General Restrictions on Participation in Board Actions

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board’s official actions are administrative, quasi-judicial or quasi-legislative.

A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member’s interest or relationship creates a potential to influence the member’s impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

Administrative actions involve the day-to-day activities of the Board and include personnel, financing, contracting and other management actions. Most of the administrative official actions of a Board are done through the Board's administrative staff. To the extent Board members are involved, the conflict of interest concern most frequently arises in the area of state contracting which is addressed in more detail below. If issues arise that are not directly addressed by this Code, the Board member should consult with the attorney for the Board.

"Official action" means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

Contract Restrictions

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member's term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General's website at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member's term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: <http://bhr.sd.gov/forms/>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may

contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member's own interests and contracts.

Consequences of Violations of Conflict of Interest Laws

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30-46.

Retaliation for Reporting

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

Anti-Harassment/Discrimination Policy

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- Unwelcome physical contact such as kissing, fondling, hugging, or touching;

- Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- Slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

Confidential Information

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

Reporting of Violations

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

This Code of Conduct and Conflict of Interest Policy was adopted by the State Board of Internal Control pursuant to SDCL § 1-56-6.