

A Resolution of No Confidence in the Board of Trustees
Adopted by the Faculty Senate, Wednesday, October 2, 2019

*Violations of SACSCOC
principles*

Whereas the SACSCOC *Principles of Accreditation* regulations state, “The governing board protects the institution from undue influence by external persons or bodies,” and “no outside person, board, or religious or legislative body should be in a position to interfere with the governing board’s ultimate authority to fulfill its responsibilities or to interfere in the operations of the institution”; and

Whereas SACSCOC reminds board members “to avoid even the appearance of any conflict of interest as board members carry out their duties;” and

Whereas the Governor and multiple board members provided ample evidence of undue influence and conflict of interest by 1) engaging the Governor’s chief of staff to lobby Board members, 2) engaging outside parties to influence Board members, 3) privately calling a single candidate and intervening on his behalf, and 4) using the powers and resources of the Office of the Governor to sway the collective opinion of the Board; and

Whereas multiple Board members have -- by their actions, admissions, and failures to intervene -- imperiled the University’s accreditation by provoking increased scrutiny from SACSCOC over concerns of undue external influence [Appendix A], and,

*Violations of Board of
Trustees’ Bylaws*

Whereas the Bylaws of the Board of Trustees stipulate that “Three Board members of any committee shall constitute a quorum for the transaction of business”; and

Whereas the Bylaws of the Board of Trustees require that “Notice of the time and place of a meeting of a committee shall be distributed to all members of the Board at least five working days before the time appointed for the meeting”; and that “Public notice of such meetings shall be given by the Secretary not less than twenty-four hours before the meeting”; and

Whereas both the Board’s 9/23/19 response to SACSCOC and materials released in response to Freedom of Information Act requests and make clear that the Board violated these requirements on multiple occasions [Appendix B]; and

Whereas University policy for recruitment and appointment of academic administrators requires that “all searches must be conducted

*Violations of
University and EOP
policies for
recruitment*

in a fair and open manner, with documented efforts to develop the strongest and most diverse pool possible,” and

Whereas the Board proceeded with an all-male pool of semi-finalists, resulting in an all-male finalist pool that was 75% white, thereby calling into question the Board’s commitment to providing the “strongest and most diverse pool possible”; and

Whereas University policy EOP 1.01 defines affirmative action in accordance with equal treatment of all applicants in order “to identify and eliminate barriers to equal employment opportunity,” and emphasizes the University’s commitment “to ensure that its policies and procedures provide equal employment opportunities for qualified minorities, women, persons with disabilities, disabled veterans, and Vietnam era veterans”; and

Whereas EOP 1.04 clarifies that discrimination consists of “Unfair or unequal treatment of an individual or group of individuals” of protected status “which interferes with or limits the ability of an individual or group of individuals to participate in or benefit from the services, activities or privileges provided by the university”; and

Whereas the Board’s own response to SACSCOC (9/23/19) documents multiple instances of “unfair or unequal treatment” to benefit Robert Caslen, Jr., including a) Search Chair Mobley’s addition of Caslen’s name to the pool of semi-finalists on April 9-10 without enlisting the full committee, thereby creating an irregularity in the selection process; b) enhanced contact from multiple members of the Board of Trustees, including phone calls, electronic messages, and a private visit in Florida from four board members, including three members of the Search Committee, on April 14, 2019 in advance of campus visits [See Appendix C]; and

*Violations of State
Employee Code of
Conduct and
Carolinian Creed*

Whereas the South Carolina State Employee Code of Conduct is based on “Five Ethical Principles,” namely Honesty, Fairness, Integrity, Respect, and Loyalty; and the University’s Carolinian Creed adopts those commitments to govern ethical comportment on campus; and

Whereas the Bylaws of the Board of Trustees require that Board members act to protect the University’s reputation and that they “refrain from engaging in personal agendas that conflict with the actions of the Board or the advancement of the institution as a whole;” and

Whereas documents released in response to Freedom of Information Act requests and provided by the Board in its response to SACSCOC inquiries make clear that several Trustees engaged in actions that

violated these laws, bylaws, and policies, including soliciting and exerting “undue external influence”; “advancing personal agendas”; not providing sufficient notice of meetings; failing to adhere to the principles articulated in the Carolinian Creed; deviating from the policies on recruitment and appointment; and failing to protect the interests of the University [See Appendix D],

Summation

Therefore, be it resolved that the Faculty Senate issues a vote of no confidence in the Board of Trustees as it is currently constituted because it violated the responsibilities contained in SACSCOC principles, its Bylaws, the Carolinian Creed, and University and State regulations.

APPENDIX A – SACSCOC VIOLATIONS

SACSCOC Guidelines

“Integral to strong governance is the absence of undue influence from external sources” and cautions them “to avoid even the appearance of any conflict of interest as board members carry out their duties.” “The institution’s governing board holds in trust the fundamental autonomy and ultimate well-being of the institution ... Integral to strong governance is the absence of undue influence from external sources. “

(<http://www.sacscoc.org/pdf/2018PrinciplesOfAccreditation.pdf>)

“The institution has a governing board of at least five members that...is not controlled by a minority of board members or by organizations or institutions separate from it” (1.4.d.).

(<http://www.sacscoc.org/pdf/2018PrinciplesOfAccreditation.pdf>)

“To maintain the integrity of the educational enterprise, the governing board—responsible for establishing broad institutional policies—should be free of inappropriate influence. Although potential conflicts cannot be eliminated, they should be effectively managed to avoid even the appearance of any conflict of interest as board members carry out their duties.”

(<http://www.sacscoc.org/pdf/2018%20POA%20Resource%20Manual.pdf>)

“The governing board protects the institution from undue influence by external persons or bodies. (*External influence*) “no outside person, board, or religious or legislative body should be in a position to interfere with the governing board’s ultimate authority to fulfill its responsibilities or to interfere in the operations of the institution.”

“Effective governing boards adhere to the laws and regulations that underpin the institution’s legitimacy while championing its right to operate without unreasonable intrusions by governmental and nongovernmental agencies and entities. This applies to any governing board, whether public, private not-for-profit, or private for-profit. The board protects and preserves the institution’s independence from outside pressures.”

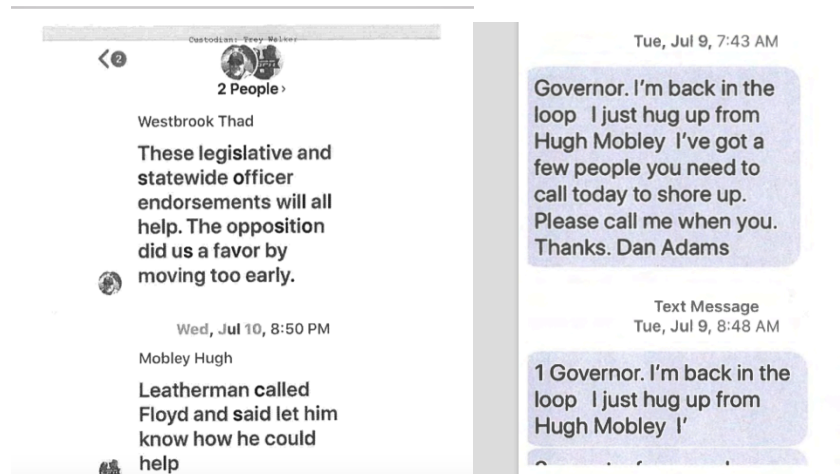
<http://www.sacscoc.org/pdf/2018%20POA%20Resource%20Manual.pdf>

“Undue” influence does not mean “no” influence. Elected officials, corporate offices, alumni associations, and religious denominational bodies are examples of persons or bodies that appropriately have interests in the activities of related colleges and universities. However, the governing board of the institution has been invested with the authority to make decisions regarding the institution, and no outside person, board, or religious or legislative body should be in a position to interfere with the governing board’s ultimate authority to fulfill its responsibilities or to interfere in the operations of the institution.

<http://www.sacscoc.org/pdf/2018%20POA%20Resource%20Manual.pdf>

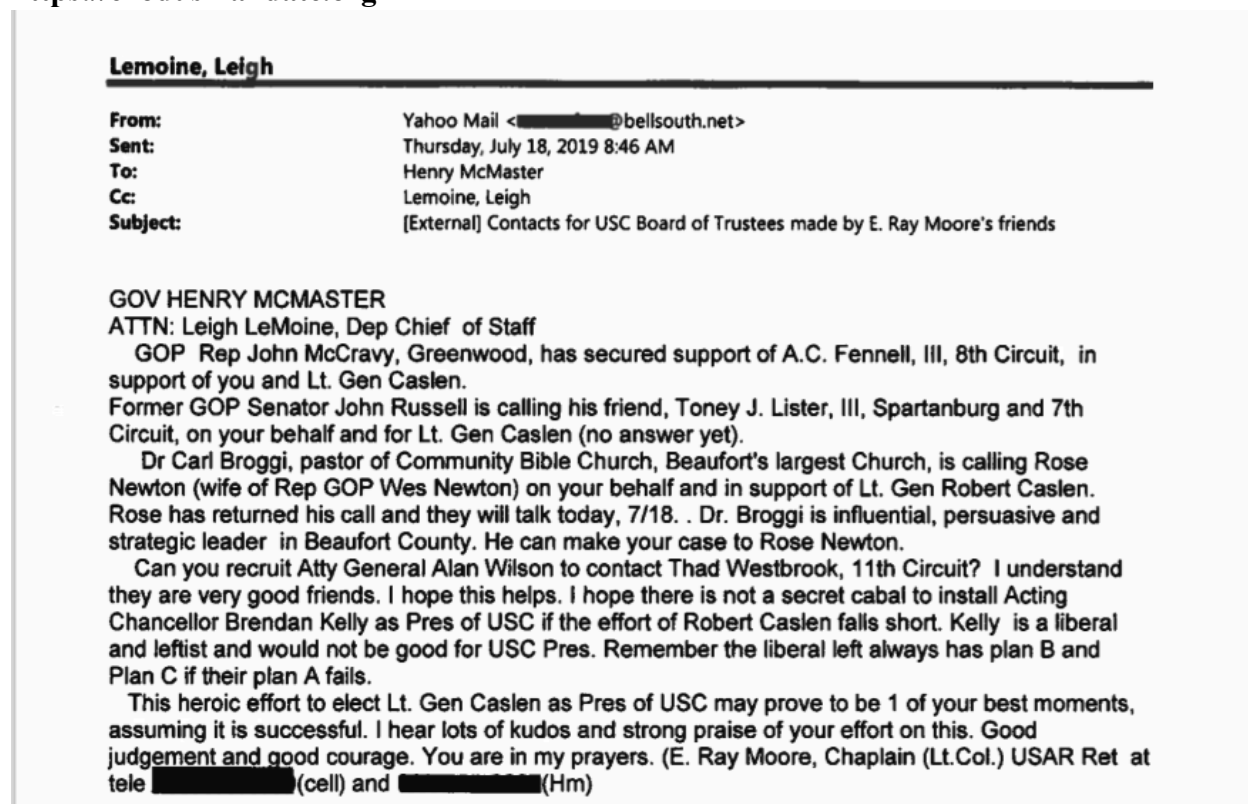
The *Principles of Accreditation* require that an institution comply with the policies and procedures of SACSCOC (11).

Sample of violations of SACSCOC regulations regarding undue influence:



Reverend E. Ray Moore to McMaster on behalf of Caslen. Moore is co-founder and president of Frontline Ministries and of “Exodus Mandate,” which “focuses on prayer, revival and Christian education.” According to the Exodus Mandate website, “He is also one of the Executive Producers of the 2011 award-winning film, [IndoctriNation: Public Schools and the Decline of Christianity in America](#) (Gunn Productions). He is script-writer and Executive Producer of the July 2015 released film, [Escaping Common Core: Setting Our Children Free](#) (Cutting Edge Films).”

<https://exodusmandate.org>



McMaster Chief of Staff to C.
Blackstone, President and CEO of
Columbia Chamber of Commerce

Columbia COC Screenshot 9/30/19

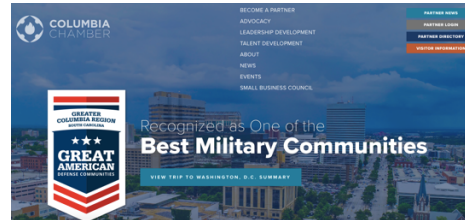
BC
Blackstone C

iMessage
Tue, Jul 9, 3:39 PM

General Caslen will be
great for USC. Fort
Jackson must be
protected for Midlands
economy.

Delivered

Ive heard great things
about Caslon.



Custodian: Trey Walker

<2
2 People

Text Message
Tue, Jul 9, 5:38 PM

I don't have others
mobile numbers.
Please convey if you
like. The Governors
resolve is further
emboldened today.

Wed, Jul 10, 12:04 PM

Curtis Loftis Jr.
3:10 PM

I fully support Governor McMaster's efforts to
provide leadership at USC. The Social Justice
Warriors, both students and faculty, will
protest, moan and groan at every turn, but
the working men and women of this state
deserve proven leadership that will not bend
to the whims of the mob.

<2
Mobley H
Mon, Jul 8, 5:14 PM

FYI scheduled meeting
w him at lunch
tomorrow- me , terry
parham and Cantey

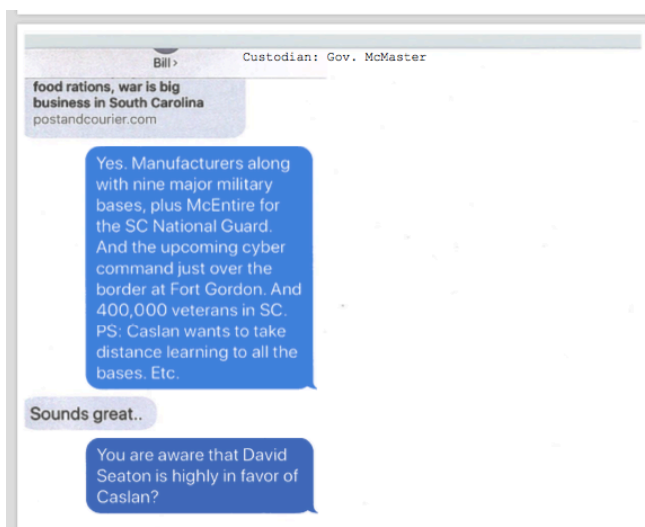
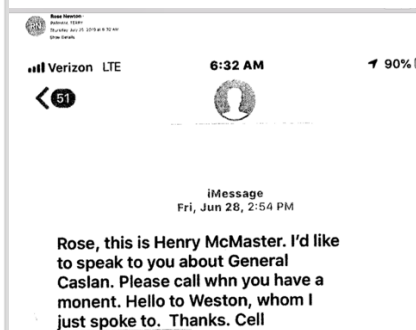
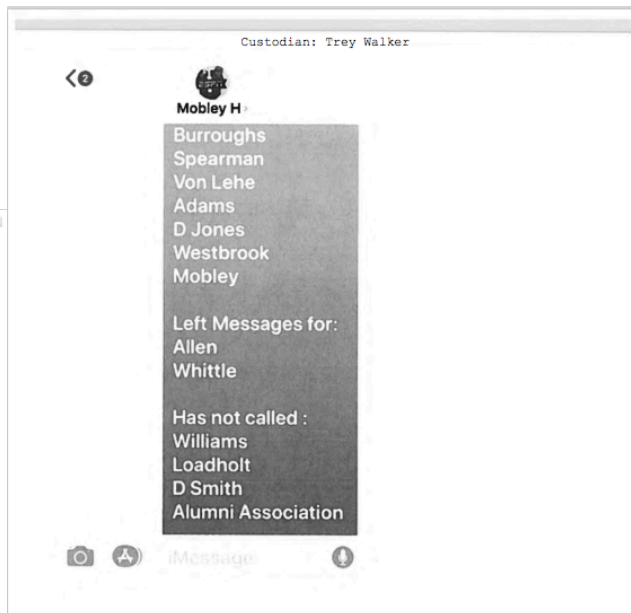
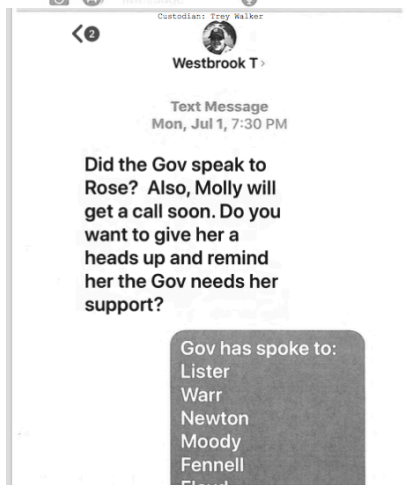
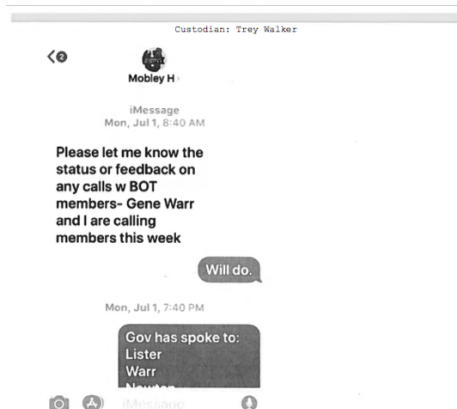
Tue, Jul 9, 2:32 PM

Great News: Eddie
Floyd bailing strong in
State and P&C stories.
Let's do it!

We still have some
weak people

Thu, Jul 11 11:15 AM

More...



APPENDIX B – FREEDOM OF INFORMATION ACT, OPEN RECORDS

SECTION 30-4-15. Findings and purpose.

“The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.”

https://www.scstatehouse.gov/query.php?search=DOC&searchtext=freedom%20of%20information&category=CODEOFLAWS&conid=23144641&result_pos=0&keyval=13164&numrows=10

Violations:

“USC board violated open-records rules to help Caslen become president: ‘This is chaos.’”
Post and Courier(9/21/19, updated 9/26/19)

https://www.postandcourier.com/politics/usc-board-violated-open-records-rules-to-help-caslen-become/article_663cb452-da22-11e9-a916-77638e3c248f.html

APPENDIX C: DIVERSITY AND EQUAL OPPORTUNITY

“All searches must be conducted in a fair and open manner, with documented efforts to develop the strongest and most diverse pool possible. All applicants must be equitably evaluated.... The University of South Carolina believes the presence of a diverse group of academic administrators is necessary to achieve academic excellence and is committed to the recruitment, retention and promotion of outstanding academic administrators at all levels. To that end, the hiring practices adopted by the University are designed to seek out and welcome quality and diversity to its administrative ranks through internal and external search processes that are conducted in a fair and open manner.” <http://www.sc.edu/policies/ppm/acaf101.pdf>

“Affirmative action and equal education and employment opportunity are integral parts of the mission and purpose of the University of South Carolina.”
https://www.sc.edu/about/offices_and_divisions/equal_opportunities_programs/documents/affirmative_action.pdf

EOP 1.03 Prohibition of Unlawful Discrimination and Harassment

Unlawful Discrimination: Unfair or unequal treatment of an individual or group of individuals based on race, color, national origin, religion, sex, gender, age, disability, sexual orientation, genetics, veteran status, pregnancy, child birth or related medical conditions, or any other category protected by law which interferes with or limits the ability of an individual or group of individuals to participate in or benefit from the services, activities or privileges provided by the university.

https://www.sc.edu/about/offices_and_divisions/equal_opportunities_programs/documents/discriminatory_harassment.pdf

The “Hiring Manager Checklist” issued by the South Carolina Department of Administration requires the use of “a structured interview process,” which stipulates that all interviewees be asked the same questions and receive the same opportunities.



South Carolina Department of Administration
Administrative Services - Human Resources
Hiring Manager Checklist
Rev. 03/16

The following form is a guide to ensure agency and federal requirements are met during the interview and hiring process. Contact Administrative Services - Human Resources with any question regarding the process.

After posting is approved
Determine the interview panel
Interview panel should be diverse in gender and race.
Develop interview questions
The Department of Administration requires that you use a structured interview process and Administrative Services - Human Resources (HR) is available to assist in the development of job-related questions and rating criteria. All interview questions should be reviewed and approved by HR.
Determine need for work sample
If you wish to use any kind of work sample or test to evaluate applicant skills, it must be approved in advance by HR. It may take several days to work through the development and approval process, so contact HR at the time of posting in order to begin the process.

Board violations of the above:

From "USC board violated open-records rules to help Caslen become president: 'This is chaos.'" *Post and Courier* (9/21/19, updated 9/26/19)

"the leader of the search committee, board vice chairman Hugh Mobley, added Caslen to an interview list and that trustees held two gatherings that violated state open-meeting laws."

"Four trustees, including three members of the search committee, flew to Caslen's Florida home to visit the retired general three days before the four finalists were revealed publicly. The meeting broke state open-records laws because three of the trustees were members of the board's executive committee, a number that triggers required public notice. ... Trustees and McMaster were concerned about losing Caslen, who said he had an offer to become executive board chairman of DeVry University, a for-profit college. That July 8 meeting with McMaster also violated state open-meeting law because three of the trustees attending the gathering sit on the board's executive committee."

https://www.postandcourier.com/politics/usc-board-violated-open-records-rules-to-help-caslen-become/article_663cb452-da22-11e9-a916-77638e3c248f.html

Caslen meeting with SC legislators during campus visit

Can you call my office, 803-255-9418. My phone died

Thu, Apr 11, 6:26 AM

Call me later this am after your dentist appointment , I have a 10am w John and Cantey - just text me when convenient- I have some updated information

Thu, Apr 18, 11:33 AM

Message delivered and received

Fri, Apr 26, 11:35 AM

Which legislators did he meet with? How did that happen?

Jeff Bradley called him for Breakfast one morning

Jeff had a prior relationship with him

APPENDIX D – ETHICS AND COMMITMENTS

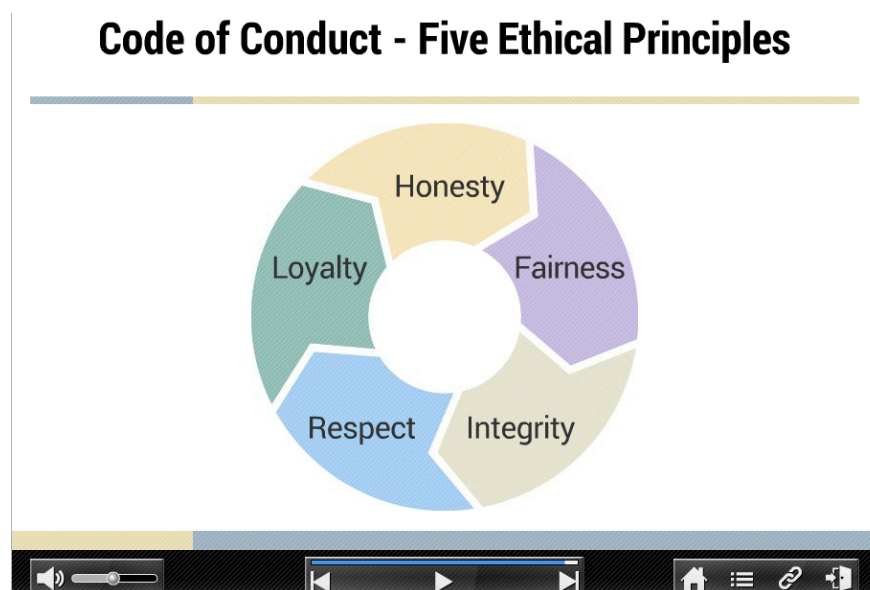
As a Carolinian ...

I will practice personal and academic integrity;
I will respect the dignity of all persons;
I will respect the rights and property of others;
I will discourage bigotry, while striving to learn from differences in people, ideas and opinions;
I will demonstrate concern for others, their feelings, and their need for the conditions which support their work and development.

https://sc.edu/about/offices_and_divisions/student_affairs/our_initiatives/involvement_and_leadership/carolinian_creed/index.php

Carolinian Creed for Staff and Faculty: <http://www.sc.edu/policies/ppm/staf102.pdf>

SC State Ethics Guidelines: Ethics Act 8.13.100-1520



FOR STATE EMPLOYEES: <https://www.admin.sc.gov/files/ohr/ethics/module1/s5/index.htm>

General Policy

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.