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## Chapter 5 – Operations of the LDSS

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### Section I Hours of Work

#### **Purpose**

To provide procedures for convenient and consistent hours for the transaction of LDSS business.

#### **Scope**

This policy applies to all employees.

#### **A. Definitions**

##### 1. Office Hours

The establishment of office hours, the hours that the LDSS is open to serve the public is a responsibility of the local board. Office hours generally coincide with the hours of operation for the Virginia Department of Social Services. Each LDSS may set its hours of operation to coincide with those of the locality.

##### 2. Standard Workweek

The Fair Labor Standards Act (FLSA) defines a workweek as a fixed and regularly recurring period of 168 hours, or seven consecutive 24-hour periods. The workweek does not have to coincide with the calendar week, but instead it may begin on any day of the week and at any hour of the day. The workweek is the basis on which determinations of employee coverage, the application of most exemptions, and compliance with the wage payment requirements of the FLSA are made. Once the beginning time of an employee's workweek is established, it remains fixed regardless of the hours the employee is scheduled to work.

The standard workweek for full-time positions is established by the local board; generally it consists of a five-day schedule in a seven calendar-day period but flexible scheduling may be permitted by the local board.

##### 3. Regular Work Schedule

The regular work schedules may be uniform for every employee and coincide with the local department's office hours, or may be established differently for each employee to meet the needs of the agency.

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### B. Work Schedules

#### 1. LDSS Director to Determine

The local director shall set and adjust the work schedules for employees in consideration primarily of the needs of the LDSS clients and the general public. Schedules may change as operational needs change.

#### 2. Adjustments to Regular Schedules

- a. In emergency situations, an employee's schedule may be adjusted temporarily if such adjustment is approved by the supervisor or local director.
- b. With the exception of providing accommodations for a disabled employee or for Family and Medical Leave purposes, an employee's regular work schedule may not be adjusted to meet the employee's personal needs except on an occasional basis.

#### 3. Lunch Periods and Breaks

The local director is responsible for scheduling lunch periods and other breaks as described below, with the least disruption possible to the LDSS operations.

##### a. Mandatory Lunch Period

- (1) Employees who work at least six consecutive hours shall be afforded a lunch period (meal break) of at least 30 minutes and not more than 60 minutes. An employee cannot work through the lunch period without the permission of the supervisor.
- (2) The lunch period is not counted in the total required hours of work per day.
- (3) On the occasion when the designated lunch break is part of the work schedule (e.g., to provide staffing for client services), the lunch period will count as hours worked.

##### b. Discretionary Breaks

- (1) The local director may grant employees who work a full work day a rest break twice a day.
- (2) Unless the rest break is longer than 15 minutes, the rest break shall be included on the timesheets as hours worked.

##### c. Impermissible Use of Lunch Period and/or Breaks

- (1) The lunch period and the break(s) must be used separately and may not be used to extend the lunch period and/or breaks unless permission is obtained from a supervisor in advance.

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- (2) Neither the lunch period nor the break(s) may normally be used to “make up” for an employee’s late arrival or early departure, or to cover time off for other purposes. Late arrivals and early departures are not permitted without permission of the supervisor.

### 4. Alternate Work Schedules

- a. A LDSS may implement work schedules that differ from the standard workweek (typically a five-day, 40-hour per week schedule), if such schedules are deemed to promote efficient LDSS operations.
- b. Work schedules may be adjusted during the work period by the supervisor, without the consent of the employee, to avoid overtime hours.
- c. Alternative work schedules may include, but are not limited to, flexible work schedules (e.g., flexible start and end times with core hours), compressed work schedules (e.g., four 10-hour days), rotational shifts, and job-sharing. Alternative work schedules may be terminated by the supervisor at any time.
- d. During emergency situations, the LDSS may schedule employees to work outside their normal work hours and employees will be required to work the assigned hours.

### 5. Overtime Hours

- a. A non-exempt employee may work overtime hours only as authorized by the supervisor or the local director.
- b. Employees are expected to work overtime hours as required.
- c. An employee taking approved annual or sick leave during the workweek may also be asked to work additional hours during the same work week. With the approval of the employee, the LDSS may substitute the additional hours worked for hours of leave.

## C. Employee Responsibilities

### 1. Report as Scheduled

Employees are required to adhere to their work schedules by reporting to work at the specified starting time, departing at the specified ending time, and taking lunch periods and breaks as assigned.

### 2. Notice to Supervisor

An employee is expected to notify the supervisor as soon as possible if they are unable to adhere to the work schedules.

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### Section II Inclement Weather

#### Purpose

The purpose of this policy is to provide procedures for the occasions when the LDSS operations are closed due to inclement weather conditions or other emergencies such as utility failure, fire, and other forced evacuations.

#### Scope

This policy applies to all employees.

#### A. Closing the LDSS

##### 1. Closing Decision

The decision to close the LDSS is to be made by the local board chairperson in conjunction with the local director.

##### 2. Announcing Closing Decisions

The local director determines the means by which employees are to be notified that the LDSS is closed. All employees should be made aware of the method used to communicate the closing.

##### 3. Notification of Closing

The local director will inform their assigned Regional Director of LDSS opening delays or closures. The Regional Director will communicate the information to the Home Office.

#### B. Compensation for Closings

##### 1. Essential Employees

a. The local board and local director determine which classes of employees are essential and would therefore be required to work when the LDSS is closed. A list of such employees will be maintained by the local director and designation as an essential or non-essential employee will be made on each employee's Employee Performance Plan and Evaluation (EPPE) form. In addition, when a special need arises, the local director may designate other employees as essential.

b. Essential employees who work when the LDSS has been closed will be

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compensated as follows:

- (1) Part-time hourly employees will receive the regular rate of pay for hours worked; or
- (2) Salaried employees will receive salary for that day and also may be given special duty leave for the hours worked.
- (3) Essential employees who are non-exempt under the Fair Labor Standards Act will have the hours worked during a LDSS closing count as hours worked for purposes of overtime compensation.
- (4) When an essential employee does not report to work during a LDSS closing as required:
  - (a) The hours will be charged to leave without pay; and
  - (b) The failure to report without good and sufficient cause may be grounds for disciplinary action.

### 2. Non-Essential Salaried Employees

#### a. Receipt of Salary for LDSS Closing

- (1) To receive salary for a day that the LDSS is closed, the non-essential employee must have been on paid status (at work or on pre-approved paid leave) on the scheduled work days immediately before and immediately after the LDSS closing.
- (2) If the LDSS is closed for part of a day, an employee has to report to work for the hours that the LDSS is open in order to receive salary for the day. If the employee does not report to work on that day, the hours that the LDSS was open must be charged to annual leave or leave without pay at the discretion of the LDSS. If the employee does not have good and sufficient cause for not working the partial day, the employee may be subject to discipline for failing to report to work when scheduled.

#### b. Arriving Late to Work

When road conditions and transportation difficulties cause an essential employee to arrive late to work and the local director determines that there was justification for the later arrival, the time lost will not be charged to the employee's leave balances or to leave without pay.

#### c. Non-Essential Employee Reporting to Work

When a non-essential employee reports to work during inclement weather or other emergency closing, the employee will only receive salary for that day and is not eligible to receive special duty leave.

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### 3. LDSS Closing on Scheduled Rest Day

An employee whose scheduled rest day falls on a day when the LDSS is closed for inclement weather will not be credited with compensatory leave.

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### Section III Use of Internet and Communications System

#### Purpose

To establish a policy for the use of the Internet and the LDSS communications systems and equipment.

#### Coverage

This policy applies to all employees.

#### A. Definitions

1. Computer Network

Two or more computers or servers that share information, typically connected by cable, data line, or wireless link.

2. Communications System

A system and equipment used as a means of sending and receiving messages electronically through a computer system or the Internet, such as e-mail or voice mail, or digitally or wire such as telephones, cell phones, pagers, video recorders. As used in this policy, communications system includes communications equipment and devices, including new forms of electronic communication as developed.

3. Internet

An international network of independent computer systems including the World Wide Web.

#### B. General Provisions

1. Business Use

LDSS-provided computer systems that allow access to the Internet and other communications systems are the property of the LDSS and are provided to facilitate the effective and efficient conduct of LDSS business. Users are permitted access to the Internet and communications systems to assist in the performance of their jobs. Each LDSS may adopt its own policy setting forth with specificity the work-related purposes for which such equipment and access are provided.

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### 2. Personal Use

- a. Personal use means use that is not job-related. In general, incidental and infrequent personal use of the LDSS Internet or communications systems may occur; however, personal use is prohibited when it is determined by the LDSS that such use:
  - (1) Interferes with the user's productivity or work performance, or with any other employee's productivity or work performance;
  - (2) Adversely affects the efficient operation of the computer or communications system;
  - (3) Violates any provision of this policy, the Virginia Department of Social Services Information Security Policy, or any other policy, regulation, or law.
  - (4) Incurs charges to the LDSS (whether or not the employee intended to reimburse the LDSS for such charges).
- b. Whenever the LDSS Internet or communications systems is used for personal use, the message must be stated in such a way as to be clear to the receiver that the communication is personal and is not a communication of the LDSS.
- c. Use of a personal Internet account on the communications system is deemed to be personal use.

### 3. No Expectation of Privacy

- a. An employee should not have any expectation of privacy in any message, file, image, or data created, sent, received, or stored on the communications system.
- b. The LDSS reserves the right to monitor any and all aspects of the computer systems including, but not limited to, internet sites, instant messaging, chat groups, or news groups; and e-mail and voice mail sent, received or stored without the LDSS employee's permission.
- c. Such monitoring may occur at any time, without notice, and without the employee's knowledge.

### 4. FOIA

Communicated messages stored on the LDSS communications systems are subject to the Freedom of Information Act (FOIA) and may be disclosed to the public.

### 5. Prohibited Activities

Certain activities are prohibited when using the Internet or electronic, digital or wire communications systems. These include, but are not limited to:

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- a. Accessing, downloading, printing or storing information with sexually explicit content. Per Code of Virginia §2.2-2827, sexually explicit content is: (1) any description of, or (2) any picture, photograph, drawing, motion picture film, digital image or similar visual representation depicting sexual bestiality, a lewd exhibition of nudity as nudity is defined in § 18.2-390 of the *Code of Virginia*, sexual excitement, sexual conduct, or sadomasochistic abuse as defined in § 18.2-390 of the *Code of Virginia*, coprophilia, urophilia, or fetishism (except as otherwise required for the work of the LDSS and/or approved by the local director).
- b. Downloading or transmitting fraudulent, threatening, obscene, intimidating, defamatory, harassing, discriminatory, or otherwise unlawful messages or images;
- c. Installing or downloading computer software, programs, or executable files contrary to policy;
- d. Uploading or downloading copyrighted materials or proprietary information contrary to policy or law;
- e. Uploading or downloading access-restricted LDSS information contrary to policy;
- f. Sending e-mail using another's identity, an assumed name, or anonymously.

### C. User Responsibilities

#### 1. Professional Use of Communications Systems

- a. Employees who access the Internet or send e-mail containing a DSS or locality domain address, whether for personal or official purposes, are expected to do so in a responsible and professional manner.
- b. The distribution of electronic communications is difficult to control and routing mistakes can easily occur. Copies of electronic communications can be forwarded without the sender's knowledge or permission to unintended recipients. Therefore, electronic communications should be drafted and sent with at least the same level of care, professional judgment, and discretion as paper memoranda or documents.

#### 2. Security

All employees are responsible for exercising appropriate care to protect the LDSS computer system against the introduction of viruses. When using the LDSS Internet access and/or communications systems an employee must:

- a. Use the Internet or electronic communications systems only in accordance with State and LDSS policy;
- b. Maintain the conditions of security (including safeguarding of passwords) under

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which they are granted access to such systems;

- c. Check with the appropriate LDSS staff prior to downloading or accessing a file or document when the source of the file or other circumstances raises doubts about its safety or propriety.

### 3. Non-Authorized Use

The LDSS communications systems are not to be used by any person not affiliated with the LDSS. Passwords and user codes are not to be shared with anyone without permission of the local director.

### D. User Consent

The communications systems are provided to an employee for LDSS use. In order to use such equipment and systems, an employee is required to sign the Acceptable Use Awareness Acknowledgement form confirming compliance with the policies and standards of the Information Security Program.

### E. Violations

Violations of this policy will be addressed under the Standards of Conduct Policy. The appropriate level of disciplinary action will be determined on a case-by-case basis with sanctions up to and including termination depending on the severity of the offense.

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### Section IV Workplace Safety

#### **Purpose**

The purpose of this policy is to set forth procedures to help achieve a safe and healthy workplace.

#### **Scope**

This policy applies to all employees.

#### **A. Employer Responsibilities**

The Federal Occupation Safety and Health Act (OSHA), which is enforced by the Virginia Department of Labor and its Virginia Occupational Safety and Health (VOSH) Division, imposes on employers five primary obligations:

1. To comply with the substantive health and safety regulations adopted by VOSH which include general regulations and construction industry standards.
2. To provide in general, notwithstanding any specific regulation, a workplace that is “free from recognized hazards that are causing or are likely to cause death or serious physical harm.”
3. To keep records of all work related illnesses and injuries (unless exempted by federal or state law).
4. To allow inspections by VOSH (Code of Virginia 40.1-49.8).
5. To post the VOSH notice that informs employees of their rights and responsibilities under the VOSH Act.

#### **B. Employee Responsibilities**

Maintaining a safe work environment requires the continuous cooperation of every employee. Federal and state law make it a duty of employees to comply with all occupational safety and health rules and regulations that the LDSS implements. Therefore, it is expected that employees will at all times:

1. When in doubt about how to safely perform a job, ask a supervisor or manager.
2. Immediately report any suspected or potential unsafe conditions or suspected safety hazards that are on the job.
3. Immediately report all accidents and injuries.

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4. Bring safety suggestions and health and safety related issues to the attention of the supervisor or manager.
5. Comply with the safety rules and regulations that are imposed by the LDSS.

### **C. Reporting and Recordkeeping Requirements**

1. Federal law (Occupational Safety and Health Act) and state law (Virginia Occupational Safety and Health Act) require that employers keep records of all illnesses and accidents that occur during the workday. Under the provisions of 29CFR1904.3, Non-Mandatory Appendix A to Subpart B – Partially Exempt Industries, employers are not required to keep OSHA injury and illness records for any establishment classified in certain Standard Industrial Classification (SIC) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or BLS. Social Services agencies are classified as SIC Code 839 – Social Services, Not elsewhere classified and fall under this exemption.
2. Federal law and Virginia Code §40.1-51.1.D requires all employers, including those partially exempted by reason of company size or industry classification, to report any work related incident resulting in a fatality or a catastrophe (catastrophe is defined as the inpatient hospitalization of three or more persons) within 8 hours to the Virginia Department of Labor and Industry (DOLI). All reports are required to be made by telephone to or in person at the closest Department of Labor and Industry regional office. Contact information for the regional offices is located on the Department of Labor and Industry website ([www.doli.virginia.gov](http://www.doli.virginia.gov)).

### **D. Right to Know about Safety Hazards**

Under OSHA and VOSHA you have a right to know about any health hazards which might be present on the job. Should you have any questions or concerns, contact your supervisor or manager for more information.

### **E. Inspections**

1. The VOSH inspector may interview employees during an inspection; if an employee does not request management be present, management cannot insist on participating in the interview.
2. If a management employee is being interviewed, the local director and legal counsel may attend the interview.
3. If materials are taken, the LDSS may request copies of items seized or that samples be shared (however, VOSH is not required to provide the requested samples or copies).

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### **F. Protection from Discrimination and Retaliation**

Employees who report OSHA and VOSHA violations or who otherwise bring to the attention of the LDSS safety and health hazards are protected from discrimination and retaliation.