



DEPARTMENT OF ADMINISTRATION

Enterprise Policy

HR-SUBSTANCE FREE WORKPLACE-2018

DIVISION OF HUMAN RESOURCES

Substance Free Workplace Policy

Date of Last Revision 09/13/2019

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1. Purpose

- a. The State is committed to providing a safe, healthy and productive work environment for all employees. Consistent with this commitment, the State must prohibit substance use which harms the health and well-being of its employees, inhibits the execution of their duties, or interferes with their service to the public. The State also recognizes that addiction is a chronic disease of the brain and that employees affected by addiction can make a full recovery from substance use disorder with treatment and family and community support. It is therefore, the policy of the State to:
 - (i.) Meet the requirements of applicable laws and regulations to ensure that the workplace is free of illegal drugs;
 - (ii.) to establish restrictions on the workplace-related use of legal substances, such as alcohol, prescription drugs, and legalized marijuana;
 - (iii.) to address fitness for duty behaviors, such as patterns of absenteeism, changes in performance and behavior, damage to property or frequent accidents or injuries related to the use of drugs and other substances;
 - (iv.) to explain the steps that will be taken and supports provided to protect employees, identify problems and provide assistance; and,
 - (v.) to assist in providing pathways to treatment for employees affected by substance use disorder and to honor employees' confidentiality through any formal disciplinary proceedings.

2. Governing Authority

- a. This policy is governed by State of Rhode Island Executive Order No. 91-14 and the Drug-Free Workplace Act of 1988 (41 U.S. Code §§701 et. seq.).

3. Definitions

- a. **“Addiction”** - A condition in which a person engages in the use of a substance or in a behavior for which the rewarding effects provide a compelling incentive to repeatedly pursue the behavior despite detrimental consequences. It may involve the use of substances such as alcohol, opioids, and other controlled substances.
- b. **“Alcohol”** - Means alcohol or ethanol.
- c. **“Controlled Substance”** - Means any drugs listed as such in 21 U.S.C. § 812 and other federal regulations. Generally, all illegal drugs and substances are included, such as

marijuana, heroin, morphine, cocaine, codeine or opium additives, LSD, DMT, STP, amphetamines, methamphetamines and barbiturates. Controlled substances are specifically defined in federal law and consist of two classes of drugs: 1) those commonly thought of as "illegal" drugs; and 2) certain medications if not being taken under a physician's prescription or according to a physician's orders, which the federal government has determined have a potential for misuse, or are potentially physically or psychologically addictive.

- d. **“Conviction”** - Means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal or state court.
- e. **“Drug”** - Means a controlled substance as defined in schedules I through V of the Rhode Island Uniform Controlled Substances Act, RIGL § 21-28-2.08.
- f. **“Drug and alcohol free workplace”** - Means a workplace in which every employee is refraining from and is expressly prohibited from a) misusing alcohol and drugs; and b) manufacturing, distributing, dispensing or possessing controlled substances.
- g. **“Misuse”** - Means, a) the use of alcohol to an extent that may result in impairment of job performance or endangerment of the safety of others in the workplace; b) the use of any illegal drug; c) the use of any over-the-counter drug to an extent that may impair job performance or endanger the safety of others in the workplace; or d) the use of any prescription drug in a manner or under circumstances that the user knows or should know is inconsistent with its medically prescribed, intended use.
- h. **“Substance Use Disorder”** - Substance use disorders occur when the recurrent use of alcohol and/or drugs causes clinically and functionally significant impairment, such as health problems, disability and failure to meet major responsibilities at work, school or home.
- i. **“Workplace”** - Includes any locations owned, operated or controlled by the State, whether the employee is on or off duty, and any other locations while on duty where State business is conducted, including traveling on State time to or from such work locations.

4. Procedures for Compliance

a. General

- (i.) The State prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcohol in the workplace, on state premises or while conducting state business off state premises. This includes during employee break and lunch periods. Any employee violating this policy will be subject to discipline up to and including termination. An employee may also be discharged or otherwise disciplined for a conviction involving illicit drug behavior, regardless of whether his/her actions were connected in any way with his/her employment.
- (ii.) State employees are required to refrain from the misuse of alcohol and illegal drugs in the workplace and must report to work in a fit condition to perform their duties or be subject to disciplinary action. An employee shall not be under the

influence of a controlled substance, not prescribed to him/her by a physician, while on the job or in the workplace.

- (iii.)** The use of any illegal drug covered under the Federal Controlled Substances Act 21 U.S.C. § 812 is prohibited. The use of marijuana for any purpose, even if prescribed under a state medical marijuana law or if otherwise legal under state or local law, remains illegal under federal law and, therefore, is also prohibited in the workplace. Any illegal substance, drug, including illegal synthetics, or drug paraphernalia is prohibited on State property. Marijuana and marijuana paraphernalia are prohibited on State property. An employee who violates this prohibition may be subject to discipline, up to and including termination.
- (iv.)** All employees employed by the State of Rhode Island, while on official business, on or off the workplace, are prohibited from purchasing, transferring, using, or possessing illegal drugs or from abusing alcohol or prescription drugs in any way that is illegal. Any unauthorized employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on duty, regardless of whether the employee is on or off the workplace premises, will be subject to discipline up to and including termination.
- (v.)** Each employee is required by law to notify the employing agency in writing of his/her conviction for a violation of any federal or state criminal drug statute no later than five (5) days after such conviction. This reporting requirement is in addition to any agency work rules that require notice of arrests and/or convictions. An employee who is so convicted or who fails to report such a conviction will be subject to discipline, up to and including termination.
- (vi.)** The agency (appointing authority) is responsible for reporting conviction(s) of state employees to the appropriate federal granting source, within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such a conviction(s). All conviction(s) must be reported in writing to the Executive Director of Human Resource/Personnel Administrator within the same timeframe.
- (vii.)** If an employee is convicted of violating any criminal drug statute while on duty, he/she will be subject to discipline up to and including termination. Illicit drug behavior while off duty may also result in discipline or discharge.
- (viii.)** Employees with substance use disorder are encouraged to participate in a counseling or rehabilitation program prior to being in a disciplinary situation. Employees should be advised of the Employee Assistance Program which is available to state employees and their families for substance use disorder education, counseling or rehabilitation.
- (ix.)** The state will assist and support employees who voluntarily seek help for drug or alcohol problems before becoming subject to discipline or termination under this or other state policies. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Employees may be required to provide documentation that they are successfully following prescribed treatment and to

take and pass follow-up tests if they hold jobs that are safety-sensitive or require driving.

- (x.) If any employee proactively notifies his/her supervisor or the Division of Human Resources of challenges he/she is experiencing related to substance use disorder before the State discovers or otherwise comes into contact with evidence of an employee's substance misuse, or the employee's possession or use of a controlled substance or alcohol as prohibited in the sections above, and that employee agrees to engage the employee assistance program for the purpose of seeking treatment for substance use disorder, such notification and cooperation will be taken into consideration when determining any disciplinary action, provided the employee can demonstrate that he/she is satisfactorily completing his/her treatment plan.
- (xi.) This policy does not prohibit the appropriate use of over-the-counter medication or medication that can legally be prescribed by a doctor under both federal and state law, to the extent that it does not impair an employee's ability to safely perform his or her job function or affect the safety of others. Employees taking any over-the-counter or prescription medication, will inform their supervisor of this fact in the following circumstances: the medication identifies side effects that could impair and employee's ability to safely perform his or her job function, including, but not limited to, drowsiness, disorientation, hallucinations, or memory loss; the medication includes warnings against performing activities similar or related to an employee's job functions, including driving or operating machinery; or the employee otherwise has reason to believe that the medication may impair an employee's ability to perform safely his or her job function. The employee's supervisor, in conjunction with Human Resources will then determine whether the employee may continue to work, needs to take a leave of absence, or there is a reasonable accommodation needed before reporting to work under the influence of that medication.
- (xii.) Lawful dispensation, possession or use of alcoholic beverages on State property is limited to specifically State sponsored or authorized events.

b. Agency Responsibilities

- (i.) All Department Directors and Agency Directors shall work in conjunction with the Division of Human Resources/Office of Personnel Administration to implement the State's policy for complying with the goal of a substance free workplace with the consideration of the rights of the government, the employee and the general public.
- (ii.) Each Department or Agency shall:
 1. Communicate the State's Substance Free Workplace policy as set forth herein and by the Director of Administration to each employee, and highlight the State's expectations regarding alcohol and drug misuse and the action to be anticipated in response to such misuse;
 2. Inform the employee of the availability of counseling services and referral to rehabilitation assistance offered by the Employee Assistance Program through the Department of Administration;

3. Establish an internal procedure within the Department that would allow for self referrals and supervisory referrals of employees to the State Employee Assistance Program for treatment, being mindful of and respecting to the maximum extent possible, employee rights of privacy and confidentiality consistent with safety and security regulations;
4. Coordinate, in conjunction with the Division of Human Resources/Office of Personnel Administration, all employee training, and document all efforts to maintain an alcohol and drug free workplace;
5. Refer alleged cases of alcohol or illegal drug misuse to the appropriate State authority for further information and investigation and prosecution, where justified by reliable information or observation; and,
6. Encourage all employees to proactively seek assistance or treatment resources and offer appropriate support for employees undergoing a treatment programing for substance use disorder.

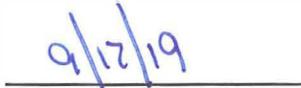
5. Coordination of Agency Programs: Division of Human Resources - The Office of Personnel Administration (OPA)

- a. The Executive Director of Human Resources/Personnel Administrator, with the approval of the Director of the Department of Administration shall:
 - (i.) Offer guidance and assistance to all Departments and Agencies of State government on the implementation of the terms of this policy;
 - (ii.) Ensure that the appropriate coverage for substance use disorder treatment and recovery support services is maintained for employees and their families under the State employee health benefits programs;
 - (iii.) Promote the State Employee Assistance Program as a departmental resource to assess, evaluate and refer for treatment any employee(s) with alcohol and/or drug problems;
 - (iv.) In consultation with the Governor's Recovery Friendly Workplace Committee, establish an education program that informs State employees about the dangers of alcohol and drug misuse in the workplace and the availability of counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees who violate the State policy; and,
 - (v.) In cooperation with all Department and Agency Directors, promote an intensive alcohol and drug awareness campaign through the State government workforce.
- b. The Department of Administration, Division of Human Resources, Office of Personnel Administrator shall render advice regarding the implementation of this Policy and shall be consulted with regard to all policies, regulations and guidelines adopted in relation to this Policy.

6. Signatures



Division Director



Date



Director of Administration



Date