

The State of Maryland

Executive Department

EXECUTIVE ORDER 01.01.1991.16

State of Maryland Substance Abuse Policy

WHEREAS, Substance abuse is a serious national crisis which has had a detrimental effect on the lives of many of our citizens, and has exerted a negative impact on the operation of business and government; and

WHEREAS, Surveys indicate that nationally, 65 percent of the 18-25 year old adult working population have used illicit drugs; and

WHEREAS, It is estimated that at least 15 percent of the American workforce works under the influence of drugs or alcohol daily; and

WHEREAS, Every employer, including the State of Maryland, experiences a loss in productivity due to drug related absenteeism, injuries on the job, decreased work quality, and wasted dollars; and

WHEREAS, Substance abusing employees function below established standards, may make impaired decisions, may have negative effects on their co-workers, and are not as alert as non-using employees; and

WHEREAS, The illegal use of the workplace as a drug market endangers the health, safety, and welfare of State employees; and

WHEREAS, In order to serve the citizens of Maryland properly, the State must maintain a work environment which is free of drugs; and

WHEREAS, The Federal Omnibus Drug Abuse Act of 1988 requires that any State which is a recipient of Federal funds must establish a Drug-Free Workplace, including a policy on the use of substances, and employee drug awareness program, and a procedure for employees to report their own convictions; and

WHEREAS, A drug-free workplace is fundamental to efficient, effective, and responsible government;

A. Definitions. In this Executive Order the following words have the meaning indicated.

(1) **"Substance"** means alcohol or drugs

(2) **"Alcohol"** means ethyl alcohol or ethanol

(3) **"Drug"** means:

(a) A controlled dangerous substance; (b) Any other substance which must be dispensed by a licensed health care professional; or (c) An over-the-counter drug

(4) **"Abuse"** means:

(a) The use of illegal drug; (b) The intentional misuse of an over-the-counter drug, if the misuse impairs the job performance of the State employee or could impair the job

performance of an applicant for State employment; (c) The intentional use of any prescription drug in a manner inconsistent with its medically prescribed intended use. Or under circumstances where its use is not permitted, if it impairs the job performance of a State employee or could impair the job performance of an applicant for State employment; or (d) The use of alcohol if it impairs job performance of the State employee or could impair the job performance of an applicant for State employment.

(5) **"Workplace"** means any place where an employee is performing work for the State of Maryland.

(6) **"Employee"** means:

(a) A classified, unclassified, contractual, key employee, or other employee or official in the executive Branch.

(b) A volunteer who provides a service to or for a unit in the Executive Branch; or (c) A member of a Board or Commission in the Executive Branch.

(7) **"Sensitive Employee"** means an employee whose classification or position has been designated sensitive by employee's appointing authority or personnel system.

(8) **"Conviction means:**

(a) A judgment of conviction, whether entered upon a finding of guilt or acceptance of a plea of nolo contendere, and the imposition of sentence; or (b) The staying of the entry of judgment and the placing of the defendant on probation after a finding of guilty or the acceptance of a plea of nolo contendere.

(9) **"Alcohol Driving Offense"** means:

(a) Driving or attempting to drive while:

(i) Intoxicated; or

(ii) Under the influence of alcohol; or

(b) Operating or attempting to operate a vessel while:

(i) Intoxicated; or

(ii) Under the influence of alcohol.

(10) **"Controlled Dangerous Substance Offense means:**

(a) A controlled dangerous substance violation, under Article 27 of the Annotated Code of Maryland; (b) An offense of the law of any other jurisdiction if the prohibited conduct would be a controlled dangerous substance violation if committed in this State;

(c) Driving or attempting to drive while:

(i) Under the influence of drugs or drugs and alcohol; or

(ii) Under the influence of a controlled dangerous substance; or

(d) Operating or attempting to operate a vessel while:

(i) Under the influence of drugs or drugs and alcohol; or

(ii) Under the influence of a controlled dangerous substance.

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B. General Policy. The State of Maryland establishes and adopts the following substance abuse policy for the Executive Branch of State Government:

(1) The State of Maryland is committed to making good faith efforts to insure a safe, secure, and drug-free workplace for its employees consistent with the Drug-Free Workplace Act as enacted by Congress.

(2) All employees in the workplace must be capable of performing their duties.

(3) Employees experiencing substance abuse problems are encouraged to seek assistance through:

(a) Their employer; (b) Self-referral to the employer's Employee Assistance Program; or (c) Self-referral to an alternative certified rehabilitation program.

(4) An appointing authority may not hire anyone whom it knows currently abuses drugs or alcohol.

(5) Employees are prohibited from:

(a) Abusing alcohol or drugs; (b) Committing a controlled dangerous substance offense; or (c) Committing an alcohol driving offense.

C. Alcohol Abuse Policy.

(1) Working under the influence of alcohol is a violation of this policy and shall subject the employee to disciplinary action.

(2) An employee charged with an alcohol driving offense must report a finding of guilty, an acceptance of a plea of nolo contendere, or probation before judgment to the employee's appointing authority within 5 work days.

(3) A sensitive employee shall be suspended for 15 days and required to successfully participate in an alcohol treatment program designated by an employee assistance program the first time the employee is:

(a) Convicted of an at-the-workplace alcohol driving offense; or (b) Found under the influence of alcohol while at-the-workplace.

(4) A sensitive employee convicted of an off-the-workplace alcohol driving offense, and a non-sensitive employee convicted of any alcohol driving offense shall:

(a) On the first conviction be referred to an employee assistance program, and in addition, be subject to any other appropriate disciplinary actions; (b) On the second conviction, at a minimum, be suspended for at least 5 days, be referred to an employee assistance program, be required to participate successfully in a treatment program, and in addition, be subject to any other appropriate disciplinary actions, up to and including termination; (c) On the third conviction, be terminated.

D. Drug Abuse Policy.

(1) Working under the inappropriate influence of prescription drugs or over-the-counter drugs is a violation of this policy and shall subject the employee to disciplinary action.

(2) Working under the influence of a controlled dangerous substance is a violation of this policy and shall subject the employee to disciplinary action.

(3) An employee charged with a controlled dangerous substance offense shall report a finding of guilty, an acceptance of a plea of nolo contendere, or probation

before judgment to the appointing authority within 5 work days.

(4) A sensitive employee convicted of any controlled dangerous substance offense shall be terminated.

(5) A sensitive employee who tests positive for a controlled dangerous substance as a result of a random drug test shall be suspended for 15 work days and be required to successfully participate in a drug treatment program designated by an employee assistance program, as provided for by the appointing authority's drug testing protocol.

(6) A sensitive employee who abuses a legally prescribed drug or an over-the-counter drug shall, on the first offense:

(a) Be suspended for 5 work days; and (b) Be required to participate successfully in a drug treatment program designated by an employee assistance program.

E. General Sanctions. Any employee otherwise in violation of this Executive Order shall be subject to appropriate progressive disciplinary actions up to and including termination.

F. Law Enforcement.

(1) When an appointing authority learns or, based on observation or reliable information, suspects that an employee has committed a controlled dangerous substance or alcohol offense at the workplace, the appointing authority shall refer the matter to an appropriate law enforcement authority for further investigation and prosecution.

(2) All employees shall cooperate fully with law enforcement authorities in the investigation and prosecution of suspected criminal violations.

G. Employee Education. All appointing authorities shall educate and inform their employees about:

(1) The dangers of drug and alcohol abuse in the workplace and the community at large;

(2) The State of Maryland's policy of maintaining a drug-free workplace;

(3) Any drug and alcohol abuse counseling, rehabilitation, and employee assistance program that is available; and

(4) The penalties that may be imposed upon employees for violations of this Executive Order.

H. Implementation.

(1) The Secretary of Personnel and the head of every other personnel system in the Executive Branch shall adopt such policies and regulations as are necessary or desirable for the implementation of this Executive Order.

(2) All appointing authorities are responsible for implementing and enforcing and monitoring compliance with the requirements of this Executive Order.

(3) All employees are required to acknowledge receipt of a copy of this Executive Order by returning an acknowledgement of receipt to their supervisor for insertion in their personnel file.