



UNIVERSAL STATE PERSONNEL SYSTEM POLICY

Drug and Alcohol Policy for State Employees

Statement of Purpose

The State of Colorado is committed to protecting the safety, health and well being of employees, volunteers, customers and the public. We recognize that alcohol and drug use in the workplace pose significant safety and health risks not only to the employee, but to others as well. It is the State's intent to comply with each of the provisions of the Drug-Free Workplace Acts of 1988 and 1998 which prohibit the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance where state employees work, including all state-owned vehicles or while conducting business for the State of Colorado. We have established a policy to balance our respect for individuals with the need to maintain an alcohol and drug-free environment.

Governing Orders and Policies

- Executive Order D0002 91 Regarding Substance Abuse Policy for Colorado State Employees
- State of Colorado Constitution, Article XVIII - Section 14 (10) (b)
- State of Colorado Constitution, Article XVIII - Section 16 (6) (a) and (d)
- Colorado Revised Statute Section 42-4-1301
- Colorado Revised Statutes Title 18, Article 18, Part 2, Schedules I-V
- State Personnel Board Rules and Personnel Director's Administrative Procedures
- Executive Order D023 09 Establishing a Policy to Address Workplace Violence, Including Domestic Violence Affecting the Workplace
- Universal Policy Pursuant to Executive Order D023 09 Establishing a Policy to Address Workplace Violence, Including Domestic Violence Affecting the Workplace
- Universal Policy, Psychological Fitness for Duty (PFFD)
- Federal Drug-Free Workplace Act of 1988, and Implementing Regulations
- Federal Drug Free Workplace Act of 1998, and Implementing Regulations
- Omnibus Transportation and Employee Testing Act of 1991, and Implementing Regulations
- U.S. Department of Transportation (DOT) Testing Procedures 49 CFR Part 382 et al, 49 CFR Part 40 et al., and Implementing Regulations
- Federal Controlled Substances Act of 1970 and Implementing Regulations
- Federal Department of Health and Human Services - Mandatory Guidelines for Federal Workplace Drug Testing Programs

Applicability

This policy applies to all employees and volunteers of the executive branch of state government. All state employees and volunteers are responsible for abiding by this policy and shall comply with supplemental agency policies and procedures regarding drug and alcohol use and testing. Independent contractors shall also comply with this policy and applicable supplemental agency policies; however, nothing in this policy is intended to create an employee/employer relationship.

Any individual who conducts business for the State of Colorado, is applying for a position, or is conducting business on the State's property is covered by this policy. Hereinafter in this policy, all individuals to whom this policy is applicable will be referred to as "Covered Workers." "Covered Workers" includes, but is not limited to, managers, supervisors, permanent full-time and part-time employees, temporary employees, off-site employees, contractors, applicants, volunteers and interns.

This policy is intended to apply whenever anyone is representing or conducting business for the State of Colorado.



Statement of Policy

All Covered Workers are required to refrain from reporting to work or being subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs. All Covered Workers are prohibited from testing positive for metabolites of substances that are listed in the schedules of the Federal Controlled Substances Act and the State of Colorado Controlled Substances Act.

This policy applies during all work hours, whenever conducting business or representing the organization and while on-call or paid standby. If a Covered Worker tests positive for alcohol or other drugs during work hours, he or she may be in violation of this policy.

Prescription and Over-The-Counter Drugs

Any Covered Worker taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may affect his/her ability to safely and efficiently perform his/her job duties. A Covered Worker whose prescription or over-the-counter drugs may affect job performance must contact his/her agency's human resources office. If the use of a medication could compromise the safety of the Covered Worker, fellow employees or the public, it is the Covered Worker's responsibility to notify his/her supervisor or the agency's human resources office to avoid unsafe workplace practices.

For purposes of this policy, 'prescription' and 'prescribed medication' means a written or oral order for a pharmaceutical drug for use by a particular person given by a practitioner in the course of professional practice, this includes controlled substances prescribed in accordance with the regulations promulgated by the director of the United States drug enforcement administration pursuant to the federal drug abuse control laws. This definition does not include a prescription or recommendation for use of medical marijuana, as the use of marijuana by state employees is prohibited.

Prohibited Behavior

With the exception of prescription medication as outlined above, it is a violation of this policy for a Covered Worker to possess, manufacture, use, sell or transfer, or be impaired by alcohol, marijuana, controlled substances or other intoxicants during working hours.

It is a violation of this policy for any Covered Worker to be under the influence of alcohol, marijuana, controlled substances, or other intoxicants. It is a violation of this policy for any Covered Worker to be impaired by other drugs, including prescription and over-the-counter drugs. The illegal or unauthorized use of prescription drugs is prohibited. All Covered Workers are prohibited from testing positive for metabolites of substances that are listed in the schedules of the Federal Controlled Substances Act and the State of Colorado Controlled Substances Act.

For purposes of this policy, if a Covered Worker tests positive for alcohol, marijuana, controlled substances, or other intoxicants, he/she may be in violation of the policy.

Notification of Convictions

Consistent with the Federal Drug-Free Workplace Acts of 1988 and 1998, any Covered Worker who is convicted of a criminal drug violation occurring in the workplace must notify the agency Human Resources Office in writing within five calendar days of the conviction. Federal contracting agencies will be notified within 10 days when appropriate.

Each agency receiving federal grants or contracts should refer to their contractual requirements and grant obligations after being notified by an employee convicted of a criminal drug crime occurring in the workplace, as many of these agreements include mandatory reporting requirements by the agency to a federal component.

Executive Directors and Presidents of Institutions of Higher Education shall determine necessary departmental policies, protocols and procedures addressing requirements for Covered Workers to notify their appointing authority/designee if they are convicted of a criminal drug violation occurring in the workplace.



Applicable Alcohol and Drug Testing

To ensure the accuracy and fairness of our testing program, the State's alcohol and drug testing vendors will comply with the model collection and drug testing standards issued by the U.S. Department of Health and Human Services through state price agreements in place for substance abuse testing.

All Covered Workers may be required to participate in reasonable suspicion testing when a supervisor or designated substance abuse coordinator determines that reasonable suspicion exists to suggest that Covered Worker is under the influence of alcohol or drugs while on the job. Covered Workers may be subject to post-accident testing when they cause or contribute to accidents that seriously damage a state vehicle, machinery, equipment, or property and/or result in an injury to themselves or another employee requiring off-site medical attention.

In addition to reasonable suspicion testing, some Covered Workers, depending on the nature and place of their duties or employment, and subject to applicable law including, but not limited to, Federal Motor Carrier Safety Administration regulations, may be subject to the following tests:

- Pre-employment
- Post- accident
- Random
- Return-to-duty
- Follow-up

Covered Workers who test positive will be given the opportunity to provide a legitimate medical explanation, such as a physician's prescription, for the positive result.

- Testing for the presence of alcohol may be conducted by analysis of breath and/or urine.
- Testing for the presence of the metabolites of drugs may be conducted by the analysis of urine.
- A Covered Worker who refuses to cooperate in the testing process, or who adulterates, dilutes, tampers with, or otherwise interferes with accurate testing may be subject to the same consequences as a positive test.

Consequences and Personnel Actions

One of the goals of this policy is to encourage Covered Workers to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates this policy, the offer of employment can be withdrawn.

A Covered Worker who violates this policy may be subject to referral to mandatory treatment and may be subject to personnel action pursuant to State Personnel Board Rules and Director's Administrative Procedures.

Return to Duty Agreements

If an agency determines that it is appropriate, a Return-to-Duty (RTD) agreement may be implemented when a Covered Worker violates this policy but remains employed or is otherwise retained by the agency. RTD work agreements are implemented to ensure the Covered Worker abides by the provisions set forth in the RTD agreement while performing their job duties. A Covered Worker who violates an RTD work agreement may be subject to corrective and/or disciplinary action, up to and including termination.

Colorado State Employee Assistance Program

The State's employee assistance program, the Colorado State Employee Assistance Program (C-SEAP), is available to provide consultation regarding substance abuse issues in the workplace. When an employee tests positive for alcohol, controlled substances, or other drugs including prescription and over-the counter drugs or otherwise violates this policy or the agency policy, and the appointing authority determines that the employee will be retained, the agency is encouraged to utilize the resources available through C-SEAP.



It is the role and function of C-SEAP to:

- Provide initial assessment, determine and monitor the services necessary and appropriate, and make referrals to community resources;
- Provide return-to-duty consultation and assistance, including monitoring the employee's compliance and/or progress.

Any employee referred to C-SEAP under this policy for mandatory treatment will be required to sign a release of information allowing C-SEAP to report progress to the appointing authority. An employee may seek assistance from C-SEAP at any time. The C-SEAP staff are available for consultation with agencies regarding drug-free workplace education and training.

Department of Personnel & Administration, Division of Human Resources, is available to provide consultation regarding personnel issues related to substance use and/or abuse.

Confidentiality

The State respects the privacy of all Covered Workers. Therefore, reasonable precautions will be taken to ensure the privacy and confidentiality of a Covered Worker throughout the testing process and to make certain that procedures are administered fairly, consistently, and in accordance with policy. Access to this information is limited to those who have a legitimate "need to know" in compliance with relevant laws and policies. All drug-testing information will be maintained in separate confidential records.

Policy Implementation

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both Covered Workers and management have important roles to play.

In addition, Covered Workers are encouraged to:

- Be concerned about working in a safe environment.
- Support fellow workers in seeking help.
- Use the Employee Assistance Program, as applicable.
- Report dangerous behavior to their supervisor.

It is the responsibility of all to implement this policy. Effective implementation of requires a consistent multi-dimensional approach which typically involves managers/supervisors, human resources, risk management, legal counsel, etc. In addition, it is the supervisor's responsibility to:

- Inform employees of the policy.
- Observe employee performance.
- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Refer employees to the Employee Assistance Program or other appropriate Substance Abuse Program.
- Clearly state consequences of policy violations.

