

STATE OF MARYLAND
SUBSTANCE ABUSE POLICY

ACKNOWLEDGEMENT OF RECEIPT

As an employee of the State of Maryland,

I, _____, hereby certify that I have received a copy of the State's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited on the State's owned or utilized premises and violation of this policy can subject me to discipline up to and including termination. As a condition of my employment, I must abide by the terms of this policy and will notify my supervisor of any criminal drug conviction no later than five (5) days after such conviction. I further realize that federal law mandates that the employer communicate this conviction to the federal agency, and I hereby waive any and all claims that may arise for conveying this information to the federal agency.

Employee's Signature

Date

Supervisor's Signature

Date

Executive Order 01.01.1991.16
State of Maryland Substance Abuse Policy

Policy Overview Sheet

I. Definitions

- A. Definition of "drug" is more specific than in Executive Order 01.01.1989.05 (original State of Maryland Substance Abuse Policy; hereafter "original policy").
- B. Definition of "workplace" is broader than definition given in original policy.
- C. "Employee" is defined (and includes volunteers and Board and Commission members).
- D. "Conviction" is defined (and includes probation before judgment and nolo contendere).
- E. Includes a definition for "alcohol driving offense."
- F. Includes a definition for "controlled dangerous substance offense".

II. Policy

- A. Includes general policy, alcohol abuse policy, and drug abuse policy.
- B. No major changes in general policy (since original policy).
- C. Major changes in alcohol abuse policy
 - 1. Must report alcohol offense convictions (per new definition) within 5 work days.
 - 2. Consequences for violations are defined for all employees.
- D. Major changes in drug abuse policy
 - 1. Must report conviction (per new definition) within 5 work days.
 - 2. Includes over-the-counter drugs.
 - 3. Includes discipline imposed upon sensitive employees for positive drug-test results. (See drug-testing protocol for detail.)
 - 4. Includes consequences for abuse of over-the-counter and prescription drugs.
- E. Appointing authority required to report to police any suspicion that an employee has committed a controlled dangerous substance or alcohol offense at the workplace.
- F. Appointing authority must provide for review of policy with all employees who, in turn, must acknowledge receipt of policy in writing. Acknowledgement must be placed in employee's official personnel file.



The State of Maryland
Executive Department

Substance Abuse
Policy

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% of the 18-25 year-old adult working population have used illicit drugs; and
- WHEREAS, It is estimated that at least 15% 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, an 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;

NOW, THEREFORE, I, WILLIAM DONALD SCHAEFER, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY RESCIND EXECUTIVE ORDER 01.01.1989.05 AND PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Definitions. In this Executive Order the following words have the meanings 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 an 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;
 - (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 the 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

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

(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:

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

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

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

- and alcohol; or
- (i) Under the influence of drugs or drugs
- (ii) Under the influence of a controlled dangerous substance.

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 a 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 a 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 acknowledgment of receipt to their supervisor for insertion in their personnel file.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 1st day of April 1991.



William Donald Schaefer
William Donald Schaefer
Governor

TEST:

Winfield M. Kelly
Winfield M. Kelly
Secretary of State

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(Detach)

I hereby acknowledge receipt of a copy of the Executive Order 01.01.1991.16 and the Policy Overview Sheet.

Name(print) _____ (sign) _____

Classification _____ Division _____

Social Security Number _____ Date _____

Please return signed receipt to your Personnel Officer/Liaison.
Thank you.

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

The Governor's Executive Order 01.01.1989.05, State of Maryland Substance Abuse Policy, established the goal of a drug-free State workplace.

Toward that end, a drug-testing program is in place applicable to applicants for and employees working in, identified sensitive State job classifications or, an identified sensitive position. All applicants, including current State employee-applicants, for such sensitive positions must undergo drug testing at some point in the selection process in connection with any of the following employment actions:

1. Open selection from an eligible list.
2. Promotion.
3. Demotion.
4. Horizontal change.
5. Transfer.
6. Reinstatement.
7. Reemployment.
8. Reclassification.
9. Unclassified appointment.
10. Temporary appointment pending examination.
11. Temporary extra appointment.
12. Contractual appointment.

Subsequent to securing employment by any of the above actions in a sensitive classification/position, employees may be subject to random drug testing, on-the-job incident triggered drug testing, drug testing due to reasonable suspicion of the use of one or more illegal drugs related to incidents or activities on or off the job, or drug testing related to participation in a drug abuse rehabilitation program.

The required drug testing will take the form of an analysis of urine samples, with the employing agency making the necessary scheduling arrangements as well as the agency paying the cost of the initial drug-screening test.

Applicants who are not State employees and who experience confirmed positive test results, or who refuse to conform to this testing as a condition of employment shall be disqualified from the position, be removed from any list of eligibles for any sensitive classification, and be removed from the list of eligibles for all sensitive positions within the classification for which the testing is scheduled. Applicant/employees, i.e., State of Maryland employees who are applicants, not yet selected to a sensitive classification/position who refuse to conform to this testing as a condition of employment are also subject to these disqualification actions. In addition, any applicants/employees who experience confirmed positive test results will be subject to appropriate disciplinary action which may involve counseling, referral to the Employee Assistance Program, or mandatory participation in a drug abuse rehabilitation program.

Employees already selected and employed in a sensitive classification/position who refuse to comply with either random, or other ordered drug testing as a condition of continued employment or who experience confirmed positive test results shall be subject to appropriate disciplinary action which may include suspension and termination from State Service.

Further details concerning the State Substance Abuse Policy and drug testing procedures may be obtained from the agency Personnel Officer.

I, the undersigned, hereby acknowledge that as an applicant/applicant-employee for the position of _____ I am subject to drug testing as a condition of
SENSITIVE CLASS/POSITION
employment, and further that I have read the foregoing notification and understand the potential consequences of such drug testing.

SIGNATURE OF APPLICANT/APPLICANT-EMPLOYEE

DATE SIGNED

