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State of Louisiana
Division of Administration
Office of Human Resources

DIVISION OF ADMINISTRATION

PERSONNEL POLICY NO. 19

EFFECTIVE DATE: February 20, 1991

REVISED DATE: March 31, 1994; November 1, 1998; October 10, 2008;
April 1, 2009; January 26, 2015

SUBJECT: Substance Abuse and Drug-Free Workplace Policy

AUTHORIZATION:


Ruth Johnson, Appointing Authority

I. PHILOSOPHY:

Consistent with the philosophy of the Division of Administration (DOA), the State of Louisiana has a long-standing commitment to a drug-free workplace. In order to curb the use of illegal drugs by employees of the State of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for State employees. *Executive Order No. BJ 08-69* provides for the promulgation, by executive agencies, of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees in accordance with *Louisiana Revised Statute 49:1001, et seq.* The use of illegal and unauthorized drugs and the misuse of alcohol are serious social problems that are even more unacceptable in the workplace.

II. APPLICABILITY:

This policy applies to all employees and appointees of the DOA, as well as potential employees and appointees, and all other persons having an employment relationship with the DOA whether classified, unclassified, student employees, student interns, full-time, part-time or temporary (hereinafter "employee(s)" unless otherwise noted).

Following a conditional job offer, potential employees and appointees will be required to submit to pre-employment drug testing.

III. ILLEGAL OR UNAUTHORIZED DRUG USE:

Illegal or unauthorized drugs include any drug which is not legally obtainable; any drug which is legally obtainable, but has been illegally obtained; prescription drugs not being used in accordance with the prescription or in excess of the prescription; or any substance which affects the employee's ability to safely and competently perform assigned duties.

DOA reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects which impair the employee's performance or increase the risk of injury to the employee or others. In such case, where the situation is temporary and business necessity allows, the DOA may modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his customary job duties. Alternatively, the employee may be required/permitted to use accrued leave when such leave is available.

IV. REQUIREMENTS:

In order to maintain a safe and productive work environment, each DOA employee is required to:

1. Report for duty in a condition which maximizes his ability to perform assigned tasks in a competent and safe manner. Reporting to work impaired from the use of alcohol or drugs is prohibited;
2. Promptly and cooperatively submit to drug and alcohol testing when requested by the appointing authority, his designee, or as specified by this policy;
3. Notify a supervisor, prior to or immediately upon reporting for duty, when he has reason to believe that prescribed or over-the-counter medication may impair his ability to perform customary job duties or otherwise create a safety hazard. While the duration the medication will be taken should be disclosed, **employees should know that it is not necessary to disclose to the supervisor the medication being taken nor the condition for which it was prescribed.** Such information may be required to be disclosed to the Medical Review Officer should circumstances or the nature of the employee's job duties warrant, as determined by the appointing authority;
4. Notify a supervisor on the first scheduled workday of any arrest or conviction for a criminal, drug-related offense which occurs on or off duty, including Driving While Intoxicated (DWI) arrests and convictions;
5. Notify the Director of Human Resources of all convictions occurring in the workplace, while on official business, during work hours, or when on call for duty, in writing, within 5 days after such conviction.

V. PROHIBITIONS:

The DOA prohibits:

1. The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of illegal or unauthorized drugs and other prohibited substances in State vehicles or on the DOA/State premises or while the employee is on official state business, on duty or on call for duty.
2. The use, abuse and presence of illegal or unauthorized drugs, and other prohibited substances in the bodies of its employees while on duty, on call or engaged in official state business, on or off the DOA/State premises.

VI. TESTING:

With or without prior notification, testing will be administered under the following circumstances:

1. **Pre-Employment:** Drug tests are required of all prospective employees and appointees for the DOA. Each prospective employee/appointee shall be required to submit to drug screening at the designated time and place following a conditional job offer. The conditional job offer may be withdrawn from a prospective employee/appointee testing positive for the presence of a prohibited substance in the initial screening.

Employees and appointees transferring from state agencies that required pre-employment drug testing will not have to drug test, if there has been no break in service.

Drug testing is not required for employees transferring from one state agency to another as a result of a merge or reorganization, if there is no break in service.

2. **Security Sensitive Positions:** Employees who occupy security sensitive positions and applicants who apply for security sensitive positions are subject to both random and pre-selection drug testing. Prior to being placed in a security sensitive position from a non-security sensitive position through reassignment, temporary detail, promotion or demotion, etc., an employee is required to undergo drug testing, unless transferring without a break in service and the losing agency has a drug testing policy. A list of security sensitive positions may be obtained from Appendix A of the DOA Personnel Policy No. 78.
3. **Reasonable suspicion** is a belief, based upon reliable, objective, and articulable facts which cause a prudent and reasonable person to suspect that an employee has engaged in drug or alcohol use.

Only the appointing authority, or his designee, shall require an employee to submit to reasonable suspicion testing. Generally, this decision will be based upon the recommendation of supervisory personnel who have objectively and thoroughly reviewed the circumstances. The supervisor will fully document the facts upon which the recommendation for testing is made.

NOTE: When reasonable suspicion testing is ordered, a DOA representative shall transport the individual being tested to and from the testing site. Under no circumstance should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

4. **Post-Accident/Incident:** Any employee directly involved in an accident that occurs during the course and scope of an employee's employment may be required to submit to drug and alcohol testing if:
 - a. The accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor; or
 - b. The accident results in or causes the release of hazardous waste as defined by *La. R.S. 30:2173(2)* or hazardous materials as defined by *La. R.S. 32:1502(5)*; or
 - c. The accident results in a fatality or bodily injury.

NOTE: When post-accident/incident testing is ordered, a DOA representative shall transport the individual being tested to and from the testing site. Under no circumstance should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

5. **Return-to-Duty/Rehabilitation Monitoring:** Any employee who retains his job following a violation of this policy shall be required, **at his own expense**, to undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee may be subject to periodic drug testing.

Further, any employee who voluntarily or, as a condition of continued employment, participates in a substance abuse rehabilitation program, may be subject to drug testing for a minimum of one (1) year (or longer as determined by the treating substance abuse professional). Any such employee shall be required to certify, in writing, his understanding and acceptance of such a rehabilitation agreement as a condition of returning to work. **(The DOA reserves the right to ensure that any substance abuse treatment program or facility chosen by an employee to seek rehabilitation meets accreditation or certification to conduct such rehabilitation.)**

VII. DRUG TESTING PROCEDURES:

Drug testing pursuant to this policy shall be for the presence of drugs in accordance with *La. R.S. 49:1001, et seq.*

Testing shall be performed by a contractor chosen by the DOA. The DOA contracts with neutral, well-trained, professional medical personnel and certified laboratories for the collection, custody, storage, and analysis of specimens. All drug testing and all drug testing of samples for **current and prospective employees and appointees** collected shall be performed in SAMHSA-certified or CAP-FUDT-certified laboratories.

Drug testing shall be performed in compliance with the SAMHSA and the Louisiana Department of Health and Hospitals guidelines. The cut off limits for drug testing shall be in accordance with SAMHSA guidelines with the exception of initial testing for marijuana. The initial cut off level of marijuana shall be no less than fifty nanograms/ML and no more than one hundred nanograms/ML as specified by the employer or the testing entity.

The DOA reserves the right to require employees to submit to additional testing, if warranted.

VIII. ALCOHOL TESTING PROCEDURES:

Evidential Breath Testing Devices (EBT) approved by the National Highway Traffic Safety Administration will be used by certified Breath Alcohol Technicians to determine the presence of alcohol in the employee's system.

The employee will be advised of the results of the breath screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed within twenty minutes, but not less than fifteen minutes of completion of the screening test. If the confirmatory test indicates a blood alcohol concentration of 0.02 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood, the results will be reported as positive to DOA's designated representative.

Positive test results will also be reported to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

The DOA reserves the right to require employees to submit to additional testing, if warranted.

IX. ENFORCEMENT:

The use of illegal drugs and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with the DOA's mission. We will attempt to resolve any reasonable doubt regarding the testing procedure or results.

Disciplinary action may be taken in accordance with Chapter 12 of the Civil Service Rules and the Division of Administration (DOA) Policies and Procedures. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, students, and the general public.

X. CONFIDENTIALITY/EMPLOYEE RIGHTS:

All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered confidential communications, pursuant to *La. R.S. 49:1012*, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

Any employee, upon learning of a confirmed positive test result, shall, within seven working days and upon written request, have the right of access to records and other documentation relating to the drug or alcohol testing process and any records relating to the results of any relevant certification, review, suspension/revocation proceeding of the testing facility.

Employees should know that statistical records and reports of drug and alcohol testing are maintained by the DOA, contract physicians and drug testing laboratories. This information is aggregate data and is used to monitor compliance and to assess the effectiveness of the drug and alcohol testing program.

The DOA has no interest in informing law enforcement authorities of a positive drug and alcohol test. However, nothing contained in this policy will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this Policy, discovered in or on DOA or State property, or upon the person of a DOA employee, to law enforcement officials. Likewise, any employee found engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on DOA or State property may be referred to appropriate law enforcement authorities.

XI. EMPLOYEE REHABILITATION:

Early recognition and treatment of drug or alcohol abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance. Any such involvement will be held in strict confidence, but employees should know that supervisors and appointing authorities (who need to know) may be kept abreast of the employee's treatment and leave needs.

Employees who participate in a substance abuse rehabilitation program, as a condition of continued employment, may be subject to the **Return-to-Duty/Rehabilitation Monitoring** testing set forth in this policy (see Section VI. 5).

XII. QUESTIONS:

Questions regarding this policy should be directed to the Office of Human Resources.

XIII. VIOLATIONS:

Employees found to have violated this policy may be subject to disciplinary action, up to and including dismissal.

XIV. EXCEPTIONS:

The Appointing Authority may grant exceptions to this policy for rational business reasons.

SUBSTANCE ABUSE AND DRUG-FREE WORKPLACE POLICY

EMPLOYEE ACKNOWLEDGEMENT

My signature below acknowledges that:

1. I have received a copy of the Division of Administration's *Substance Abuse and Drug-Free Workplace Policy*.
2. I have read this policy or have had someone read this policy to me.
3. I understand the content of this policy.
4. I agree to comply with the terms and conditions of this policy.

I further acknowledge that compliance with this policy is a condition of my employment and continued employment.

Date

Employee's Signature

Section

Employee's Printed Name (Last, First)