

STATE OF HAWAII  
DEPARTMENT OF PERSONNEL SERVICES  
**POLICIES AND PROCEDURES MANUAL**

Policy No.  
IX.180

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Revision No.  
2

Effective Date  
11/07/90

Subject

**DRUG-FREE WORKPLACE POLICY**

**1.0 BACKGROUND**

The growing epidemic and dangers of drug abuse are clear and well-established as noted in the findings of Congress set forth in Section 5251 of the Anti-Drug Act of 1988 which state, in part, that:

- 1) Approximately 37 million Americans used an illegal drug in the past year and more than 23 million Americans use illicit drugs at least monthly, including more than 6 million who use cocaine;
- 2) Illicit drug use adds enormously to the national cost of health care and rehabilitation services;
- 3) Illegal drug use can result in a wide spectrum of extremely serious health problems, including disruption of normal heart rhythm, small lesions of the heart, high blood pressure, leaks of blood vessels in the brain, bleeding and destruction of brain cells, permanent memory loss, infertility, impotency, immune system impairment, kidney failure, and pulmonary damage, and in the most serious instances, heart attack, stroke, and sudden death;
- 4) Approximately 25 percent of all victims of AIDS acquired the disease through intravenous drug use;
- 5) Over 30,000 people were admitted to emergency rooms in 1986 with drug-related health problems, including nearly 10,000 for cocaine alone;
- 6) 10 to 15 percent of all highway fatalities involve drug use;
- 7) Illegal drug use is prevalent in the workplace and endangers fellow workers, national security, public safety, company morale, and production;
- 8) It is estimated that 1 of every 10 American workers have their productivity impaired by substance abuse;
- 9) It is estimated that drug users are 3 times as likely to be involved in on-the-job accidents, are absent from work twice as often, and incur 3 times the average level of sickness costs as non-users;
- 10) The total cost to the economy of drug use is estimated to be over \$100,000,000,000 annually;
- 11) The connection between drugs and crime is also well-proven.

**2.0 POLICY**

The State of Hawai'i is committed to maintaining drug-free workplace and promoting a safe and healthy work environment for all employees. Consequently, all employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. Such activity may impair an employee's health or adversely affect other employees. Violations of this policy may result in appropriate disciplinary action including termination of employment.

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### 3.0 OBJECTIVES

- 3.1 To protect the health, safety, and welfare of both employees and the public.
- 3.2 To eliminate disruptive or illegal drug-related activity in the workplace.
- 3.3 To comply with the requirements of the Federal Drug-Free Workplace Act of 1988.

### 4.0 REFERENCES AND DEFINITIONS

#### 4.1 References

Federal Drug-Free Workplace Act of 1988, Pub. L . 100-690, Title V, Subtitle D  
 Federal Controlled Substances Act, 21 U.S.C. 812  
 Title 21, Code of Federal Regulations, 1308.11 through 1308.15  
 Hawai'i Revised Statutes, Chapter 329: Uniform Controlled Substances Act

#### 4.2 Definitions

<b>CONTRACT</b>	A contract between a person other than an individual for the procurement of any property or services of a value of \$25,000 or more with any federal agency or, for an individual, a contract of any value with a federal agency.
<b>CONTROLLED SUBSTANCE</b>	Any drug or substance on any of the schedules of the State of Hawai'i's or the Federal government's controlled substances laws.
<b>CONVICTION</b>	A finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
<b>CRIMINAL DRUG STATUTE</b>	A criminal statute prohibiting the manufacture, distribution, dispensing, use or possession of any controlled substance.

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DEPARTMENT HEAD	For purposes of this policy, the head of a department, as defined in Chapter 26: Executive and Administrative Departments, Hawai'i Revised Statutes.			
DRUG	For purposes of this policy, the same as "controlled substance."			
DRUG ABUSE	The misuse of a controlled substance or the use of a controlled substance to an extent deemed deleterious or detrimental to the user, to others, or to society.			
EMPLOYEE	<p>An individual engaged in the performance of work pursuant to a federal grant or contract or an individual whose work or time is charged to or otherwise covered by the grant or contract, including:</p> <ul style="list-style-type: none"> <li data-bbox="690 863 1409 968">(i) All "direct charge" employees whose services are directly and explicitly paid from grant or contract funds;</li> <li data-bbox="690 974 1419 1226">(ii) All "indirect charge" employees (i.e., those persons who perform support or overhead functions related to the grant or contract and for which the Federal agency pays its share of expenses) unless their impact or involvement is insignificant to the performance of the grant or contract; and,</li> <li data-bbox="690 1232 1425 1377">(iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant or contract and who are on the grantee's or contractor's payroll.</li> </ul> <p>Any other person who is on the grantee's or contractor's payroll and who works in any activity under the grant or contract, even if not paid from grant or contract funds, is also considered to be an employee. This definition does not include workers not on the payroll of the grantee or contractor (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the payroll; or employees of subrecipients or subcontractors in covered workplaces).</p>			
GRANT	A grant in any amount to an individual or to a person other than an individual from any federal agency.			

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## 5.0 SCOPE

This policy applies to employees of the Executive Branch, except those employed by the Department of Education<sup>1</sup>, whose positions are funded either directly or indirectly, either wholly or in part, by federal funds received from a federal agency under a federal grant or contract or who would otherwise be covered under the Drug-Free Workplace Act of 1988.

## 6.0 RESPONSIBILITIES

### 6.1 Director of Personnel Services shall:

- (a) In accordance with authority conferred by the Chief Executive, formulate a Drug-Free Workplace Policy and issue procedural guidelines governing the policy to the department heads;
- (b) Coordinate the development of and ensure the availability of a drug-free awareness program to inform employees about
  - . . . The dangers of drug abuse in the workplace, as explained in Section 1.0 of this policy;
  - . . . The employer's policy of maintaining a drug-free workplace;
  - . . . Any available drug counseling, rehabilitation, and employee assistance programs; and
  - . . . The penalties that may be imposed upon employees for drug abuse.
- (c) Compile statistical data regarding employee criminal drug statute convictions, as may be necessary.

<sup>1</sup> Many of the requirements under the Drug-Free Schools and Communities Act Amendments of 1989 (P.L. 101-226), which apply to state educational agencies (Department of Education), overlap with the Drug-Free Workplace Act of 1988. The Drug-Free Schools and Communities Act Amendments of 1989, however, is broader in scope and coverage. To minimize employee confusion and duplicative efforts, the DOE is excluded from coverage under this policy in order that they may develop and implement their own policy and program to meet the requirements of both Acts.

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6.2 Each Department Head shall:

- (a) Identify all affected departmental employees;
- (b) Ensure that all affected departmental employees are informed of the state's Drug-Free Workplace Policy and Procedures set forth herein, and that the Policy and Procedures are implemented;
- (c) Ensure that all affected current and new departmental employees receive a copy of the employer's statement that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the employer's workplace, and the actions that will be taken against employees for violations of such prohibition;
- (d) Ensure good faith compliance with the Drug-Free Workplace Act of 1988 through periodic education programs, discussions at staff meetings, directives to employees in supervisory positions, or other appropriate means;
- (e) Ensure that the required drug-free workplace certification is provided to the federal granting or contracting agency;
- (f) Ensure that the appropriate person or office in the Federal agency for each grant or contract on which a convicted employee was working is notified in writing of the employees's drug conviction within ten calendar days after receiving confirmation of an employee's conviction from the courts or any other similar, reliable source;
- (g) Provide statistical data regarding employee criminal drug statute convictions to the Director of Personnel Services as may be requested;
- (h) Take immediate and appropriate action when necessary to ensure compliance with the Policy.

6.3 Employees:

- (a) Shall abide by the terms of this policy and other drug-related laws and regulations;
- (b) Shall notify the immediate supervisor in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction;
- (c) May report their drug addition problem to their immediate supervisor and request an appropriate type of leave (e.g. sick leave, vacation leave, leave without pay, or other appropriate leave) to attend a drug abuse assistance or rehabilitation program approved by the employer.

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## 7.0 CRIMINAL DRUG STATUTE CONVICTIONS

- 7.1 As a condition of continued employment, all employees must notify their immediate supervisor in writing of any criminal drug conviction for a violation occurring in the workplace or while on working time, no later than five calendar days after such conviction.
- 7.2 The immediate supervisor shall notify the department head or his/her designee after receiving notice of any employee's drug conviction from the employee, the courts, or any similar, reliable source. Upon receiving this notice, the department head or his designee shall provide written notice to the federal agency issuing the grant or contract, in the manner prescribed by the agency, no later than ten calendar days after such notification is received. Notification to the federal agency shall include the employee's name, position title, and the identification number(s) for each of the Federal agency's affected grants.
- 7.3 An employee convicted of a criminal drug violation, which would include the use or possession of controlled substances, may be subject to appropriate disciplinary action including immediate discharge, particularly where the circumstance warrant (e.g. in certain health-, safety-, or security-related occupations).
- 7.4 Where immediate discharge is not indicated, an employee convicted of the use or possession of controlled substances and who has a drug dependency problem, may be required to satisfactorily complete a drug abuse assistance or rehabilitation program approved by the employer.
- 7.5 An employee who fails to meet the notification requirements set forth in Section 7.1 above or who fails to satisfactorily complete a drug treatment program as set forth in Section 7.4 above may be subject to disciplinary action up to, and including, discharge.

## 8.0 DRUG COUNSELING AND REHABILITATION PROGRAMS

- 8.1 Any employee who is drug dependent, may seek assistance from drug treatment programs approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Short-term counseling and referral services are available through the State's Resource for Employee Assistance and Counseling Help (REACH) Program. (See Exhibit A for the telephone numbers and addresses of the REACH offices.)

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Information and referral services are also available by calling the Substance Abuse Information Center (telephone number listed on Exhibit A) or the Mental Health Centers operated by the Department of Health.

- 8.2 The cost for services received outside of the REACH Program, if any, will be the employee's responsibility. Private medical insurance plans that may cover drug treatment programs are: HMSA, HMSA-CHP, Island Care, Kaiser.

## 9.0 PERSONNEL ACTIONS

- 9.1 Because violation of the State's Drug-Free Workplace Policy is a very serious matter, the State may discipline or discharge an employee for the first offense. Any disciplinary or discharge action taken by the employer shall be in accordance with state and federal laws, the terms of the applicable collective bargaining agreement, executive order, or rules.

- 9.2 Other appropriate personnel actions may include the following:

- (a) If the employee is not able to perform his/her job, the employee may be placed on leave status.
- (b) When the employee is undergoing treatment for drug dependency which will require time off from work, the general rules on leave for illness will apply, to include requests for progress reports.
- (c) Where an employee's behavior presents a safety hazard to himself, the public, or co-workers, the employee may be sent home immediately.

## 10.0 RELATIONSHIP TO OTHER DIRECTIVES AND REQUIREMENTS

If any part of this policy is rendered or declared invalid by reason of any existing administrative rule, bargaining unit agreement, or state or federal law, such invalidation of such part or portion of this policy shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.