

DRUG AND ALCOHOL POLICY

Objective

This policy establishes guidelines to provide a safe, healthy and secure work environment for employees and other individuals doing business with the State of Nebraska.

Scope of Policy

This policy applies to all DAS employees, Agencies, Boards and Commissions falling within the jurisdiction of DAS, or employees of those Agencies who have agreed to utilize DAS Human Resources Policies through a shared services agreement. Said individuals are subject to this policy while they are in facilities or on property owned, controlled or operated by The State of Nebraska.

Bargaining Unit Employees

To the extent any terms of this policy is inconsistent with Article 35 of the 2017-2019 SLEBC contract or Article 3 of the 2017-2019 NAPE/AFSCME contract, the provisions of those contracts shall apply. When not inconsistent, the provisions of this policy shall apply.

Procedures

It is state policy to strictly prohibit the manufacture, distribution, dispensing, possession, use or sale of a controlled substance, including any of the following items by any individuals while on state premises, including parking areas:

- Illegal or unauthorized drugs (including excessive quantities of prescription or over-the-counter drugs) and any other chemical substances that may affect an individual's mood, senses, responses or motor functions or alter or affect a person's perception, performance, judgment, reactions or senses.
- Prescription or over-the-counter drugs (OTC) that may adversely influence performance or behavior when taken in prescribed quantities.
- Unless specifically authorized by the agency , the carrying, use or possession of the following items is also prohibited while on state premises, including parking areas:
 - Alcohol or intoxicating beverages.
 - Drug-related paraphernalia.

It is also state policy to strictly prohibit employees and others working on state premises from reporting to work or working under the influence of detectable levels of unauthorized or illegal drugs or alcoholic beverages.

Reasonable Accommodations

The State recognizes that many prescription and OTC medications may fall within the above prohibition. An employee with a valid prescription for medications which need to be taken while on duty or on state property are excluded from this policy to the extent medically necessary, unless the use of any medication is likely to negatively impact the ability of the employee to drive to and from the workplace, drive during the course of duties, or otherwise impair the performance of their job. In such a case the employee should contact their human resource (HR) manager to discuss reasonable accommodation or leave options.

Definitions

"Area testing" Is the testing of all covered persons present at a location or in a geographic area.

"Covered persons" Are all persons who are in facilities or on property owned, controlled or operated by the state.

"Agency doctor" Is any licensed physician designated by the agency to act on its behalf. The agency doctor will review any positive laboratory results generated by the agencies drug testing plan and assist the agency in interpreting the results on the drug test.

"State premises" include all property, offices, facilities, land, buildings, structures, fixtures, installations, automobiles, trucks, and all other vehicles and equipment, whether owned, leased, rented or used by the State, including its affiliates and subsidiaries.

"Drug-related paraphernalia" are any material or equipment used or designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing into the human body any illegal or unauthorized drugs covered by this policy.

"Drugs," for the purposes of this policy, include alcohol, legal and illegal controlled substances, narcotics, hallucinogens, depressants, stimulants, inhalants, and other substances capable of creating or maintaining effects on one's physical, emotional or mental state, such as marijuana, cocaine, opiates, phencyclidine and amphetamines. Any such drugs may be included in the testing program.

"Illegal drugs" are drugs for which the use, sale or possession is prohibited by law.

Testing Program

To meet the objectives of this policy, the agency will maintain a drug-testing program that includes the following.

Notification

The testing program was implemented and has been in effect since 5/1/2017.

For-cause testing

When a supervisor observes behavior or performance problems that is reasonably believed to be an impairment of an individual's mood, senses, responses or motor functions or alter or affect a person's perception, performance, judgment, reactions or senses, the supervisor, with the concurrence of another supervisor, will notify the HR manager to determine whether a drug test for cause should be conducted. If a drug test for cause becomes necessary for an

employee, the employee will be immediately suspended with or without pay until a full evaluation has taken place and an appropriate course of action is determined. No prior notice is required to test for cause.

Post-accident testing

The agency may require a post-accident drug test of all covered persons near the scene following an on-the-job accident or incident in which there is a reasonable basis for concluding that drug use could have contributed to the incident. Covered individuals may be suspended with or without pay until a full evaluation has taken place and an appropriate course of action is determined. Nothing in this paragraph shall be read to prevent any post-accident testing required by law, rule or regulation.

Area testing

The agency may also conduct an area test. An area test may be used where there is an indication that drugs may be in use or there is a potential for damage caused by drug use.

Confirmation test

A confirmation test will be conducted on every positive test result before the testing laboratory notifies the agency. A confirmation test is a test conducted with greater sensitivity for the identification and level of any drug (except alcohol) present in the original sample provided.

Testing for alcohol will generally be through a calibrated breath scan instrument by a person trained in the calibration and operation of the instrument. If the instrument detects a level of alcohol that corresponds to a blood alcohol content of greater than .02, after adjusting for any known rate of error, the employee will be tested again 15 minutes later. If the second test also detects a corresponding blood alcohol content level greater than .02, the employee will be considered impaired. The effects of the various blood alcohol levels are:

- An alcohol test of .02 but less than .08 will result in removal from the worksite for 24 hours and a minimum of a one-day suspension without pay.
- An alcohol test at .08 or above will be considered a drug test failure with discipline to be determined on a case-by-case basis.

Nothing in this policy limits the agencies rights to determine what disciplinary action, including termination, is appropriate in the event any level of alcohol is found.

Testing laboratory

All drug tests will be analyzed by a laboratory certified by the National Institute on Drug Abuse under the U.S. Department of Health and Human Services.

Testing procedures

If an employee's drug test result is confirmed to be positive (in excess of the levels established by applicable federal or state regulations or agency standards), the testing laboratory will notify the agency of the test result. The agency doctor or other agency representative may contact the employee to determine whether there is a legitimate explanation for the confirmed positive test result. Only those persons with a "need to know" will be provided information regarding a

drug test and its results, consequences and status. Nothing in these procedures or this policy in any way limits the agencies right to take disciplinary action, including termination, as a result of a confirmed positive drug test of an employee.

Refusal to test

Any individual refusing to be tested will be deemed to have failed the drug test and will be removed from state premises. Employees will be subject to disciplinary action, up to and including termination of employment.

Search of State Premises

The agency reserves the right to conduct searches of all covered premises at any time, and employees are required to cooperate with such searches.

Mandated Drug Testing

Federal law and regulations require specific drug testing for certain categories of employees. The agency will comply with all federally mandated testing, including conducting for-cause and post-accident testing.

General Practices

Every agency supervisor is required to provide a safe and effective working environment and to support the well-being of each employee through awareness, education and appropriate training of drug and alcohol issues.

Disciplinary Action

Employees violating this policy will be subject to disciplinary action up to and including termination. Under this policy, all such disciplinary action, other than a temporary, indefinite or paid leave of absence, requires the disciplinary procedures as outlined in the State Personnel Rules and NAPE labor contract.

Employees charged with or convicted of an unlawful drug activity

Any employee who is convicted of an activity involving an illegal drug either on or off state premises is in violation of this policy. Any employee who is convicted under a criminal drug statute must notify the general counsel of DAS or Human Resources in writing of such conviction no later than five calendar days after the conviction. In deciding what disciplinary action to take, the agency may take into consideration:

The nature of the offense charged, the safety requirements of the employee's present job assignment, the employee's record with the agency, the employee's statement of facts, the disposition of the charge, the impact of the offense on the agency, and other relevant factors. The agency may take disciplinary action before or after final disposition of the charges.

Leaving the worksite

The agency will arrange transportation for any employee who may be impaired from the use of drugs or alcohol.

Medication

Any employee taking medication should consult a medical professional to determine whether the drug may affect his or her personal safety or ability to perform the essential functions of the job and should advise his or her supervisor of any job limitations. Upon notification of job limitations, the agency will make reasonable efforts to accommodate the limitation. The employee may be subject to provisions of the Leave of Absence policy or Family Medical Leave Act (FMLA) if applicable.

On-the-job drug use, sale, possession or distribution

Any employee found to use, sell, possess or distribute any illegal or unauthorized drugs (including excessive quantities of prescription or OTC drugs) while on state premises, performing state-related duties or operating any state equipment is subject to disciplinary action, up to and including termination of employment. Any suspected illegal drug confiscated will be turned over to the appropriate law enforcement agency.

The moderate use of alcohol at state approved meetings, with business meals, travel or entertainment, or in an appropriate social setting is not prohibited by this policy.

Limitation

To the extent any federal, state or local law, rule, or regulation limits or prohibits the application of any provision of this policy, then to the minimum extent necessary and only for that geographical area, this policy is deemed to be amended to be in compliance.