

ALCOHOL AND OTHER DRUGS

OBJECTIVE

It is the Commonwealth's objective to establish and maintain a work environment free from the adverse effects of alcohol and other drugs. The effects of alcohol and other drugs in the workplace could undermine the productivity of the Commonwealth's workforce, one of Virginia's greatest assets. The adverse effects of alcohol and other drugs create a serious threat to the welfare of fellow employees and to Virginia's citizens. The Commonwealth, therefore, adopts the following policy and procedures to address alcohol and other drug problems in the public work force.

I. EMPLOYEES TO WHOM POLICY APPLIES

This policy applies to all Executive Branch positions whether covered or non-covered under the Virginia Personnel Act, whether full-time or part-time, or paid on a salaried or on an hourly basis. This policy also includes all teaching, research and administrative faculty, employees of the Governor's Office, the Office of the Lieutenant Governor, and the Office of the Attorney General.

II. DEFINITIONS

- A. **Alcohol**
Any product defined as such in the Alcohol Beverage Control Act, section 4.1-100 of the Code of Virginia, as amended.
- B. **Conviction**
A finding of guilty (including a plea of guilty or nolo contendere), or imposition of sentence, or both, by any judicial body charged with the responsibility of determining violations of the federal or state criminal drug laws, alcohol beverage control laws, or laws that govern driving while intoxicated.
- C. **Criminal Drug Law**
Any criminal law governing the manufacture, distribution, dispensation, use, or possession of any controlled drug.
- D. **Controlled Drug**
Any substance defined as such in the Drug Control Act, Chapter 34, Title 54.1 of the Code of Virginia, as amended, and whose manufacture, distribution, dispensation, use, or possession is controlled by law.
- E. **Employee**
All Executive Branch employees, whether classified or non-classified, full-time or part-time, or paid on a salaried or on an hourly basis, to include all teaching, research and administrative faculty, employees of the Governor's Office, the Office of the Lieutenant Governor, and the Office of the Attorney General.

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F. Employee Assistance Program (EAP)

A confidential assessment, referral, and short-term problem-solving service available to eligible employees and family members. Enrollment in the EAP is automatic as part of the health plan coverage. The EAP helps participants deal with problems affecting personal and work life, such as:

- conflicts within the family and workplace,
- personal and emotional concerns,
- alcohol and substance abuse,
- financial and legal problems,
- elder and child care, and
- career concerns and other challenges.

G. Management

The person(s) ultimately responsible for an employee's workplace and performance, e.g., an agency head, a secretarial branch cabinet secretary, the Governor for the Governor's office, or their official designees.

H. Other drug

Any substance other than alcohol that may be taken into the body and may impair mental faculties and/or physical performance.

I. Supervisor

The person immediately responsible for an employee's workplace and performance.

J. Workplace

Any state-owned or leased property, or any site where state employees are performing official duties.

III. EMPLOYEE RESPONSIBILITIES

A. Abide by policy

Employees must abide by the Commonwealth of Virginia's Policy on Alcohol and Other Drugs, and applicable disciplinary policies.

B. Report convictions

1. Employees must notify their supervisors of any conviction of:
 - a. a criminal drug law, based on conduct occurring in or outside of the workplace; or
 - b. an alcohol beverage control law or law that governs driving while intoxicated, based on conduct occurring in the workplace.
2. How notification given
Notification of a conviction must be made in writing and delivered no later than five calendar days after such conviction.
3. Effect of appeal of conviction
An employee's appeal of a conviction does not affect the employee's obligation to report the conviction.

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IV. VIOLATIONS

Each of the following constitutes a violation of this policy:

- A. The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol or other drugs in the workplace;
- B. Impairment in the workplace from the use of alcohol or other drugs, except from the use of drugs for legitimate medical purposes;
- C. A criminal conviction for a:
 - 1. violation of any criminal drug law, based upon conduct occurring either on or off the workplace; or
 - 2. violation of any alcohol beverage control law or law that governs driving while intoxicated, based upon conduct occurring in the workplace; and
- D. An employee's failure to report to his or her supervisor the employee's conviction of any offense, as required in section III (B) above.

V. DISCIPLINARY ACTION

- A. **For policy violation(s)**
Any employee who commits any violation, as described in section IV above, shall be subject to the full range of disciplinary actions, including discharge, pursuant to applicable disciplinary policies, such as Policy 1.60, Standards of Conduct.
- B. **Severity of discipline**
The severity of disciplinary action for violations of this policy shall be determined on a case-by-case basis. Mitigating circumstances that may be considered in determining the appropriate discipline include whether the employee voluntarily admits to, and seeks assistance for, an alcohol or other drug problem.

VI. MANAGEMENT RESPONSIBILITIES

- A. **Fair application of policy**
 - 1. The Commonwealth is dedicated to assuring fair and equitable application of this policy. Therefore, management shall use and apply all aspects of this policy in an unbiased and impartial manner.
 - 2. Any supervisor who knowingly disregards the requirements of this policy, or who is found to have deliberately misused this policy in regard to subordinates, shall be subject to disciplinary action, up to and including discharge.
- B. **Provide employees with copy of summary of policy or, upon request, copy of entire policy**

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1. Management must provide to every employee a copy of the Summary of the Commonwealth of Virginia's Policy on Alcohol and Other Drugs (see Attachment I), or, upon an employee's request, a copy of the entire policy.
2. Employees shall be required to sign a form indicating their receipt of either the Summary or the entire policy. This form shall be kept in the employee's personnel file.

C. Post policy

Management must post a copy of the entire policy in a conspicuous place or places in the workplace.

D. Training of agency representatives and supervisors

The Department of Human Resource Management in coordination with the Department of Employment Dispute Resolution, shall instruct agency representatives, who in turn shall instruct agency supervisors, on the implementation of this policy, including:

1. how to recognize behaviors that may indicate impairment from alcohol and/or other drug use;
2. appropriate referral techniques; and
3. resources for rehabilitation for alcohol and other drug use.

E. Ongoing employee education

Agencies must inform employees, on an ongoing basis, of:

1. the dangers of alcohol and/or other drug use or abuse in the workplace;
2. available counseling for alcohol and/or other drug use;
3. available rehabilitation and employee assistance programs; and
4. the penalties that may be imposed for policy violations, as set forth in section V above.

F. Appropriate action when notified of violations

1. Within 30 calendar days of receiving notice of an employee's criminal conviction, as specified in section IV(C) above, or of any other violation of this policy, management must:
 - a. take appropriate disciplinary action against the employee; and/or
 - b. require the employee to participate satisfactorily in a rehabilitation program if a drug-related conviction is received, or recommend such a program if an alcohol-related conviction is received. An employee's satisfactory participation in a rehabilitation program shall be determined by management after:
 - (1) the employee's presentation of adequate documentation (the agency has discretion to determine what documentation will be required); and/or
 - (2) consultation with EAP or with any rehabilitation program, provided that the employee gives his or her consent when the consultation is to be with the rehabilitation program that treated the employee.

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2. Within ten calendar days after receiving notice that an employee covered by the federal Drug Free Workplace Act has been convicted of a criminal drug law violation occurring in the workplace, the agency shall notify any federal contracting or granting agency.

G. Require contractor compliance

Management shall require contractors working on state agency workplaces to certify that they will not commit violations as described in sections IV (A) and (B).

VII. REHABILITATION PROGRAMS

Employees with problems related to the use of alcohol or other drugs are encouraged to seek counseling or other treatment.

A. Assistance from management

1. Management is encouraged to assist employees seeking counseling or other treatment.
2. Management should consult with the EAP before referring an eligible employee to a rehabilitation program.

B. Assistance from EAP

1. Eligible employees are encouraged to consult with the EAP to determine appropriate rehabilitation programs.
2. The EAP can provide information regarding health insurance coverage for rehabilitation programs. Not all programs are licensed, accredited or covered under employees' health insurance coverage.

C. Assistance from other agencies

Employees may contact other agencies, such as the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Health, the Department of Rehabilitative Services, and/or Virginia Office for Protection and Advocacy.

D. Leaves of absence to seek rehabilitation

1. At the discretion of management, employees may be granted leaves from work to participate in treatment programs for alcohol and/or other drug use problems.
2. Employees covered under the Virginia Personnel Act (as defined in section II (A) of Policy 2.20, Types of Employment) may use their accrued sick leave for treatment programs, as appropriate, according to Policy 4.55, Sick Leave.

VIII. AGENCY POLICIES

Agencies may promulgate supplemental alcohol and other drug policies as needed to comply with federal or state law, and as provided below.

A. Content of policies

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1. Agencies may promulgate policies that more strictly regulate alcohol and other drugs in the workplace provided such policies are consistent with this policy.
2. The job duties of certain employees may be of such a nature that impairment from alcohol creates a great risk to the safety of others. Therefore, agencies which develop supplemental policies under this section may identify, by position Role, those positions where, because of the nature of the job duties, a conviction of an alcoholic beverage control law or law that governs driving while intoxicated that results from conduct occurring off the workplace must be reported to the agency.

B. Approval of policies

The Department of Human Resource Management and the Office of the Attorney General must approve supplemental agency policies before their implementation.

IX. CONFIDENTIALITY AND MAINTENANCE OF RECORDS

All records and information concerning personnel actions related to this policy shall remain confidential and shall be disclosed only with the employee's permission, or when the agency determines that disclosure is necessary for its efficient operation.

X. AUTHORITY AND INTERPRETATION

This policy is issued by the Department of Human Resource Management pursuant to the authority provided in Title 2.2, of the Code of Virginia and the federal Drug Free Workplace Act. This policy supersedes Policy 1.02, Alcohol and Other Drugs, issued July 1, 1991.

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with Virginia Code §2.2-1201. Questions regarding application of this policy should be directed to the Department of Human Resource Management's Office of Agency Human Resource Services. The Department of Human Resource Management reserves the right to revise or eliminate this policy as necessary.

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Attachment I

**SUMMARY OF THE
COMMONWEALTH OF VIRGINIA'S POLICY ON ALCOHOL AND OTHER DRUGS**

The Commonwealth of Virginia's Policy 1.05 on Alcohol and Other Drugs states that the following acts by employees are prohibited:

- I. the unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol and other drugs on the workplace;
- II. the impairment on the workplace from the use of alcohol or other drugs, (except the use of drugs for legitimate medical purposes);
- III. action which results in the criminal conviction for:
a violation of any criminal drug law, based upon conduct occurring either on or off the workplace, or a violation of any alcoholic beverage control law, or law which governs driving while intoxicated, based upon conduct occurring on the workplace;
- IV. the failure to report to their supervisors that they have been convicted of any offense, as defined in III above, within five calendar days of the conviction.
Included under this policy are all employees in Executive Branch agencies, including the Governor's Office, Office of the Lieutenant Governor, and the Office of the Attorney General.

The workplace consists of any state owned or leased property or any site where state employees are performing official duties.

Any employee who commits any prohibited act under this policy shall be subject to the full range of disciplinary actions, including discharge, and may be required to participate satisfactorily in an appropriate rehabilitation program.

A copy of the entire Commonwealth of Virginia's Policy on Alcohol and Other Drugs may be obtained from your agency human resource office.

CERTIFICATE OF RECEIPT

Your signature below indicates your receipt of this policy summary of Policy 1.05, Alcohol and Other Drugs. Your signature is intended only to acknowledge receipt, it does not imply agreement or disagreement with the policy itself. If you refuse to sign this certificate of receipt, your supervisor will be asked to initial this form indicating that a copy has been given to you.

Employee's Name _____

Signature _____ Date _____