



DRUG-FREE WORKPLACE POLICY STATEMENT – Statewide	
DHR Policy #: DHR-STW-101.1	Authority: Drug-Free Workplace Act of 1988; 16 Del. C. c. 47; MR 12
Effective Date: November 18, 2022	Revision Date: June 23, 2023
Supersedes: State of Delaware Drug-Free Workplace Policy Statement 5/2006	Signature: <i>Claire M. DeMatteis</i>
Application: Executive Branch Agencies	

1. Policy Purpose Statement

The State of Delaware (State) as an employer is committed to providing a safe work environment and to fostering the health and well-being of its employees. The cognitive, emotional, and behavioral impairment that results from drug use can affect productivity, morale, and the safety of the employee and their co-workers. As part of the State’s commitment to provide a safe environment for employees and to comply with the Drug-Free Workplace Act (Act) of 1988, the Drug-Free Workplace Policy was established. The Act requires federal grantees maintain a drug-free workplace with specific requirements.

2. Scope

This policy applies to all employees, and for this policy includes unpaid interns, joint employees, and apprentices of Agencies who are federal grantees. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, including business trips, business meetings, and business-related social events.

Executive Branch agencies may promulgate supplemental, more restrictive drug-free policies as needed to comply with federal or state law.

3. Definitions and Acronyms

- **Controlled Substance** – means a drug, substance, or immediate precursor in Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).
- **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 statutes.
- **Criminal Drug Statute** – a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.
- **Deliver or Delivery** – means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- **Dispensation** – means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing for a legitimate medical purpose by an individual practitioner in the usual course of the

practitioner's professional practice, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

- **Distribution** – means to deliver other than by administering or dispensing a controlled substance.
- **Possession** – in addition to its ordinary meaning, includes location in or about the person, premises, belongings, vehicle, or otherwise within the employee's reasonable control.
- **Workplace** – The location where employees conduct official State business during their scheduled hours of employment. This may include an on-site location, an alternate location, or may be a combination of the two.

4. Policy

- a. It is the policy of the State to maintain a drug-free workplace.
- b. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace.
- c. As a condition of employment, employees must abide by the terms of this policy and any agency's supplemental drug-free policy and procedures.
- d. Employees may consult with their State health insurance plan or the State's Employee Assistance Program for access to drug counseling, rehabilitation, and other substance abuse assistance.
- e. If employees are convicted of a criminal drug offense occurring in the workplace, they must report such conviction to their supervisor or their Human Resources representative no later than 5 days after the conviction.
- f. The State may impose discipline, up to, and including, dismissal.
- g. The State may require satisfactory participation in an approved drug abuse assistance or rehabilitation program.
 - 1) The State is under no obligation to pay for such a program, but the cost of the program may be covered by an employee's health insurance policy.
- h. Upon receiving notice of an employee's criminal conviction, agency management must promptly initiate appropriate actions in accordance this policy, supplemental agency policy on this matter, collective bargaining agreements, and other applicable policies and regulations.
- i. Accountability will be assessed for violations of this policy consistent with Merit and/or collectively bargained standards.
- j. Nothing in this policy shall preclude the State from taking concurrent and/or independent personnel action against the employee under any applicable state law, rules, and regulations.
- k. The State shall make a good faith effort to continue to maintain a drug-free workplace through the implementation of this policy and assure that all new employees are informed of the policy through the measures set out under the Dissemination and Training section.

5. Procedures

- a. **Employee Responsibilities:**
 - 1) Employees must acknowledge receipt of this policy within the required time frame.
 - 2) Employees must abide by this policy.
 - 3) Employees must notify their immediate supervisor or agency HR representative of criminal drug statute convictions writing immediately, but no later than five (5) days after

such conviction. An employee's appeal of conviction does not affect the employee's obligation to report the conviction.

b. Agency Responsibilities:

- 1) Within 30 days of receiving notice of any employee convicted as described in this policy, the State will:
 - Take appropriate personnel action against such an employee, up to and including termination; and may
 - Require such employee to participate satisfactorily in a Drug Abuse Assistance or Rehabilitation Program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- 2) Agencies shall seek guidance from the Division of Employee and Labor Relations and/or the agency's Deputy Attorney General (DAG) prior to addressing policy violations.

6. Exclusions or Exceptions

- This policy provides minimum standards and agencies may impose stricter standards as necessary to comply with federal and state laws or regulations applying to their agency's positions.

7. Dissemination And Training

- Agencies must post a copy of this policy in a conspicuous place or places in the workplace, including providing links on relevant websites.
- This policy will be distributed to new employees at the commencement of employment by the Delaware Learning Center or their HR representative with 30-day time frame to acknowledge.

8. Exclusions or Exceptions

- None.

9. Dissemination and Training

- Employees must read and acknowledge receipt of this policy in the Delaware Learning Center, or if not applicable by other means, within the designated time frame.
- The Agency HR office may provide a review of this policy and procedure to current employees.
- Agency DHR Leads will review this policy with anyone listed in Policy Section 2. Scope that does not receive DLC messages.

10. Data Reporting

- None.

11. Associated Policy/Regulations/Information

- [Fitness for Duty Examination](#)
- [Standards of Conduct Policy and Procedures](#)
- [Employee Assistance Program \(EAP\)](#)

12. Appendices and Forms Associated with this Policy

- [Drug-Free Policy Statement Acknowledgment](#) (Only for non-DLC employees)

13. Policy Owner

- Division Name: Division of Talent Management
- Policy Administrator: Employee Engagement Administrator
- Website: [DHR - Employee Engagement \(delaware.gov\)](#)

This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict with, i.e., the law or regulation and this policy, the law and/or regulation govern.