

	WEST VIRGINIA DIVISION OF JUVENILE SERVICES	<u>POLICY NUMBER:</u> 145.00	<u>PAGES:</u> 3
<u>CHAPTER:</u> Administration and Management	<u>REFERENCE AND RELATED STANDARDS:</u> WV Code Chapter §§ 49-5-16a and 49-5E-1 et seq.; ACA 3-JTS-1C-17; ACA 3-JDF-1C-15; and ACA 3-JCRF-1C-05		
<u>SUBJECT:</u> Drug- and Alcohol-Free Workplace			
<u>DATE:</u> April 1, 2008			

POLICY

It is the policy of the West Virginia Division of Juvenile Services to maintain a mechanism that ensures that there shall be a written policy and procedure that specifies support for a Drug- and Alcohol-Free Workplace for all Division of Juvenile Services' employees. This policy, which shall be reviewed at least annually, includes at a minimum a prohibition on the use of illegal drugs, a prohibition of possession of any illegal drugs except in the performance of official duties, alcohol while working, the procedures to be used to ensure compliance, the opportunities available for treatment and/or counseling for drug and alcohol abuse, and the penalties for violation of the policy.

CANCELLATION

This policy has been reviewed and supersedes Policy 145.00 dated January 1, 2008.

APPLICABILITY

This Policy applies to ALL Division of Juvenile Services' employees, contract employees and volunteers.

PROCEDURES

1. The West Virginia Division of Juvenile Services wants to ensure that all Division of Juvenile Services' workplaces are free of illegal drugs and controlled substances by prohibiting the use, possession, purchase, distribution, sale, or presence in the body system, without medical authorization, of illegal or controlled substances and the use of alcohol while working. This is applicable while employees are engaged in any work-related activities, which includes performance of agency business during regularly scheduled workdays, meal breaks, and/or social occasions having a connection with an employee's job or the agency.

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2. Reporting to work under the influence of a controlled substance or alcohol, the presence of a non-medically prescribed controlled substance or alcohol in the body system, or possession of drug paraphernalia are all prohibited in the workplace.
3. As a condition of employment, all employees will:
 - a. Abide by the terms of this Policy.
 - b. Notify his or her supervisor of any criminal drug statute conviction for any violation no later than five (5) days after such conviction.
 - c. Sign the Employee Drug Awareness Certification Form (attached to the Division of Personnel Drug- and Alcohol-Free Workplace Policy).
4. Violation of this Policy will lead to appropriate personnel actions. Disciplinary action may range from a reprimand to dismissal, and employees may be required to participate in a Substance Abuse Rehabilitation Program or an assistance program.
5. The Division of Juvenile Services will work continuously to maintain a Drug- and Alcohol-Free Workplace. Regardless of the Division of Juvenile Services' work site location, the Drug- and Alcohol-Free Awareness Program will cover all employees.
6. This Policy is consistent with and is to be read in conjunction with the West Virginia Division of Personnel Drug- and Alcohol-Free Workplace Policy (Attachment #1). Additionally, employees are required to read the DJS Policy and sign the attached Certificate of Understanding (Attachment #2). The original sign-off sheets for the DOP policy and the DJS policy will be placed in the employee's Central Office personnel file and a copy in the facility's personnel file.
7. Each Director/Superintendent will establish a procedure outlining this policy. The procedure shall include a guide to perform random drug screening, annual drug screening and reasonable suspicion drug screening of all persons employed at the facility to include contract employees and Department of Education employees.
8. Medication
 - a. Employees taking prescribed medication that could interfere with proper performance of duties will notify their supervisor.
 - b. The Director/Superintendent reserves the right to require a written physician's statement verifying the effect of the medication on the

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employee's ability to perform assigned duties.

- c. Medications that are property of staff and have been approved for use on facility premises will not be stored in any area accessible to juveniles. Medications brought to the work site should be no more than that required for that day, keeping in mind the possibility of overtime requirements.

9. Testing and Treatment

- a. As a result of reasonable suspicion or behavior observation, employees can be required to submit to drug or alcohol testing as part of the drug-free workplace policy.
- b. Employees who are found to be substance-dependent through this and other non-voluntary means may be terminated.
- c. Employees who, prior to discovery, identify themselves to supervisory staff as substance-dependent will be placed on leave and referred for counseling and treatment at the discretion of the Division Director. Resumption of duty will be contingent on successful completion of a course of treatment and may entail a regular drug-testing regime for a period of one year after resumption of duties.

10. Each facility will have in place an operational policy and procedural plan to ensure the standards and practices of this policy are followed.

RIGHTS RESERVED

The Director reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

APPROVED:

Dale Humphrey
Director

April 1, 2008
Date

**DRUG- AND ALCOHOL-FREE WORKPLACE****I. PURPOSE**

- A. The purpose of this policy is to establish clear and uniform guidelines in accordance with federal and State regulations regarding alcohol, drugs, or controlled substances, including the provisions of the Drug-Free Workplace Act of 1988.
 - 1. Further, the purpose of this policy is to make every effort to institute and maintain a drug- and alcohol-free workplace.
 - 2. This policy shall cover all independent contractors, volunteers, and employees of the State of West Virginia, including executive, administrative, classified, non-classified, exempt, and temporary employees, and employees of county health departments affiliated with the West Virginia Division of Personnel.
- B. The policy's goal is to comply with the Drug-Free Workplace statute and to eliminate the presence and/or use of alcohol and illegal drugs in the workplace.
 - 1. Further, the intent of this policy is to ensure that State government workplaces are safe, productive, and secure for independent contractors, volunteers, employees and citizens.
 - 2. This policy prohibits the use of alcohol and/or illegal drugs in the workplace as such use may affect an independent contractor's, volunteer's, or employee's job performance; bring discredit upon the reputation of the State of West Virginia, as the employer, and/or threaten the safety of independent contractors, volunteers, employees, individuals entrusted to the care of the State, and the general public.

II. DEFINITIONS

- A. **Alcoholic Liquors:** These include alcohol, beer, wine and spirits, and any liquid or solid containing alcohol and capable of being used as a beverage.
- B. **Independent Contractor:** Any department, division, unit, or any person responsible for the performance of work under a contract.
- C. **Controlled Substance:** A federally-regulated substance listed in Exhibit A and/or Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) and West Virginia Code § 60A-2-201, et seq., that when taken into the body, may impair one's mental faculties and/or physical performance.
- D. **Conviction:** A finding of guilt, (including a plea of nolo contendere) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or State criminal drug statutes.
- E. **Criminal Drug Statute:** A criminal statute involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.



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- F. Employee: Any person who works full-time or part-time, including management, or temporary staff who are directly engaged in the performance of work for a State employer.
- G. Federal Agency: Any agency as that term is defined in Section 552(f) of the Title IV, United States Code.
- H. Grantee: Any department, division, unit, or any person responsible for the performance of work under the provisions of a federal grant.
- I. Legal Drug: Legal drugs include medications prescribed by a physician, and over-the-counter medications which have been legally obtained and are being used solely for the purpose for which they were prescribed by a physician or manufactured.
- J. Illegal Drug: Any drug which is not legally obtainable and is being used in a manner or for a purpose other than as prescribed. Illegal drugs include those controlled substances under federal or State law which are not authorized for sale, possession, or use, and legal drugs which are obtained or distributed illegally.
- K. Workplace: A work site where service or work is performed in connection with an independent contractor's, volunteer's, or employee's public employment or service. The workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas provided by the State, even if not owned, leased, or operated by the State.
- L. Volunteer: Any authorized individual not receiving compensation while directly engaged in the performance of services for a State employer.

III. POLICY

- A. It is the policy of West Virginia State government to ensure that its workplaces are free of alcohol, illegal drugs and controlled substances by prohibiting the use, possession, purchase, distribution, sale, or having such substances in the body system. Although the sale and use of alcohol by an adult may be legal, the possession, use, distribution, or dispensation of alcohol in the workplace is strictly prohibited.
- B. This policy is applicable while independent contractors, volunteers, and employees are engaged in any work/service-related activity which includes performance of agency business. Work/service-related activity includes, but is not limited to, conducting work/service, representing the State or the agency, receiving awards, speaking as a State or agency representative, and participation in receptions when invited as a result of State employment/service.
- C. The possession, use, distribution, or dispensation of alcohol; the reporting to work under the influence of alcohol, or having alcohol in the body system at work, whether the alcohol was consumed at work or away from work, are all prohibited in the workplace. When reasonable suspicion exists that an independent contractor, volunteer, or employee has reported to work under the influence of alcohol, illegal drugs, or is impaired due to abuse or misuse of controlled substances or prescribed medications, the individual may be subject to assessment and disciplinary action or termination of service agreement.



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- D. The unlawful possession, use, manufacture, distribution, or dispensation of a controlled substance or illegal drug; the reporting to work under the influence of a controlled substance or illegal drug; having an illegal drug in the body system; or possession of drug paraphernalia are all prohibited in the workplace.
- E. As a condition of employment/service with the State of West Virginia, independent contractors, volunteers, and employees shall:
 - 1. Abide by the terms of this policy;
 - 2. Notify their supervisor or department head of any criminal drug statute conviction for a violation occurring in the workplace, no later than 5 days after such conviction, and
 - 3. Sign the "Employee Drug Awareness Certification Form" or "Independent Contractor/Volunteer Drug Awareness Certification Form."
- F. It shall be the responsibility of the Division of Personnel to establish a drug awareness program for independent contractors, volunteers, and State employees to provide training on the following:
 - 1. The Employee Referral Program;
 - 2. The dangers of alcohol use or drug abuse in the workplace;
 - 3. The establishment and maintenance of a drug- and alcohol-free workplace;
 - 4. The penalties for the use or possession of illegal drugs or alcohol in the workplace, and
 - 5. The availability of literature concerning the abuse of alcohol and/or drugs as well as treatment alternatives.
- G. It shall be the responsibility of each agency to:
 - 1. Maintain a copy of the Drug- and Alcohol-Free Workplace Policy in an accessible location and display its Poster in a central location.
 - 2. Include a copy of the policy in every orientation packet for new independent contractors, volunteers, and employees.
 - 3. Maintain the signed "Employee Drug Awareness Certification Form" in each employee's agency personnel file or the signed "Independent Contractor/Volunteer Drug Awareness Certification Form" on file.
 - 4. Enforce the policy and take appropriate action against individuals who are convicted or violate the policy within 30 days from the date of the conviction or violation.
 - 5. Promptly deal with any possession, consumption, and/or distribution of alcohol, an illegal drug or controlled substance in the workplace, in accordance with legal and administrative disciplin-



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ary procedures. Supervisors should contact their respective agency personnel office or individual designated by the appointing authority for guidance. However, in emergency situations supervisors should first ensure the safety of others and then immediately contact 911, appropriate law enforcement officials, or agency security. Agencies in Kanawha county may also contact the Division of Protective Services at 558-9911 for assistance.

- a. Employees who are in violation of the provisions of the Drug-Free Workplace Act, or this policy, shall be subject to disciplinary action, up to and including dismissal, and may be required to participate in a drug rehabilitation program. Independent contractors and volunteers shall be subject to the termination of the service agreement.
 - b. State agencies who are independent contractors or grantees of federal contracts or grants amounting to at least \$25,000 are subject to suspension of payments and termination of the contract or grant for violations of any of the requirements of a drug-free workplace if they make a false initial certification, or if the number of drug-related convictions of employees indicates that the employer has not made a good faith effort to maintain a drug-free workplace.
6. Provide training to every employee, including supervisors and managers, concerning the Drug and Alcohol-Free Workplace Policy.

IV. REFERENCES

- A. Drug-Free Workplace Act, 41 U.S.C. Sections 701-707.
- B. West Virginia Code § 60A-2-201 et seq. and applicable federal statutes.

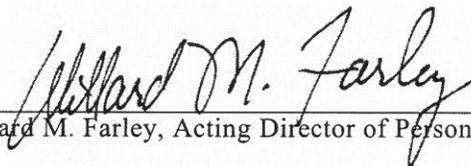
V. **EFFECTIVE DATE:** October 1, 1991.

VI. REVISIONS

- A. Previous Revisions: January 16, 2003.
- B. Latest Revision: October 1, 2004.

VII. **POLICY NUMBER:** DOP-P2.

Approved and Issued By:


Willard M. Farley, Acting Director of Personnel

Date Signed: October 1, 2004.



DRUG- AND ALCOHOL-FREE WORKPLACE

POLICY

EMPLOYEE DRUG AWARENESS CERTIFICATION FORM

I, _____, certify that I have received a copy of the West Virginia State Drug- and Alcohol-Free Workplace Policy.

I agree to abide by the terms of the policy and I am aware that with any violation of this policy, I will be subject to disciplinary action, up to and including dismissal. I may also be required to participate in a drug-abuse assistance or drug-rehabilitation program.

In addition, I understand that under federal law and as a condition of employment, if I am convicted of any violation of a criminal drug offense in the workplace, I must report this conviction to my supervisor and the appointing authority within five days of the conviction.

Name (Print)

Signature

Date

RETURN THIS FORM TO YOUR IMMEDIATE SUPERVISOR

CERTIFICATE OF UNDERSTANDING

I, _____, an employee of the Division of Juvenile
(Print Name)

Services at _____, do hereby affirm that I have
(Name of Facility)

read and understand Policy #145.00, Drug- and Alcohol-Free Workplace.

EMPLOYEE'S SIGNATURE

DATE

WITNESS

DATE