



TITLE	POLICY NUMBER	
Drug-Free Workplace	DCS 04-01	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Human Resources	May 21, 2018	4

I. POLICY STATEMENT

The Department of Child Safety (DCS) is committed to protecting the safety, health, and well-being of employees and other individuals in the workplace. The purpose of this Drug-Free Workplace Policy is to document DCS rules regarding alcohol and substance use and abuse, and to provide guidance to supervisors in addressing these issues.

Congress enacted the Drug-Free Workplace Act in 1988, requiring organizations receiving federal grants to maintain a drug-free workplace.

As a condition of employment, each employee is required to abide by this Drug-Free Workplace Policy, which prohibits the unlawful manufacture, distribution, dispensation, possession, or unauthorized use of a controlled substance in the workplace. If violations occur, disciplinary action shall be taken against the employee(s) involved, including, but not limited to, suspension, demotion, or termination from employment. In addition, DCS reserves the right to take personnel action, up to and including termination from employment, for the unlawful manufacture, distribution, dispensation, possession, or unauthorized use of a controlled substance, whether it is illegal under federal, state, or local law, by an employee *outside* of the workplace, and whether or not the employee is convicted of any criminal offense.

DCS also recognizes that alcohol and substance abuse may be successfully treated. Because alcohol and drug abuse are significant public health problems, DCS establishes this Drug-Free Workplace Policy that balances addressing treatment needs for individuals with the need to maintain an alcohol and drug-free environment. DCS strongly encourages employees to voluntarily seek help with drug and alcohol problems.

II. APPLICABILITY

This policy applies to all DCS employees and any individual who is applying for a position with DCS, or is conducting business on DCS property.

III. AUTHORITY

A.A.C. R2-5A-504	Alcohol and Drug-free Workplace
A.R.S. § 23-493.04	Testing policy requirements
21 U.S.C. 812	Schedules of Controlled Substances
21 CFR 1308.11 – 1308.15	Schedules of Controlled Substances
41 U.S.C. chapter 81	Drug-Free Workplace Act of 1988
DCS 04-10	Drug and Alcohol Testing
DCS 04-50	Duty to Advise of Arrests, Prosecutions and Convictions

IV. DEFINITIONS

Controlled substance: A drug or other substance, or immediate precursor, included in schedules I through V of the Controlled Substances Act ([21 U.S.C. 812](#)) and as further defined by regulation [21 CFR 1308.11 through 1308.15](#).

Conviction: A finding of guilty (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.

Criminal drug statute: A federal or non-federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of a controlled substance.

Drug: Any substance considered unlawful under the schedules of the controlled substances section of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, (P.L. 91-513; 84 Stat. 1247; 21 United States Code section 812) or pursuant to A.R.S. Title 13, Chapter 34 or the metabolite of the substance.

Employee: For the purpose of this policy, "employee" means all DCS full-time, part-time, contract, and temporary employees, as well as interns and volunteers.

Illegal Drug: Any drug which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any drug prescribed by a licensed medical professional and not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level other than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy.

Impairment: Symptoms that an employee while working may be under the influence of drugs or alcohol that may decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor, irrational or unusual behavior, negligence or carelessness in operating equipment, machinery or production or manufacturing processes, disregard for the safety of the employee or others, involvement in an accident that results in serious damage to equipment, machinery or property, disruption of a production or manufacturing process, any injury to the employee or others, or other symptoms causing a reasonable suspicion of the use of drugs or alcohol.

Legal Drug: Any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose, and in the dosage, for which prescribed or manufactured.

Medically Prescribed (Prescription): A prescription received from a licensed physician or in the case of medically used marijuana, an Arizona Qualified Patient Medical Marijuana card, issued by the Arizona Department of Health Services.

Possession of Drugs: The possession of drugs (legal and illegal) as defined in [A.R.S. Title 13, Chapter 34](#), without a prescription, while performing work activities is prohibited.

Primary Department Contacts: Human Resources employees designated by DCS management to administer and coordinate activities of this policy.

Reasonable Suspicion: For purposes of this policy, reasonable suspicion is based upon specific, objective, articulated facts and any rational inferences from those facts that would lead a reasonable person to suspect an individual has possessed, used, or sold illegal drugs or attempted or conspired to do so. Reasonable suspicion need not rise to the level of the more familiar standard of probable cause, but it must be substantially more than a hunch. Good cause is required for reasonable suspicion searches and must be documented. (Please refer to DCS 04-10 [Drug and Alcohol Testing](#)).

V. POLICY

A. Prohibited Behavior

It is a violation of this policy to manufacture, distribute, dispense, use, possess, sell, trade, and/or offer for sale alcohol, controlled substances, illegal drugs, or intoxicants in the workplace.

The consumption of alcohol while at work, or reporting to work while under the influence of alcohol, is prohibited.

The possession or consumption of drugs (legal and illegal) as defined in [A.R.S. Title 13, Chapter 34](#), without a prescription, while performing work activities is prohibited. The consumption of legal drugs shall be allowed only in the dosage and frequency prescribed by a licensed medical professional. Documented impairment while at work is a violation of this policy. Employees prescribed medication that could adversely affect judgment, coordination, or the ability to perform job duties at work must contact the Human Resources Employee Relations office to notify and discuss the possibility of a reasonable accommodation in accordance with policy [DCS 04-03 Implementation of the American's with Disabilities Act – Title I](#).

B. Duty to Advise of Arrests, Prosecutions, and Convictions

As stated in the [Duty to Advise of Arrests, Prosecutions, and Convictions](#) (DCS 04-50) policy, any DCS employee who is arrested, cited, indicted, or convicted of a crime, including drug offenses, shall notify his or her direct supervisor in writing by the next business day, or at the first possible opportunity if the employee is incarcerated.

Any employee who is convicted of a criminal drug violation in the workplace shall notify his or her direct supervisor in writing immediately by submitting an [Unusual Incident Report](#) (DCS-1125A). The Department shall take appropriate action, up to and including termination from employment, within 30 days of notification. Federal contracting agencies shall be notified when appropriate. If a supervisor receives notification of an employee's conviction from a source other than the employee's self-report, the supervisor completes an [Unusual Incident Report](#). Contracting or granting agencies will be notified immediately if an employee is convicted of a criminal drug violation in the workplace.

C. Employee Assistance Program

DCS shall make available assistance regarding alcohol and drug abuse to all employees through the [Employee Assistance Program](#).

D. Searches

Entering the Department's property constitutes consent to searches and inspections. If an individual is suspected of violating this policy, he or she may be asked to submit to a search or inspection at any time. Searches can be conducted of desks, work stations,

vehicles (both personal and state), personal belongings (bags, backpacks, purses, etc.) and equipment. Searches of an employee's personal belongings will only be conducted for a legitimate work-related reason or in connection with reasonable suspicion of criminal or civil wrongdoing or a violation of a workplace policy.

1. If a supervisor has reasonable suspicion that an employee possesses or has stored alcohol or drugs on DCS property, he or she will bring the matter to the attention of the Program Administrator or equivalent, who may request Primary Department Contacts, or their designees, to conduct a search. A minimum of two people, not including the individual suspected of the violation, shall be present during the entirety of all searches.
2. No DCS employee shall search another employee's personal property or clothing.
3. Law enforcement shall be notified upon the discovery of any potentially illegal substances or devices found during the course of a search. Primary Department Contacts, or their designees, shall not, upon discovery of a potentially illegal substance or device during a search, further touch or handle the substance or device.

E. Drug Testing

Drug and alcohol testing shall be conducted in accordance with the [Drug and Alcohol Testing](#) (DCS 04-10) policy.

1. All drug-testing information shall be maintained in separate confidential records.
2. Each employee, as a condition of employment, shall be required to participate in post-accident and reasonable suspicion testing upon selection or request of Management.
3. The referral process for testing, the substances that are subject to testing, and the concentration cut-off levels are all described in the [Drug and Alcohol Testing](#) policy.

F. Consequences

Employees who violate this policy shall be subject to disciplinary action, up to and including dismissal.

G. Confidentiality

All information received by DCS through the Drug-Free Workplace Policy is confidential communication. Records related to drug testing shall be retained and managed in accordance with the Drug and Alcohol Testing Policy. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and policies.

Records related to drug testing may be disclosed in a lawsuit, criminal prosecution, administrative proceeding, or grievance initiated by the employee, including but not limited to worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee. The employee may make records available to another person upon written release.

VI. PROCEDURES

A. Department Responsibilities

DCS shall require new employees to sign an [*Employee Drug and Alcohol Test Agreement*](#) that describes the Department's commitment to a drug and alcohol-free workplace and confirms their receipt of the Department's [*Drug and Alcohol Testing*](#) policy.

No employee shall report to work or be in an on-call status while their ability to perform job duties is impaired due to on- or off-duty use of alcohol, medical or recreational marijuana, or other drugs. In addition:

1. Employees are encouraged to:
 - a. be concerned about working in a safe environment;
 - b. support fellow workers in seeking help for substance abuse issues;
 - c. use the [*Employee Assistance Program*](#); and
 - d. report dangerous behavior to their supervisor.
2. It is the supervisor's responsibility to:
 - a. inform employees of the Drug-Free Workplace Policy;
 - b. observe employee performance;
 - c. investigate reports of dangerous practices;
 - d. document negative changes and problems in performance;

- e. counsel employees as to expected performance improvement;
- f. refer employees to the [Employee Assistance Program](#); and
- g. clearly state consequences of policy violations.

B. Treatment Assistance

DCS recognizes that substance use disorders are treatable illnesses. Early intervention and support improve the success of rehabilitation. To support employees, DCS:

- 1. encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem;
- 2. encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help;
- 3. offers all employees and their family members assistance with alcohol and drug problems through the [Employee Assistance Program](#); and
- 4. allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems. Treatment for alcoholism and/or other substance use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

C. Communication

To ensure all employees are aware of their role in supporting the Drug-Free Workplace Policy:

- 1. All employees shall be notified about the policy and how to access it.
- 2. In new employee orientation, employees will be informed of this policy.
- 3. Every supervisor shall receive training to help him/her recognize and manage employees with alcohol and other drug problems.

VII. FORMS INDEX

[*Employee Drug and Alcohol Test Agreement \(DCS-1016A\)*](#)

Unusual Incident Report (DCS-1125A)