



## COLORADO

### Department of Public Safety

Human Resources

700 Kipling Street, Suite 1000  
Lakewood, CO 80215

## SUBSTANCE ABUSE POLICY AND PROCEDURAL DIRECTIVE

### PURPOSE

To maintain a safe, healthful, and efficient work environment for the Colorado Department of Public Safety (CDPS) employees, volunteers, and the public, as well as to comply with the Drug Free Workplace Acts of 1988 and 1998 and the Governor's Executive Order D000291 of 1991 regarding employee impairment in the workplace. This policy is directed towards rehabilitation whenever reasonable.

### REFERENCES

Federal Drug-Free Workplace Acts of 1988 and 1998  
 Omnibus Transportation and Employee Testing Act of 1991  
 U.S Department of Transportation (DOT) Testing Procedures 49 CFR Part 40  
 Federal Controlled Substances Act of 1970  
 State of Colorado Constitution, Article XVIII – Section 14 (10) (b)  
 Colorado Revised Statutes 42-4-1301  
 Colorado Revised Statutes Schedules I to V, Part 2, Article 18, Title 18  
 Colorado Revised Statute 12-22-303 through 12-22-308  
 Executive Order D000291  
 Universal Policy Pursuant to Executive Order D023 09

### APPLICABILITY

This policy applies to all divisions, offices, employees and volunteers of CDPS. Independent contractors shall also comply with this substance abuse policy; however, nothing in this policy is intended to create an employee/employer relationship. Safety-related positions have special requirements. Safety-related positions are those that are directly responsible for the safety of Colorado residents and visitors.

### POLICY

The use of alcohol, controlled substances, or other drugs including prescription and non-prescription medications that result in job impairment is prohibited. Illegal possession, manufacture, use, sale or transfer of a controlled substance on department property at any time is prohibited. Employees and volunteers impaired by alcohol, controlled substances, or other drugs including prescription and non-prescription medications during work hours may pose safety and health risks. Therefore, to ensure a safe working environment, it is the department's intent to comply with each of the provisions of the Drug-Free Workplace Acts of 1988 and 1998. Employees and volunteers are required to report to work and while at work will remain unimpaired by alcohol, controlled



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substances, or other drugs including prescription and non-prescription medications.

The use of any illegal drug covered under the Federal Controlled Substances Act U.S.C. Title 21 Section 812 is prohibited. The use of marijuana for any purpose, including medical, is also prohibited. Any illegal substance, drug, including illegal synthetics, or drug paraphernalia is prohibited on CDPS property. Marijuana and marijuana paraphernalia is prohibited on CDPS property.

**Violations of this policy may be cause for intervention that may result in referral to mandatory treatment and/or corrective or disciplinary action up to and including termination.**

### TESTING

Type of Testing	Non-Safety- Related Employees and Volunteers	Safety -Related Employees
Pre-Employment (Drug)	Based on position duties	✓
Reasonable Suspicion Drug and Alcohol	✓	✓
Post-Accident Drug or Alcohol	✓	✓
Random Drug		✓
Return-to-Duty	✓	✓
Follow-Up	✓	✓

Employees who refuse required testing, or who adulterate, tamper with, or otherwise interfere with accurate testing may be in violation of this policy.

Appointing Authorities (AA), managers and supervisors shall maintain the confidentiality of all information pertaining to testing, counseling or treatment. Access to this information is limited to those who have a legitimate “need to know” in compliance with relevant laws and policies. All alcohol and drug testing information will be maintained in confidential records separate from official personnel files.

The department will comply with the model collection and drug testing standards issued by the U.S. Department of Health and Human Services and will use approved Substance Abuse Mental Health Services Administration (SAMHSA) certified laboratories.



Testing for the presence of alcohol will be conducted by analysis of breath. Testing for the presence of drugs and their metabolites will be conducted by urinalysis. Blood analyses may be used as necessary.

Testing will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer (MRO), including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription for the positive result and a documented chain of custody.

### **Pre-Employment Drug Testing**

Upon receipt of a conditional job offer, safety-related candidates may be subject to pre-employment testing and may not be approved for employment based on test results. Testing will be initiated and managed by CDPS Human Resources staff.

**Random Drug Testing** Random drug screening for employees in safety-related positions will be scheduled by a certified alcohol and drug screening testing service using a scientifically valid randomization method. All employees subject to random testing have an equal chance of being tested each time selections are made and employees may be tested more than once.

### **Reasonable Suspicion Drug and Alcohol Testing**

Reasonable suspicion testing is designed to provide management with a tool to identify employees who may use alcohol, controlled substances, or other drugs, including prescription and non-prescription medications that result in impairment on the job. A supervisor, manager or substance abuse coordinator may determine that reasonable suspicion exists to suggest that an employee or volunteer is impaired on the job or using prohibited substances. In making a determination of reasonable suspicion, the factors to be considered include but are not limited to the following:

- Personal observation of specific, current and articulable observations based on the behavior, odor, appearance and speech (BOAS), behavioral indicators of drug and/or alcohol use, physical withdrawal symptoms and may include potential job performance issues;
- Occurrence of a serious or potentially serious work-related accident that may have been caused by human error or flagrant violations of safety, security or other operating procedures;
- Evidence of prohibited substance use, including, but not limited to, possession, sale, delivery and/or possession of drug paraphernalia;
- Fighting (physical contact) and assaults, or erratic, aggressive or violent behavior;
- Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug use or trafficking;



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- Past admissions or statements made by the employee;
- Information provided by a reliable and credible source.

When a supervisor, manager or substance abuse coordinator has determined that reasonable suspicion testing is appropriate, he/she will:

- Document all applicable information on the Reasonable Suspicion Checklist;
- Obtain approval for testing from the Appointing Authority/Designee;
- Arrange for the employee to be placed on Administrative Leave pending test results;
- Meet with the employee to discuss the incident and observations;
- Allow the employee an opportunity to explain the circumstances surrounding the incident, observed behaviors, speech, appearance and body odors;
- Inform the employee of the reasonable suspicion testing process;
- Transport or arrange for transport of the employee to the appropriate collection site for testing;
- Remain with the employee until the completion of the testing; and ,
- Make arrangements for the employee to be transported home.

All drug test results will be reported to AA/Designee and Human Resources.

### **Post-Accident Tests**

Employees or volunteers who drive a state vehicle or who drive their own vehicle as a part of their work duties while conducting business for CDPS are subject to post accident testing. This requirement includes machinery and the use of equipment while performing job duties. All CDPS employees and volunteers may be subject to immediate drug or alcohol testing under the following circumstances:

- Any accident in which a fatality occurs;
- Bodily injury to a person who as a result of the injury receives medical treatment away from the scene of the accident;
- One or more of the vehicles incurring disabling damage is towed from the scene.

An employee or volunteer who is involved in an accident must immediately report the



accident to the Appointing Authority/Designee. The Appointing Authority/Designee will:

- Consult with law enforcement and/or arrive at the scene of the accident to determine if testing should be completed according to reasonable suspicion guidelines;
- Transport or arrange for transport of the employee to the appropriate collection site if reasonable suspicion of impairment is indicated.

### **Return-to-Duty Tests**

Return-to-Duty (RTD) testing may be a requirement under a RTD agreement. Employees in safety-related positions who have illegally used controlled substances may not be retained. Return-to-Duty agreements may be implemented when an employee violates this policy but is not separated from employment. RTD agreements are implemented to ensure the employee is in compliance with the requirement of remaining drug and alcohol free while performing his/her job duties. An employee who violates a RTD agreement may be subject to corrective and/or disciplinary action up to and including termination. An appointing authority who wishes to develop a RTD agreement should coordinate with Human Resources and the Colorado State Employee Assistance program (C-SEAP) to develop the agreement and coordinate RTD agreement testing. C-SEAP provides case management services throughout the duration of a RTD work agreement and communicates any issues regarding compliance to the appointing authority/designee or human resources. CSEAP may recommend a follow-up testing schedule for the duration of the RTD work agreement. The appointing authority/designee or human resources schedules the Return-to-Duty test and implements the follow up testing schedule recommended by C-SEAP.

### **Self-Report**

An employee may self-report an alcohol and/or drug problem to the appointing authority or designee or Human Resources. In the absence of a documented job performance problem, an employee in a non-safety-related position who voluntarily admits to drug or alcohol problems should be strongly encouraged to seek assistance through C-SEAP for assessment. Self-reporting by an employee in a safety-related position is governed by the policy outlined below in Treatment Referrals.

Whenever practicable and with due regard for the safety of the public and all state employees, CDPS encourages the rehabilitation of employees who voluntarily seek assistance or self-report alcohol and drug abuse problems. It is the goal of the CDPS that employees will take responsibility for their own behavior and be encouraged to voluntarily seek professional assistance. However, when an employee violates the CDPS Substance Abuse Policy and the appointing authority/designee determines that the employee will be retained, CDPS will require the employee to utilize the resources available through C-SEAP.



### Treatment Referrals

C-SEAP is a resource for assessment, short-term counseling and referral to services for State employees. It is the role and function of C-SEAP to:

- Provide initial assessment, determine and monitor services necessary and appropriate, and make referrals to community resources;
- Provide return-to-duty consultation and assistance, including monitoring the employee's compliance and/or progress

### Non-Safety Related Employees/Voluntary Referrals

- When the appointing authority or designee has observed and documented job performance and/or behavioral concerns believed to be related to impairment on the job or substance abuse problems, the employee may be referred to C-SEAP.
- The appointing authority or designee will encourage the employee in the non-safety related position to accept the treatment referral to C-SEAP.
- Should the employee in the non-safety related position elect to accept the voluntary referral, C-SEAP then will complete the assessment, provide direct services and/or make referral to community resources.
- The appointing authority or designee may continue with performance amangement whether the employee elects to accept or decline the voluntary referral.

### Safety-Related Employees/Mandatory Referrals

- A safety-related employee who voluntarily admits to a drug and/or alcohol problem shall receive a mandatory referral by the appointing authority/designee to C-SEAP and may be subject to return-to-duty- testing.
- A safety-related employee who tests positive on a drug and/or alcohol test and is retained shall receive a mandatory referral by the AA/Designee to C-SEAP for assessment and may be subject to return-to-duty testing.
- C-SEAP will make a referral and schedule a Substance Abuse Professional (SAP) evaluation.
- The cost of the evaluation under this policy will be paid by the division of the respective employee. Additional testing, counseling or rehabilitation services requested or required of the employee will be the responsibility of the employee.
- The appointing authority or designee must coordinate a return-to-duty meeting with the employee and C-SEAP and must receive the SAP return-to-duty documentation from C-SEAP before returning the employee to duty.



**Convictions**

All CDPS employees are required by law to inform the appointing authority or designee and Human Resources within five (5) days after a conviction for violation of any federal or state criminal drug statute where such violation occurred on state premises or during work hours.

The appointing authority or designee must notify the Federal agency with active contracts or grants within ten (10) days after receiving notice from a federally funded employee or otherwise receiving actual notice of such conviction for a violation that occurred on state premises or during work hours. A copy of all such notices to the U.S. Government shall be sent to the State Personnel Director. Appropriate personnel action may be pursued against such employee up to and including termination.

**Driving Under the Influence (DUI) / Driving While Ability Impaired (DWAI) Violations**

- Employees who operate a state vehicle or their personal vehicle as a part of their job duties are required to immediately notify management/supervisor if they receive a DUI or DWAI citation or lose their driver's license. Such employee may not operate a state owned vehicle or drive their personal vehicle for work related purposes;
- The appointing authority or designee may contact C-SEAP for consultation;
- At his/her discretion and with due regard to the requirements of the Americans with Disabilities Act, the appointing authority or designee may elect to accommodate the employee by allowing him/her to work in a job that does not require driving;
- CDPS is not obligated to retain employees if they cannot perform the essential functions of their jobs.

