

# Georgia Department of Public Safety

## Policy Manual

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| SUBJECT<br><b>DRUG FREE WORKFORCE</b> | POLICY NUMBER<br><b>5.07</b>       |
| DISTRIBUTION<br><b>ALL EMPLOYEES</b>  | REVISED DATE<br><b>4/9/2019</b>    |
|                                       | POLICY REVIEWED<br><b>4/9/2019</b> |

### 5.07.1 Purpose

The United States Congress has enacted the Drug-Free Workplace Act of 1988 to ensure that work performed under federal contracts or grants is completed in a drug-free work environment.

In addition, the Georgia Legislature passed the Drug Free Public Work Force Act of 1990. The General Assembly found that the manufacture, distribution, sale, or possession of controlled substances, marijuana, and other dangerous drugs in an unlawful manner is a serious threat to the public health, safety, and welfare. It declared to be a primary purpose and goal of this state, its agencies and instrumentalities, and its public officials and employees to take all reasonable steps possible to eradicate the unlawful manufacture, distribution, sale, and possession of controlled substances, marijuana, and other dangerous drugs. The General Assembly further declared that its work force must be absolutely free of any person who would knowingly engage in this illegal activity.

### 5.07.2 Policy

The Georgia Department of Public Safety prohibits employees from unlawfully manufacturing, distributing, selling, possessing, dispensing and/or using a controlled substance (unless used with a valid prescription), marijuana, or a dangerous drug, which includes the use of prescription medication prescribed to another. Such activity, even during non-working hours, affects an employee's ability to perform public duties, impairs the operation of the department, and damages the reputation of the department.

### 5.07.3 General Provisions

- A. While in the workplace or otherwise in work status, employees must be free from alcohol and illegal drugs.
- B. Employees who are legally using a drug (or other substance) with a warning about a side effect that could substantially impair the safe performance of assigned duties must:
  - 1. Ensure that they are cleared by their medical provider to fully perform their assigned duties while on such drug/substance, and
  - 2. Seek and receive authorization from their supervisor before reporting for duty.

- C. Any employee in a high-risk or federally regulated transportation position (as defined in Policy 5.08 – Drug and Alcohol Testing) is prohibited from having medical marijuana in their system while performing the duties of that position.

#### **5.07.4 Procedures For Drug Related Arrests/Convictions**

##### **A. Drug Related Arrests**

Employees arrested for any violation of drug related criminal laws of this state, any other state or the United States, regardless of whether the alleged violation occurred at the workplace or elsewhere, shall immediately notify their supervisor and the Director of the Office of Professional Standards. The supervisor shall also notify the Commissioner of the Department of Public Safety through the chain of command.

##### **B. Drug Related Convictions**

Employees convicted, including a plea of *nolo contendere* or under the First Offender Act, for violating any drug related criminal offense of any jurisdiction regardless of whether such offense occurred at the workplace or elsewhere, shall immediately notify their supervisor and the Director of the Office of Professional Standards. The supervisor shall also notify the Commissioner of the Department of Public Safety through the chain of command.

- C. Violations of this Policy will result in severe disciplinary action, up to and including termination from employment. An employee who is convicted of a drug related criminal offense shall be dismissed.

#### **5.07.5 Disclosure of Problem Use of Alcohol or Illegal Drugs**

- A. An employee who notifies the appointing authority of an alcohol or illegal drug problem shall not be dismissed from employment because of the self-disclosure provided:

1. The notification is made prior to arrest for an offense involving alcohol, if the employee is disclosing an alcohol problem, and prior to arrest for an offense involving a controlled substance, marijuana, or a dangerous drug, if the employee is disclosing an illegal drug problem;
2. For employees regulated by the Federal Motor Carrier Safety Administration (FMCSA), the disclosure is made prior to reporting for duty to perform safety-sensitive transportation functions;
3. The employee has not refused ordered substance abuse testing or tested positive for illegal drug use or alcohol. If an employee is ordered to appear for substance abuse testing, then self-discloses a substance abuse problem, the employee is not excused from the ordered testing. The employee must successfully complete the testing process and have a negative result before becoming eligible for the protection outlined in this section.
4. The notification is made in writing to the Director of Human Resources and states the employee is receiving or agrees to receive treatment under a properly licensed substance abuse treatment and education program;
5. The employee follows the treatment plan which will be at the employee's expense;

6. The employee provides certification of satisfactory completion of the recommended treatment program, and
7. The employee successfully completed return-to-duty substance abuse testing and receives a negative result before returning to work.
  - a. The Division Director may require the employee to sign a return-to-duty agreement as a condition of employment and be subject to unannounced follow-up testing for illegal drugs and/or alcohol, whichever is applicable to the disclosed substance abuse problem, for up to five (5) years.
  - b. The requirement for follow-up testing will be based on the Department's determination that the employee could pose a direct threat in the absence of testing and will be based on objective, individualized assessment of the employee and the employee's position.
  - c. The duration and frequency of testing must be linked to specific safety concerns.
- B. This entitlement shall be available no more than twice in a five year period.
- C. The employee's failure to complete any requirement within the treatment and education program, failure to comply with the return-to-duty agreement, positive test or test refused, will result in immediate dismissal and any applicable employment disqualification for a testing violation.
- D. Confidentiality of Employee Statements

Any written statements or other related documentation will be maintained, confidentially, by the Human Resources Division. The Director of Human Resources will notify the appropriate Division Director upon receipt of any disclosure of problem use of alcohol or drugs. The employee's Division Director may notify other Division Directors as warranted by the circumstances. Otherwise, supervisors in the employee's chain of command who have knowledge of such disclosure are prohibited from disclosing any information to any individual, unless there is a justified business-related need to know.