



State of New Jersey

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
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NO. 020

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NEW JERSEY DEPARTMENT OF MILITARY AND VETERANS AFFAIRS DRUG AND ALCOHOL-FREE WORKPLACE POLICY

1. PURPOSE.

The purpose of this policy is to set forth guidelines to ensure a drug and alcohol-free workplace at all New Jersey Department of Military and Veterans Affairs (DMAVA) locations and facilities.

2. APPLICABILITY.

This policy applies to all state employees and all state job applicants of DMAVA. The term employee includes state contracted employees.

3. REFERENCES.

a. New Jersey Department of Personnel. (2005). *Employee Advisory Services (EAS)*. Retrieved from <http://www.state.nj.us/personnel/EAS/index.htm>

b. U.S. Department of Labor. (2005). Office of the Assistant Secretary for Policy. Contact Information: New Jersey State Law Library, P.O. Box 520 John Fitch Plaza, Trenton, New Jersey (609) 292-6230. Topic: Laws and Regulations. *Substance Abuse Information Database (SAID) - New Jersey State Law – Unemployment Compensation*. Retrieved from <http://www.dol.gov/asp/programs/drugs/said/StateLaw.asp?ID=734>

c. U.S. Department of Labor. (2005). Office of the Assistant Secretary for Policy. Contact Information: New Jersey State Law Library, P.O. Box 520 John Fitch Plaza, Trenton, New Jersey (609) 292-6230. Topic: Laws and Regulations. *Substance Abuse Information Database (SAID) - New Jersey State Law – Workers' Compensation*. Retrieved from <http://www.dol.gov/asp/programs/drugs/said/StateLaw.asp?ID=735>

d. U.S. Department of Labor. (2005). *Working Partners for an Alcohol-and Drug-Free Workplace*. (e-laws – Drug-Free Workplace Advisor). Retrieved 30 August 2005, from <http://www.dol.gov/elaws/drugfree/htm>

e. U.S. Drug Enforcement Administration (DEA). (2005). *Appendix: Sample Drug and Alcohol Abuse Policy, 4. Definitions*. Retrieved 6 June 2005, from U.S. DEA Web site <http://www.usdoj.gov/dea/demand/dfmanual/01adf.htm>

f. New Jersey Department of Military and Affairs. (1990). *Corrective and Disciplinary Action Policies and Responsibilities*. Departmental Directive Number 230.5, dated 28 December 1990 (as revised).

g. New Jersey Department of Personnel.(2005). New Jersey Administrative Code Title 4A. Retrieved from http://www.state.nj.us/personnel/nj_title_4a/index.htm

h. New Jersey Department of Personnel. *Statewide Policy – Drug & Alcohol Testing of Employees Required to Maintain a Commercial Driver’s License (CDL)*. (2005). Effective January 1, 1995. Revised January 1, 2005. Retrieved from State of New Jersey Department of Personnel Employee Advisory Services.

i. State of New Jersey Executive Order #204. (1989). *Order and direct: Policy for a Drug-Free Workplace in State Government*. Governor Thomas H. Kean, dated 03/14/89. Retrieved from <http://www.state.nj.us/infobank/circular/eok204.htm>

4. DEFINITIONS.

a. **Alcohol** means any beverage that contains ethyl alcohol (ethanol), including but not limited to beer, wine, and distilled spirits.

b. **Contraband** means any article, the possession of which on New Jersey Department of Military and Veterans Affairs premises or while on New Jersey Department of Military and Veterans Affairs business, causes an employee to be in violation of New Jersey Department of Military and Veterans Affairs work rules or laws. Contraband includes illegal drugs and alcoholic beverages, drug paraphernalia, unauthorized lethal weapons, unauthorized firearms, unauthorized explosives and/or incendiaries, stolen property, counterfeit money, untaxed whiskey, and pornographic materials.

c. **Department** means the New Jersey Department of Military and Veterans Affairs.

d. **Department premises or Department facilities** means all property of the New Jersey Department of Military and Veterans Affairs including, but not limited to the offices, facilities, Veterans Memorial Homes, and surrounding areas on New Jersey Department of Military and Veterans Affairs-owned or -leased property, parking lots, and storage areas. The term also includes New Jersey Department of Military and Veterans Affairs-owned or -leased vehicles and equipment, wherever located.

e. **Drug testing** means the scientific analysis of urine, blood, breath, saliva, hair, tissue, and other specimens of the human body for the purpose of detecting a drug or alcohol.

f. **Employee** means all state employees of the Department or agency whether full-time or part-time, and whether in the career service, executive service, or unclassified service. This term includes contracted employees, hourly employees, and paid or unpaid interns.

g. **Illegal drug** means 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 prescribed drug not being used for the prescribed purpose(s); any over-the-counter drug being used at a dosage level other than that intended by the manufacturer or being used for a purpose other than that intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances such as marijuana and hashish, cocaine, heroin, methamphetamine, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.

h. **Legal drug** means any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose for which it was prescribed or manufactured.

i. **Reasonable belief** means a belief based on objective facts sufficient to lead a prudent person to conclude that a particular employee is unable to satisfactorily perform his or her job duties due to drug or alcohol impairment. Such inability to perform may include, but not be limited to, decreases in the quality or quantity of the employee's productivity, judgment, reasoning, concentration, and psychomotor control, and marked changes in behavior. Accidents, deviations from safe working practices, and erratic conduct indicative of impairment are examples of "reasonable belief" situations.

j. **Under the influence** means a condition in which a person is affected by a drug or by alcohol in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior, nor to the obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of being under the influence can be established by a professional opinion, a scientifically valid test, such as urinalysis or blood analysis, and in some cases by the opinion of a layperson.

k. **Workplace**, for purposes of this Policy, means the physical area of operations of a department or agency, including buildings, grounds and parking facilities provided by the State. It includes any field location or site at which an employee is engaged, or authorized to engage, in work activity, and includes any travel between such sites.

5. OBJECTIVE.

a. All employees of the New Jersey Department of Military and Veterans Affairs are required to report to work physically and mentally able to perform their duties and to carry out their responsibilities optimally without endangering their own health or safety, or that of other employees, residents, veterans, volunteers, visitors, and/or the general public.

b. The New Jersey Department of Military and Veterans Affairs has a vital interest in maintaining a safe, healthy, and efficient working environment. Being under the influence of a drug or alcohol on the job poses serious safety and health risks to the user and to all those who work with the user. The use, sale, purchase, transfer, or possession of an illegal drug in the workplace, and the use, possession, or being under the influence of alcohol, also poses unacceptable risks for safe, healthy, and efficient operations.

c. No employee may manufacture, distribute, dispense, sell, use, or be under the influence of alcohol or illegal drugs while conducting New Jersey Department of Military and Veterans Affairs-related activities, or while on New Jersey Department of Military and Veterans Affairs premises. Employees in violation of this policy are subject to disciplinary action up to and including dismissal, under applicable New Jersey Department of Military and Veterans Affairs policies and labor contracts.

d. Employees may be asked, at the discretion of the New Jersey Department of Military and Veterans Affairs, to participate satisfactorily in Employee Advisory Services (EAS).

6. POLICY.

a. ALCOHOL USE PROHIBITIONS:

- (1) The personal possession, distribution, dispensation, sale or use of alcohol on New Jersey Department of Military and Veterans Affairs premises or while on duty is prohibited.
- (2) Off-duty abuse of alcohol that adversely affects or impairs an employee's job performance, or that results in on-duty conduct which adversely affects or threatens to adversely affect other interests of the New Jersey Department of Military and Veterans Affairs, is prohibited.
- (3) Working or reporting to work under the influence of alcohol is prohibited.
- (4) An employee who is perceived to be under the influence of alcohol will be removed immediately from the workplace and may be placed on paid administrative leave pending an investigation and/or discipline (up to and including termination) in accordance with applicable Department personnel policies and collective bargaining agreements. The employee may be referred to the Employee Advisory Services (EAS).
- (5) As a condition of employment, an employee must, within five (5) calendar days, notify the New Jersey Department of Military and Veterans Affairs, Human Resources Division (HRD), if he or she is convicted of a drunk driving offense or refuses to take a Breathalyzer test. If the primary essential function of the job title relates to driving or the operation of equipment and vehicles, then the loss of driving privileges must be reported to HRD within five calendar days.

b. DRUG USE PROHIBITIONS:

- (1) The unlawful use, sale, purchase, possession, manufacture, distribution, or dispensation of any drug, unprescribed controlled substance, or the misuse of prescribed medication on the New Jersey Department of Military and Veterans Affairs premises, or while on duty, is prohibited.
- (2) Off-duty abuse of drugs that adversely affects an employee's job performance or that results in conduct which adversely affects, or threatens to adversely affect, other interests of the New Jersey Department of Military and Veterans Affairs is prohibited.
- (3) Use of illegal substances, or the abuse of legal substances off work time that results in impairment at work, is prohibited.
- (4) An employee who is perceived to be under the influence of drugs will be removed immediately from the workplace and the employee may be placed on paid administrative leave pending an investigation and/or discipline (up to and including termination) in accordance with applicable Department personnel policies and collective bargaining agreements. The employee may be referred to the Employee Advisory Services (EAS)
- (5) It is recognized that individuals may be taking prescription or over-the-counter drugs, which could impair judgment or other skills required in job performance. If an employee observes an individual who appears to be impaired in the performance of his or her job, they shall report their observations to their supervisor, who should refer the employee to the New Jersey Department of Military and Veterans Affairs' Director, Human Resources Division (HRD) for Central Office/DMAVA employees, or to the Personnel Officer, CEO, and the Director, Division of Veterans Healthcare Services (DVHS) for employees of one of the Veterans Memorial Homes, as appropriate.
- (6) If an employee has questions about the effect(s) of a medication prescribed for them personally, they may contact their supervisor, who may then direct them to contact their physician, or the New Jersey Department of Military and Veterans Affairs' Director, Human Resources Division (HRD) for Central Office/DMAVA employees, or the Personnel Officer, CEO, and the Director, Division of Veterans Healthcare Services, for an employee of one of the Veterans Memorial Homes. If it is determined that there is no safety risk and the employee can safely and effectively perform the job, the employee will be permitted to work. If such use impairs the employee's ability to safely or effectively perform the job, the New Jersey Department of Military and Veterans Affairs may temporarily reassign the employee or process him/her in accordance with current and appropriate time and attendance directives. Employees who are taking legally prescribed and/or over-the-counter medications, which impairs job performance, safety or the efficient operation of the New Jersey Department of Military and Veterans Affairs or any of its functions, may be subject to action as set forth in this policy.

- (7) As a condition of employment, an employee must, within five (5) calendar days, notify the New Jersey Department of Military and Veterans Affairs if he or she is convicted of a criminal drug offense. This applies in the workplace, while operating a New Jersey Department of Military and Veterans Affairs vehicle on New Jersey Department of Military and Veterans Affairs business, or operating a personal vehicle while on New Jersey Department of Military and Veterans Affairs business.

c. THE DISCIPLINE PROCESS:

- (1) Any employee who possesses, distributes, uses, sells, attempts to sell, or transfers illegal drugs on New Jersey Department of Military and Veterans Affairs' premises, or while on New Jersey Department of Military and Veterans Affairs' business, will be disciplined up to and including termination.
- (2) Any employee who is found to be in possession of or under the influence of alcohol in violation of this policy will be subject to discipline up to and including termination.
- (3) Any employee who is found to be in possession of contraband in violation of this policy will be subject to discipline up to and including termination.

7. EMPLOYEE RESPONSIBILITY.

a. Employees must report to work in a condition fit to perform their job duties and not under the influence of alcohol or controlled substances or illegal drugs while performing work for the New Jersey Department of Military and Veterans Affairs, or while on New Jersey Department of Military and Veterans Affairs premises.

b. Employees must comply with all the New Jersey Department of Military and Veterans Affairs policies, rules and regulations governing substance abuse, including this policy.

c. Employees may request a leave of absence to voluntarily enter an appropriate rehabilitation program. Granting such a leave is subject to applicable law and statutes and the New Jersey Department of Military and Veterans Affairs' time and attendance directives. An employee's voluntary disclosure of his or her use of drugs or alcohol will be treated confidentially, in accordance with applicable state and federal laws and Department policy.

The proponent of this Directive is the Human Resources Division.
Users shall submit comments and suggested improvements directly
To NJDMAVA, ATTN: Director, HRD, PO Box 340, Trenton, NJ
08625-0340.

OFFICIAL:

GLENN K. RIETH
Major General, NJARNG
The Adjutant General

A handwritten signature in black ink, appearing to read "David S. Sneider", with a long horizontal flourish extending to the right.

DAVID S. SNEDEKER
Chief Information Officer
Acting Director, Information and Administrative
Services Division

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