Inquiries: AOC HRD 505/827-4810
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DRUG-FREE AND ALCOHOL-FREE WORK PLACE POLICY

1. PURPOSE

The New Mexico Judicial Branch is committed to protecting the safety, health and well-being of all employees and other individuals in our workplaces. Additionally, the New Mexico Judicial Branch is committed to carrying out the provisions of the Federal Drug-Free Work Place Act of 1988 (Public Law 100-690) by providing a drug-free work place for any person who is a Federal grantee or Federal contractor.

2. REFERENCES (Added 09/25/21)

NMJBPR Part I, Section 12
NMJBPR Part II, Section 23
Supreme Court Order 07-8500
NMJBPR Drug and Alcohol Testing Policy

3. DEFINITIONS

A. Administrative Authority - Individual or designee with the primary responsibility to supervise and coordinate the administration of Judicial Entity, or as designated by the Chief Judge and approved by the Supreme Court order.

B. Alcohol - Consumable non-prescription substances, which contain alcohol such as, without limitation, spirits, wine, malt beverages and intoxicating liquors. (Amended 02/13/12)

C. Controlled Substance - Any drug or other substance listed in schedules of the Controlled Substances Act, Chapter 30, Article 31 NMSA 1978 that are not prescribed by or taken under the supervision of a practitioner, as defined by that Act. (Amended 09/25/21)

D. Conviction - A finding of guilt (including a plea of *nolo contendere*) or 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 federal or non-federal criminal statute involving the manufacture, distribution, dispensation, use or possession of a controlled substance or alcohol.

F. Director – The Director of the New Mexico Administrative Office of the Courts or designee. (Added 9/25/21)

G. Disciplinary Action – A constructive action designed to correct an employee's performance and/or behavior that is below acceptable standards.

H. Drug Testing Coordinator - An employee appointed by the Administrative Authority for the respective Judicial Entity to coordinate drug testing.

I. Grant - An award of financial assistance, including a cooperative agreement, in the form of money, or property in lieu of money, by a federal agency. The term includes block grant and entitlement grant programs.

J. Intoxicant - Any alcoholic beverage or distilled spirit, cannabis, drug or other substance summarized as opiates, opium derivatives, hallucinogenic substances, depressants of the nervous system such as phenobarbital and amphetamines, a controlled substance, controlled substance analog, or other drug, or any combination thereof, capable of causing a disturbance of mental or physical capacities resulting from the introduction of such substance into the body. (Added 09/25/2021)

K. Judicial Branch Property - Any court, office, training facility, vehicle, land, or other real property owned, leased, rented, occupied or operated by the State of New Mexico and/or the Judicial Branch.

L. Just Cause (examples) – Performance and/or behavior relating to the employee's work that is inconsistent with the employee's obligation to the employer and forms the basis for discipline. (17) Using, selling or possessing intoxicants or controlled substances. (18) Being under the influence of an intoxicant(s) or controlled substance(s) while on duty. (Added 02/13/12)

M. NMJBPRAWE – New Mexico Judicial Branch Personnel Rules – Part II for at-will employees. (Added 02/13/12)

N. NMJBPR – New Mexico Judicial Branch Personnel Rules – Part I for employees. (Added 02/13/12)

O. Supreme Court Order 07-8500 – orders state judges, county, magistrate, metropolitan, municipal, and probate judges to abide by the New Mexico Judicial Branch Drug and Alcohol

Testing and Drug-free and Alcohol-free Workplace Policies. (Added 09/25/21)

P. Work Place - A site for the performance of work. This includes buildings and grounds for such sites, as well as the employee or judicial officer's home if approved for telework or remote work. It also includes the location of any work-related travel between work sites or work-related travel in the course and scope of employment. (Amended 09/25/21)

3.0 POLICY (Amended 09/25/21)

The manufacture, distribution, dispensation, possession or use of an intoxicant or controlled substance, including cannabis or alcohol on Judicial Branch property when participating in any Judicial Branch training(s) or other associated job activities by any judicial officer or judicial employee is strictly prohibited. Possession or use includes any consumption of an intoxicant during work hours, including work breaks and lunch. As a condition of employment, all judicial officers and judicial employees shall abide by the terms of this policy. Violation of this policy shall result in disciplinary action, up to and including termination for a judicial employee.

A judicial officer or judicial employee taking prescribed or over-the-counter medication is required to consult with the prescribing medical provider to determine if the medication may interfere with either job performance or safety. If the judicial officer or judicial employee is advised that the medication may impair their performance or present a safety risk to the judicial officer or judicial employee, their co-workers, or the public, the employee should consult with their Administrative Authority or supervisor and request leave rather than report to, or remain at work.

Employees, who are paid from federal funds, may be held to more stringent federal regulations and procedures, which supersede this policy.

Justices and Judges, and all Judicial Branch employees, must comply with this policy and alleged violations will be immediately reported to the appropriate authority for investigation.

4.0 PROHIBITED BEHAVIORS

A. Prohibited behaviors that will result in immediate remedial or disciplinary action by the Administrative Authority include:

(1) Violations of laws related to intoxicants, controlled substances, illegal substances, cannabis, or alcohol; (amended 09/25/2021)

(2) Misuse (not according to prescribed use), unlawful use, possession, transfer or sale of an intoxicant, controlled substance, illegal substances, cannabis, or alcohol **;** (amended 09/25/21)

(3) Reasonable suspicion as outlined in the NMJB Drug and Alcohol Testing Policy; (added 09/25/21)

(4) Positive drug and/or alcohol test**;**

(5) Refusal of treatment or failure to participate in or successfully complete a treatment program;

(6) Combative behavior toward any person who attempts to implement this policy and the drug testing procedure (Ref: Drug/Alcohol Testing Policy).

5.0 DISCIPLINARY ACTION

A. The Administrative Authority will take immediate action to address violations of law and this policy.

(1) Violations of law shall be referred to authorities for possible prosecution;

(2) Violations of this policy shall result in:

a. The requirement of satisfactory participation in an approved private or governmental substance abuse treatment or educational program at the employee's expense, as a condition of employment; and/or

b. Disciplinary action up to and including termination.

B. Voluntary Self-Identification

Disciplinary action may not be initiated if the judicial officer or judicial employee, prior to being arrested for or reasonably suspected of drug or alcohol abuse and prior to being given notification of a required drug or alcohol test, voluntarily contacts the Administrative Authority or Drug Testing Coordinator for assistance. (Amended 09/25/21)

(1) A judicial officer or judicial employee who voluntarily identifies themselves as a user or abuser of an intoxicant, illegal drug, controlled substance, and/or alcohol will be referred to the Drug Testing Coordinator for referral and information regarding rehabilitation. (Amended 09/25/21)

(2) The judicial officer or judicial employee may be afforded appropriate leave benefits under the NMJBPR and NMJBPRAWE, and must participate in a treatment program at their own expense, fully cooperate with the Administrative Authority and the Drug Testing Coordinator and successfully complete the treatment program. A provider's certification of completion is required. (Amended 02/13/12; 09/25/21)

6. DRUG-FREE WORK PLACE ACT OF 1988 & FEDERAL GRANTS & REQUIREMENT TO REPORT (Amended 09/25/21)

A. As a condition of further employment on any federal government grant, the law requires that all employees abide by this policy.

B. All information received by the organization through the drug-free and alcohol-free workplace program is a confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management practices. (Amended 09/25/21)

C. A judicial officer or judicial employee is required by law to notify the Administrative Authority within five (5) days in writing of their violation of any criminal drug law occurring in the work place. (Amended 09/25/21)

D. The Administrative Authority must notify the U.S. government agency with whom the grant or contract was made within ten (10) days after receiving notice from an employee, or other actual notice, of a conviction of a federal or state criminal drug statute occurring at the work place.

7.0 JUDICIAL ENTITY REQUIRED EDUCATIONAL PROGRAMS

Judicial entities shall implement a drug and alcohol awareness program to inform employees about:

A. The dangers of drug and alcohol abuse**;**

B. The policy to maintain a drug-free and alcohol-free work place;

C. Any available drug or alcohol counseling, rehabilitation and employee assistance programs; and

D. The penalties that may be imposed upon employees for drug or alcohol abuse violations and convictions. (Ref: NMJBPR definitions of Just Cause)

8.0 REQUIRED DRUG-FREE AND ALCOHOL-FREE WORK PLACE EMPLOYEE ACKNOWLEDGMENT FORM

All judicial officers and judicial employees will be required to complete a Drug-Free and Alcohol-Free Work Place Acknowledgment Form within the first 30 days of employment. The signed form shall be maintained in the employee's personnel file. (Amended 02/13/12; 09/25/21)

If you are concerned about the alcohol or drug use of yourself or another, please contact the Administrative Authority or Drug Testing Coordinator, the Employee Assistance Program in your community or the AOC Human Resources Division for additional information.

Approved By Supreme Court Order #: 07-8500

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