



**STATE OF DELAWARE**  
**DRUG-FREE WORKPLACE**  
**POLICY STATEMENT**

The State of Delaware (State) as an employer believes that illegal drugs have no place in the work environment.

Furthermore, Congress passed the Drug-Free Workplace Act of 1988, requiring the certification of federal grantees of a drug-free workplace, and each Agency of the State of Delaware supports that Act.

For these reasons, the State of Delaware adopts the following regulations on drug-free workplace requirements for its employees:

- (a) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in all places where State employees work, including all State-owned vehicles, and in carrying out any federal grant activity. A controlled substance is one, which appears in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812). As a condition of employment, each employee shall abide by this prohibition and shall notify the Director of Human Resource Management, on behalf of the Director of the Office of Management and Budget, he/she is convicted under any criminal drug statute for a violation occurring in the workplace as provided by paragraph (b) below. Violation of such prohibition shall result in personnel action against the employee, as set out in the attached schedule, which shall include action up to and including termination, and/or satisfactory participation in an approved drug abuse assistance or rehabilitation program. The State has no obligation to pay for such a program, but the cost of the program may be covered by an employee's health insurance policy.

All violations of the above policy shall be reported to the Director of Human Resource Management, or in his or her absence to the Deputy Director of Human Resource Management, who shall report the violation to the appropriate police authority. Personnel action shall be taken in all cases of a chargeable offense under 16 Del.C. Chapter 47 or comparable federal law; however, a conviction of the charged offense shall not be necessary to take personnel action against the employee for a violation of the policy. The employee against whom such a personnel action is taken shall be entitled to due process pursuant to 29 Del.C. Chapters 59 and 101, the Merit Rules, or collective bargaining agreements, as applicable.

Nothing in this policy shall preclude the State from taking concurrent and/or independent personnel action against the employee under any applicable state law, rules and regulations.

- (b) All employees shall notify their agency head who will then notify the Director of Human Resource Management in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. Failure of the employee to make such a notification shall lead to discipline in keeping with the attached schedule. Within ten days of receiving notice of any employee convicted as described above, the agency head shall notify the federal agencies providing grants to and through the agency.
- (c) Within thirty days of receiving notice of any employee convicted as described in section (b), the State will:
  - (1) Take appropriate personnel action against such an employee, up to and including termination; or
  - (2) Require such employee to participate satisfactorily in a Drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Such action may be taken by the State prior to conviction.

- (d) The State shall give each employee a copy of the statement set out in sections (a), (b) and (c), above, and post it prominently throughout the areas where employees work. Each employee shall sign duplicate copies of the statement; one copy shall be placed in the employee's personnel file, and the other shall be placed in a compliance file for purposes of audit.
- (e) The State will establish and implement a program to inform employees about:
  - (1) The dangers of drug abuse in the workplace;
  - (2) The State's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (f) The State shall make a good faith effort to continue to maintain a drug-free workplace through the implementation of this policy, and ensuring that all new employees are informed of the policy through the measures set out in section (d) and (e).

- (g) State employees who violate this policy shall be penalized in accordance with the following schedule. The aggravating and mitigation circumstances of each case should be considered in determining the penalty appropriate for the violation.

<b><u>VIOLATION</u></b>	<b><u>MINIMUM TO MAXIMUM PENALTIES</u></b>
1. Unlawful possession, use or consumption of a controlled substance or counterfeit controlled substance, in an amount that is typical of immediate personal use.	From three days suspension without pay and/or participation in drug abuse program, up to and including termination.
2. Unlawful possession or use of a hypodermic syringe or of drug paraphernalia.	From three days suspension without pay and/or participation in drug abuse program, up to and including termination.
3. Unlawful possession of a controlled substance or a counterfeit controlled substance, in an amount that is greater than that which is typical of immediate personal use.	From one month suspension without pay and mandatory participation in drug abuse program, up to and including termination.
4. Unlawful delivery or distribution of a hypodermic syringe.	From one month suspension without pay and mandatory participation in drug abuse program, up to and including termination.
5. Unlawful delivery, distribution or manufacture of drug paraphernalia.	From one month suspension without pay and mandatory participation in drug abuse program, up to and including termination.
6. Unlawful delivery or distribution of a controlled substance, of a counterfeit controlled substance or of a noncontrolled substance under the representation that the substance is a narcotic or nonnarcotic controlled substance in an amount that is typical of immediate personal use.	From one month suspension without pay and mandatory participation in drug abuse program, up to and including termination.

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| 7.  | Unlawful delivery or distribution of a controlled substance, of a counterfeit controlled substance or of a non-controlled substance under the representation that the substance is a narcotic or nonnarcotic controlled substance, in an amount that is greater than that which is typical of immediate personal use. | From one month suspension without pay and mandatory participation in drug abuse program, up to and including termination. |
| 8.  | Unlawful delivery or distribution to a minor of a hypodermic syringe, of drug paraphernalia, or of any amount of a controlled substance, a counterfeit controlled substance, or a noncontrolled substance under the representation that the substance is a narcotic or nonnarcotic controlled or substance.           | Termination.  |
| 9.  | Trafficking, as defined in 16 Del. C. Section 4753A or in comparable federal law.   | Termination.  |
| 10. | Failure to report conviction pursuant to section (b) of this policy.  | Termination.  |

NOTE: The above violations should be read in conjunction with 16 Del.C. Chapter 47 and the definitions contained therein and with comparable federal law.

I hereby acknowledge that I have been given a copy of the Drug-Free Workplace Policy Statement, including the schedule of violations and penalties, and (have read/have been read) the same.

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Signature of Witness

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Signature of Employee      Date