

**Governor's Office of Homeland Security
and Emergency Preparedness
State of Louisiana**

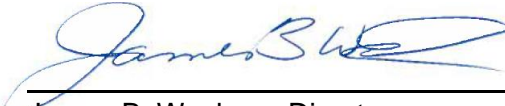
JOHN BEL EDWARDS
GOVERNOR



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DIRECTOR

**Substance Abuse and Drug Free Workplace Policy
Policy Number: HR-0016**

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Approval: 
James B. Waskom, Director

I. POLICY

Consistent with the philosophy of the Governor's Office of Homeland Security and Emergency Preparedness, the State of Louisiana has a long-standing commitment to a drug-free workplace. In order to curb the use of illegal drugs by employees of the State of Louisiana, the Louisiana Legislature enacted laws, which provide for the creation and implementation of drug testing programs for State employees. **Executive Order No. BJ 08-69** provides for the promulgation, by executive agencies, of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees in accordance with **Louisiana Revised Statute 49:1001**, et seq. The use of illegal and unauthorized drugs and the misuse of alcohol are serious social problems that are even more unacceptable in the workplace.

II. APPLICABILITY

This policy applies to all employees and appointees of GOHSEP, full-time, part-time or temporary, to include volunteers, contractors, and consultants engaged to perform services at GOHSEP (hereinafter "employee(s)" unless otherwise noted), as well as potential employees, and all other persons having an employment relationship with GOHSEP.

Following a conditional job offer, potential employees and appointees will be required to submit to pre-employment drug testing.

III. ILLEGAL OR UNAUTHORIZED DRUG USE

Illegal or unauthorized drugs include any drug, which is not legally obtainable; any drug, which is legally obtainable, but has been illegally obtained; prescription drugs

not being used in accordance with the prescription or in excess of the prescription; or any substance, to include alcohol, which affects the employee's ability to perform assigned duties safely and competently perform assigned duties.

IV. GOHSEP USE OF LICENSED PHYSICIAN

GOHSEP reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects, which impair the employee's performance or increase the risk of injury to the employee or others. In such case, where the situation is temporary and business necessity allows, GOHSEP will modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his/her customary job duties. Alternatively, the employee may be required/permitted to use accrued leave when such leave is available.

V. REQUIREMENTS

In order to maintain a safe and productive work environment, each GOHSEP employee is required to:

- A. Report for duty in the condition, which maximizes his/her, ability to perform assigned tasks in a competent and safe manner. Reporting to work impaired from the use of alcohol or other drugs is prohibited.
- B. Promptly and cooperatively, submit to drug and alcohol testing when required by the Director, his/her designee, or as specified by this policy.
- C. Notify a supervisor, prior to or immediately upon reporting for duty, when he/she has a reason to believe that prescribed or over-the-counter medication may impair his/her ability to perform customary job duties or otherwise create a safety hazard. While the duration the medication will be taken should be disclosed, **employees should know that it is not necessary to disclose to the supervisor the medication being taken nor the condition for which it was prescribed.** Such information may be required to be disclosed to the Medical Review Officer should circumstances or the nature of the employee's job duties warrant, as determined by the Director.
- D. Notify a supervisor immediately or no later than the first scheduled workday following any arrest or conviction for a criminal, drug-related offense, which occurs on, or off duty, including Driving While Intoxicated (DWI) arrests and convictions.
- E. Notify the Human Resource Office of all convictions occurring in the workplace, while on official business, during work hours, or when on call for duty, in writing,

within 5 days after conviction.

VI. PROHIBITIONS

- A. The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of illegal or unauthorized drugs and other prohibited substances in the State vehicles or on GOHSEP/State premises or while the employee is on official state business, on duty or on call for duty.
- B. The use, abuse and presence of illegal or unauthorized drugs, and other prohibited substances in the bodies of its employees while on duty, on call or engaged in official state business, on or off the GOHSEP/State premises.

VII. TESTING

All employees are subject to post-accident/incident, reasonable suspicion and return-to-duty/rehabilitation monitoring drug testing. With or without prior notification, tests will be administered under the following circumstances:

- A. **Pre-Employment** drug tests are required of all prospective employees for GOHSEP. Each prospective employee/appointee shall be required to submit to drug screening at the designated time and place following a conditional job offer. The conditional job offer may be withdrawn from a prospective employee/appointee who tests positive for the presence of a prohibited substance in the initial screening.

Employees and appointees transferring from state agencies that required pre-employment drug testing will not have to drug test, if there has been no break in service.

Drug testing is not required for employees transferring from one state agency to another as a result of a merge or reorganization, if there is no break in service.

- B. **Security Sensitive Positions:** Employees who occupy security sensitive positions and applicants who apply for security sensitive positions are subject to both random and pre-selection drug testing. Prior to being placed in a security sensitive position from a non-security sensitive position through reassignment, temporary detail, promotion or demotion, etc., an employee is required to undergo drug testing, unless transferring without a break in service and the losing agency has a drug testing policy. A list of security sensitive positions may be obtained from GOHSEP's ***Criminal History Checks Policy, HR-0018***.
- C. **Reasonable suspicion** is a belief, based upon reliable, objective and articulable facts, which causes a prudent and reasonable person to suspect that an

employee has engaged in drug or alcohol use.

Only the Director, or his designee, shall require an employee to submit to reasonable suspicion testing. Generally, this decision will be based upon the recommendation of supervisory personnel who have objectively and thoroughly reviewed the circumstances. The supervisor will fully document the facts upon which the recommendation for testing is made.

- D. When reasonable suspicion testing is ordered, a GOHSEP representative shall transport the individual being tested to and from the testing site. **Under no circumstances, should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.**
- E. **Post-Accident/Incident:** Any employee directly involved in an accident or incident, and whose action or inaction may have been a causative factor of same, shall be required to immediately submit to drug and alcohol testing if:
- 1) Reasonable Suspicion: Circumstances give rise to a reasonable suspicion of the employee's drug or alcohol use or impairment; or
 - 2) Fatality: The accident or incident resulted in a fatality; or
 - 3) Hazardous Materials Release: The accident or incident resulted in or caused the release of hazardous waste as defined by **La. R.S.30:2173(2)** or hazardous materials as defined by **La. R.S.32:1502(5)**.

NOTE: Employees should be aware of the legal presumption of impairment under La. R.S. 23:1081 if an employee refuses, after being so directed, to submit to drug or alcohol testing as a result of an on-duty accident or incident. As a consequence of such refusal, benefits under the workers' compensation laws of the State of Louisiana may be denied.

- F. When post-accident/incident testing is ordered, a GOHSEP representative shall transport the individual being tested to and from the testing site. **Under no circumstances, should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.**
- G. **Return to duty/Rehabilitation Monitoring:** Any employee who retains his/her job following a violation of this policy shall be required, **at his/her own expense**, to undergo and complete any and all treatment recommended by a certified substance abuse professional. Any such employee may be subject to periodic drug testing.

Further, any employee who voluntarily or, as a condition of continued employment, participates in a substance abuse rehabilitation program, may be subject to drug testing for a minimum of one (1) year (or longer as determined by the treating substance abuse professional). Any such employee shall be required to certify, in writing, his/her understanding and acceptance of such a rehabilitation agreement as a condition of returning to work. **GOHSEP reserves the right to ensure that any substance abuse treatment program or facility chosen by any employee to seek rehabilitation meets accreditation or certification to conduct such rehabilitation.**

VIII. DRUG TESTING PROCEDURES

Drug testing pursuant to this policy shall be for the presence of drugs in accordance with *La. R.S. 49:1001, et seq.*

Testing shall be performed by a contractor chosen by the GOHSEP. The GOHSEP contracts with neutral, well-trained, professional medical personnel and certified laboratories for the collection, custody, storage, and analysis of specimens. All drug testing and all drug testing of samples for current and prospective employees and appointees collected shall be performed in SAMHSA-certified or CAP-FUDT-certified laboratories.

Drug testing shall be performed in compliance with the SAMHSA and the Louisiana Department of Health and Hospitals guidelines. The cut off limits for drug testing shall be in accordance with SAMHSA guidelines with the exception of initial testing for marijuana. The initial cut off level of marijuana shall be no less than fifty nanograms/ML and no more than one hundred nanograms/ML as specified by the employer or the testing entity.

The GOHSEP reserves the right to require employees to submit to additional testing, if warranted.

IX. ALCOHOL TESTING PROCEDURES

Evidential Breath Testing Devices (EBT) approved by the national Highway Traffic Safety Administration will be used by certified Breath Alcohol Technicians to determine the presence of alcohol in the employee's system.

The employee will be advised of the results of the breath screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed within twenty minutes, but not less than fifteen minutes of completion of the screening test. If the confirmatory test indicates a blood alcohol per one hundred cubic centimeters of blood, the results will be reported as positive to GOHSEP's designated

representative.

Positive test results will also be reported to the Director whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

The GOHSEP reserves the right to require employees to submit to additional testing, if warranted.

X. ENFORCEMENT

The use of illegal drugs and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with the GOHSEP's mission. GOHSEP will resolve any reasonable doubt regarding the testing procedure or results.

Disciplinary action may be taken in accordance with the GOHSEP's Policy, *Standards of Behavior, HR-0006*. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, students, and the general public.

XI. CONFIDENTIALITY/EMPLOYEE RIGHTS

All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered confidential communications, pursuant to **La. R.S. 49:1012**, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

Any employee, upon learning of a confirmed positive test result, shall, within seven working days and upon written request have the right of access to records and other documentation relating to the drug or alcohol testing process and any records relating to the results of any relevant certification, review, suspension/revocation proceeding of the testing facility.

Employees should know that statistical records and reports of drug and alcohol testing are maintained by the DOA, contract physicians and drug testing

laboratories. This information is aggregate data and is used to monitor compliance and to assess the effectiveness of the drug and alcohol-testing program.

The GOHSEP has no interest in informing law enforcement authorities of a positive drug and alcohol test. However, nothing contained in this policy will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this Policy, discovered in or on GOHSEP or State property, or upon the person of a GOHSEP employee, to law enforcement officials. Likewise, any employee found engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on GOHSEP or State property may be referred to appropriate law enforcement authorities.

XII. EMPLOYEE REHABILITATION

Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance. Any such involvement will be held in strict confidence, but employees should know that supervisors and the Director (who need to know) may be kept abreast of the employee's treatment and leave needs.

Employees who participate in a substance abuse rehabilitation program, as a condition of continued employment, may be subject to the **Return-to-Duty/Rehabilitation Monitoring** testing set forth in this policy (see Section VII. G).

XIII. QUESTIONS

Questions regarding this policy should be directed to the Human Resources Office.

XIV. VIOLATIONS

Employees found to have violated this policy may be subject to disciplinary action, up to and including dismissal.

XV. EXCEPTIONS

The Director may grant exceptions to this policy for rational business reasons.