



West Virginia Department of Transportation Policy: **Drug and Alcohol-Free Workplace**

Issued by the Secretary of Transportation

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 1 of 9

1.0 PURPOSE

The purpose of this policy is to establish clear and uniform guidelines in accordance with federal and State laws, regulations, and rules regarding alcohol, drugs, or controlled substances, including the provisions of the Drug-Free Workplace Act of 1988, as amended. Further, the purpose of this policy is to make every effort to institute and maintain a drug- and alcohol-free workplace by describing to all individuals (e.g., employees, visitors, vendors, independent contractors, and the general public) the prohibitions regarding alcohol and drugs in West Virginia Department of Transportation (WVDOT) offices, job sites, affiliated workplaces, vehicles, and equipment. The use, abuse, and misuse of alcohol, drugs, and controlled substances may impact job performance and bring discredit upon the WVDOT. The provisions of this policy apply to all employees of WVDOT, as well as vendors, independent contractors, and guests.

2.0 DEFINITIONS

- 2.1 **Agency:** means any authority, bureau, commission, or Division or similar cabinet subpart of the WVDOT.
- 2.2 **Alcohol:** For the purposes of this policy, includes beer, fortified beer, nonintoxicating beer, wine and spirits, ethanol, isopropanol, or methanol alcohol, and any liquid, gel, gas, or solid containing more than one half (1/2) of one percent (1%) of alcohol by volume and capable of being used as a beverage or being ingested, inhaled, or otherwise taken into the body.
- 2.3 **Assessment:** An evaluation used to determine the presence of drug or alcohol use or both. Such evaluation may include but is not limited to observation of behavioral indicators, self-disclosure, or clinical or laboratory testing.
- 2.4 **Controlled Substance:** A federally-regulated substance listed in Schedules I through V or a controlled substance analogue as provided in the Controlled Substance Act (21 U.S.C. 801 et seq.) or a substance listed in West Virginia Code § 60A-2-201, et seq., that when taken into the body, may or may not impair one's mental faculties or physical performance.
- 2.5 **Conviction:** A finding of guilt, including a plea of nolo contendere, or the 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.
- 2.6 **Criminal Drug Statute:** A criminal law involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.
- 2.7 **Drug:** Any drug which is legally obtainable over the counter or by prescription that is being used in a manner or for a purpose other than as prescribed including those controlled substances under federal or State law which are not authorized for sale, possession, or use, and legal drugs which are used, obtained, or distributed illegally.

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 2 of 9

Drugs also include over-the-counter and prescription medications that have been legally obtained and that are being used for the purpose, and in the dosage and quantity, specified by the drug manufacturer or medical provider.

- 2.8 **Drug Paraphernalia:** Drug paraphernalia as defined in West Virginia Code §47-19-3.
- 2.9 **Drug Test and Alcohol Testing:** A procedure using a sample of the human body capable of revealing the presence of alcohol or other drugs or other metabolites to determine if the individual ingested, injected, or was otherwise exposed to drugs or alcohol.
- 2.10 **Employee:** Any person who lawfully occupies a permanent or temporary position with any agency or organization of the WVDOT. For the purpose of this policy, "employee" shall also include authorized students, interns and volunteers performing services for a WVDOT agency under direct supervision irrespective of receipt of wages.
- 2.11 **Federal Agency:** Any agency as defined in 5 U.S.C. § 551.
- 2.12 **Grantee:** Any department, division, unit, or any person responsible for the performance of work under the provisions of a federal grant.
- 2.13 **Reasonable Suspicion:** The belief premised on facts and inferences based primarily upon, but not limited to: (1) Observable phenomena, such as direct observation of use, possession or distribution of alcohol or drugs, or of the physical symptoms of being under the influence of alcohol or drugs, such as, but not limited to, slurred speech, dilated pupils, odor of an alcoholic beverage or drugs, changes in affect or dynamic mood swings; (2) a pattern of abnormal conduct, erratic or aberrant behavior or deteriorating work performance such as frequent absenteeism, excessive tardiness or recurrent accidents, that appears to be related to the use of alcohol or drug abuse and does not appear to be attributable to other factors; (3) the identification of an employee as the focus of a criminal investigation into unauthorized possession, use or trafficking of drugs; (4) a report of use of alcohol or drugs provided by a reliable and credible source; and (5) repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appears to be related to the use of alcohol or drugs and that does not appear attributable to other factors.
- 2.14 **Safety Sensitive Position:** Any position determined by federal, State, or agency provisions where a lapse of attention or judgment, can lead to an accident that could cause loss of human life, serious bodily injury, or significant property or environmental damage.
- 2.15 **Vendor or Independent Contractor:** Any entity or person responsible for the performance of work under a vendor agreement or contract.

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 3 of 9

- 2.16 **Volunteer:** Any authorized individual directly engaged in the performance of services for a State or affiliated agency without promise, expectation, or receipt of compensation.
- 2.17 **Workplace:** A site where service or work is performed in connection with the employment or service of an employee or vendor or independent contractor, including sites of social functions and conferences. Provided, that consuming alcohol after work hours at places of public accommodation such as conferences, restaurants, and bars and private residences is not a violation of this policy unless the employee reports to the worksite under the influence of alcohol. The workplace shall include, but is not limited to: facilities, property, buildings, offices, structures, automobiles, trucks, trailers, or other means of conveyance (either private or public, while engaged in the performance of duties), and parking areas provided by the agency, even if not owned, leased, or operated by the agency.

3.0 POLICY

It is the policy of West Virginia State government and the WV DOT to ensure that its workplaces are free of alcohol, controlled substances, and drugs by prohibiting the use, possession, purchase, manufacture, distribution, dispensing, sale of, or having such substances in the body. Attempting to obtain, possess, purchase, manufacture, distribute, dispense, or sell alcohol, controlled substances, or drugs in the workplace is also prohibited. Although the sale and use of alcohol by an adult may be legal, the use, possession, purchase, manufacture, distribution, dispensing, or sale of alcohol in the workplace is strictly prohibited. Employees violating this policy are subject to disciplinary action up to and including dismissal and may be required to participate in a drug rehabilitation program as a condition of continued employment or reemployment.

- 3.1 This policy is applicable from 7:00 A.M. through 5:00 P.M. while employees, guests, vendors, or independent contractors, are engaged in any work-related activities which include performance of agency business. Work-related activity includes, but is not limited to, conducting work, or providing service, representing the State or any WV DOT agency, participation in conferences or off-site meetings, receiving awards, speaking as a State or agency representative, and participation in receptions when invited as a result of employment with the State or a WV DOT agency. Employees must be mindful that they represent WV DOT while attending out of office events and conduct themselves accordingly.
- 3.2 The use, possession, purchase, manufacture, distribution, dispensing, or sale of alcohol; the reporting to work under the influence of alcohol, or having alcohol in the body system at work, whether the alcohol was consumed at work or away from work, attempting to obtain, possess, purchase, manufacture, distribute, dispense, or sell alcohol, are all prohibited in the workplace. Industrial, cleaning, or medical products containing alcohol are not prohibited by this policy when used in the manner in which intended.
- 3.3 The unlawful use, possession, purchase, manufacture, distribution, dispensing or sale of a controlled substance, legal drug, or illegal drug in the workplace; the reporting to work under the influence of a drug; having a drug in the body system; or possession of drug paraphernalia (other than drug paraphernalia lawfully prescribed

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 4 of 9

by a physician or other person licensed to prescribe and used for the lawful purposes for which it was prescribed) are all prohibited in the workplace. Attempting to obtain, possess, purchase, manufacture, distribute, dispense, or sell illegal drugs in the workplace is also prohibited.

- 3.4 When reasonable suspicion exists that an employee, vendor, or contractor has reported to work under the influence of alcohol or drug, or is impaired due to abuse or misuse of controlled substances, the individual may be subject to assessment, which may include a drug or alcohol test or both. Refusal of an employee to submit to an assessment or an assessment resulting in a positive result may result in disciplinary action up to and including dismissal. Contractors, vendors, and guests may be subject to sanctions including being barred from the premises or contract debarment.
- 3.5 Agency employees may be required to conduct random testing in compliance with applicable State and federal law and/or for safety-sensitive positions in accordance with the provisions of this policy.
- 3.6 Though legal intoxicants (e.g., glue, paint, etc.) are not specifically prohibited in this policy, unacceptable performance or conduct resulting from the misuse of such intoxicants may result in disciplinary action up to and including dismissal.
- 3.7 As a condition of employment with the WVDOT, employees, guests, vendors, and contractors shall:
 - A. abide by the terms of this policy;
 - B. notify their supervisor, manager, or other person responsible for the guest, vendor, or independent contractor being on WVDOT property or equipment, in writing of any criminal drug statute conviction for a violation occurring in the workplace, no later than five (5) calendar days after such conviction;
 - C. comply with agency-issued safety reporting standards if using a controlled substance or legal drug, whether prescribed or over-the-counter, that may substantially affect the performance of job responsibilities and give rise to a safety issue (e.g., driving, operating machinery, etc.); and,
 - D. acknowledge understanding of and compliance with this policy by signing the Drug- and Alcohol-Free Workplace Employee Acknowledgment Form (Appendix A) or appropriate volunteer or service agreement, as applicable.

4.0 RESPONSIBILITIES

- 4.1 It is the responsibility of the WVDOT Human Resources (HR) Division, training section to establish a drug awareness program and to provide training to employees of all WVDOT agencies on this policy; the establishment and maintenance of a drug and alcohol-free workplace in compliance with this policy; the dangers of alcohol use or drug abuse in the workplace; availability of the State's Employee Referral

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 5 of 9

Program; the consequences of violation of this policy; and the utilization of resources concerning the abuse and misuse of alcohol, drugs, or both.

4.2 It is the responsibility of each agency to:

- A. Maintain a copy of the Drug- and Alcohol-Free Workplace policy in an accessible location and display the poster in a central location.
- B. Ensure that each new employee receives a copy of the policy during orientation.
- C. Maintain the signed Drug- and Alcohol-Free Workplace Employee Acknowledgment Form (Appendix A) in each employee's agency personnel file.
- D. Enforce the policy and take appropriate action against individuals who are convicted or violate the policy within 30 calendar days from the date of the conviction or violation.
- E. In accordance with applicable legal and administrative disciplinary procedures, promptly address any attempted or unlawful use, possession, purchase, manufacture, consumption, distribution, dispensing or sale of alcohol, or drugs; an employee found to be, or suspected of being, under the influence of alcohol or a drug in the workplace; an employee having alcohol or a drug in the body system; or an employee impaired due to use, abuse or misuse of a drug, intoxicant, or controlled substance in the workplace. Supervisors should contact their respective agency HR representative or individual designated by the Agency Head for guidance. However, in emergency situations supervisors should first ensure the safety of the employee and others and then immediately contact 911, appropriate law enforcement officials, or agency security. Agencies in Kanawha County may also contact the Division of Protective Services at (304) 558-9911 for assistance. Prior to an incident occurring, agencies in outlying areas should ascertain if assistance is available with emergency response and drug and/or alcohol testing through other related services and in compliance with existing agency policy.
- F. Pursuant to the Drug-Free Workplace Act of 1988, 41 U.S.C. §§8101 - 8106, [41 U.S. Code § 8102 - Drug-free workplace requirements for Federal contractors | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](#) agencies that are independent contractors or grantees of federal contracts or recipients of federal grants amounting to at least \$100,000 shall notify, in writing, the federal agency administering the grant, within ten (10) calendar days after receiving notice from an employee of his or her conviction for a violation of a criminal drug statute occurring in the workplace or otherwise receiving actual notice of such conviction. Such notice, including position title, must be submitted to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 6 of 9

such notices. The notice shall include the identification number(s) of each affected grant. WVDOT agencies and their contract or grant recipients are subject to suspension of payments and termination of the contract or grant for violations of any of the requirements of a drug-free workplace.

- G. Make a good faith effort to continue to maintain a drug- and alcohol-free workplace by communicating this policy to all employees annually.
- H. Ensure that vendors and independent contractors have executed agreements to ensure compliance with drug- and alcohol-free workplace requirements.

5.0 RELEVANT MATERIALS/DOCUMENTS (or REFERENCES)

- 5.1 Administrative Procedures Act, 5 U.S.C. § 551
- 5.2 Drug-Free Workplace Act, 41 U.S.C. Sections 701-707. [41 USC 701: Drug-free workplace requirements for Federal contractors \(house.gov\)](#)
- 5.3 West Virginia Code § 47-19-3. [West Virginia Code | §47-19-3 \(wvlegislature.gov\)](#)
- 5.4 West Virginia Code § 60A-2-201 *et seq.* [West Virginia Code \(wvlegislature.gov\)](#)

6.0 APPENDICES

APPENDIX A

DRUG-AND ALCOHOL-FREE WORKPLACE EMPLOYEE ACKNOWLEDGMENT FORM

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 7 of 9

APPENDIX A

POLICY ACKNOWLEDGMENT FORM

I, _____, certify that I have received a copy of the West Virginia Department of Transportation Drug and Alcohol-Free Workplace.

I understand and agree to abide by the terms of this policy. I may be required to participate in a drug or alcohol abuse assistance or rehabilitation program as a condition of continued employment or reemployment. I understand that I must also comply with any DOT-issued safety standards.

My signature acknowledges my receipt of the policy and my understanding of its contents and requirements. My signature does not indicate that I agree or disagree with the content of the policy. However, I understand I must abide by the terms of the policy, and I am aware that with any violation of this policy, I will be subject to disciplinary action, up to and including dismissal.

Employee's Name (Print)

Employee's Signature

Employee's Name

TO BE COMPLETED BY SUPERVISOR

I, _____, certify that I have discussed with and provided the above listed employee a copy of the West Virginia Department of Transportation Drug and Alcohol-Free Workplace policy (DOT 3.12).

Supervisor's Name (Print)

Supervisor's Signature

Date

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

Issue Date: 02/15/2000

Revised: 12/05/2022

Page 8 of 9

7.0 CHANGE LOG

December 5, 2022 –

- General cleanup; added links; made drug testing a separate policy.

Policy: Drug and Alcohol-Free Workplace

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Policy No: DOT 3.12

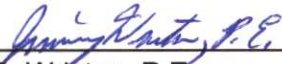
Issue Date: 02/15/2000

Revised: 12/05/2022

Page 9 of 9

Effective Date of Policy: 12/05/2022

Approved by:



Jimmy D. Wriston, P.E.
Secretary of
Transportation
Commissioner of
Highways



Date

*The Secretary of the West Virginia Department of Transportation or the Commissioner of Highways may, pursuant to the authority vested with the Secretary and Commissioner in W. Va. Code §5F-2-2, §17-2A-1 *et seq.*, and §17-2-1 *et seq.*, waive the requirements of this policy if the circumstances, in the Secretary or Commissioner's sole discretion, warrant such action.