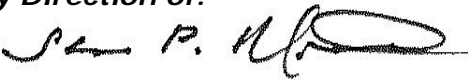


MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania
Governor's Office

Subject: Substance Abuse in the Workplace	Number: 505.25 Amended
Date: March 13, 2017	By Direction of:  Sharon P. Minnich, Secretary of Administration
Contact Agency: Office of Administration, Office for Human Resources and Management, Bureau of Employee Benefits and Services, Telephone 717.787.8575	

This directive establishes policy, responsibilities, and procedures regarding the Governor's Policy on substance abuse in the workplace. Marginal dots are excluded due to major changes.

1. **PURPOSE.** To establish policy, responsibilities, and procedures for implementing the Commonwealth of Pennsylvania's policy on substance abuse in the workplace, and applicable provisions of the federal *Drug-Free Workplace Act of 1988*, (P. L. 100-690, Title V. Subtitle D).
2. **SCOPE.** This directive applies to all departments, boards, commissions, and councils under the Governor's jurisdiction (hereinafter referred to as "agencies"). and all independent agencies that participate in SEAP.
3. **OBJECTIVE.** To provide policy and procedures for commonwealth agencies and employees to promote a workplace which is drug and alcohol free.
4. **DEFINITIONS.**
 - a. **Alcohol.** The intoxicating agent in beverage alcohol, ethyl alcohol (ethanol), or other low molecular weight alcohols, including methyl and isopropyl alcohol.
 - b. **Alcohol Use.** The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
 - c. **Commercial Motor Vehicle (CMV).** A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle has a gross vehicle weight rating in excess of 26,000 pounds inclusive of a towed unit with a gross vehicle weight rating in excess of 10,000 pounds, or has a gross vehicle weight rating in excess of 26,000 pounds, or is designed to carry 16 or more passengers (including the driver), or is of any size and is used

in the transportation of hazardous materials and which requires the vehicle to be placarded. Modifying a vehicle to transport fewer than 16 passengers (i.e., removing seats to accommodate wheel chairs or other equipment) does not change the designation of the vehicle as a CMV.

- d. Controlled Substance.** All substances as defined by *21 U.S.C. § 812* and includes all substances listed on Schedules I through V as they may be revised from time to time (*21 C.F.R. § 1308*).
- e. Condition of Continued Employment (COCE).** An employer based referral which is an agreement between the employer, employee and, as appropriate, the union representative, whereby the employee agrees to participate in SEAP in lieu of termination.
- f. Conviction.** A finding of guilty (including a plea of nolo contendere), or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug and/or alcohol statutes.
- g. Criminal Alcohol Statute.** A federal or non-federal criminal or other relevant statute involving the manufacture, distribution, dispensing, possession, or use of alcohol.
- h. Criminal Drug Statute.** A federal or non-federal criminal or other relevant statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
- i. Drug.** A controlled substance.
- j. Employee.** A person who has been hired by an agency subject to "*The Administrative Code of 1929, Act 175 of 1929, P.L. 177; 71 P.S. §51*, and whose employment has not yet been terminated.
- k. 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 directly to a grantee. The term grant includes block grant and entitlement grant programs, whether or not exempted from coverage under the grants management government-wide regulation (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government). The term does not include technical assistance which provides services instead of money, or other assistance in the form of loans, loan guarantees, interest subsidies, insurance, or direct appropriations, or any veterans' benefits to individuals.
- l. Grantee.** An individual or organization that applies for or receives a grant directly from a federal agency.
- m. Self-Disclosure.** The provision of verbal or written information by an employee that indicates he/she is using illicit drugs, misusing prescription drugs, and/or abusing alcohol.
- n. State Employee Assistance Program (SEAP).** A program designed to assist state employees and their families with alcohol, drug, emotional, family,

legal, financial, marital, or personal problems. Policy and procedures are contained in *Executive Order 1996-10, Management Directive 505.22, and Manual 505.3, all titled State Employee Assistance Program.*

- o. Workplace.** Any commonwealth owned or leased property; location where commonwealth business is conducted; or site where an employee is considered "on duty", including commonwealth vehicles or private vehicles being utilized for commonwealth business.

5. POLICY.

- a.** The unlawful manufacture, distribution, dispensing, possession, or use of alcohol and/or controlled substances by an employee while on duty or in any commonwealth workplace is prohibited.
- b.** Employees who are taking a controlled substance as prescribed by a medical provider are not in violation of this policy.
- c.** Employees are prohibited from reporting to work or remaining at work in an unfit condition as a result of the use of alcohol and/or controlled substances.
- d.** Employees who violate this policy shall be subject to appropriate discipline, up to and including termination.
- e.** Employees who are taking legally prescribed medications that may limit or impair their ability to safely perform their duties are to notify their supervisor. Employees will not be permitted to perform those duties if it would compromise safety.
- f.** An employee convicted of any criminal drug or alcohol statute where the violation occurred in the workplace, shall notify his/her supervisor or other appropriate management official in writing within five calendar days of the conviction.
- g.** An employee having or suspected of having a problem with alcohol and/or controlled substances shall be referred to SEAP.
- h.** An employee who has self-disclosed a problem with alcohol and/or controlled substances shall be referred to SEAP and will not be subject to discipline or other job related restriction based solely on the self-disclosure, except as provided below.
 - (1)** Employees in who are required to carry weapons; who have direct responsibility for care, custody and control of inmates, patients, residents or students; who operate a CMV; or who are professionals licensed by the Department of State, and that self-disclose a problem with alcohol and/or controlled substances will be required to successfully complete treatment through SEAP, and if covered by an existing testing program, must have alcohol and drug tests with negative results before they may return to duty.

- (2) Self-disclosure of a problem with alcohol and/or controlled substances does not exempt an employee from discipline if there has been a violation of a work rule.
- (3) Self-disclosure of a problem with alcohol and/or controlled substances does not exempt an employee from alcohol/drug testing under existing testing programs, if the disclosure is made in an attempt to avoid such testing.
- i. An employee convicted of any criminal drug or alcohol statute where the violation occurred in the workplace and who is not terminated must satisfactorily participate in SEAP as a Condition of Continued Employment. Refusal to participate in SEAP shall make the employee subject to appropriate disciplinary action, up to and including termination.
- j. All employees shall receive information and training regarding this policy, the dangers of alcohol and controlled substance abuse, and the availability of counseling and rehabilitation through SEAP, on a bi-annual basis.
- k. Information pertaining to an employee's personal problems with alcohol or controlled substances, involvement in SEAP and/or other treatment related information is confidential and shall be maintained in accordance with state and federal regulations. Reference *Manual 505.3, State Employee Assistance Program*.
- l. All agencies, prior to receiving grants in any denomination or contracts of \$100,000.00 or greater from a federal agency, must certify to that agency that they provide for a drug-free workplace by completing Enclosure 1, Certification of Drug-Free Workplace.

6. RESPONSIBILITIES.

- a. **Office of Administration, Office for Human Resources and Management (OA/HRM), Bureau of Employee Benefits and Services (BEBS)** shall:
 - (1) Provide overall policy guidelines to assist agencies to maintain an alcohol and drug free workplace.
 - (2) Coordinate the development of a substance abuse awareness training program and educational materials which can be delivered through a variety of means.
- b. **Agency Heads** shall:
 - (1) Ensure that the agency is in compliance with *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* and this directive, and that Certification of Drug-Free Workplace forms are completed and submitted timely to the federal agency from whom a grant or contract over \$100,000.00 is received.
 - (2) Ensure that the agency establishes and maintains an ongoing drug-free awareness program.

c. Human Resource Service Center (HRSC) shall:

- (1) Ensure that *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* is given to all new employees in agencies served by the HRSC through the onboarding process.

d. Agency Human Resource (HR) Directors shall:

- (1) Ensure that *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* is given to all new employees in agencies not served by the HRSC, and to all employees on an annual basis.
- (2) Ensure that employees are familiar with the commonwealth's policy on substance abuse in the workplace, including *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* and this directive.
- (3) Ensure that policies are posted as required throughout the agency.
- (4) Ensure that employees complete the required training on the commonwealth's policy on substance abuse in the workplace. Reference *Management Directive 505.22, State Employee Assistance Program*.
- (5) Ensure that information/training is provided to supervisors regarding their responsibilities in the administration of the substance abuse in the workplace policy; reference *Manual 505.3, State Employee Assistance Program*.
- (6) Ensure that employees and supervisors receive ongoing refresher training on the commonwealth's policy on substance abuse in the workplace every two years, at a minimum.
- (7) Ensure that literature and information is provided to all employees regarding the dangers of alcohol and controlled substance abuse in the workplace on an ongoing basis.
- (8) Ensure that information is provided to all employees regarding SEAP: reference *Manual 505.3, State Employee Assistance Program*.

e. Supervisors shall:

- (1) Immediately notify the agency HR Director of any employee's conviction of a criminal drug or alcohol statute violation that occurred in the workplace.
- (2) Encourage any employee that may be experiencing personal problems with alcohol and/or controlled substances to contact SEAP.
- (3) Participate in the required training regarding their responsibilities in the administration of the substance abuse in the workplace policy.

f. Employees shall:

- (1) Read and be familiar with the commonwealth's policy on substance abuse in the workplace.
- (2) Notify their supervisor or other appropriate management official, in writing within five calendar days of conviction of a criminal drug or alcohol statute violation that occurred in the workplace.
- (3) Participate in the required training on the commonwealth's policy on substance abuse in the workplace.

7. PROCEDURES.

- a. The HRSC is to give *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* to all new employees in agencies served by the HRSC by including it in the onboarding process.
- b. Agencies not served by the HRSC are to give a copy of *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* to all new employees.
- c. A copy of *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace* shall be posted in all commonwealth-owned and leased office buildings.
- d. Employees shall be notified that as a condition of employment they must:
 - (1) Abide by the policies outlined in *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace*.
 - (2) Notify, in writing, their supervisor or other appropriate management official of any criminal alcohol or controlled substance statute conviction for a violation that occurred in the workplace, no later than five calendar days after such conviction.
- e. Situations where an employee has self-disclosed that he/she is misusing alcohol and/or is using controlled substances are to be handled as outlined in *Manual 505.3, State Employee Assistance Program*.
- f. Within 10 calendar days of receiving notice of an employee's conviction of a criminal drug statute where the violation occurred in the workplace, the agency HR Director is to determine if the employee is engaged in the performance of work pursuant to the provisions of a federal grant.
 - (1) If the convicted employee is engaged in the performance of work pursuant to the provisions of a federal grant, the agency HR Director must notify the contracting or granting agency no later than the 10th calendar day.

- (2) An employee who does not perform work pursuant to the provisions of a federal grant is not subject to the federal reporting requirements for convictions, and shall not be reported to the federal agency.
- g. Within 10 calendar days of receiving notice of an employee's conviction of a criminal drug or alcohol statute where the violation occurred in the workplace, the agency HR Director is to notify OA/HRM, BEBS.
- h. Within 30 calendar days of receiving notice of an employee's conviction of a criminal drug or alcohol statute violation that occurred in the workplace, the agency must take appropriate action consistent with agency and commonwealth policies, reference *Management Directive 505.7, Personnel Rules; the Civil Service Act; Executive Order 1980-18, Code of Conduct; Manual 505.3, State Employee Assistance Program*, and applicable collective bargaining agreements.
- i. Certificates of a Drug-Free Workplace.
 - (1) Prior to a grantee receiving or renewing a federal contract of \$100,000.00 or more, or a grant of any denomination, agencies must complete Enclosure 1, Certification of Drug-Free Workplace, or a similar form, and send it to the appropriate federal agency.
 - (2) Agencies must identify by street address, city, county, state, and zip code, the worksite(s) for the performance of work done in connection with the specific grant. These worksites can be identified in one of three ways:
 - (a) On the certificate of a drug-free workplace which is provided.
 - (b) On the grant application or in signing the award if there is no application.
 - (c) In a document kept on file and available for inspection by federal agencies.
 - (3) An agency may elect to submit an annual certification to each federal agency from which it obtains grants in lieu of certifications for each grant during the year covered by the certification.
 - (4) Agencies are not required to provide a certification in order to continue receiving funds under a grant awarded before March 19, 1989, or under a non-cost time extension of any grant.

Enclosure 1 - Certification of Drug-Free Workplace

This directive replaces, in its entirety, *Management Directive 505.25*, dated November 29, 2004.

COMMONWEALTH OF PENNSYLVANIA
CERTIFICATION OF DRUG-FREE WORKPLACE

The _____
certifies that it provides a drug-free workplace by:

1. Notifying all employees that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances is prohibited in any commonwealth workplace and specifying the actions that will be taken against employees for violation of that prohibition.
2. Establishing a drug-free awareness program to inform employees about the:
 - a. Dangers of controlled substance abuse in the workplace.
 - b. Agency's policy of maintaining a substance-free workplace.
 - c. Availability of the State Employee Assistance Program.
 - d. Penalties that may be imposed upon employees for controlled substance abuse violations occurring in the workplace.
3. Requiring that all agency employees, including those engaged in the performance of this grant, be given a copy of *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace*.
4. Notifying all employees, including those engaged in the performance of this grant, that as a condition of employment in this agency, the employee shall:
 - a. Abide by the terms of *Executive Order 1996-13, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace*.
 - b. Notify the employer, in writing, of any criminal controlled substance statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction.
5. Notifying, in writing, the federal granting agency named herein within ten calendar days after receiving notice under subparagraph 4.b. from an employee or otherwise receiving notice of such conviction.
6. Taking at least one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - a. Appropriate disciplinary action, up to and including termination, against such an employee in accordance with agency policy, *Management Directive 505.7, Personnel Rules*; the *Civil Service Act*; *Executive Order 1980-18, Code of Conduct*; and applicable collective bargaining agreements.
 - b. Requiring the employee to satisfactorily participate in the State Employee Assistance Program as a Condition of Continued Employment.

7. This agency shall make a good faith effort to continue to maintain a drug-free workplace.

Performance of Federal Grant _____

Federal Agency _____

State Agency _____

(Street Address)

(City) (County) (State) (Zip Code)

(Signature of State Agency Representative)

(Date)

(Print Name of State Agency Representative)