

**Policy:** 2290-1- Georgia Department of Transportation  
Drug-Free Workplace

**Section:** Alcohol and Drug Use

**Office/Department:** Division of Human Resources

**Reports To:** Division of Admin/Gen Counsel

**Contact:** 404-631-1000

In accordance with the **Federal Drug-free Workplace Act** and the **Georgia Drug-free Public Work Force Act**, it is the policy of the Georgia Department of Transportation to maintain a drug-free workplace. The Department will make a good faith effort to ensure that a drug-free workplace is maintained.

### GENERAL PROVISIONS

It is the intent of the Georgia Department of Transportation (GDOT) to maintain a workplace that is free of drug use and to discourage drug abuse by its employees. GDOT has an interest in maintaining safe and efficient working conditions for its employees. Substance abuse is incompatible with health, safety, efficiency and success at GDOT. Employees who are under the influence of a drug on the job compromise GDOT's interests, endanger their own health and safety, the health and safety of others, and can cause a number of other work-related problems. These include absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, delays in the completion of jobs, inferior quality in products or services, and disruption of customer relations.

To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, and to protect its business, property, equipment and operations, GDOT has established this policy concerning the use of drugs. As a condition of continued employment with GDOT, each employee, including contractors and consultants on Department Rights of Way, must abide by this policy.

### FEDERAL DRUG-FREE WORKPLACE ACT

The Federal Drug-free Workplace Act of 1988 requires that employees be notified that engaging in the **unlawful/illegal** manufacture, distribution dispensation, possession or use of a controlled substance is prohibited in the workplace or while performing assigned duties.

Applicants who are offered employment or employees who have not previously signed a document containing such information are to sign a copy of the GDOT DRUG-FREE WORKPLACE NOTICE. (See form [DOT 4405](#)) The signed notices are to be maintained in employees' official personnel files.

Employees who engage in unlawful/illegal drug-related activity are subject to disciplinary action, up to and including separation from employment

## GEORGIA DRUG-FREE WORK FORCE ACT

The Georgia Drug-free Public Work Force Act was passed in 1990. This Act declares that illegal drug activity is a serious threat to public health, safety and welfare. The Georgia General Assembly has, therefore, declared that the public work force must be free of any person who would knowingly commit criminal drug offenses.

### DRUG PROHIBITIONS

GDOT prohibits the unlawful manufacture, distribution, dispensation, possession, promotion, sale or use of drugs or other illegal substances, drug paraphernalia or look-alike (simulated) drugs while performing work for GDOT; while on GDOT property; while operating or being responsible for the operation, custody, or care of GDOT equipment, vehicles or other property; while in travel status; or while responsible for the safety of others. GDOT employees must not report for duty or attempt to work under the influence of any drug or other substance which will in any way adversely affect their work performance, alertness, coordination, or response.

### ALCOHOL PROHIBITIONS

GDOT prohibits the use of alcohol while on GDOT property; while operating or being responsible for the operation, custody, or care of GDOT equipment, vehicles or other property; while in travel status; or while responsible for the safety of others. GDOT employees must not report for duty or attempt to work under the influence of alcohol which will in any way adversely affect their work performance, alertness, coordination, or response.

### REPORTING DRUG-RELATED ARRESTS & CONVICTIONS

Employees are **required** to notify their supervisors and/or other authorized officials of any criminal drug **arrests** or **convictions** as soon as possible but not to exceed FIVE (5) CALENDAR DAYS of the date of occurrence. A determination of appropriate action will be made in accordance with this policy by the supervisor and/or other authorized official after consultation with the Employee Management Relations Section of the Human Resources Office.

Employees who fail to report drug arrests or convictions as required are subject to disciplinary action, up to and including separation from employment.

### VIOLATIONS IN THE WORKPLACE

Any conviction for a drug-related offense that occurred **in the workplace** must be immediately reported to the Employee Management Relations Section of the Office of Personnel. The employee may be subject to disciplinary action up to and including dismissal.

**NOTE: "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of a sentence by any judicial body.**

### CRIMINAL DRUG OFFENSES

The following guidelines have been established by GDOT as **minimum** sanctions to be imposed on applicants and employees convicted of a criminal drug offense.

## **SANCTIONS FOR APPLICANTS**

Applicants convicted of a criminal drug offense for the first time are not eligible for employment with **GDOT** for a minimum of **two (2) years** from the date of conviction.

Applicants convicted of a second or subsequent criminal drug offense (since July 1, 1990) are not eligible for employment with **State** including GDOT, for a period of **five (5) years** from the most recent date of conviction.

## **SANCTIONS FOR EMPLOYEES**

### **First Offense**

When official notification or relevant documentation is received which shows that an employee has been convicted of a criminal drug offense for the first time, the employee may be immediately separated from employment. Generally, the nature of the criminal drug offense, the level of penalty (i.e., felony or misdemeanor), and other relevant factors should be considered in determining whether separation of the employee is appropriate.

If it is determined that such employee is to be retained, **at a minimum**, the employee must be immediately suspended without pay for a period of not less than two (2) months.

**Note: Prior to suspension without pay, an employee may be directed to report for Reasonable Suspicion drug testing under certain circumstances. Consult with the local Personnel Office or the Employee Management Relations Section of the Office of Personnel prior to making a reasonable suspicion determination.**

Before returning to work, the employee must successfully complete an approved drug abuse treatment and/or education program at the employee's expense through EAP or a DOT-approved facility and must submit certification of the successful completion. Any employee who does not successfully complete the required drug abuse treatment and/or education program will be separated from employment.

### **Second Offense**

When official notification or relevant documentation is received that shows that an employee has been convicted for a second or subsequent criminal drug offense (since July 1, 1990), the employee must be immediately separated from employment if it has been fewer than five (5) years since the most recent date of conviction. The employee must also be disqualified from any State employment for a period of five (5) years from the most recent date of conviction.

## **EMPLOYEE ASSISTANCE**

Employees are encouraged to seek assistance for drug/alcohol related problems. Employees may request assistance through the Department's Employee Assistance Program (EAP). Employees who request assistance through EAP must make the request prior to any directive to report for drug/alcohol testing or arrest for any drug related offense. Employees who make the request prior to any directive to report for testing or for any drug related arrest will not be subject to drug/alcohol consequences.

The EAP will evaluate the employee's condition and determine what type of treatment, if any, is required. Employees who are recommended for outpatient treatment and are able to remain in the work environment:

- Must follow the recommended treatment program;
- Must receive a release from EAP;
- Must complete an alcohol/drug test with a negative result after being released from EAP; and
- Will be subject to follow-up testing.
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Employees who are recommended for inpatient treatment:

- Will be placed on leave as determined by EAP and Employee Management Relations;
- Must follow the recommended treatment program;
- Must receive a release from EAP;
- Must complete an alcohol/drug test with a negative result before returning to work; and
- Will be subject to follow-up testing.
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Employees who test positive for alcohol/drugs on a return-to-duty or follow-up test will be subject to immediate dismissal from employment.

### **Family and Medical Leave**

Since treatment for substance abuse is considered a serious health condition, any absence from work to participate in a substance abuse treatment and/or education program will be charged to available Family and Medical Leave.

## **TYPES OF TESTING**

Employees may be subject to the following alcohol and/or drug testing under the following circumstances:

### **Pre-employment Testing**

Applicants selected for jobs requiring pre-employment testing will be subject to testing for the use of controlled substances. The substances to be tested for include amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP). Employees whose job duties are changed to those for which a commercial driver's license is required will also be subject to pre-employment testing beginning at the time of the duty change.

In accordance with State Personnel Board Rule 21, the Department may elect to conduct on-site pre-employment drug testing when doing so would result in increased efficiency in the hiring process. Any such on-site pre-employment drug test will comply with state and federal requirements for workplace drug testing. Note, on-site drug testing is not allowed for positions classified as federally regulated transportation employees.

Pre-employment Testing should be conducted after an applicant or employee is selected for a job but prior to the actual hire date. If pre-hire testing of the selectee is not possible, the test must be completed within two (2) days of the start of employment.

### **Random Testing**

Employees whose job duties require random testing for controlled substances will be tested on an unannounced basis throughout the year. Each affected employee who is notified he/she has been selected for random drug testing is required to:

1. Cease working
2. Obtain a chain of custody form from Human Resources and
3. Proceed immediately to an approved collection site.

### **Post-Accident Testing**

Any employee who is involved in an automobile accident while performing safety-sensitive duties shall be tested for controlled substances and alcohol when the following conditions are met:

1. The accident involved the loss of human life; or
2. The employee received a citation under State or local law for a moving violation arising from the accident **and** any individual received bodily injury requiring their transport from the accident scene for medical treatment; or
3. The employee received a citation under State or local law for a moving violation arising from the accident **and** a motor vehicle incurred disabling damage requiring that it be towed away from the scene of the accident.

The controlled substance test must, whenever possible, be conducted within eight (8) hours following the accident. If, despite all efforts, a test is not completed within 32 hours following the accident, all attempts to have a controlled substance test must cease. A record stating the reason(s) the test was not properly administered shall be kept on file in the Drug and Alcohol Testing Annual File located in the Human Resources Office.

The alcohol test must, whenever possible, be conducted within two (2) hours following the accident. If, despite all efforts, a test is not completed within eight (8) hours following the accident, all attempts to have an alcohol test must cease. A record stating the reasons the test was not properly administered shall be kept on file in the Drug and Alcohol Testing Annual File located in the General Office.

A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed to have refused to submit to testing.

### **Reasonable Suspicion Testing**

Alcohol/drug testing of an employee may be required when it is determined that reasonable suspicion exists. The determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The determination may also be based upon the presence of drugs, drug paraphernalia or look-alike (simulated) drugs while performing work for GDOT; while on GDOT property; while operating or being responsible for the operation, custody, or care of GDOT equipment, vehicles or other property; while in travel status; or while responsible for the safety of others.

After the employee has been told that he/she is required to submit to an alcohol/drug test because his/her actions and behavior indicate possible alcohol/drug use, **the employee must be transported immediately** to a collection site for an alcohol and/or controlled substance test.

Because the employee has demonstrated that he/she may be using drugs or under the influence of alcohol, the employee **should not** be directed to drive his/her car or any vehicle to the collection site. The employee should be accompanied to the testing site by security personnel, the supervisor who made the reasonable cause determination, or another designated employer representative. Collection sites should be notified of the reasonable suspicion test as soon as possible so that they can be prepared to take the specimen promptly without undue waiting time. Arrangements should be made for transporting the employee home or back to the office following the test.

The employee must be temporarily suspended with pay pending the result of a reasonable suspicion controlled substances test. If the test result is reported negative, the employee will be returned to work. If the test result is reported positive, the employee must be immediately dismissed from employment and will be disqualified from employment with GDOT for a period of two (2) years from the date of the test.

GDOT requires an employee to be temporarily suspended pending the result of a reasonable suspicion alcohol test and until the blood alcohol concentration (BAC) measures less than .02 BAC. If the test result is reported negative (i.e., less than .02 BAC), the employee should be returned to work. If the test result is between .02 BAC and .039 BAC, the employee must be suspended without pay for 24 hours. If the test result is reported positive (i.e., .04 BAC or greater), the employee will be subject to disciplinary action up to and including dismissal. If it is determined that the employee will be retained, the employee must be referred to a Substance Abuse Professional for evaluation of the employee's problem associated with alcohol misuse.

- Before the employee can be returned to work, the employee must:
  1. Receive approval from a Substance Abuse Professional and/or successfully complete a treatment program;
  2. Complete a return-to-duty alcohol test; and,
  3. Submit to follow-up random alcohol testing at least six (6) times for a minimum of one (1) year following the positive test. Additional follow-up testing may be designated for a total not to exceed five (5) years.

**Note:**

If an employee refuses to submit to the test, then the employee is subject to the same consequences of having a positive alcohol/drug test.

Because of the serious nature of an employee's refusal to submit to a reasonable suspicion alcohol/drug test, a few precautions should be taken: If possible, have the employee's behavior observed by another trained supervisor or agency official. Documentation of the employee's conduct must be prepared and signed by the supervisor within twenty-four (24) hours of the observed behavior on an "Observed Behavior Reasonable Suspicion Record." (See Form [DOT 4403](#))

**Return-to-duty**

Employees who successfully complete the prescribed education and/or treatment program must complete a return-to-duty test before returning to work. The employee must have a negative drug test result and/or alcohol test with an alcohol concentration of less than .02 BAC.

## **Supervisory Responsibilities**

It is the responsibility of supervisors to enforce the provisions of the Georgia Department of Transportation's Drug Free Workplace Policy. Supervisors must notify the Human Resources Office when an employee is suspected of drug or alcohol abuse in the workplace.

It is not the responsibility of supervisors to diagnose alcoholism or drug abuse or to professionally counsel an employee about substance abuse. Supervisors do not have the training or knowledge to professionally counsel an employee about substance abuse or to diagnose the disease of alcoholism. However, It is the supervisor's responsibility to recognize and to take appropriate action when there is good reason to suspect an employee has an alcohol or drug abuse problem which influences job performance and/or safety. Also it is the responsibility of supervisors to recognize, document, and confront any employee exhibiting poor job performance.

Supervisors must:

1. Determine if the cause of substandard job performance may be due to substance abuse.
2. Take appropriate action when an employee is has demonstrated behaviors associated with being under the influence of alcohol and/or drugs.
3. Take necessary disciplinary measures when actual substance abuse continues by an employee who does not seek help for the problem and/or when job performance continues to be unsatisfactory with suspected or actual substance abuse.

**This policy supersedes all other department policies on drug and alcohol abuse.**

Directive [2110-4](#) requires that this document be posted conspicuously in all GDOT workplaces.

## **References:**

Federal Drug-free Workplace Act (US Code: Title 41, Ch. 10, §701 - 707)

Schedules of Controlled Substances (US Code: Title 21, Section 812)

Georgia Drug-free Public Work Force Act (O.C.G.A. §45-23-1 through 9)

Rules of the State Personnel Board - Rule 478-1.21

## **History:**

annual review: 03/05/24;

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added to Manual of Guidance: 04/27/89