

RESOLUTION NUMBER 434

RESOLUTION TO ESTABLISH A SUBSTANCE ABUSE POLICY AND RANDOM DRUG TESTING PROGRAM FOR ALL COUNTY EMPLOYEES

WHEREAS, Substance abuse is a serious national crisis which has had a detrimental effect on the lives of many of our citizens, and has exerted a negative impact on the operation of business and government, and

WHEREAS, Employers experience a loss in productivity due to drug related absenteeism, injuries on the job, decreased work quality, and wasted dollars, and

WHEREAS, Substance abusing employees function below established standards, may make impaired decisions, may have negative effects on their co-workers, and are not as alert as non-using employees; and

WHEREAS, The illegal use of the workplace as a drug market endangers the health, safety, and welfare of County employees; and

WHEREAS, The Federal Omnibus Drug Abuse Act of 1988 requires that any State which is a recipient of Federal funds must establish a Drug-Free Workplace, including a policy on the use of substances, an employee drug awareness program, and a procedure for employees to report their own convictions; and

WHEREAS, a drug-free workplace is fundamental to efficient, effective and responsible government; and

WHEREAS, Dorchester County seeks to hire and employ drug and alcohol free employees;

NOW, THEREFORE, BE IT RESOLVED THAT Resolution 247 passed and adopted on November 26, 1996 be superseded by this current resolution.

In this Resolution the following words have the meanings indicated:

- (1) "Substance" means alcohol or drugs.
- (2) "Alcohol" means ethyl alcohol or ethanol.
- (3) "Job Related" means any alcohol or controlled dangerous substance testing used by Dorchester County Government for a legitimate business purpose to determine one's ability to perform job duties and responsibilities;
- (4) "Controlled substance and drug" means:
 - (a) marijuana, cocaine, opiates, amphetamines, barbiturates phencyclidine (PCP) and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code, and as they may be revised from time to time and/or any controlled dangerous substance that impairs one's mental facilities, alters one's mood and/or physical performance;
 - (b) Any other substance which must be dispensed by a licensed health care professional; and/or
 - (c) An over-the-counter drug.

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- (5) "Abuse" means:
- (a) The use of an illegal drug;
 - (b) The intentional misuse of an over-the-counter drug, if the misuse impairs the job performance of the County employee;
 - (c) The intentional use of any prescription drug in a manner inconsistent with its medically prescribed intended use, or under circumstances where its use is not permitted, if it impairs the job performance of a County employee; and/or
 - (d) The use of alcohol if it impairs job performance of the County employee.
- (6) "Workplace" means any place where an employee is performing work for Dorchester County Government and/or any County owned or utilized premise(s) or vehicle(s) used for official County business.
- (7) "Employee" or "Probationary Employee" means a classified, non-classified, contractual, temporary, grant, probationary or other employee receiving a salary from Dorchester County Government. This policy does not pertain to employees that are elected to an office with a salary paid by Dorchester County Government.
- NOTE: Public Safety required to adhere to Maryland Police and Correctional Training Commission. Sheriff's employees/applicants required to adhere to Sheriff's policies.
- (8) "Conviction" means:
- (a) A judgment of conviction, whether entered upon a finding of guilt or acceptance of a plea of nolo contendere, and the imposition of sentence; or
 - (b) The staying of the entry of judgment and the placing of the defendant, on probation after a finding of guilty or the acceptance of a plea of nolo contendere.
- (9) "Alcohol Driving Offense" as it relates to this policy means:
- (a) Driving or attempting to drive while:
 - (i) Intoxicated and/or impaired; or
 - (ii) Under the influence of alcohol; or
 - (b) Operating or attempting to operate a vessel while:
 - (i) Intoxicated and/or impaired; or
 - (ii) Under the influence of alcohol.
- (10) "Controlled Dangerous Substance Offense" means:
- (a) A controlled dangerous substance violation, by definition under any Maryland and/or Federal laws;

- (b) An offense of the law of any other jurisdiction if the prohibited conduct would be a controlled dangerous substance violation if committed in this State;
- (c) Driving or attempting to drive while:
 - (i) Under the influence and/or impaired due to use of drugs or drugs and alcohol; and/or
 - (ii) Under the influence and/or impaired due to the use of a controlled dangerous substance; or
- (d) Operating or attempting to operate a vessel while:
 - (i) Under the influence and/or impaired due to use of drugs or drugs and alcohol; and/or
 - (ii) Under the influence and/or impaired due to the use of a controlled dangerous substance.

(11) Positive drug test means any drug test whose results indicate that the employee has committed substance abuse, according to the current NIDA (National Institute on Drug Abuse) standards and the definitions in this resolution. Employees found to have a positive test from a prescription drug will be required to provide a valid, current prescription to verify they are taking a legal prescription or certification from a physician that the drug is necessary and should be taken.

(12) Negative drug test means any drug test whose results do not indicate a positive drug test.

A. General Policy.

The Dorchester County Council establishes and adopts the following substance abuse policy for County Government:

- (1) The Dorchester County Council is committed to making good faith efforts to insure a safe, secure, and drug-free workplace for its employees consistent with the Drug-Free Workplace Act as enacted by Congress.
- (2) All employees in the workplace must be capable of performing their duties.
- (3) Employees experiencing substance abuse problems are encouraged to seek assistance through their health insurance substance abuse program or other generally accepted programs. Seeking such assistance will not subject the employee to any disciplinary action. However, satisfactory job performance will be required and failure to satisfactorily perform their duties and responsibilities may result in disciplinary action up to and including termination.
- (4) The Dorchester County Council will not approve hiring anyone whom it knows currently abuses drugs or alcohol. Pre-employment drug testing shall be conducted before any offer of a position is made to any applicant. Resolution No. 427 - Resolution to Establish Pre-Employment Substance and Alcohol Abuse Screening sets policy regarding pre-employment testing.

(5) Random Alcohol and Drug Testing of Employees. Employees may be randomly tested without reasonable suspicion. Procedures will be developed and provided to Department Heads. Administrative procedures may be altered

without requiring change to this resolution. Testing will be conducted by NIDA approved laboratory.

(6) Employees are prohibited from:

- (a) Abusing alcohol or drugs;
- (b) Committing a controlled dangerous substance offense; or
- (c) Committing an alcohol/drug driving offense.

B. Alcohol Abuse Policy.

- (1) Working under the influence of alcohol is a violation of this policy and shall subject the employee to disciplinary action.
- (2) An employee charged with an alcohol driving offense must report a finding of guilty, an acceptance of a plea of nolo contendere, or probation before judgment to the employee's Department Head within 5 work days. The Department Head will immediately notify the County Manager and Human Resources. Failure to do so may result in disciplinary action up to and including termination.
- (3) An employee shall be suspended without pay for a minimum of 20 work days and required to successfully participate in an alcohol treatment program through their health insurance program or other generally accepted program, at their own cost, the first time the employee is:
 - (a) Convicted of an at-the-workplace alcohol driving offense; or
 - (b) Found under the influence of alcohol while at the workplace.
 - (c) The next conviction will result in automatic termination.

C. Drug Abuse Policy.

- (1) Working under the inappropriate influence of prescription drugs or over-the-counter drugs is a violation of this policy and shall subject the employee to disciplinary action.
- (2) Working under the influence of a controlled dangerous substance is a violation of this policy and shall subject the employee to disciplinary action.
- (3) An employee convicted of a controlled dangerous substance offense shall report a finding of guilty, an acceptance of a plea of nolo contendere, or probation before judgment to their Department Head within 5 work days. The Department Head will immediately notify the County Manager and Human Resources.
- (4) An employee convicted of any controlled dangerous substance offense shall be terminated.
- (6) An employee who abuses a legally prescribed drug or an over-the-counter drug shall, on the first offense:
 - (a) Be suspended without pay for 5 work days; and
 - (b) Be required to participate successfully in a drug treatment program through their health insurance program or any other generally accepted

program, at their own cost. Failure to satisfactorily complete may result in further disciplinary action.

(7) Employees and officials are prohibited from unlawfully manufacturing, distributing, dispensing, possessing and/or using a controlled substance in the workplace. Anyone convicted of such an offense will be terminated. Employees of the Sheriff's Department are exempt if they are involved with any of the above due to their job requirements, such as transporting controlled substances, working undercover operations, etc.

D. General Sanctions.

Any employee otherwise in violation of this Resolution or any parts of this Resolution shall be subject to appropriate discipline actions up to and including termination. If something is determined by management to be appropriately egregious aggressive discipline may be taken up to and including termination. No employee will be terminated for voluntarily seeking assistance for a substance and/or alcohol abuse problem. However, continued unacceptable job performance, attendance and/or behavior problems shall result in disciplinary action up to and including termination. All employees must be able to satisfactorily perform the duties and responsibilities of their position.

The Sheriff is an Elected Official and as such may have a separate Substance Abuse Policy. If such policy is in effect it would supersede any general County policy. This applies only to employees of the Sheriff's Department.

E. Law Enforcement.

- (1) When an appointing authority learns or, based on observation or reliable information, suspects, that an employee has committed a controlled dangerous substance or alcohol offense at the workplace and/or violated this Resolution or any part(s) of this Resolution, the County Manager or designee shall refer the matter to appropriate law enforcement authority for further investigation and prosecution.
- (2) All employees shall cooperate fully with law enforcement authorities in the investigation and prosecution of suspected criminal violations. Failure to cooperate may result in discipline up to and including termination.

F. Employee Education.

All Department Heads shall educate and inform their employees about:

- (1) The County's policy of maintaining a drug-free workplace; and
- (2) The penalties that may be imposed upon employees for violations of this Resolution.

G. Implementation.

- (1) All employees are required to acknowledge receipt of a copy of this Resolution by signing an acknowledgement of receipt and returning to their supervisor for insertion in their personnel file.

THIS RESOLUTION IS HEREBY PASSED AND ADOPTED 24th

DAY OF APRIL, 2007 TO BE EFFECTIVE THE

24th DAY OF APRIL, 2007.

ATTEST:

DORCHESTER COUNTY COUNCIL

Jane Baynard
Jane Baynard

William V. Nichols
William V. Nichols, President

Jay Newcomb
Jay Newcomb, Vice-President

Effie M. Elzey
Effie M. Elzey

Ricky Travers
Ricky Travers

Rick Price
Rick Price

**Dorchester County Government
Substance Abuse Policy
Acknowledgement of Receipt**

As an employee of Dorchester County Government

I, _____, hereby

certify that I have received a copy of the County's policy regarding the maintenance of a drug-free workplace. I realize that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited on County owned or utilized premises or in a County vehicle or equipment or my personal vehicle while on County business or work time and any violation of this policy can subject me to discipline up to and including termination. I will notify my supervisor of any criminal drug conviction no later than five (5) days after such conviction.

Date: _____
Employee Signature

Please print name

Date: _____
Supervisor's Signature