

DEPARTMENT OF HUMAN RESOURCES

3.6 POLICY ON SUBSTANCE ABUSE

(a) Purpose and Scope

- (1) **Purpose.** To establish a uniform policy against substance abuse for Maryland Judicial Branch of Government employees and to establish uniform practices for the Maryland Judiciary to enforce this policy.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all employees under his or her supervision, in the Circuit Court where the employee works;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Alcohol** – Any form of ethanol, or any beverage or substance containing ethanol.
- (3) **Controlled Substance** – Any substance controlled under the Federal Controlled Substances Act (CSA), 21 U.S.C. § 801, et seq., as amended, and/or the Maryland Controlled Dangerous Substances Act, Md. Code Ann., Crim. Law §§ 5-101 through 5-1101.

- (4) **Drug** – Any controlled substance, non-prescription drug, or prescription drug, taken into the body, which may impair one’s mental faculties and/or change one’s mood and/or physical performance.
- (5) **Employee** – All employees of the state of Maryland Judiciary, excluding judges of the Orphans’ Courts, Registers of Wills and employees in the Registers of Wills’ offices. This definition also includes employees of units of the Judiciary.
- (6) **Impaired** – Reduced cognitive or physical ability that results from use of drugs, alcohol, or controlled substances.
- (7) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (8) **Judiciary Premises/Property** – Includes Judiciary-owned or Judiciary-leased property, parking lots, and storage areas. The term also includes Judiciary-owned or Judiciary-leased vehicles and equipment wherever located.
- (9) **Non-Prescription Drug** – Any over-the-counter drug that is available without a written prescription by an authorized medical professional.
- (10) **Prescription Drug** – A drug that is legally available only by means of prescription by an authorized medical professional.
- (11) **Substance Abuse**
- (A) Use of any illegal drug;
 - (B) Intentional misuse of any legal drug that results in impaired job performance;
 - (C) Use of any prescription drug in a manner inconsistent with its medically prescribed, intended use, or under circumstances where use is not permitted; and/or,
 - (D) Being under the influence of alcohol in a way that results in impaired job performance, or using alcohol during work time, or while in or on Judiciary premises/property
- (12) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (13) **Work Day** – An employee’s normally scheduled work day.
- (14) **Work Time** – For purposes of this policy, time during which an employee:
- (A) Is on duty, whether at the employee’s principal work site or at an alternate work site; and/or,
 - (B) With the requisite approval, travels to and from and participates in training activities, conferences, conventions, and seminars as a job requirement. Approved time spent traveling to

and from the event outside the employee's normal work and commuting schedule will count as hours worked.

(c) Policy Statement

The Maryland Judicial Branch recognizes that substance abuse is a serious national crisis that has had a detrimental effect on the lives of many of our citizens and has exerted a negative effect on the operation of business and government. The Maryland Judicial Branch further recognizes that every employer, including the Maryland Judiciary, experiences a loss in productivity due to substance abuse-related absenteeism, injuries on the job, decreased work quality, and wasted resources. Substance-abusing employees may function below established standards, may make impaired decisions, may have negative effects on their co-workers, and may not be alert. The Maryland Judicial Branch is committed to a substance abuse-free workplace.

(d) Prohibited Conduct

- (1)** Substance abuse by any employee on or in Judiciary premises/property is forbidden at all times.
- (2)** Substance abuse by any employee during work time is forbidden, whether or not on or in Judiciary premises/property.
- (3)** Employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, or using a controlled substance, or committing alcohol-related offenses, whether or not on the job.
- (4)** Employee must not report to work, or spend any work time, in an unfit condition to perform their duties. Reporting to work, or spending any work time, with mental or physical abilities impaired by drugs or alcohol, is a violation of this policy and shall subject employee to disciplinary action.
- (5)** Employees on official business, whether or not on or in Judiciary premises/property, are prohibited from purchasing, transferring, using, or possessing illegal drugs, or from abusing alcohol or using any drug in any way that is illegal.

(e) Enforcement

- (1)** Where justified by reliable information and/or observation, criminal violations shall be referred to the appropriate law enforcement authority for further investigation and prosecution.
- (2)** Employees must report any drug-related or alcohol-related arrest to their supervisor within the next business day, or as soon as practicable, but no later than five work days after that arrest. Any such arrest may be cause for an administrative investigation, notwithstanding the status or outcome of any related legal proceedings.
- (3)** Employees convicted of off-the-job drug-related or alcohol-related offenses will be in violation of this policy.

- (4) Any employee found to be in violation of any of the provisions of this policy shall be subject to disciplinary and other lawful sanctions.
- (5) Supervisory employees are responsible for adherence to and implementation, enforcement, and monitoring of this policy.
- (6) Observation of any signs of possible substance abuse in any employee during work time constitutes reasonable grounds for investigation by the employee's supervisor and/or administrative head, and for non-supervisory employees' reporting of such observed signs for such investigation. A supervisor and/or administrative head, on observing such signs or receiving a report of them, in consultation with the JHRD, or the individual responsible for Human Resources for locally-funded employees, should investigate by appropriate measures, including direct observation and private questioning of the affected employee(s) if possible. Such signs of possible substance abuse include, but are not limited to:
 - (A) The odor of alcohol or drugs;
 - (B) Slurred and/or incoherent speech;
 - (C) Decreased motor coordination and/or other impaired physical behavior;
 - (D) Marked changes in personality and/or job performance;
 - (E) Bloodshot eyes or abnormally dilated or constricted pupils; and/or
 - (F) Any combination of the above.
- (7) If the supervisory investigation supports a conclusion of substance abuse by the investigated employee(s), the supervisor and/or administrative head shall consult with the JHRD, or the individual responsible for Human Resources for locally-funded employees, regarding appropriate next steps, which may include testing.

(f) Assistance and Treatment

- (1) An employee may request referral to the Employee Assistance Program (EAP) for access to confidential professional assistance for substance abuse problems.
- (2) Employees will not be terminated solely for requesting referral to the EAP or voluntarily obtaining other assistance and/or treatment for a substance abuse problem. The Judiciary encourages any employee who needs such assistance and treatment to seek and obtain it. However, participation in a treatment or recovery program will neither relieve employees from the requirement of satisfactory job performance, nor insulate them from termination or adverse management actions for failing to comply with any of the Judiciary's policies and procedures.
- (3) Substance abuse-related disciplinary actions, up to and including termination, may be, but do not have to be, held in abeyance pending an employee's completion of an assistance and treatment program. The option of holding a disciplinary action in abeyance is not an employee entitlement or right but is a privilege to be granted at the discretion of the administrative head, in consultation with

JHRD or the individual responsible for Human Resources for locally-funded employees, under appropriate circumstances.

(g) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

(h) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(i) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.