DIVISION OF HUMAN RESOURCES

2.01 Alcohol and Other Drugs

The Virginia Department of Social Services (VDSS) uses the Commonwealth's Department of Human Resource Management (DHRM) Policy 1.05 as the foundation for establishing guidance relative to alcohol and other drugs. VDSS Guidance 2.01 supplements DHRM policy. In case of any conflict between VDSS Guidance and DHRM policy, the Commonwealth's policy will prevail.

Employees should refer to DHRM's website and this VDSS guidance for information about use of alcohol and drugs.

The following link connects to DHRM Policy 1.05, Alcohol and Other Drugs:
http://web1.dhrm.virginia.gov/itech/hrpolicy/pol1_05.html

VDSS Guidance

AUTHORITY, INTERPRETATION, AND REVISION:
This Standard Operating Procedure (SOP) is issued by the VDSS. The VDSS Director of Human Resources (HR) or designee is responsible for the interpretation of this SOP and for its revision or rescission.

I. **PURPOSE**

To maintain a workplace that is free of drugs and alcohol in support of a productive, safe, healthy and professional workforce and to assist staff who are having difficulties with drugs or alcohol.

II. **APPLICATION**

This guidance applies to all employees in full-time and part-time classified positions that are covered or non-covered under the Virginia Personnel Act. It applies also to interns, volunteers, and contractors. The guidance covers any staff member who is working, designated or on-call but not working and any employee who is driving Commonwealth of Virginia vehicles or rental vehicles.

III. **DEFINITIONS**

A. Alcohol: Any product defined as such in the Alcohol Beverage Control Act, Section 4.1-100 of the Code of Virginia as amended

B. Collateral Observer: A member of the agency's supervisory staff who observes irregular behavior of an employee in order to verify the behavior.

C. Controlled Drug: Any substance defined as such in the Drug Control Act, Chapter 34, Title 54.1 of the Code of Virginia, as amended, and whose manufacture, distribution, dispensation, use or possession is controlled by law.

D. Conviction: A finding of guilty (including a plea of guilty or nolo contendere), or imposition of sentence, or both, by any judicial body charged with the responsibility of determining violations of the federal or state criminal drug laws, alcohol beverage control laws, or laws that govern driving while intoxicated.

E. Criminal Drug Law: Any criminal law governing the manufacture, distribution, dispensation, use, or possession of any controlled drug.

F. Employee Assistance Program (EAP): A confidential assessment, referral, and short-term problem-solving service available to eligible employees and family members. Enrollment in the EAP is automatic as part of the Commonwealth's employer-provided health plan coverage. The EAP helps participants deal with problems affecting personal and work life, such as -

- Conflicts within the family and workplace,
- Personal and emotional concerns,
- Alcohol and substance abuse,
- Financial and legal problems,
- Elder and child care, and
- Career concerns and other challenges.

G. Other Drug: Any substance other than alcohol that may be taken into the body and may impair mental faculties and/or physical performance.

H. Reasonable Suspicion: Unexplained inability to perform typical job duties as indicated by slurred speech; smell of alcohol or drugs; unusual difficulty with physical coordination or balance; unusual hyperactivity, depression, or withdrawal; or unusual or uncharacteristic behavior.

I. Workplace: Any state-owned or leased property or any site where staff are performing official duties. Any location, either permanent or temporary, where staff perform any work-related duty. This includes, but is not limited to, the buildings and the surrounding perimeters, including the parking lots, field

locations, State vehicles, alternate work locations, and travel to and from work assignments.

IV. WORKPLACE EXPECTATIONS

A. Commonwealth DHRM Policy 1.05 prohibits:

1. Unlawful manufacture, distribution, dispensation, possession or use of alcohol and other drugs at the workplace.
2. Impairment at the workplace
3. Actions which result in criminal conviction for violations of criminal drug law when on or off duty
4. Actions which result in criminal conviction for a violation of any alcoholic beverage control law
5. Actions which result in criminal conviction for a violation of law which governs driving while intoxicated when on duty.

B. Commonwealth DHRM Policy 1.05 requires employees and staff to report to their supervisors that they have been convicted of any of the above offenses within five (5) calendar days of their convictions.

C. Supervisors are required to report such convictions to HR/Employee Relations immediately upon being notified. HR will work with the supervisor to determine the appropriate action.

D. Commonwealth Office of Fleet Management Services Policies and Procedures Manual in part prohibits:

1. Operation of a vehicle while under the influence of intoxicating beverages, drugs, or other substances.
2. Use of state vehicles to transport alcoholic beverages, drugs, or other illegal substances.

E. The use of alcohol or controlled substances is prohibited during breaks when a return to work is planned or anticipated.

F. All employees are required to inform supervisors whenever an employee is involved with or under the influence of drugs or other illegal drugs while on duty.

V. REASONABLE SUSPICION PROCEDURES

For the purpose of maintaining an alcohol and drug free workplace, VDSS reserves the right to search all offices and to refer employees for testing. VDSS also may require any employee to be tested whenever there is reason to suspect that the employee is under the influence of alcohol or illegal drugs. Illegal drug use also includes the misuse of

otherwise legal prescription and over-the-counter drugs.

A. Assessment and Referral for Testing (For details, refer to Appendix B)

1. Employee is observed with unusual behavior by a non-supervisory co-worker.
2. Observation details should be forwarded to a supervisor on the same day as the behavior is observed. Preferably, the report should be made to the employee's supervisor.
3. Supervisor must take immediate action by seeking a collateral observation / assessment (Collateral Observer). One of the observers must be the supervisor of the employee with the unusual behavior or someone in the employee's supervisory chain.
4. Both supervisors must document their separate observations of the employee's behavior using the Observation form (See Appendix C)
5. The employee's supervisor (or other in the supervisory chain) must report the matter to HR/Employee Relations and to the Division Director.
6. With HR concurrence regarding reasonable suspicion, the responsible supervisor must meet with the employee to notify the employee and provide instructions.
7. Refusal by an employee to take an alcohol and drug test when requested will be considered a positive test result. The employee will be subject to disciplinary action in accordance with the Commonwealth of Virginia's Standards of Conduct policy and/or other applicable policies.
8. All employees who have been directed to the alcohol and drug screening vendor as a result of any of the circumstances described above will sign an authorization and consent form/Chain Of Custody releasing the information to the employer
9. The supervisor contacts the testing vendor. Choose a vendor from the List of Drug and Alcohol Testing Vendors posted on SPARK. Note the Purchase Order (PO) number at the top of the list.
10. The supervisor or a member of the employee's supervisory chain will transport the individual to the testing facility in a State provided vehicle with the Chain of Custody Form and the purchase order number.
11. The testing of the sample will be performed by the authorized screening vendor. The cost for all alcohol and drug tests will be paid by VDSS.
12. After testing, the supervisor transports the employee home or ensures a ride home.
13. The employee is placed on pre-disciplinary leave for the remainder of the work day. The employee may return to work the next day pending the receipt of test results. If there is a delay in the receipt of the test results, the employee will continue on paid pre-disciplinary leave until the results are received.

B. Test Results

1. HR will provide test results to the employee and the supervisor.

2. Should test results be reported as positive, the employee will be provided an opportunity to present evidence that would confirm the positive test result is from a legally prescribed medication.
3. If positive, a mandatory referral to the Commonwealth's Employee Assistance Program will be made and discipline considered.
4. The employee may submit a written request for a retest of the original specimen within 72 hours of the positive results notification. The retest will be at the employee's expense.
5. Any employee who tests positive for alcohol or drugs (regardless of the place of consumption) will be held to the standards of this policy and will be subject to disciplinary action in accordance with the Commonwealth of Virginia's Standards of Conduct policy. The supervisor will work with a member of the HR/Employee Relations team to determine any applicable actions.
6. All alcohol and drug testing information is confidential and will be held by the authorized drug/alcohol screening vendor.

Additional reasons to refer employees for testing include: the employee's involvement in a workplace accident or incident; and/or the employee's violation of a safety rule or regulation.

VI. ACCOUNTABILITY

A. Employees are responsible for being aware of and following all cautions associated with the use of prescription or non-prescription drugs.

B. VDSS can inquire as to the use of medications if there are concerns that the medication is possibly impacting performance and/or safety. This information will be requested if there is a need to assess the risk of permitting the employee to continue to work.

C. VDSS, in conjunction with the drug/alcohol screening vendor, has the right to determine whether an employee who is receiving legal medication should be allowed to continue working during his or her treatment due to possible safety and/or performance problems that could arise from certain legal drug use.

D. All medical and testing information will be kept secure and in a separate file from other personnel information in HR.

E. Employees are responsible for familiarity and compliance with the procedures as outlined in this guidance and/or the Commonwealth's policy.

F. Violations will result in disciplinary measures as outlined in the Commonwealth's

Standards of Conduct policy up to and including termination.

G. Any employee who violates this guidance or the Commonwealth policy may be required to participate satisfactorily in an appropriate rehabilitation program and/or be periodically retested as a condition of continued employment.

H. Managers/supervisors who are aware of or who should have been aware of the use of alcohol or drugs, whether or not a complaint has been made, and who allow it to continue or fail to take appropriate corrective action will be considered a party to the offense. They may be subject to disciplinary action under Policy 1.60, Standards of Conduct, Policy 1.05, Alcohol and Other Drugs, and/or other applicable policies, including demotion or discharge.

VII. EDUCATION

Employees must abide by the Commonwealth of Virginia's Policy on Alcohol and Other Drugs and this VDSS guidance. The guidance will be posted on SPARK with a link to the DHRM policy.

A. Employees must review and sign the "Alcohol & Drug Certificate of Receipt" form and return it to HR. See Appendix A.

B. Employees must complete the mandatory eLearning DHRM course, "HR Policy – Alcohol and Other Drugs" which is located in the VDSS Learning Management System (Knowledge Center).

C. The Division of Human Resources notifies all new employees of the availability of the Alcohol and Other Drugs guidance statement and provides this information during the induction process.

D. It is the employee's responsibility to read, understand, and agree to comply with the guidance statement.

E. A copy of the DHRM policy and VDSS guidance statement is accessed via SPARK and all VDSS employees have access to SPARK.

F. Communication and enforcement of these guidelines to all employees under direct or indirect supervision are the responsibility of each manager and supervisor.

G. The employee or staff member should direct any questions to his or her immediate supervisor. If additional clarification is needed or if the employee or staff member prefers, the Division of Human Resources may be contacted.

H. Employees should be aware that they have access to the Employee Assistance Program through the health provider(s) approved for the area of the Commonwealth where the employee resides.

I. Pursuant to DHRM policy, additional resources are available at the following State agencies:

   a. Department of Behavioral Health and Disability Services
   b. Department of Health
   c. Department of Aging and Rehabilitative Services
   d. Virginia Office for Protection and Advocacy

J. All supervisors will periodically complete training on how to handle "reasonable suspicion" situations.

K. Human Resources will communicate annually to remind employees of their responsibilities in relation to this guidance statement and the Commonwealth of Virginia's policy.

VIII. REFERENCES

A. Department of Human Resource Management Policy 1.05, Alcohol and Other Drugs
B. Department of Human Resource Management Policy 1.60, Standards of Conduct
C. Office of Fleet Management Services Policies and Procedures Manual

IX. APPENDICES

A – Alcohol & Drug Certificate of Receipt Form
B – Reasonable Suspicion Guide
C – Observation Form