



## NEW MEXICO JUDICIAL BRANCH

### GENERAL PERSONNEL POLICY AND PROCEDURE

Reference NMJBPR Part 1, Section 12.03

NMJBPR Part 2, Section 23.03

Inquiries: AOC HR (505) 827-4937 or 827-4810

Dev.: 12/1994; Rev: 1/24/07, 02/13/12

### DRUG-FREE AND ALCOHOL-FREE WORK PLACE POLICY

#### 1. PURPOSE

The manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol on Judicial Branch property when participating in any Judicial Branch training(s) or other associated job activities by any employee of the Judicial Branch is strictly prohibited. Possession or use includes any consumption of a controlled substance or alcohol during the work day, including work breaks and lunch. As a condition of employment, all employees shall abide by the terms of this policy. Violation of this policy shall result in disciplinary action, up to and including termination.

The New Mexico Judicial Branch is committed to protecting the safety, health and well being of all employees and other individuals in our workplaces. Additionally, the New Mexico Judicial Branch is committed to carrying out the provisions of the Federal Drug-Free Work Place Act of 1988 (Public Law 100-690) by providing a drug-free work place for any person who is a Federal grantee or Federal contractor.

*Justices and Judges, and all Judicial Branch employees, are expected to refrain from violations of this policy and alleged violations will be immediately reported to the appropriate authority for investigation.*

#### 2. DEFINITIONS

- A. **Administrative Authority** – Individual or designee with the primary responsibility to supervise and coordinate the administration of Judicial Entity, or as designated by the Chief Judge and approved by the Supreme Court order. (Ref: Administrative Authority, Appointing Authority and At-Will employee List Policy.)
- B. **Alcohol** – Consumable non-prescription substances, which contain alcohol such as, without limitation, spirits, wine, malt beverages and intoxicating liquors. (Changed 2/13/12)
- C. **Controlled Substance** – Any drug or other substance listed in schedules of the Controlled Substances Act (21 U.S.C. 812), and as further defined by 21 C.F.R. §1308.11 through 1308.15, and any material containing methamphetamines. Generally, these are drugs that have a high potential for abuse such as, but not limited to, marijuana, cocaine, opiates, phencyclidine (PCP), heroin, amphetamines and



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“crack;” metabolite of those drugs, or any non-prescription substance containing those drugs. A *controlled substance* also includes “legal drugs” that are not prescribed by or taken under the supervision of a licensed physician.

- D. Conviction** – A finding of guilt (including a plea of *nolo contendere*) or imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- E. Criminal Drug Statute** – A federal or non-federal criminal statute involving the manufacture, distribution, dispensation, use or possession of a controlled substance or alcohol.
- F. Drug Testing Coordinator** An employee appointed by the Administrative Authority for the respective Judicial Entity to coordinate drug testing.
- G. 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. The term includes block grant and entitlement grant programs.
- H. Judicial Branch Property** - Any court, office, training facility, vehicle, land, or other real property owned, leased, rented, occupied or operated by the State of New Mexico and/or the Judicial Branch.
- I. Just Cause** (examples) – Performance and/or behavior relating to the employee’s work that is inconsistent with the employee’s obligation to the employer and forms the basis for discipline. (17) Using, selling or possessing intoxicants or controlled substances. (18) Being under the influence of intoxicants or controlled substances while on duty. (Added 2/13/12)
- J. NMJBPR AWE** – New Mexico Judicial Branch Personnel Rules – Part II for at-will employees. (Added 2/13/12)
- K. NMJBPR** – New Mexico Judicial Branch Personnel Rules – Part I for employees. (Added 2/13/12)
- L. Work Place** - A site for the performance of work. This includes buildings and grounds for such sites. It also includes the location of any work-related travel between work sites or work-related travel in the course and scope of employment.



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#### 3. PROHIBITED BEHAVIORS

**A. Prohibited behaviors that will result in immediate remedial or disciplinary action by the Administrative Authority include:**

- (1) violations of laws related to controlled substances or alcohol;
- (2) unlawful use, possession, transfer or sale of alcohol, a controlled substance, or illegal drugs;
- (3) positive drug and/or alcohol test;
- (4) refusal of treatment or failure to participate in or successfully complete a treatment program;
- (5) combative behavior toward any person who attempts to implement this policy and the drug testing procedure (Ref: Drug/Alcohol Testing Policy).

#### 4. DISCIPLINARY ACTION

**A. The Administrative Authority will take immediate action against violators of law and this policy.**

- (1) Violations of law shall be referred to authorities for possible prosecution;
- (2) Violations of this policy shall result in:
  - a. The requirement of satisfactory participation in an approved private or governmental substance abuse treatment or educational program at the employee's expense, as a condition of employment; and/or
  - b. disciplinary action up to and including termination.



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#### **B. Voluntary Self-Identification**

**Disciplinary action will not be initiated if the employee, prior to being arrested for or reasonably suspected of drug or alcohol abuse and prior to being given notification of a required drug or alcohol test, voluntarily contacts the Administrative Authority or Drug Testing Coordinator for assistance.**

- (1) An employee who voluntarily identifies himself/herself as a user of drugs or abuser of drugs, controlled substances and/or alcohol will be referred to the Drug Testing Coordinator for referral and information regarding rehabilitation.
- (2) The employee will be afforded appropriate leave benefits under the NMJBPR and NMJBPR AWE, and must participate in a treatment program at their own expense, fully cooperate with the Administrative Authority and the Drug Testing Coordinator and successfully complete the treatment program. A provider's certification of completion is required. (Changed 2/13/12)

#### **5. DRUG-FREE WORK PLACE ACT OF 1988 & FEDERAL GRANTS**

- A. As a condition of further employment on any federal government grant, the law requires that all employees abide by this policy.
- B. All information received by the organization through the drug-free work place program is a confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management practices.
- C. An employee is required by law to notify the Administrative Authority within five (5) days in writing of his or her violation of any criminal drug law occurring in the work place.
- D. The Administrative Authority must notify the U.S. government agency with whom the grant or contract was made within ten (10) days after receiving notice from an employee, or other actual notice, of a conviction of a federal or state criminal drug statute occurring at the work place.



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#### 6. JUDICIAL ENTITY REQUIRED EDUCATIONAL PROGRAMS

**Judicial entities shall implement a drug and alcohol awareness program to inform employees about:**

- A. the dangers of drug and alcohol abuse;
- B. the policy to maintain a drug-free and alcohol-free work place;
- C. any available drug or alcohol counseling, rehabilitation and employee assistance programs; and
- D. the penalties that may be imposed upon employees for drug or alcohol abuse violations and convictions. (Ref: NMJBPR Full definition of Just Cause)

#### 7. REQUIRED DRUG-FREE AND ALCOHOL-FREE WORK PLACE EMPLOYEE ACKNOWLEDGMENT FORM

All Judicial Branch employees will be required to complete a Drug-Free and Alcohol-Free Work Place Acknowledgment Form within the first 30 days of employment. The signed form shall be maintained in the employee's personnel file. (Changed 2/13/12)

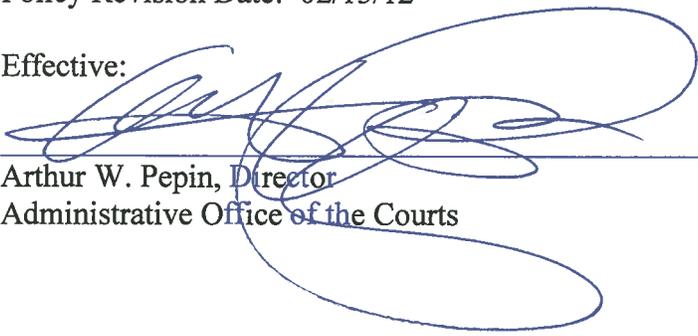
*If you are concerned about the alcohol or drug use of yourself or another, please contact the Administrative Authority or Drug Testing Coordinator, the Employee Assistance Program in your community or the AOC Human Resources Department for additional information.*

**Approved By Supreme Court Order #: 07-8500**

**Effective Date: January 24, 2007**

Policy Revision Date: 02/13/12

Effective:

  
Arthur W. Pepin, Director  
Administrative Office of the Courts

  
Date



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**DRUG-FREE AND ALCOHOL-FREE WORK PLACE  
AND  
DRUG/ALCOHOL TESTING**

**ACKNOWLEDGMENT FORM**

I, \_\_\_\_\_, acknowledge that I have  
(Print Name)

received, read and understand the Drug-Free And Alcohol-Free Work Place Policy, and the Drug/Alcohol Testing Policy, and I understand that I am responsible for adhering to these policies. I understand that being impaired *to any degree* by alcohol or a controlled substance while on duty for the New Mexico Judicial Branch will subject me to disciplinary action up to and including termination. I realize that the manufacture, distribution, dispensation, use or possession of a controlled substance or alcohol is prohibited on Judicial Branch property or when participating in any Judicial Branch training(s) or other associated activities or in any location where I am on duty performing work for the New Mexico Judicial Branch. Any violation of this policy shall subject me to disciplinary action up to and including termination.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

cc: Employee Personnel File

Dev: 1/2007, Rev: 2/13/2012