



*Policies and Procedures*  
**Drug and Alcohol Free Workplace**

Effective Date of Policy:	Next Scheduled Review: 1/2/2022
Last Reviewed:	Policy Number: OCC-04 (2021)
Date Policy Last Revised:	Replaces Policy Number:
Approved:	Approval Date:

Reference: [41 U.S.C. § 8101 et seq.](#), [40 O.S. § 551 et seq.](#), [63 O.S. § 420 et seq.](#), [63 O.S. § 425A](#), [63 O.S. § 427.1 et seq.](#), [63 O.S. § 420A et. seq.](#), [63 O.S. § 427.8](#), [Merit Rules](#), and [OAC 310: 681-1-1 et. seq.](#)

**A. Drug and Alcohol Free Workplace**

The Commission is a drug and alcohol free workplace. All Commission employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, using, or being under the influence of a controlled substance or alcohol during scheduled work hours; while operating a state vehicle; on state property; or at the employee’s workplace. In the case of medical marijuana “under the influence of” shall be replaced with “impaired by.” All Commission employees are also prohibited from soliciting prescription medication from employees, vendors, or customers. Employees who are under the influence of, use or possess alcohol or controlled substances in the workplace or otherwise violate this policy will be subject to discipline up to and including termination as well as any additional legal consequences.

Pursuant to [63 O.S. § 425](#), the Commission prohibits the possession and use of medical marijuana during hours of employment; while operating a state vehicle; while on state property; or at the employee’s workplace or assigned duty station and the Commission possesses the right to take action against an employee that violates this policy.

**B. Definitions**

"Alcohol" - Any intoxicating beverage or liquor.

"Controlled Substance" - A controlled substance in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by regulations at 12 CFR 1300.11 through 1300.15. Controlled Substances include but are not limited to: marijuana, including marijuana consumed or possessed with a medical marijuana license, cocaine, opiates, phencyclidine (PCP), and amphetamines as well as the various derivative compounds. This may include legal drugs that are not prescribed for the employee’s personal use by a licensed physician.

"Conviction" - A finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Medical Marijuana License" - A license issued by the Oklahoma Department of Health which allows a person with this license to consume and possess marijuana legally within the State of Oklahoma

subject to statutory restrictions and conditions. Only individuals with a medical marijuana license may legally use and possess marijuana in the State of Oklahoma.

"Workplace" - Any and all properties owned or leased by the State including buildings, land and vehicles; and physical sites not owned or leased by the State where employees of the State oversee and/or administer programs on behalf of the State Government.

### **C. Prohibitions and Reporting**

The legal use of prescribed drugs is permitted in the workplace or on the job only if they do not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger the employee or other individuals. Prescribed drugs do not include marijuana that is consumed and possessed legally with a valid medical marijuana license.

Commission employees shall not unlawfully manufacture, distribute, dispense, possess, use or be under the influence of alcohol or controlled substances during hours of employment, while operating a State vehicle, on State property, or at the employee's workplace or official work station. Violations may lead to disciplinary actions up to and including immediate termination. Violations may also lead to legal consequences including arrest and criminal penalties.

Under the Drug-Free Workplace Act, an employee must notify the Commission within five (5) days of any criminal conviction for any drug or alcohol related activity.

Any administrator operating programs involved, in whole or in part, in the performance of a federal contract or grant will notify the appropriate federal agency within ten (10) days after receiving notice of the conviction of any employee who is involved in performance of the contract or grant for violation of any federal, state or municipal drug or alcohol law provided the violation occurred in the workplace or during the employee's hours of employment.

### **D. Treatment**

Employees are encouraged to voluntarily seek treatment for alcohol or drug dependency. Evaluation and assessment services performed by the Employee Assistance Program are free and confidential. The EAP can also provide referrals to appropriate resources. Successful completion of a voluntary rehabilitation or treatment program will in no way jeopardize an employee's job opportunities at the Commission. However, seeking assistance from the EAP or a treatment or rehabilitation program will not protect an employee from disciplinary action for violation of this policy.

Employees with drug or alcohol addiction that have not resulted in and are not the immediate subject of disciplinary action may request approval to take leave (paid or unpaid) to participate in a rehabilitation or treatment program.

### **E. Alcohol and Drug Testing**

The Commission reserves the right to test employees for drug or alcohol use in the manner permitted by Standards for Workplace Drug and Alcohol Testing Act, [40 O.S. § 551 et seq.](#) Any employee may be required to submit to an alcohol or drug test for any reason(s) described in [40 O.S. § 554](#). The Executive Director may also require that applicants for employment at the Commission undergo alcohol or drug testing as a condition of employment. The Commission will pay the costs of any required testing. The time during which the employee is being transported and tested will be considered work time.

Circumstances which may result in an employee being required to take an alcohol or drug test for cause include, but are not limited to:

- Drugs or alcohol on or about the employee's person or vicinity.
- Employee conduct which suggests impairment or influence of drugs or alcohol.
- A report of drug or alcohol use in the workplace or during employee work hours.
- Information that the employee has tampered with drug or alcohol testing at any time.
- Negative performance patterns.
- Excessive or unexplained absenteeism or tardiness.

The Commission may require an employee to submit to post-accident alcohol or drug testing if the employee or another person is injured, or if State property or equipment has been damaged during work hours and/or at the workplace. A positive drug or alcohol test following a work-related injury may prevent the employee from being eligible for workers' compensation.

The Commission may employ any testing method or collection procedure authorized by the State Board of Health or permitted by [40 O.S. § 557](#). Refusal to undergo testing or a positive test result may result in discipline up to and including termination. However, employees shall be given the opportunity to explain a positive test result, in confidence. Employees may request a copy of test results from the Commission or from the testing facility.

#### **F. Safety-Sensitive Employees**

A small number of Commission employees are required to have CDL's and are considered safety-sensitive employees (See 49 CFR § 391.81 et seq.) **Watershed Technicians are considered safety-sensitive employees.** If a safety-sensitive employee tests positive for marijuana, even if such employee has a valid medical marijuana license issued by the State of Oklahoma, the employee will be removed from performing their safety-sensitive functions and appropriate disciplinary action will be taken.

#### **G. Records**

Records of all drug and alcohol test results and related information maintained by the Commission are the property of the Commission. It is the position of the Commission that such records are confidential and not subject to release under the Open Records Act. The Commission will maintain the records as confidential with the following statutory exceptions:

- Upon request by the employee, the Commission will make the records available for inspection and copying by the employee.
- The Commission or the employee may admit the records as evidence in a proceeding before a court or administrative agency if either the Commission or the employee is a named party to the proceeding.
- Records will be released in compliance with a valid judicial or administrative order.
- Records will be released to the Commission employees who require access in the administration of the Standards for Workplace Drug and Alcohol Testing Act.

#### **H. Appeals**

Disciplinary action taken as a result of this policy may be appealed through the grievance process.

*[Policy OCC-11: Grievance Process](#)*