



**Nevada Department of
Corrections**

**Drug-Free
Workplace**

Alcohol and Drug-Free Workplace Policy

The State of Nevada has a zero tolerance to the consumption of alcohol or drugs while on duty, reporting to work in an impaired condition, or to unlawfully possessing drugs while on duty, at a work site, or on State property. Included in the policy are provisions for pre-employment drug testing of applicants for positions affecting public safety, and the testing of employees when there is objective evidence that they may be under the influence of alcohol or drugs.

Be aware that the State's allowable concentrations of alcohol (0.01) for employees on duty is more stringent than those used by law enforcement for the general population. This standard was established to ensure that employees have the ability to safely and efficiently perform their assigned duties. An employee who violates this policy is subject to disciplinary action. Employees who test positive for the first time in a screening test and have committed no other acts during the course of conduct giving rise to the screening test must be referred to the Employee Assistance Program for consultation. If the employee has been convicted of driving under the influence while on State business, he will be subject to disciplinary action up to and including termination.

This policy is applicable to all classified and unclassified employees. The policy does not restrict agencies from augmenting the provisions of this policy with additional policies and procedures which are necessary to carry out the regulatory requirements of the Drug Free Workplace Act. A copy of the Department of Personnel's Alcohol and Drug Testing Program may be obtained by calling the Department of Personnel at (775) 684-0119. (Chapter

284.406-407 of the Nevada Revised Statutes and 284.880-894 of the Nevada Administrative Code)

Drug Free Workplace Policy

Alcohol and drug abuse and the use of alcohol and drugs in the workplace are issues of concern to the State of Nevada, Department of Corrections. It is the policy to this State to ensure that its employees do not:

- Report for work in an impaired condition resulting from the use of alcohol or drugs
- Consume alcohol while on duty
- Unlawfully possess or consume any drugs while on duty, at a work site or on State property

Any employee who violates this policy is subject to disciplinary action. The specifics of the policy are:

1. As provided by statute, any State employee who is under the influence of alcohol or drugs while on duty is subject to a screening test for alcohol, drugs, or both.
2. Emphasis will be on rehabilitation and referral to an employee assistance program when an employee is under the influence of alcohol or drugs while on duty. The appointing authority shall,

however, take into consideration the circumstances and actions of the employee in determining appropriate disciplinary action.

3. Any State employee who is convicted of violating a federal or state law prohibiting the sale of a controlled substance must be terminated as required by NRS 193.105, regardless of where the incident occurred.
4. Any State employee who is convicted of driving under the influence in violation of NRS 484.379 or of any other offense for which driving under the influence is an element of the offense is subject to discipline up to and including termination if the offense occurred while he was driving a State vehicle or a privately owned vehicle on State business.
5. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace is prohibited. Any State employee who is convicted of unlawfully giving or transferring a controlled substance to another person or who is convicted of unlawfully manufacturing or using a controlled substance while on duty or on the premises of a State agency will be subject to discipline up to and including termination.
6. The term, “controlled substance” means any drug defined as such under the regulations adopted pursuant to NRS 453.146.

Many of these drugs have a high potential for abuse. Such drugs include, but are not limited to, heroin, marijuana, cocaine, PCP, and “crack”. They also include “legal drugs” which are not prescribed by a licensed physician.

7. Each State employee is required to inform his or her employer in writing within five days after he or she is convicted for violation of any federal or state criminal drug statute when such violation occurred while on duty or on the employer’s premises.
8. Any agency receiving a federal contract or grant must notify the federal agency which authorized the contract or grant within ten days after receiving notice that an employee of the agency was convicted within the meaning used in paragraph 7, above.

This policy is applicable to all classified and unclassified employees of agencies in State government. Specific federal guidelines, statutory provisions and regulations applicable to this policy are set down in the Drug-Free Workplace Act and Chapter 284 of the Nevada Revised Statutes and Nevada Administrative Code.

USE OF ALCOHOL OR DRUGS BY EMPLOYEES

NEVADA REVISED STATUTES (NRS)

NRS 284.406 Policy concerning use of alcohol or drugs by state employees. It is the policy of this state to ensure that its employees do not:

1. Report for work in an impaired condition resulting from the use of alcohol or drugs;
2. Consume alcohol while on duty; or
3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property.

(Added to NRS by 1991, 1348)

NRS 284.4061 Definitions. As used in [NRS 284.406](#) to [284.407](#), inclusive, unless the context otherwise requires:

1. “Employee” means a person in the classified or unclassified service of the state.

2. “Screening test” means a test of a person’s:

(a) Breath or blood to detect the general presence of alcohol; or

(b) Urine to detect the general presence of a controlled substance or any other drug,

which could impair that person’s ability to perform the duties of employment safely and efficiently.

(Added to NRS by 1991, 1348; A 1993, 2252; 2001, [1441](#))

NRS 284.4062 Employee who consumes or is under the influence of alcohol or drugs or who possesses controlled substance on duty is subject to disciplinary action; state agency required to refer certain employees to employee assistance program.

1. Except as otherwise provided in subsection 3, an employee who:

(a) Consumes or is under the influence of alcohol while on duty, unless the alcohol is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer’s instructions or in accordance with a lawfully issued prescription;

(b) Possesses, consumes or is under the influence of a controlled substance while on duty, at a work site or on state property, except in accordance with a lawfully issued prescription; or

(c) Consumes or is under the influence of any other drug which could interfere with the safe and efficient performance of his duties, unless the drug is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer’s instructions or in accordance with a lawfully issued prescription, is subject to disciplinary

action. An appointing authority may summarily discharge an employee who, within a period of 5 years, commits a second act which would subject him to disciplinary action pursuant to this subsection.

2. A state agency shall refer an employee who:

(a) Tests positive for the first time in a screening test; and

(b) Has committed no other acts for which he is subject to termination during the course of conduct giving rise to the screening test, to an employee assistance program. An employee who fails to accept such a referral or fails to complete such a program successfully is subject to further disciplinary action.

3. Subsection 1 does not apply to:

(a) An employee who consumes alcohol in the course of his employment while hosting or attending a special event.

(b) A peace officer who possesses a controlled substance or consumes alcohol within the scope of his duties.

(Added to NRS by 1991, 1348; A 1995, 1714)

NRS 284.4063 Grounds for disciplinary action: Failure to notify supervisor after consuming certain drugs; failure or refusal to submit to screening test; failure of screening test. Except as otherwise provided in subsection 5 of [NRS 284.4065](#), an employee who:

1. Fails to notify his supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of his duties;

2. Fails or refuses to submit to a screening test as requested by a state agency pursuant to subsection 1 or 2 of [NRS 284.4065](#); or

3. After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by his appointing authority, that he had taken the controlled substance as directed pursuant to a current and lawful prescription issued in his name,
is subject to disciplinary action.

(Added to NRS by 1991, 1349; A 1993, 2252)

NRS 284.4064 Appointing authority authorized to require employee who has consumed drug to obtain clearance from physician; inquiry regarding use of alcohol or drug by employee; preventing employee from continuing work.

1. If an employee informs his appointing authority that he has consumed any drug which could interfere with the safe and efficient performance of his duties, the appointing authority may require the employee to obtain clearance from his physician before he continues to work.

2. If an appointing authority reasonably believes, based upon objective facts, that an employee's ability to perform his duties safely and efficiently:

(a) May be impaired by the consumption of alcohol or other drugs, it may ask the employee whether he has consumed any alcohol or other drugs and, if so:

(1) The amount and types of alcohol or other drugs consumed and the time of consumption; and

(2) If a controlled substance was consumed, the name of the person who prescribed its use.

(b) Is impaired by the consumption of alcohol or other drugs, it shall prevent the employee from continuing work and transport him or cause him to be transported safely away from his place of employment in accordance with regulations adopted by the director.

(Added to NRS by 1991, 1349)

NRS 284.4065 Screening tests: General provisions.

1. Except as otherwise provided in subsection 2, an appointing authority may request an employee to submit to a screening test only if the appointing authority:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently;

(b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and

(c) Informs the employee in writing:

(1) Of whether the test will be for alcohol or drugs, or both;

(2) That the results of the test are not admissible in any criminal proceeding against him; and

(3) That he may refuse the test, but that his refusal may result in his dismissal or in other disciplinary action being taken against him.

2. An appointing authority may request an employee to submit to a screening test if the employee:

(a) Is a law enforcement officer and, during the performance of his duties, he discharges a firearm, other than by accident; or

(b) During the performance of his duties, drives a motor vehicle in such a manner as to cause bodily injury to himself or another person or substantial damage to property.

For the purposes of this subsection, the director shall, by regulation, define the term "substantial damage to property."

3. An appointing authority may place an employee who submits to a screening test on administrative leave with pay until the appointing authority receives the results of the test.

4. An appointing authority shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after it receives those results.

5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.

6. An appointing authority shall not use a screening test to harass an employee.

(Added to NRS by 1991, 1350; A 1993, 2253; 1997, 1606)

USE OF ALCOHOL OR DRUGS

NEVADA ADMINISTRATIVE CODE

NAC 284.880 Definitions. As used in [NAC 284.880](#) to [284.894](#), inclusive, unless the context otherwise requires:

1. “Employee” has the meaning ascribed to it in subsection 1 of [NRS 284.4061](#).

2. “Screening test” has the meaning ascribed to it in subsection 2 of [NRS 284.4061](#).

(Added to NAC by Dep’t of Personnel, eff. 12-26-91)

NAC 284.882 Administration of screening tests. ([NRS 284.407](#)) A screening test to detect the general presence of:

1. A controlled substance must comply with the standards and procedures established by the Department of Health and Human Services which are hereby adopted by reference. A copy of the standards and procedures is available, without charge, from the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of

Workplace, 5600 Fishers Lane, Parklawn Building, 13A-54, Rockville, Maryland 20857.

2. Alcohol by testing a person's breath must be conducted by an operator certified in accordance with [NAC 484.640](#) using a breath-testing device certified in accordance with [NRS 484.3882](#) and [NAC 484.660](#).

NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. ([NRS 284.155](#), [284.407](#))

1. An employee must not have a concentration of alcohol in his blood or breath greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of [NAC 284.638](#) to [284.656](#), inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.

2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001)

NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception.

1. Except as otherwise provided in this section, an applicant for a position that is designated by the personnel commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he is employed by the state in a position that is also designated as affecting public safety at the time he applies.

2. A person who has been laid off from a position affecting public safety and who is reemployed in a class affecting public safety within 1 year after the date he was laid off is not required to submit to a screening test pursuant to this section.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 3-23-94)

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form.

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his duties safely and efficiently include, but are not limited to:

(a) The operation of a motor vehicle by the employee in any manner that causes bodily harm;

(b) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(c) The odor of the breath of the employee and a decline in job performance that is not otherwise normally explainable;

(d) Observation of the employee consuming alcohol and a resulting decline in job performance that is not otherwise normally explainable; or

(e) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source.

2. Pursuant to subsection 2 of [NRS 284.4065](#), “substantial damage to property” includes, but is not limited to:

(a) The operation of a motor vehicle in such a manner as to cause more than \$2,500 worth of property damage; or

(b) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

3. Before requiring an employee to submit to a screening test, a supervisor must complete a form provided by the department of personnel.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91)

NAC 284.890 Transportation of employee to and from location of screening test. If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the employee submits to the screening test, the appointing authority shall provide transportation for the employee to his home.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91)

NAC 284.892 Duties of employee who is referred to employee assistance program.

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to [NAC 284.653](#), he shall provide to the appointing authority:

(a) Evidence of his consultation with a counselor employed by an employee assistance program; and

(b) Any recommendation of the counselor with respect to his rehabilitation,

within 5 working days after the date of the initial consultation.

2. The employee shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to his rehabilitation.

3. The employee shall provide to the appointing authority evidence of his completion of any rehabilitation program recommended by the counselor within 5 working days after his completion of the program.

4. An employee who fails to provide evidence of his consultation with a counselor or successful completion of a rehabilitation program is subject to disciplinary action.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)

NAC 284.894 Treatment of applicant who tests positive; treatment of employee who twice tests positive within period of 5 years.

1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing until:

(a) One year has passed from the time of the positive test; or

(b) The applicant provides evidence that he has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A