

Office of Financial Institutions
DRUG-FREE WORKPLACE

I. PHILOSOPHY

The Office of Financial Institutions (OFI) is totally committed to deterring substance abuse or use which imperils the health and well-being of our employees and the citizens of this State. To accomplish this, OFI hereby adopts this Substance Abuse and Drug-Free Workplace Policy which will enhance the safety and welfare of our employees, increase overall productivity and the quality of our service to the public. Compliance with this policy will also promote public safety, reduce absenteeism and job-related accidents.

OFI's philosophy is consistent with the State of Louisiana's long-standing commitment to establish a drug-free workplace. To deter the use of illegal drugs by employees of the State of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for State employees. Further, the Governor of the State of Louisiana issued Executive Order BJ 08-69 providing for the promulgation of written policies mandating drug testing of employees and prospective employees in accordance with Louisiana Revised Statute 49:1001 et seq. OFI fully supports these actions and is committed to maintaining a drug-free workplace.

II. APPLICABILITY

This policy applies to all employees and potential employees of OFI, regardless of status, whether classified, unclassified, student, full-time, part-time or temporary.

III. REQUIREMENTS

To maintain a safe and productive work environment, all OFI employees are required to:

1. Report for duty in the physical and emotional condition which maximizes his/her ability to perform assigned tasks in a competent and safe manner;
2. Promptly and cooperatively submit to drug/alcohol testing as directed;
3. Notify a supervisor, prior to or immediately upon reporting for duty, when he/she has reason to believe that prescribed or over-the-counter medication may impair his/her ability to perform customary job duties or otherwise create a safety hazard;

NOTE: While the duration that the medication will be taken should be disclosed, employees should know that it is not necessary to disclose the medication taken or the condition for which it was prescribed. Such information may be required to be disclosed to OFI's Medical Review Officer should circumstances or the nature of the employee's job duties warrant.

4. Notify a supervisor on the first scheduled workday following any arrest or conviction for DWI, drug or drug-related offense, whether such occurs on or off duty.

IV. PROHIBITIONS

To maintain a safe and productive work environment, OFI prohibits:

1. The use, abuse and presence of illegal or unauthorized drugs and other prohibited substances in the bodies of its employees while on duty or engaged in OFI business, on or off OFI premises;
2. The use, abuse and presence of alcohol in the bodies of its employees while on duty or engaged in OFI business, on or off OFI premises;
3. Buying, selling, dispensing, distributing or possessing illegal or unauthorized drugs and other prohibited substances while on duty, in a OFI vehicle or on OFI premises; and
4. Possessing alcohol while on duty, in an OFI vehicle or on OFI premises.

NOTE: Illegal or unauthorized drugs and other prohibited substances include any drug which is not legally obtainable; any drug which is legally obtainable, that has been illegally obtained; prescription drugs not being used in accordance with the prescription; or any substance which affects the employees ability to safely and competently perform assigned duties.

V. DRUG/ALCOHOL TESTING

All employees may be required to submit to drug and/or alcohol testing as a condition of employment, as a condition of continued employment, or as a condition of promotion, demotion, reassignment or detail to a safety-sensitive or designated position. Whether announced or unannounced, tests will be administered under the following circumstances:

1. **Pre-Employment:** Drug tests are required of all prospective employees of OFI. Each prospective employee shall be required to submit to drug screening at the designated time and place following a job offer. In accordance with applicable state law, a prospective employee testing positive for the presence of a prohibited substance shall be eliminated from consideration for employment.

NOTE: Once an offer is made, the applicant has 48 hours within which to submit to testing by the designated testing facility. If the testing process is not completed within 48 hours, the employment offer must be withdrawn even if the test result is negative. Therefore, it is imperative that the supervisor responsible for the interview/selection process advise the applicant of the firm timeline for testing. Any applicant who fails to submit to testing within the designated 48-hour period cannot be reconsidered for employment by OFI for six months.

2. **Post-Accident/Incident:** Any employee directly involved in an on-duty accident shall be required to submit to drug and alcohol testing if:
 - a) The accident involves circumstances giving rise to a reasonable suspicion that the accident may have involved the employee's drug or alcohol use and the employee's action or inaction may have been a causative factor;
 - b) The accident meets the criteria of paragraph (a) and results in or causes the release of hazardous waste as defined by La. R.S. 30:2173(2) or hazardous materials as defined by La. R.S. 32:1502(5); or
 - c) The accident results in a fatality or serious bodily injury.
3. **Random:** Random alcohol and drug testing is required of all employees holding the safety-sensitive or designated positions listed in Appendix A. Such testing shall be periodic and unannounced, and employee selection therefor shall be by a computer-generated random selection process. All such testing shall, unless impracticable, occur during the employee's normal work hours.
4. **Promotion/Reassignment to Safety-Sensitive Position:** Current employees are required to undergo drug and alcohol testing prior to being reassigned, temporarily detailed, promoted or demoted to the safety-sensitive or designated positions defined in Appendix A. An offer of promotion, reassignment, detail or demotion will be withdrawn if a positive drug or alcohol test result is reported, and employees are further subject to disciplinary action as specified in this policy.

5. **Reasonable Suspicion:** An employee shall be required to submit to drug and alcohol testing when he/she exhibits behavior or appearance that is characteristic of drug or alcohol use. Reasonable suspicion is a belief, based upon reliable, objective and articulable facts derived from direct observation of specific physical and behavioral characteristics (physical manifestations, speech, appearance, odor), which causes a prudent person to suspect that an employee has engaged in drug or alcohol use. The decision to test will be made by the appointing authority, with the basis for such testing memorialized in writing.

6. **Return-to-Duty/Rehabilitation Monitoring:** An employee who retains his/her job following a violation of this policy shall be required, at his/her own expense, to undergo and complete any and all treatment recommended by a certified substance abuse professional. Such employee shall also be subject to periodic drug/alcohol testing. Further, any employee who voluntarily or, as a condition of continued employment, participates in an alcohol/substance abuse rehabilitation program shall be subject to random drug/alcohol testing for a minimum of one year or longer as determined by the treating substance abuse professional. Any such employee shall be required to certify, in writing, his/her understanding and acceptance of such a rehabilitation agreement as a condition of returning to work.

NOTE: When post-accident/incident or reasonable suspicion testing is ordered, an OFI representative shall transport the individual being tested to and from the testing site. Under no circumstance should any employee who is reasonably believed to be impaired or under the influence of any drug or alcohol be permitted to operate a motor vehicle.

VI. DRUG TESTING PROCEDURES

Drug testing pursuant to this policy shall be for the presence of marijuana, opiates, cocaine, amphetamine/methamphetamine and phencyclidine (PCP) in accordance with La. R.S. 49:1001 et seq. At a minimum, the testing procedure shall assure that:

1. All specimens for drug testing are collected, stored, transported and tested in compliance with U.S. Department of Health and Human Services (DHHS) guidelines (and applicable federal and state regulations) to ensure integrity of the testing process.

2. Urine specimens will be collected with emphasis upon the privacy rights of the employee. Direct observation of the employee during collection of the urine specimen will be allowed only under the following conditions, and then only by same gender collection site personnel;

- a. When there is specific, articulable reason to believe that the individual may alter or substitute the specimen;
 - b. When the individual has provided a urine specimen which falls outside the acceptable temperature range;
 - c. When the last urine specimen provided by the individual was verified by the Medical Review Officer as adulterated; or
 - d. When collection site personnel observe conduct or behavior indicating an attempt to substitute/adulterate the sample or otherwise alter the integrity of the collection process.
3. The split sample collection methodology must be used in accordance with La. R.S. 49:1006(D) with both the primary and split specimens properly stored and transported to the testing laboratory.
 4. Appropriate chain of custody forms shall be utilized to ensure the integrity of each urine specimen by tracking its handling, storage and transportation from point of collection to final disposition.
 - 5.. Testing shall be performed by laboratories certified for forensic urine drug testing by the DHHS and in strict compliance with DHHS Guidelines.
 6. The dual testing methodology shall be used for all samples. Each primary sample that tests positive for a prohibited substance shall be subjected to an additional, more precise confirmatory test (gas chromatography/mass spectrometry).
 7. All positive test results shall first be reported by the testing laboratory to OFI's qualified Medical Review Officer (MRO). The MRO will review the collection procedure, chain of custody and testing methodology before contacting the employee/applicant to rule out the possibility of error or that medication, medical history or any other condition caused the positive test result.
 8. If the test is confirmed to be positive by the MRO, the employee may, within 72 hours of notification from the MRO, request, in writing, directly to the MRO, that the split specimen (initially collected but separated and stored during the collection process) be tested in a different DHHS certified laboratory. This split sample testing shall be allowed if timely requested and performed at the employee's expense.
 9. Once a positive test is confirmed and reported to OFI by the MRO, an employee in a safety-sensitive or designated position will be prohibited from performing customary duty assignments. A request for testing of the split sample will not delay the employee's removal from performing his/her customary duties; and

10. If testing of the split specimen results in a negative result, the MRO will cancel the positive result of the initial test. All doubts shall be resolved in favor of the employee.

VII. ALCOHOL TESTING PROCEDURES

Evidential Breath Testing Devices (EBT) approved by the National Highway Traffic Safety Administration will be used by certified Breath Alcohol Technicians to determine the presence of alcohol in the employee's system. The presence of alcohol in violation of this policy is indicated by a confirmed blood alcohol concentration of 0.02 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

The employee will be advised of the results of the breath-screening test. No further testing will be required if the test results are negative. If the screening test is positive for the presence of alcohol, a confirmation test will be performed.

A test will be reported as positive to the appointing authority whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath or an adequate amount of breath (excluding medical inability), or fails to cooperate with the testing procedure in any way that prevents completion of the test.

VIII. ENFORCEMENT

The use of illegal drugs, unauthorized alcohol and other controlled or unauthorized substances will not be tolerated. Substance abuse endangers the health and well-being of our employees, prevents quality service to the public and is inconsistent with OFI's mission. While OFI's position is firm, any reasonable doubt regarding the testing procedure or results will be resolved in the employee's favor.

Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided pre-deprivation notice and a meaningful opportunity to respond prior to the imposition of disciplinary action.

1. Penalty for a first positive test:

A first positive test (drug or alcohol) will result in disciplinary action up to and including the possibility of termination. The minimum disciplinary action will be a ten workday suspension without pay. Factors to be considered in determining the appropriate sanction include, but are not limited to, the employee's work history, length of service, current job performance, the existence of prior disciplinary action and the circumstances under which the testing process was required.

Once a positive test result is confirmed by the MRO, the employee will be placed off from work until the appointing authority determines the proper sanction to be imposed. The employee may be required to obtain a substance abuse evaluation from a certified substance abuse professional, at his/her own expense, for determining the level of use/misuse of prohibited drugs or alcohol.

If the decision is made to afford the employee a second chance, he/she will be required to participate in and complete any regimen of treatment recommended by the substance abuse professional. Additionally, he/she will be required to sign a Rehabilitation Covenant, as a condition of continued employment, which will require additional, periodic testing for prohibited substance use and which affirmatively sets forth that the employee will be terminated if he/she again submits a positive urine/breath test result.

This process will generally be completed within thirty days from the date of disclosure of the positive test result by the MRO, during which time the employee may be required to utilize accrued annual or compensatory leave. Refusal to participate in the evaluation/treatment process, at the employee's expense, will result in termination.

2. Termination will be the recommended penalty for the following violations:
 - a. Second positive drug test result or confirmed blood alcohol level above the applicable thresholds;
 - b. Refusal to submit to a drug or alcohol test;
 - c. Failure to cooperate in any way which prevents the completion of a drug or alcohol test;
 - d. Submission of an adulterated or substitute sample for testing;
 - e. Buying, selling, dispensing, distributing or possessing alcohol or any illegal or unauthorized substance while on duty, in a OFI vehicle or on OFI premises; and
 - f. Operating an OFI vehicle or personal vehicle while on duty under the influence of drugs or alcohol where testing administered by an authorized official confirms a violation of this policy.

IX. CONFIDENTIALITY/EMPLOYEE RIGHTS

All drug and alcohol testing results and records (including all information, interviews, reports and statements) are considered confidential communications pursuant to La. R.S. 49:1012 and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in an administrative or disciplinary proceeding or civil litigation where drug use by the tested individual is relevant. Exceptions to these confidentiality provisions are limited to written employee consent; federal agencies when licensure or certification actions are required; to a decision-maker in arbitration, litigation or administrative proceedings arising from a positive drug test; and as otherwise required by law.

OFI has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in this policy will be construed to preclude the delivery of any illegal drug, controlled dangerous substance or other substance prohibited by this policy discovered in/on OFI property, or upon the person of an OFI employee to law enforcement officials. Likewise, any employee in possession of or engaged in the sale, attempted sale, distribution or transfer of illegal drugs or controlled substances while on duty or on OFI property shall be referred to appropriate law enforcement authorities.

X. EMPLOYEE ASSISTANCE

Early recognition and treatment of drug abuse or dependency are essential to successful rehabilitation. Employees experiencing a substance abuse problem are encouraged to seek assistance. Any such involvement will be held in strict confidence, but employees should know that supervisors (who need to know) will be kept abreast of the employee's treatment and leave needs.

Employees who, as a condition of continued employment, participate in a substance abuse rehabilitation program will be subject to the Return-to-Duty/Rehabilitation Monitoring testing set forth in this policy.

XI. GENERAL PROVISIONS

OFI reserves the right to have a licensed physician, of its own choosing and at its own expense, determine if use of prescription medication produces effects which impair the employee's performance or increase the risk of injury to the employee or others. In such case, OFI will modify the employee's customary job duties or work activities for the period the employee is unable to safely perform his/her customary job duties. Alternatively, the employee may be required/permitted to use accrued leave.

Although the substance abuse testing defined in this policy is restricted to five specified drugs and alcohol, OFI reserves the right to require employees to submit to additional testing, if warranted. Such tests will only be administered when post-accident or reasonable suspicion testing produce negative results and the employee's behavior clearly indicates impairment or other indicia of substance use. Separate samples will be collected for these additional tests and the testing process will fully comply with DHHS regulations.

XII. QUESTIONS

Any questions regarding the interpretation or enforcement of this policy should be addressed to Human Resources.

APPROVED BY:



March 24, 2011

John Ducrest, CPA
Commissioner

Date

APPENDIX A

**(OFI CURRENTLY HAS NO EMPLOYEES ENCUMBERING POSITIONS
DESIGNATED AS SAFETY-SENSITIVE OR SECURITY-SENSITIVE)**

OFFICE OF FINANCIAL INSTITUTIONS

EMPLOYEE ACKNOWLEDGMENT

My signature hereon acknowledges that:

- 1) I have received a copy of OFI's Drug-Free Workplace Policy;
- 2) I have read this policy;
- 3) I understand the content of this policy;
- 4) I agree to comply with the terms and provisions of this policy; and
- 5) I acknowledge that compliance with this policy is a condition of employment and continued employment by OFI.

EMPLOYEE SIGNATURE

PRINT NAME

DATE