



TACOMA HOUSING AUTHORITY

Policy No.	HR-40.15
Policy	Drug and Alcohol Free Workplace
Date	October 29, 2010

1. Purpose

This policy prohibits unlawful drug activity, alcohol use or misuse of medications at the workplace. It also governs the use of alcohol at an event sponsored by THA or one of its partners. This policy has three primary purposes. **First**, THA means it to comply with the requirements of the Drug Free Workplace Act of 1988 and HUD's implementing regulations. The policy also extends beyond that Act to restrict the work-place use or possession of alcoholic beverages or over-the-counter medications or other substances that impair safe or productive work. **Second**, THA means the policy to help provide a safe and productive workplace for all employees free from the effects of unlawful drug activity. **Third**, within the limits of the first two purposes, THA intends to encourage employees afflicted with substance abuse to seek treatment.

2. Sources for Policy

- ▶ Drug Free Workplace Act of 1988, 41 U.S.C. § 701 *et seq*; 24 C.F.R. § 24.600 *et seq*
- ▶ THA Policy HR-10.50 Discipline of Regular Employees

3. Scope of Policy

This policy applies to all THA employees.

4. Who is Responsible for Implementing Policy

Who	Responsibilities
<i>All staff</i>	<ul style="list-style-type: none"> ▶ perform their duties safely and effectively in the interests of their fellow workers and the public, as well as themselves ▶ be responsible for reviewing and complying with the provisions of this policy, and applying the policy in an ethical, reasonable and legal manner ▶ refrain from illegal drug activity, prohibited use of alcohol, or the use of other drugs that impair work performance while at the workplace or on THA business. NOTE: Reasonable accommodation may be made for an employee whose use of a prescription medication impairs his or her work performance or ability to work in a safe manner ▶ promptly report to THA if they are convicted of illegal drug or alcohol activity at the workplace or on THA business

<i>Human Resource Dept.</i>	<ul style="list-style-type: none"> ▶ inform all staff of this policy ▶ responsible for administering the Employee Assistance Program (EAP) ▶ responsible for administering any testing required by this policy
<i>Supervisors</i>	<ul style="list-style-type: none"> ▶ assure that employees have access to the Employee Assistance Program, if available for their position ▶ Promptly inform their Department Director and the HR Department of any incidents of suspected or actual abuse ▶ inform HUD's Grant Manager within ten (10) calendar days should THA learn that any employee is convicted of drug related activity at the workplace while engaged in HUD grant activity

5. Definitions

<i>Alcoholic beverages</i>	Beverages containing alcohol.
<i>Controlled Substances</i>	Substances listed in schedules I through V of the Controlled Substances Act, 21 U.S.C. § 812 and as further defined by regulation at 21 C.F.R. § 1308.11 through 1308.15. This list includes, but is not limited to, marijuana, heroin, PCP, cocaine, methamphetamines, and amphetamines.
<i>Conviction</i>	Finding of guilt (including a plea of nolo contendere, deferred prosecution, referral to drug court or other similar disposition) by any judicial body charged with the responsibility to determine violations of federal or state criminal statutes involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.
<i>Medicine</i>	Over-the-counter or prescription medication.

6. Forms Associated with this Policy

<i>THA Form HR-40.15(1)</i>	<i>Consent to Drug and Alcohol Testing and Release of Test Results</i>
<i>THA Form HR-40.15(5)</i>	<i>Conditions of Continued Employment: Last Chance Agreement</i>

7. Policy

7.1 Prohibited Behavior

All THA staff, while at work, are prohibited from engaging in the unlawful manufacture, distribution, dispensing, sale, possession or use of a controlled substance.

All THA staff are prohibited from drinking or being under the influence of alcohol while at work; provided that this policy does not preclude the moderate consumption of alcoholic beverages served at agency-sponsored events or events sponsored by agency partners.

Any employee who uses a prescription medicine that may impair work performance or the ability to work safely must report such situation to their supervisor or the Human Resource Department. Employees who take non-prescription medicine that contains a cautionary label regarding the use of machinery or operation of vehicles must notify their supervisor before commencing such work. THA may make reasonable accommodations as appropriate and necessary in such situations.

7.2 Convictions of Drug or Alcohol Related Crimes on the Workplace

A criminal conviction that an employee engaged in drug or alcohol related conduct at the workplace shall be conclusive evidence that the employee violated this policy. However, a criminal conviction is not necessary to support THA's conclusion that an employee has violated this policy. THA may judge that other sources of evidence are adequate to support such a conclusion.

7.3 Consequences of Violating this Policy

Violations of this policy shall result in one or both of the following, at THA's sole discretion:

7.3.1 Required Treatment and Other Conditions

THA may impose conditions on the employee's continued employment, which may include but not be limited to the following:

- (a) successfully complete substance abuse treatment, including all after-care requirements, approved by the Human Resources Department;
- (b) return to work only upon a counselor's written release that the employee is drug free and fit for work; in the meantime, the employee shall be on sick leave or annual leave, and, if he or she has exhausted his or her leave, on unpaid leave status;
- (c) agree to submit to periodic drug testing following return to work.
- (d) The conditions of continued employment shall be set forth in *THA Form HR-40.15(5) Conditions of Continued Employment; Last Chance Agreement*. Violations of these conditions would normally result in termination.

7.3.2 Discipline

Violations of this policy subject the employee to discipline, up to and including termination.

7.4 Voluntary Substance Abuse Program

A THA employee who seeks assistance with a drug or alcohol problem is governed by this Section 7.4. This Section 7.4 does not apply to any employee who has violated this policy or the terms of a Last Chance Agreement.

7.4.1 Referral

THA will refer employees who seek assistance for substance abuse problems with controlled substances, alcohol, or medicines to an appropriate treatment program. THA also may make such referrals in response to THA's own observations of events or behavior that suggest a problem, or in response to information or a request for intervention from other persons.

7.4.2 Participation

All participation in substance abuse programs is generally voluntary. THA reserves the right to make a mandatory referral as a required condition of employment as a result of a violation of this policy, violation of other THA policies or for other performance reasons.

7.4.3 Confidentiality and Record Keeping

An employee's report that he or she has a substance abuse problem, his or her request for a referral to a substance abuse program, and a referral to such a program shall be confidential. This means the following:

- (a) Only those persons in the chain of responsibility for arranging the referral and the employee's supervisor will be made aware of the treatment request and treatment;
- (b) THA will not record the request or referral as part of the employee's personnel file;
- (c) However, any related work performance issues or disciplinary actions cannot be held confidential.

7.4.4 Effect of Treatment on Employment

A referral to or a request for substance abuse program treatment shall not solely by itself jeopardize an employee's job security. A direct request by the employee for assistance will not be made a part of the employee's personnel file. Employees will not have job promotional opportunities jeopardized because of a request for help from EAP or their involvement in a drug treatment program.

7.4.5 Benefits

Any employee requesting or participating in a recommended substance abuse programs will be eligible for health care benefits as available under normal insurance coverage. Any employee who is in an approved

treatment program and, for that reason, is not able to return to work, will be on applicable sick leave, annual leave, or approved leave without pay status until completion of the treatment program. An employee who fails to timely complete a treatment program may be subject to disciplinary action or a mandatory referral.

7.5 Drug Testing or Substance Abuse Treatment Evaluation

THA may require or provide a drug testing or substance abuse treatment evaluation for an employee or volunteer in the following circumstances:

7.5.1 Occasions for Drug or Alcohol Testing or Treatment Evaluation

(a) Pre-Employment Testing:

THA will require pre-hire drug or alcohol screening only for employees being considered for any position requiring the use of machinery. A person is not eligible for these positions if the drug test indicates that he or she uses or abuses controlled substances. Volunteers who drive THA vehicles will be required to take a drug or alcohol screening before they are allowed to drive.

(b) Post Accident

THA will require drug or alcohol testing of any employee performing work-related activity involved directly or indirectly in any accident or near miss that resulted (or could have resulted) in any injury requiring outside medical attention (at the time of the incident or thereafter) or which resulted (or might have) in property loss or damage.

(c) For Reasonable Suspicion

THA may require an employee to submit to a drug or alcohol test or treatment evaluation if it has reasonable suspicion to believe that the employee while working is under the influence of a controlled substance or alcohol or his or her work performance is impaired by the use of controlled substances or medicines. For example, testing may be required as a result of any one (or any combination) of the following:

- Observable symptoms of use or of being under the influence of alcohol or drugs;
- The odor or smell of alcohol or drugs on the employee's breath or clothes or in an area (such as in a vehicle, office, work area or restroom) immediately controlled or occupied by the employee;
- Alcohol, alcohol containers, illegal drugs or drug paraphernalia in the employee's possession or in an area (such as in a vehicle,

office, work area, desk or restroom) immediately controlled or occupied by the employee;

- Unexplained significant deterioration in job performance;
- Unexplained significant changes in behavior (e.g. abusive behavior, repeated disregard of safety rules or procedures, insubordination, etc.);
- Criminal citations, arrests or convictions (including guilty and “no-contest” pleas and forfeitures of bond or bail) involving alcohol or drugs;
- Unexplained or suspicious absenteeism or tardiness;
- Credible reports of drug or alcohol possession or use in violation of this policy;
- Employee admission regarding drug or alcohol use; or,
- Unexplained absences from normal work areas when drug or alcohol related activity is suspected.

Again, these are examples of situations in which testing may be required. In deciding whether to make such a request, THA will consider the facts and circumstances of each particular case.

In the event that THA has “reasonable suspicion,” the following procedure will govern:

- (i) THA will promptly confront the employee whom it suspects of being under the influence or being impaired in his or her work by the use of controlled substances or medicine. If the employee’s position is governed by a collective bargaining agreement, THA shall advise the employee that he or she has the right to the presence of a union representative.
- (ii) THA will offer the employee the following choices:
 - (A) **Submit to a drug test.** The employee must agree to an immediate drug test that THA will arrange. Under this option, the employee must sign *THA Form HR-40.15 (1) Consent to Drug and Alcohol Testing and Release of Test Results*.

The employee would be on administrative leave with pay pending the test results and THA's determination of its response to the test results.

The results of the testing would go to THA. If the results indicate a violation of this policy, THA would determine the appropriate response under this policy.

THA will arrange transportation to the drug testing facility.

- (B) **Referral to Employee Assistance Program (EAP).** This option is available only once. After the referral to EAP following "reasonable suspicion," additional "reasonable suspicion" will require the employee to submit to a drug test under the first option. Additional testing may be required as part of a last chance agreement.

A referral to EAP under this provision would be a mandatory referral. The employee would be on sick leave or annual leave, or, if the employee has exhausted paid leave, on leave without pay status pending a counselor's written release that the employee is drug free and fit to work. Upon the employee's return to work, THA and the employee will complete *THA Form HR-40.15(5) Conditions of Continued Employment; Last Chance Agreement*. This agreement will list the conditions of continued employment. Failure to comply with these conditions will subject the employee to disciplinary action up to termination.

- (iii) The employee shall have a brief period to consider these choices. Any time during the initial confrontation, the employee may opt for the EAP alternative. If the employee fails to make a timely choice, THA will arrange for a drug test.
- (iv) If the employee refuses these alternatives, THA will advise the employee that he or she will be subject to termination for insubordination. THA may immediately suspend the employee without pay and advise him or her, normally within forty-eight (48) hours, of his or her employment status. Any further adverse employment consequences

shall comply with the discipline policy, *THA Policy HR-10.55 Discipline*.

- (d) Drug Testing as Part of Treatment
THA may require an employee to submit to a drug test if the testing is recommended by the employee's substance abuse program or is part of the employee's last chance agreement.
- (e) Drug Testing As a Condition of Return to Work
THA may require an employee to submit to a drug test as an ongoing condition of the employee's return to work following a violation of this policy or is part of the employee's last chance agreement.
- (f) Drug Testing at Employee's Request
THA will arrange for drug testing at the request of an employee who believes that he or she has been wrongly accused or implicated in substance abuse.

7.5.2 THA Will Pay for Drug Testing
All drug testing will be at THA expense.

7.5.3 Manner and Place of Drug Testing
THA affirms the necessity to uphold a high regard for the privacy and dignity of the person who is submitting to drug testing. Testing will be conducted according to uniform standards and testing procedures at an approved testing facility of THA's choosing.

7.5.4 Confidentiality of Drug Testing or Treatment
Information from drug testing or treatment is confidential. This means that it shall be accessible only to the employee's supervisor and/or persons evaluating the employee's fitness for duty or the appropriateness of discipline. THA shall not release the information to other persons outside THA or its agents and attorneys without the employee's knowledge and written consent, except as required as part of legal or grievance proceedings.

7.6 Relationship to Discipline

Employees are subject to discipline, up to and including termination, for violating this policy. They also remain subject to discipline for work performance problems, whether or not the problems are shown to result in violations of this policy.

A request for, referral to, or participation in a substance abuse program does not protect an employee from disciplinary action. However, THA, in its sole discretion, may defer disciplinary action pending successful completion of treatment.