

DELAWARE JUDICIARY DRUG-FREE WORKPLACE

POLICY STATEMENT

It is clear that illegal drugs have no place in the work environment.

Furthermore, a federal statute, the Drug-Free Workplace Act of 1988, requires those receiving federal grants to certify that the grants are being used in drug-free workplaces:

- (a) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Superior Court, in all places where it's employees work, including all state-owned vehicles, and in carrying out any federal grant activity. A controlled substance is one which appears in Schedules I through V or Section 202 of the Controlled Substances Act (21 U.S.C. 312). As a condition of employment, each employee shall abide by this prohibition and shall notify the President Judge if he/she is charged under any criminal drug statute for a violation occurring in the workplace as provided by paragraph (b) below. Violation of such prohibition shall result in personnel action against the employee, as set out in the attached schedule, which shall include action up to and including termination, and/or satisfactory participation in an approved drug abuse assistance or rehabilitation program. The Superior Court has no obligation to pay for such a program, but the cost of the program may be covered by an employee's health insurance policy.

All violations of the above policy shall be reported to the President Judge, who shall report the violation to the appropriate police authority. Personnel action shall be taken in all cases of a chargeable offense under 16 Del. C., Chapter 47 or comparable federal law, however, a conviction of the charged offense shall not be necessary to take personnel action against the employee for a violation of the policy. The employee against who such a personnel action is taken shall be entitled to due process pursuant to 29 Del.C. Ch. 101, and/or governing personnel rules.

Nothing in this policy shall preclude the President Judge from taking concurrent and/or independent personnel action against the employee in accordance with governing personnel rules.

- (b) Every employee shall notify the President Judge in writing of any charge levied against him/her pursuant to any criminal drug statute for a violation occurring in the workplace. Such notification shall be submitted no later than five business days following the occurrence. If the charge is for a misdemeanor offense, no action shall be taken until an adjudicated decision has been rendered. If a conviction results, then sanctions will apply in accordance with the schedule contained herein. If an employee is charged by indictment or information with a felony offense, he/she shall be suspended without pay pending determination of the charge by the trial court. If a conviction results, then sanctions will apply in accordance with the schedule contained herein shall apply. If the felony charge is withdrawn or the employee is found to be not guilty, the person shall be restored to his/her position and shall receive back pay and service credit. Failure of the employee to make such a notification shall lead to personnel action in keeping with the attached schedule. Within ten days of receiving notice of any employee convicted as described above, the President Judge shall notify any federal agencies which are providing grants to and through the Superior Court.

- (c) Within thirty days of receiving notice of any employee convicted as described in Section (b), the President Judge head shall:

- (1) Take appropriate personnel action against such an employee, up to and including termination;
or

- (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Such action may be taken by the President Judge prior to conviction.

- (d) The President Judge shall give each employee a copy of the statement set out in the sections (a), (b) and (c) above, and post it prominently throughout the areas where employees work. Each employee shall sign duplicate copies of the statement; one copy shall be placed in the employee's personnel file, and the other shall be placed in a compliance file for purposes of audit.
- (e) The Superior Court will establish and implement a program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Superior Court policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (f) The Superior Court shall make a good faith effort to continue to maintain a drug-free workplace through the implementation of this policy, and ensuring that all new employees are informed of the policy through the measures set out in section (d) and (e).
- (g) Superior court employees who violate this policy shall be penalized in accordance with the following schedule. The aggravating and mitigating circumstances of the case should be considered in determining the penalty appropriate for the violation.

<u>VIOLATION</u>	<u>MINIMUM TO MAXIMUM PENALTIES</u>
Unlawful possession, use or consumption Of a controlled substance or counterfeit controlled Substance, in an amount that is typical of Immediate personal use.	From three days suspension without pay and/or participation in drug abuse program, up to and including termination.
Unlawful possession or use of hypodermic syringe or Of drug paraphernalia.	From three days suspension without pay And/or participation in drug abuse program, up to and including termination.
Unlawful possession of a controlled substance or a Counterfeit controlled substance, in an amount That is greater than that which is typical of immediate Personal use.	From one month suspension without pay and mandatory participation in drug abuse program, up to and including Termination.

Unlawful delivery or distribution of a hypodermic Syringe. From one month suspension without pay And mandatory participation in drug Abuse program, up to and including Termination.

Unlawful delivery, distribution or manufacture of drug Paraphernalia. From one month suspension without pay And mandatory participation in drug Abuse program, up to and including Termination.

Unlawful delivery or distribution of a controlled substance, Of a counterfeit controlled substance or a noncontrolled Substance under the representation that the substance is a Narcotic or nonnarcotic controlled substance in an Amount that is typical of immediate personal use. From one month suspension without pay and mandatory participation in drug abuse program, up to and including termination.

Unlawful delivery or distribution of a controlled substance, Or a counterfeit controlled substance or a noncontrolled Substance under the representation that the substance Is a narcotic or nonnarcotic controlled substance, in An amount that is greater than that which is typical Of immediate personal use. From three months suspension without pay and mandatory participation in drug abuse program, up to and including termination.

Unlawful delivery or distribution, to a minor, of a Hypodermic syringe, or drug paraphernalia, or of any Amount of a controlled substance, a counterfeit controlled Substance, or a noncontrolled substance under the representation that the substance is a narcotic or Nonnarcotic controlled substance. Termination

Trafficking, as defined in 16 Del. C., Section 4753A or in comparable federal law. Termination

Failure to report conviction pursuant to section (b) of this policy. Termination

NOTE: The above violations should be read in conjunction with 16 Del. C – Ch. 47, and the definitions contained therein and with comparable federal law.