

ALCOHOL AND DRUG ABUSE POLICY

Purpose

RAILS has implemented this policy in response to overwhelming evidence that alcohol and drug abuse has a detrimental impact on employees' health, job performance, safety, and efficiency. Since RAILS employees operate and maintain RAILS programs, and equipment for use by members of the public and perform services that may have a direct effect on the health and safety of members of the public and fellow employees, RAILS wishes to ~~ensure assure~~ the health and safety of its patrons and employees.

This policy also expresses RAILS' desire to satisfy the requirements of the federal and state Drug Free Workplace Acts (41 U.S.C.A. § 701 et seq. and 30 ILCS 580/1 et seq.). In accordance with these statutes and concerns, RAILS has resolved to maintain a drug free workplace.

The purpose of this policy is to inform employees of RAILS' investigation, treatment and disciplinary policy relating to alcohol and drugs. As such, all RAILS employees will abide by its terms. As with all policies, this policy is subject to periodic addition, modification, or deletion.

Acts Prohibited

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited on RAILS Property or while acting on behalf of RAILS.

Definitions

For purposes of this Policy, the following definitions apply:

1. "Alcohol" means any substance containing any form of alcohol, including but not limited to: ethanol, methanol, ~~propane~~ and isopropanol.
2. "Cannabis" is defined as provided in the Cannabis Control Act (720 ILCS 550/1 et seq.) which provisions are specifically incorporated in this Policy by reference unless and until superseded by other state law or laws, including but not limited to the Cannabis Regulation and Taxation Act.
3. "Controlled Substance" means a controlled substance in schedules I through V of section 812 of Title 21 of the United States Code, which provisions are specifically incorporated in this Policy by reference.
4. "Criminal Drug Statute" means a criminal statute involving the manufacture, distribution, dispensation, possession, or use of any controlled substance.
5. "Executive Director" is the Executive Director of RAILS.
6. "RAILS Property" means any building, facility, office, common area, open space, vehicle, parking lot, or other area owned, leased, managed, used or controlled by RAILS. RAILS Property also includes property used by RAILS patrons while on RAILS sponsored events or property of others when presence thereon by RAILS employees is related to employment with RAILS.
7. "Drugs" mean Legal Drugs and controlled substances, including cannabis.

8. "Legal Drugs" mean prescription drugs and over-the-counter drugs which have been obtained legally and are being used in the manner and for the purpose for which they were prescribed or manufactured, including as of January 1, 2020, cannabis as provided in the Cannabis Regulation and Taxation Act.

9. "Medical Facility" means any physician, laboratory, clinic, hospital, or other similar entity.

10. "Policy" means this Alcohol and Drug Abuse Policy of RAILS.

11. "Possess" means to have either in or on an employee's person, personal effects, desk, files, or other similar area.

12. "Public Safety Responsibility" means a position in which the nature of an employee's duties is such that impaired perception, reaction time, or judgment may place a member or members of the public or other employees at risk of serious bodily harm or is responsible for the administration or enforcement of alcohol/drug policies.

13. "Under the Influence" means that the employee is affected by alcohol or drugs in any determinable manner. A determination of being under the influence can be established by, but is not limited to, any of the following: a professional opinion, a scientifically valid test, a layperson's opinion, or the statement of a witness.

Voluntary Treatment

It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to disciplinary action. RAILS will not discipline an employee who voluntarily seeks treatment for a substance abuse problem if the employee is not in violation of RAILS' drug and alcohol policy or other rules of conduct at the time such assistance is sought. Seeking such assistance will not be a defense for violating the RAILS' drug and alcohol policy, nor will it excuse or limit the employee's obligation to meet RAILS' policies, rules of conduct, and standards including, but not limited to, those regarding attendance, job performance, and safe and sober behavior on the job. Employees who suffer from alcohol or drug abuse are encouraged to consult voluntarily with RAILS management and undergo appropriate medical treatment. Participation in such treatment will be at the employee's expense, although some of these expenses may be covered under the employee's group health plan. Please see Human Resources for details. RAILS management will attempt to keep such voluntary discussions and medical treatment confidential in accordance with this Policy.

Screening and Testing

RAILS may require any employee to be screened or tested following a work place accident involving a possible violation of safety rules, during and after an employee's participation in an alcohol or drug counseling or rehabilitation program, or upon reasonable suspicion that the employee is under the influence of alcohol or drugs. The screening or testing will be conducted by a medical facility selected by RAILS at RAILS' expense. The screening or testing may require an analysis of the employee's breath, urine and/or blood or such similar substance as the medical facility may recommend. Employees who undergo alcohol or drug screening or testing will be given the opportunity, prior to the collection of a specimen or other testing, to disclose the use of legal drugs and to explain the circumstance of their use. If an initial test is positive, a second test will be conducted from the same sample. A confirmed positive drug and/or alcohol test may result in disciplinary action, up to and including dismissal.

Commented [MH1]: From LIRA: "Only the driver that is at fault should trigger alcohol/ drug testing. If the employee is involved in an accident and not at fault, we do not find that the additional expense to go through the drug / alcohol testing is necessary."

An employee may be required to sign a consent form requested by the Medical Facility conducting the screening or testing. Refusal to sign any requested consent form will result in disciplinary action up to and including dismissal, as deemed appropriate by RAILS, in its sole discretion, under the circumstances.

Treatment

If the medical facility recommends treatment, RAILS may, depending on the circumstances as determined in the sole discretion of RAILS, give the employee one opportunity to undergo treatment offered by a clinic or trained professional mutually acceptable to RAILS and employee.

Participation in such treatment will be at the employee's expense. The employee must enter the treatment program within ten (10) days from the time of recommendation of treatment. RAILS may reinstate the employee provided that the employee submits a statement issued by the medical facility certifying successful completion of the treatment program, that the employee is released to return to work, and that the employee agrees to all conditions of reinstatement as determined by RAILS, which may include, but is not limited to, future alcohol and/or drug testing.

Use of Legal Drugs

Any employee who operates or maintains a vehicle or machinery, handles hazardous materials or substances of any kind, or has public safety responsibility and who has taken a legal drug must report the use of such legal drug to their immediate supervisor if the legal drug may cause drowsiness or if it may alter judgment, perception, or reaction time. The burden is on the employee to ascertain from the employee's doctor or pharmacist whether the legal drug may have such a potential side effect. The information will be retained by RAILS in a confidential manner and will be disclosed only to persons who need to know. The employee's immediate supervisor, after conferring with the Director, will decide whether the employee may safely continue to perform the job while using the legal drug. Failure to declare the use of such legal drugs may be cause for discipline up to and including dismissal.

Notice of Convictions

Any employee who is convicted of violating any federal or state criminal drug statute must notify the ~~Human Resources Executive Director~~ within five (5) days of such conviction. For purposes of this notice requirement, a conviction includes a finding of guilt, a no contest plea, and/or an imposition of sentence by any judicial body for any violation of any criminal statute involving the unlawful manufacture, distribution, sale, dispensation, possession or use of any controlled substance or cannabis. Failure to notify the ~~Human Resources Executive Director~~ may subject the employee to disciplinary action, up to and including dismissal.

Discipline/Penalties for Violation

1. An employee who reports to work or is found during working hours to be or to have been under the influence of alcohol, controlled substances, or cannabis or who manufactures, possesses, uses, sells or dispenses alcohol, controlled substances, or cannabis while on RAILS property or while acting on behalf of RAILS, is convicted of a drug related crime, causes financial or physical damage to RAILS property, its employees or patrons as the result of alcohol or drug abuse, or fails to report the use of legal drugs in accordance with this Policy, will be subject to disciplinary action up to and including dismissal. ~~Staff may consume alcoholic beverages at appropriate off-premises RAILS functions; however, if employees choose to consume alcohol at~~

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such functions, they must do so responsibly and conduct themselves properly and professionally at all times. Failure to do so can result in disciplinary action up to and including termination.

In addition to or in the alternative, depending on the circumstances as determined by RAILS in its sole discretion, RAILS may require the employee to successfully complete an alcohol and/or drug ~~abuse~~ assistance or rehabilitation program approved for such purposes by RAILS and by a federal, state, or local health, law enforcement or other appropriate agency. An employee who participates in a treatment program will be expected to meet job performance standards and comply with all rules established by RAILS. Participation in a treatment program will not protect the employee from disciplinary actions should job performance remain unsatisfactory.

2. In addition to the examples of misconduct that may subject an employee to disciplinary action contained in this Policy, RAILS will discipline an employee up to and including dismissal for the following: (1) if the employee refuses to submit to diagnosis, testing or screening upon request of RAILS pursuant to law and/or the provisions of this drug free workplace policy; (2) if the employee tampers in any way with the specimen given to the medical facility for purposes of alcohol or drug screening or testing; (3) if the medical facility recommends treatment and the employee refuses to undergo such treatment; (4) if, while undergoing treatment, the employee fails or refuses to follow the course of treatment; (5) if the employee, during the course of or following treatment, is again under the influence of alcohol or drugs in violation of this Policy; or, (6) if the employee fails to notify the Director of a conviction for violating any federal or state Criminal Drug Statute in accordance with the "Notice of Conviction" section of this policy. Refusal to sign any requested consent form will result in disciplinary action up to and including dismissal, as deemed appropriate by RAILS, in its sole discretion, under the circumstances.

Inspections

To assure that employees comply with the prohibition on manufacturing, distributing, dispensing, possessing, or using alcohol, controlled substances, or cannabis, employees may be subject to inspection as follows:

1. Desks, files, vehicles, equipment and other containers and property owned or leased by RAILS and which an employee is permitted to use during employment with RAILS, are and remain the property of RAILS. Employees are not permitted to keep controlled substances, cannabis, or alcohol in or on such property. Any such property reasonably suspected of having or holding such substances is subject to search by RAILS.
2. Any refusal to submit to such an inspection will be treated as an act of insubordination and may result in disciplinary action, up to and including dismissal.