

# SAN MIGUEL COMMUNITY SERVICES DISTRICT



## DRUG AND ALCOHOL FREE WORKPLACE GUIDELINES AND POLICIES

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## SECTION 3.0

### DRUG AND ALCOHOL FREE WORKPLACE GUIDELINES AND POLICIES

#### SECTION 3.1 PURPOSE

It is the intent and purpose of the San Miguel Community Services District (“District”) to establish and maintain a workplace that is free of illegal drugs and alcohol, and to discourage drug and alcohol abuse by its Employees, interns, and volunteers.

The District has a vital interest in maintaining a safe and efficient working environment and working conditions for all Employees, interns, and volunteers. Substance abuse is incompatible with health, safety, efficiency and success at the District.

Employees, interns, or volunteers who are under the influence of a drug or alcohol on the job compromise the District’s interests and endanger their own or other workers health and safety. Substance abuse in the workplace can also cause a number of other work-related problems, including but not limited to: absenteeism and tardiness, substandard job performance, behavior that is disruptive to other Employees, volunteers or members of the public, increasing workloads for co-workers, disruptions of citizen relations, delays in the completion of jobs by virtue of their absenteeism, tardiness, behavior or substandard job performance.

#### SECTION 3.2 DEFINITIONS

**3.2.1 Abuse of any legal drug**—means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured, or (b) in a quantity, frequency, or in a manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.

**3.2.2 Employee**—for the purposes of these Guidelines means any individual who works for the benefit of the District including, but not limited to, permanent Employees, independent contractors, interns, volunteers, temporary Employees, and seasonal Employees.

**3.2.3 Guidelines**—means Section 3.0: “Drug and Alcohol Free Workplace Guidelines and Policies”.

**3.2.4 Illegal Drugs or Other Controlled Substances**—means (a) any drug or substance that is not legally obtainable or obtained, or (b) is legally obtainable but has not been legally obtained, or (c) has been legally obtained but is being sold or distributed unlawfully.

**3.2.5 Legal Drugs**—means any drug, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.

**3.2.6 Possession**—means that an Employee has the substance on his or her person or otherwise under his or her control.

**3.2.7 Reasonable Suspicion**—includes a suspicion that is based on specific personal observations, such as direct observation of drug or alcohol use, an Employee’s manner, disposition, muscular movement, appearance, behavior, speech or breath odor, or information provided to management by an Employee, by law enforcement officials, by a security device or service, or by other persons and as verified by two (2) persons trained in reasonable suspicion methods. The Board of Directors and the General Manager shall be required to be trained in reasonable suspicion methods.

### **SECTION 3.3 EMPLOYEES AND VOLUNTEER COOPERATION**

Early detection of substance-abuse problems benefits everyone. It benefits the Employee with the substance-abuse problem because he or she is given the opportunity to correct the problem before it leads to serious harm to the Employee or other persons. There is benefit to Employee’s co-workers, who otherwise might be exposed to serious injury or have to carry an extra burden by assuming added assignments or tasks that the substance abuser is or might be responsible to perform. The District benefits by providing an opportunity to prevent accidents and avoid work performance problems and other losses that might be associated with or attributable to substance abuse or abusers. Accordingly, all Employees should understand that co-workers with substance-abuse problems should be encouraged to seek assistance from the Employee Assistance Program (see Section 6.0 of these Guidelines).

### **SECTION 3.4 PROHIBITED CONDUCT**

The prohibitions of this section apply whenever the interests of the District may be adversely affected, including any time the Employee is:

- 1) On District premises or District owned property or at facilities owned by the District;
- 2) Conducting or performing District business, regardless of location;
- 3) Operating or is responsible for the operation, custody or care of District equipment or motorized vehicles and equipment and other property; or
- 4) Responsible for the safety of other District Employees.

**3.4.1 Alcohol**—The following acts are prohibited and will subject an Employee to discipline, up to and including discharge:

- 1) The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of alcohol, or
- 2) Being under the influence of alcohol.

**3.4.2 Illegal Drugs**—The following acts are prohibited and will subject an Employee to discipline, up to and including discharge:

- 1) The use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of any illegal drug or other controlled substance, or
- 2) Being under the influence of any illegal drug or other controlled substance.

**3.4.3 Legal Drugs**—The following acts are prohibited and will subject an Employee to discipline, up to and including discharge:

- 1) The abuse of any legal drug(s);
- 2) The purchase, sale, manufacture, distribution, transportation, or dispensation of any prescription drug in a manner inconsistent with law; or
- 3) Working or driving while impaired by the use of a legal drug whenever such impairment might:
  - (a) Endanger the safety of the Employee or some other person,
  - (b) Pose a risk of significant damage to District property or equipment, or
  - (c) Substantially interfere with the Employee's job performance or the efficient operation of the District's business or equipment.

## **SECTION 3.5 DISCIPLINARY ACTION(S)**

### **3.5.1 Discipline for Violation of Guidelines and Policies**

- 1) Any violation of these Guidelines will result in imposition of disciplinary proceedings, up to an including discharge, in accordance with the District's Personnel Guidelines. District may consider rehiring an Employee, who has violated these policies, after thirty (30) days, if the Employee can provide written proof or a medical professional's written statement after completion an approved, certified rehabilitation program.
- 2) In lieu of discipline being imposed for a violation of this policy, the District, employee, and exclusive representative may mutually agree to a "last chance" employment agreement, whereby the District will not terminate or discipline the employee in exchange for the employee's agreement to participate in a substance abuse treatment program and random drug testing. The "last chance" agreement will be imposed for a period not exceeding forty-five (45) days by and which the employee could be randomly drug tested. The goal of such agreement is to insure the employee's full compliance with this policy, and *any* violation will result in an immediate termination of employment. The specific terms of the agreement will be decided by mutual agreement of the parties.

A violation of the terms of any "last chance" employment agreement will result in the immediate termination and permanent separation of employment.

- 3) Any volunteer or intern found to be in possession of any substance prohibited under this section, or is at reasonable suspicion for violating these Guidelines shall be removed from volunteer or intern status and if actions represent a potential violation of county, state and/or federal law, District shall refer the volunteer's or intern's name and address to law enforcement. Volunteer or intern shall be immediately barred from participating as a District volunteer or intern.

### **3.5.2 Information for Rehabilitation Programs**

District may provide information about where an Employee can find approved or certified rehabilitation programs. Employee is solely responsible for program costs. Prior to Employee's enrollment or registration in said program, the District management must approve the assistance or rehabilitation program. Employee is required to agree to a stipulated agreement subject to the provisions of Section 3.8.1 of these Guidelines. If the Employee agrees to participate in and completes an approved or certified drug, substance or alcohol abuse assistance or rehabilitation program.

### **3.5.3 Effect of Criminal Conviction**

An Employee, who is convicted under a criminal drug statute or an alcohol-related criminal statute for a violation occurring in the workplace, outside the workplace or during any District-related activity or event, shall be deemed to have violated these Guidelines.

### **3.5.5 Discharge on Eligibility for Rehire**

An Employee who is discharged for a violation of these Guidelines will not be eligible for rehire or renewal of volunteer or intern status by the District, except as specified in Section 3.5.1 of these Guidelines.

## **SECTION 3.6 DRUG-FREE AWARENESS PROGRAM**

### **3.6.1 Employee Awareness**

The District hereby establishes a Drug-Free Awareness Program that is designed to inform Employees about the dangers of drug abuse in the workplace and to help assure that Employees are familiar with these Guidelines. From time to time, Employees may be requested to attend one of the sessions of the Drug-Free Awareness Program. During such session(s), Employees may be given current information about available programs offering counseling and rehabilitation.

### **3.6.2 Management Awareness**

Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an Employee to work in an impaired condition or to be otherwise engage in conduct that violates these Guidelines. When management has reasonable suspicion to believe that an Employee is working in violation of these Guidelines, prompt action will be taken. Such action may include drug testing in accordance with the these Guidelines. Management awareness shall include training for reasonable suspicion and certification. Completion of said training for reasonable

suspicion and training is mandatory for all District managers and supervisors as well as the District Board of Directors.

### **3.6.3 Criminal Convictions**

Employees must notify the District of any conviction, arrest, or citation under a criminal drug or alcohol-related statute the violation of which occurred in the workplace or during any District employment-related activity or event. Employees must notify the District's General Manager within three (3) calendar days after any such conviction, arrest, or citation.

When required by federal law, the District will notify any federal agency with which it has a contract of any Employee who has been convicted under a criminal drug or alcohol-related statute for a violation occurring in the workplace.

## **SECTION 3.7 USE OF LEGAL DRUGS**

### **3.7.1 Prescription Drugs**

The District recognizes that Employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's or a licensed medical care professional's instructions, may result in impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the Employee or any other person(s), pose a risk of significant damage to District property, or substantially interfere with the Employee's job performance. It shall be the Employee's sole responsibility to notify the General Manager, in advance of reporting to a work place or for a work shift, of any required prescription drugs that may impair the Employee's abilities to perform his or her job or could endanger themselves or any other person.

If an Employee is so impaired by the appropriate use of legally prescribed drugs, he or she may not report to work. To accommodate the absence, the Employee may use accrued sick leave or vacation time. The Employee may also contact the District General Manager to determine whether or not he or she qualifies for an unpaid leave of absence, such as family medical leave.

Nothing in these Guidelines is intended to sanction the use of accrued sick leave or vacation time to accommodate absences due to the abuse of legal drugs.

Further, nothing in these Guidelines is intended to diminish the District's commitment to employ and to reasonably accommodate qualified disabled individuals protected by the Family and Medical Leave Act ("FMLA") or the Americans with Disabilities Act ("ADA") statutes. Furthermore, nothing in these Guidelines restricts the District to temporarily reassign an Employee, who is cannot perform the essential functions of his or her job position as a result of treatment by prescription drugs.

## **SECTION 4.0 UNREGULATED OR AUTHORIZED CONDUCT**

### **SECTION 4.1 Customary Use of Over-the-Counter Drugs**

Nothing in these Guidelines is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate state or federal laws, or result in an Employee becoming or being impaired by the use of such drugs in violation of these Guidelines, while on duty or while conducting District business.

### **SECTION 4.2 Off-the-Job Conduct**

Unless an Employee is in a designated safety-sensitive position, such as fire protection or utility worker personnel, these Guidelines are not intended to regulate off-the-job conduct, so long as the Employee use of such off-the-job use of alcohol or drugs does not result in the Employee being under the influence of or impaired by the use of alcohol or drugs in violation of these Guidelines, while on duty, or while conducting District business. If an Employee is in a designated safety-sensitive position, he or she will be subject to drug testing as described in Section 7.0 of these Guidelines.

### **SECTION 4.3 On-Call Conduct**

Any Employee, who is on on-call status, is required to follow these Guidelines. Although Employees are permitted to utilize his or her time as desired while on on-call duty, he or she shall remain unimpaired during on-call duty in order to perform all duties if called on duty.

## **SECTION 5.0 CONFIDENTIALITY**

Disclosures made by Employees to the District General Manager concerning their use of legal drugs, or other private medical information, will be treated confidentially and will not be revealed to the Board of Directors unless there is a legally authorized reason to do so, such as to determine whether it is advisable for the Employee to continue their work duties or job. Disclosures made by Employees to the District General Manager concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

## **SECTION 6.0 COUNSELING/EMPLOYEE ASSISTANCE**

Employees who suspect they may have an alcohol or drug problem(s), even in the early stages, are encouraged to voluntarily seek diagnosis and follow through with prescribed treatment(s) by qualified professionals. Employees, who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program, are encouraged to contact the District General Manager, who will determine whether the District can accommodate the Employee by providing unpaid leave needed for the time to completion program participation. Employees should be aware that participation in a rehabilitation program will not necessarily shield them from disciplinary action

for a violation of these Guidelines, particularly if discipline is imposed for a violation occurring before the Employee seeks assistance.

## **SECTION 7.0 DRUG TESTING**

### **Section 7.1 Testing of Applicants for any District Positions**

As a part of the District's employment screening process, any applicant to whom a conditional offer of employment is made must pass a test for controlled substances, per procedures described below. The offer of employment is conditioned on a negative drug test result. Applicants will be informed of the District's drug testing policy in the employment application.

### **Section 7.2 Testing of Employees in Designated Safety-Sensitive Positions**

**Annual Testing:** Employees in health and safety sensitive positions, including but not limited to the following management and non-management positions: vehicle and heavy machinery drivers with commercial licenses/operators, firefighters, and utility crew members, will be required to submit to random drug testing under the procedures described below. This testing shall occur at random by an independent, third party drug testing company performing such testing. If an Employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result.

### **Section 7.3 Reasonable Suspicion Testing**

If an Employee's supervisor or manager has a verifiable and confirmed reasonable suspicion by at least two (2) people, including any Board Members, who are qualified by having reasonable suspicion training, that the Employee is working in an impaired condition or otherwise engaging in conduct that violates these Guidelines, then the Employee will be asked about any observed behavior or impaired condition and offered an opportunity to give a reasonable explanation. If the Employee is unable to explain the behavior, he or she will be requested to take a drug test in accordance with the procedures described herein. If the Employee refuses to cooperate with the administration of the drug test, the refusal will be handled in the same manner as a positive test result, which results in termination.

### **Section 7.4 On-the-Job Injury**

Should an injury occur while working, a drug or alcohol test may be administered if the injured Employee's supervisor has a reasonable suspicion that an Employee was injured due to drug or alcohol use.

### **Section 7.5 Procedures for Drug Testing**

If Employee is a member of a District-recognized collective bargaining unit and is subject to a drug test based on reasonable suspicion, the District will meet and confer with the respective collective bargaining group before testing.

The District will refer the applicant or Employee to an independent, National Institute on Drug Abuse ("NIDA") certified medical clinic or laboratory, which will administer the test. The District shall require drug testing for: A) Pre-employment testing, B) random testing, and C)



reasonable suspicion testing. The District will pay the cost of the test. If the Employee is determined by verifiable and confirmed, reasonable suspicion observation as unable to drive or impaired for driving, then a District supervisor or General Manager will transport the individual to a medical facility for immediate testing or treatment.

The Employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that he or she has taken that may affect the outcome of the test. The clinic or laboratory will handle the required testing. The District will have no control over the clinic or laboratory's testing methods. The clinic or laboratory will inform the District as to whether or not the applicant passed or failed the drug test. If an Employee fails the test, he or she will be considered to be in violation of these Guidelines and will be subject to discipline accordingly.

#### **Section 7.6 Acknowledgement and Consent**

Any Employee subject to testing under this policy will be directed to sign a form acknowledging the procedures governing testing, and authorizing to (1) the collection of a urine sample for the purpose of determining the presence of alcohol or drugs, and (2) the release to the District of medical information regarding the test results. Refusal to sign the authorization form, or to submit to the drug test, will result in the revocation of an applicant's job offer, or will be considered the same as a positive test leading to termination.

#### **Section 7.7 Confidentiality**

All drug testing records will be treated as confidential.