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## DRUG AND ALCOHOL

### I. PURPOSE OF THE POLICY

The Osage Nation has established this Drug and Alcohol Policy (hereinafter “Policy”) to assist us in providing a safe and healthy working environment for our employees; to protect our property and the property of our clients; and to cooperate with our clients in their efforts to provide safe and efficient operations.

### II. SCOPE OF THE POLICY

This Policy will apply to all regular, part-time, casual or contract employees, and to applicants for employment, except those employees engaged in functions covered by drug testing regulations promulgated by the United States Department of Transportation, 49 C.F.R., Parts 40 and 199. Compliance with this Policy is required as a condition of original or continued employment.

### III. DEFINITIONS

- A. **Illegal Drugs** — Non-prescribed controlled substances as defined by the Controlled Substance Act at 21 U.S.C.A. § 812, Schedules I, II, III, IV and V, which include, but are not limited to, drugs such as opioids, narcotics, marijuana, hashish, cocaine, and other controlled substances.
- B. **Prescription Drugs** — Drugs prescribed by a physician for treatment of illness or disease.
  - 1) The use of prescription drugs/medicine prescribed by a licensed physician for an individual employee is permitted provided the employee advises the Osage Nation if he/she is using prescribed drugs that may impact the employee’s ability to work.
  - 2) Employees who have been informed that medication could cause adverse side effects while working or where medication indicates such warning, must inform their supervisor prior to working while under the influence of such substances.
  - 3) Use of medications prescribed by a physician for someone other than the employee in question or use of prescription medication in a manner that does not conform to the physician’s prescription or instructions is strictly prohibited.

- B. **Osage Nation's Premises** — "Osage Nation's premises" includes all locations at which work is performed by the Osage Nation, and locations which are assigned to the Osage Nation for its use by a client or another contractor, including parking lots and storage areas. This includes when on travel status on behalf of the Osage Nation. It also includes aircraft, automobiles, trucks and all other vehicles and equipment whether Osage Nation-owned or leased by the Osage Nation.

#### IV. STATEMENT OF THE POLICY

- A. The use, possession, concealment, transportation, and promotion or sale of the following items or substances by any employee of the Osage Nation, is prohibited on all Osage Nation premises:
- Illegal drugs
  - Alcoholic beverages (except where required by employment position)
  - Drug paraphernalia
  - Unauthorized prescription drugs
- B. Employees may not be at work, or report to work, under the influence of alcohol, narcotics, illegal drugs, or unauthorized prescription drugs.
- C. Employees are permitted to take legally prescribed and/or over-the-counter medications consistent with appropriate medical treatment plans while working for the Osage Nation. When such medications negatively affect an employee's job performance, safety, or the efficient operation of the Osage Nation, the employee's supervisor or the Osage Nation will determine if the employee is capable of performing his/her job.
- D. No prescription drug shall be brought onto the Osage Nation's premises by any person other than the person for whom the drug is prescribed by a licensed medical practitioner, and shall be used only in the manner, combination and quantity prescribed.
- E. Employees may not possess, use, transfer, offer, attempt to purchase, or be impaired by medical marijuana, even if recommended by a doctor and in accordance with a valid card issued by a State agency, on Osage Nation premises. This includes the use of medical marijuana prior to reporting to work, during breaks, or lunch periods.
- F. Employees shall provide written notification to the Human Resources Department and the immediate supervisor within five (5) calendar days of any arrest for a drug-

related offense occurring on Osage Nation premises. If required under federal contract, the Osage Nation will provide written notice to the appropriate person or office in the contract within ten (10) calendar days of learning of an employee's conviction for a drug-related offense as the Osage Nation deems appropriate. The notice shall include the convicted employee's position, title, and contract identification number.

## **V. TESTING**

### **A. Testing Situations**

The Osage Nation may require a drug and alcohol screen, including blood, urine, hair, saliva or breath tests for drugs and/or alcohol. The Osage Nation will require blood and urine tests where required by federal regulation. Tests for drugs and alcohol will be administered at the discretion of the Osage Nation in accordance with the following conditions:

- 1) Pre-employment.
- 2) Re-hire or return to duty.
- 3) At the discretion of the Osage Nation in all cases involving a person associated with on-the-job injury.
- 4) In any circumstances where representatives of the Osage Nation reasonably believe that an employee may be under the influence of intoxicants, alcohol, narcotics or drugs.
- 5) With respect to all employees who complete a drug/alcohol rehabilitation program before returning to work.
- 6) Random testing of affected employees as may from time to time be required at the discretion of the Osage Nation.
- 7) Follow-up testing.

### **C. Drug Testing Procedures**

- 1) The Osage Nation may drug test employees in accordance with the procedures, rules, and requirements of governing federal, state, or local law, or any controlling authority to which the employee is governed.
- 2) An employee who refuses to submit to drug testing will be immediately terminated.
- 3) All affected employees will be required to sign an Employee Drug and Alcohol Test Consent form.

**C. Alcohol Testing**

In the event an employee is suspected of being under the influence of alcohol, he shall be required to take a blood or breathalyzer test conducted by a person so educated and authorized in testing. Employees who test positive for intoxication due to alcohol (showing a blood alcohol concentration of .10 percent or more by weight) shall be subject to immediate discipline, as per part VI of this Policy.

**D. Marijuana Testing**

In the event an employee tests positive for THC and the employee has a valid card issued by Oklahoma Medical Marijuana Authority at the time of testing, the employee will not be in violation of the Drug and Alcohol Policy. The card must be presented to Human Resources and will be verified using the Oklahoma Medical Marijuana Authority website. Individuals who do not have a valid medical marijuana card and test positive for marijuana will be considered in violation of the Drug and Alcohol Policy and may face disciplinary action up to, and including termination of employment. Active medical marijuana licenses obtained in other states prior to employment with Osage Nation will be honored during pre-employment drug screening.

**F. Record Keeping**

- 1) All information, interviews, reports, statements, memoranda, or test results received by the Osage Nation through its drug testing program are confidential. Such information will not be disclosed as evidence, in discovery, or disclosed in any public or private proceeding, except in a proceeding related to an action in a claim for unemployment compensation; in a claim for workers' compensation; or in any other civil litigation or arbitration where drug use by the tested employee may be relevant.

- 2) All records and drug and/or alcohol test results are the property of the Osage Nation.

## **VI. PROHIBITIONS AND VIOLATIONS OF THIS POLICY**

### **A. The following are strictly prohibited:**

- 1) Reporting to work or working under the influence or in possession of alcohol, narcotics, and illegal or unauthorized prescription drugs.
- 3) This shall not prohibit any employee whose job functions require the possession and sale of alcohol, such as a bartender or waitress. Further, this shall not include the casual use or possession of alcohol at an Osage Nation social event or gathering.
- 4) Use of the Osage Nation's property or an employee's position with the Osage Nation, directly or indirectly, to manufacture, dispense, distribute or traffic intoxicants, narcotics or drugs.
- 5) Adulteration, substitution, dilution, or contamination of an alcohol or drug testing sample under this Policy. A sample will be considered adulterated if the temperature of the sample does not meet with state or federal regulations; if the sample does not meet the weight, density or other requirements established by state or federal law; if, after testing, the sample produces an inconsistent or indecipherable result; or, after testing, is determined to be adulterated, substituted, diluted or otherwise contaminated.

### **B. Discipline:**

An employee will be subject to discipline, including and up to immediate discharge, or in the case of pre-employment drug testing, the applicant will not be eligible for employment, for the following reasons:

- 1) Refusal to timely submit to or participate in the drug and/or alcohol testing program when requested to do so, pursuant to this Policy.
- 2) Substituting, adulterating or contaminating a urine or blood sample.
- 3) Testing positive for prohibited measures of alcohol or prohibited drugs in a breath, urine, hair, saliva or blood test.

4) Any specimen reported to Osage Nation as “diluted.”

**C. Suspension Pending Investigation:**

An employee who is the subject of an investigation regarding possible violation of this Drug and Alcohol Policy may be placed on temporary suspension not to exceed ten (10) business days after final testing results are received without pay.

**VII. DRUG OR ALCOHOL TREATMENT**

- A. The Osage Nation strongly encourages all employees to seek counseling or help for whatever problems, including drugs and alcohol that might affect their ability to perform their jobs as required. Affected employees are encouraged to seek assistance for themselves and (where appropriate) their family and dependents living at home. It is the responsibility of each employee to seek assistance before alcohol and drug problems lead to disciplinary action, which can include termination for a first offense. Once a violation of this Policy occurs, subsequently getting help on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action. An employee must self-report drug or alcohol dependency at least twenty-four (24) hours prior to a request to submit to random, post-accident, or reasonable suspicion drug or alcohol testing.
- B. The use by an employee of self-referred assistance does not guarantee any continued employment or create a contract of employment either express or implied.
- C. In addition, the Osage Nation may periodically offer education programs such as:
  - 1. A discussion of the Osage Nation’s Policy at new employee onboarding;
  - 2. Distribution of published educational materials regarding the dangers of drug abuse;

**VIII. EFFECTIVE DATE**

- A. The provisions set forth in this Policy guide are effective immediately upon notice to employees.
- B. Each current employee will be furnished a copy of this Policy and will sign a receipt for same.

- C. This policy supersedes any and all other personnel policies concerning drugs and alcohol use and testing.
- D. If any term or other provision of this policy is determined by a court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, such term or provision shall be deemed deleted from this policy. All remaining provisions shall remain in full force and effect.