



New York State Policy

Making New York State A Drug and Alcohol-Free Workplace

New York state prohibits on the job use of, or impairment from, alcohol and controlled substances. An employee may be required to undergo medical testing if a supervisor has a reasonable suspicion that he or she is unable to perform job duties due to a disability which may be caused by the use of alcohol or controlled substances.¹

If the cause of the disability is found to be drug or alcohol related, the agency may refer the employee to voluntary and confidential participation in the state Employee Assistance Program. Other available options include pursuing disability leave procedures or disciplinary measures, where applicable.

Violations of the State policy on alcohol and substance abuse in the workplace may be the subject of disciplinary action pursuant to Section 75 of the Civil Services Law or the disciplinary article of the collectively negotiated agreement applicable to an employee.

State employees are also subject to criminal, civil and disciplinary penalties for the distribution, possession, sale or the attempt to sell controlled substances both in the workplace and while performing in a work-related capacity. In work locations where it is permitted, an employee may possess and use medication which is properly prescribed by a physician, which includes the use of medical cannabis in accordance with State law. However, use of medical cannabis remains subject to the limitations contained in Labor Law 201-D and agencies do not violate the law if action is taken against an employee consistent with Labor Law 201-D

Under the Federal Drug-Free Workplace Act of 1988, employees working on any federal contract over \$250,000 in value or any federal grant must report any criminal drug statute conviction for a violation occurring in the workplace within five (5) days of such conviction to their agency.

¹ In addition, employees in positions where testing is required by statute, regulation, ordinance or other governmental mandate, or permissible pursuant to an established substance abuse or alcohol program or workplace policy, professional contract or collective bargaining agreement, including, but not limited to, those which require a Commercial Driver's license may be required to undergo medical testing, or are subject to testing as prescribed by the Omnibus Transportation Employee Testing Act of 1991. The policy for the Department of Corrections and Community Supervision also permits medical testing for suspected use or abuse of illegal drugs or controlled substances for certain employees.

“Controlled substances” under Federal law refers to the hundreds of chemicals listed in the federal Schedules of Controlled Substances found at 21 U.S.C. section 812. While there are too many drugs to list that are contained in the Schedules it contains such drugs as heroin, cocaine, crack, speed, acid and marijuana².

A person using a prescribed drug under a doctor’s supervision is not breaking the law. The use of prescribed drugs without a physician’s prescription is illegal.

Addiction to, or misuse of, prescribed drugs could also subject an employee to medical testing under New York State’s policy.

² Marihuana is defined as,

- (A) subject to subparagraph (B), the term “marihuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.
- (B) The term “marihuana” does not include— (i) hemp, as defined in section 1639o of title 7; or (ii) the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

New York State Employee Assistance Program

The Employees Assistance Program (EAP) is a joint labor-management program that benefits New York State employees by enhancing employee wellbeing, increasing productivity, and improving morale in the workplace. EAP is funded through the collective bargaining agreements between the State of New York and the public employee unions: CSEA, PEF, UUP, NYSCOPBA, GSEU, Council 82, and DC-37. The Governor's Office of Employee Relations contributes on behalf of management/confidential employees.

EAP is designed to help state employees and their family members deal with the everyday issues involved in balancing work and life, as well as more serious problems that may impact work performance. EAP services are **confidential, voluntary**, and offered at **no cost** to employees and their families.

EAP offers:

- Confidential assessment of the employee's situation and referrals to appropriate community resources and providers
- Assistance with alcohol and other drug-related problems as well as childcare, elder care, legal, financial, and other family-related issues.
- Familiarity with New York State's work environment and culture
- An understanding of the State's health insurance, leave policy, and other benefits
- A statewide network of EAP coordinators

Employees may contact EAP by calling **1-800-822-0244** or by visiting www.goer.ny.gov/employee-assistance-program

Find an EAP coordinator by clicking on the [Coordinator List](#). If an employee prefers to contact an EAP coordinator from an agency other than their own, they may choose any EAP coordinator from the list of statewide EAP coordinators.

Additional Resources:

NYS Office of Addiction Services and Support: <https://oasas.ny.gov>
1-877-8-HOPENY (1-877-846-7369).

Alcoholics Anonymous: www.aa.org

Marijuana Anonymous: marijuana-anonymous.org

National Institute on Alcohol Abuse and Alcoholism: niaaa.nih.gov

Substance Abuse and Mental Health Administration: samhsa.gov

NYS Emotional Support Line: 1-844-863-9314 or nyprojecthope.org

Crisis Text Line: Text "Got5" to 741-741

National Suicide Prevention Lifeline: 1-800-273-TALK (8255)