



GPA RESOLUTION NO. 2017-29
GWA RESOLUTION NO. 42-FY2017

**ADOPTION AND IMPLEMENTATION OF A UNIFIED ZERO TOLERANCE DRUG- AND ALCOHOL-FREE
WORKPLACE POLICY FOR THE GUAM POWER AUTHORITY AND THE GUAM WATERWORKS AUTHORITY**

WHEREAS, it is the policy of the Guam Power Authority and Guam Waterworks Authority to provide a safe, healthy and secure work environment for all employees. It is also the policy of GPA and GWA to ensure that all employees perform their job duties in a safe, efficient and productive manner; and

WHEREAS, the CCU has directed GPA and GWA to review its drug testing policies to ensure that the Agency maintains a drug- and alcohol-free workplace; and

WHEREAS, GPA and GWA have drafted a new unified DRUG- AND ALCOHOL-FREE WORKPLACE policy that makes changes from the previous policy that allowed employees to complete a drug treatment program, and remain employed provided they successfully completed a drug treatment program; and

WHEREAS, GPA and GWA recognize that while the previous policies provided counseling and treatment to employees, it does not deter employee drug and/or alcohol use and its adverse effects on job performance in the workplace; and

WHEREAS, the new draft DRUG- AND ALCOHOL-FREE WORKPLACE POLICY provides for a zero-tolerance drug policy, such that if an employee tests positive for drugs they will be terminated as employees of GPA and GWA; and

WHEREAS, to ensure a drug-free workplace, every employee shall be tested for illicit drugs at least once a year; and

WHEREAS, management has provided notice, informational sessions, and solicited comments from GPA & GWA employees, including supervisors and managers regarding the new draft DRUG- AND ALCOHOL-FREE WORKPLACE policy; and

WHEREAS, management of GPA and GWA request the Consolidated Commission on Utilities to adopt the draft unified DRUG- AND ALCOHOL-FREE WORKPLACE policy.

NOW, THEREFORE, BE IT RESOLVED, by the CONSOLIDATED COMMISSION ON UTILITIES as follows:

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1. The unified DRUG- AND ALCOHOL-FREE WORKPLACE policy for GPA and GWA is hereby adopted to include employees of GPA and GWA.
2. All Consolidated Commission on Utilities members and employees shall be subject to the DRUG- AND ALCOHOL-FREE POLICY, and accordingly, will be placed in the employee population for random testing.
3. This policy shall be effective for the Guam Power Authority and the Consolidated Commission on Utilities on October 1, 2017.
4. Implementation by GWA of this policy shall take place after completion of the Guam Administrative Adjudication Act procedure as amended by P.L. 34-32.

RESOLVED, that the Chairman of the Commission certifies and the Secretary of the Commission attests the adoption of this Resolution.

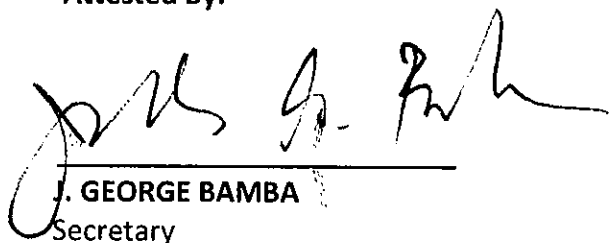
DULY and REGULARLY ADOPTED AND APPROVED THIS 26th day of SEPTEMBER, 2017.

Certified By:



JOSEPH T. DUENAS
Chairperson
Consolidated Commission on Utilities

Attested By:



J. GEORGE BAMBA
Secretary
Consolidated Commission on Utilities

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63 **I, J. George Bamba**, Board Secretary of the Consolidated Commission on Utilities
64 (CCU), as evidenced by my signature above do hereby certify as follows:

65 The foregoing is a full, true and correct copy of a resolution duly adopted at a regular
66 meeting of the members of Guam Consolidated Commission on Utilities, duly and legally
67 held at a place properly noticed and advertised at which meeting a quorum was present and
68 the members who were present voted as follows:

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70	AYES:	<u>5</u>
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72	NAYS:	<u>0</u>
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74	ABSENT:	<u>0</u>
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76	ABSTAIN:	<u>0</u>



GUAM POWER and GUAM WATERWORKS AUTHORITY (GPWA)
Drug-and Alcohol-Free Workplace Policy

Statement of Policy

It is the policy of the GPWA to provide a safe, healthy and secure work environment for all employees. It is also the policy of the GPWA to ensure that all employees perform their job duties in a safe, efficient and productive manner. In an effort to ensure that Department Head, Managers and Supervisors continue to be informed and educated on GPWA's Drug and Alcohol policies, updated training will be required every two years. All new employees and any employee who is hired or promoted into a supervisory position must receive training on this policy within sixty (60) days of hire or promotion. Finally, it is the policy of the GPWA to ensure that its equipment and facilities are maintained and utilized appropriately so as not to pose a risk of harm. The use of drugs and the misuse of alcohol are inconsistent with these policies. Accordingly, to protect the health, safety and welfare of employees, citizens, visitors and persons who interact with GPWA employees during the course and scope of their employment, GPWA has adopted this Drug- and Alcohol- Free Workplace Policy which shall be strictly enforced.

Enforcement Date

This policy will go into effect on October 1, 2017 and will apply to all employees of GPWA regardless of status or classification. Upon the effective date, the policy will be strictly enforced and **will not** allow any employee entry into the Employee Assistance Program upon voluntary identification by himself or herself as a user of drugs or abuser of alcohol.

Prohibited Conduct

The following violations of the Drug and Alcohol Free Workplace Policy constitute gross misconduct and shall result in severe disciplinary action up to and including dismissal:

1. Unauthorized use, possession, sale, or solicitation for purchase/sale of drugs or alcohol on GPWA property or while the employee is on duty.

2. Hindering, obstructing or refusing to cooperate or participate in any investigation involving suspected violations of this policy. This includes, but is not limited to, providing false, misleading or incomplete information in response to any inquiry from a supervisor related to a suspected violation of this policy. It also includes refusing to undergo a drug or alcohol test(s).

a) Refusal by an applicant to sign a consent form will be considered a refusal to submit to a drug and/or alcohol test as a condition of employment and will be considered the equivalent of receiving a confirmed "positive" result for employment and disqualification purposes. Such applicant will have his/her name removed from the certified list of eligibles and the position eligibility listing.

b) Refusal by an employee to sign a consent form will be considered a refusal to submit to a drug and/or alcohol test as a condition of employment and will be considered the equivalent of receiving a confirmed "positive" result for employment and disciplinary purposes, up to, and including dismissal.

3. Hindering, delaying or obstructing a drug or alcohol test(s), including but not limited to, tampering with a sample or interfering in any way with the chain of custody.

4. Reporting to work or engaging in any work activity whatsoever on behalf of the GPWA in a condition which could pose a threat of harm to the employee or any other person, or reporting to or engaging in any work on behalf of the GPWA in a condition which could impair the ability to satisfactorily perform any essential function of the job, due to the use of drugs or misuse of alcohol. Should any detectable amount of drugs, or alcohol in a concentration of 0.02 breath alcohol content (BAC) or greater be established, the employee is in violation of the GPWA Drug & Alcohol Free Workplace Policy. No employee shall perform their job functions within four hours after using alcohol.

5. Abusing or misusing prescription drugs or over-the-counter medication when such conduct could reasonably interfere with the safe or satisfactory performance of any essential job function. This includes, but is not limited to, the use, possession, sale or solicitation for the purpose of purchase or sale any prescription medication for which the employee lacks a valid prescription.

Prohibited Substances

1. "Drugs" refers to marijuana, cocaine, amphetamines, opiates (including heroin and codeine), phencyclidine, and all other "controlled substances" as defined in Title 9 GCA Chapter 67 Guam Uniform Controlled Substances Act.
 - a. Specimens from applicants and employees will be screened in all cases to identify the following classes of substances:
 1. Marijuana/Cannabinoids (THC);
 2. Cocaine Metabolites;
 3. Opiates;
 4. Phencyclidine (PCP);
 5. Amphetamines/Methamphetamine; and
 6. Barbiturates
 - b. GPWA reserves the right to change, add or delete any combination of "controlled substances" for screening as new forms become available.
2. "Alcohol" includes any beverage or substance containing alcohol manufactured for the primary purpose of personal consumption.
3. "Prescription drugs" means any substance, which is attainable only by lawful prescription from a physician.
4. "Over-the-counter medication" includes any substance which does not require a prescription but has the capacity to affect a person physically, mentally, or emotionally or which could otherwise affect a person's ability to safely perform his/her duties.

When Testing is Required

1. All competitive and non-competitive recruitments within GPWA will be tested after a conditional offer of employment has been extended. Drug testing will be required for but, not limited to the following:
 - a) **Pre-Employment (Probational/Unclassified/Exempt/Provisional/Temporary):** Applicants for positions within GPWA will be tested after a conditional offer of employment has been extended. An applicant who refuses a drug test(s) or who tests positive, shall not be extended a final offer of employment.

b) **Promotions, Transfers, Reclassification:** Employees within GPWA will be tested upon the General Manager's approval for selection/reclassification. An employee who refuses a drug test(s) or who tests positive, shall be subject to disciplinary action up to and including dismissal.

Except for emergency situations, applicants and employees will not be permitted to reschedule drug testing after they are notified that such testing is scheduled.

2. **Random Testing:** All positions at GPWA shall be subject to random testing as follows:

a) Tests will be ordered on a random, unannounced basis from the entire population of GPWA employees.

(1) A scientifically valid method such as a random number table or a computer-based random number generator will be used to select employees, thereby allowing each employee an equal chance of being tested each quarter.

(2) At least 25% of the employees will be selected for drug testing, and at least 25% of employees for breath alcohol testing each quarter of the testing year.

(3) An employee's name will remain in the potential testing population after being selected so that every employee will have an equal chance of being tested each time selections are made. Therefore, it is possible that any employee, who is randomly selected for testing, may be randomly selected again every quarter.

(4) Every employee selected for random testing must be tested unless that employee is excused by the General Manager for reasons such as long-term leave, disability or termination of employment.

(5) Any employee who has not had an equal chance of being tested each time a selection was made will be tested on or before September 30 of any year.

b) GPWA reserves the right to increase or decrease the frequency of testing based on the needs of each utility, availability of resources, and experience in the program, consistent with the duty to achieve a drug free workplace.

3. **Follow-up Testing:** The GPWA General Manager reserves the right to require an employee to submit to subsequent drug testing as necessary, during the authorized treatment program, and for 12 months after the program ends. A certification of completion from the treating agency must be submitted to the Human Resources office to demonstrate a successful completion of the treatment program.

4. **Return to Duty Testing:** Employees who are absent from work without approval for more than fifteen calendar (15) days shall be tested for drugs immediately after returning to work and before performing any job duties.

5. **Reasonable Suspicion:** All employees will be subject to testing when there is reasonable suspicion that the employee has used drugs or misused alcohol in violation of this policy. Grounds for reasonable suspicion testing shall include, but not be limited to:

a) Personal observation of the employee's job performance, appearance, behavior, speech or odor which causes reasonable suspicion that the employee (i) is impaired by drugs or alcohol, (ii) has used drugs or alcohol while on duty, (iii) or poses a threat to personal safety or others due to the use of drugs or misuse of alcohol in violation of this policy.

b) Specific and objective facts indicating that an employee's drug or alcohol use may have caused or been a contributing factor to an on-duty motor vehicle accident. An alcohol test(s) should be completed within two (2) hours of the accident and a drug test(s) within twenty-four (24) hours of the accident. The following facts, if present, may independently or collectively, depending upon the circumstances, give rise to reasonable suspicion:

(1) the appearance, behavior, speech or odor of the employee immediately prior to or after the accident;

(2) the employee left the scene or attempted to leave the accident scene without legal authority or permission to do so;

(3) the employee acted contrary to a safety rule, established safety practice or otherwise engaged in demonstrably unsafe behavior for which there is no reasonable explanation;

(4) the employee was arrested or received a traffic citation;

(5) the employee or any person received medical attention as a result of the accident;

(6) the employee has been involved, as a contributing factor, in a pattern of repetitive on-duty motor vehicle accidents whether they involved actual or potential injury.

c) Specific and objective facts indicating that an employee's drug or alcohol use may have caused or been a contributing factor to an on the job accident. An alcohol test(s) should be completed within two (2) hours of the accident and a drug test(s) within forty-eight (48) hours of the accident. The following facts, if present, may independently or collectively, depending on the circumstances, give rise to reasonable suspicion:

(1) The appearance, behavior, speech or odor of the employee immediately prior to or after the accident;

(2) The employee left the accident scene or attempted to leave the accident scene without legal authority or authorization to do so, or failed to report the accident to the appropriate individual or otherwise attempted to keep appropriate persons from learning about the accident or the extent of the accident;

(3) The employee acted contrary to a safety rule, established safety practices or otherwise engaged in demonstrably unsafe behavior without a reasonable explanation;

(4) The employee or any other person received medical attention because of the accident;

(5) The employee has been involved as a contributing factor in a pattern of on- duty accidents whether or not they involved actual or potential injury.

d) Drugs, drug paraphernalia, alcohol or containers indicating the presence of drugs or alcohol are observed or discovered in a location in which the employee had primary control or access, including but not limited to, desks, lockers, equipment, machines or vehicles. The employee must have accessed the location within eight (8) hours prior to the discovery of such items.

6. **Consent:** By acknowledging receipt of this Policy in writing, the employee is providing his or her consent to any and all testing required to comply with the Policy.

Who May Request a Reasonable Suspicion Drug or Alcohol Test(s)

1. Any supervisor who has received training in the signs and symptoms of drug and alcohol use and impairment may request an employee to undergo a reasonable suspicion test(s) for drugs or alcohol based upon (i) the personal observation of the employee by the trained individual, or (ii) personal observation of the employee by another employee who has fully disclosed the observations to the trained individual, or (iii) observation of the employee by a nurse or physician engaged in the treatment or evaluation of a work related injury who has disclosed such observation to the trained individual.
2. Any untrained supervisor may request a reasonable suspicion test(s) for drugs or alcohol based upon his personal observation of the employee, under the following circumstances:
 - a) The employee has been independently observed by a trained supervisor, or
 - b) A trained supervisor has reviewed the underlying facts and agrees that reasonable suspicion exists to require a test.
3. Any supervisor, personnel of managerial capacity, or personnel of the Safety and Human Resources Divisions trained in detecting drug and alcohol impairment, may request a reasonable suspicion drug or alcohol test(s) following a work-related accident based upon personal observation of the employee or upon review of the specific and objective facts underlying the accident.

Procedure

1. Whenever there is reasonable suspicion to require a drug or alcohol test(s) under this policy, the General Manager, department/division heads or designees and Human Resources shall be notified of the circumstances necessitating the test(s) as soon as possible.
2. All circumstances causing reasonable suspicion to require a drug or alcohol test(s) shall be fully documented by the supervisor(s) and/or managerial personnel and all appropriate witnesses as soon as possible.

3. All GPWA-issued equipment, property and facilities, including but not limited to, desks, lockers, and vehicles (collectively "materials") are subject to inspection at any time and for any reason. No employee shall have any privacy interest whatsoever in any GPWA issued materials. No personal property may be searched unless the owner of the property has consented or a search is otherwise legally permissible.

4. Alcohol screening will be conducted using a federally approved evidential breath-testing device. An initial screening test of one (1) breath sample will be conducted first, and if an initial test detects any level of alcohol, a second confirmation test of one (1) additional breath sample will be completed.

5. Testing will be performed by a certified, licensed forensic laboratory. Drug test methods, collection, security and chain of custody procedures will conform to federal regulations. The drug test will include marijuana, cocaine, amphetamines, methamphetamines, opiates (including heroin and codeine), and phencyclidine (PCP) and barbiturates. Other "controlled substances" may be added as new forms become available. All specimens identified as positive for illegal drugs on the initial screening will be confirmed using the gas chromatography/mass spectrometry technique.

6. All positive test results for drugs will be interpreted by a physician approved by GPWA as a medical review officer (MRO) before the results are reported to the GPWA. Prior to notifying GPWA, the MRO will make reasonable efforts to contact the employee for the purpose of allowing the employee to offer an alternative medical explanation for the positive test result. If the MRO is able to contact the employee and determines there is a legitimate medical explanation for the positive test, the result will be communicated as negative to GPWA. The MRO's inability to contact the employee before providing test results to the GPWA will not void the test result or make the test result unusable in any subsequent disciplinary action. Because the employee is present for interpretation of an alcohol test, the procedure concerning prior notification by the MRO is not applicable.

7. Upon notification by the MRO of a verified positive result for drugs, the employee may request that the remaining portion of his split specimen undergo a second confirmation test at his expense. The results of the second confirmation test, upon review by the MRO, will be determinative. If the results from the second confirmation test is negative, all prior positive tests will be disregarded and shall not be the basis for any disciplinary or adverse action.

8. The GPWA will make reasonable efforts to notify the employee of a positive drug test within five (5) days from the date it receives the test results. Because the results of a breath alcohol test are immediately available, this provision will not apply to alcohol tests conducted in such a manner.

9. Any employee ordered to be tested, based upon reasonable suspicion, shall be immediately removed from duty, escorted to the testing facility and taken home (unless other suitable arrangements have been made to transport the employee including calling a cab). The employee shall turn in keys to a GPWA vehicle, building or office, their identification badge or any other property belonging to the GPWA. The employee shall be placed on paid administrative leave pending the results of the test.

10. An employee who tests positive for drugs or alcohol shall immediately be relieved from duty, required to turn in keys to a GPWA vehicle, building or office, identification badge or any other property that belongs to the GPWA, placed on paid administrative leave, and sent home pending disciplinary action, if appropriate. A supervisor may take an employee home. If a supervisor is not comfortable taking an employee home, however, a cab may be called to come and take the employee home at the employee's expense.

11. In situations in which the employee has been ordered to be tested or tests positive and the employee refuses assistance in leaving the building and walks out or insists on leaving in his/her own vehicle, document the situation and, depending upon the circumstances, call Guam Police Department's non-emergency phone number. Give the police the employee's name, vehicle description, and license plate number. However, if the employee is extremely agitated, violent or is making threats of violence, leaves the premises in a GPWA vehicle, or you believe the employee has violated the law, call the Guam Police Department at 9-1-1.

12. A refusal to consent to a drug or alcohol test is a violation of the Policy and will be considered the equivalent of receiving a confirmed "positive" result for employment and disciplinary purposes, up to, and including dismissal.

13. If it is not reasonable under the circumstances to conduct an alcohol test, based on a breath test, GPWA reserves the right to test for the presence of alcohol by a blood test analysis. If this procedure is used, the GPWA will attempt to notify the employee of the results within five (5) days after the results are received. An MRO will not be used when a blood test for alcohol is conducted.

Employee Assistance Program

Prior to October 1, 2017, any employee who voluntarily identifies himself or herself as a user of drugs or abuser of alcohol, will not be subject to disciplinary action if the employee seeks immediate assistance and treatment through the GPWA's Employee Assistance Program (EAP) or a similarly available treatment program. Failure to comply with all requirements of a treatment program, or continued use of drugs or alcohol during or after completion of such a program, will result in dismissal.

Arrests for Drug and Alcohol Related Offenses

Any employee who is arrested for a drug or alcohol related offense must notify the General Manager of the arrest immediately. GPWA will decide at that time whether the arrest causes a temporary or permanent disqualification from holding that position, or constitutes grounds for disciplinary action. All convictions for alcohol or drug related offenses must be reported immediately by an employee to the General Manager. GPWA reserves the right to take appropriate action based upon such conviction.

All employees who are required to operate a GPWA vehicle as a regular part of their job must report any drug or alcohol arrest, temporary or permanent suspension of driving privileges, and any drug/alcohol related conviction to the General Manager immediately. GPWA reserves the right to take appropriate action, including relieving the employee from duty, transferring the employee to a non-driving position, or instituting disciplinary action up to and including dismissal.

Confidentiality

All reports of test results for drug and alcohol, searches, or any employee referral, or participation in an EAP program or treatment program for addictive disorders, will be maintained in strict confidence. Any person authorized to have access to such confidential information, who, without authorization, discloses it to another person shall have engaged in gross misconduct and be subject to severe disciplinary action up to and including dismissal. The confidentiality of such information shall not apply to any use by or communication to the GPWA General Counsel, or where the information is relevant to the GPWA's defense in an administrative or civil action. Such information may also be disclosed to the extent required by any federal, state or local law, statute, ordinance or regulation.