

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:
202359

Resolution:
☒ Yes ☐ No

TITLE:

Drug-Free Workplace Policy Update

PRESENTATION SUMMARY:

Amend the Drug-Free Workplace (DFW) Policy that complies with the Drug-Free Workplace Act of 1988 and the Federal Transit Administration (FTA).

PURPOSE:

Staff seek approval of the proposed DFW Policy Instruction 7.7.1.

DESCRIPTION:

The Drug-Free Workplace Act of 1988 and Federal Transit Administration (FTA) regulations (49 CFR § 32.205) require grant recipients to adopt and distribute a Drug-Free Workplace (DFW) Policy. Staff seeks Board approval for an updated DFW Policy.

Key Highlights:

FTA regulations require that an agency's DFW Policy must:

- State the workplace is drug-free
- Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of any controlled substance in the workplace, and specify consequences for violating that prohibition
- Require employees to report, in writing and within five calendar days, convictions of any criminal drug statute that occurred in the workplace; and
- Require employees to abide by the policy statement as a condition of employment

Background and History:

Metro established the DFW Policy to comply with FTA regulations and the DFW Act of 1988.

Discussion:

Updates to the DFW Policy include:

- Clarifications to ease understanding and compliance, such as updating the policy format and definitions to current standards;
- Updating position titles and references to DFW laws and regulations; and
- Establishing responsibilities of the Chief Medical Officer (CMO), the Senior Vice President of Human Capital (HC), and department heads, which were formally delegable responsibilities of the GM/CEO, and updating position titles throughout.

FUNDING IMPACT:

Define current or potential funding impact, including source of reimbursable funds.	
Project Manager:	
Project Department/Office:	

There is no funding needed to update the policy.

TIMELINE:

Previous Actions	Update Drug-Free Workplace Policy
Anticipated actions after presentation	Update Policy and Resolution

RECOMMENDATION:

Board approval of the proposed DFW Policy.

SUBJECT: REVISIONS TO THE DRUG-FREE WORKPLACE POLICY

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Drug-Free Workplace Act of 1988 and Federal Transit Administration regulations (49 CFR § 32.205) require grant recipients like WMATA to adopt and distribute a Drug-Free Workplace Policy; and

WHEREAS, The Drug-Free Workplace Policy was last approved by the Board in 2015 (Res. 2015-31); and

WHEREAS, Staff recommends revisions to the Drug-Free Workplace Policy for clarity and to update position titles and responsibilities and references to laws and regulations, set forth in Attachment A;

NOW, THEREFORE, be it

RESOLVED, That the Board of Directors adopts the revised Drug-Free Workplace Policy, Policy/Instruction 7.7.1, set forth in Attachment A; and be it finally

RESOLVED, That this Resolution shall be effective 30 days after adoption in accordance with Compact Section 8(b).

Reviewed as to form and legal sufficiency,

Patricia Y. Lee
Executive Vice President and General Counsel

**POLICY/INSTRUCTION:**
7.7.1/3**Drug-Free Workplace****SUPERSEDES: P/I 7.7.1/2****APPLICABLE TO: All Metro Employees**

METRO RESERVES THE RIGHT TO ELIMINATE, CHANGE, OR MODIFY THIS POLICY AT ANY TIME. ADDITIONALLY, THE LANGUAGE USED IN THIS POLICY SHOULD NOT BE CONSTRUED AS CREATING A CONTRACT OF EMPLOYMENT BETWEEN METRO AND ANY OF ITS EMPLOYEES OR OTHERWISE ALTERING AN EMPLOYEE'S AT-WILL EMPLOYMENT RELATIONSHIP WITH METRO.

1.00 PURPOSE

This Policy/Instruction (P/I) establishes Washington Metropolitan Area Transit Authority's (Metro) Drug-Free Workplace policy and incorporates the U.S. Department of Transportation/Federal Transit Administration (DOT/FTA) guidelines for complying with the *Drug-Free Workplace Act (DFW Act)* of 1988 and its implementing regulations.

2.00 SCOPE

This P/I is applicable to all Metro employees.

3.00 DEFINITIONS

- 3.01 **Controlled Substance** - any substance in schedules I through V of section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. § 812), as supplemented by 21 C.F.R. Part 1308.
- 3.02 **Conviction** - a finding of guilt (including a plea of nolo contendere), or imposition of a sentence, or both, by any judicial body (e.g., trial court) charged with the responsibility to determine violations of Federal or State Criminal Drug Statutes.
- 3.03 **Criminal Drug Statute** - a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.
- 3.04 **Workplace** - a Metro site, for the performance of work done in connection with a specific contract or grant, at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance.

4.00 RESPONSIBILITY

4.01 The Board of Directors:

- (a) delegates to the General Manager/Chief Executive Officer (GM/CEO) full authority to implement this P/I and comply with all applicable federal laws, rules, or regulations

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By General Manager & Chief Executive Officer Paul J. Wiedefeld

**POLICY/INSTRUCTION:**
7.7.1/3**Drug-Free Workplace****SUPERSEDES: P/I 7.7.1/2****APPLICABLE TO: All Metro Employees**

relating to the DFW Act;

- (b) delegates to the GM/CEO full authority to implement a drug-free workplace program consistent with this P/I and the DFW Act; and
- (c) authorizes the GM/CEO to delegate authority to accomplish the objectives of the P/I and the DFW Act and to revise this policy as necessary for legal compliance.

4.02 The GM/CEO is responsible for:

- (a) authorizing the appropriate Metro officials to implement this P/I and ensure Metro's compliance with all applicable federal laws, rules, or regulations relating to the DFW Act; and
- (b) making a good faith effort to maintain a drug-free workplace.

4.03 The Chief Medical Officer (CMO), Office of Occupational Health and Wellness (OHAW) is responsible for:

- (a) providing each Metro employee with a copy of this P/I;
- (b) establishing a drug-free awareness program to inform employees about:
 - (1) the dangers of drug abuse in the workplace;
 - (2) Metro's policy of maintaining a drug-free workplace;
 - (3) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (c) providing each department head with a copy of any updates to this P/I.

4.04 The Senior Vice President & Chief Human Capital Officer (SVP-CHCO) or designee is responsible for:

- (a) publishing a drug-free workplace statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of the prohibition;
- (b) maintaining files on reports of convictions-for violation of any Criminal Drug Statute occurring in the workplace, and actions taken upon those reports; and
- (c) establishing procedures requiring that every employee sign and acknowledges receipt

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By General Manager & Chief Executive Officer Paul J. Wiedefeld

**POLICY/INSTRUCTION:**
7.7.1/3**Drug-Free Workplace****SUPERSEDES: P/I 7.7.1/2****APPLICABLE TO: All Metro Employees**

4.05 of *Appendix A: Statement Regarding Drug-Free Workplace* of this P/I.
Each Department Head is responsible for:

- (a) distributing copies of updates to this P/I to their employees; and
- (b) requiring their employee to sign and acknowledge receipt of *Appendix A*.

5.00 POLICIES AND PROCEDURES

5.01 Metro employees shall not unlawfully manufacture, distribute, dispense, possess or use any controlled substance in the workplace.

5.02 Each employee must notify his or her supervisor in writing no later than five (5) calendar days following a conviction for violation of any Criminal Drug Statute occurring in the workplace (P/I, 7.8.6, *Disclosure and Disposition of Arrests and Convictions*, separately requires reporting within 24 hours). Any employee who believes his or her supervisor knows about the conviction from another source must still comply with this notice requirement.

- (a) Compliance with section 5.03 of this P/I does not relieve employees of their obligation under P/I 7.8.6 to report all arrests and convictions to their immediate supervisor and/or manager, including convictions that fall under this P/I, within 24 hours of the event.
- (b) Upon receiving written notice of a conviction from an employee or any other source, the employee's supervisor shall notify the VP-HC (or designee) in writing of the employee's conviction within 48 business hours.
- (c) The department head, within 30 days, or any shorter period specified in an applicable collective bargaining agreement, shall impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program for any employee convicted of a Criminal Drug Statute violation.
- (d) Within ten (10) calendar days of Metro receiving notice of the conviction or otherwise receiving actual notice of the conviction, the VP-HC (or designee) shall report to the FTA or other awarding federal agency an employee's criminal conviction for a Drug Statute violation that occurred in the workplace.

5.03 Metro will provide employees with training regarding the dangers of drug abuse in the workplace, P/I 7.7.2, *Substance Abuse and Employee Assistance Program*, and Metro's disciplinary provisions for violations occurring in the workplace.

6.00 ENFORCEMENT

Any employee who violates this P/I is subject to discipline, up to and including termination.

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**POLICY/INSTRUCTION:**
7.7.1/3**Drug-Free Workplace****SUPERSEDES: P/I 7.7.1/2****APPLICABLE TO: All Metro Employees****7.00 EXCEPTIONS**

None.

8.00 RELATED POLICIES, REGULATIONS & RESOLUTIONS

- 8.01 The Drug-Free Workplace Act of 1988, 41 U.S.C. § 8101, et seq.
- 8.02 Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. § 812.
- 8.03 Schedules of Controlled Substances, 21 C.F.R. Part 1308.
- 8.04 Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 49 C.F.R. Part 32.
- 8.05 P/I 7.7.2, Substance Abuse and Employee Assistance Programs.
- 8.06 P/I 7.7.3, Drug & Alcohol Policy and Testing Program.
- 8.07 P/I 7.8.6, Disclosure and Disposition of Arrests and Convictions.

9.00 LIST OF APPENDICES, ATTACHMENTS OR FORMS

Appendix A: Statement Regarding Drug-Free Workplace.

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By General Manager & Chief Executive Officer Paul J. Wiedefeld

**POLICY/INSTRUCTION: 7.7.1/3 - Drug-Free Workplace****APPENDIX A: Statement Regarding Drug-Free Workplace****STATEMENT REGARDING DRUG-FREE WORKPLACE**

Metro maintains a drug-free workplace as mandated by the *Drug-Free Workplace Act of 1988*. Metro employees shall not unlawfully manufacture, distribute, dispense, possess, or use a Controlled Substance¹ in the workplace, which includes but is not limited to all Metro facilities, properties, trains, and other vehicles. Employees who violate this prohibition or fail to report a Conviction² for a Criminal Drug Statute³ violation that occurred in the Workplace will be subject to discipline, up to and including termination.

As a condition of employment, Metro employees will:

- (a) abide by the requirements set forth in the first paragraph of this Statement; and
- (b) notify their supervisor in writing no later than five (5) calendar days following a conviction for violation of any Criminal Drug Statute occurring in the workplace. Any employee who violates this P/I is subject to discipline, up to and including termination.

This Statement is in addition to the established work rules and does not negate or supersede such rules. Although the *Drug-Free Workplace Act of 1988* requires employees to notify their supervisor in writing of Convictions no later than five (5) calendar days, Metro employees must also follow P/I 7.8.6, *Disclosure and Disposition of Arrests and Convictions*, and report all arrests and convictions to their immediate supervisor and/or manager, including convictions that fall under the *Drug-Free Workplace Act*, within 24 hours of the event.

By signing this statement, I certify that I have received a copy of the *Drug-Free Workplace Policy* and understand the conditions of employment as stated above.

Employee Name (Print): _____ Employee ID: _____

Employee Signature: _____ Date: _____

¹ **Controlled Substance** - any substance in schedules I through V of section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. § 812), as supplemented by 21 C.F.R. Part 1308.

² **Conviction** - a finding of guilt (including a plea of nolo contendere), an imposition of a sentence, or both, by any judicial body (e.g., trial court) charged with the responsibility to determine violations of Federal or State Criminal Drug Statutes.

³ **Criminal Drug Statute** - a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.

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