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POLICY

The Kaw Nation shall constitute a drug-free workplace. All employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing and/or using a controlled substance in or on tribal facilities, property, or workplace.

As a condition of employment, it is the responsibility of every employee to adhere to the requirements and provisions of this policy and to notify his immediate supervisor and the Chair in writing of any criminal drug conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

Employees who violate this policy and/or who are convicted of a violation occurring in the workplace shall be subject to disciplinary action as recommended by the Chair.

Any employee, whether convicted or not, who seeks substance abuse assistance or rehabilitation, may do so by contacting the Chair and Human Resources.

Refusal to test shall be considered an administrative positive.

DRUGS FOR WHICH KAW NATION TESTS:

Applicants who have been offered conditional employment and current employees will be subject to urine testing which will be evaluated for the presence of these substances: ethyl alcohol or ethanol, amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of these substances.

The alcohol and drug screening test is designed to detect only the presence of (1) alcohol, (2) illegal drugs, and (3) commonly abused legal drugs which may affect judgment or work performance.

Procedure:

- **Definitions:**

1. Alcohol is a drug and central nervous system depressant. Alcohol is the major intoxicating ingredient in wine, beer, and distilled liquor. It is the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin, and includes synthetic ethyl alcohol.
2. Drug is any chemical substance which produces physical, mental, emotional, or behavioral changes in the user.
3. Controlled Substance is any of those substances listed under the Uniformed Controlled Substances Act under current tribal or Federal Law.
4. Illegal Drugs are drugs for which the possession, use, sale or distribution is unlawful pursuant to current Tribal Law, or any Federal law or regulation. Illegal drugs, for the purpose of this policy, also include drugs which are not legally obtainable and drugs which are legally obtainable but have been obtained illegally.
5. Intoxicating Substance is a substance which produces changes in one's physical, mental, or emotional state or behavior; including but not limited to glue, paint thinner, etc.
6. Drug and Alcohol Testing may include, but not be limited to, urinalysis, breath-analysis or blood sampling.
7. Possession refers to having control over a place or thing with knowledge of and intent to have such control.
8. Under the influence of alcohol means as a result of the consumption of alcohol an employee's ability to perform his/her job is impaired to any appreciable degree or the person has an alcohol concentration in their blood or breath of .08% or more as measured within four hours of the time the person is suspected of being under the influence of alcohol. However, an employee with a blood alcohol concentration less than .08% may also be considered to be under the influence of alcohol if their job performance is impaired to any appreciable degree. For the purposes of this section, "alcohol concentration" means number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.
9. Under the influence of Drugs or other intoxicating Substances means as a result of the consumption, inhalation or injection or any combination of alcohol, drug or any other intoxicating substance or any combination of substances, and employee's job performance is impaired to any appreciable degree.

- **Exemption for Prescribed Medical Treatment**

The use of legally controlled substances as part of a prescribed medical treatment by a licensed physician will exempt an employee from disciplinary action or denial of employment if the treatment does not adversely affect job performance and the medication is stored and administered in a safe manner. Prescribed use must be substantiated by a physician's report or statement. If the use of the prescribed drugs adversely affects an employee's job performance and/or is detrimental to the public trust or safety of other employees, clients, or citizens, it is in the best interest of the employee and Kaw Nation for the employee to be placed on leave of absence in accordance with

current policies. Employees must immediately notify their supervisor of any prescribed medication which could affect or impair their ability to perform their duties, especially if the medication impairs judgment or the ability to operate vehicles or machinery.

Screening Process:

APPLICANT TESTING

All applicants who have been offered conditional employment for a particular job classification will be tested as part of the application process. Applicants who do not consent to be tested will be disqualified from consideration for employment. Applicants who test positive will be disqualified from consideration for employment.

EMPLOYMENT TESTING

Kaw Nation shall request any employee to submit to an alcohol and/or drug screening test at any time (1) when an employee or another person has sustained an on-the-job injury, or was involved in a car accident, or damage has been caused to Kaw Nation property; (2) when there is a reasonable suspicion to believe an employee has violated the Kaw Nation's Drug and Alcohol Policy; (3) there is reason to believe the employee has performed, is performing, or is about to perform while impaired by alcohol or drugs.

A decision to test will be based on specific objective, articulate facts such as (1) physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty, or the direct observation of drug or alcohol use while at work or on duty; (2) report of drug or alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated; (3) evidence an individual has tampered with a drug or alcohol test during his/her employment with the Kaw Nation, or evidence an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on Kaw Nation property, or operating Kaw Nation vehicles, machinery, or equipment.

FINDING OF ABUSE OF ALCOHOL OR USE OF ILLEGAL DRUGS

The determination that any employee abuses alcohol or uses illegal drugs may be made on the basis of any appropriate evidence, including direct observation, a criminal conviction, administrative inquiry, or the results of the tests authorized herein.

If an employee's drug test is positive, the employee is given the opportunity of having that urine sample tested again by a certified lab at the employee's cost.

If the employee does not request a 2nd test, the employee will be terminated immediately.

REFUSAL TO SUBMIT TO TESTING

The failure of any employee at any time to promptly submit to a drug/alcohol test pursuant to this Policy will be grounds for termination.

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 without pay.

CONFIDENTIALITY OF TEST RECORDS

All drug testing records and documents generated as a result of this Drug and Alcohol Policy are confidential and the property of the Kaw Nation. Drug and alcohol test results and records will be maintained apart from other personnel records in the employee medical files. Drug test results and records will not be used in any criminal proceeding, or any civil or administrative proceeding, except these actions involving the individual tested and Kaw Nation, or unless the records are ordered released pursuant to a valid court order.

Upon written request of the applicant or employee tested, the record of that test will be made available to the applicant or employee for inspection. Drug test records will not be released to any person other than the applicant or employee unless the individual tested grants permission in writing for such release, or required by a valid court order.

An employee testing positive will be assigned a case number. Case numbers will be used when discussing employee compliance/non-compliance.