

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



January 6, 2005

MEMORANDUM

TO: CSU Presidents

FROM: Charles B. Reed
Chancellor

SUBJECT: CSU Drug-Free Workplace Policy - Executive Order No. 930

Enclosed is a copy of Executive Order 930, the CSU Drug-Free Workplace Policy. Executive Order 930 is in compliance with the federal Drug-Free Workplace Act of 1988 (41 U.S.C. 701) and the California Drug-Free Workplace Act of 1990 (Government Code § 8350 et seq.).

Campuses shall adopt and implement the policy set out in this executive order. In some cases, a campus may already have an existing drug-free policy. Campuses' drug-free policies shall, at a minimum, adopt and implement the requirements mandated by this executive order, but may choose to regulate more activities or impose more stringent restrictions, provided that they do not violate any applicable statutes, regulations, and policies.

In 1989, campuses were informed of the legal requirements of the federal Drug-Free Workplace Act of 1988 by way of a coded memorandum (FSR 89-18 Drug Free Workplace Requirements – Public Law 100-690. See now 41 U.S.C. 701). FSR 89-18 may continue to be relied on for guidance in how to comply with the certification requirements of the federal Drug-Free Workplace Act of 1988.

Questions regarding any of these statutes should be directed to the Office of General Counsel.

In accordance with the policy of the California State University, the campus president has the responsibility for implementing Executive Order 930 and for maintaining the campus repository and index for all executive orders.

CBR/eb

Attachments: The federal Drug-Free Workplace Act of 1988
The California Drug-Free Workplace Act of 1990

Executive Order No. 930

cc: Executive Staff, Office of the Chancellor
Vice Presidents, Faculty Affairs
Vice Presidents, Student Affairs
Vice Presidents, Administration
Directors of Research
Human Resources Directors
Equal Employment Opportunity Directors
EAP Coordinators

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4425

Executive Order: 930
Effective Date: January 6, 2005
Reference: FSR 89-18 Drug Free Workplace Requirements –
Public Law 100-690; 41 U.S.C 701
Supersedes: None
Title: **CSU Drug-Free Workplace Policy**

A. Policy

The California State University (CSU) is committed to maintaining a workplace free from the unlawful manufacture, possession, distribution, dispensation or use of controlled substances, as defined in schedules I through V of the Controlled Substances Act (21 U.S.C. §812) and 21 C.F.R. Part1308.

Employees violating this policy shall be subject to discipline, up to and including dismissal. Discipline shall be imposed in a manner consistent with the applicable labor agreements, CSU policies, and law. In addition to, or in lieu of discipline, CSU may, at its discretion, require employees violating the policy to participate satisfactorily in an appropriate drug abuse rehabilitation program.

B. Application

This policy applies to CSU employees. "Employee" means a person legally holding a position in the California State University.

C. Implementation

The president at each campus (or the chancellor at the Chancellor's Office) shall be responsible for implementing this policy. This includes, but is not limited to:

1. Establishing a drug-free awareness program which distributes to each employee:
 - a. A copy of this policy;

- b. A description of the dangers of drug abuse in the workplace;
 - c. A description of any drug counseling, treatment, or rehabilitation programs available to employees; and
 - d. A description of the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
2. Requiring each employee, who is directly engaged in the performance of a contract or grant that is awarded by any federal or state agency, to abide by the terms of the policy as a condition of employment on the federal or state contract or grant;
 3. Requiring each employee, who is directly engaged in the performance of a contract or grant that is awarded by any federal agency, to notify the campus within five (5) days of conviction of any criminal drug conviction for a violation occurring in the workplace.
 4. Notifying the federal contracting or granting agency within ten (10) days after receiving the notice described in C.3. from an employee or otherwise receiving actual notice of such conviction.
 5. Imposing discipline on employees convicted of a drug crime for a violation occurring in the workplace and/or requiring such employees' satisfactory participation in a drug abuse rehabilitation program.



Charles B. Reed, Chancellor

Dated: January 6, 2005

Note 7

claims for equitable adjustments under contract, absent specific contract provision authorizing prejudgment interest against government, despite any implied duty to avoid unreasonable administrative delay; contract was made before passage of Contract Disputes Act, before which judicial and administrative tribunals consistently

construed interest claims against contractors. Washington Metropolitan Area Transit Authority v. Nello L. Teer Co., D.C.1992, 618 A.2d 128, answer to certified question conformed to 995 F.2d 305, 301 U.S.App.D.C. 405. Interest @ 39(2.30)

§ 612. Payment of claims

[See main volume for text of section]

(Pub.L. 95-563, § 13, Nov. 1, 1978, 92 Stat. 2389; Pub.L. 104-106, Div. D, Title XLIII, § 4322(b)(7), Feb. 10, 1996, 110 Stat. 677.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1996 Acts. House Conference Report No. 104-450, see 1996 U.S. Code Cong. and Adm. News, p. 238.

Amendments

1996 Amendments. Subsec. (a). Pub.L. 104-106, § 4322(b)(7)(A), substituted "section 1304 of Title 31" for "section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)", which, for purposes of codification, required no change in text.

Subsec. (c). Pub.L. 104-106, § 4322(b)(7)(B), substituted "section 1304 of Title 31" for "section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)", which for purposes of codification, required no change in text.

Effective and Applicability Provisions

1996 Acts. Amendment by Pub.L. 104-106 effective Feb. 10, 1996, except as otherwise provided, see section 4401 of Pub.L. 104-106, set out as a note under section 251 of this title.

AMERICAN LAW REPORTS

Jurisdiction of United States Court of Appeals for Federal Circuit under 28 USCA §§ 1292 and 1295. 97 ALR Fed 694.

What constitutes 'adversary adjudication' by administrative agency entitling prevailing party

to award of attorneys' fees under Equal Access to Justice Act (5 USCA § 504). 96 ALR Fed 336.

LIBRARY REFERENCES

Encyclopedias

32B Am. Jur. 2d, Federal Courts § 2535.
32B Am. Jur. 2d, Federal Practice and Procedure § 2592.

Texts and Treatises

15A Fed. Proc. L Ed Government Contracts §§ 39:793, 829, 842.
7A Fed. Proc. L Ed Court of Claims § 19:313.

NOTES OF DECISIONS

1. Reimbursement.

Contract Dispute Act's (CDA) provision for reimbursement of claim payments applies only to agencies whose appropriations were used for the contract and not to non-appropriated fund instrumentalities (NAFI) other than the military

exchanges and the National Aeronautics and Space Administration (NASA) exchange councils specifically identified in the Tucker Act. Core Concepts of Florida, Inc. v. U.S., C.A.Fed.2003, 327 F.3d 1331, rehearing and rehearing en banc denied; certiorari denied 2003 WL 21990006. United States @ 118

CHAPTER 10—DRUG FREE WORKPLACE

Sec.

701. Drug-free workplace requirements for Federal contractors.
702. Drug-free workplace requirements for Federal grant recipients.

Sec.

703. Employee sanctions and remedies.
704. Waiver.
705. Regulations.
706. Definitions.
707. Construction of chapter.

§ 701. Drug-free workplace requirements for Federal contractors

(a) Drug-free workplace requirement

(1) Requirement for persons other than individuals

No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 403(8) of this title, for the purposes of being awarded a contract for the procurement of any property or

services of a value greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency, other than a contract for the procurement of commercial items (as defined in section 403(12) of this title), unless such person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the person's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Requirement for individuals

No Federal agency shall enter into a contract with an individual unless such individual agrees that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(b) Suspension, termination, or debarment of the contractor

(1) Grounds for suspension, termination, or debarment

Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder or the individual who entered the contract with the Federal agency, as applicable, shall be subject to suspension or debarment in accordance with the requirements of this section if the head of the agency determines that—

(A) the contractor violates the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1) of this section; or

(B) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a) of this section.

(C) Redesignated (B)

(2) Conduct of suspension, termination, and debarment proceedings

(A) If a contracting officer determines, in writing, that cause for suspension of payments, termination, or suspension or debarment exists, an appropriate action shall be initiated by a contracting officer of the agency, to be conducted by the

agency concerned in accordance with the Federal Acquisition Regulation and applicable agency procedures.

(B) The Federal Acquisition Regulation shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and such other procedures as may be necessary to provide a full and fair proceeding to a contractor or individual in such proceeding.

(3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a contractor or individual, such contractor or individual shall be ineligible for award of any contract by any Federal agency, and for participation in any future procurement by any Federal agency, for a period specified in the decision, not to exceed 5 years.

(Pub.L. 100-690, Title V, § 5152, Nov. 18, 1988, 102 Stat. 4304; Pub.L. 103-355, Title IV, § 4104(d), Title VIII, § 8301(f), Oct. 13, 1994, 108 Stat. 3342, 3397; Pub.L. 104-106, Div. D, Title XLIII, §§ 4301(a)(3), 4321(i)(13), Feb. 10, 1996, 110 Stat. 656, 677.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1994 Acts. Senate Report Nos. 103-258 and 103-259, and House Conference Report No. 103-712; see 1994 U.S. Code Cong. and Adm. News, p. 2561.

1996 Acts. House Conference Report No. 104-450, see 1996 U.S. Code Cong. and Adm. News, p. 238.

Amendments

1996 Amendments. Subsec. (a)(1). Pub.L. 104-106, § 4301(a)(3)(A), substituted "agrees to" for "has certified to the contracting agency that it will".

Pub.L. 104-106, § 4321(i)(13), substituted "(as defined in section 403(12) of this title)" for "as defined in section 403 of this title".

Subsec. (a)(2). Pub.L. 104-106, § 4301(a)(3)(B), substituted "individual agrees" for "contract includes a certification by the individual".

Subsec. (b)(1)(A) to (C). Pub.L. 104-106, § 4301(a)(3)(C), redesignated subpars. (B) and (C) as subpars. (A) and (B), respectively, struck out former subpar. (A) relating to false certifications and in subpar. (A) as so redesignated, struck out "such certification by failing to carry out" following "violates".

1994 Amendments. Subsec. (a)(1). Pub.L. 103-355, § 4104(d), substituted "greater than the simplified acquisition threshold (as defined in section 403(11) of the title) by any Federal agency" for "of \$25,000 or more from any Federal agency".

Pub.L. 103-355, § 8301(f) provided for inapplicability of a drug-free workplace requirement

in awarding contracts for procurement of commercial items as defined in section 408 of this title.

Effective and Applicability Provisions

1996 Acts. Amendment by Pub.L. 104-106 effective Feb. 10, 1996, except as otherwise provided, see section 4401 of Pub.L. 104-106, set out as a note under section 251 of this title.

1994 Acts. Amendment by sections 4104(d) and 8301(f) of Pub.L. 103-355 effective Oct. 13, 1994, except as otherwise provided, see section 10001 of Pub.L. 103-355, set out as a note under section 251 of this title.

1988 Acts. Section 5160 of Pub.L. 100-690 provided that: "Sections 5152 [this section] and 5153 [section 702 of this title] shall be effective 120 days after the date of the enactment of this subtitle [Nov. 18, 1988]."

Short Title

1988 Acts. Section 5151 of Pub.L. 100-690 provided that: "This subtitle [Subtitle D of Title V, §§ 5151 to 5160, of Pub.L. 100-690, enacting this chapter and enacting a provision set out as a note under this section] may be cited as the 'Drug-Free Workplace Act of 1988'."

Consistency of Regulations With International Obligations of United States; Extraterritorial Application

Pub.L. 100-690, Title IV, § 4804, Nov. 18, 1988, 102 Stat. 4295, which required that regulations promulgated by agency heads be consistent with the international obligations of the United States, was repealed by Pub.L. 103-447, Title I, § 103(b), Nov. 2, 1994, 108 Stat. 4693.

CODE OF FEDERAL REGULATIONS

Drug-free workplace grants, Secretary of Labor, see 29 CFR § 98.600 et seq.

Drug-free workplace grants, Small Business Administration, see 13 CFR § 145.600 et seq.

Workplace substance abuse programs, Energy Department, see 10 CFR § 707.1 et seq.

§ 702. Drug-free workplace requirements for Federal grant recipients

(a) Drug-free workplace requirement

(1) Persons other than individuals

No person, other than an individual, shall receive a grant from any Federal agency unless such person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the grantee's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment in such grant, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the granting agency within 10 days after receiving notice of a conviction under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Individuals

No Federal agency shall make a grant to any individual unless such individual agrees as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with such grant.

(b) Suspension, termination, or debarment of grantee

(1) Grounds for suspension, termination, or debarment

Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to suspension or debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee violates the requirements of subparagraph (A), (B), (C), (D), (E), (F), or (G) of subsection (a)(1) of this section; or

(B) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1) of this section.

(2) Conduct of suspension, termination, and debarment proceedings

A suspension of payments, termination, or suspension or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

(Pub.L. 100-690, Title V, § 5153, Nov. 18, 1988, 102 Stat. 4306; Pub.L. 105-85, Div. A, Title VIII, § 809, Nov. 18, 1997, 111 Stat. 1838.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1997 Acts. House Conference Report No. 105-340 and Statement by President, see 1997 U.S. Code Cong. and Adm. News, p. 2251.

References in Text

Executive Order 12549, referred to in subsec. (b)(2), is Ex. Ord. No. 12549, Feb. 19, 1986, 51 F.R. 6370, which is set out as a note under section 6101 of Title 31, Money and Finance.

1997 Amendments

Subsec. (a)(1). Pub.L. 105-85, § 809(1)(A), substituted "agrees to" for "has certified to the granting agency that it will".

Subsec. (a)(2). Pub.L. 105-85, § 809(1)(B), substituted "agrees" for "certifies to the agency".

Subsec. (b)(1)(A) to (C). Pub.L. 105-85, § 809(2), redesignated former subpars. (B) and (C) as (A) and (B), respectively, in subpar. (A), as so redesignated, struck out "such certification by failing to carry out" after "The grantee violates", and struck out former subpar. (A), which read as follows:

"(A) the grantee has made a false certification under subsection (a) of this section;"

Effective and Applicability Provisions

Section effective 120 days after Nov. 18, 1988, see section 5160 of Pub.L. 100-690, set out as a note under section 701 of this title.

CODE OF FEDERAL REGULATIONS

Drug-free workplace grants, Secretary of Labor, see 29 CFR § 98.600 et seq.

Drug-free workplace grants, Small Business Administration, see 13 CFR § 145.600 et seq.

Workplace substance abuse programs, Energy Department, see 10 CFR § 707.1 et seq.

LAW REVIEW AND JOURNAL COMMENTARIES

Debarment and suspension revisited: fewer eggs in the basket? Brian D. Shannon, 44 Cath. U.L.Rev. 363 (1995).

LIBRARY REFERENCES

Encyclopedias

45A Am. Jur. 2d, Job Discrimination (1993) §§ 472, 473, 475.

28 Am Jur Proof of Facts 3d, Proof of Violation of Privacy Rights in Employment Drug Testing, p. 185.

Forms

20A Am. Jur. Pl & Pr Forms (Rev), Public Works and Contracts, Form 114.

NOTES OF DECISIONS

Mandatory nature of drug testing 1

1. Mandatory nature of drug testing

Drug-Free Workplace Act did not require public utility to perform drug testing on its employees such that utility could be considered "state actor" for purposes of Fourth and Fifth Amendment claims asserted by former employee who was fired following drug test, notwithstanding "requirements" set forth in Act to en-

able federal contractors and grant recipients to remain eligible for federal funds and notwithstanding former employee's reference to certain federal regulations purportedly mandating testing; regulations relied by employee were promulgated under different statutes, Act did not mandate drug tests, and employee identified no regulations implementing act that did so. Parker v. Atlanta Gas Light Co., S.D.Ga.1993, 818 F.Supp. 345. Constitutional Law ¶ 819.5(1); Searches And Seizures ¶ 78

§ 703. Employee sanctions and remedies

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 701(a)(1)(D)(ii) or 702(a)(1)(D)(ii) of this title—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(Pub.L. 100-690, Title V, § 5154, Nov. 18, 1988, 102 Stat. 4307.)

CODE OF FEDERAL REGULATIONS

Drug-free workplace grants, Secretary of Labor, see 29 CFR § 98.600 et seq.

Drug-free workplace grants, Small Business Administration, see 13 CFR § 145.600 et seq.

Workplace substance abuse programs, Energy Department, see 10 CFR § 707.1 et seq.

LIBRARY REFERENCES

Forms

20A Am. Jur. Pl & Pr Forms (Rev), Public Works and Contracts, Form 114.

§ 704. Waiver

(a) In general

A termination, suspension of payments, or suspension or debarment under this chapter may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines under section 701(b)(1) of this title, after the issuance of a final determination under such section, that suspension of payments, or termination of the contract, or suspension or debarment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

(b) Exclusive authority

The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

(Pub.L. 100-690, Title V, § 5155, Nov. 18, 1988, 102 Stat. 4307.)

CODE OF FEDERAL REGULATIONS

Drug-free workplace grants, Secretary of Labor, see 29 CFR § 98.600 et seq.

Drug-free workplace grants, Small Business Administration, see 13 CFR § 145.600 et seq.

Workplace substance abuse programs, Energy Department, see 10 CFR § 707.1 et seq.

LIBRARY REFERENCES

Encyclopedias

45A Am. Jur. 2d, Job Discrimination (1993) § 475.

Forms

20A Am. Jur. Pl & Pr Forms (Rev), Public Works and Contracts, Form 114.

§ 705. Regulations

Not later than 90 days after November 18, 1988, the governmentwide regulations governing actions under this chapter shall be issued pursuant to the Office of Federal Procurement Policy Act [41 U.S.C.A. § 401 et seq.].

(Pub.L. 100-690, Title V, § 5156, Nov. 18, 1988, 102 Stat. 4308.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Office of Federal Procurement Policy Act, referred to in text, is Pub.L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classi-

fied principally to chapter 7 (section 401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

statutes,

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of Title 5.

(Pub.L. 100-690, Title V, § 5157, Nov. 18, 1988, 102 Stat. 4308.)

HISTORICAL AND STATUTORY NOTES

References in Text

This Act, referred to in par. (1), is Pub.L. 100-690, Nov. 18, 1988, 102 Stat. 4181, known as

the Anti-Drug Abuse Act of 1988. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 21, Food and Drugs, and Tables.

CODE OF FEDERAL REGULATIONS

Drug-free workplace grants, Secretary of Labor, see 29 CFR § 98.600 et seq.

Drug-free workplace grants, Small Business Administration, see 13 CFR § 145.600 et seq.

Workplace substance abuse programs, Energy Department, see 10 CFR § 707.1 et seq.

LIBRARY REFERENCES

American Digest System

Place for work, see Labor Relations ⇌10 to 15.

Regulations as to drugs and narcotics, see Drugs and Narcotics ⇌41 to 50.

United States aid to state and local agencies, see United States ⇌82(2).

Place for work, see C.J.S. Labor Relations § 12.

Regulations as to drugs and narcotics, see C.J.S. Drugs and Narcotics §§ 100, 101.

45A Am. Jur. 2d, Job Discrimination (1993) § 473.

Encyclopedias

Disbursement of United States funds, see C.J.S. United States § 122.

Forms

20A Am. Jur. Pl & Pr Forms (Rev), Public Works and Contracts, Form 114.

§ 707. Construction of chapter

Nothing in this chapter shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this chapter.

(Pub.L. 100-690, Title V, § 5158, Nov. 18, 1988, 102 Stat. 4308.)

DRUG-FREE WORKPLACE

Div. 1

Former § 8340, added by Stats.1968, c. 1352, p. 2583, § 3, derived from former § 8325, added by Stats.1965, c. 1157, p. 2912, § 5, declaring the state's policy to foster world trade and to establish an authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8340, added by Stats.1965, c. 1157, p. 2915, § 5, relating to payment of San Francisco world trade center authority members' expenses, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8340.1 to 8346.8. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

Sections 8340.1 to 8340.8, added by Stats. 1965, c. 1157, pp. 2915, 2916, § 5, related to the administration of the San Francisco world trade center authority, and in particular to promotion financing, chairman selection, hiring of assistants, meetings, quorum, office site, seal, and records.

Section 8340.8 was also repealed by Stats. 1968, c. 1473, § 41.

Sections 8345 to 8346.8, added by Stats.1965, c. 1157, pp. 2916 to 2921, § 5, provided for the perpetual succession of the authority, and listed its general powers.

Chapter 5.5

DRUG-FREE WORKPLACE

Article

	Section
1. Definitions.....	8350
2. State Contractors and Grantees	8355

Chapter 5.5 was added by Stats.1990, c. 1170 (S.B.1120), § 1.

Former Chapter 5.5, California Industry and World Trade, comprising §§ 8320 to 8372, added by Stats.1969, c. 1161, p. 2251, § 1, was repealed by Stats.1977, c. 345, p. 1315, § 8.

Former Chapter 5.5, California World Trade Authority, comprising §§ 8320 to 8403, added by Stats.1968, c. 1352, § 3, was repealed by Stats.1969, c. 1161, § 10.

Former Chapter 5.5, San Francisco World Trade Center Authority, comprising §§ 8320 to 8386.2, added by Stats.1965, c. 1157, § 5, was repealed by Stats.1968, c. 1352, § 1.

Article 1

DEFINITIONS

Section

- 8350. Short title.
- 8350.1 to 8350.9. Repealed.
- 8351. Definitions.
- 8351.1 to 8354.3. Repealed.

Article 1 was added by Stats.1990, c. 1170 (S.B.1120), § 1.

§ 8350. Short title

This chapter shall be known, and may be cited, as the Drug-Free Workplace Act of 1990.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

Historical and Statutory Notes

Former § 8350, added by Stats.1972, c. 1242, p. 2427, § 4, authorizing the division of world trade to publish and distribute world trade statistics pertaining to California, was repealed by Stats.1977, c. 345, p. 1315, § 8. The repealed section was derived from former §§ 8350, 8355, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8380, added by Stats. 1968, c. 1352, p. 2584, § 3; former § 8386, added by Stats.1968, c. 1352, p. 2585, § 3.

Former § 8350, added by Stats.1969, c. 1161, p. 2251, § 11, relating to the collection and dissemination of general information on inter-

national trade opportunities to business and industry, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8350, added by Stats.1968, c. 1352, p. 2583, § 3, declaring the existence of a California world trade authority and a world trade division in the department of commerce, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8350, added by Stats.1965, c. 1157, p. 2921, § 5, empowering the authority to issue revenue bonds, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

Library References

Searches and Seizures ⇐78.
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§§ 8350.1 to 8350.9. Repealed by Stats.1968, c. 1352, § 1**Historical and Statutory Notes**

Sections 8350.1 to 8350.9, added by Stats. 1965, c. 1157, pp. 2921, 2922, § 5, related to revenue bonds.

§ 8351. Definitions

As used in this chapter:

(a) "Drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in Article 2 (commencing with Section 8355) of an entity at which employees of the entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this chapter.

(b) "Employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the grant or contract described in Article 2 (commencing with Section 8355).

(c) "Controlled substance" means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. Sec. 812).

(d) "Grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant.

(e) "Contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

DRUG-FREE WORKPLACE
Div. 1

§ 8353
Repealed

Historical and Statutory Notes

Former § 8351, added by Stats.1972, c. 1242, p. 2427, § 4, derived from former § 8354, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8385, added by Stats.1968, c. 1352, p. 2585, § 3, authorizing the division of world trade to publish a directory of California products and firms available for export, was repealed by Stats.1977, c. 345, p. 1315, § 8.

Former § 8351, added by Stats.1969, c. 1161, p. 2251, § 11, derived from former § 8381, added by Stats.1968, c. 1352, p. 2585, § 3, relating to the division of world trade's responsibility with respect to foreign trade missions, trade fairs, exhibits, and displays, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8351, added by Stats.1968, c. 1352, p. 2583, § 3, relating to the appointment, qualifications, and number of members of the California world trade authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10. The repealed section was derived from former § 8336, added by Stats.1965, c. 1157, p. 2914, § 5.

Former § 8351, added by Stats.1965, c. 1157, p. 2922, § 5, permitting a clause in an indenture requiring the authority to protect and preserve the security of revenue bonds and to warrant and defend bondholders' security rights, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8351.1 to 8351.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, pp. 2922 to 2924, § 5, related to the

inclusion of particular clauses in revenue bond indentures.

§ 8352. Repealed by Stats.1977, c. 345, § 8

Historical and Statutory Notes

The repealed section, added by Stats.1972, c. 1242, p. 2427, § 4; derived from former § 8353, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8383, added by Stats.1968, c. 1352, p. 2585, § 3, required the division of world trade to process trade leads and answer inquiries.

Former § 8352, added by Stats.1969, c. 1161, p. 2251, § 11, derived from former § 8383, added by Stats.1968, c. 1352, p. 2585, § 3, requiring the division of world trade to provide assistance to businesses in securing state representation to foreign governments relative to

trade matters or agreements, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8352, added by Stats.1968, c. 1352, p. 2583, § 3, entitling members of the California world trade authority to their actual and necessary expenses, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8352, added by Stats.1965, c. 1157, p. 2924, § 4, permitting a clause in a revenue bond indenture specifying the events creating a default and making the bonds payable before maturity, and providing a waiver, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8352.1 to 8352.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, § 5, related to bonds of the San Francisco World Trade Center Authority.

§ 8353. Repealed by Stats.1977, c. 345, § 8

Historical and Statutory Notes

The repealed section, added by Stats.1972, c. 1242, p. 2427, § 4, derived from former §§ 8352, 8356, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8383, added by Stats.1968, c. 1352, p. 2585, § 3, required the divi-

sion of world trade to engage in the development of the export trade.

Former § 8353, added by Stats.1969, c. 1161, p. 2251, § 11, derived from former § 8384, added by Stats.1968, c. 1352, p. 2585, § 3, re-

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Repealed

quiring the division of world trade to maintain a referral service for trade lead inquiries, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8353, added by Stats.1968, c. 1352, p. 2583, § 3, relating to the appointment of a chairman, a commissioner, and a deputy of the

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California world trade authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8353, added by Stats.1965, c. 1157, p. 2925, § 5, relating to the callability and redemption of revenue bonds, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8353.1 to 8353.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, pp. 2925, 2926, § 5, related to revenue bonds.

§ 8354. Repealed by Stats.1977, c. 345, § 8

Historical and Statutory Notes

The repealed section, added by Stats.1972, c. 1242, p. 2427, § 4, provided that contracts entered should be paid from funds available for that purpose.

Former § 8354, added by Stats.1969, c. 1161, p. 2252, § 11, derived from former § 8385, added by Stats.1968, c. 1352, p. 2585, § 3, requiring the division of world trade to publish a state directory of exporters and importers, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8354, added by Stats.1968, c. 1352, p. 2584, § 3, empowering the world trade authority commissioner to employ assistants and counsel, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8354, added by Stats.1965, c. 1157, p. 2926, § 5, relating to the issuance, sale, and exchange of refunding bonds, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8354.1 to 8354.3. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, § 5, related to bands of the San Francisco World Trade Center Authority.

Article 2

STATE CONTRACTORS AND GRANTEEES

Section

8355. Certification to contracting or granting agency; requisites.

8356. Suspension of payments; termination of contract or grant; list of canceled awards.

8357. Subcontractors.

8358 to 8387. Repealed.

Article 2 was added by Stats.1990, c. 1170 (S.B. 1120), § 1.

§ 8355. Certification to contracting or granting agency; requisites

Every person or organization awarded a contract or a grant for the procurement of any property or services from any state agency shall certify to the contracting or granting agency that it will provide a drug-free workplace by doing all of the following:

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(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.

(b) Establishing a drug-free awareness program to inform employees about all of the following:

(1) The dangers of drug abuse in the workplace.

(2) The person's or organization's policy of maintaining a drug-free workplace.

(3) Any available drug counseling, rehabilitation, and employee assistance programs.

(4) The penalties that may be imposed upon employees for drug abuse violations.

(c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

Historical and Statutory Notes

Former § 8355, added by Stats.1969, c. 1161, p. 2250, § 1, derived from former § 8386, added by Stats.1968, c. 1352, p. 2585, § 3, authorizing private and public, state and local collaboration on information systems, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8355, added by Stats.1968, c. 1352, p. 2584, § 3, derived from former § 8340.3, added by Stats.1965, c. 1157, p. 2916, § 5, relating to quorum for transaction of business, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

§ 8356. Suspension of payments; termination of contract or grant; list of canceled awards

(a) Each contract or grant awarded by a state agency may be subject to suspension of payments under the contract or grant or termination of the contract or grant, or both, and the contractor or grantee thereunder may be subject to debarment, in accordance with the requirements of this article, if the contracting or granting agency determines that any of the following has occurred:

(1) The contractor or grantee has made a false certification under Section 8355.

(2) The contractor or grantee violates the certification by failing to carry out the requirements of subdivisions (a) to (c), inclusive, of Section 8355.

(b) The Department of General Services shall establish and maintain a list of individuals and organizations whose contracts or grants have been canceled due to failure to comply with this chapter. This list shall be updated monthly and published each month. No state agency shall award a contract or grant to a person or organization on the published list until that person or organization has complied with this chapter.

(c) Every state agency that directly awards grants without review by the Department of General Services shall immediately notify the department of any individual or organization that has an award canceled on the basis of violation of this chapter.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

Historical and Statutory Notes

Former § 8356, added by Stats.1969, c. 1161, p. 2250, § 11, derived from former § 8387, added by Stats.1968, c. 1352, p. 2585, § 3, authorizing programs to encourage the export business, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8356, added by Stats.1968, c. 1352, p. 2584, § 3, derived from former § 8340.4, added by Stats.1965, c. 1157, p. 2916, § 5, relating to meetings of the world trade authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

§ 8357. Subcontractors

This chapter shall not be construed to require any contractor or grantee to ensure that other businesses with which it subcontracts also provide drug-free workplaces.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

Historical and Statutory Notes

Former § 8357, added by Stats.1968, c. 1352, § 3, relating to the California World Trade

Authority, was repealed by Stats.1969, c. 1161, § 10.

§§ 8358 to 8360. Repealed by Stats.1969, c. 1161, § 10

Historical and Statutory Notes

Sections 8358 to 8359, added by Stats.1968, c. 1352, p. 2584, § 3, derived from former §§ 8340.4, 8340.5, 8340.7, added by Stats.1965, c. 1157, p. 2916, § 5, related to rules and regulations, to headquarters and offices, and to open meetings of the California world trade authority.

ed by Stats.1965, c. 1157, p. 2916, § 5, related to public inspection of the world trade authority's records.

Section 8360, added by Stats.1968, c. 1352, p. 2584, § 3, derived from former § 8340.8, add-

Former § 8360, added by Stats.1965, c. 1157, p. 2927, § 5, relating to reports on the advisability of projects, to cost estimates, and to consultation with prospective lessees or managers, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8360.1 to 8361.6. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, pp. 2927 to 2930, § 5, related to acquisi-

tion, construction, and completion of San Francisco world trade center projects.

§ 8365. Repealed by Stats.1971, c. 1230, § 2

Historical and Statutory Notes

The repealed section, added by Stats.1969, c. 1161, p. 2250, § 11, derived from former § 8351, added by Stats.1968, c. 1352, p. 2583, § 3, related to membership and qualification of the California industry and world trade commission.

Former § 8365, added by Stats.1965, c. 1157, p. 2930, § 5, requiring the San Francisco world trade center authority to fix rentals, fees, and other charges for services and facilities furnished from improvements acquired or con-