

Chapter 4 - Drug and Alcohol Policy

The Tribe as an employer is a drug and alcohol-free workplace. The Tribe is committed to protecting the safety, health, and well-being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals and to the health, safety, and welfare of the Port Gamble S'Klallam community. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

This policy applies to all Tribal employees. However, employees may be subject to additional drug and alcohol testing if required by applicable laws and/or because such testing is required in order to qualify for or hold their position (for example, where testing is required for a license or certification required for the position). In these cases, the applicable drug and alcohol testing requirements will control and employees may be required to undergo certain pre-employment testing, post-accident testing, random testing, reasonable suspicion, return-to-duty, and follow-up testing that may be different than the testing required under this policy. Whenever possible, employees will be notified of any additional requirements at the time they apply for the position. Employees who may be subject to DOT testing required for employees operating commercial motor vehicles, should also see:

<https://www.transportation.gov/sites/dot.dev/files/docs/ODAPC%20EmployeeHandbook%20En.pdf> and <http://www.dol.wa.gov/driverslicense/cdl>

The Tribe often employs minors under the age of 21. It is illegal for any person under 21 years of age (minors) to consume, use, possess, purchase or obtain marijuana and alcohol. All minors are required to submit to a pre-employment drug test. The tribe will test for all controlled substances listed in RCW 69.50.204 (Schedule I), including marijuana. The Tribe will also test for alcohol. Any minor testing positive for Schedule I substances or alcohol will be disqualified for employment with the Tribe in compliance with the Tribe's employment disqualification procedures.

Any questions regarding the Tribe's Drug-Free Workplace or Drug and Alcohol Testing policies, or any additional drug and alcohol testing requirements should be directed to Human Resources.

4.01 Compliance is a Condition of Employment

As a condition of employment, employees must abide by all of the Tribe's policies, including this Drug and Alcohol Policy. Employees who violate this policy will be subject to appropriate disciplinary action up to and including

immediate termination.

4.02 Acknowledgement of Drug and Alcohol Testing Policy to the Signed by Employee

All employees are required to read and sign the Tribe's "Consent to Drug and Alcohol Test" form as a condition of employment. The signed receipt of this form verifies that the employee understands that, if required, drug and alcohol testing is a condition of employment with the Tribe and that the employee understands that disciplinary action up to and including termination may be taken if the employee violates the policy.

4.03 Employees to Sign Drug-Free Workplace Certification

All employees must also complete and sign the Tribe's Employee Drug and Alcohol-Free Workplace Certification Form as a condition of employment.

4.04 Prohibited Conduct

The Tribe strictly prohibits employees from engaging in the following conduct:

- a) While on the job, the use, possession, sale, or distribution of illegal drugs, marijuana, or alcohol, or the illegal use, possession, sale, or distribution of legal drugs (including medications), while conducting tribal business in any location or in a Tribal vehicle.
- b) While on the job, being under the influence of illegal drugs, marijuana, prescription medication not prescribed for the employee, alcohol, or any medication (including over-the-counter medications), if that medication interferes with the employee's ability to perform their job duties.
- c) While off the job, the use, sale, purchase, manufacture, distribution, dispensation, or possession, of illegal drugs or the illegal use, sale, purchase, manufacture, distribution, dispensation, or possession of legal drugs (including medications).
- d) While off the job, the use, sale, purchase, manufacture, distribution, or dispensation, of alcohol or marijuana, when such activity adversely affects the employee's on-the-job performance, behavior, or the Tribe's reputation. The Tribe may prohibit off-the-job use of marijuana or alcohol for certain positions as determined by the Tribe. All positions with such

restrictions will be noted specifically in the job description for each position it impacts.

NOTE: Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of their job. If the use of a medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., calling your supervisor, or discussing the matter with Human Resources) to avoid unsafe workplace practices. In addition, please be advised that all employees are expected to perform their job duties. If an employee's use of prescription or over-the-counter drugs may interfere with their ability to perform the essential functions of their job, it is the employee's responsibility to discuss this with their supervisor or Human Resources. Appropriate disciplinary action will be taken if job performance deteriorates and/or accidents occur.

4.05 Notice to the Tribe of Drug Conviction

Employees must notify the Tribe of any criminal drug, alcohol or marijuana conviction for a violation occurring inside or outside of the workplace no later than five days after the conviction.

4.06 Drug and Alcohol Testing Generally

The Tribe conducts pre-employment drug testing of applicants for employment. In some cases, applicants may also be tested for alcohol. Under certain circumstances, employees being promoted or transferred may also be required, as a condition of employment, to participate in pre-employment drug and alcohol testing.

All employees, as a condition of employment, will be subject to post-accident and reasonable suspicion testing as set forth herein.

Unless otherwise indicated, drug and/or alcohol testing under this policy will test for amphetamines, cocaine metabolite, opiates (codeine and morphine), phencyclidine, THC (marijuana/cannabinoids), and alcohol.

Required drug and alcohol screening tests will be done at the expense of the

Tribe. Testing will be performed at a facility certified by the National Institute on Drug Abuse (NIDA) or by the College of American Pathologists.

4.07 Pre-Employment Drug and Alcohol Testing

Applicants for employment are required to submit to a drug test after receiving a conditional offer of employment. Applicants will not be tested for THC (Marijuana/Cannabinoids) and alcohol unless otherwise required by applicable law (e.g. DOT regulated employees) or unless such testing is a requirement for a license or certification required to qualify for or hold a position.

Employees who are being transferred or promoted to new positions are generally not required to undergo drug and alcohol testing as a condition of employment in the new position. However, an employee transferring or being promoted to a new position may be required to undergo drug and alcohol testing if required by applicable law (e.g. DOT regulated employees) or if such testing is a requirement for a license or certification required to qualify for or hold the position. The extent of the drug and alcohol test will comport with the applicable law or requirements.

If required of the position, the successful completion of a pre-employment drug and alcohol test or a drug and alcohol test prior to transfer or promotion is a condition of employment. If an applicant/employee is unwilling or unable to submit to a required drug and alcohol test, or alters, tampers with, or contaminates any drug test, he or she will not be hired or promoted/transferred. The pre-employment drug and alcohol testing slip is only valid on the date issued. Failure to complete this process will result in disqualification from employment for 180 days.

Employees who work in positions that require a pre-employment drug and alcohol test and who have been inactive for 90 days or more will be required to undergo the drug and alcohol testing in order to be considered eligible to work. The Tribe does not discriminate against applicants with past drug use but prohibits employees from currently using illegal drugs. All "positive" test results will be automatically reviewed by the Medical Review Officer (MRO) before the employee is disqualified. Disqualified applicants may not reapply for employment with the Tribe for a minimum of 180 days.

4.08 "For Cause" Defined

“For Cause” is defined as: circumstances in which the employer has reasonable “cause” to believe that an employee is under the influence of illegal drugs, marijuana, prescription medication not prescribed for the employee, alcohol, or a medication (including over the counter medication) that interferes with the employee’s ability to perform their job duties or is otherwise in violation of this policy. Cause may be based on, without limitation, information regarding, the appearance, behavior, speech, attitude, mood, and/or breath odor of an employee; performance behaviors and actions that a reasonable and prudent person would believe constitutes a potential safety hazard, either to themselves or others; or actions or patterns of actions and behaviors that could indicate that an employee may be impaired. This includes, but is not limited to:

- a) Documentation of a pattern of unsatisfactory work-related performance behaviors,
- b) Physical symptoms that could indicate substance abuse, such as slurred speech, staggering gait, poor coordination, etc.,
- c) Evidence of illegal substance abuse, such as possession, sale, delivery, etc.,
- d) Having the odor of alcohol on the breath,
- e) Reckless operation of equipment or vehicles,
- f) Flagrant violations of safety and/or operating procedures,
- g) Accidents involving property damage or injury,
- h) Loss of consciousness resulting from an accident or for an unknown reason.

4.09 “For Cause” Drug and Alcohol Testing

Employees may be subject to “For Cause” drug and alcohol testing when there is “cause” to believe they are under the influence of illegal drugs, marijuana, prescription medication not prescribed for the employee, alcohol, or a medication (including over the counter medication) that interferes with the employee’s ability to perform their job duties, or is otherwise in violation of this policy. Supervisors must request the presence of a representative from the Human Resources Department when ordering an employee to take a “for cause” drug and alcohol test. Drug and alcohol tests must be taken immediately after the decision is made to send the employee for testing. If the S'Klallam Clinic is

not available for tests, testing will be conducted by a Chemical Dependency Counselor. Refusal to take the test as ordered will result in corrective action, up to and including termination. A representative from the Human Resources Department will notify the police if an employee who is ordered to take a "for cause" drug and alcohol test refuses and attempts to leave our work premises operating a vehicle.

4.10 Post-Accident Testing

Employees who are involved in a serious accident while at work or while operating tribal vehicles or vessels, must submit to a drug and alcohol test if the employee's job performance, actions, omissions or conduct either contributed to an accident or cannot be completely discounted as a contributing factor to an accident and there is reason to believe that drugs or alcohol may have been involved.

A serious accident is an incident that causes an injury requiring more than first-aid treatment for the employee or another individual, or damage to Tribal or other property, which may appear to result in more than \$500.00 worth of repairs.

4.11 Other Testing

Employees may be subject to testing under other circumstances if required by applicable law.

4.12 Employee Assistance Program Available

The Tribe recognizes that there are members of its workforce that may struggle with alcohol or drug dependency issues. In support of its employees, the Tribe maintains an Employee Assistance Program to provide the opportunity for confidential counseling and referral for personal problems that may affect job performance, including alcohol or drug dependency. Employees may also access the Tribe's Behavioral Health Services for help.

4.13 Testing Procedures

The Tribe will take reasonable steps to ensure that the collection and testing procedures performed under this policy are accurate, fair and dignified. Collection and testing procedures used will be in compliance with tribal procedures.

4.14 Consequences

Any employee who tests positive for drugs or alcohol during a test required under this policy may be subject to disciplinary action up to and including termination. Adulterating or substituting a testing sample, refusing to take a required test, or otherwise interfering with testing procedures will also result in disciplinary action up to and including termination.

Any employee who otherwise violates this policy, including but not limited to engaging in prohibited conduct as set forth in Section 4.04, will be subject to disciplinary action up to and including immediate termination. NOTE: While a positive test is considered conclusive of drug or alcohol use in violation of this policy (with the exception of marijuana metabolites), the Tribe, in its sole discretion, reserves the right to determine that an employee is in violation of this policy without requiring a drug and/or alcohol test.

4.15 More Information

Employees who have any questions about this policy, including but not limited to testing procedures should contact Human Resources.

[HIST: Resolution No. 01 A 103, passed 11/27/01 adopted this Employee Handbook and repealed the Personnel Manual; Resolution No. 17 A 029, passed 03/13/2017, replaced the drug free workplace policy section of the employee handbook to discontinue testing for marijuana and alcohol in pre-employment testing, with the exception of certain positions.]