

MINUTES OF THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA

Admin/Pers.-Gen.
Employees-Gen.

October 30, 1989

FROM: JAMES J. HLAWEK
Assistant Administrative Officer for Personnel

SUBJECT: DRUG FREE WORKPLACE ACT

RECOMMENDATION:

Adopt the attached Resolution which establishes a Drug Free Workplace policy.

BACKGROUND:

The Drug Free Workplace Act of 1988 requires that any agency contracting with the federal government for services of \$25,000 or more or which receives a grant from the federal government must certify that it will provide a drug free workplace by meeting certain requirements of the Act including a policy statement. The attached Resolution includes a policy statement which satisfies those requirements. The policy will apply to all County employees and employees of Board governed Special Districts without differentiation of funding sources. The Personnel Employee Assistance Program will provide counseling and information required by the Act.

REVIEW BY OTHER DEPARTMENTS:

County Counsel has reviewed the Resolution. The San Bernardino Public Employees Association and the Safety Employees' Benefit Association have also reviewed this Resolution.

FINANCIAL DATA:

Some administrative costs are associated with notification requirements of the Act.

*Bob Elliott, General Manager of SBPEA, says the policy allows that discretionary authority be given to supervisors, managers and fellow employees and he discusses the importance of disseminating the policy throughout the work force and educating those who will be making judgments so they can recognize drug abuse and enforce a policy that is accurate and won't indiscriminately accuse employees of drug abuse.

Res. to:

cc: Personnel-Hlawek
County Counsel
SBPEA
SEBA
CAO-Mays
File

Action of the Board of Supervisors

RESOLUTION NO. 89-349

APPROVED BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO

MOTION Aye Aye Aye Motion Second
1 2 3 4 5

EARLENE SPROAT, CLERK OF THE BOARD

BY

DATED:

OCT 30 1989

ITEM

44

RESOLUTION NO. 89-349
RESOLUTION ESTABLISHING A DRUG-FREE
WORKPLACE POLICY

WHEREAS, on November 18, 1988, the federal "Drug-Free Workplace Act of 1988" was signed into law, to become effective on March 29, 1989, and

WHEREAS, said law requires federal contractors with contracts of \$25,000 or more and federal grantees to certify that they maintain a drug-free workplace by publishing and administering specific drug-free workplace policies and drug-awareness programs; and

WHEREAS, the County of San Bernardino receives federal grants in its various programs and departments, and has from time to time various contracts with federal agencies exceeding the jurisdictional amount; and

WHEREAS, the Board of Supervisors is desirous of providing a drug-free workplace environment for all its employees;

NOW, THEREFORE, the Board of Supervisors does hereby establish the following policy for all County employees including employees of Board of Supervisors governed Special Districts which shall be known as the "Drug-Free Workplace Policy":

SECTION 1. PURPOSE

It is the intention of this Policy to eliminate substance abuse and its effects in the workplace. It is our concern that employees be and remain in a condition to perform their duties safely and efficiently, and in the interests of their fellow workers and the public as well as themselves. The presence of drugs on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective. Moreover, while the County has no intention of intruding into the private lives of its employees,

involvement with drugs off the job becomes our concern when it affects job performance and employee or public safety.

Therefore, the County will act to eliminate any substance abuse which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the County's reputation. All persons covered by this Policy should be aware that drug abuse will not be tolerated and that violations of the Policy may result in discipline consistent with the terms and conditions of the County's Personnel Rules and Memoranda of Understanding which may include suspension, demotion, reduction in step or dismissal, subject where applicable to the appeal process, or in not being hired.

Employees who think they may have a drug usage problem are urged to voluntarily seek confidential assistance for their problem. While the County will be supportive of those who seek help voluntarily, the County will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help. To that end, this Resolution provides guidelines for the deterrence of drug abuse, and it also outlines the responsibilities of County managers, supervisors and employees.

In recognition of the public services responsibilities entrusted to the employees of the County and that drug usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug abuse is hereby adopted by the County.

SECTION 2. POLICY

It is the County's Policy that employees shall not be under the influence of controlled substances or in possession of controlled substances illegally in County vehicles nor possess such while on County property, at work locations, or while on duty or subject to being called to duty; shall not utilize such

substances while they are subject to agency duty, manufacture, sell or provide drugs to any other employee or to any person while such employee is on duty or subject to being called, nor have their ability to work impaired as a result of the use of controlled substances.

Use of medically prescribed medications and drugs is not per se a violation of this Policy. The employee is to notify his/her supervisor, before beginning work when taking medications or drugs which the employee can be expected to foresee may interfere with the safe, efficient and/or effective performance of duties or operation of County equipment. Failure to do so may also be subject to discipline per the provisions of the Personnel Rules or Memoranda of Understanding with applicable process for appeal. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

The County reserves the right to search, without employee consent and consistent with Government Code, Section 3309, all areas and property in which the County maintains control or joint control with the employee. Alternatively, the County may notify the appropriate law enforcement agency that an employee may have illegal controlled substances in his or her possession or in an area not jointly or fully controlled by the County.

A County employee believed to be under the influence of a controlled substance shall be prevented from engaging in further work and should, where reasonably possible, be encouraged to utilize safe transportation from the work site.

The County has established a voluntary Employee Assistance Program to assist those employees who voluntarily seek help for drug problems. Employees should contact their supervisors for additional information or may contact the Employee Assistance Program directly at 387-5540.

SECTION 3. APPLICATION

This Policy applies to all employees of the County and all Board governed Special Districts. This Policy applies to all substances including controlled substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of his/her job.

SECTION 4. EMPLOYEE RESPONSIBILITIES

As a condition of employment, every employee covered by this Policy must:

A. not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty use of controlled substances;

B. not possess, except when required by job duties, or use controlled substances (illegal drugs and prescription drugs without a prescription) during working hours or while subject to duty, on breaks, during meal periods or at any time while on County property;

C. not directly or through a third party manufacture, sell, distribute and otherwise provide controlled substances to any person, including any other County employee, while either employee or both employees are on duty or subject to being called for duty;

D. notify his/her supervisor(s), before beginning work, when taking any medications or drugs, prescription or nonprescription, which he/she can be expected to foresee may interfere with the safe and effective performance of duties or operation of County equipment; and

E. if requested, provide within twenty-four hours of request a bona fide verification of a current valid prescription for any potentially

impairing controlled substance identified when a drug screen/test is positive. The prescription must be prescribed for current usage and be in the employee's own name.

F. report to his/her appointing authority any drug-related criminal convictions for violations which occur in the workplace no later than five (5) days after such conviction.

SECTION 5. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

A. Managers and supervisors are responsible for enforcement of this Policy.

B. Managers and supervisors shall direct a County employee not to engage in further work when the employee's ability to safely and effectively perform his/her duties is impaired, and the manager or supervisor has a reasonable suspicion under all the circumstances that an employee is under the influence of a controlled substance. The employee's inability to perform shall be used as the justification for the direction to stop work. Supervisors shall avoid unsupported accusations of drug usage.

Where the employee's ability to safely and effectively perform his/her job duties is impaired and the employee has been directed to stop work, the manager or supervisor should, where reasonably possible, encourage the employee to utilize safe transportation home.

C. Managers and supervisors shall not physically search the person of employees; nor shall they search the personal possessions of an employee without the prior, freely given consent of, and in the presence of, such employee; nor shall they search any area with respect to which there exists a legal expectation of privacy on the part of the County employee. For example, no legal expectation of privacy exists for unlocked areas or areas to which both the employee and the County have a key (or other controlled access).

D. Managers and supervisors shall notify the appropriate law enforcement agency when they have reasonable suspicion to believe that a County employee may have illegal controlled substances in his or her possession or in an area not jointly or fully controlled by the County.

E. Within ten (10) days after notification by the employee, or otherwise receiving actual notice of any criminal drug statute conviction of an employee for a violation occurring at a work site where work is done in connection with a specific federal grant or contract, the County shall notify the federal agency which administers that grant or contract of the conviction.

F. Managers and supervisors shall provide each employee with (1) a copy of this Policy; and (2) a brochure describing the employee assistance program.

On motion of Supervisor Walker, seconded by Supervisor Hammock, the foregoing resolution is adopted this 30th day of October, 1989, by the following vote:

AYES: SUPERVISORS: Turoci, Mikels, Walker, Hammock, Riordan

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

* * * * *

STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO } ss.

I, EARLENE SPROAT, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by said Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of October 30, 1989. dm #44

EARLENE SPROAT
Clerk of the Board

By _____

