

# Wisconsin Human Resources Handbook

## Chapter 416

### Employee Impairment/Under the Influence

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#### **Sec. 416.010 Introduction**

The State of Wisconsin is committed to providing a safe work environment for its employees, which includes ensuring they are free from impairment due to legal or illegal drug and/or alcohol use while in work status.

This chapter is designed to provide guidance to human resources and management staff on how to proceed when an employee appears to be exhibiting signs of being under the influence of alcohol or drugs, or signs of impairment that may cause unsafe working conditions or impaired work performance.

Management has the right to take disciplinary action for behaviors exhibited by an employee that violate agency policy or State of Wisconsin or agency work rules. The State of Wisconsin work rules prohibit “manifesting signs of having consumed alcohol, or illegal drugs; or reporting to work or working in an impaired condition so as to be unsafe to the employee, others, or physical property.” See *Wisconsin Human Resources Handbook Chapter 410 – Employee Work Rules and Discipline Procedure*.

#### **Sec. 416.020 Statutory Authority**

Section 230.34 (1)(a), Wis. Stats., states: “An employee with permanent status in class or an employee who has served with the state as an assistant district attorney or an assistant state public defender for a continuous period of 12 months or more may be removed, suspended without pay, discharged, reduced in base pay, or demoted only for just cause. It is just cause to remove, suspend without pay, discharge, reduce the base pay of, or demote an employee for work performance or personal conduct that is inadequate, unsuitable or inferior, as determined by the appointing authority, but only after imposing progressive discipline that complies with the administrator’s standards under s. 230.04 (13m)”.

Additionally, per s. 230.34(1)(a)3., it is just cause to discipline an employee for "while on duty, being intoxicated or under the influence of a controlled substance, as defined in s. 961.01(4), or a controlled substance analog, as defined in s. 961.01(4m).”

#### **Sec. 416.030 Overview**

If an employee reports for work or while at work appears to be exhibiting signs of being under the influence of alcohol or drugs, or signs of impairment that may cause unsafe working conditions or impaired work performance, the supervisor should document their observations and remove the employee from the work area. A supervisor should not touch the employee, unless contact is necessary to protect the employee, themselves, and/or other staff. The supervisor should take steps to prevent the employee from driving. Documentation of the incident is critical, including the names of any witnesses. If possible, two members of management should independently observe and document their observations.

If an employee is working remotely and appears to be exhibiting signs of being under the influence of alcohol or drugs, or signs of impairment that may cause unsafe working conditions or impaired work performance, the supervisor should document their observations and may direct the employee to no longer work and to be removed from pay status. Documentation of the incident is critical, including the names of any witnesses. If possible, two members of management should independently observe and document their observations. Observations can be conducted via teleconference (e.g., Skype, Microsoft Teams, etc.) or phone call.

#### **Sec. 416.040 Procedure**

Absent any need to contact emergency medical services, the following procedures should be followed.

If an employee is exhibiting signs of being under the influence of alcohol or drugs, or signs of impairment that may cause unsafe working conditions or impaired work performance, the supervisor should (in most circumstances):

1. Locate another supervisor to serve as a witness. Contact HR when possible.

**NOTE:** The employee may be having a medical or mental health emergency and have other reasons for exhibiting the behaviors that have been observed. Others may have a disability or ongoing medical reason for exhibiting the above indicators. If the supervisor believes there is a medical emergency, they should call 9-1-1 or the emergency number for Capitol Police or other local law enforcement agency if employee is working remotely.

2. Take the employee aside to a private location. If the employee is working remotely, contact them via teleconference or phone. Articulate concerns to the employee. Supervisor(s) should independently observe and document their observations after the incident using the indicators in the Impairment/Assessment Worksheet (Appendix A) and return to Human Resources or designee. The indicators in Appendix A may be used as a guide but are not an all-inclusive list.
3. If there is sufficient evidence the employee is exhibiting signs of being under the influence of alcohol or drugs, or signs of impairment that may cause unsafe working conditions or impaired work performance, notify the employee they will be removed from the workplace or from work status if working remotely.
4. Employees who are at the workplace: Assist in arranging transportation for the employee (emergency contact, family, friend, etc.). Inform the employee that if they choose to take their vehicle and drive, local law enforcement will be notified. If the employee chooses to take their vehicle, document that the employee refused the arranged transportation. Obtain information about the employee's vehicle if available (make, model, color, license plate and any other distinguishing factors). If law enforcement is notified, inform them of vehicle information and direction of travel. Additionally, it is strongly recommended that coworkers and supervisors not be allowed to drive the seemingly impaired employee home or to another location.
5. Document the incident as soon as possible, take detailed notes, and identify any witnesses.
6. Notify Human Resources as soon as possible. All information from the initial contact should be provided to Human Resources. Appointing Authority/Human Resources/designee will:
  - determine if Administrative Leave is appropriate (refer to WHRHC 412.070 and 412.080 regarding administrative leave options);
  - assign staff to initiate an investigation into the alleged misconduct;

#### **Sec. 416.050 Administrative Information**

This chapter was issued in August of 2023 to provide enterprise guidance on this topic.

SAMPLE IMPAIRMENT/ASSESSMENT WORKSHEET

**IMPAIRMENT/ASSESSMENT WORKSHEET**

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Job Classification/Working Title: \_\_\_\_\_

Observed By: \_\_\_\_\_

**NOTE:** This checklist is intended as a guide and should only be used to supplement a completed summary of the incident, including your observations.

**Summary of Incident:**

**Presence of Alcohol, Drugs, and/or Drug Paraphernalia<sup>1</sup>. Specify:**

**Appearance:**

- Bloodshot, glassy, or watery eyes
- Flushed face
- Droopy eyelids
- Dilated or constricted pupils
- Blank stare or dazed look
- Twitching or body tremors
- Disheveled clothing
- Burn marks on fingers or mouth
- Excessive sweating that is not from heat or physical activity
- Other: \_\_\_\_\_

**Speech:**

- Thick, slurred speech
- Loud, noisy speech
- Speaking loudly, then quietly
- Rambling train of thought
- Unusually fast or slow talking
- Slow response to questions or comments
- Repetitive statements
- Bravado, boasting
- Making irrational statements
- Other: \_\_\_\_\_

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<sup>1</sup> "Drug paraphernalia" is defined as any equipment, product or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance.

**Attitude**

- Argumentative
- Aggressive or belligerent
- Obnoxious or mean
- Boisterous
- Other: \_\_\_\_\_

**Behavior**

- Swaying, staggering, or stumbling
- Unable to sit up straight
- Restless, fidgeting
- Depressed or sullen
- Crying or moody
- Excessive laughter
- Extreme or sudden change in behavior
- Overly animated or exaggerated mannerisms
- Crude, inappropriate speech or gestures
- Drowsiness or falling asleep
- Lack of focus and eye contact
- Difficulty standing up
- Difficulty remembering
- Disoriented
- Agitated, anxious
- Vomiting
- Jerky, erratic movements, twitching, facial tics
- Excessively picking at hair or skin
- Other: \_\_\_\_\_

**Other**

- Odor of alcohol, marijuana and/or chemicals
- Repeated trips to rest room or outside area
- Presence of alcohol, drugs, or other drug related paraphernalia (see definition above)
- Other: \_\_\_\_\_