

ART GALLERY OF ONTARIO

Category: SAFETY & WELLNESS	Subject: FITNESS FOR DUTY POLICY AND GUIDELINES	Number: Page 1 of 6
Date: NOVEMBER 28, 2018	Review: FALL 2019	Prepared by: PEOPLE (Department)

PURPOSE:

The objective of this Policy is to establish and communicate the expectations of the Art Gallery of Ontario (“the AGO”) to all people in the AGO community regarding Fitness for Duty.

APPLICATION & SCOPE:

This Policy applies to all Members of the Board of Trustees, employees of the AGO, constructors, contractors, volunteers, artists, clients, vendors and other community members who are performing duties for, representing or conducting business on behalf of the AGO, whether on or off AGO premises (collectively referred to as “People”).

POLICY:

The AGO recognizes that every person covered by this policy has the right to work in a safe environment, free from the adverse effects of impairment by cannabis, drugs or alcohol. The AGO is committed to providing a safe and healthy environment in which the visitor experience is paramount. To do this, the AGO, as an owner and employer, complies with all applicable legislation including the Occupational Health and Safety Act, (OHS Act) the Ontario Human Rights Code (OHRC), the Smoke Free Ontario Act 2017, and applicable federal and provincial cannabis, drug and alcohol legislation.

This Policy establishes the rule of zero tolerance for impairment from consumption of drugs or alcohol or other cause while on duty.

All people in the AGO community are required to report for duty in a condition of physical and mental fitness such that they are able to perform all required duties safely, competently and professionally. Similarly, all are required to remain fit for duty throughout the day or shift.

Lack of fitness for duty, or impairment, may result from use or abuse of substances which may include but are not limited to alcohol, cannabis, drugs (including prescription, over-the-counter and other recreational drugs), medical conditions or their treatment, extreme fatigue, stress, trauma, or other conditions. Impairment, regardless of cause may negatively impact health and safety, job performance or the visitor experience at the AGO.

As owner and employer, the AGO has the right and duty to address impairment of people in the AGO community, regardless of the cause, while they are performing duties at or for the AGO.

The AGO will provide all accommodations required by law in accordance with the AGO's Disability & Accommodation Program. The AGO also provides a free confidential Employee Assistance Program ("EAP") to assist employees in finding resources and solutions for many types of issues.

GENERAL DEFINITIONS:

Accommodation: any modification or adjustment to the application or hiring process, to the job, an employment practice, or the work environment that allows a qualified person with a disability to perform the essential functions of the job.

AGO Business: refers to all business activities undertaken by people in the course of AGO operations, whether conducted on or off AGO premises and whether during or outside of regular operating hours.

AGO Premise or Worksite: includes but is not necessarily restricted to all land, facilities, work sites where AGO business is conducted regardless of whether owned, leased or otherwise controlled by the AGO. This includes all surrounding ground, parking lots and leased or rented space. This also includes all vehicles used for AGO business including personal vehicles and vehicles that are owned, leased or otherwise controlled by the AGO.

Alcohol: any beverage containing alcohol which is a depressant drug that can slow down the parts of the brain that affect thinking, behaviour, breathing and heart rate.

Drug includes:

- Natural or synthetic substance altering psychic and/or psychological functions.
- This includes, amongst others, the following drugs: cannabis (whether obtained legally or illegally), cocaine, benzodiazepines, barbiturates, opiates, PCP, amphetamines, as well as any other similar substances or derivatives.
- Drugs also include legal medically prescribed or over-the-counter drugs, which impact the psychic and / or psychological functions of a person or diminish that person's capacities.

Fitness for Duty: a condition in which a person is physically, physiologically and psychologically capable of competently and safely performing their job tasks. More particularly, Fit for Duty means being able to safely and acceptably perform assigned duties without any limitations due to the use or after-effects of Alcohol, or Drugs.

Hospitality: is the provision of food, beverages (including alcohol but not cannabis) to external parties to further business objectives.

Impairment: the state of being inebriated or intoxicated, diminished, weakened, mentally or physically.

Reprisal: an action or threat against a person with the intent to retaliate for their role in reporting, investigating, or other action related to this policy or law.

ROLE DEFINITIONS:

Artist: visual or performance artist contracted to AGO.

Client: person or company who hires the AGO to provide goods or services.

Contractor: person or company including all sub-contractors contracted to perform fee for service work at the AGO.

Constructor: person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer.

Employee: person who works part-time or full-time under a contract of employment to the AGO.

Employer: person who employs or contracts for the services of one or more employees and including contractors or subcontractors.

Intern: person who performs work under a program approved by a college or a university to encourage employers to provide students with practical training to complement their classroom learning.

Manager: (at the AGO) an employee who has either charge of a workplace, and/or authority over an employee and is not a member of a union.

Owner: the AGO, as occupier of premises used as a workplace, and any person who acts for or on behalf of the owner as an agent or delegate.

Supervisor: an employee who has either charge of a workplace, or authority over an employee, can be in a union.

Vendor: supplier of goods and/or services to the AGO or our clients.

Volunteer: person who performs work or supplies services for no monetary compensation.

RESPONSIBILITIES & REPORTING:

Every person is required to be Fit for Duty and in compliance with all applicable standards, policies, procedures and guidelines. In addition, every person is required to:

- Read, understand and fully comply with local policies;
- Report as fit for work and remain fit for work while on AGO business or working on AGO premises;
- Voluntarily disclose to their supervisor or a member of the People team, the use of prescription or over-the-counter medication that has the potential to cause impairment and make it known if accommodation is requested;
- Cooperate with the accommodation process under the AGO's Disability & Accommodation Program, providing supporting medical, other related information and/or documentation as requested, attending meetings and good faith participation in the accommodation process;
- Perform their job duties safely, without endangering their own safety or that of others;
- Report anyone suspected of not complying with the local policy or this Guideline;
- Cooperate with supervisors, security guards, or adherence to local practices/standards and specific personal checks; and
- Use prescribed and over-the-counter medications responsibly;
- Cooperate with any investigation of an actual or suspected violation of local policy.

Contractors/Constructors: shall also ensure that all people comply with the AGO Contractor Guidelines.

INVESTIGATION:

The AGO will investigate and deal with all reports in a fair, respectful, and timely manner. Information will not be disclosed, except as necessary to protect the persons involved, to investigate the complaint or incident, and to take corrective action. If there are grounds to believe a person is not Fit for Duty, the following steps may be followed. Where the circumstances warrant certain steps may not be followed:

- a) In the interest of safety, the Supervisor will remove the person from their work immediately and escort them to a safe/private place.
- b) If there are immediate medical concerns, make arrangements for appropriate medical attention.

- c) The Supervisor should give the person an opportunity to explain why they appear unfit for work.
- d) If the person is unable to provide reasonable explanation, the Supervisor will be expected to take appropriate action given the situation.
- e) If the decision is to remove the person from the worksite (for one of the above reasons), ultimately provide escort to their local place of residence or to the care of another person.
- f) In the case of constructors, contractors, clients or vendors, the investigation process may vary with circumstances and may involve outside parties if necessary.
- g) Any person who insists on driving will be advised the police are being notified.
- h) Document the reasons for taking action and action that was taken.

Depending on the results of the investigation, contact the People team to initiate appropriate disciplinary or corrective action.

NO REPRISALS:

People will not be penalized or subject to reprisal for reporting a situation in good faith, participating in an investigation or performing a role provided for under this Policy or by law.

CONSEQUENCES OF NON-COMPLIANCE:

Any violation of this Policy or the Guidelines may result in disciplinary action, up to, and including, termination of employment, internships, volunteer placements and contracts.

ACCOMMODATIONS:

When a person requests an accommodation, the AGO will make all reasonable efforts to explore and determine and find an accommodation plan that is reasonable and meets business needs in accordance with its obligations under the OHRC. Note, the accommodation provided may not be the person's preferred accommodation.

COMMUNICATION:

This Policy shall be communicated to all people in the AGO community and

- reviewed by the AGO in consultation with the Joint Health and Safety Committee (JHSC) as needed, or at least annually and recommendations for improvement may be provided to the AGO;
- posted on all JHSC bulletin boards and the Health & Safety Intranet site
- posted on Dartboard and communicated at Managers Meeting, Town Halls and other locations as recommended by Internal Communications
- posted on the AGO's Intranet under "Policies and Procedures"
- provided (copy) to every new member of the Board of Trustees and to every new manager, supervisor, employee or intern when they join the AGO and again at the time of any significant amendments;

- communicated to the unions;
- communicated to volunteers, artists, as part of their orientation to the AGO.
- communicated to all contractors, constructors, vendors, clients working with the AGO, and compliance shall be made a requirement of the contractual relationship with the AGO.

APPENDIX A

Frequently Asked Questions (FAQs) and answers.

APPENDIX B

References and where to find more information

APPROVAL

AGO Fitness for Duty Policy and Guidelines

Reviewed by the AGO Resource Management Committee: November 14, 2018
Approved by the AGO Board of Trustees: November 28, 2018

Chief, People

Date

Michael and Sonja Koerner Director, and CEO

Date

Appendix A

Fitness for Duty

Frequently Asked Questions

What is Fitness for Duty?

- A condition of physical and mental fitness such that an individual is able to perform all required duties safely, competently, and professionally.

What might cause a lack of Fitness for Duty, or Impairment?

- use of alcohol, cannabis, or other recreational drugs,
- prescription, and over-the-counter drugs,
- medical conditions or their treatment,
- extreme fatigue, stress, trauma, or other conditions.

How does the Gallery deal with reports of impairment at work, from any cause?

Under the Occupational Health and Safety Act, everyone has responsibilities for health and safety.

- The AGO, as owner and employer has the responsibility to address impairment of members of the AGO community, regardless of the cause, while they are performing duties at or for the AGO.
- Managers and Supervisors are responsible for taking every precaution reasonable in the circumstances for the protection of people.
- People are required to work safely and to report any hazards to their manager or supervisor immediately.

What are the responsibilities of managers and supervisors if someone reports to them that a person seems to be impaired while on duty?

- Managers and supervisors are required to investigate immediately.
- If signs of impairment are detected, whatever the cause, the person should be relieved of their duties and a conversation or investigation initiated.

Am I required to report it if I think someone else has a lack of fitness for duty from any cause?

- Yes. Under the Occupational Health and Safety Act, people are required to work safely and to report any hazards to their manager or supervisor immediately including suspected impairment of themselves or others.

A prescription medication that I am taking sometimes makes me dizzy and light-headed while I am at work?

- You should report your concern to your Manager or Supervisor.
- You, or your manager or supervisor may wish to contact a member of the People team to discuss options.

I have not been sleeping well lately and am extremely tired. My job involves power tools. Should I report for work?

- You should report your concern to your Manager or Supervisor.
- You or your manager or supervisor may wish to contact a member of the People team to discuss options.

I am dealing with some personal issues that are causing me distress and lack of focus at work. I don't want to discuss them with my supervisor. What should I do?

- You may wish to contact a member of the People team to discuss options.
- The AGO Employee Assistance Program is free, confidential, available 24 hours a day, 7 days a week, and is available all employees and their families.
<http://dartboard.ago.net/about/empinfo/SitePages/empasstprog.aspx>

What are the rules around Hospitality?

- Leaders who act as designated hosts for events (i.e. Board of Trustees, Leadership Team) are considered to be pre-authorized to consume alcohol at events in a reasonable way.
- For employees who are not designated hosts or are attending events as guests, pre-approval from their manager is required.

Will use of recreational cannabis be permitted in a similar way?

- No. Recreational Cannabis cannot be smoked or vaped in enclosed public places or enclosed workplaces.

What changes on October 17, 2018?

- Adults 19 years of age or older will be able to purchase and possess up to 30 grams (about once ounce) of dried cannabis through a provincially authorized retailer.

Where can I use recreational cannabis?

- You will be able to smoke or vape recreational cannabis in locations including but not limited to the following:
- private residences, or in the outdoor space of a residence (for example, a porch or back yard or balcony)
- many outdoor public places where smoking is allowed (e.g. sidewalks, parks)
- designated guest rooms in hotels, motels, and inns.
- Additional restrictions on smoking and vaping may exist in municipal bylaws, lease agreements, and the policies of employers and property owners.

Will I be able to use recreational cannabis on breaks and at lunch while I am at work or in Grange Park?

- No, use of recreational cannabis is not permitted while on duty at or for the AGO.
- You are also prohibited from attending work while impaired.
- Recreational cannabis cannot be smoke or vaped within 20 metres of children's playgrounds and publicly owned sport fields and surfaces.

Can I use recreational cannabis while working at AGO functions or events or if I am at the AGO as a member of the public?

- No, recreational cannabis cannot be smoked or vaped in enclosed public places or enclosed workplaces.

If I use recreational cannabis on the weekend, should I report to work on Monday?

- If you are impaired due to alcohol, prescription or recreational drugs including cannabis, fatigue, stress or other cause and you are not fit for duty, you should not report to work until you are fit for duty.

My doctor has recommended that I try medical cannabis for a health condition. What is the process for accommodation at work?

- The AGO will provide all reasonable accommodations required by law in accordance with the AGO's Disability & Accommodation Program.
- You will be required to provide the necessary medical information to substantiate your need to consume medical cannabis at work.
- You will also be required to participate in the accommodation process and accept reasonable accommodations.

I have a substance abuse issue, what do I do?

- The AGO will undertake to provide accommodation to employees with disabilities including those related to alcohol or drug use or abuse in accordance with the AGO's Disability & Accommodation Program.

My family member has an authorization from a health care professional for medical cannabis. Can I use it recreationally?

- No. Any person authorized to access cannabis for medical purposes may not sell, provide or give cannabis to another person.

Will the AGO be conducting drug testing?

- There are no plans for the AGO to conduct drug or alcohol testing.
- The focus will be on detecting impairment, which may put other people, gallery property or gallery business at risk, whatever the cause.
- Supervisors should supervise and evaluate people throughout the work shift.
- If a person shows any signs of lack of fitness for duty regardless of the cause, the manager or supervisor must take action.

What are the consequences for using cannabis on the AGO premises? Will I lose my job?

- Any suspected use of recreational cannabis while on duty at the AGO will be investigated and dealt with on an individual basis.
- The AGO will provide all reasonable accommodations required by law relating to the use of medical cannabis and/or addiction to Alcohol or Drugs in accordance with the AGO's Disability & Accommodation Program.

APPENDIX B

References and where to find more information

- Your Manager or Supervisor
- People team
- Cannabis in Canada
<https://www.canada.ca/en/services/health/campaigns/cannabis.html>
- Cannabis for medical purposes, Health Canada
<https://www.canada.ca/en/health-canada/topics/cannabis-for-medical-purposes.html>
- Workplace Impairment
<https://www.canada.ca/en/services/health/campaigns/cannabis/impairment.html#a2>
- Cannabis Legalization in Ontario
<https://www.ontario.ca/page/cannabis-legalization>
- Impairment in the Workplace, Ministry of Labour Ontario,
<https://www.labour.gov.on.ca/english/hs/pubs/impairment.php>
- Smoke-Free Ontario Act 2017
<https://www.ontario.ca/laws/statute/17s26>
- Workplace Strategies: Risk of Impairment from Cannabis, White Paper, Canadian Centre for Occupational Health and Safety
https://www.ccohs.ca/products/publications/cannabis_whitepaper.pdf