

CHAPTER: 500

Personnel/Human Resources

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522 – Drug-Free Workplace

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HR

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# Arizona Department of Corrections Rehabilitation and Reentry



Department Order Manual

A handwritten signature in black ink, appearing to read "David Shinn", is written over a horizontal line.

David Shinn, Director

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## **EXPECTED PRACTICES**

American Correctional Association (ACA) Expected Practices: 5-ACI-1C-16

### **PURPOSE**

This Department Order establishes a standard for the Department to maintain a drug and alcohol-free workplace. To promote the health and safety of its employees, the Department has established mandatory drug testing which includes post offer testing as a condition of employment for public safety-sensitive positions; reasonable suspicion, including weapons discharge; post-accident, random public safety-sensitive; and Commercial Driver's License (CDL) drug and alcohol testing in accordance with state and federal regulations, including the Arizona Medical Marijuana Act and the United States (U.S.) Department of Transportation (DOT) Federal Motor Carrier Safety Administration (FMCSA) 49 CFR Part 40 and Part 382.

### **RESPONSIBILITY** {5-ACI-1C-16}

Department employees, volunteers and management share in the responsibility of ensuring the workplace is free from drug and alcohol abuse. Use of illegal drugs, abuse of prescription and over-the-counter medication, and alcohol abuse shall not be tolerated. All employees, contractors, and volunteers are subject to drug and alcohol testing to include reasonable suspicion and post-accident.

In accordance with the Medical Marijuana Act, the Department may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either: the person's status as a Medical Marijuana Registry Identification card holder or a registered qualifying patient's positive drug test for marijuana unless the patient used, possessed or was impaired by marijuana on the premises of the place of employment or during the hours of employment. However, prospective employees, volunteer applicants and employees, when there is a good faith belief that they are engaged in the current use of any drug which could cause impairment or decrease job performance (including medical marijuana) shall be prevented from working in a public safety-sensitive position, as outlined in this Department Order. Qualifying patients applying for or holding public safety-sensitive positions requiring a CDL shall comply with FMCSA testing requirements, as outlined in this Department Order.

Random drug testing requirements for contractors serving in public safety-sensitive roles shall be addressed within individual contracts.

Hiring Authorities shall ensure that volunteers comply with the Department's Drug and Alcohol Testing Program. The Procurement Services Bureau and Program Managers shall ensure all applicable contracts with the Department include a statement requiring contractors to have a company Drug-Free Workplace policy. The ADC contract shall also include a statement that contractors may be subject to "reasonable cause tests" by either the Department or the contractor, and be subject to random drug testing by the contractor, pursuant to the contractor's company policy. The contract shall also require that results of any drug testing relating to contractors who are cleared to work at ADC facilities shall be shared immediately with ADC Procurement and ADC contract monitoring staff.

The Contract Beds Bureau Monitor shall ensure the private prison employee Drug and Alcohol Testing Program is approved by the Director and is in accordance with the Department contract.

Employees in a public safety-sensitive position, as outlined in section 1.1.2 through 1.1.2.6.4, who are taking prescribed and/or over-the-counter medication or medications which, either individually or in combination, may adversely affect or impair the employee's ability to perform essential job duties or respond to emergency situations, shall immediately advise the Occupational Health Nurse (OHN) and provide the OHN with a complete and accurate list, by name and dosage, of said medication. Failure to do so shall subject the employee to disciplinary action, up to and including termination.

All illegal drug usage is prohibited and random drug testing shall be conducted as outlined in section 1.0 and in accordance with state statute.

## **PROCEDURES**

### **1.0 TESTING GUIDELINES**

- 1.1 The Department shall conduct the following testing:
  - 1.1.1 Prospective employee/volunteer applicant drug testing for designated positions as outlined in section 2.0 including:
    - 1.1.1.1 New hires, which also include part-time hires.
    - 1.1.1.2 Re-employment.
    - 1.1.1.3 Volunteer service providers.
  - 1.1.2 Random drug testing for employees in public safety-sensitive positions who have regular and frequent access to the inmate/offender population, including, but not limited to those who:
    - 1.1.2.1 Work inside the secure perimeter of an institution.
    - 1.1.2.2 Are Correctional Officer Series employees.
    - 1.1.2.3 Are required to carry a weapon (i.e., armed post assignment, Arizona Peace Officer Standards and Training (AZ POST) Peace Officer requirement, and positions requiring the authorization of the Director).
    - 1.1.2.4 Are responsible for the direct supervision of inmate/offender work activities and/or the transportation of inmates.
    - 1.1.2.5 Perform CDL functions for the Department in accordance with federal and/or state law as directed by Department Order #405, Vehicles/Vehicles Maintenance.
    - 1.1.2.6 Are required to perform tasks or duties the Department in good faith believes could affect their health or safety including, but not limited to the following:
      - 1.1.2.6.1 Operating equipment, machinery or power tools.
      - 1.1.2.6.2 Repairing, maintaining or monitoring the performance or operation of any equipment, machinery or manufacturing process; the malfunction or disruption of which could result in injury or property damage.

- 1.1.2.6.3 Performing duties in the residential or commercial premises of a customer, supplier or vendor.
- 1.1.2.6.4 Preparing or handling food or medicine.
- 1.1.3 CDL drug and alcohol testing in accordance with Department Order #408, Commercial Driver's License and Alcohol Testing.
- 1.1.4 Reasonable suspicion drug and/or alcohol testing.
- 1.1.5 Post-accident drug and alcohol testing.
- 1.2 The Drug-Free Workplace Supervisor shall retain the list of designated public safety-sensitive positions.
- 1.3 The Department shall test for the following drugs or classes of drugs:
  - 1.3.1 Marijuana (THC)
  - 1.3.2 Cocaine
  - 1.3.3 Amphetamines/Methamphetamine
  - 1.3.4 Opioids
  - 1.3.5 Phencyclidine (PCP)
  - 1.3.6 Heroin Metabolite 6AM (6-Acetylmorphine)
- 1.4 The Department shall have the discretion to perform drug tests not covered in section 1.3. A drug not covered by the standard drug test panel may be requested for non-federally regulated tests. Authorization is based on a good faith belief that the employee is engaged in the current use of any drug, whether legal, prescribed by a physician or otherwise, if the drug could cause an impairment or otherwise decrease or lessen the employee's job performance or ability to perform the employee's job duties.
- 1.5 The testing methods used by the Department shall include drug and alcohol testing.
  - 1.5.1 Prospective employees, volunteer applicants, employees and volunteers shall provide a sufficient urine specimen to a contracted collection site professional for drug testing.
  - 1.5.2 Employees and volunteers shall provide a sufficient breath specimen to a contracted certified Breath Alcohol Technician or facility utilizing approved Arizona Department of Health Services (ADHS) operators, procedures and evidentiary devices.
- 1.6 All required drug and alcohol testing shall be in accordance with the following:
  - 1.6.1 U.S. Department of Health and Human Services (DHHS)
  - 1.6.2 U.S. Substance Abuse and Mental Health Services Administration (SAMHSA)
  - 1.6.3 U.S. DOT

- 1.7 Contractor staff shall provide a negative drug test result, at the expense of their employer, in accordance with 1.3 through 1.3.6 of this section and Department Order #602, Background Investigations.

## 2.0 PROSPECTIVE EMPLOYEE/VOLUNTEER APPLICANT DRUG TESTING

- 2.1 For public safety-sensitive positions, offers of employment or volunteer services shall be conditional upon the completion of a prospective employee/volunteer drug test and the receipt of a negative test result.
- 2.2 Competitive job opportunity announcements and advertisements for public safety-sensitive positions shall advise prospective employees and volunteer applicants that offers of employment or voluntary services are conditional upon the completion of a drug test and the receipt of a negative test result.
- 2.3 Following a conditional offer of employment or voluntary services, and prior to assuming the duties of public safety-sensitive positions, prospective employees and volunteer applicants shall:
  - 2.3.1 Receive official notice of the prospective employee/volunteer applicant drug testing requirement from the Employment Unit or the Complex Volunteer Coordinator.
  - 2.3.2 Be advised of the Department's drug testing procedures and requirements when being scheduled for a prospective employee/volunteer applicant drug test.
    - 2.3.2.1 Drug tests shall be taken within 48 hours of being notified to report to a contracted collection site. Weekends and holidays are not counted.
  - 2.3.3 Sign the Pre-employment Drug Test Consent and Release of Liability, Form 522-1, prior to testing.
  - 2.3.4 Be directed to a contracted collection site.
- 2.4 Employment or a final employment offer may be denied to prospective employees and volunteer applicants as a result or combination of:
  - 2.4.1 A confirmed positive drug test.
  - 2.4.2 Negative results with an annotation by the Medical Review Officer that medication may affect public safety-sensitive duties.
  - 2.4.3 Providing two consecutive diluted specimens.
  - 2.4.4 Leaving the contracted collection site prior to the completion of required testing.
  - 2.4.5 The failure to:
    - 2.4.5.1 Report for drug testing within the mandatory 48-hour period or for any unreasonable delay in reporting to the contracted collection site.
    - 2.4.5.2 Provide sufficient urine for testing.
    - 2.4.5.3 Provide a urine specimen that is within acceptable temperature range.

- 2.4.5.4 Provide a valid Medical Marijuana Registry Identification card to the Medical Review Officer, if applicable.
- 2.4.6 The refusal to:
  - 2.4.6.1 Comply with the collection process.
  - 2.4.6.2 Submit to a drug test.
  - 2.4.6.3 Sign the Pre-employment Drug Test Consent and Release of Liability form.
- 2.4.7 Attempting to alter or tampering with the drug test or provide an adulterated or substituted drug test.
- 2.5 Re-application shall not be considered if prospective employees or volunteer applicants have attempted to alter or tamper with the drug test or provided an adulterated or substituted specimen.
- 2.6 Prospective Correctional Officer Series staff:
  - 2.6.1 Are ineligible to reapply for any Department position if they have used:
    - 2.6.1.1 Marijuana within the past 12 months.
    - 2.6.1.2 Dangerous drugs or narcotics (amphetamines, methamphetamine, cocaine, opiates, phencyclidine, ecstasy (MDMA) and Heroin Metabolite 6AM) within the past five years.
  - 2.6.2 Who are denied employment for other reasons outlined in 2.4.1 through 2.4.5.4 of this section may apply/reapply after one year.
- 2.7 Prospective employees for Non-Correctional Officer Series positions may re-apply one year after a positive drug test was confirmed by a contracted laboratory or if employment was denied for reasons as outlined in 2.4.1 through 2.4.5.4 of this section.
- 2.8 Prospective Correctional Officer Series staff, prospective employees for Non-Correctional Officer Series positions and prospective volunteers who fail to report for drug testing within the mandatory 48 hour period and:
  - 2.8.1 Have a valid reason (i.e., verifiable medical emergency or vehicle accident, etc.) may contact the Employment Unit Manager or designee immediately for review and rescheduling.
    - 2.8.1.1 The Employment Unit Manager or designee may approve a second opportunity to take the prospective employee/volunteer applicant drug test after reviewing and verifying the reason(s) for failing to report.
    - 2.8.1.2 For prospective Correctional Series positions, the Employment Unit Manager or designee shall confer with the Recruitment Unit for Selection and Hiring (RUSH) Administrator for determination.

2.8.1.3 For prospective volunteers, the Pastoral Activities Administrator may approve a second opportunity to take the drug test after reviewing the reason(s) for not reporting.

2.8.2 Those who do not have a valid and acceptable reason for failing to report shall be disqualified and may re-apply after one year from the date of the application denial.

## 2.9 Volunteer Applicants

2.9.1 Volunteer applicants shall be provided with the Complex Volunteer Coordinator's telephone number and a list of contracted testing collection site/laboratories when advised to report for drug testing.

2.9.2 Volunteer applicants may apply one year after a positive drug test was confirmed by a contracted laboratory or if employment was denied for other reasons as outlined in 2.4.1 through 2.4.5.4 of this section.

2.10 Prospective employees and volunteer applicants shall not be disqualified solely on the grounds of possessing a valid Medical Marijuana Registry Identification card. Prospective employees applying for positions requiring a CDL shall comply with all FMCSA drug use and testing requirements.

## 2.11 Drug Test Results

2.11.1 The Drug Testing Coordinator shall:

2.11.1.1 Maintain a log of test results in the Employment Unit.

2.11.1.2 Coordinate notifications with the Background Investigations Unit to track prospective employees denied employment to ensure re-application time frames are met.

2.11.1.3 Notify the appropriate staff of test results.

2.11.2 The Human Resources Liaison or RUSH shall notify prospective employees in writing that their conditional offer of employment is revoked and they are denied employment. Denial of employment shall not be disclosed to the individual over the telephone.

2.11.3 The State Volunteer Coordinator shall track volunteer applicants denied assignments to ensure re-application time frames are met.

2.11.4 The Pastoral Activities Administrator or State Volunteer Coordinator shall notify volunteer applicants in writing when conditional offers of employment are revoked. Denial of employment shall not be disclosed to the individual over the telephone.

2.12 During New Employee Orientation, all new employees shall receive a copy of the Drug-Free Workplace Employee Drug and Alcohol Agreement, Form 522-3. This form shall be signed by new employees and placed in their personnel file.



### 3.0 RANDOM CDL DRUG AND ALCOHOL TESTING

#### 3.1 Selection

3.1.1 Random CDL drug and alcohol testing selection shall be in accordance with Department Order #408, Commercial Driver's License (CDL) Drug and Alcohol Testing.

3.1.2 The Employment Unit shall use information from the Department of Administration to verify positions requiring a CDL.

3.1.3 Selection for random CDL drug and alcohol testing shall not be connected with reasonable suspicion testing.

3.1.4 Costs incurred for testing shall be paid by the Division/Bureau/Unit to which the CDL driver is assigned.

3.1.4.1 Once the Drug Testing Coordinator validates that CDL drivers were tested, the Prison Operations Budget Administrator shall coordinate charges with respective Business Offices.

3.1.5 The Fleet Manager shall manage and maintain the Fleet Management CDL Database, which shall be used for maintaining current information of CDL drivers subject to random drug and alcohol testing and ensure it is up to date.

3.1.5.1 The CDL driver's name shall remain in the Fleet Management CDL Database and CDL drivers shall be subject to selection while performing CDL duties for the Department.

3.1.6 The Chief of Security at institutions and ACI and/or designee(s) shall be responsible for maintaining and updating the Fleet Management CDL Database. CDL drivers shall be added and deleted as changes occur.

3.2 The Drug Testing Supervisor shall:

3.2.1 Receive a random CDL testing selection list from the state approved drug and alcohol testing contractor.

3.2.2 Provide each Warden/Bureau Administrator or designee a list of CDL drivers selected for testing.

3.3 The Warden/Bureau Administrator or designee shall notify the supervisor of CDL driver(s) selected for testing.

3.4 The Warden/Bureau Administrator or designee and supervisor of CDL driver(s) shall:

3.4.1 Send CDL drivers to the contracted collection location the same day they are notified. If testing cannot be accomplished during normal duty hours, testing shall be accomplished before or after normal duty hours.

3.4.1.1 The time in which the employee is involved in the collection process shall be considered work time.

- 3.4.2 Notify the Drug Testing Supervisor if CDL drivers are unable to be tested due to operational issues.
  - 3.4.2.1 To ensure confidentiality, CDL drivers shall be sent at the earliest available time and shall not be given advance notice of the test.
- 3.4.3 Complete a Drug-Free Workplace Program Employee Test Notification Order, Form 522-2, for selected CDL driver(s) and have them sign it. A copy shall be provided to the CDL driver to take to the collection site.
- 3.4.4 Provide assignment coverage for CDL drivers during the testing process.
- 3.4.5 Return original Drug-Free Workplace Program Employee Test Notification Order form(s) to the Warden/Bureau Administrator or designee who will return them to the Drug Testing Coordinator after selected CDL drivers have been officially notified or deferred from testing due to extenuating circumstances.
  - 3.4.5.1 CDL drivers on authorized leave shall be deferred from the testing process. Examples of authorized leave are annual, sick, family medical, bereavement, civic duty and temporary assignment away from the institution.
- 3.5 CDL drivers may receive disciplinary action up to and including dismissal for failure to comply with the CDL Drug Testing and Alcohol policy, in accordance with this Department Order and Department Order #601, Administrative Investigations and Employee Discipline.
- 3.6 Positive Drug Test Result for Marijuana
  - 3.6.1 The FMCSA does not authorize medical marijuana under state laws to be a valid medical explanation for a CDL driver’s positive drug test result. Marijuana is listed on Schedule 1 of the Controlled Substance Act and, as such, cannot be used under U.S. DOT drug testing regulations.
  - 3.6.2 In accordance with federal requirements, the Medical Review Officer shall report CDL drivers testing positive for marijuana use to the FMCSA Clearinghouse.
  - 3.6.3 The employee shall immediately be removed from the position requiring a CDL and any required federal guidelines will be coordinated by the Drug-Free Workplace Unit and the Employee Relations Unit.
- 3.7 Confidentiality in the notification process shall be maintained for and by all CDL drivers involved in the random CDL testing process.
- 3.8 Random CDL drug and alcohol testing reporting shall be conducted in accordance with Department Order #408, Commercial Driver’s License (CDL) Drug and Alcohol Testing and the FMCSA Clearinghouse.

#### **4.0 RANDOM DRUG TESTING**

- 4.1 Employees in public safety-sensitive positions, as outlined in section 1.0, shall be subject to random drug testing.

- 4.2 Random drug tests shall be unannounced and spread reasonably throughout the year. Due to the nature of random testing, employees may be selected more than once during the year.
- 4.3 The Drug Testing Coordinator shall:
  - 4.3.1 Receive a list of randomly selected employees from the state contracted vendor performing employee drug tests.
  - 4.3.2 Coordinate the notification and collection process for employees in Central Office, Community Corrections and rural locations.
  - 4.3.3 Provide each Warden/Bureau Administrator or designee a list of employees selected for testing.
  - 4.3.4 Identify contracted collection/test sites throughout the state.
  - 4.3.5 Refer employees with positive test results to Employee Relations.
- 4.4 The Warden/Bureau Administrator or designee shall:
  - 4.4.1 Identify a collection site at the institution/facility in coordination with the Drug Testing Coordinator.
  - 4.4.2 Ensure employees are notified to report to drug collection sites.
  - 4.4.3 Ensure confidentiality of the collection notification process, including the list of employees to be tested, is maintained.
  - 4.4.4 Ensure the Drug-Free Workplace Program Random Drug Testing, Form 522-4, is completed for each employee to be tested and employees sign it upon notification of being tested. The completed, original Random Drug Testing form shall be given to the employee to retain for his/her records, and a copy shall be provided to the on-site collector to remain with the sample that is analyzed at a contracted laboratory. An electronic copy of the completed form shall be returned to the Drug Testing Coordinator.
  - 4.4.5 Notify the Drug Testing Coordinator if there are operational issues that precluded testing. Employees shall be sent to test at the earliest available time and shall not be notified of the testing requirement until it is scheduled.
  - 4.4.6 Immediately notify Employee Relations if an employee refuses to submit to required testing or attempts to alter, tamper, adulterate or substitute the specimen.
- 4.5 Employees shall be notified to immediately report to the testing location.
- 4.6 Employees who have a positive marijuana test and hold a public safety-sensitive position shall be immediately reported to Employee Relations in accordance with section 8.0.
  - 4.6.1 Employees testing positive and who use marijuana for medical purposes pursuant to a validly issued Medical Marijuana Registry Identification card shall not be permitted to work in a public safety-sensitive position.

- 4.6.2 Employees who hold public safety-sensitive positions cannot be engaged in current use of marijuana pursuant to a validly issued Medical Marijuana Registry Identification card.
- 4.6.3 Employees who possess a Medical Marijuana Registry Identification card are not exempt from being referred for reasonable suspicion testing in accordance with section 5.0.

## **5.0 REASONABLE SUSPICION DRUG AND ALCOHOL TESTING**

- 5.1 Employees, contractors, and volunteers shall be required to submit to reasonable suspicion drug and/or alcohol testing.
- 5.2 Reasonable suspicion drug and/or alcohol testing shall be initiated when there is a good-faith belief employees, contractors or volunteers are under the influence of drugs and/or alcohol based on one or more of the following:
  - 5.2.1 Observed conduct, behavior or appearance including, but not limited to:
    - 5.2.1.1 Physical appearance.
    - 5.2.1.2 Deterioration of work performance.
    - 5.2.1.3 Poor judgment.
    - 5.2.1.4 Carelessness and erratic behavior.
    - 5.2.1.5 Slurred, slow, indistinct or unusual speech.
    - 5.2.1.6 Any such behavior, in conjunction with an accident or a weapons discharge.
    - 5.2.1.7 Smell of marijuana or alcohol.
    - 5.2.1.8 Body odor consistent with alcohol and/or marijuana use.
  - 5.2.2 Information reported by a person believed to be reliable including a report by a person who witnessed the use or possession of drugs or drug paraphernalia.
- 5.3 Post-Accident Drug and Alcohol Testing (Non-CDL) – Reasonable suspicion drug and/or alcohol testing shall be initiated when there is involvement in any of the following while operating a state-owned vehicle on state property:
  - 5.3.1 A serious vehicular accident.
  - 5.3.2 Accident with injury.
  - 5.3.3 Accident involving a non-state vehicle.
- 5.4 Commercial Driver License (CDL) Post-Accident Drug and Alcohol Testing
  - 5.4.1 In accordance with U.S. DOT regulation, CDL drivers performing CDL duties must be drug and alcohol tested when one or more of the following occur:

- 5.4.1.1 Involved in a fatal accident.
- 5.4.1.2 Receive a traffic citation resulting from an injury or vehicle-disabling accident.
- 5.4.2 The alcohol test must occur within 8 hours, and the drug test must occur within 32 hours.
- 5.5 Employee Relations Drug and Alcohol Testing Cost – Costs incurred for reasonable suspicion and post-accident testing shall be paid by the Division/Bureau/Unit initiating the testing order.
- 5.6 Supervisors shall:
  - 5.6.1 Obtain prior approval for reasonable suspicion drug and/or alcohol testing from the Warden, Deputy Warden, Administrator or, if appropriate, the On-Site or On-Call Duty Officer.
  - 5.6.2 Consult with the Employee Relations Unit to determine if there is sufficient evidence to support reasonable suspicion drug and/or alcohol testing.
    - 5.6.2.1 If reasonable suspicion drug and/or alcohol testing is conducted after business hours, on weekends or on holidays, the Employee Relations Unit shall be contacted the next business day during normal business hours.
  - 5.6.3 Contact the Employee Relations Unit or the Drug Testing Coordinator for a contracted collection site meeting the Department's requirements.
  - 5.6.4 Serve employees, contractors and volunteers the Drug-Free Workplace Program Employee Test Notification Order form in person.
  - 5.6.5 Ensure employees, contractors and volunteers are immediately transported to the contracted collection site by a Department employee and have the Drug-Free Workplace Program Employee Test Notification Order form with them.
  - 5.6.6 Ensure employees refusing to submit to reasonable suspicion drug and/or alcohol testing are removed from any public safety-sensitive functions pending investigation and/or discipline.
- 5.7 Reasonable suspicion alcohol testing shall occur immediately before or during the employee, contractor or volunteer's normal duty hours on the day of the observed behavior(s).
  - 5.7.1 If drivers have not been tested for alcohol within two hours of the observation, the supervisor shall document in writing the reason a test was not administered.
  - 5.7.2 If the test was not administered within eight hours, the supervisor shall cease attempts to administer the test and submit a written report giving the reasons the alcohol test was not administered.
  - 5.7.3 The Breath Alcohol Technician shall send the Drug Testing Coordinator copies of test results electronically with follow up hard copies.

- 5.7.4 When a law enforcement agency is utilized for alcohol testing, the supervisor shall ensure a copy of the alcohol test is transmitted to the Drug Testing Coordinator in a timely and confidential manner.
- 5.7.5 A screening test of a breath alcohol concentration:
  - 5.7.5.1 Of less than .02% shall be considered negative and not require further testing.
  - 5.7.5.2 Of .02% or greater shall require a confirmation test to be performed.
- 5.8 Employees, contractors, and volunteers requiring reasonable suspicion drug and/or alcohol testing shall:
  - 5.8.1 Receive and acknowledge Drug-Free Workplace Program Employee Test Notification Order form.
  - 5.8.2 Be immediately transported to the contracted collection site/laboratory by a Department employee in a state vehicle.
  - 5.8.3 Provide positive identification and the Drug-Free Workplace Program Employee Test Notification Order form upon arriving at the contracted collection site.
- 5.9 Volunteers suspected of using drugs and/or alcohol shall be immediately suspended pending the results of reasonable suspicion drug and/or alcohol testing.

## **6.0 SPECIMEN COLLECTION AND TESTING PROCEDURES**

- 6.1 Upon arrival at the contracted collection site, prospective employees, volunteer applicants, employees and volunteers shall:
  - 6.1.1 Provide the contracted collection site personnel:
    - 6.1.1.1 Photo identification.
    - 6.1.1.2 Their social security number/Employee Identification Number (EIN), or CDL number (Driver's License Number) if a federally regulated test.
    - 6.1.1.3 A day and evening telephone number where they can be reached.
    - 6.1.1.4 A copy of the Pre-Employment Drug Test Consent and Release of Liability form or the Drug-Free Workplace Program Employee Test Notification Order form, whichever is applicable, to validate the individual is a prospective employee, volunteer applicant, employee or volunteer.
  - 6.1.2 Complete the Chain of Custody form provided by the contracted collection site.
  - 6.1.3 Remove unnecessary garments such as jackets or coats. All personal belongings such as a purse or briefcase shall not be permitted in the collection area. Individuals may retain their wallet.
  - 6.1.4 Wash their hands prior to urination.

- 6.1.5 Not have access to water, faucet, soap dispenser, cleaning agent, or any other materials which may be used to adulterate the specimen.
- 6.1.6 Receive a clean specimen container.
- 6.1.7 Provide a urine specimen. The urine specimen shall be equal to or greater than 45 milliliters (ml), which is approximately 1.5 ounces.
  - 6.1.7.1 If the specimen is less than 45 ml and the temperature is within the acceptable range, this specimen shall be discarded and a second specimen collected.
  - 6.1.7.2 Prospective employees, volunteer applicants, employees and volunteers unable to provide a minimum sample of 45 ml of urine may attempt to provide another urine specimen using a fresh collection container. A contracted collection site professional shall instruct them not to drink more than 40 ounces of fluid.
  - 6.1.7.3 If a sufficient urine specimen cannot be obtained after three hours, the insufficient specimen shall be discarded and the collection process discontinued.
- 6.1.8 Be permitted to wash their hands after the specimen has been provided and submitted to a contracted collection site professional.
- 6.2 Immediately after collection, a contracted collection site professional shall process the urine sample. At this time, prospective employees, volunteer applicants, employees and volunteers are free to leave the contracted collection site.
- 6.3 Prospective employees, volunteer applicants, employees and volunteers may wish to keep a list of medications taken within the last 14 to 30 days or other medical information in conjunction with a specimen collection should a positive result be reported. This information shall:
  - 6.3.1 Be retained by the individual.
  - 6.3.2 Not be listed on the Chain of Custody form provided by the contracted collection site.
  - 6.3.3 Not be submitted to a contracted collection site professional.
  - 6.3.4 Only be shared with Occupational Health staff.
- 6.4 Dispute Drug Test Results
  - 6.4.1 Prospective employees, volunteer applicants, employees and volunteers wanting to challenge a drug test result validated as positive by the Medical Review Officer shall submit a written request to have the original sealed split specimen of urine retested within 72 hours of notification of a positive drug test result to the Employment Unit Manager or designee, whose decisions shall be final.
  - 6.4.2 Prospective employees, volunteer applicants, employees or volunteers shall:

6.4.2.1 Select a contracted collection site/laboratory for the retest which meets the Department’s drug testing requirements in accordance with this Department Order.

6.4.2.1.1 The split specimen retest shall be limited to those drug(s) which tested positive.

6.4.2.1.2 Degradation of the specimen may occur during storage. Therefore, there are no threshold limits which need to be satisfied for a confirmation of the original test result if the detected level of the drug or drug metabolite is below established threshold limits upon a retest.

6.4.2.1.3 The Medical Review Officer or the Drug Testing Coordinator may assist in locating an independent contracted collection site/laboratory.

6.4.2.1.4 The Drug Testing Coordinator shall coordinate with the prospective employee, volunteer applicant, employee or volunteer, the Medical Review Officer and the selected contracted collection site/laboratory for the specimen to be retested.

6.4.2.2 Be responsible for all costs at the contracted collection site/laboratory related to a retest of the specimen.

6.4.2.2.1 Payment shall be made by money order to the Department prior to the retest.

6.4.2.2.2 If the retest result is negative, the test result shall be considered as negative. Only an employee shall be reimbursed for the cost of the retest.

6.5 Diluted/Invalid Specimens – Prospective employees, volunteer applicants, employees or volunteers shall:

6.5.1 Provide a second collection specimen if the specimen is validated as diluted or invalid by the Medical Review Officer.

6.5.1.1 The Human Resources Liaison, Satellite Recruitment Center, Complex Volunteer Coordinator, or Warden/Bureau Administrator or designee shall issue a new Pre-employment Drug Test Consent and Release of Liability form or the Drug-Free Workplace Program Employee Test Notification Order form under the appropriate category.

6.5.1.2 Provide an observed collection specimen if recommended by the Medical Review Officer.

6.5.1.2.1 A contracted collection site professional of the same gender shall observe the prospective employees, volunteer applicants, employees and volunteers observed drug test collection.



- 6.5.2 If the contracted laboratory and the Medical Review Officer determine the second test specimen result is diluted:
  - 6.5.2.1 Prospective employees shall be denied employment.
  - 6.5.2.2 Employees may submit a third retest if medical documentation is provided. If this test is determined to be diluted, it shall be considered a refusal to test.
  - 6.5.2.3 The Medical Review Officer may review documentation and provide an opinion to the Employment Unit Manager or designee.
- 6.5.3 Retesting of Prospective Employees
  - 6.5.3.1 Within 24 hours of being notified, the Drug Testing Coordinator shall notify the Human Resources Liaison in writing if prospective employees are required to retest as a condition of employment.
  - 6.5.3.2 The Human Resources Liaison shall have prospective employees sign another Pre-employment Drug Test Consent and Release of Liability form, which shall be provided to the contracted collection site.
  - 6.5.3.3 Prospective employees shall be required to retest within 48 hours of signing the Pre-employment Drug Test Consent and Release of Liability form.
- 6.5.4 Retesting of Volunteer Applicants
  - 6.5.4.1 The Drug Testing Coordinator shall notify the Complex Volunteer Coordinator in writing if volunteer applicants are required to retest as a condition of employment within 24 hours of being notified.
  - 6.5.4.2 The Complex Volunteer Coordinator shall have volunteer applicants sign another Pre-employment Drug Test Consent and Release of Liability form, which shall be provided to the contracted collection site.
  - 6.5.4.3 Volunteer applicants shall be required to retest within 48 hours of signing the Pre-employment Drug Test Consent and Release of Liability form.
- 6.5.5 Retesting of Employees
  - 6.5.5.1 The Drug Testing Coordinator shall provide written notification to the Human Resources Liaison or the Warden/Bureau Administrator if employees are required to retest for CDL purposes.
  - 6.5.5.2 The Human Resources Liaison or the Warden/Bureau Administrator shall have the employee sign the Drug-Free Workplace Program Employee Test Notification Order form, which shall be provided to the contracted collection site.
  - 6.5.5.3 Employees shall retest within 48 hours or immediately after signing the Drug-Free Workplace Program Employee Test Notification Order form.

- 6.5.5.4 The Warden/Bureau Administrator or designee shall coordinate with the employee's supervisor to ensure retests are completed before, during or immediately after the employee's normal duty hours on the date the employee is notified. The preferred testing time shall take place during an employee's normal duty hours.
- 6.5.5.5 Employees may be reassigned during the retest in accordance with Department Order #601, Administrative Investigations and Employee Discipline.
- 6.5.6 Retesting of Volunteers
  - 6.5.6.1 The Complex Volunteer Coordinator shall have volunteers sign the Drug-Free Workplace Program Employee Test Notification Order form, which shall be provided to the contracted laboratory.
  - 6.5.6.2 Volunteers shall retest within 48 hours of signing the Drug-Free Workplace Program Employee Test Notification form.

## 7.0 TEST ANALYSIS AND REPORTS

- 7.1 The contracted collection site shall test specimens and ensure the chain of custody is maintained. All specimens must be tested in a DHHS and SAMHSA-certified laboratory.
- 7.2 If the contracted collection site personnel have information or suspect tests may have been tampered with, they shall notify the Drug Testing Coordinator and document the observations, information and suspicions.
- 7.3 The Medical Review Officer shall review and interpret drug test results, as outlined in this Department Order.
- 7.4 The contracted collection site shall perform an initial immunoassay test.
- 7.5 All Federally Regulated (DOT) tests shall be forwarded to the Medical Review Officer for validation.
- 7.6 Confirmatory tests shall be conducted for specimens identified as positive on the initial test using a gas chromatography/mass spectrometry test.
- 7.7 Positive urine specimens shall be retained by the contracted laboratory in a secured long-term frozen storage for a minimum of one year.
  - 7.7.1 The Employment Unit Manager or designee may request the contracted laboratory retain the specimen for an additional period of time.
  - 7.7.2 If the contracted laboratory does not receive a request to retain the specimen during the initial one year period, the specimen shall be discarded.
- 7.8 Dilution, Adulteration or Substitution
  - 7.8.1 Specimens shall be analyzed for creatinine, pH, specific gravity, glutaraldehyde and adulteration products, for example bleach and nitrites, to determine whether or not values are within normal ranges.

- 7.8.2 The contracted collection site professional shall note any visual observations of unusual color and/or odor of the specimen on the Chain of Custody form and submit the specimen for laboratory testing.
- 7.8.3 If the specimen is suspect or shows signs of tampering, the contracted laboratory professional shall:
  - 7.8.3.1 Document observations on the Chain of Custody form.
  - 7.8.3.2 Collect a second observed specimen.
  - 7.8.3.3 Submit both specimens for testing.
- 7.8.4 Positive test results shall be screened and confirmed by the contracted laboratory and Medical Review Officer when values are found outside normal ranges, then forwarded to the Drug Testing Coordinator.
- 7.9 The Medical Review Officer shall:
  - 7.9.1 Review and interpret results of all positive, suspicious, adulterated, substituted, non-negative or diluted contracted laboratory drug tests and CDL tests to look for alternate medical explanations before results are reported to the Drug Testing Coordinator.
  - 7.9.2 Provide employees an opportunity to confidentially discuss test results and verify their statements, which may include contacting the involved pharmacist/ physician.
  - 7.9.3 Coordinate retests with the Drug Testing Coordinator if there are questions as to the accuracy or validity of test results.
  - 7.9.4 Report test results as negative if there is a legitimate medical explanation for the positive test result, with the exception of medical marijuana for those who hold a public safety-sensitive position.
  - 7.9.5 Report final result of drug tests in writing to the Drug Testing Coordinator in a confidential manner.
  - 7.9.6 Not have any vested interest with the contracted laboratory performing the urine test analysis.
- 7.10 If a discrepancy occurs, the Medical Review Officer shall:
  - 7.10.1 Not attempt to ascertain the factual correctness of any claim of involuntary drug ingestion by prospective employees, volunteer applicants, employees or volunteers.
  - 7.10.2 Not attempt to resolve conflicting factual statements.
  - 7.10.3 Report all discrepancies to the Employment Unit Manager or designee.
- 7.11 The contracted collection site shall produce a laboratory report for each test specimen which:
  - 7.11.1 Shall include:
    - 7.11.1.1 Specimen number.

- 7.11.1.2 Donor name and EIN.
  - 7.11.1.3 Type of test.
  - 7.11.1.4 Date collected, date received and date reported.
  - 7.11.1.5 A list of the drugs tested.
  - 7.11.1.6 The results for each drug tested.
  - 7.11.1.7 Overall results (positive, diluted, invalid or negative) or no-test for the specimen.
- 7.12 All negative test results shall be available to the Drug Testing Coordinator within 24 hours after the contracted laboratory's receipt of the specimens, excluding weekends and holidays.
- 7.13 Results from specimens testing positive by the contracted laboratory initial screen, confirmation tests and tests verified by the Medical Review Officer shall be available within 72 hours after the contracted collection site/laboratory's receipt of the specimens, excluding weekends and holidays.
- 7.14 The contracted laboratory shall report test results to the Drug Testing Coordinator by a secure and confidential means such as secure fax, phone, electronically, and/or results may be confirmed in writing.
- 7.15 Confidentiality of Test Results and Records
- 7.15.1 All program files, records, testing information, results and reports relating to drug testing, to include all statistical reports created/maintained by/for the Drug-Free Workplace Program shall be confidential.
  - 7.15.2 Test results shall be available to Department officials only on a need-to-know basis.
  - 7.15.3 Employees may obtain a copy of their test results by submitting a written request or email from their Department account to the Drug Testing Coordinator.
    - 7.15.3.1 The request shall include the employee's name, EIN, method for receiving the test results, signature (if written submission) and date.
    - 7.15.3.2 The employee shall include a mailing address if the results are to be mailed.
  - 7.15.4 All original drug test results and electronic data shall be maintained by the Drug Testing Coordinator.
  - 7.15.5 Validated drug test results for prospective employees and volunteer applicants shall be maintained by the Drug Testing Coordinator and the State Volunteer Coordinator.
  - 7.15.6 Contracted laboratory and Medical Review Officer reports shall be treated as confidential medical records and shall not be placed in an employee's personnel file.
  - 7.15.7 Prior authorization from the Employment Unit Manager or designee shall be required before any statistical information may be released or reviewed.

- 7.15.8 Employees and prospective employees who wish to review statistical reports shall submit a written request for information to the Employment Unit Manager or designee.
- 7.15.9 Unauthorized dissemination of testing information/results is prohibited and shall result in disciplinary action.
- 7.15.10 All records, information of personnel actions and results shall be maintained in accordance with Department Order #507, Employee Records.
- 7.15.11 CDL Drug and Alcohol Testing Program results and records shall be handled in accordance with Department Order #408, Commercial Driver’s License (CDL) Drug and Alcohol Testing.
- 7.16 The Drug Testing Coordinator shall:
  - 7.16.1 Be contacted if the Medical Review Officer is unable to make contact with the prospective employee, volunteer applicant, employee or volunteer within the specified time frame.
  - 7.16.2 Notify the appropriate Warden, Bureau Administrator, Human Resources Liaison or the State Volunteer Coordinator, who shall ensure the individual contacts the Medical Review Officer.
  - 7.16.3 Obtain the prospective employee, volunteer applicant, employee, or volunteer’s phone number and provide this information to the Medical Review Officer.

## 8.0 DISCIPLINE {5-ACI-1C-16}

- 8.1 An employee may receive disciplinary action up to and including dismissal, in accordance with Department Order #601, Administrative Investigations and Employee Discipline, based upon evidence and documentation of drug and/or alcohol use including, but not limited to:
  - 8.1.1 Direct observation of the employee’s behavior.
  - 8.1.2 Evidence obtained from an arrest or criminal conviction.
  - 8.1.3 A Medical Review Officer’s verified:
    - 8.1.3.1 Positive drug test result.
    - 8.1.3.2 Adulterated or substituted urine specimen.
    - 8.1.3.3 Three consecutive diluted specimens for employees.
  - 8.1.4 A positive breath alcohol test result.
  - 8.1.5 An employee’s voluntary admission to the unauthorized use of drugs and/or alcohol. An employee who admits to drug and/or alcohol use after being notified shall submit to the required testing.
  - 8.1.6 Refusal to:
    - 8.1.6.1 Submit to any required testing.

8.1.6.2 Allow the contracted collection site professional to measure body temperature when the temperature of the urine is outside the acceptable temperature range.

8.1.7 Failure to:

8.1.7.1 Report for a drug and/or alcohol test at the scheduled time or any unreasonable delay in reporting to the contracted collection site without an excused absence.

8.1.7.2 Follow the proper collection protocol per the specimen collector.

8.1.7.3 Provide a urine specimen within the acceptable temperature range.

8.1.7.4 Provide sufficient urine for required drug testing or a sufficient sample of breath for alcohol testing.

8.1.8 Tampering with any part of the drug testing process to include records or specimens.

**9.0 EMPLOYEE ASSISTANCE** – Employees are encouraged to refer to the Employee Assistance Program to obtain resource information and referral assistance in accordance with Department Order #521, Employee Assistance Program. {5-ACI-1C-16}

9.1 To ensure compliance with the Federal Drug-Free Workplace Act of 1988, the following procedures shall be followed.

9.1.1 Any employee convicted of a violation of any criminal drug statute conviction occurring in the workplace shall submit a report documenting the relevant circumstances of the conviction, to his/her supervisor within five days of such conviction.

9.1.2 If an employee fails to submit the required report, the immediate supervisor shall, within two days of notification or of personal knowledge of a conviction, prepare a written report and notify the Employee Relations Unit.

9.1.3 Within ten days of receipt of the supervisor's notification, the Employee Relations Unit shall notify the appropriate person or office in the federal agency from which the employer receives a contract or grant. Upon receiving notice of an employee's conviction of a criminal statute occurring in the workplace, the Department must take appropriate actions against the employee within 30 calendar days.

## **DEFINITIONS/GLOSSARY**

Refer to the Glossary of Terms for the following:

- Adulterated Specimen
- Alcohol
- Breath Alcohol Technician
- Chain of Custody
- Chain of Custody for Breath Alcohol Testing
- Commercial Driver's License (CDL)
- Commercial Driver's License (CDL) Driver

- Confirmation Test
- Confirmed Drug Test
- Contracted Collection Site or Laboratory
- Contracted Collection Site Professional
- Controlled Substance
- Cut-Off Level
- Dangerous Drugs
- Drug Testing Coordinator
- Drug Testing Supervisor
- Employee
- Evidential Breath-Testing Devices
- Good Faith Belief
- Impairment
- Medical Review Officer
- Metabolite
- Nanogram
- Narcotic Drug
- Negative Drug Test Result
- Observed Collection
- Positive Drug Test Result
- Public Safety-Sensitive Position
- Random Commercial Driver’s License (CDL) Drug and Alcohol Testing
- Random Drug Testing
- Serious Accident
- Split Specimen
- Verified Drug Test Results
- Volunteer
- Volunteer Coordinators

## **FORMS LIST**

- 522-1, Pre-employment Drug Test Consent and Release of Liability
- 522-2, Drug-Free Workplace Program Employee Test Notification Order
- 522-3, Drug-Free Workplace Program Employee Drug and/or Alcohol Test Agreement
- 522-4, Drug-Free Workplace Program Random Drug Testing

## **AUTHORITY**

- A.R.S. Title 36 Chapter 28.1, Arizona Medical Marijuana Act
- A.R.S. §13-3401, Definitions
- A.R.S. §23-493, Definitions
- A.R.S. §23-493.02, Scheduling of Tests
- A.R.S. §23-493.03, Testing Procedures
- A.R.S. §23-493.04, Testing Policy Requirements
- A.R.S. §23-493.05, Disciplinary Procedures
- A.R.S. §23-493.06, Employer Protection from Litigation
- A.R.S. §23-493.12, Severability
- A.R.S. §38-532, Prohibited Personnel Practice; Violation; Reinstatement; Exceptions; Civil Penalty
- A.R.S. §39-101 ET seq., Public Records
- A.R.S. §41-773, Cause for Dismissal or Discipline for Employee in Covered Service

A.A.C. R2-5-105, Personnel Records

A.A.C. R2-5-501, Standards of Conduct

A.A.C. R2-5-803, Dismissal

Title 49, Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

Title 49, Part 382, Controlled Substance and Alcohol Testing