



## DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

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# Program Statement

**OPI:** HRM  
**Number:** 6050.4B  
**Date:** February 29, 2008  
**Supersedes:** 6050.4A (2/1/00)  
**Subject:** Mandatory Employee  
Drug and Alcohol  
Testing Program (MEDAT)

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1. **PURPOSE AND SCOPE.** To provide procedures for the mandatory drug and alcohol testing program within the DC Department of Corrections (DOC).
2. **POLICY.** It is the policy of the District of Columbia Department of Corrections to provide a drug and alcohol-free workplace.
  - a. DOC employees are prohibited from using or being under the influence of alcohol while on duty and using or possessing any drug that is unlawful to possess without a prescription under local or federal law. This prohibition extends to the commission of unlawful drug or alcohol activity outside of the workplace.
  - b. This policy continues as written notice to employees that DOC encourages employees to seek assistance via Employee Assistance Program (EAP) opportunities available for DOC incumbents.
  - c. Hereafter, any confirmed positive test results or refusal to submit to the test shall be grounds for termination of employment.
  - d. DOC supervisors shall notify appropriate law enforcement authorities when employees, contractors, and volunteers are found in possession of illegal drugs or when it has been determined that the individual may be engaging in illegal drug trafficking.
  - e. Further, violations of this or any other prohibitions on drug or alcohol use within or outside of the workplace shall result in termination of employment pursuant to District Personnel Manual (DPM) Chapter 16 or any other provision of services to DOC consistent with DC Code § 24-211.21 through § 24-211.24

3. **APPLICABILITY.** Employees are defined as DOC incumbents, employees on detail under a government Inter-Personnel Agreement, contract workers and volunteers. The following DOC employees shall be tested for drug and alcohol use:
  - a. Applicants;
  - b. Those employees who have had a reasonable suspicion referral;
  - c. Post accident employees, as soon as reasonably possible after the accident; and
  - d. High Potential Risk Employees (HPR). HPR employee means any DOC employee who has inmate care and custody responsibilities or who works within a correctional institution, including any employees and managers who are carried in a law enforcement retirement status. Law enforcement retirement status means any employee who contributes to the 7.5% retirement status category.
  - e. Commercial Driver's License (CDL) Holder. The Omnibus Transportation Employee Testing Act of 1991 established drug and alcohol testing and training regulations for all commercial motor vehicle operators required by law to maintain a CDL.
  
4. **AUTHORITY**
  - a. DC Code § 24, Chapter 2, Subchapter II Part B. Department of Corrections Employee Mandatory Drug and Alcohol Testing
  - b. District Personnel Manual Chapter 16 (specifically 1603.3 and 1603.4)
  - c. D.C. Code § 24-211.02, Powers; Promulgation of Rules
  - d. Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Department of Transportation, Amendment 49 CFR Part 40, dated February 15, 1994
  - e. Mayor's Order 96-139, "Testing of District Government Drivers of Commercial Motor Vehicles for Alcohol and Controlled Substance," dated September 17, 1996
  - f. D.C. Department of Corrections Mandatory Employee Drug and Alcohol Testing Program (MEDAT) Procedures Manual, dated June 25, 1996 (Rev. November 18, 1999).

- g. Collective Bargaining Agreement Between District of Columbia Department of Corrections and Fraternal Order of Police Department of Corrections Labor Committee, Article 31 "Drug and Alcohol Screening"

**5. DIRECTIVES AFFECTED**

- a. Rescinded

PS 6050.4A      Mandatory Employee Drug and Alcohol Testing (MEDAT) Program (2/1/00)

- b. Referenced

- 1) PS 2830.1B      Use of Government Vehicles—Fleet Management
- 2) PS 3040.6B      Personnel Security and Suitability Investigations
- 3) PS 3310.2      Employee Discipline
- 4) PS 3410.1A      Employee Assistance Program (EAP)
- 5) PS 5030.5A      Canine Unit

**6. STANDARDS REFERENCED**

- a. American Correctional Association 4<sup>th</sup> Edition Standards for Adult Local Detention Facilities: 4-ALDF-7C-01, 4-ALDF-7C-03 and 4-ALDF-7F-05
- b. American Correctional Association 2<sup>n</sup>d Edition Standards for Administration of Correctional Agencies: 2-CO-1C-20

- 7. NOTICE OF NONDISCRIMINATION.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

8. **PROGRAM OBJECTIVES.** The expected results of this program are:
  - a. Procedures to maintain compliance with District of Columbia law DOC policy for a drug-free work place.
  - b. Conditions for drug and alcohol testing are provided.
9. **DRUG TESTING.** DOC conducts the MEDAT program to determine employee use of drugs.
  - a. Employees shall be tested for use of Marijuana (THC), Cocaine, Opiates, Amphetamines; and Phencyclidine (PCP). Testing a urine sample using the EMIT method and GC/MS (for confirmation of positive test results) is required. DOC reserves the authority to test employees for additional illegal substances based upon reasonable suspicion that such testing is appropriate.
  - b. Employees shall be tested for alcohol use based upon observations of on-duty impairment, after traffic accidents as outlined in this directive. The EBT (breathalyzer) method is used.
  - c. Canine Surveillance
    - 1) DOC employs the use of dogs that have been certified in drug detection to search DOC property.
    - 2) For the purposes of this program DOC property may include but is not limited to building entrances, employee work spaces, all common areas and locations where inmates are housed, work, receive visits or are involved in programs/care.
10. **TESTING REQUIREMENTS – GENERAL**
  - a. On-site specimen collections shall be conducted at designated DOC collection sites. Testing for all other categories are at the laboratory's designated site unless otherwise arranged by the Drug Program Coordinator.
  - b. Each employee shall submit to testing on his/her scheduled test date and at the specified time, and place.
  - c. Warnings Regarding Over-the-Counter (OTC) and Alternative Medicines, Foods and Herbs. Applicants and employees should read the ingredients and warning labels on all OTC and alternative medicines, foods, and herbs.

- d. Hemp Products. Use or consumption of a hemp product (food, drink, or other), which may contain tetrahydrocannabinol (THC), is not a legitimate medical explanation for the confirmed presence of THC in an employee's specimen. A positive urinalysis for THC (marijuana), regardless of the use of the aforementioned products, shall be considered a positive test, resulting in corrective or adverse action pursuant to DPM Chapter 16.
- e. Coca-Leaf Products. Use of coca-leaf tea or other coca-leaf products, that may contain cocaine and/or its metabolite(s), is not a legitimate medical explanation for the confirmed presence of cocaine or benzoylecgonine (BZE) in an employee's system. A positive urinalysis regardless of the use of the aforementioned products, shall be considered a positive test, resulting in corrective or adverse action pursuant to DPM Chapter 16.

## 11. APPLICANT TESTING AND SCREENING

- a. Vacancy announcements for all positions within the Department shall clearly state the MEDAT policy at DOC. This includes the information that applicants are tested for the presence of drugs and are subject to further drug/alcohol testing upon acceptance into the position.
- b. All persons who have been tentatively selected for employment or placement in any position within DOC, either directly or through an internship or contract shall submit to an initial drug test prior to assuming official duties. Volunteers shall submit to an initial drug test prior to placement.
- c. Pending incumbents, interns or contract workers who test positive for drugs; or who willfully tamper with test specimens or otherwise attempt to circumvent the testing; or who refuse to complete required drug/alcohol testing, shall be denied employment consideration or the ability to provide services in DOC facilities for three years from the date of determination of disqualification.

## 12. NEW HIRES

- a. Upon issuing a new employee's DOC identification card, the Human Resource Management Division (HRM) shall give a copy of this directive to the employee. The employee shall read and sign the DOC- MEDAT Employee Notification Form. (Attachment A)
- b. In the absence of HRM, the work site official (i.e., the Director, Deputy Director, Warden, Administrator, or Office Chief) shall issue the notification.

- c. The issuer and a witness shall document an employee's refusal to sign an acknowledgement of notice of HRP status designation. This action shall constitute official employee notification.

**13. PRE-APPOINTMENT TESTING**

- a. All employees applying for another position within the DOC, to include promotion, shall be tested prior to accepting the position.
- b. HRM shall issue written notice to a non-HRP employee who is reassigned or promoted into a position that is designated HRP.

**14. RANDOM TESTING.** Random testing means drug or alcohol testing taken by DOC employees at an unspecified time during the employee's tour of duty.

- a. Drug or alcohol testing of HPR and CDL Department employees shall be conducted without advance notice to the affected employee.
- b. On the day of the scheduled collection;
  - 1) The supervisor or management official shall verbally inform the employee and then provide written notification that he/she is being tested in accordance with the drug/alcohol testing policy and procedures.
  - 2) The supervisor shall inform the employee of the time and location of the test and instruct the employee to take appropriate photograph identification.
  - 3) The supervisor or another designated supervisor shall escort the employee to the test site.
  - 4) The employee shall remain in the testing area as directed until completing testing.
- c. Random testing results shall not be released to any law enforcement agency without the employee's written consent except pursuant to a court order.

**15. REASONABLE SUSPICION.** Reasonable Suspicion means a belief by a supervisor that an employee is under the influence of an illegal substance or alcohol to the extent that the employee's ability to perform his or her job is

impaired. Supervisors shall be trained in substance abuse recognition and shall receive a second opinion from another supervisor prior to making a reasonable suspicion referral. Reasonable Suspicion applies to any individual within the DOC that is engaging in illegal drug use or, appears to be impaired while on duty.

- a. Reasonable suspicion may be based upon, but not limited to:
  - 1) Direct observations of drug or alcohol use in the workplace;
  - 2) Finding drug paraphernalia in the employee's possession or workspace;
  - 3) Canine alerts;
  - 4) Observation of physical symptoms to the degree a supervisor/appropriate worksite official would conclude drugs/alcohol may be factors such as red, watery eyes; slurred speech, unsteady gait; dilated pupils.
  - 5) Suspicion may result from the observation of behavioral symptoms such as severe mood swings, unexplained personality changes, inattention to personal hygiene, frequent accidents; patterns of leave and absences or patterns of abnormal conduct or erratic behavior;
  - 6) The individual has been recently arrested or convicted for a drug-related offense;
  - 7) The identification of an individual as being the focus of a criminal investigation into illegal drug possession, use, distribution, or trafficking;  
or
  - 8) Information is provided, either by reliable and credible sources.
- b. Employees may report suspected supervisory drug/alcohol use to the next level in their supervisory chain-of-command. That official shall determine if circumstances exist that suggest reasonable suspicion of alcohol or drug use. Should the individual believe the immediate supervisor cannot be impartial in his/her assessment, the individual may report the suspected drug/alcohol use to any higher ranking supervisor/manager in his/her chain of command. If this option is exercised, the employee must justify this breach of the chain-of-command immediately in writing using the Reasonable Suspicion Referral form.

- c. When behavior is observed that would lead the supervisor to believe that testing would indicate the presence of drugs or alcohol the supervisor follow instructions for Reasonable Suspicion in Attachments B and C.
- 1) Notify the next level supervisor. The reporting supervisor shall continue to observe the employee and record the employee's behavior.
  - 2) Notification shall continue to the next level until an official of at least the rank of a Shift Commander has been notified. The Shift Commander or a higher ranking official shall when appropriate have the employee relieved from inmate contact, tower duty, any post that requires possession of a DOC issued weapon and from posts or positions where there is regular public contact.
  - 3) Only an official at the Deputy Warden or a higher level can approve testing based upon reasonable suspicion.
  - 4) If testing is approved, the supervisor shall:
    - a) Prepare the Notice of Reasonable Suspicion (Attachment D);
    - b) Contact a representative if the employee is a member of the collective bargaining unit;
    - c) Escort the employee to a private place and in the union representative's presence, inform the employee of referral for testing based upon reasonable suspicion and issue notice.
  - 5) The employee shall sign receipt of notice and initial each page.
  - 6) The supervisor shall make notification in accordance with PS 1280.2A "Notification of Unusual or Extraordinary Occurrences".
  - 7) The DPC shall make arrangements for testing.
  - 8) The supervisor shall escort the employee and remain with the employee at the testing site.
  - 9) The employee shall be relieved of duties and the supervisor shall be notified that subject to law, they are prohibited from driving home.

- a) The supervisor shall attempt to persuade the employee not to drive and to remain at the work site in a supervised area until a relative or friend can be contacted to drive them home or the employee agrees to calling and waiting for a taxi.
- b) The supervisor shall inform the employee that local law enforcement shall be contacted if the employee is observed driving away.
- c) The supervisor shall ensure that the employee's vehicle tag number is recorded and reported.
- d) The supervisor shall document the outcome and any subsequent actions taken.

16. **POST-ACCIDENT EMPLOYEE.** Post accident employee means any DOC employee who, while on duty, is involved in a vehicular or other type of accident or moving violation resulting in personal injury or property damage or both or when the accident subsequently contributes to a security breach or an inmate to escape shall also subject the employee to test.

17. **INCIDENTS AND EXTRAORDINARY OCCURRENCES.** Employees shall be subject to drug/alcohol testing when involved in a incident or extraordinary occurrence while on duty that includes but is not limited to engaging in a physical confrontation with another employee; engaging in a physical confrontation with an inmate that is outside of the scope of practicable correctional supervision.

18. **REPEAT TESTING.** The DPC may order a repeat test when any individual is suspected of having tampered or adulterated his/her specimen/reading, based on information received and documented from the site coordinator, DPC, collection technician laboratory, and/or the MRO.

- a. Suspicion may be based upon but is not limited to:
  - 1) Erratic behavior during testing;
  - 2) Insufficient collection; or
  - 3) Temperature reading does not fall within prescribed guidelines; or
  - 4) The Medical Review Officer (MRO) reports the specimen as being unsuitable for testing (due to adulterants)

- b. The MRO or lab is unable to provide specimen/reading on the scheduled day.
- c. There are delays based upon unforeseen emergencies within the collection site or facility, break down in equipment (EBT device)

**19. ALCOHOL TESTING**

- a. Specimens/Readings determined to be positive during the initial screening shall undergo confirmation testing.
- b. For the initial positive reading from an alcohol screening, the collector shall immediately conduct a confirmation test by having the individual breathe into the EBT again, to acquire a second reading.
- c. The duty status of the employee shall not be changed unless a positive confirmation report is received from the collector.
- d. When a confirmation test is negative, no further action shall be taken.

**20. SPECIMEN COLLECTION PROCEDURES.** A strict chain-of-custody shall be utilized for maintaining control and accountability from point of collection to final disposition of specimen reading.

- a. The employee being tested shall be permitted to provide the urine specimen in a restroom stall or similar enclosure that provides adequate privacy.
- b. Precautions shall be taken to ensure that a urine specimen and/or breath screen readings has not been adulterated or diluted during the collection procedure. Collection site personnel of the same gender as the individual being tested may, with prior approval from the Drug Program Coordinator (DPC), observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided.
- c. The collector and the individual providing the specimen or breath sample shall always have the specimen or breath reading within sight prior to the sample being sealed and labeled and that all information on the urine bottle and/or breath screen reading and the chain-of-custody form can be identified as belonging to a given individual.

- d. The individual being tested shall initial in the appropriate space on the chain-of-custody form, as well as on the split sample labels, that the specimen is his/hers. The individual being tested shall verify that the collector has read and recorded the specimen's temperature and volume, or the alcohol concentration level from breath screening.
- e. All specimen containers shall be tightly capped, properly labeled and securely sealed to eliminate the possibility of tampering. The Collector shall sign and date across the tape label sealing the container and ensure that the chain-of-custody documentation is complete and included with each sealed container.
- f. The collector shall package the specimen and reading for mailing before leaving the collection site.

## **21. LABORATORY ANALYSIS PROCEDURES**

- a. The test for drugs/alcohol shall consist of initial screening to detect the presence of drugs/alcohol and confirmation testing of samples where an initial screen is positive.
- b. The laboratory shall ensure the established procedures for chain-of-custody are adhered to from the time of receipt of urine and/or breath screen reading until testing is completed and results reported. The same chain-of-custody procedures shall be adhered to during the storage period.

## **22. SPECIMEN STORAGE**

- a. Negative samples shall be immediately discarded by the laboratory.
- b. Only samples testing positive, after both the screening and confirmation tests, shall be considered positive for purposes of retaining the specimen.
- c. Positive samples shall be retained at the laboratory in a frozen state for at least two (2) years.
- d. Within this two (2) year period, the DPC may request the laboratory to retain the specimen for an additional period of time. This ensures that the urine samples shall be available for possible re-test during any administrative or judicial proceeding.
- e. If the laboratory does not receive a request to retain the specimen during the initial two (2) year period, the specimen may be discarded.

- f. In the case of an alcohol test, the breath screen readings shall be maintained by the laboratory for a period of two (2) years.

### **23. MEDICAL REVIEW OFFICER (MRO)**

- a. The MRO is a licensed physician with knowledge of substance abuse disorders. This officer is responsible for the receipt, review, and interpretation of all confirmed positive test results that are submitted to DOC from the drug testing laboratory. His/her review shall be performed prior to the transmission of any positive test results to the Drug Program Coordinator (DPC) or designee.
- b. A positive test result or unusual physical symptoms and/or behavior does not automatically identify an individual as an illegal drug user and/or alcohol abuse. The MRO shall undertake a complete evaluation/examination of information provided by the tested individual to determine alternative medical explanations.
- c. This action could include a review of the individual's medical history, or the review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual.
- d. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO may deem that the result is consistent with legal drug use and take no further action other than reporting the test result as negative due to legitimate medical explanation.
- e. Additionally, the MRO, based on review of inspection reports, quality control data, multiple samples, and other pertinent information, may determine that the result is scientifically insufficient for further action and declare the individual's test result as negative.
- f. When the laboratory reports a specimen as "unsuitable for testing", due to high levels of nitrite, the MRO shall report the level of nitrite found in the specimen and report it as an "adulterated specimen".

### **24. DISCIPLINARY ACTION AGAINST EMPLOYEES**

- a. Positive Test
  - 1) An employee who has a confirmed positive test result shall be placed on no more than 3 days administrative leave pending removal. Removal

shall be in accordance with District Personnel Manual (DPM) Chapter 16 and PS 3310 Employee Discipline.

- 2) The individual shall be informed that he/she has the right to have his/her specimen tested by an independent laboratory that the employee chooses from the approved list of labs. The employee shall be informed that testing shall be at his/her own expense. The employee shall be notified that a request for an independent confirmation test must be initiated within three work days of this notification.
  - 3) Disciplinary action is held in abeyance until DOC receives the results of the independent laboratory test.
  - 4) A positive confirmation from the independent laboratory test or an employee's failure to request an independent laboratory test shall result in the issuance of a Summary Removal.
- b. Altered Samples
- 1) An individual whose test result is reported as "unsuitable for testing," due to adulteration, shall be summarily removed.
  - 2) The employee shall be informed that he/she does not have a right to an independent test.
  - 3) In such cases, the removal proceedings shall begin as soon as that individual has been notified, by the appropriate official of his/her test results.
- c. Refusal to Comply with Procedures During Collection
- 1) DOC shall initiate action to remove an employee who while on duty has been properly notified and fails to report to the designated collection site without proper cause to include but is not limited to:
    - a) Existence of verifiable circumstances that prevented reporting,
    - b) The employee refuses or fails to provide a specimen, or
    - c) The employee attempts to alter, adulterate, or substitute the specimen provided.

- 2) When an employee cannot report for testing, at the scheduled date and time, the official designated to escort the employee for testing shall immediately notify the DPC, and on the official scheduling notice; document the extenuating circumstances, sign and date the notice.
  - 3) The designated official shall prepare a report, with recommendations to the appropriate authority (i.e., Director, Deputy Director, Administrator, Office Chief, Warden, Deputy Warden or worksite official as appropriate to worksite), who shall determine the validity of the extenuating circumstances. If this authority determines that there is insufficient reason or no validity to the employee's claim, termination proceedings shall be instituted in accordance with Chapter 16 of the DPM.
- d. On Duty Use or Possession of Illegal Drugs
- 1) DOC shall notify the DOC Office of Internal Affairs and appropriate law enforcement officials when an employee is found in possession of illegal drugs while on duty.
  - 2) DOC shall initiate action to remove an employee in the case of on-duty use or possession of illegal drugs in accordance with Chapter 16 of the DPM.
- e. Alcohol Testing for CDL Holders
- 1) US Department of Transportation Omnibus Transportation Employee Testing Act determines an alcohol concentration of .02 or higher is grounds for a confirmation test. For the purpose of this directive, DOC shall adhere to the Mayor's Order 96-139, "Testing of District Government Drivers of Commercial Motor Vehicles for Alcohol and Controlled Substance," that sets the alcohol concentration at no more than .08 as legally intoxicated.
  - 2) A DOC CDL holder whose alcohol concentration is tested at a level of .02 but, no higher than .08, shall in conjunction with the DPC and the employee's supervisor, be referred to the D.C. Government's Employee Assistance Program (EAP) immediately and placed on administrative leave, pending the initial evaluation and recommendation of the EAP.
  - 3) A DOC CDL holder whose tests results are above the concentration levels of .08 will be subject to discipline action if involved in an accident, triggered event or extraordinary occurrence.

## 25. EMPLOYEE ASSISTANCE PROGRAM

- a. Employees are encouraged to seek necessary alcohol or drug treatment through the Employee Assistance Program on their own. However, treatment does not exempt the employee from mandatory drug/alcohol testing and sanctions.
- b. EAP offers confidential intake, counseling, referrals to community resources, crisis intervention, drug and alcohol abuse treatment referrals and follow-up. EAP services are available through self-referral by the employee and referrals by supervisors, union representatives, medical staff, administrative level management, and local judicial authorities. Procedures are outlined in PS 3410.1 EAP.

## 23. TRAINING

- a. Each new DOC employee, contractor, intern, volunteer or any other service provider shall prior to assuming duties receive orientation that includes DOC policy for maintaining a drug-free workplace and compliance requirements contained in this directive.
- b. Requirements set forth in this directive shall be reinforced when DOC employees, contractors, interns and volunteers receive annual in-service training.
- c. The Training Administrator shall in conjunction with HRM provide new managers and supervisors training on MEDAT procedures and substance abuse recognition prior to the incumbent assuming official duties.
- d. Management and supervisory staff shall receive annual refresher training on MEDAT procedures and substance abuse recognition.

## 24. REPORTING

- a. Laboratory Reports
  - 1) The laboratory shall provide the DPC with a monthly statistical summary of urinalysis and breathalyzer testing.
  - 2) The summary shall not include any personal identification information.
  - 3) Initial and confirmation data shall be included from test results reported within that month.
  - 4) Statistical data for the purposes of program evaluation and follow-up shall be transmitted from the laboratory directly to the DPC.

- 5) The laboratory shall maintain and make available documentation of all aspects of the testing process for two years.
- b. DPC Report. The DPC shall generate the data and submit a monthly report to the Offices of the Director and the Deputy Directors to include the number of employees and applicants tested and test results. All personal identifying information shall be deleted in the statistical report.
- c. Agency Activity Report
  - 1) The Office of the Director shall include the statistical data in the Agency Activity Report.
  - 2) All statistical data reports and data base files shall be maintained for at least three years.
- d. Confidentiality. Files, records, and drug testing data shall be maintained in accordance with the Federal Privacy Act, 5 U.S.C. 552a and Chapter 31 of the District Personnel Manual.



Devon Brown  
Director

#### Attachments

Attachment A	Employee Notification of Mandatory Drug Testing
Attachment B	Reasonable Suspicion – Instructions for Supervisors
Attachment C	Reasonable Suspicion – Instructions for Senior & Executive Staff
Attachment D	Reasonable Suspicion – Notice to Employee
Attachment E	Authorization to Perform Independent Drug Testing