

<p style="text-align: center;">POLICY OF</p> <p style="text-align: center;">STATE OF DELAWARE</p> <p style="text-align: center;">DEPARTMENT OF CORRECTION</p>	<p style="text-align: center;">POLICY NUMBER</p> <p style="text-align: center;">8.41</p>	<p style="text-align: center;">PAGE NUMBER</p> <p style="text-align: center;">1 of 8</p>
<p>CHAPTER: 8 Administration</p>	<p>RELATED ACA STANDARDS: 2-CO-1C-20, 4-4063, 4-ACRS-7C-02, 4-APPFS-3C-01</p>	
<p>APPROVED BY THE COMMISSIONER AND EFFECTIVE DATE:</p>		
<p>APPROVED FOR PUBLIC RELEASE</p>		

- I. AUTHORITY:** 11 *Del. C.* 6517 and 29 *Del. C.* §8903 and §8920 -8925
- II. PURPOSE:** To establish procedures for the department's drug testing program in order to detect and deter the use of illegal drugs by employees.
- III. APPLICABILITY:** This policy applies to all Department of Correction employees and applicants. In any conflicts between this policy and the Merit Rules, the Merit Rules shall prevail, unless superseded by a collective bargaining agreement.
- IV. DEFINITIONS:**
- A. Applicant: an individual considered for hire, promotion, demotion, or transfer to a safety sensitive position.
 - B. Chain of Custody: The tracing of each urine specimen to maintain control from initial collection to final disposition.
 - C. Collection Sites: The locations designated by the Commissioner where applicants or employees present themselves to provide urine specimens.
 - D. Confirmation Test: An analysis to identify the presence of a specific drug or metabolite, which is independent of the initial test performed on the same specimen and which uses a different methodology from that of the initial test to ensure reliability and accuracy.
 - E. Confirmed Positive Result: The presence of a controlled substance in the pure form, or its metabolites, at or above the cutoff level, as identified in two consecutive tests on the same sample which employ different test methods, and which is determined not to have been caused by an alternative medical explanation.

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- F. Contractor: Entity paid on a contractual basis to maintain a random testing list, select employees for testing, collect specimens, conduct reasonable suspicion and post-incident testing, safeguard specimens during transport to the laboratory, interpret results and notify DOC of positive tests. Also provides training to supervisors regarding reasonable suspicion testing.
 - G. Employee: Any person who receives compensation as an employee of the DOC.
 - H Employee Testing Number: The Employee ID (EMPLID) number assigned to each employee by the State Personnel Payroll system at time of hire.
 - I. Security Sensitive Position: Correctional Series, Institutional Supervisory and Management Staff, Probation and Parole Series, any position with responsibility for the safety of others or whose impairment may result in death or injures to employees or others, any position where the incumbent is permitted to carry firearms, any position so designated by the Warden, Regional Manager, or Section Administrator.
- V. **POLICY:** It is the policy of this department to maintain a drug free environment through the use of an applicant, a reasonable suspicion and a random drug-testing program. Department of Correction personnel hold positions of public trust and must not place themselves in a position where offender populations can take advantage of their possible drug dependence. Such misconduct conflicts with their duties, impacts safety and the integrity of the criminal justice system, and discredits the Department in the eyes of the public.

VI. PROCEDURES:

A. Notice of Testing

1. This policy will act as an official notice for periodic drug testing. No other announcement will be made. Each new employee will receive a copy of this policy and will return the attached receipt to the Office of Human Resources.

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B. Random Testing

1. All employees are subject to random testing.
2. Selection is to be based on a computerized random selection of Employee Testing Numbers, not names. These numbers are the Employee's ID number (EMPLID) automatically assigned by State Personnel Payroll system at the time of hire.
3. Each week, the drug-testing contractor will randomly select EMPLIDs equivalent to 2% of the random testing population. Because the selection process is random, some employees may not be tested within a year, while others may be tested more than once.
4. Upon arrival at the facility, the Contractor shall inform the ranking supervisor of the employees to be tested. The ranking supervisor shall make the employees available.
5. Those employees at locations where testing is conducted off-site, will be given a Chain of Custody form upon selection and must report to a designated collection site within twenty four (24) hours of notification.
6. Employees notified to report must report for testing to the site specified. No requests to be excused or rescheduled shall be granted. Any failure to report, refusal to be tested or to cooperate with the testing procedure will result in the removal from the workplace without pay and considered as a positive result. Employees on initial probation will be terminated from employment.

C. Reasonable Suspicion Testing

1. Reasonable suspicion testing is not limited to security sensitive positions only.
2. In the event of reasonable suspicion, the ranking supervisor will contact the contractor directly or through Human Resources to coordinate the testing process.

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3. Evidence of reasonable suspicion includes, but is not limited to, observing the employee(s) either using or possessing a drug, displaying physical symptoms of being under the influence of a drug, or finding drug paraphernalia in the workplace.

D. Incident Triggered Testing

1. In the event of an incident triggered event, the ranking supervisor will contact Human Resources, who will then contact the contractor if a decision is made to test.
2. Incident triggered testing is based on any incident involving death or serious physical injury to a DOC employee or civilian, loss or significant damage to Department property, escape of an inmate or detentioner where the security sensitive employee was directly involved in the incident.

E. Applicant Testing

1. Anyone selected for a security sensitive position will be tested prior to being assigned to the position. Applicants shall be disqualified from further consideration from employment if they refuse to submit to a required drug test or if they are confirmed positive.

VII: SPECIMEN COLLECTION PROCEDURES

- A. Urine specimens will be collected in accordance with current Federal Department of Transportation standards. Every effort will be made to assure the dignity and privacy of employees being tested.
- B. The collector shall check the employee's photo identification card or driver's license to verify their identity.
- C. If an employee has trouble providing a specimen, he/she shall be allowed to consume water. If no specimen is produced within three (3) hours of the beginning of the collection process, the collector may end the collection process. This information will be passed on to the Medical Review Officer

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who will determine if the employee has a legitimate medical excuse for not providing a sample. If it is determined that there is no legitimate medical reason why the employee did not produce a sample, it may be considered a positive test and grounds for dismissal.

- D. If the Contractor determines that the employee is attempting to substitute or adulterate the specimen, the Contractor shall document the fact and direct the employee to provide another specimen. Both specimens shall be forwarded to the laboratory.
- E. Immediately after the employee provides a sufficient specimen, the Contractor shall tightly cap and properly seal the bottle with evidence tape and label it in the presence of the employee. The employee will initial both the label and the accompanying forms. The storage, transportation and delivery of the specimens to the laboratory for testing shall be under the strict supervision of the Contractor who will maintain an unbroken chain of custody throughout the procedure.
- F. The Contractor must maintain a chain of custody log, which will indicate the Employee Testing Number of an employee or applicant and the name of the specimen collector. The log must be maintained for at least five years, until all legal remedies have been exhausted. Both employee and collector must initial the specimen label bottle. Specimens must be delivered to the designated laboratory within 24 hours after collection and chain of custody must be maintained during the whole process.

VIII. LABORATORY PROCEDURES

- A. The laboratory will test for marijuana, cocaine, opiates, amphetamines and phencyclidine. The initial procedure employed will be the Enzyme Multiplied Immunoassay Technique (EMIT) or the current Federal Department of Transportation preferred method. Cutoff levels will be consistent with Federal Department of Transportation standards.
- B. All positive specimens shall be confirmed using the Gas Chromatography/Mass Spectrometry (GC/MS), which shall be conducted from the same specimen.

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IX. PRESERVATION PROCEDURES

- A. Specimens determined to contain drugs will be preserved at the laboratory for a minimum of twelve months. Employees testing positive may, upon written request to Internal Affairs, arrange to have their specimen retested. All costs, including lab fees and transportation shall be paid by the employee requesting the retest.

X. POST-TESTING PROCEDURES

- A. If the lab results are negative, the sample shall be destroyed.
- B. If the lab results are positive, the report will be forwarded to the Medical Review Officer by the laboratory. If the lab results are positive, the MRO will contact the Department's Drug Testing Program Coordinator who will immediately notify the Human Resources Director.
- C. The Human Resources Director will then notify the appropriate Warden or Section Administrator. They will, in turn, notify the employee and immediately remove him or her from the workplace without pay.
- D. The employee is then directed to participate in an accredited drug abuse assistance or rehabilitation program. Refusal to do so may result in dismissal. They may be referred to the State EAP program for assistance in enrollment.
- E. Before being allowed to return to duty, the employee must provide a release to the Department's Drug Testing Program Coordinator showing that the drug abuse assistance or rehabilitation program was successfully completed. "Successful completion" means the employee has achieved a drug-free state as determined by the program counselor and received a negative result from an authorized drug test. The employee will then be required to submit to a "return to duty" drug test paid for by the Department before being cleared to return to work.
- F. Any employee who tests positive on a random drug test for a second time within five years from the date of program completion will be separated from employment.

CONFIRMATION OF RECEIPT ACKNOWLEDGEMENT

I have received a copy of the Department of Correction Employee Drug Testing Policy.

Date

Employee's Signature

Employee's Name (printed)

Please sign and return this page to:

HUMAN RESOURCES OFFICE
245 McKee Road
Dover, DE
phone: (302) 739-5601
fax: (302) 739-6740

