

## *P.O. 215 Drug Testing*

Effective From:	1-15-2012	Effective To:	Current
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### O. *P.O. 215 - Drug Testing*

#### 1. PURPOSE

- i) The employees of Public Safety Services are among the state's most valuable resources, and the physical and mental well-being of our employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, affecting their productivity, health and safety, dependents, and co-workers, as well as the general public.
- ii) The State of Louisiana and Public Safety Services have a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the State of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Order BJ 2008-69 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to Louisiana Revised Statute 49:1001, et. seq.

#### 2. APPLICABILITY

- i) Public Safety Services fully supports these efforts and is committed to a drug-free workplace. This policy shall apply to all employees of Public Safety Services including appointees and all other persons having an employment relationship with this agency.

#### 3. DEFINITIONS

- i) Controlled Substances - A drug, chemical substance or immediate precursor in Schedules I through V of [LRS 40:964](#) or Section 202 of the Controlled Substances Act (21 U.S.C. 812).
- ii) Designer (Synthetic) Drugs - Those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.
- iii) Employee - Unclassified, classified, and student employees, student interns, and any other person having an employment relationship with this agency, regardless of the appointment type (e.g., full-time, part-time, temporary, restricted, detail, job appointment, etc.).
- iv) Illegal Drug - Any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.
- v) Reasonable Suspicion - Belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.
- vi) Safety-sensitive or Security-sensitive Position - Position determined to contain duties of such nature that the compelling State interest to keep the incumbent drug-free outweighs the employee's privacy interests. At varying degrees, all Public Safety Services employees, regardless of rank or classification, have access to records that directly or indirectly affect the safety and security of residents of the State of Louisiana (i.e., Criminal Records, Drivers License Records, etc.). For this reason, all positions of Public Safety Services are considered to be "safety-sensitive" or "security sensitive."
- vii) Under the Influence - For the purposes of this policy a drug, chemical substance, or the combination of a drug and/or chemical substance that affects an employee in any detectable manner. The symptoms of influence are not confined to that consistent with

misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech, or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

- viii) Workplace - Any location on agency property including all property, offices, and facilities (including all vehicles and equipment) whether owned, leased, or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

#### 4. POLICY

- i) It shall be the policy of Public Safety Services to maintain a drug-free workplace and workforce free of substance abuse. Employees are prohibited from reporting to work or performing work for Public Safety Services with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs, at the work site and while on official state business, on-duty or on call for duty.
- ii) To assure maintenance of a drug-free workplace, it shall be the policy of Public Safety Services to implement a program of drug testing, in accordance with Executive Order BJ 2008-69, R.S. 49:1001, et. seq., and all other applicable federal and state laws, as set forth below.

#### 5. CONDITIONS AND REQUIREMENTS

- i) Reasonable Suspicion
  - a) Any employee shall be required to submit to a drug test if there is reasonable suspicion (as defined in this policy) that the employee is using drugs.
- ii) Post Accident/Incident
  - a) Each employee involved in an accident/incident that occurs during the course and scope of employment or involves Department equipment shall be required to submit to a drug test if the accident/incident:
    - 1) involves circumstances leading to a reasonable suspicion of the employee's drug use,
    - 2) results in a fatality or serious bodily injury, defined in R.S. 14:39.2(C) as an injury involving:
      - (i) Unconsciousness.
      - (ii) Extreme physical pain or protracted and obvious disfigurement.
      - (iii) Protracted loss or impairment of the function of a bodily member or organs or a mental faculty.
      - (iv) Substantial risk of death.
      - (v) Involves any weapons discharge in which suspicious circumstances are present and can be articulated by the supervisor.
  - b) Rehabilitation Monitoring
    - 1) Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to random drug testing.
- iii) Pre-employment
  - a) Each prospective employee shall be required to submit to drug screening at the time and place designated by the Human Resource Director following a job offer contingent upon a negative drug-testing result.
  - b) Pursuant to LRS 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration of employment.

- iv) Safety-sensitive or Security-sensitive Positions - Random Testing
  - a) As every Public Safety Services position is considered to be “safety-sensitive” or “security sensitive,” every employee shall be required to submit to drug testing as required by the Appointing Authority, who shall periodically (quarterly) call for a sample of such employees, selected at random by a computer generated random selection process, and require them to report for testing.
  - b) All such testing shall, if applicable, occur during the selected employee’s work schedule.

6. PROCEDURE

- i) Drug testing pursuant to this policy shall be conducted for the presence of cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of [LRS 49:1001, et. seq.](#) Public Safety Services reserves the right to test its employees for the presence of any other illegal drug or controlled substance when there is reasonable suspicion to do so.
- ii) The Human Resource Director and the Deputy Undersecretary shall be involved in any determination that one of the above-named conditions requiring drug testing exists. All recommendations for drug testing must be approved by Public Safety Services. Upon such final determination by the responsible officials, the Human Resource Director shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.
- iii) Random drug testing for Public Safety Services employees will be administered utilizing the following procedures:
  - a) Human Resources will send the names of all current DPS employees monthly to the testing laboratory.
  - b) The laboratory will use a computer to randomly generate a list of employees to be tested.
  - c) Human Resources will provide the list to the appropriate Budget Unit Heads.
  - d) The Budget Unit Head will have five days within which to advise the selected employee to report for the test. Only supervisors within the employee's chain-of-command may be made aware of the impending test, and that information will be provided on a need-to-know basis. All supervisors shall keep knowledge of the impending test confidential.
  - e) When the employee is on-duty and available to report, the supervisor will direct the employee to report to a contracted drug testing laboratory. If the employee has no transportation to the laboratory, the supervisor must make arrangements to transport the employee to the test, which may include driving the employee. A current list of authorized laboratories is posted on the DPS Personnel Bulletin Board under "[Drug Testing Collection Sites.](#)"
  - f) The employee must report to the laboratory within two hours of being notified.
  - g) The supervisor will notify Human Resources of the time/date the employee was ordered to report for testing.
  - h) The employee shall submit a copy of the completed non-federal custody and control form to HRM once they have been tested.
  - i) If the employee fails to report as ordered, the supervisor will contact Legal Affairs to institute disciplinary action.
  - j) If the employee is off-duty during the entire five-day window and, therefore, is not ordered to report for testing, the supervisor will advise Human Resources.
  - k) Human Resources will obtain the test results, usually within 24 hours.
  - l) The medical review officer will contact the employee directly to discuss the positive test results.
  - m) Human Resources will notify the Budget Unit Head of an employee's positive test results.

- n) The Budget Unit Head will place the employee on administrative leave immediately and consult with Legal Affairs for further instructions.
- iv) When an accident/incident occurs outside of normal work hours and it has been determined that a drug test is required, the following procedures shall be followed:
  - a) The supervisor investigating the incident shall contact the drug screening company under state contract, at its after-hours telephone number, and advise of the need to have a drug test conducted.
  - b) The Supervisor who orders the drug test shall consider the totality of circumstances when deciding whether to provide transportation or allow the officer to drive himself to the collection site.
  - c) Payment will be handled by the Department in the same manner as random drug testing, with the addition of the after-hours charge.
- v) Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following:
  - a) All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimen and the privacy of the donor. The Human Resource Director shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct supervision. All direct observation shall be conducted by a same gender collection site person.
  - b) Non-federal custody and control forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.
  - c) A Substance Abuse and Mental Health Services Administration (SAMSHA) - certified laboratory shall perform testing.
  - d) The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.
  - e) All positives reported by the laboratory must be confirmed by Gas Chromatography/Mass Spectrometry.
  - f) All positive results of a drug-testing shall be reported by the laboratory to a qualified medical review officer.

#### 7. CONFIDENTIALITY

- i) All information, interviews, reports, statements, memoranda, and/or test results received by Public Safety Services through its drug testing program are confidential communications, pursuant to [LRS 49:1012](#), and may not be used or received in evidence, obtained to discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

#### 8. RESPONSIBILITY

- i) The Deputy Secretary of Public Safety Services is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs for testing, and the effectiveness of the program by December 1st of each year.
- ii) The Human Resource Director is responsible for administering the drug testing program; recommending to the Deputy Secretary when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; collecting appropriate information necessary to agency defense in the event of legal challenge; and providing the Deputy Secretary with the data necessary to submit a detail report to the Office of the Governor as described above.
- iii) All supervisory personnel are responsible for reporting to the Human Resource Director

any employee they suspect may be under the influence of any illegal drug and/or chemical substance. Supervisory personnel are also responsible for assuring that each employee under their supervision receives a copy of this policy, signs a receipt form, and understands or is given the opportunity to understand and have questions answered about its contents.

9. **VIOLATION OF THE POLICY**

- i) Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.