State of Utah - Department of Corrections *Department Manual*		
AE20 - Drug & Alcohol-Free Workplace	*POLICY & PROCEDURE*	
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01.00 GENERAL PROVISIONS

01.01 Purpose & Scope

The purpose of this policy is to provide a drug and alcohol-free workplace to ensure that no employee is impaired in the performance of their duties by the use of unauthorized substances and doesn't bring unauthorized substances on department property. This policy applies to all employees of the Utah Department of Corrections and outlines rules and procedures related to alcohol and drug use, testing circumstances, and confidentiality.

01.02 General Requirements

The Utah Department of Corrections (UDC):

A. will provide a drug and alcohol-free workplace to ensure that no highly sensitive position employee is impaired in the performance of their duties by the use of unauthorized substances.
    1. A zero-tolerance standard will be enforced.
        a. The consumption of an alcoholic beverage by an employee on duty shall be a cause for termination.
        b. The use of any illegal substance shall be cause for termination.
        c. Whenever an employee is prescribed a drug by a licensed health care provider or uses over-the-counter medication that may negatively affect their performance or ability to perform in a safe manner, the employee shall notify their supervisor and DHRM. An employee who fails to notify their supervisor may be subject to disciplinary action.

02.00 DRUG & ALCOHOL-FREE WORKPLACE

02.01 Alcohol Rules: Prohibited Activities

An employee of the Utah Department of Corrections shall not consume any alcoholic beverage while on duty or report to work with any detectable amount of alcohol in their body. The consumption of an alcoholic beverage by an employee on duty or reporting to work with a detectable amount of alcohol shall be cause for termination.

02.02 Drug Rules: Prohibited Activities

A. The use of any illegal substance on or off duty shall be cause for termination.
B. Whenever an employee is prescribed a drug by a licensed health care provider or uses over-the-counter medication that may negatively affect his or her work performance or ability to perform their work in a safe manner, or ability to safely and legally operate a vehicle while on duty, the employee shall notify his or her supervisor and DHRM. The notification shall be made within 24 hours, or prior to reporting to work, whichever is sooner. Employees will only return to work in a capacity approved by DHRM while taking the medication. The employee may be temporarily reassigned. Employees who fail to notify their supervisor may be subject to disciplinary action.
C. If an employee uses a legal substance while on duty and the substance impairs their judgment or otherwise impacts their ability to do their job physically or mentally, they shall immediately notify their supervisor and request that they be relieved of their duty. Supervisors shall take appropriate action to resolve the situation, including notifying their chain of command and the HR office, and arranging for the staff member to have a ride home.
D. All department staff, contractors, and volunteers are restricted from possessing or otherwise bringing onto any department property any forms of THC, medical marijuana, or any other controlled substance, regardless of whether they have a medical marijuana card or a valid prescription, without prior authorization from the department.

02.03 Alcohol and Drug Testing Circumstances

A. All employees are subject to one or more of the following alcohol and drug tests:
    1. critical incident testing: a drug or alcohol test conducted as a result of an employee's behavior, action, or inaction that is of such seriousness that it requires immediate intervention on the part of management;
    2. reasonable suspicion testing: a drug or alcohol test conducted on an employee based on reasonable suspicion that the employee may be under the influence of drugs or alcohol.
    3. post-accident testing: a drug or alcohol test conducted on an employee who is involved in a vehicle accident while on duty or driving a state vehicle.

4. return to duty testing: a drug or alcohol test conducted on an employee prior to allowing the employee to return to duty after successfully completing a drug or alcohol treatment, counseling, or education program;
5. follow-up testing: ongoing drug and/or alcohol testing conducted on an unannounced basis. Follow-up testing applies to any employee who has previously failed a test for drugs and/or alcohol; and
6. additionally, final candidates for highly sensitive positions and employees designated by DHRM as highly sensitive are subject to the following additional alcohol and drug tests:
    a. pre-employment testing: pre-employment drug testing applies to final candidates for highly sensitive positions and employees transferring from non-highly sensitive positions to highly sensitive positions. Pre-employment testing for alcohol will not be administered; and
    b. random testing: periodic, unannounced testing of employees in safety-sensitive positions. Random Testing is a system of drug and alcohol testing imposed without individualized suspicion that a particular individual is using drugs illegally or engaging in alcohol misuse as defined in this policy.

B. Highly sensitive positions include a position approved by DHRM that includes the performance of:
    2. safety-sensitive functions:
        a. requiring an employee to operate a commercial motor vehicle under 49 CFR 383;
        b. directly related to law enforcement, and correctional officers;
        c. involving direct access or having control over direct access to controlled substances;
        d. directly impacting the safety or welfare of the general public; or
        e. requiring an employee to carry or have access to firearms; or
    3. data-sensitive functions permitting or requiring an employee to access an individual's highly sensitive, personally identifiable, private information, including:
        a. financial assets, liabilities, and account information;
        b. Social Security numbers;
        c. wage information;
        d. medical history;
        e. public assistance benefits; or
        f. driver's license.

03.00 ALCOHOL AND DRUG TESTING

03.01 Drug Testing

A. The testing methods used by the Department shall include drug and alcohol testing.
    1. Prospective employees in highly sensitive positions and current employees in highly sensitive positions shall provide a sufficient urine specimen for drug testing.
    2. Highly sensitive position employees shall provide a sufficient breath specimen using an alcohol breath-testing device for estimating blood alcohol content.
B. Employees who test positive for drugs or alcohol will be placed on administrative leave pending an administrative investigation. The investigation shall be conducted by the Professional Standards Bureau.

03.02 Critical Incident Testing

A. Critical incident testing may be initiated when the behavior, action, or inaction of an employee is of such seriousness that it requires immediate intervention on the part of management.
B. Critical incident testing includes anyone involved in an on-the-job accident or incident and means not only the one who was injured, but also anyone who arguably or potentially contributed to the accident or injury event in any way, i.e., the person suspected of causing someone else to be injured.
C. Management shall contact the agency DPC or designee to concur with the decision to arrange to test an employee. The agency DPC or designee need not observe the employee's behavior.
D. Employees in highly sensitive positions who are tested for a critical incident must be placed in non-highly sensitive duties or on administrative leave until the test results are available.
E. In all cases of critical incident testing, any employee may be placed on administrative leave until an evaluation has taken place and an appropriate course of action has been determined by the agency. No advance notice is required to perform a critical incident drug test.

03.03 Reasonable Suspicion Testing

A. Reasonable suspicion testing may be initiated when management determines that there is reasonable suspicion to warrant a test. This reasonable suspicion must be based on specific, documentable, contemporaneous observation, including but not limited to job performance, appearance, behavior, speech, statements, possession, or body odors.
B. Management shall contact DHRM or a designee to concur with the decision to arrange to test an employee. (For CDL positions, the supervisor must be trained in the detection of the possible symptoms of alcohol abuse.)
C. DRHM will contact the contracted provider to schedule testing. In the case of alcohol testing, if the provider is not able to respond in a reasonable time, Law Enforcement may be contacted to perform the test.
D. Employees in highly sensitive positions who are tested for reasonable suspicion must be placed in non-highly sensitive duties or on administrative leave until results from the drug urine screening are available.
E. In all cases of reasonable suspicion testing, any employee may be placed on administrative leave until an evaluation has taken place and an appropriate course of action has been determined by the agency. No advance notice is required to perform reasonable suspicion drug tests.

03.04 Post-Accident Testing

A. Employees who are involved in an accident while on duty or driving a state vehicle are subject to post-accident testing where:
    1. the employee was performing safety-sensitive functions with respect to the vehicle she/he was operating, and the accident involved the loss of human life;
    2. the employee receives a citation under state or local law for a moving traffic violation arising from the accident, and the accident involved:
        a. the loss of human life or bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
        b. one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other vehicle; or
    3. there is reasonable suspicion that the employee had been driving while under the influence of alcohol or a controlled substance; or
    4. any auto pedestrian accident.

B. An employee who is subject to post-accident testing and fails to remain readily available for the testing, including notifying management of his/her location if leaving the scene of the accident, prior to submitting to testing, may be deemed to have refused to submit to testing. This requirement shall not be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

03.05 Return to Duty Testing

A. Prior to allowing an employee who completes a drug or alcohol treatment program to return to work, the agency must receive a return-to-duty drug or alcohol test verified as negative.
B. Follow-up tests shall be conducted under direct observation as outlined in federal guidelines.
C. Any employee who refuses to participate in a return to duty drug or alcohol test or who tests positive for any controlled substance is subject to discipline up to and including termination
D. Prior to returning to duty, an employee holding a highly sensitive position shall complete a program of treatment under the supervision of a qualified substance abuse professional.
E. DHRM shall provide each employee (including an applicant or new employee) who violates a drug and alcohol regulation with a listing of substance abuse professionals readily available to the employee, with names, addresses, and telephone numbers.

03.06 Follow-up Testing

A. Any employee who fails a drug or alcohol test and is allowed to retain employment with the agency may be subject to unannounced follow-up testing for a period not to exceed five (5) years.
B. Employees who test positive on any follow-up test may be subject to further discipline up to and including termination.
C. Employees who test diluted negative will be subject to an additional test within 72 hours.

03. 07 Pre-Employment Testing

A. Pre-employment alcohol testing will not be conducted on potential employees unless required by federal regulations.
B. Only final candidates for highly sensitive positions may be required to submit to a urine drug screen.
C. Applicants for highly sensitive positions shall be advised that submitting to urine drug screening is a condition of employment and that a verified positive test result will disqualify them from employment in the highly sensitive position.
D. Any employee who is transferred to or assigned job duties in a highly sensitive position, if not already in a highly sensitive classification, must submit to a urine drug screen test. Any employee whose test is verified positive may be subject to disciplinary action up to and including dismissal and may not be transferred or assigned to a new position.

03.08 Random Testing

A. All employees in highly sensitive positions shall be subject to random drug and/or alcohol testing.
B. Random drug and/or alcohol tests shall be unannounced and spread throughout the year. Due to the nature of random testing, highly sensitive position employees may be selected more than once during the year.

C. Employees notified of a drug or alcohol test shall comply with the request to test. If an employee refuses to participate in the testing, they shall be subject to discipline, up to and including termination.
D. The Contracted Drug Testing Vendor shall:
    1. be a federally certified or licensed physician/clinic, or testing service approved by DHRM;
    2. generate a list of randomly selected highly sensitive position employees for testing;
    3. provide the department designee the list of highly sensitive position employees selected for testing; and
    4. identify collection and test sites at designated on-site locations.
E. The Professional Standards Bureau shall:
    1. identify a collection site(s) in coordination with the Drug Testing Vendor;
    2. ensure highly sensitive position employees are notified to report to drug collection sites;
    3. ensure confidentiality of the collection notification process, including the list of highly sensitive position employees to be tested, is maintained;
    4. notify the drug testing vendor if there are operational issues that preclude testing. Highly sensitive position employees shall be sent to test at the earliest available time and shall not be notified of the testing requirement until it is scheduled;
    5. immediately notify the Department of Human Resource Management if the highly sensitive position employee refuses to submit to the required testing; and
    6. investigate all cases where an employee tested positive or refused to submit to testing. These cases will be investigated as a Category-I Investigation in accordance with UDC policy and documented in IAPro.

04.00 CONFIDENTIALITY

04.01 Confidentiality

A. All testing information specifically related to individuals is confidential. In order to make information readily retrievable, the Professional Standards Bureau shall maintain all records related to testing.
B. A record relating to drug or alcohol testing of an employee is classified as a private record under Utah Code 63G-2-303.
C. All records and information on personnel actions taken against employees with verified positive test results will be forwarded to the Human Resources Office. Subject to the requirements of the Utah Governmental Records Access and Management Act, Utah Code 63G-2-101 et seq., this information will remain confidential, with only authorized individuals with a “need-to-know” having access to it.