



**DEPARTMENT OF CORRECTIONS
Employee Services**



Title:	Drug and Alcohol Testing of Employees	DOC Policy: 20.5.18
Effective:	4/3/26	Supersedes: 7/1/15
Applicability:	All employees. Refer to applicable collective bargaining agreements for specific provisions for represented employees	
Directives Cross-Reference:	OAR Ch. 265 Commission on Statewide Law Enforcement Standards of Conduct and Discipline (LESD) DOC Policy 20.5.19 Alcohol and Controlled Substances Test of Employees with CDL	
Attachments:	Reasonable Suspicion Drug and Alcohol Test Consent Form – Executive Service, Management Service, and AFSCME Security (CD1399) Reasonable Suspicion Drug and Alcohol Test Consent Form –AOCE Represented (CD1400)	

I. PURPOSE

To help ensure the workplace is free from the effects of drug and alcohol abuse.

II. DEFINITIONS

A. Controlled Substance: Defined in accordance with ORS 475.005(6). Prohibited drugs or controlled substances include marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines and substances specified in schedules I through V of Section 202 of the Controlled Substances Act, 21 USC 811, 812 and as defined in 21 CFR 1300.11 through 1300.15 unless authorized by a legal prescription or are exempt from federal or State law.

Note: Marijuana is still considered a controlled substance within the definition of this policy

B. Reasonable Suspicion (of prohibited drug use, possession, manufacture, distribution, or selling, or for prohibited alcohol use): Means a belief, based on specific and articulable facts, that an employee may be engaged in prohibited drug use, possession, manufacture, distribution, or selling, or prohibited alcohol use. Reasonable suspicion may be established through one or more of the following:

1. Direct observation of abnormal behavior or impairment to mental or physical behavior or performance (for example, slurred speech, alcohol on the breath, difficulty in walking or performing job activities, etc.)
2. Direct observation of use, possession, etc.

3. The opinion of a medical professional (doctor, nurse or other related professional practitioner qualified by education or experience) employed at the work site where an employee is using a prohibited drug.
 4. Documented or verified information concerning the workplace manufacture, distribution, selling, possession or use of a prohibited drug, or use of alcohol on the job or before reporting for duty.
 5. A work-related accident in conjunction with an above basis for a reasonable suspicion.
- C.** Under the Influence (of controlled substances): Means being affected by controlled substances, including marijuana or alcoholic intoxicants in a manner that encompasses not only all commonly recognized conditions and degrees of impairment and intoxication, but also any condition that diminishes the employee's clarity of intellect or control that they would otherwise possess.

III. POLICY

In maintaining an alcohol-free and drug-free workplace, the Department of Corrections implements a program of drug and alcohol testing of employees. The presence or treatment of a substance use problem will not excuse an employee from meeting performance, safety, or attendance standards, or following other department instructions.

A. General Testing Provisions

In addition to specific testing provisions for employees who are required to possess a Commercial Driver's License (CDL) in the performance of their duties (see DOC Policy 20.5.19), and specific testing provisions for certain represented employees (see applicable collective bargaining agreements), the following testing provisions are implemented:

1. Management and executive service employees are subject to reasonable suspicion drug and alcohol testing. Refusal to submit to such testing may result in disciplinary action up to and including termination.
2. Any employee who is not otherwise subject to mandatory reasonable suspicion testing may be requested to voluntarily submit to reasonable suspicion drug and alcohol testing.
 - a. Unless otherwise specified by policy or a collective bargaining agreement, an employee's refusal to submit to testing will not, by itself, result in disciplinary action.
 - b. The employee may still be subject to discipline for any inappropriate workplace behavior, if such discipline is appropriate and applicable.

B. Prohibited Conduct

The following conduct is prohibited:

1. Buying, selling, or providing, or possession for the purpose of buying, selling, or providing controlled substances while on department property or in any vehicles or equipment used for department business, or during work hours, including paid rest and meal periods.
2. Possession of any controlled substance while on department property or in any vehicles or equipment used for department business at any time, including rest and meal periods. Substances that have been legally prescribed for an employee's own use are excluded.
3. Being under the influence of any controlled substance or having such substances present in the body while on department property or in any vehicles or equipment used for department business at any time, including rest and meal periods.
 - a. An employee has controlled substance "present in the body" when the employee tests "positive" in blood or urine tests administered by the department for drug and alcohol testing.
 - b. An employee shall be deemed to test "positive" for cannabinoids (marijuana or hashish) if their urine test indicates 50 nanograms of tetrahydrocannabinol (THC) metabolites per ml or more.
 - c. Substances that have been legally prescribed for an employee's own use are excluded.
4. Being under the influence of alcoholic intoxicants, or consuming alcoholic intoxicants while in any vehicles or equipment used for department business at any time, or on department property during work hours, including rest and meal periods.
5. Being at work with a blood alcohol content that reaches or exceeds .02% by volume of alcohol in the blood.
6. Abusing any substance which is lawfully prescribed by regularly taking it in excessive quantities or by unlawfully obtaining it for purposes of abuse.

C. Discipline and Other Action

1. Prohibited conduct described in Sections (B)(1), (B)(2), and (B)(3) above shall result in termination.
2. Prohibited conduct described in Sections (B)(4), (B)(5), and (B)(6) shall result

in actions specified in Section E. below.

3. Correctional Series staff and Parole and Probation staff certified by the Department of Public Safety Standards and Training (DPSST) are also subject to discipline set by the Commission of Statewide Law Enforcement Standards of Conduct and Discipline under OAR Ch. 265.

D. Reasonable Suspicion Testing

1. Where the department has a reasonable suspicion that an employee subject to mandatory reasonable suspicion testing is under the influence of any alcoholic intoxicants or controlled substances, or has a controlled substance, present in the body, the department:
 - a. May require the employee immediately consent and submit to field and impairment tests and sampling (blood, urine or breath alcohol test) at an approved laboratory. A refusal to consent and submit to any of these tests shall be deemed the same as a positive test result.
 - b. Shall pay for the costs of the tests.
2. When a represented employee is informed that the department has a reasonable suspicion that the employee is under the influence, they are:
 - a. Required to consent and submit to such test or searches as described in Section G. of this policy; or
 - b. If not required to voluntarily submit to such testing, they may request the presence of an official union or association representative to witness the tests or searches.
 - A. The test or searches may not be unduly delayed to wait for a representative.
 - B. The absence of a representative shall not be grounds for the employee to refuse to consent and submit to such tests or searches.
 - C. The presence of a representative shall not disrupt or interfere with the tests or searches.
 - D. The department shall make every reasonable effort to provide such representative.
3. Before a supervisor, acting on behalf of the department under this policy, may require an employee to consent and submit to any test(s) specified in this section, the supervisor must first obtain concurrence from the supervisor's department head or designee that the information available to the department

about the subject employee is sufficient to form the basis of a reasonable suspicion that prohibited conduct will be established as a result of such test(s).

4. The employee shall give consent to a blood, urine or breath alcohol test by signing a consent form (CD1399 for Executive Service, Management Service, and AFSCME Security employees; CD1400 for AOCE Represented employees). The form shall contain the following information:
 - a. Employee's consent to release test results to the department.
 - b. The procedure for confirming an initial positive test result for a controlled substance.
 - c. The consequences of a confirmed positive test result for a controlled substance.
 - d. The consequences of a positive test for alcohol, including one at or above .02% by volume of alcohol in the blood.
 - e. A listing provided by the employee of legally prescribed and over-the-counter medications which may be in the employee's body. At the employee's option, this information may be submitted in a sealed envelope to be opened only by the lab's Medical Review Officer if the test result is positive.
 - f. Acknowledgment of the employee's right to explain a confirmed positive test result for a controlled substance, or a positive test for alcohol to the lab's Medical Review Officer.
 - g. Consequences of refusing to consent to the blood, urine, or breath alcohol test.
5. Signed consent forms are sent to the Designated Employee Representative and to the Human Resources Business Partner. The Designated Employee Representative will maintain the record for 5 years.
6. The department shall contract for drug testing services with a state-licensed laboratory which shall:
 - a. Be required to follow all state and federal testing protocols.
 - b. Use a drug testing process that is scientifically proven to be at least as accurate and valid as urinalysis using an immunoassay screening test, with all positive screening results being confirmed utilizing gas chromatography or mass spectrometry before a sample is considered positive.

- c. Use an alcohol testing process that is scientifically proven to be at least as accurate and valid as:
 - A. Urinalysis using an enzymatic assay screening test, with all positive screening results being confirmed utilizing gas chromatography before a sample is considered positive; or
 - B. Breath sample testing using breath analyzing instruments which meet National Institute on Drug Abuse (NIDA) or Substance Abuse and Mental Health Services Administration (SAMSHA) testing standards.
- 7. If a blood or urine test is confirmed as positive, the department will instruct the laboratory to retain the blood or urine sample for a period of not less than 30 calendar days from the date the test results are communicated to the employee for the purpose of allowing the employee to conduct an independent test of the sample at their own expense at a laboratory approved by the State of Oregon.
- 8. The procedure to obtain, handle, and store blood and urine samples and to conduct laboratory tests shall be documented to establish procedural integrity and chain of evidence.
 - a. Such procedures shall be administered with due regard for the employee's privacy and the need to maintain confidentiality of test results to an extent which is not inconsistent with the needs of this policy:
 - b. The employee shall be notified of the results of all tests conducted pursuant to this policy; and
- 9. All facts and circumstances upon which the reasonable suspicion testing is based shall be documented and given to the employee when they are notified of the test results.

E. Consequences of Test Results

- 1. Non-Positive Test Results: When test results do not positively establish the employee has engaged in prohibited conduct as described in Sections (B)(4), (B)(5), and (B)(6) of this policy:
 - a. No further action against the employee related to an alleged violation of those sections shall result.
 - b. The employee shall be informed of such test results in writing.
 - c. No record of the test shall be placed in the employee's official personnel file in Workday.

Supervisor's working files may contain records of the observations which led to the reasonable suspicion testing but not records of the test itself.

- d. The behavior which necessitated the test may be grounds for disciplinary action in accordance with the applicable labor agreement or department policy.

If the employee subsequently demonstrates similar behaviors, records of the observations which led to the reasonable suspicion testing, but not records of the test itself, may be relied upon by the employer in disciplinary proceedings.

- 2. Positive Test Result of .040 or Higher- No Previous Prohibited Conduct: Employees who test positive with test result of .040 or higher and have not previously committed prohibited conduct specified in Sections (B)(4), (B)(5), and (B)(6) in this policy:
 - a. Shall immediately submit to a medical evaluation by a doctor, selected and paid for by the department, to determine the extent of the employee's use of, and dependence on, the applicable substance(s) and, if necessary and appropriate, recommend a program of treatment, including but not limited to rehabilitation and counseling to prevent future use; and
 - b. If a program of treatment is recommended by the doctor, the employee shall enroll in it immediately.
 - A. Failure by the employee to enroll in the recommended program or to complete it successfully may result in termination from employment.
 - B. The cost of such treatment shall be at the employee's expense except as it may be covered by insurance.
 - C. The employee may take paid leave or leave without pay for the period of treatment.
- 3. Positive Test Results - First Instance of Prohibited Conduct:
 - a. The first instance of an alcohol test result of .02 to .039 shall not be considered a positive test result for alcohol for the purpose of requiring a medical evaluation by a doctor. It will, however, require that the employee be removed from duty until the employee's next scheduled shift. An employee may use vacation or sick leave benefits for this time period.
 - b. The first instance of an alcohol test result of .04 or greater will subject the employee to all provisions of this policy.

4. Positive Test Results - Previously Committed Prohibited Conduct: Employees who test positive and have previously committed prohibited conduct specified in Sections (B)(4), (B)(5), and (B)(6) and subsequently are found to have committed such prohibited conduct a second time within three years,
 - a. Shall be subject to discipline up to and including termination.
 - b. The level of discipline imposed for subsequent instances of such prohibited conduct beyond three years may be termination but shall be determined on a case-by-case basis.

F. Voluntary Rehabilitation

The primary objectives of the department's drug and alcohol policy are to maintain employee performance and good health and a safe work environment.

1. If, prior to a requirement by the department that the employee submit to any of the tests specified in Section E. of this policy, the employee notifies a supervisor they have drug or alcohol problems that require treatment, then in that event the employee;
 - a. Shall immediately submit to a medical evaluation by a doctor, selected and paid for by the department; and
 - b. Shall enroll in a treatment program recommended by the doctor.
 - c. The employee may seek such evaluation and treatment from the employee's own doctor, at the employee's expense.

The employee shall notify the employer of the name of the doctor.
 - d. An employee who enters rehabilitation and successfully completes rehabilitation under the terms of this paragraph shall not be subject to discipline.
 - A. The cost of such treatment shall be at the employee's expense except as it may be covered by insurance.
 - B. The employee may take paid leave or leave without pay for the period of treatment.
2. If an employee has previously enrolled in a voluntary rehabilitative treatment described above and subsequently again volunteers for such treatment in advance of being required to submit to any of these tests specified in Section E. of this policy, then the employee:
 - a. Shall immediately submit to a medical evaluation by a doctor, selected and paid for by the department; and

- b. Shall successfully complete the treatment program recommended by the doctor.
- c. The employee may seek such evaluation and treatment from the employee's own doctor, at the employee's expense.

The employee shall notify the employer of the name of the doctor.

- d. If the employee fails to complete the treatment program successfully, they shall be subject to discipline up to and including termination.
 - A. The cost of such treatment shall be at the employee's expense except as it may be covered by insurance.
 - B. The employee may take paid leave or leave without pay for the period of treatment.

G. Searches

- 1. The department reserves the right to conduct searches of department equipment or facilities generally for any reason and may search anything or area in which the employee has an expectation of privacy (such as desk, locker, outer garment clothing or personal property) to the extent permitted by law.
- 2. Refusal by the employee to submit to a lawful search shall result in termination.
- 3. Strip searches and frisk searches shall be undertaken in the event of a criminal investigation and only for probable cause as determined by the investigating law enforcement department.

H. Consequences of Search Results

- 1. Reasonable suspicion searches which do not reveal the presence of alcohol or controlled substances (excluding any substance lawfully prescribed for the employee's use which has not been obtained for the purpose of abuse), shall result in no further action against the employee related to an alleged violation of Section (B)(2).

The employee shall be informed of such search results in writing.

- 2. Searches which reveal the presence of alcohol or controlled substances, (but excluding any substance lawfully prescribed for the employee's use which has not been obtained for the purpose of abuse) shall result in those consequences specified in Sections (C) and (E)(3) as though a positive blood or confirmed urine test had been administered.

I. Training for Supervisory Personnel

Supervisory personnel shall receive training to recognize and deal effectively with substance abuse in the workplace.

IV. IMPLEMENTATION

This policy will be adopted immediately without further modification.

Certified: _____ signature on file _____
Julie Vaughn, Rules Coordinator

Approved: _____ signature on file _____
Michael Reese, Director



Reasonable Suspicion Drug and Alcohol Test Consent Form Executive Service, Management Service, and AFSCME Security

Per Department of Corrections Policy 20.5.18 Drug and Alcohol Testing of Employees and the applicable Collective Bargaining Agreement, employees shall give consent to a blood, urine, or breath alcohol test by signing this consent form. This consent form provides the employee being tested the following information:

- A. Your signature represents consent to release the test results to the Department of Corrections.
- B. An initial positive test result for a controlled substance will be confirmed using gas chromatography/mass spectrometry before a sample is considered positive.
- C. The consequences of a confirmed positive test for a controlled substance:
 - 1. If you have not previously committed prohibited conduct relating to drugs or alcohol, you shall immediately submit to a medical evaluation by a doctor selected and paid for by the department. The evaluation will determine the extent of your use of, and dependence on, the applicable substance(s) and, if necessary, recommend an appropriate program of treatment, including but not limited to rehabilitation and counseling to prevent future use. If the doctor recommends a treatment program, you shall enroll in it immediately. Failure by you to enroll in the recommended program or to complete it successfully shall result in your termination from employment.
 - 2. If you test positive and have previously committed prohibited conduct and subsequently are found to have committed prohibited conduct a second time within three years, you shall be terminated. The level of discipline imposed for subsequent instances of such prohibited conduct beyond three years may be termination but shall be determined on a case-by-case basis.
- D. The consequences of a positive test for alcohol: the first instance of an alcohol test result of .02 - .039 shall not be considered a positive test result for the purpose of requiring a medical evaluation by a doctor. It will, however, require that you be removed from duty until your next scheduled shift. You may use vacation and sick leave benefits for this time period. An alcohol test result of .04 or greater will subject you to C (1) and (2) above.
- E. If you receive a confirmed positive drug test, a Medical Review Officer (MRO) will call you. You will be asked for a listing of legally prescribed and over-the-counter medication which may be in your body. It is your option to provide this information.
- F. You have the right to explain a confirmed positive test result for a controlled substance or a positive test for alcohol to a Medical Review Officer (MRO).
- G. Represented staff have the right to union representation during preliminary interview and any follow-up investigation.
- H. The refusal to consent and submit to any of these tests shall subject you to immediate termination.

Employee Signature

Supervisor Signature

Date: _____

Time: _____



Reasonable Suspicion Drug and Alcohol Test Consent Form AOCE Represented

Per Department of Corrections Policy 20.5.18 Drug and Alcohol Testing of Employees and the applicable Collective Bargaining Agreement, employees shall give consent to a blood, urine, or breath alcohol test by signing this consent form. This consent form provides the employee being tested the following information:

- A. Your signature represents consent to release the test results to the Department of Corrections.
- B. An initial positive test result for a controlled substance will be confirmed using gas chromatography/mass spectrometry before a sample is considered positive.
- C. The consequences of a confirmed positive test for a controlled substance:
 - 1. If you have not previously committed prohibited conduct relating to drugs and alcohol, you shall immediately submit to a medical evaluation by a doctor selected and paid for by the department. The evaluation will determine the extent of your use of, and dependence on, the applicable substance(s) and, if necessary, recommend an appropriate program of treatment, including but not limited to rehabilitation and counseling to prevent future use. If the doctor recommends a treatment program, you shall enroll in it immediately. Failure by you to enroll in the recommended program or to complete it successfully shall result in your termination from employment.
 - 2. If you test positive and have previously committed prohibited conduct and subsequently are found to have committed prohibited conduct a second time within three years, you shall be terminated. The level of discipline imposed for subsequent instances of such prohibited conduct beyond three years may be termination but shall be determined on a case-by-case basis.
- D. If you receive a confirmed positive drug test, a Medical Review Officer (MRO) will call you. You will be asked for a list of legally prescribed and over-the-counter medication which may be in your body. It is your option to provide this information.
- E. You have the right to explain a confirmed positive test result for a controlled substance or a positive test for alcohol to a Medical Review Officer (MRO).
- F. Represented staff have the right to union representation during preliminary interview and any follow-up investigation.
- G. The refusal to consent and submit to any of these tests shall subject you to immediate termination.

Employee Signature

Supervisor Signature

Date

Time