



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-037900 Drug-Free and Alcohol-Free Workplace	Issued: 04/03/89 Effective: 04/03/89	Reviewed: 09/05/23 Revised: 03/04/15
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. Drug-Free Workplace Act of 1988.
- B. NMSA 1978, Section 33-1-11, as amended.
- C. State Personnel Board Rule 1.7.8 NMAC.
- D. Policy *CD-010100*.

REFERENCE:

- A. ACA Standard 2-CO-1C-20, *Standards for the Administration of Correctional Agencies*, 2nd Edition.
- B. ACA Expected Practice 5-ACI-1C-16, *Performance Based Standards and Expected Practices for Adult Correctional Institutions*, 5th Edition.
- C. ACA Standard 4-APPFS-3C-01, *Standards for Adult Probation and Parole Field Services*, 4th Edition.
- D. ACA Standards 1-CTA-1C-07, *Standards for Correctional Training Academies*, 1st Edition.
- E. ACA Standard 2-CI-6C-2, *Standards for Correctional Industries*, 2nd Edition.

PURPOSE:

Establish procedures and implement guidelines within the Corrections Department to achieve a drug-free and alcohol-free workplace, consistent with Federal and State law and regulations.

APPLICABILITY:

New Mexico Corrections Department employees and any applicant for employment into a safety- sensitive position within the Department.

ATTACHMENTS:

- A. **Policy/Procedure Acknowledgement** Attachment (*CD-037901.A*)
- B. **Identified Safety Sensitive Positions - General** Attachment (*CD-037901.B*)
- C. **Identified Safety Sensitive Positions - Individual** Attachment (*CD-037901.C*)

DEFINITIONS:

- A. Alcohol: Includes all consumable non-prescription substances which contain alcohol, specifically including without limitation spirits, wine, malt beverages, and intoxicating liquors.
- B. Collection Site: Any lab or medical facility designated by the contractor as a collection site of specimen for drug/alcohol testing.

- C. Controlled Substance: Includes the following five (5) prohibited classes of drugs: narcotics, depressants, stimulants, hallucinogens and cannabis. This includes any chemical substances having the capacity to affect behavior and regulated by law with regard to possession and use.
- D. Drug: Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines or a metabolite of those drugs; or any non-prescription substance containing those drugs.
- E. Medical Review Officer: A New Mexico based licensed physician knowledgeable in the medical use of prescription drugs/alcohol and the pharmacology/toxicology of illicit drugs and alcohol hired by the Department to render a medical opinion about a positive result.
- F. On Duty: Any time during an employee's regular workday or other period during which the employee is required or permitted to work by the employer, including authorized lunch and other breaks, and anytime while operating or riding in a state vehicle.
- G. Positive Test Result: For drugs, a test result that was positive on an initial FDA-approved immunoassay test, confirmed by a gas chromatograph/mass spectrometry. For alcohol, a Blood Alcohol Content (BAC) level of .04 or higher is considered a positive result. For a test for alcohol during 30 to 180 days after referral to an assistance program, any indication of alcohol at any level shall be considered a positive test result.
- H. Possession: To knowingly have, own, or have on oneself the drug, the alcohol or both.
- I. Procedures Manual: Specific steps outlined to comply with a drug-free and alcohol-free workplace established by the Substance Abuse Coordinator in accordance with State Personnel Board Rules.
- J. Random Sample: State Personnel Office computer generated list of 10% of all statewide safety-sensitive positions.
- K. Reasonable Suspicion: A belief drawn from specific objective, articulable facts, and the reasonable inferences drawn from those facts.
- L. Safety-Sensitive Position: A position including a supervisory or managerial position in which impairment by drug or alcohol use would constitute an immediate and direct threat to public health or safety and includes, but is not limited to, peace officers, pilots, correction officers, employees who are required to regularly carry a firearm, employees who regularly transport other people as their principal job, and positions involving use of equipment that could pose a risk to public health or safety. (See Attached List)

POLICY:

- A. The Corrections Department strictly prohibits the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance by employees or others in the workplace or by employees outside of the workplace and violations of this nature shall be just cause for dismissal and will be reported to the appropriate local law enforcement agency.

- B. Employees are prohibited from bringing alcohol onto Corrections Department property at any time, with the exception of staff residential housing. Employees, who use, possess or distribute alcohol while on duty or on Corrections Department property, will be subject to discipline, including dismissal.
- C. All test results and information regarding drug and alcohol testing is confidential and shall be made available only to those who need to know. Breach of confidentiality may be grounds for disciplinary action.
- D. All Corrections Department employees shall sign receipt of having been given a copy of this policy and this policy shall be part of the new employee orientation packet.
- E. Nothing in this policy shall be considered as limiting the Corrections Department's right to take administrative or disciplinary action, up to and including dismissal, for involvement with illegal drugs or alcohol not specifically addressed in this policy.
- F. There is a written agency policy, procedure, and practice that specify support for a drug-free workplace for all employees. This policy includes at a minimum the following: **[2-CO-1C-20] [5-ACI-1C-16] [1-CTA-1C-07] [4-APPFS-3C-01] [2-CI-6C-2]**
- prohibition of the use of illegal drugs;
 - prohibition of possession of any illegal drug except in the performance of official duties;
 - the procedures to be used to ensure compliance;
 - the opportunities available for treatment and/or counseling for drug abuse; and,
 - the penalties for violation of the policy.



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AUTHORITY:

Policy CD-037900

PROCEDURES: [2-CO-1C-20] [5-ACI-1C-16] [1-CTA-1C-07] [4-APPFS-3C-01] [2-CI-6C-2]

A. General Provisions

It is the obligation of the Corrections Department to ensure a drug-free and alcohol-free workplace to increase productivity, reduce costs, ensure employee, inmate, and public safety, and enhance the Department's public image.

Drug use and alcohol abuse negatively affect the Department's ability to effectively and safely achieve its mission in a professional manner. Impairment from drug/alcohol use, as well as the residual effects of drug use and alcohol abuse, adversely affects the efficiency of an employee's performance including, but not limited to, judgment, emotional stability, ability to concentrate, attendance, and professional integrity.

The critical nature of safety-sensitive positions and the unique obligations and responsibilities of those positions creates a compelling obligation to eliminate drug use and alcohol abuse from the workplace. Because the current and residual effects of drug use may not always produce externally observable signs that may be detected by supervisors, the Department recognizes the need for random drug testing of employees in these safety-sensitive positions.

1. An applicant for a safety-sensitive position who refuses to submit to drug testing shall be advised that they are no longer under consideration for employment.
2. An applicant shall be sent for drug testing within 14 calendar days prior to the hire date. The Substance Abuse Coordinator shall determine if another drug test is necessary if more than 14 calendar days have passed.
3. Refusal by an employee to submit to a drug or alcohol test shall be grounds for dismissal.
4. Adulteration or substitution of urine specimen by an employee shall be grounds for dismissal.

5. An employee convicted of any controlled substance or drug offense shall notify the Substance Abuse Coordinator no later than five (5) days after such conviction. The Substance Abuse Coordinator shall notify the appropriate federal agency within ten (10) days after receiving such notice.

B. Substance Abuse-Coordinator:

1. The Secretary shall designate a Substance Abuse Coordinator. The Substance Abuse Coordinator is responsible for implementing, directing, administering, and managing the drug program within the Corrections Department. The Substance Abuse Coordinator shall ensure adherence to policies and procedures that pertain to the maintenance of a drug-free and alcohol-free workplace. The Substance Abuse Coordinator shall serve as the principal contact with the lab.
2. The Substance Abuse Coordinator has the authority and responsibility to compile, maintain and update a Drug-Free and Alcohol-Free Workplace Procedures Manual. Changes to these procedures shall be coordinated with the Office of General Counsel.
3. Each facility/division shall have an Assistant Substance Abuse Coordinator assigned to assist the Substance Abuse Coordinator in carrying out the purpose of this policy.

Assistant Substance Abuse Coordinators shall be required to maintain a copy of the Procedures Manual. The Substance Abuse Coordinator shall provide the Assistant Substance Abuse Coordinators with updates, as required.

C. Procedures Manual:

The Drug-Free and Alcohol-Free Workplace Procedures Manual shall contain:

1. State Personnel Board Rule 1 NMAC 7.8.
2. Drug-Free and Alcohol-Free Workplace Policy (CD-037900).
3. Names of the Substance Abuse Coordinators.
4. A list of Safety-Sensitive Positions.
5. Procedures for Pre-Employment Testing.
6. Procedures for Assuming a Safety-Sensitive Position from a Non-Safety Sensitive Position.
7. Procedures for Random Sample Testing for Safety-Sensitive Employees.

8. Urine testing (procedures for Drug Tests and testing after referral to a treatment program).
9. Blood Alcohol Testing (procedures).
10. Reasonable Suspicion/Post Accident (procedures).
11. Procedures for Voluntary Self-Identification (referral).
12. Explanation of Penalties/Disciplinary Consequences.
13. Sample Forms.

D. Collection/Testing

1. The Corrections Department shall test for the following drugs: marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP).
2. The Corrections Department shall require individuals to submit to drug and/or alcohol tests for the following reasons:
 - a. Random - Employees in safety-sensitive positions will be required to submit to drug testing, if their position number has been randomly selected by the State Personnel Office.

Employees shall be immediately relieved from their duties to submit to a random drug test. Employees not able to be relieved of their duties, or employees whose shift is during hours in which collection sites are closed, shall go immediately when their shift ends or the collections site opens. Employees required to go on their own time will be compensated accordingly.
 - b. Pre-Employment - Applicants for safety sensitive positions shall be required to pass a drug test prior to appointments to the position because physical fitness, safety and security are issues of particular concern in those positions.
 - c. Job Assignment Change - Employees moving into a safety-sensitive position from a non-safety sensitive position will be required to submit to and pass a drug test.
 - d. Selection to specialty teams – Any employee, prior to selection into a specialty team, i.e., STIU, and SORT, etc., shall be required to pass a drug test.
 - e. Prior to issuance of a firearm – Probation and Parole Officers who are requesting to carry a firearm must pass a drug test as part of the screening process prior to being issued a firearm.

- f. Reasonable Suspicion - Any employee may be tested if there is a reasonable suspicion that the employee is either under the influence of drugs or alcohol while on duty; or has been observed using or possessing drugs or drug paraphernalia or has been observed using or possessing alcohol while on duty.
 - g. Post Accident - Employees may be tested for alcohol and/or drugs following a vehicle accident occurring on duty or any time, if in a state vehicle, if there is reasonable suspicion that the employee may have been under the influence of alcohol or drugs at the time of the accident.
 - h. After Referral - Employees who have been referred to a treatment, counseling, drug or alcohol rehabilitation program are subject to drug and/or alcohol testing, at the discretion of the Substance Abuse Coordinator, at any time between 30 calendar days and 180 calendar days from the date of referral.
- 3. All drug and/or alcohol testing shall be conducted in accordance with the Drug-Free and Alcohol-Free Workplace Procedures Manual located in the Human Resource Office. Reasonable suspicion procedures are located in the Human Resource Office and in control centers at the individual prison facilities.
 - 4. Specimen collection shall be in accordance with State Personnel Board Rules.
 - 5. Employees with abnormal urine specimens may be required to submit to a second sample.
 - 6. The initial drug test is conducted using the immunoassay procedure, meeting FDA requirements, and using the cutoff levels outlined in State Personnel Board Rule 1.7.8.13.B NMAC. All positive results will have a confirmation test.
 - 7. The confirming test for a specific drug or metabolite is by gas chromatography/mass spectrometry (GC/MS). The confirmations shall be by quantitative analysis specified in State Personnel Board Rule 1.7.8.13.C NMAC.
 - 8. Records concerning test results shall be maintained in a confidential manner and shall not be placed in the personnel file unless the information is included in the language of a disciplinary action letter.

E. Employee Assistance:

1. Self-Identification

All employees have the opportunity to voluntarily admit to being a user of illegal drugs or abuser of alcohol for the purpose of referral to a treatment program. The Department will not initiate disciplinary action for use of illegal drugs or abuse of alcohol against any employee who meets all four (4) of the following criteria:

- a. The employee voluntarily identifies himself or herself as a user of illegal drugs or an abuser of alcohol prior to the initiation or start of an investigation into suspected of drug use or alcohol abuse or prior to notification of a required or random drug or alcohol test;
 - b. The employee obtains counseling or rehabilitation as arranged through the Assistant Substance Abuse Coordinator;
 - c. The employee participates in the treatment program as required by the counselor and fully cooperates with the Substance Abuse Coordinator and successfully completes the treatment program; and
 - d. The employee does not have a positive test result for drug or alcohol use during treatment or at any time in the future after having successfully completed the treatment program.
2. An employee in a non-safety sensitive position who has a positive test result shall be referred to a treatment facility in accordance with the procedure manual.
 3. Any costs for assessments, counseling, or rehabilitation shall be borne by the employee.

F. Training:

1. Supervisors/Managers have a key role in establishing a drug-free workplace. The Department shall provide training to assist supervisors and managers in recognizing and addressing drug use by employees. Supervisory training for supervisors and managers is mandatory.
2. Training shall provide information on the Department's drug and alcohol policy and procedures to include reasonable suspicion testing procedures, employee assistance programs and supervisory responsibilities under this program.
3. Assistant Substance Abuse Coordinators (local Human Resource representative) shall be responsible for informing supervisory staff of any procedural changes.
4. Employees shall be offered a drug awareness program which should include: a) types and effects of drugs; b) referral process and treatment facilities; c) penalties for violations; and d) a review of this policy.

G. Sanctions:

1. Positive test results for an employee in a safety-sensitive position shall be grounds for dismissal.

2. Positive test results for an employee in a non-safety sensitive position shall be grounds for disciplinary action up to and including dismissal.
3. Failure to successfully complete a treatment program shall be grounds for dismissal.
4. Refusal or failure to submit to drug and/or alcohol testing shall be grounds for dismissal. The following is a non-exhaustive list of acts or omissions that shall constitute refusal:
 - a. Failure or refusal to complete specified forms including the release/consent form;
 - b. Failure or refusal to submit a specimen;
 - c. Failure or refusal to appear for testing;
 - d. Failure or refusal to obey an order or directive reasonably related to the request to submit to a drug and/or alcohol test including, but not limited to:
 - 1) Refusal to be driven to the collection site;
 - 2) Refusal to proceed promptly to the collection site for testing.
5. Refusal of treatment or failure to participate in a treatment program after referral shall be grounds for dismissal.
6. Assaultive or combative behavior towards any person(s) who gives a directive or order related to implementing this policy and procedure shall be grounds for disciplinary action.
7. Adulteration or substitution of the specimen provided shall be grounds for disciplinary action up to and including dismissal.
8. Employees who illegally sell, purchase, or transfer drugs or any controlled substance while on duty shall be dismissed and reported to the local law enforcement agency.
9. Employees who, while on duty, consume or possess drugs or any controlled substance without a valid prescription shall be dismissed and reported to the local law-enforcement agency.
10. Department employees, particularly those in safety sensitive positions, who at any time illegally possess, use or distribute drugs or any controlled substance, may be subject to disciplinary action up to and including dismissal.
11. Employees who consume alcohol while on duty shall be dismissed.
12. An applicant for a safety-sensitive position who tests positive for drugs and is unable to satisfactorily explain the positive result shall be rejected for selection.

13. An applicant for a new job assignment (transfer/promotion) to a safety-sensitive position from a non-safety sensitive position who tests positive and is unable to satisfactorily explain the positive results shall be referred to treatment.
14. Employees who test positive 30 to 180 days after referral to a treatment program shall be subject to disciplinary action up to and including dismissal.
15. Breach of confidentiality may be grounds for disciplinary action.

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Policy/Procedure Acknowledgement

I, _____, ACKNOWLEDGE THAT I HAVE RECEIVED
(PRINT NAME)

A COPY OF THE POLICY/PROCEDURE LISTED BELOW AND THAT IT IS MY RESPONSIBILITY TO READ AND COMPLY WITH THIS POLICY/PROCEDURE. I FURTHER ACKNOWLEDGE MY UNDERSTANDING THAT VIOLATIONS OF THIS POLICY/PROCEDURE MAY RESULT IN DISCIPLINARY ACTION UP TO AND INCLUDING DISMISSAL. I UNDERSTAND THAT IF I HAVE QUESTIONS, OR I DO NOT UNDERSTAND ANY PROVISIONS OF THIS POLICY/PROCEDURE, I WILL ASK MY SUPERVISOR FOR ASSISTANCE.

_____ **Drug-Free and Alcohol-Free Workplace (CD-037900/CD-037901)**

Employee Signature

Date

Witness Signature

Date

Original = Employee File
Copy = Employee

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Identified Safety Sensitive Positions - General

The following Corrections Department positions have been identified as being Safety Sensitive (by **TOG** and working title):

Admin. Law Judges, Adjudicators & Hearing Officers (Operational) Hearing Officer
Clergy (Operational) Chaplain
Clergy (Advanced) Chaplain, Clinical
Clinical, Counseling, & School Psychologists/ Industrial-Organizational Psychologists (Operational) <i>excluding the following positions: (#37854);(#37855)</i> Counselor, Addictions Treatment Counselor
Clinical, Counseling, & School Psychologists (Advanced) Clinical Supervisor, Addictions Facility Manager, Mental Health Facility Manager
Compliance Officer (Advanced) [Compliance Officer, Contract Monitor]
Correctional Officers and Jailers (Basic) [Correctional Officer Cadets]
Correctional Officers and Jailers (Operational) [Correctional Officer 1] <i>Excluding the following Omnibus positions: (#16987); (#17213); (#17214)</i>
Correctional Officers and Jailers (Advanced) [Sergeant and Lieutenant]
Correctional Officers and Jailers (Operational & Advanced) Correctional Officer Specialist (All Options)
Criminal Justice & Law Enforcement (Advanced) [Academy Trainer] Educator
Detectives & Criminal Investigators (Operational & Advanced) Investigator / Special Agent
Family & Gen Pract – A [Psychiatry Bureau Chief]
Lgl Sup Wkr AO – A [Legal Support Worker]
Library Technicians (Operational) Library Associate
Mental Health & Substance Abuse Social Workers (Advanced) Social Worker, Clinical
Probation Officers & Correctional Treatment Specialists (Operational) Classification Officer, Probation Parole Officer
Probation Officers & Correctional Treatment Specialists (Advanced) Classification Officer Supervisor, Probation Parole Supervisor
Psychologists AO (Operational) Counselors, Addictions Treatment Counselors
Psychologists AO (Advanced) Clinical Supervisor, Additions Facility Manager, Mental Health Facility Manager.
Social & Community Services Coordinator
Training & Developmental Spec. (Operational), Criminal Justice & Law Enforcement Teachers, (Operational & Advanced) Staff Development Specialist, Facility Trainer
Line Manager [Medical Records Manager]
Staff Managers Captain, STIU Coordinator, Corrections Industries Facility Manager, Program Manager, Physical Plant Manager, Faith Based Coordinator, Manager of Nursing, Asst. Mental Health Bureau Chief, Mental Health Quality Assurance Manager, Classification Manager, Interstate Compact Administrator
Admin / Ops Managers Region Manager (PPD), Safety Program Director, Quality Assurance Manager, Unit Manager, Major, Contract Monitor, Deputy Warden, Deputy Mental Health Bureau Chief, Deputy Classification Bureau Chief, Community Corrections Admin. Asst., Addictions Bureau Chief, Deputy Division Director Academy, Retention Manager, Records Bureau Chief, Health Services Administrator, IASC Deputy Bureau Chief
General Managers Warden, Deputy Warden, Classification Bureau Chief, Mental Health Bureau Chief, Addictions Bureau Chief, Deputy Director (PPD) (CI), Facilities Manager, Medical Bureau Chief, STIU Administrator, Prison Rape Reform Coord., IASC Bureau Chief, Deputy Director (CI)
Executive Managers Warden, Deputy Division Director (APD)

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Identified Safety Sensitive Positions - Individual

<u>PERM #</u>	<u>TOG TITLE</u>	<u>WORKING TITLE</u>
15794	Cabinet Secretary	Cabinet Secretary
15795	Deputy Cabinet Secretary	Deputy Secretary – Operations
32255	Deputy Cabinet Secretary	Deputy Secretary –Administration
15800	Deputy Cabinet Secretary	Deputy Secretary – Re-Entry and Prison Reform
62159	Epidemiologist Advanced	Epidemiologist
15863	Division Director 2	Division Director 2
15876	Division Director 2	Division Director 2