

 <p>KENTUCKY CORRECTIONS Policies and Procedures</p>	Policy Number	Total Pages
	3.11	10
	Date Filed	Effective Date
	May 15, 2024	May 15, 2024
	Supersedes Effective By Memorandum Date July 17, 2023	
Authority/References KRS 18A.043, 196.035, 197.020, 218A.040 through 218A.130 Executive Order: 96-611, 89-398 101 KAR 2:102 ACA 4-4063, 2-CO-1C-20, 2-CI-01-04-02, 2- CI-6C-2, 2-CI-6C-3 P&P ACA 3C-01, 3E-14 CPP 3.1	Subject <p style="text-align: center;">DRUG FREE WORKPLACE EMPLOYEE DRUG TESTING</p>	

I. DEFINITIONS

“Alcohol” means those substances chemically classified as alcohols that are imbibed into the human body, regardless of the alcohol bearing liquid involved, including liquor, beer, wine, and mixed alcoholic drinks.

“Chain of custody” means a written record of the proper collecting and handling of a urine specimen.

“Illegal drug” means any controlled substance classified as Schedule I, II, III, IV, V in KRS 218A.040 through 218A.130 that has not been specifically prescribed by a licensed physician, dentist, or advanced practice registered nurse as allowed by KRS 314.011.

“Management authority”, for the purposes of this policy, means the institutional warden, district supervisor, or designee.

“Medical review officer (MRO)” means a licensed physician with knowledge of substance abuse disorders who is responsible for the receipt, review, and interpretation of all confirmed positive test results submitted to Corrections from the drug-testing laboratory.

“Other substance or substances” means any drug, chemical, or substance that has, or may have, the effect of impairing the mind or body, or otherwise affect the senses, responses, motor function, or alter a person's perception while on duty.

“Prescription drug” means those controlled substances prescribed by a licensed physician, dentist, or advanced practice registered nurse, if allowed by KRS 314.011, that are used in exactly the manner prescribed by the person for whom the prescription was written.

Policy Number	Effective Date	Page
3.11	May 15, 2024	2

“Random drug testing” means a process of selection of employees classified in hazardous duty classifications to be tested that: (a) results in an equal probability that any employee from a group of employees subject to the process shall be selected; and (b) does not allow management staff the discretion to waive the testing of any employee selected under the process.

“Reasonable suspicion” for the purpose of this policy, means the quantity of proof or evidence, based on specific, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable officer, based upon his training and experience, to suspect that the individual is or has been using alcohol or any other substance or substances. Reasonable suspicion is less than probable cause, but substantially more than a mere hunch. Reasonable suspicion shall be based on the totality of the circumstances and one shall articulate the reasons for suspicion.

“Sanctions” means penalties, requirements, or restrictions imposed on an employee for violations or noncompliance with Corrections Drug Free Workplace Policy.

“Under the influence” means an employee’s behavior, judgment, coordination, or physical or mental ability appears to be unsafe or unfit for duty or an employee’s blood or urine has a detectable amount of alcohol or any other substance or substances.

“Urinalysis and urine drug screen” means urine samples that are screened for specified drugs and their metabolites using defined cutoffs.

II. POLICY and PROCEDURE

- A. An employee shall not unlawfully manufacture, distribute, dispense, possess, or use illegal drugs or alcohol on the job, or report to work under the influence of alcohol or any other substance or substances. It is Corrections’ intent to maintain a workplace free of these substances, so that all employees may have the opportunity to have a safe, more productive work environment.
- B. An employee shall submit to a urine drug test or screen for alcohol or any other substance or substances under the following conditions:
 - 1. Prior to employment, following the initial interview and after a conditional offer of employment has been extended.
 - 2. At any time for reasonable suspicion.
 - 3. After an employee has tested positive, further testing may be conducted at the employer’s discretion for up to one year.
 - 4. Selection of hazardous duty employees for random drug testing shall be made by a computer program that contains all employees classified in hazardous duty and non-merit positions and are randomly selected by the program. The percentage

Policy Number	Effective Date	Page
3.11	May 15, 2024	3

of employees selected for random drug testing shall be determined by the Commissioner on a yearly basis.

- C. An employee shall not be under the influence of alcohol or any other substance or substances that impair one's job performance.
 - 1. If supervisory staff has reasonable suspicion to believe an employee is under the influence of alcohol or any other substance or substances while on duty, the supervisor shall immediately contact the management authority.
 - 2. The management authority may require the employee to submit to a blood alcohol test or a urine drug screen or both, based on reasonable suspicion.
 - 3. Upon confirmation of a positive drug test or refusal to submit to a drug test, the employee shall be placed on leave immediately pending the dismissal process in accordance with 101 KAR 2:102, Classified Administrative Leave Regulations.
 - 4. Any employee refusing to submit to a request for a urine drug screen or blood alcohol test shall be considered under the influence and shall be dismissed.

- D. Alcohol or any other substance or substances shall not be brought on to or consumed at the work site, or while on duty. An employee shall not be in possession of any illegal drug except in the performance of official duties.

- E. Any employee having a reasonable suspicion to believe that another employee is illegally using, in possession of, or under the influence of alcohol or any other substance or substances shall immediately report the facts and circumstances to his supervisor.
 - 1. The supervisor shall immediately observe the suspect employee's behavior and take any other appropriate steps to determine whether reasonable suspicion exists.
 - 2. If reasonable suspicion is determined, the supervisor shall immediately notify the management authority.

- F. An employee shall not consume alcoholic beverages in a public place, while wearing a Corrections uniform or displaying an official Corrections badge or ID.

- G. Any prescription drug brought to the work site or carried by an employee while on duty shall be in its original container.
 - 1. The original container shall show the employee as the person for whom the drugs were prescribed and shall have the doctor's name and prescription number.
 - 2. Corrections may have an authorized physician determine if a prescription drug or medication adversely affects the ability of the employee to perform his duties.

Policy Number	Effective Date	Page
3.11	May 15, 2024	4

H. Conditions for Testing

All tests described below shall use the standardized procedures adopted by Corrections as explained in this policy if testing or screening for alcohol or any other substance or substances.

1. Once offered employment, candidates shall be required to submit to a drug and alcohol test or screen.
2. Reasonable suspicion testing – testing or screening for drugs, alcohol or any other substance or substances may be required if requested by the management authority if in his judgment there is reasonable suspicion to believe:
 - (a) An employee's behavior, judgment, coordination, or physical or mental ability appears to be unsafe or unfit for duty;
 - (b) The employee is under the influence of illegal drugs, alcohol, or any other substance or substances and is unfit for duty;
 - (c) An employee shows an unexplained deterioration in individual job performance and attendance;
 - (d) An employee is involved in the illegal drug trade or is using illegal drugs;
 - (e) An employee is involved in a work-related automobile accident; or
 - (f) An employee is involved in an incident such as an arrest in the community where an illegal drug or drug activity is indicated.
3. An employee is involved in any work-related incident requiring medical attention.
4. If property damage has occurred and reasonable suspicion exists to believe the employee is under the influence of illegal drugs, alcohol, or any other substance or substances.
5. An employee admits to drug or alcohol abuse.

I. Drug Screen Procedures

1. Pre-Test Interviews

Designated staff shall escort the employee to a private office and conduct a pre-test interview to ascertain and document any recent use of prescription or non-

Policy Number	Effective Date	Page
3.11	May 15, 2024	5

prescription drugs. During the pre-test interview, the employee shall sign an authorization that permits the release of the test or screen results to the management authority. An employee refusing to sign an authorization shall be considered under the influence and shall be dismissed.

2. Privacy

Procedures for collecting urine specimens shall allow privacy unless there is cause for a witnessed collection of urine. If there is cause for a witnessed urine collection, the collection shall be witnessed by designated staff of the same sex as the employee. The following circumstances shall be grounds constituting the need for a witnessed urine collection:

- (a) The individual has altered or substituted a specimen in the past;
- (b) There is reason to believe the individual may alter or substitute a specimen;
- (c) The individual has tested positive and is now testing as part of the disciplinary process;
- (d) The designated staff observes conduct clearly indicating an attempt to substitute or alter the urine specimen;
- (e) The urine specimen falls outside the normal temperature range; or
- (f) The laboratory has determined that the creatinine levels of a previous urine specimen are outside the normal range.

3. Integrity of Specimen

Precautions shall be taken to ensure that the urine specimen cannot be tampered with during the collection process:

- (a) Blueing agents shall be placed in the toilet tanks;
- (b) There shall be no other source of water, if possible, or any other substance in the enclosure where specimens are collected;
- (c) All unnecessary garments such as coats, jackets, sweaters, purses, briefcases, or any other personal items that may be used to conceal items or substances that may be used to alter the urine specimen shall be left outside the collection area;
- (d) The individual shall be instructed to thoroughly wash and dry his hands prior to urination;

Policy Number	Effective Date	Page
3.11	May 15, 2024	6

- (e) There shall be two (2) staff trained to carry out the drug screening procedures at each test site;
- (f) Latex gloves shall be worn by the designated staff at all times during the collection process;
- (g) A collection cup shall be provided to each individual by the designated staff;
- (h) At least 60 ml of urine shall be collected. If an insufficient amount of urine is given for a drug screen and the employee indicates that he is unable to produce more urine at that time, the inadequate sample shall be properly disposed of by the designated staff and a newly labeled specimen bottle shall be used;
- (i) If the employee is unable to urinate, he shall be allowed to drink 8 ounces of liquid per hour and permitted a maximum of four hours to produce the specimen. Failure to produce a specimen after that time shall be considered as under the influence; and
- (j) If an employee is unable to urinate due to a medical condition and a medical statement is obtained by the employee, a blood test shall be done for the drug screen.

4. Identity of the Specimen

- (a) When the urine has been collected, either in private or witnessed, the specimen shall be returned to the designated staff.
- (b) The urine specimen shall remain in plain sight of the submitting employee and the designated staff during the completion of the chain of custody procedures.
- (c) In the presence of the submitting individual, the designated staff shall:
 - (1) Close the urine specimen container and seal the container with evidence tape;
 - (2) Label the urine specimen container and include the submitting individual's initials and social security number;
 - (3) Begin the chain of custody form;

Policy Number	Effective Date	Page
3.11	May 15, 2024	7

- (4) The submitting employee shall initial that his social security number and initials are correct on the specimen and the chain of custody form;
- (5) Place the urine specimen container in a plastic bag and seal with evidence tape;
- (6) Complete the drug testing facilities referral form; and
- (7) Place the chain of custody form and the plastic bag containing the urine specimen into a second plastic bag and seal with evidence tape.

5. Custody and Control

- (a) Staff receiving the urine sample shall deposit the urine sample and the chain of custody form in a secured area until transferred to the custody of the drug testing facility.
- (b) If an outside delivery agent is to deliver a urine sample to the laboratory, the designated staff shall ensure that the sample is released to the delivery agent by signature of staff packaging the sample.
- (c) The laboratory personnel conducting the testing shall sign and date the Chain of Custody certifying that the sample was received intact and was properly identified as the employee's.

6. Analysis Process

- (a) An independent laboratory shall perform the screening test on all specimens.
- (b) The initial test shall be immunoassay testing.
- (c) A positive result shall be confirmed by gas chromatography-mass spectroscopy (GC-MS) and conducted by an independent laboratory.
- (d) Negative samples shall be discarded.
- (e) Samples testing positive after both the screening and confirmation tests shall be considered positive for the purpose of retaining the specimen. The laboratory shall retain positive samples in a frozen state at least 365 days.
- (f) The laboratory shall report the substance or substances for which the urine sample tested positive, if any.

Policy Number	Effective Date	Page
3.11	May 15, 2024	8

7. Notification Process

- (a) The MRO shall review and interpret all confirmed positive test results for the random and reasonable suspicion drug tests submitted to Corrections from the drug-testing laboratory.
- (b) Positive test results for the random and reasonable suspicion drug tests shall be reported to the MRO within five (5) working days of receipt of the specimen.
- (c) Results shall be transmitted to the MRO in a manner designed to ensure confidentiality of the information.
- (d) The MRO shall review the positive test results for the random and reasonable suspicion drug tests prior to the transmission of any positive test results to any management officials. The MRO or designee shall notify the management authority of all positive test results.
- (e) The management authority shall notify the employee by memorandum and schedule a meeting to review a positive result for a random or reasonable suspicion drug test within ten (10) working days of the MRO's receipt of the results. The meeting shall serve as an opportunity for the employee to discuss the test results and provide any additional information that would influence the test results.

J. Final Action

- 1. As stated in CPP 3.1 II. D. (1), Code of Ethics, the Department of Corrections has a zero tolerance for the use of or being under the influence of drugs or alcohol in the workplace. Any employee testing positive for an illegal drug or any drug without a current prescription shall be dismissed.
- 2. Any employee who reports a drug or alcohol problem to management prior to being selected for a random drug test or prior to being informed that he or she will have to submit to a reasonable suspicion drug test, shall be referred by his management authority to participate in an employee assistance program.
- 3. If deemed appropriate by the management authority, the employee may be required to be evaluated for participation in a drug or alcohol abuse assistance or treatment program. If the evaluation results in the recommendation that the employee participate in a drug or alcohol abuse assistance or treatment program, the employee shall successfully complete a drug or alcohol abuse assistance or treatment program.

Policy Number	Effective Date	Page
3.11	May 15, 2024	9

4. Any employee who tests positive for a prescription drug shall submit a current prescription to management within fifteen (15) calendar days of the request. If the employee fails to produce the required prescription within timeframe, it shall be determined the employee does not have a prescription and shall be dismissed.
5. Following an incident such as an arrest in the community, the Department of Corrections may drug test an employee based on reasonable suspicion. An employee that has had an incident in the community shall be subject to disciplinary action up to and including dismissal.

K. Confidentiality

1. Corrections employees and the laboratory involved in any aspect of the drug testing program shall maintain confidentiality.
2. Test results may be used in the disciplinary process. Test results may be used in any litigation or legal action in which the test results become an issue or defense. Test results of an employee shall not be disclosed otherwise without the prior written consent of the employee unless the disclosure would be pursuant to an order of a hearing officer or court of competent jurisdiction.

L. Employee Notification, Training and Education

1. At the initial interview for employment, all applicants for positions covered by this policy shall be informed of:
 - (a) The drug free workplace policy.
 - (b) The drug testing or screening procedures.
 - (c) The requirement of signing an authorization form to release the results of the drug and alcohol test or screen to the management authority.
2. Corrections Training shall provide drug education to all employees covered by this policy. The drug education shall include:
 - (a) Types and effects of drugs;
 - (b) Symptoms of drug use and the effects on performance and conduct;
 - (c) The relationship of the employee assistance program to the drug-testing program;
 - (d) Corrections policy prohibiting the use of illegal drugs and alcohol;
 - (e) The reliability of drug testing; and

Policy Number	Effective Date	Page
3.11	May 15, 2024	10

(f) Other relevant treatment and confidentiality issues.

3. A staff person involved in the collection of urine samples shall be trained in this policy and procedure before the staff person conducts any drug and alcohol testing or screening of employees.