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<b>Section-11 Human Resources</b>	<b>OP-110603</b>	<b>Page: 1</b>	<b>Effective Date: 07/02/2024</b>
<b>Pre-Employment Drug Testing Program</b>	<b>ACA Standards: 2-CO-1C-20</b>		
<b>Steven Harpe, Director</b> <b>Oklahoma Department of Corrections</b>		<b>Signature on File</b>	

## Pre-Employment Drug Testing Program

This procedure, in compliance with the Standards for Drug and Alcohol Testing Act (40 O.S. § 551. et seq.), is established in support of a drug free workplace and to ensure that applicants for agency positions requiring the use of firearms, certification through the Council on Law Enforcement Education and Training, or with responsibilities that require a majority of the workday in direct contact with inmates do not use drugs which may impair their abilities to perform their job duties or discharge their responsibilities. Pre-employment drug testing will be required for applicants in accordance with this procedure. (2-CO-1C-20)

### I. Definitions

#### A. Applicant

All applicants will be required to immediately report for drug testing upon receipt of a conditional offer of employment. For the purposes of this procedure only, the term “applicant” is defined as:

1. Any person who has received a conditional offer of employment with the agency, whether they are a candidate for initial hire to include temporary employees, or
2. A current employee promoting (other than career progression), voluntarily demoting, or transferring to any agency position as listed below:
  - a. Correctional security officer;
  - b. Correctional security manager;
  - c. Correctional chief of security;
  - d. Probation and parole officer;
  - e. Assistant regional supervisor;
  - f. Administrator of Community Corrections;
  - g. Chief administrator of Community Corrections and Contract Services;
  - h. Resident Agent in Charge;
  - i. Inspector General Agent;
  - j. Chief agent;
  - k. Chief analyst;
  - l. Criminal intelligence analyst; and
  - m. Any person whose assigned job duties include driving a commercial motor vehicle.
  - n. Any person whose assigned job duties may include access to or possession of a firearm.

B. Drugs (40 O.S. § 552.6.)

A medicine or other substance, which has a physiological effect when ingested or otherwise introduced into the body, including the following:

1. Marijuana;
  - a. An employee using marijuana for medicinal purposes will possess a valid Oklahoma-issued medical marijuana license.

b. Possession of a valid Oklahoma-issued medical marijuana license does not exempt an employee from drug testing.

2. Cocaine;
3. Amphetamines, including methamphetamines, methylenedioxyamphetamine, methylene-dioxymethamphetamine, and phentermine;
4. Opiates, including codeine, hydrocodone, hydromorphone, meperidine, methadone, oxycodone, propoxyphene, heroin, morphine;
5. Phencyclidine (PCP); and/or
6. A metabolite of any of the substances listed herein.

C. Prohibited Conduct

1. Any confirmed positive test for drugs which has been reviewed and verified by the medical review officer (MRO) for which there is no medically acceptable explanation of the positive result other than the use of drugs and which is either unchallenged or reconfirmed by a test of the split specimen;
2. Any refusal to submit to testing or conduct which interferes with or obstructs the testing process including: any unreasonable delay in reporting to the collection site; any attempted adulteration to or substitution of a sample; or any failure to produce a sample within three hours after requested;
3. Any test result received from the medical review officer indicating a refusal to test, including verification of an adulterated or substituted sample, which is either unchallenged or reconfirmed by a test of the split specimen.
4. Any person using medical marijuana may not occupy a position that requires or may require possession of a firearm, driving a commercial vehicle, maintenance staff, medical staff, or any staff determined as safety sensitive pursuant to the Oklahoma Medical Marijuana and Patient Protection Act (63 O.S. 427.1. et. seq.).
5. Using, possession, or being impaired through use of medical marijuana during work hours.

D. Medical Review Officer (MRO) (40 O.S. § 552.11.)

A person with whom the agency contracts who is qualified by the State Board of Health, who is responsible for receiving results from a testing facility and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information.

II. Notice of Testing Procedures

A. Current Employees

Employees must be provided notification of this procedure or any revisions a minimum of ten days prior to implementation (40 O.S. § 555.B.).

1. All employees will sign for receipt of a copy of this procedure during the enrollment process and following any subsequent issuance containing substantive changes (40 O.S. § 555.B.) utilizing the "Acknowledgement of Receipt OP-110603 entitled Pre-Employment Drug Testing Program" ([Attachment A](#), attached). This document will be filed in the employee's personnel file.
2. A notice advising employees that the agency's policy and procedure regarding pre-employment drug testing, [P-110300](#) entitled "Drug Free Workplace Program" and [OP-110602](#) entitled "For-cause Drug and Alcohol Testing Program", are available on the agency's website, at the human resource office, and will be posted wherever job announcements are located (40 O.S. § 555.B.).

B. Applicants for Initial Hire

All applicants for initial hire with the agency will be furnished a copy of this procedure following receipt of a conditional offer of employment (40 O.S. § 555.B.). The "Acknowledgement of Receipt of OP-110603 entitled Pre-Employment Drug Testing Program" ([Attachment A](#), attached) will be placed in the background investigation file.

III. Drug Testing Methods and Collection Procedures

A. Licensing and Standards

The Central Purchasing Division (CPD) of the Office of Management and Enterprise Services (OMES) will contract for all drug collections and testing with persons and testing facilities meeting the qualifications and standards established by Oklahoma Statute and the State Board of Health (40 O.S. § 557.) and licensed by the State Department of Health (40 O.S. § 558.). No agency employee or any person under the supervision of the agency will be permitted to conduct drug testing of another employee or outside applicant.

B. Sample Collection and Testing

1. Samples for urinalysis will be collected in sufficient quantity for splitting into two separate specimens to provide for subsequent independent analysis in the event there is a challenge to the test of the main specimen (40 O.S. § 559.4.).
2. Direct observation of an applicant/employee in the process of producing a sample is prohibited unless otherwise permitted under rule or law (40 O.S. § 559.5.).
3. All positive results to an initial screening test (immunoassay) will be confirmed using gas chromatography, gas chromatography-mass spectroscopy methods or a scientifically equivalent technique (40 O.S. § 559.8.).
4. The applicant/employee will have an opportunity to provide any information that the employee considers relevant to the test, including identification of currently or recently used prescription or non-prescription drugs (40 O.S. § 559.6.b.). Such opportunity will be provided, if the need arises, when the employee is contacted by the MRO.
5. All samples will be properly labeled, stored and transported and a written chain of custody will be maintained (40 O.S. § 559.6.a., 40 O.S. § 559.7., and 40 O.S. § 559.9.).
6. The agency will not consider the results of any unauthorized testing.

IV. Testing Protocol

A. Coordination

1. The Central Human Resources unit will coordinate the agency's drug-free workplace program and furnish each facility/unit with a list of the vendor's collection sites and the name of the MRO.
  - a. Will schedule appointments for the individual with suggested dates.
  - b. Will email individual, local Drug-Free Workplace Coordinator electronic instructions for drug testing;
    - (1) Date and time
    - (2) Location
  - c. Provide local Drug-Free Workplace Coordinator with results.

## 2. Local (facility/unit) Drug-Free Workplace Coordinators

The human resource management specialist (HRMS) or human resource representative for the facilities/units will normally serve as the local (facility/unit) drug-free workplace coordinators. Coordinator responsibilities will include:

- a. Periodic contact with the local collection site(s) to determine ability to deliver appropriate services;
- b. Appointments will be scheduled to allow ample time for the employee to travel to the testing site and complete the test within the business hours established by the collection site;
- c. Ensuring that employees are provided the instructions for reporting for drug testing;
- d. Assisting the MRO in contacting the employee for purposes of verifying test results. When contacted by the MRO, drug-free workplace coordinators must:
  - (1) Make a minimum of three attempts, spaced reasonably apart, during the 24-hour period following receipt of a request from the MRO for assistance. The dates and times of all attempts or contact will be documented;
  - (2) If personal contact is made, the employee will be advised to contact the MRO within 72 hours and that failure to contact will result in a report for either a positive test or failure to test;
  - (3) If attempts at personal contact fail, this information will be provided to the employee by a practicable alternative means (voice mail, e-mail, letter);
  - (4) The MRO will be notified of the date and time that either personal contact was made or a message was provided to the employee; and
  - (5) The confidentiality of these activities will be maintained.
- e. Forwarding any invoices or test results received, and reporting any problems with the collection sites, to the Central Human Resources unit to the attention of the agency drug-free workplace coordinator; and
- f. Conducting annual evaluations of the collection sites in his/her respective area and forwarding completed site

evaluations to the Central Human Resources unit to the attention of the agency drug-free workplace coordinator. The "Collection Site Evaluation Form" ([Attachment B](#), attached) will be utilized to conduct site evaluations.

B. Pre-Employment Drug Testing

1. All new employees to include temporary employees with a more than 30-day break in service will be required to report for drug testing and have confirmed results prior to entry on duty.

2. Testing Requirement

Following a conditional offer of employment, promotion, transfer, or voluntary demotion, and prior to entering on duty or assuming the job duties of the new position, all applicants as defined by Section I. items A.1.-2. of this procedure will be directed to immediately report for drug testing. The applicant will be notified that a refusal or inability to produce a specimen will be considered a failed test. Additionally, any unreasonable delay in reporting to the collection site will be considered a failed test.

3. Cost/Time

- a. The agency will pay the cost of any test the applicant is directed to take under this procedure (40 O.S. § 556.).
- b. For current employees, all testing will occur during or immediately after the employee's regular assigned work hours and will be considered work time (40 O.S. § 556.). Transportation will either be furnished or reimbursement provided in accordance with the State Travel and Reimbursement Act.

C. Test Results

The Central Human Resources unit agency drug-free workplace coordinator will notify the facility/unit HRMS and/or the Central Office Placement unit of the test results.

V. Post-Testing Procedures

A. Applicant Challenge of Test Results

An applicant may request that the MRO have the split specimen tested by a second laboratory within 72 hours of receiving notification from the MRO of a verified confirmed drug test result that is positive, adulterated, or substituted.

1. The applicant is responsible for the cost of this test. Should the results fail to confirm the results of the primary specimen, the agency will reimburse the applicant for the cost of the test.
2. No result from split-specimen testing which is conducted due to a request from an applicant occurring more than 72 hours after MRO notification will be accepted.

B. Personnel Actions

1. Applicants for Initial Hire

Applicants who engage in conduct prohibited by Section I. item C. of this procedure will not be hired. In addition, the applicant may not make application for employment with the agency for one year from the date of the test result.

2. Current Employees

Promotions will not be effective prior to receipt of a drug test result.

Employees who engage in prohibited conduct as defined in Section I. item C. of this procedure will be terminated from their employment with the agency. All terminations will be in accordance with [OP-110415](#) entitled "Progressive Disciplinary Procedures" and all applicable Personnel Administration Rules.

3. Positive Marijuana Drug Test with valid Medicinal Marijuana Card

Any applicant or employee mentioned in Section I. C. item 4 of this procedure who tests positive for marijuana with a valid medicinal marijuana card will be given the opportunity to relinquish their medicinal marijuana card. The applicant or employee will have 30 days to provide proof their card is no longer valid and pass another drug test.

VI. Confidentiality of Records

A. Maintenance of Records

All drug test results and related material will be held as confidential and maintained separately from the personnel file in the Central Human Resources unit.

Negative test results will be maintained for a period of two years and positive test results or records of refusals to test will be maintained for a period of five years (or longer if legal action is pending) (49 CFR § 382.401.). Destruction of test results will be in accordance with [OP-020202](#) entitled "Management of Office Records."

B. Release of Records

Records of drug testing will be used or released only:

1. For the purpose of any action taken by the agency or in any action involving the applicant tested and the agency (40 O.S. § 560.);
2. Pursuant to a valid judicial or administrative order (40 O.S. § 560.A.);
3. To the applicant/employee upon their written request (40 O.S. § 560.A.2.); or
4. To any person upon the written permission of the applicant (40 O.S. § 560.A.).

VII. References

Policy Statement P-110300 entitled “Drug-Free Workplace Program”

OP-020202 entitled “Management of Office Records”

OP-110415 entitled “Progressive Disciplinary Procedures”

OP-110602 entitled “For-cause Drug and Alcohol Testing Program”

40 O.S. § 551. et seq.

40 O.S. § 552.6, 40 O.S. § 552.11., 40 O.S. § 555.B., 40 O.S. § 556, 40 O.S. § 557., 40 O.S. § 558., 40 O.S. § 559.4., 40 O.S. § 559.5., 40 O.S. § 559.6.a., 40 O.S. § 559.6.b., 40 O.S. § 559.7., 40 O.S. § 559.8., 40 O.S. § 559.9., 40 O.S. § 560.2., 40 O.S. § 560.A.v

63 O.S. § 427.1

49 CFR § 382.401.

VIII. Action

The facility/unit heads are responsible for compliance with this procedure.

The administrator of Human Resources is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: OP-110603 entitled "Pre-Employment Drug Testing Program" dated February 24, 2022

Distribution: Policy and Operations Manual  
Agency Website

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
<a href="#">Attachment A</a>	“Acknowledgement of Receipt, OP-110603 entitled “Pre-Employment Drug Testing Program”	Attached
<a href="#">Attachment B</a>	“Collection Site Evaluation Form”	Attached
<a href="#">Attachment C</a>	“Authorization for Examination and Testing”	<a href="#">OP-110602</a>

