



Arkansas Parole Board
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ADMINISTRATIVE DIRECTIVE: 10-02 DRUG-FREE WORK PLACE

TO: ARKANSAS PAROLE BOARD

FROM: LEROY BROWNLEE, CHAIRMAN

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SUPERSEDES: N/A

APPROVED: SIGNATURE ON FILE EFFECTIVE DATE: April 7, 2010

- I. APPLICABILITY.** This directive applies to Arkansas Parole Board (APB) employees, extra help, interns, and applicants who have received a conditional offer of employment.
- II. POLICY.** The APB is committed to adhering to all laws regarding possession and use of prohibited drugs, providing a safe work environment and fostering the well-being and health of workers. The APB prohibits the unlawful manufacture, purchase, distribution, dispensing, possession, or use of prohibited drugs by employees, extra help, interns, volunteers, and contractors.

This policy sets standards and procedures for the APB drug testing program, as conducted by the Department of Community Correction (DCC) to ensure drug testing is conducted in a fair and impartial manner, and to provide appropriate procedural safeguards to protect the reliability and confidentiality of test results. The APB drug testing program will aid worker and public safety, advance workplace security, and promote public trust in the APB.

III. DEFINITIONS.

- A. Chain of Custody.** Procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen, using a DCC approved chain of custody form.
- B. Collection Site.** Any APB designated location where workers (see definition) present themselves for the purpose of providing a specimen of their urine, breath, or saliva to be analyzed for the presence of drugs or alcohol.
- C. Confirmatory Test.** A second analytical procedure performed to identify the presence of a specific drug or metabolite. The confirmatory test is independent of the screening test and uses a different technique and chemical principle in order to ensure reliability and accuracy.

- D. Controlled Substance.** A drug, substance, or immediate precursor in Schedules I. through VI, as defined in Ark. Code Ann. §5-64-101.
- E. Documented Drug or Alcohol Abuse History.** Any reported history of drug abuse or alcohol abuse for which the individual must maintain recovery as a condition of employment; criminal history records; or internal drug testing records.
- F. Drug Testing Coordinator (DTC).** The DCC employee who is trained and authorized to administer the drug test, collect samples for testing and/or conduct screening tests for substance abuse and to submit urine specimens for confirmatory testing by the lab. The DTC compiles management information reports on drug test activity.
- G. Parole Board Investigator.** The individual responsible for administering the drug testing program. The Investigator will also coordinate and schedule appropriate persons for follow-up testing.
- H. Medical Review Officer (MRO).** A licensed physician who is responsible for evaluating, interpreting and providing results of drug and alcohol tests.
- I. Observation.** There are two types of observation, direct and indirect. **Direct Observation** is visualization of the urine stream leaving the body and entering the test cup. **Indirect Observation** means presence in the immediate area balancing the need for privacy with prudent measures for preventing adulteration or substitution of samples.
- J. Prohibited Drug.** Any illicit drug or misused prescription or over-the-counter drug. Alcohol is a prohibited drug when the amount of alcohol in a person's system exceeds the cutoff level while in duty status or when it is consumed during the workday, including the lunch period.
- K. Random Testing.** Workers are selected without plan or purpose and are tested on an unannounced basis. The selection mechanism results in an equal probability that any worker from a group of workers will be selected. The methodology used prevents supervisor or worker discretion to waive or influence the selection of any person.
- L. Reasonable Suspicion.** An opinion of possible use or abuse of a prohibited drug based on observed behavior or appearance that is characteristic of alcohol or drug use, such as, but not limited to a pattern of one or more of the following: observed decrease in the level of work performance, misconduct, excessive absenteeism and tardiness, history of valid complaints from supervisors or colleagues about poor work performance, reports of drug involvement from reliable sources or other documented acts of omission or commission often associated with drug or alcohol abuse, and excessive use of sick leave.
- M. Safety/Security Sensitive Positions.** This includes all Commissioners and Support Staff.
- N. Screening Test.** A preliminary test used to eliminate "negative" urine specimens from further consideration. Specimens that test "positive" on the screen are subject to a confirmation test.

- O. Substance Abuse Test.** A test administered for the purpose of determining the presence or absence of a prohibited drug or the metabolites of a prohibited drug in a person's bodily fluids.
- P. Under the Influence.** A person with a confirmed positive drug or alcohol test result is considered to be under the influence.
- Q. Use (of prohibited drug).** The inhalation, injection, ingestion or the presence of a specific prohibited drug(s) or its metabolites in the body or body fluids.
- R. Workers.** APB employees, extra help, and interns.

IV. TESTING PROCEDURES, CONFIRMATION AND DOCUMENTATION. Workers to be tested will show photo identification upon request of the DTC. Urine specimens will be collected in a manner reasonably calculated to address privacy considerations, while preventing the substitution, contamination and adulteration of specimens. Chain of custody procedures will be followed to preclude the possibility of erroneous identification of test results.

A. Test Conditions and Whom to Test. Testing shall not be used to harass, punish or discipline, nor shall it be administered based on race, color, sex, religion, age, national origin, pregnancy, or disability. Specimen collection procedures will include minimizing the number of persons handling specimens and using the chain of custody to precisely record sample transfers from one person to another. A person to be tested will be allowed privacy during collection unless there is reason to believe that he or she may alter or substitute the specimen. Measures will be taken to ensure specimens are unadulterated and correctly identified. A Medical Review Officer (MRO) will make a final review of positive lab results by scrutinizing for possible alternate explanations and conducting necessary medical interviews with the tested worker (and his or her physician, if appropriate) concerning prescription medicines, medical history or review of other relevant factors. Employee Drug Testing will be as follows:

1. **Conditional Employees.** All applicants/newly-hired employees, including rehires, who receive conditional offers of employment with the APB, will be tested.
2. **Reasonable Suspicion.** Reasonable suspicion testing will be conducted as soon as the facts and circumstances leading to suspicion of prohibited drug or alcohol use are gathered. The supervisor will coordinate with the DTC for testing instructions. This testing activity should be reported to the Chairman of the Parole Board. Regardless of the test result, the reason for such testing must be recorded by the Board Investigator and submitted to the Chairman of the Board and to Human Resources as soon as possible but no later than 72 hours following testing. Reasonable suspicion testing does not require certainty but "hunches" are not sufficient to meet this standard. Circumstances which may support reasonable suspicion may include some or all of the following:
 - a. observation of possession or use of a prohibited drug or paraphernalia or manifestations of being under the influence of a prohibited drug or alcohol, or other such observations;
 - b. abnormal conduct or erratic behavior while at work;

- c. excessive absenteeism or frequent absences on Mondays, Fridays, payday or the day after;
 - d. frequent worker' compensation claims;
 - e. frequent tardiness;
 - f. deterioration in work performance;
 - g. a report of prohibited drug use provided by a reliable and credible source; evidence or suspicion of or tampering with the drug test;
 - h. evidence that a worker is involved in the possession, sale, solicitation, manufacturing or transfer of prohibited drugs;
 - i. evidence that a worker is being treated for substance abuse.
6. Follow-Up Testing. Follow-up testing, for a period not to exceed two years as determined by the immediate supervisor, may be conducted as a condition of employment or continued employment where a worker is drug-free but has a documented drug history. This category of testing is in addition to random testing and will be conducted on an irregular basis by the supervisor or designee.
 7. Random Testing. Random testing will be conducted of all APB workers using a neutral selection process. Random test schedules will be produced and will be made known on the date of the test only by the DTC, supervisors as necessary and scheduled workers. When departing the worksite for testing, workers are responsible for properly accounting for their time to their supervisor.

B. Testing for Prohibited Substances.

1. General. The APB requires substance abuse testing of urine, saliva, and/or breath for cocaine, marijuana metabolites, opiates, phencyclidines (PCP), amphetamines, and alcohol. A contractor, local sheriff, or other trained police agency with evidentiary breathalyzer trained personnel, may be asked to conduct breathalyzer confirmation of a positive saliva alcohol test. Initial drug screen testing will be conducted by authorized APB personnel. Following drug screen testing, all positive urine specimens or challenged results will be submitted for confirmatory testing to a Substance Abuse and Mental Health Services Administration (SAMHSA, formerly NIDA) approved lab.
2. Issuance of APB firearm. APB employees who will be issued a firearm must be tested for both drugs and alcohol prior to being issued a firearm. This includes newly hired employees and employees rehired into a position where a firearm will be issued.
3. Selection of Workers for Testing. All workers will be grouped for test scheduling. Workers will be randomly chosen for periodic testing using a computer based selection system. No worker will be given advance notice of an impending test. If a worker is on duty, there are very few reasons, if any, why they should not be tested. The Board Investigator will notify the workers to be tested. Workers will report to the Board Investigator at the time given to the worker and will be escorted to the collection site for testing with the Board Investigator. Testing schedules for workers identified for follow-up will be managed by the Board Investigator on a random but individual basis in a similar manner as described above. Testing of workers for other reasons will not excuse them from random testing when selected.

- C. Failure or Inability to Produce Specimen.** A worker shall remain at the test site until a sample is produced or the end of the work day, whichever comes first. If the worker is unable to produce a sample on the day requested, the worker must contact the Board Investigator. The Board Investigator will contact the Chairman of the Parole Board for further instructions.
- D. Adulteration/Attempted Adulteration of Sample.** If it is determined that a worker adulterated or attempted to adulterate a specimen collected for substance abuse testing the worker is subject to the same discipline as a worker who has a confirmed positive test.
- E. Proper Use of Prescription Medications.** APB supports accepted medical practices with the assumption that prescription medications will be taken as directed, by those for whom it was prescribed, for the problem diagnosed. If a worker chooses to take medication prescribed for a spouse or other family member, it is the worker's responsibility to contact his/her physician and obtain the doctors approval. Failure to comply with specific medical directions may leave a person without a "valid" explanation of the presence of a controlled substance in case of a positive drug test.
- F. Validating Test Results.** Following specimen testing, positive results will be forwarded to the MRO. The MRO may also be provided results of a screening saliva test along with confirmatory evidentiary breath results for review. The MRO will confidentially contact the worker. If the worker cannot be reached at the number provided, the MRO will call the Board Investigator for assistance. The MRO may question the worker concerning use of prescription drugs and medical treatments which may have impacted the positive test result. Prescriptions and/or treatments reported by the tested worker may be verified by the MRO with the pharmacy or doctor as appropriate. Workers are responsible to provide the MRO medical information which may explain a positive test result. Workers are also responsible to cooperate fully with the verification process. Failure to cooperate will result in a "reported positive" test result. If the worker cannot be contacted within three (3) work days the MRO will report a positive test result. Where there is a legitimate medical explanation for a positive test, the result will be reported by the MRO as a negative test result.

The MRO will maintain confidentiality throughout all phases of his or her involvement and will discuss a worker's medical information only with the worker and other medical officials as necessary to verify information provided. The MRO will provide the DTC with a positive or negative test result and information on adulterants or possible attempted dilution. Valid positive drug test results for any of the following drugs: marijuana metabolites; cocaine metabolites; amphetamines; opiate metabolites; or phencyclidine (PCP); or the submission of an adulterated, diluted, or substituted specimen on a performed test.

- G. Consequences of Positive Test or Refusal to Test.** A refusal to test for a prohibited substance will be treated as a positive test result. A confirmed positive test result or refusal to test by an applicant or employee will result in withdrawal of the conditional offer of employment or termination of employment. Services of interns and extra help will be terminated and entry on APB premises denied for a confirmed positive test result.

H. Confidentiality. Every worker is responsible to respect the privacy of coworkers and to maintain strict confidentiality regarding drug or alcohol test results. This means only those persons managing the drug testing program and those in the worker's chain of supervision with a need to know may be informed or granted access to an individual's test results. The DTC may report unidentifiable aggregate test results for use by management. Results of individual substance abuse tests may be released as follows:

1. To the worker;
2. To the worker's supervisory chain (based on a need to know);
3. Pursuant to a court order;
4. To medical personnel for the purpose of meeting medical emergencies of the worker or for medical review as part of the substance testing process;
5. To APB Human Resource Section for the confidential employee file;
6. To law enforcement agencies, to an employer, and/or the Parole Board Investigator for investigations; and
7. To other parties upon the written consent of the worker.

V. SUBSTANCE ABUSE ASSISTANCE.

A. Employee Requests for Assistance. An employee in a position other than a safety/security sensitive position may come forward at least twenty-four (24) hours prior to gaining knowledge of or being notified of a scheduled test and admit an alcohol or drug problem to his or her supervisor and request referral to the Employee Assistance Program (EAP). Alternatively, the employee may choose to enroll, at his or her own expense, in a drug treatment program licensed or approved by the Arkansas Bureau of Alcohol and Drug Abuse Prevention (ABADAP) or a program licensed by another state. Employees in safety/security sensitive positions may come forward only with alcohol problems in accordance with this guidance. The employee admitting use will be tested immediately. The supervisor will note the time and date of the employee request and report this information to the Board Investigator. Based upon the testing result, one of the following will occur:

1. If the test is positive, the employee will be required to go on leave without pay status or choose to use any accrued annual, holiday or compensatory leave. The Board Investigator will notify the DTC and request that the employee be placed in follow-up testing (at his or her expense) as part of the treatment program with the results provided confidentially to the Board Investigator. The employee's job position will be held available for the employee for no more than 30 calendar days. The employee may return to work within the 30 days following negative test results reported to the supervisor. On return to work, the employee will be subject to all conditions for testing, reasonable suspicion, follow-up and random testing. Any subsequent confirmed positive test will result in immediate termination of employment. The employee must successfully complete the treatment program and have the results reported to the Board Investigator within 10 work days of completing the program.
2. If the test is negative, the employee may be allowed to continue at work, enter into drug treatment through EAP and/or a licensed treatment program and be subject to drug testing at his or her own expense through the treatment program.

Drug test results will be provided confidentially to the Board Investigator. The Board Investigator will confidentially report the results to the Chairman. The employee will continue to be subject to all conditions for testing. Any subsequent confirmed positive test will result in immediate termination of employment.

- B. Unreported Employee Treatment.** If the Board Investigator learns of any employee's enrollment in a substance abuse treatment program that has not been reported to him/her by the employee, such knowledge may be used as a basis for reasonable suspicion testing. If positive, employment shall be terminated. If negative, the procedures in Section A, sub-paragraph 2.
 - C. Treatment Program Completion.** Evidence of successful completion of a substance abuse treatment program does not guarantee employment.
 - D. Notice of Substance Abuse Testing.** Advertisements for vacant positions will identify APB as a Drug-Free Workplace. Job Vacancy Announcements will state that applicants offered conditional employment will be drug tested. Workers will be provided access to this administrative directive and will sign a statement indicating his or her reading and understanding of the contents, which will be maintained in the employee's personnel file.
 - E. Hiring Applicants with a Documented Drug/Alcohol Abuse History.** The APB will not discriminate against applicants for employment because of a past history of substance abuse. Individuals who have failed a pre-employment drug test may reapply after a period of one year but must present themselves drug-free. Such applicants, if employed, are subject to follow-up testing for two years as described above.
- VI. NOTIFICATION AND INVESTIGATION.** When there is reasonable suspicion of illegal activity, APB guidance for reporting and investigating incidents should be followed. Information that may indicate illegal activity will be reported to the Board Investigator and the Chairman of the Parole Board.
- VII. APPEAL/GRIEVANCE.** Positive test results are not a matter for appeal or grievance unless discrimination or improper application of this directive is claimed as the reason for a positive test result. Refer to the agency's Grievance Policy for specific information on that process.

Attachments:
AD 10-02 Formal Employee Acknowledgement

Employee Acknowledgement of Drug-Free Work Place Policy

Please acknowledge by signing that you have received, read, and understood the Arkansas Parole Board Policy: **10-02 Drug-Free Work Place**

All employees or officials of the Arkansas Parole Board are responsible for complying with all pertinent policies. The Fiscal Support Supervisor will place a signed copy of this form in your personnel file.

This form must be signed and returned to the Fiscal Support Supervisor within five work days after receipt of the above policy.

Employee Confirmation:

PRINT NAME DATE SIGNATURE

Supervisor Confirmation:

PRINT NAME DATE SIGNATURE