



ADMINISTRATIVE POLICIES
AND PROCEDURES
State of Tennessee
Department of Correction

Index #: 302.12

Page 1 of 16

Effective Date: January 1, 2022

Distribution: A

Supersedes: 302.12 (8/1/19)
PCN 21-9 (5/15/21)
PCN 20-2 (2/15/20)

Approved by: Lisa Helton

Subject: DRUG-FREE WORKPLACE

- I. AUTHORITY: TCA 4-4-103, TCA 4-3-603, TCA 4-3-606, TCA 39-16-201, TCA 41-1-121, TCA 50-9-101, et seq, TCA 50-9-105, and Tennessee Administrative Compilation (TAC) 0800-2-12.
- II. PURPOSE: To enhance professionalism and safety by promoting a drug-free workplace within the Tennessee Department of Correction (TDOC).
- III. APPLICATION: To all TDOC employees.
- IV. DEFINITIONS:
 - A. Adulterated Sample: Any sample that appears to have evidence of dilution, contamination, or tampering, before, during, or after the test collection with laboratory confirmation of the specific adulterant.
 - B. Alcohol: Has the same meaning as in the federal regulations describing procedures for the testing of alcohol by programs operating pursuant to the authority of the United States Department of Transportation as currently compiled at 49 Code of Federal Regulations (CFR) Part 40, as the same may be revised from time to time.
 - C. Alcohol Testing: The analysis of breath, blood, or any other analysis which determines the presence and level or absence of alcohol as authorized by the U.S. Department of Transportation in its rules and guidelines concerning alcohol testing and drug testing.
 - D. Applicant: A person who has applied for a safety-sensitive position within the Tennessee Department of Correction and has been offered employment conditioned upon successfully passing a drug test, and may have begun work pending the results of the drug test.
 - E. Appointing Authority: A commissioner, warden or superintendent having power to make appointments to, and separations from, positions in state service.
 - F. Cancelled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is otherwise required to be cancelled. A cancelled test is neither a positive nor a negative test.
 - G. CAP-FUT Program: The College of American Pathologists-Forensic Drug Testing accreditation program.
 - H. Chain of Custody: The methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for specified materials or substances, and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

Effective Date: January 1, 2022	Index # 302.12	Page 2 of 16
Subject: DRUG-FREE WORKPLACE		

- I. Confirmation Test: A second analytical procedure to identify the presence of alcohol or a specific drug or its metabolites in a specimen.
- J. Conviction: A finding of guilt, including a plea of nolo contendere and/or imposition of sentence, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- K. Drug: Any chemical or substance subject to testing pursuant to toxicology testing regulations adopted by the United States Department of Transportation.
- L. Drug-free Workplace: A site for the performance of work done in connection with an employee's job whereby employees are prohibited from engaging in unlawful manufacture, distribution, dispensing, possession, or use of alcohol or drugs.
- M. Drug Test or Drug Testing: A chemical, biological or physical instrumental analysis administered by a laboratory authorized to do so pursuant to TCA 50-9-101 et seq., for the purpose of determining the presence or absence of a drug or its metabolites pursuant to regulations governing drug testing adopted by the United States Department of Transportation or such other recognized authority approved by rule by the Commissioner of Labor and Workforce Development.
- N. Employee: For purposes of this policy, any person employed full-time or part-time by the TDOC including interns and volunteers.
- O. Employee Assistance Program (EAP): An established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services regarding employee drug or alcohol abuse/use; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program and require monitoring after returning to work.
- P. Fitness-for-Duty: For purposes of this policy, Fitness-for-Duty refers to a test performed by a licensed professional medical provider skilled and qualified to do fitness evaluations for physical and/or psychological impairments, to ensure that individuals are able to perform their duties in a safety sensitive position.
- Q. Immediate Medical Treatment: For the purpose of this policy only, the management and care of a patient by a licensed medical or mental health provider (in a clinical setting or through tele-health services) for the purpose of combating disease, injury or disorder; to include but not limited to use of medication, immunizations, first aid, use of closing devices or immobilization devices, physical therapy or psychotherapy, chiropractic treatment, surgical procedures, etc. as prescribed by the medical or mental health provider.
- R. Initial Drug or Alcohol Test: The first alcohol or drug-screening test to determine the presence or absence of alcohol or drugs or their metabolites in a specimen(s).
- S. Invalid Sample: Any sample that appears to have evidence of dilution, contamination, or tampering, before, during, or after the test collection, if the laboratory cannot confirm the specific adulterant.

Effective Date: January 1, 2022	Index # 302.12	Page 3 of 16
Subject: DRUG-FREE WORKPLACE		

- T. Medical Review Officer (MRO): A licensed physician employed by the State contracted Third Party Administrator (TPA) who has knowledge of substance use disorders, laboratory testing procedures, and chain of custody collection procedures who verifies positive and confirmed test results. This individual possesses medical training to interpret and evaluate positive test results in relation to the employee's/applicant's medical history or other relevant biomedical information.
- U. Metabolite: A substance that takes part in the process of metabolism. Metabolites are produced during metabolism or are constituents of food or substances taken into the body. When screening for drugs, laboratory personnel look for what is left in the urine after the body has broken down a complex drug into smaller pieces, i.e., they will find metabolites of the drug, not the original drug.
- V. Prescription or Non-Prescription Medication: A drug prescribed for use by a duly licensed physician, dentist, or other medical practitioner who is licensed to issue prescriptions or a drug that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, and/or injuries.
- W. Reasonable Suspicion: A belief based on specific, objective, articulable facts and the reasonable inferences that may be drawn from those facts, or knowledge sufficient under the circumstances, to cause an ordinary prudent and cautious person to believe that an employee used or is using illegal drugs, is misusing prescription drugs or is under the influence of alcohol.
- X. Reconfirmation Test: A third analytical procedure, paid for by the employee, to identify the presence of alcohol or a specific drug or its metabolites in a specimen.
- Y. Return to Duty Testing: For purposes of this policy only, the re-testing of an employee, prior to his/her returning to the workplace, after previously testing positive for the presence of drugs or alcohol.
- Z. Safety-Sensitive Position: A position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations or work with controlled substances, or a position in which momentary lapse in attention could result in injury or death to themselves or another person.
- AA. Substance Abuse and Mental Health Services Administration (SAMHSA): A Federal agency within the U.S. Department of Health and Human Services created to focus attention, programs, and funding on improving the lives of people with or who are at risk for mental and substance use disorders.
- BB. TDOC Site Manager: For purposes of this policy only, Wardens/Superintendents for prisons, Superintendent for the Tennessee Correction Academy (TCA), District Directors for probation/parole offices, Directors for Day Reporting Centers, Office of Inspector General, Office of Investigation and Conduct (OIC), Major Maintenance, Institutional Integrated Technology Services, and Central Office; or designee(s).
- CC. Third Party Administrator for Drug and Alcohol Testing (TPA): The company contracted by the Tennessee Department of Correction to handle drug and alcohol testing, collection of

Effective Date: January 1, 2022	Index # 302.12	Page 4 of 16
Subject: DRUG-FREE WORKPLACE		

specimens, chain-of-custody, laboratory processes, and MRO follow-up for TDOC employees and applicants.

- DD. Zero Tolerance: Appropriate employee disciplinary or corrective action, up to or including termination, upon the confirmation of the illegal use of impairing substance(s), or the use of alcohol while in the workplace, by the employee.
- V. POLICY: The TDOC is committed to a drug-free environment and will implement an employee drug testing program to assist in that effort. The Department shall maintain a zero tolerance for the illegal use of impairing substances on or off the job and the use of alcohol on the job.
- VI. PROCEDURES:
- A. The Department's Drug-Free Workplace program will conform to the requirements of TCA 50-9-101 through 50-9-114 and the Rules of the Tennessee Department of Labor and Workforce Development, Division of Workers' Compensation, Drug-Free Workplace Programs, TAC 0800-2-12.
- B. Each employee shall be required to certify his/her acknowledgement of this policy and the action to be taken if a violation occurs by using the Acknowledgement of Receipt of TDOC Drug-Free Workplace Policy, CR-3679. The signed acknowledgement shall be maintained in the employee's human resources file. Copies of these acknowledgement forms may be obtained through the Human Resources Division.
- C. Employees shall be made aware of the Employee Assistance Program (EAP) and encouraged to seek assistance with any drug or alcohol related problems. All EAP procedures are to follow Policy #305.05.
1. An employee, who believes he or she has a substance use issue, may contact his or her supervisor and/or the Human Resources department for a referral to the EAP (See Policy #305.05) and begin a treatment process without penalty. Human Resources will review the EAP documentation and suggest accommodations as necessary.
 2. Once the employee enters the EAP he or she must sign a release of information with the EAP to provide to the TDOC information concerning the employee's assessment, any recommended job restrictions, and progress made with the substance use issue in order to participate in the process without penalty. All employees who enter the EAP shall submit to follow-up testing as indicated in Section VI. (C) (5) of this policy.
 3. Once an employee has entered a drug/alcohol treatment program if he or she is found to be non-compliant with the program requirements, follow-up testing may be conducted and appropriate disciplinary action may be taken, up to and including dismissal.
 4. Once an employee is informed of any form of impending drug test, he/she does not have the option of going to supervisors and/or Human Resources at that time seeking help through EAP to avoid discipline before the pending drug test is completed. EAP services are available to the employee for all other issues except to avoid drug testing after the employee has been notified of an impending drug test.

Effective Date: January 1, 2022	Index # 302.12	Page 5 of 16
Subject: DRUG-FREE WORKPLACE		

5. An employee who, in the course of employment, enters an Employee Assistance Program for a drug or alcohol related problem or enters a drug or alcohol rehabilitation program shall be required to submit to drug and/or alcohol testing, as appropriate, as a follow-up to such program. Such testing shall be scheduled by the appropriate TDOC Site Manager/designee and shall occur at least quarterly for a two-year period after successful completion of the program. No advance notice of a follow-up testing date shall be given to the employee.

D. As a condition of employment or continued employment an employee shall not:

1. Use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
2. Work or report to work impaired or while possessing in his or her body, blood, or urine, illegal drugs in any detectable amount.
3. Report to work under the influence of or impaired by alcohol.
4. Use prescription drugs illegally, including using prescription drugs that have not been legally obtained or using prescription drugs in a manner or for a purpose other than as prescribed.
5. Tamper with a drug test being administered pursuant to this policy.
6. As a condition of continued employment, an employee who is arrested for or charged with any criminal drug offense shall notify his or her supervisor or the TDOC Site Manager, no later than one working day after such arrest or charge. If notification is made to the supervisor, the supervisor shall notify the TDOC Site Manager. (See Policy #302.06)
7. If an employee is convicted of violating any criminal drug statute or offense that involves the use of or possession of drugs or alcohol, he/she shall be subject to disciplinary action up to or including termination. If he/she is not terminated, the Department shall also require the employee to successfully complete a drug use treatment program sponsored by an approved private or governmental institution and submit to follow-up testing, as described in Section VI.(C) of this policy.
8. Employees who are confirmed to have a positive drug screen result, who refuse a required drug screen, or who are found to have an adulterated sample are subject to disciplinary action up to and including termination. The TDOC Site Manager shall be notified of these confirmed results and disciplinary action should occur in a timely manner, preferably within one week, provided there are no extenuating circumstances. The employee shall not be allowed to return to duty until having a negative result on a return to duty test as described in Section VI.(H)(7) of this policy.

E. Types of Testing

1. Applicant Drug Testing: Applicants will be notified of any drug testing requirements on vacancy announcements. All applicants, (including interns, and volunteers) for safety-sensitive positions within the Department will be required to submit to a drug test after a

Effective Date: January 1, 2022	Index # 302.12	Page 6 of 16
Subject: DRUG-FREE WORKPLACE		

conditional offer of employment. A confirmed positive result or a refusal to test shall be grounds for non-selection or termination. Unacceptable test results shall be valid for one year. Candidates shall not be eligible for reconsideration until the one-year period has elapsed.

2. Reasonable Suspicion Drug and Alcohol Testing: Employees shall be required to submit to drug and/or alcohol testing as a condition of continued employment in any case in which an individualized “reasonable suspicion” exists that the employee uses illegal drugs and/or is misusing prescription drugs or is using alcohol on the job. A supervisor may recommend a reasonable suspicion drug or alcohol test be conducted; however, the test must be authorized by the appointing authority/designee prior to the test being administered. This may be based upon the following reasons:
 - a. Observable phenomena, such as direct observation of drug or alcohol use or possession or the physical symptoms of being impaired by a drug or alcohol;
 - b. A pattern of abnormal conduct or erratic behavior;
 - c. The identification of an employee as a suspect in a criminal investigation involving drug possession, use, distribution, or trafficking;
 - d. Information provided by reliable and credible sources, as determined by the appointing authority/designee, or independently corroborated by methods to include but not limited to audio or video recorded evidence;
 - e. Newly discovered information indicating that the employee may have tampered with a previous drug or alcohol test.
 - f. Additional procedures:
 - (1) If any employee is suspected of impairment or of using drugs or alcohol, the appropriate appointing authority/designee, supervisor and/or OIC shall gather all information, facts, and circumstances leading to and supporting this suspicion and shall document all the information used in forming the basis for testing. The appropriate appointing authority/designee shall notify the employee through the Reasonable Suspicion of Substance Use Testing Notice, CR-3676, that he or she must submit to testing. The written report of the appropriate appointing authority/designee, supervisor and/or OIC shall become part of the file created and maintained by human resources managers/designees for each reasonable suspicion drug/alcohol test ordered. The TDOC Director of Human Resources/designee must be notified within one business day of all reasonable suspicion test conducted.
 - (2) A staff member of the TDOC shall escort the employee to a test location where the initial test shall be conducted, at an approved collection site and processed by a certified laboratory.

The Human Resources staff or the Third Party Administrator (TPA) can advise of the location of an approved collection site. The appropriate TDOC Site Manager shall identify staff member(s) who shall provide

Effective Date: January 1, 2022	Index # 302.12	Page 7 of 16
Subject: DRUG-FREE WORKPLACE		

escort for any employee who is to be tested due to reasonable suspicion. Procedures for the collecting and testing of urine specimens as well as the reporting and reviewing of results shall be in accordance with Sections VI.(G thru I) below.

- (3) If the employee fails to provide a specimen immediately, the procedures outlined in Section VI.(I) below shall be followed. If the employee cannot provide a specimen during the three-hour timeframe, the escorting employee shall ensure that contact is made with the appropriate TDOC Site Manager for further instruction.
 - (4) TDOC reserves the right to request observed collection of samples at their discretion. All follow up tests due to an initial positive result will be an observed collection. Observed collections will be based on US DOT's 49 CFR Part 40 guidelines.
3. Follow-up Drug Testing: Testing that is conducted as a follow-up for an employee that in the course of employment enters an employee assistance program for drug or alcohol-related problems as described in Section VI.(C)(5) of this policy.
 4. Return to Duty Testing: An employee who had a positive test result and received discipline must submit to a drug or alcohol test and have a negative test result before returning to duty as described in Section VI.(H)(7) of this policy.
 5. Post-Accident/Critical Incident Testing:
 - a. An employee shall be subject to drug and/or alcohol testing if he or she appears to have caused or contributed to a work-site accident resulting in:
 - (1) Death,
 - (2) Personal injury requiring immediate medical treatment away from the scene of the accident, or
 - (3) Any type of car accident in which the employee is operating a state vehicle and any form of damage is inflicted on the state and/or another vehicle or other property. If the accident involved the operation of a qualifying commercial motor vehicle, then post-accident testing may also be required under the authority of the Department of Transportation, Federal Highway Administration (DOT/FHWA).
 - b. An employee who is authorized to carry a firearm shall be required to submit to drug testing after any discharge of the firearm other than at the gun range.
 - c. If an employee is in an accident where a drug test is required these tests must be coordinated through the TDOC's TPA for drug and alcohol testing.
 - d. In the event of a serious or life-threatening injury requiring immediate medical attention the employee shall be taken to the most convenient medical facility/emergency room for treatment of the injury. No specimens shall be taken

Effective Date: January 1, 2022	Index # 302.12	Page 8 of 16
Subject: DRUG-FREE WORKPLACE		

prior to the administration of emergency medical care. Once this condition has been satisfied, an injured employee must submit to testing. The Human Resources Division or the TPA can advise where testing should occur. If an employee is admitted to the hospital the provider designated to conduct after-hours collections may be contacted to collect the specimen.

- e. An employee who has a confirmed presence of drugs or alcohol or refuses to submit to a test for drugs or alcohol, following an accident or critical incident, may forfeit eligibility for workers' compensation medical and indemnity benefits and may be subject to disciplinary action including termination.
6. Random Testing: Employees in safety-sensitive positions shall be subject to mandatory, random drug and alcohol testing.
- a. At each Department of Correction work location, Human Resources shall maintain a current list of employees who are subject to random testing as the result of being assigned to a safety-sensitive position. All positions in the department shall be reviewed annually to determine whether a change in job functions necessitates a change in a position's designation or non-designation as safety sensitive.
 - b. Each employee in a position designated as safety-sensitive shall be notified of such designation and shall be required to certify his/her acknowledgment of the safety-sensitive designation by using Acknowledgment of Receipt of Notice of Designation of Position as Safety-Sensitive, CR-3678.
 - c. On a schedule established by the Department and using the list of TDOC employees in safety-sensitive positions supplied by TDOC Human Resources, the TPA will notify the appropriate TDOC Site Manager/designee, that an employee has been randomly selected for drug testing. The appropriate TDOC Site Manager/designee shall notify the employee that he/she has been randomly selected for a drug test and direct the employee to immediately report to the designated test site to provide a specimen. Notification to the employee shall occur during the employee's current shift or, if the employee is not on duty at the time, during the next shift the employee works. Testing shall occur during the period the employee is scheduled to work, and within two hours after the employee is notified of his/her selection.
 - d. The test shall be at the Department's expense.
 - e. When an individual is unable to provide a sufficient amount of urine for a valid drug test due to a medical condition the MRO may check with the physician to determine if there is clinical evidence that the individual is an illicit drug user. The MRO or the physician conducting the evaluation may conduct an alternative test (e.g., blood) as part of the medically appropriate procedures in determining clinical evidence of drug use. If the medical evaluation reveals no clinical evidence of drug use, the MRO must report the result to the employer as a negative test with written notations regarding results of both the evaluation conducted and any further medical examination.

Effective Date: January 1, 2022	Index # 302.12	Page 9 of 16
Subject: DRUG-FREE WORKPLACE		

7. Fitness-for-Duty Testing: Employees in safety-sensitive positions may be required to submit to fitness-for-duty testing as described in Section VI.(H)(2)(c) of this policy.
 - a. If the drug testing result indicates that an employee's ability to perform his or her duties and responsibilities may be impaired due to the presence of legally prescribed medication a recommendation for a fitness-for-duty examination may be received from the MRO.
 - b. If the MRO recommends a fitness-for-duty examination because the drug testing result indicates that an employee's ability to perform his or her duties and responsibilities may be impaired due to the presence of legally prescribed medications, the TDOC Site Manager will heed those recommendations. With prior approval of the appropriate Assistant Commissioner, the fitness-for-duty physical or psychological shall be coordinated through the Director of Human Resources.
 - c. The fitness-for-duty test will be conducted by a licensed professional medical provider skilled and qualified to do fitness evaluations for physical and/or psychological impairments, to ensure that the employee is able to perform his/her duties in a safety sensitive position. See Section VI.(H)(2)(c) of this policy for additional information.

F. As a condition of receiving federal grant funding, if an employee participating in an activity funded by a federal agency is convicted of violating any criminal drug statute in the workplace, the Department shall notify the appropriate federal agency. Notification shall be within ten days of receipt of notice regarding such conviction.

G. Testing:

1. All testing thresholds shall comply with US DOT testing threshold guidelines:

a. All specimens will be tested for the following:

- (1) Amphetamines/Methamphetamine (including MDA and/or MDMA)
- (2) Barbiturates (BAR)
- (3) Benzodiazepines (BZO)
- (4) Buprenorphine (BUP)
- (5) Cannabinoids (THC)
- (6) Cocaine Metabolite (COC)
- (7) Ecstasy
- (8) Methadone (MTD)
- (9) Opiates (OPI) (including Codeine, Morphine, and Heroin, Propoxyphene-PPX)
- (10) Opiates (OPI) (Hydrocodone, Hydromorphone)
- (11) Oxycodone (OXY), Oxymorphone
- (12) Phencyclidine (PCP)

b. Specimens will also be examined for adulteration. The following are the standard, though not the only, indicators of adulteration that will be checked for:

Effective Date: January 1, 2022	Index # 302.12	Page 10 of 16
Subject: DRUG-FREE WORKPLACE		

- (1) Temperature
- (2) Color/Appearance
- (3) Nitrates
- (4) Oxidants
- (5) Specific Gravity
- (6) PH Level
- (7) Creatinine

2. Those employees assigned to a position requiring him/her to maintain a specialized/commercial driver's license in order to complete his/her assigned duties shall be tested in compliance with USDOT 49 CFR Part 40 and Federal Motor Carrier Safety Administration (FMCSA) 49 CFR Part 382. Employees will also be tested in compliance with Policy #213.03.
3. Contract laboratory staff trained to collect urinalysis specimens shall conduct urine specimen collection. Employees to be tested shall be required to provide positive photograph identification before entering the testing area. A photographic TDOC identification card and/or driver's license may be used for this purpose. Collection procedures shall be in conformance with the procedures compiled at and required by USDOT 49 CFR, Part 40, and must be collected in accordance with those procedures using the split sample method. The chain of custody form developed by the Department of Labor for the Tennessee Drug Free Workplace Program shall be utilized.
4. Security of the collection site, chain of custody procedures, privacy of the individual, collection control, integrity, identity, and retention of the specimen, and transportation of the specimen to the laboratory shall be in accordance with the SAMHSA guidelines and United States Department of Transportation regulations (49 CFR, Part 40).
5. The lab must comply with the procedures established by the federal DOT. Labs that perform confirmation test must also be certified by either the SAMSHSA or by CAP-FUT. If a positive result is found, the laboratory shall immediately perform a confirmation test using gas chromatography/mass spectrometry (GC/MS).
6. Positive, adulterated, or invalid results attained on both testing methods shall be reported to the MRO who shall proceed as set forth in Section VI.(H).
7. If a test is cancelled due to an identified problem that cannot be corrected the test is considered neither negative nor positive.

H. Reporting and Review of Results by MRO:

1. The contract laboratory shall report any specimens with evidence of dilution, contamination, tampering or any question normally requiring an MRO opinion to the MRO for disposition. The MRO may determine the need to re-test, re-collect, or otherwise modify the collection procedure to ensure adequate and appropriate testing.
 - a. Samples which are confirmed as "Adulterated Samples" will be considered positive and will follow the procedures outlined in Section VI.(H)(2-7).

Effective Date: January 1, 2022	Index # 302.12	Page 11 of 16
Subject: DRUG-FREE WORKPLACE		

- b. Employees whose samples are confirmed as “Invalid Samples” shall be required to do the following:
 - (1) Submit to an immediate follow up, observed collection.
 - (2) During the follow-up test, employees who have produced invalid results twice will be required to submit to an alternative form of testing (hair, blood, etc.) as determined appropriate by the physician conducting the test and the MRO.
2. The contract laboratory shall report confirmed positive tests to the MRO. After the laboratory has returned a confirmed positive test result to the MRO, he/she shall attempt to contact the employee/applicant within 24 hours to privately discuss any issues that might have affected the urine sample.
 - a. An employee/applicant who receives a positive confirmed test result from the MRO may contest or explain the result to the MRO within five working days after receiving such notification. The MRO may require the employee/applicant to submit additional evidence to justify a positive drug test result, including, but not limited to, a valid prescription or a letter from the individual’s physician verifying a valid prescription. The prescription must have been issued within six months prior to the positive confirmed drug result for purposes of determining a valid prescription and immunity from actions authorized by the drug-free workplace program following a positive confirmed drug result.
 - b. The MRO shall review all medical records made available by the employee/applicant, if any, and determine whether a confirmed positive test could have resulted from legally prescribed medication. If an employee’s or applicant’s explanation or challenge is unsatisfactory to the MRO, or if the employee/applicant does not challenge the test result, the tests shall be considered verified. The MRO shall promptly report the verified test result to the appropriate TDOC Site Manager/designee.
 - c. Employees who test positive for legally prescribed drugs or who have produced two invalid tests may be asked to submit to a fitness-for-duty test, as recommended by the MRO, to determine their ability to function in a safety sensitive position. A fitness-for-duty examination does not include an additional drug screen.
 - (1) Individuals who pass the Fitness-for-Duty test shall be allowed to return to work as scheduled.
 - (2) Individuals who fail the Fitness-for-Duty test shall have their results and all information leading up to the failure forwarded to the appropriate appointing authority/designee and the local Human Resources Staff. The appointing authority/designee shall review and decide upon the outcome on a case-by-case basis.

Effective Date: January 1, 2022	Index # 302.12	Page 12 of 16
Subject: DRUG-FREE WORKPLACE		

- (3) Should further clarification be needed by the appointing authority/designee and/or the local Human Resources Staff, the TDOC Director of Human Resources will be available for consultation.
3. If the MRO is unable to make contact with the employee/applicant within 24 hours after a minimum of three reasonably spaced attempts over the 24-hour period, he/she shall request the appropriate TDOC Site Manager/designee contact the employee/applicant and inform the employee/applicant to contact the MRO. The MRO shall not inform the TDOC Site Manager/designee that the employee/applicant has a confirmed positive, adulterated, substituted or invalid test result.
 - a. The appropriate TDOC Site Manager/designee shall immediately attempt to contact the employee/applicant, by telephone and written notification instructing him/her to call the MRO. The employee must contact the MRO within five working days of the date on the notification from the TDOC Site Manager/designee.
 - b. The TDOC Site Manager/designee must leave a message for the employee/applicant by any practicable means (such as voicemail, e-mail, or letter) to contact the MRO. The TDOC Site Manager/designee shall inform the MRO of the date and time of the attempted contact. Reasonable efforts include, at a minimum, three attempts, spaced over a 24-hour period, to reach the employee at the day and evening telephone numbers listed on the chain of custody form, as well as written notification to the address on record.
 - c. Five working days after the written notification has been sent the Site Manager/designee shall inform the MRO that the five-day period has expired. If the employee/applicant does not contact the MRO within five working days after being contacted by the TDOC Site Manager/designee, the MRO may verify the test result as positive or refusal to test, as applicable.
4. Upon notification by the MRO, the employee/applicant may request a reconfirmation test using the same specimen sample previously taken.
 - a. The reconfirmation test shall be performed by an independent SAMHSA-certified or CAP-FUT program certified laboratory designated by the TPA.
 - b. The reconfirmation test shall be at the employee's/applicant's expense.
 - c. An employee that requests a reconfirmation test will be required to use their annual or compensatory leave while waiting for the results of the test.
5. Results from this analysis on the split specimen sample shall be evaluated by the MRO and be the final step for determining positive or negative findings.
6. Upon being notified by the MRO of an employee's verified test result, the TDOC Site Manager/designee shall notify the employee/applicant of his/her positive drug test.
7. If there is a positive result the employee shall not be permitted to return to work. The employee shall be subject to disciplinary action up to and including termination.

Effective Date: January 1, 2022	Index # 302.12	Page 13 of 16
Subject: DRUG-FREE WORKPLACE		

Disciplinary action should take place as soon as practicable, within one week provided no extenuating circumstances exist. If the disciplinary action is less than termination and the employee will be returning to duty the employee must submit to a return-to-duty drug and/or alcohol test before their first scheduled day of duty. A positive test result on the return-to-duty test may result in disciplinary action including termination.

8. If an employee is terminated for a positive drug screen the unacceptable test results shall be valid for one year. Employees shall not be eligible for reconsideration for hire until the one year period has elapsed.

I. Failure to Provide an Immediate Specimen:

1. If the employee/applicant fails to provide a specimen immediately, he/she shall remain in the collection area with an escort and may be furnished up to a total of 40 ounces of fluids over a three-hour period.
2. If the employee/applicant has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the collection site person shall discontinue the collection and notify the appropriate TDOC Site Manager/designee.
3. Any employee/applicant who fails to provide a sufficient urine specimen may have a licensed physician (who has performed an evaluation of the employee) submit to the MRO a brief written statement indicating the physician's conclusion as to the employee's/applicant's ability to provide an adequate amount of urine and the basis for the conclusion. The MRO shall consider the statement in determining whether the employee has willfully refused to provide the required specimen. After reviewing the physician's statement, the MRO shall report his/her determination to the appropriate TDOC Site Manager/designee in writing. For purposes of this paragraph, a medical condition includes an ascertainable physiological condition (e.g., a system dysfunction) or a documented pre-existing psychological disorder, but does not include unsupported assertions of "situational anxiety" or dehydration.

- J. Confidentiality: Subject to federal and state law, employee drug and alcohol testing results and records shall be maintained under strict confidentiality. The TPA, the MRO, and employees involved in the administration of this policy shall observe strict confidentiality of an employee's test results and treatment. Any employee violating this requirement of confidentiality will be subject to disciplinary action, up to and including termination.

- K. Any employee who compromises the integrity of the alcohol and drug testing program or who fails to enforce it shall also be subject to disciplinary action, up to and including termination.

- L. An employee or applicant shall be responsible for notifying the laboratory of any administrative or civil action brought pursuant to TCA 50-9-101 through 114 and/or Tennessee Administrative Compilation (TAC) 0800-2-12.

VII. ACA STANDARDS: 5-ACI-1C-16.

VIII. EXPIRATION DATE: January 1, 2025



TENNESSEE DEPARTMENT OF CORRECTION
ACKNOWLEDGMENT OF RECEIPT
OF NOTICE OF DESIGNATION OF POSITION AS SAFETY SENSITIVE

By signing this Acknowledgment form, I affirm that I have been notified in writing that my position has been designated as safety sensitive and that I will be subject to random drug/alcohol testing in accordance with Policy #302.12.

Employee Name (printed)

Employee Signature

Date

TDOC Work Location

Witness Signature



TENNESSEE DEPARTMENT OF CORRECTION

ACKNOWLEDGMENT OF RECEIPT OF TDOC DRUG-FREE WORKPLACE POLICY

By signing this Acknowledgment form, I affirm that I have received a copy of Policy #302.12 Drug-Free Workplace. I understand that it is my obligation to read, understand and comply with the procedures and provisions contained within this policy. I also understand that failure to comply with a drug and/or alcohol testing request or a positive confirmed test for the illegal use of drugs and/or alcohol may lead to disciplinary action up to and including termination of employment and/or loss of workers' compensation benefits.

Employee Name (printed)

Employee Signature

Date

TDOC Work Location

Witness Signature



**STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
DRUG FREE WORKPLACE PROGRAM
REASONABLE SUSPICION OF SUBSTANCE USE
TESTING NOTICE**

All parts, A through D, must be completed by a trained supervisor and signed by both the supervisor and the Appointing Authority/Designee prior to directing an employee to undergo reasonable suspicion drug testing.

An employee is subject to reasonable suspicion testing when, after review of the specific facts and circumstances in a particular employee's case, a trained supervisor concludes that there exists a reasonable suspicion that an employee has engaged or is engaging in conduct prohibited under this policy. A trained supervisor must document the specific facts and circumstances that led to reasonable suspicion.

PART A

Employee _____ TDOC Work Location _____

Employee ID # (or SS#) _____ Date(s) of occurrence(s) _____

PART B Check all that apply.

1.

PERSONAL APPEARANCE

- | | |
|---|--|
| <input type="checkbox"/> Smells of alcohol | <input type="checkbox"/> Deteriorating personal appearance or change in appearance after lunch or breaks |
| <input type="checkbox"/> Slurred speech | <input type="checkbox"/> Unsteady walk |
| <input type="checkbox"/> Bloodshot eyes, apparent unfocused vision or wearing sunglasses at inappropriate times | |

MENTAL FACTORS

- | | |
|---|--|
| <input type="checkbox"/> Decreased concentration or increased confusion | <input type="checkbox"/> Repeated mistakes, increased carelessness, errors in judgment |
| <input type="checkbox"/> Difficulty understanding and following instruction | <input type="checkbox"/> Wide mood swings |

HEALTH & SAFETY

- | | |
|--|---|
| <input type="checkbox"/> High on-the-job accident rate | <input type="checkbox"/> Careless handling and maintenance of equipment |
| <input type="checkbox"/> Numerous accidents off the job that affect work performance | <input type="checkbox"/> Needless risk-taking |
| | <input type="checkbox"/> Disregard for others' safety |

GENERAL PERFORMANCE

- Failure to meet deadlines
- Continuing decrease in work quality and productivity
- Improbable excuses for poor job performance

PEER RELATIONSHIPS

- Altercations with others
- Avoidance of others
- Excessive co-worker complaints
- Threatening and intimidating behavior
- Borrowing money from co-workers

ATTENDANCE

- Frequent absences for questionable or unexplained reasons or a pattern of absences
- Unexcused absences
- Unexplained disappearances from the job
- Tardiness / leaving work early
- Long lunches or breaks

Comments made by employee: (Please quote any remarks, admissions, inappropriate language, etc. that may be pertinent to the employee's condition)

- 2.** Employee observed with drug paraphernalia while on duty or on State of Tennessee property

Reason for believing source is reliable and credible:

- 3.** Report of prohibited drug and/or alcohol use by employee provided by a reliable and credible source

Reason for believing source is reliable and credible:

Note to Supervisor: Each section of **Part B** will be reviewed independently. An absence of response(s) in any one section does not preclude the ordering of a reasonable suspicion test.

PART C: Provide any additional descriptions of the circumstances, including any facts, inferences drawn from those facts, which constitutes the reasonable suspicion held that the employee has engaged in prohibited drug or alcohol use.

Trained Supervisor Recommending Test

Date

Testing: Approved Not Approved

Appointing Authority/Designee

Date

The signatories are ordering the following reasonable suspicion test (check one):

drugs alcohol both

It is required that a copy of this Reasonable Suspicion Form be forwarded to Human Resources.

For purposes of Department of Transportation reporting, please check the following box if this employee is required to maintain a Commercial Drivers License (CDL).

CDL Holder