



Martin Luther King, Jr.
OUTPATIENT CENTER

POLICY AND PROCEDURE

DIVISION: ADMINISTRATION	NUMBER: 04-008
SUBJECT: DRUG FREE WORKPLACE, DRUG SCREENING, REASONABLE SUSPICION TESTING	
SECTION: HUMAN RESOURCES	PAGE: 1 OF: 5
REVIEWED BY: HR ADMINISTRATOR AND PROCEDURE & POLICY COMMITTEE	EFFECTIVE DATE: 08/01/91
TO BE PERFORMED BY: ALL WORKFORCE MEMBERS	REVISED DATE: 04/2017 REVIEWED DATE: 04/16/07

PURPOSE

To establish and communicate the policy of the Martin Luther King, Jr., Outpatient Center (MLK OPC) prohibiting workforce member use to drugs or alcohol in the workplace.

POLICY

The abuse of drugs, including alcohol, by all workforce members is prohibited because it adversely affects health, safety, security and productivity as well as public confidence and trust, MLK OPC workforce members are prohibited from using, processing, selling or being under the influence of alcohol or illegal drugs with in MLK OPC or other assigned work sites. The use of prescribed drugs to any extent that impairs safe and effective performance while on duty is also prohibited.

The County may require a workforce member to provide a urine specimen for analysis to detect the presence of alcohol or drugs only if there is a reasonable suspicion to believe that the workforce member is impaired from performing his/her job as a result of drug or alcohol use, or if required by law or regulation.

PROCEDURE

Workforce members at the workplace who present cause for reasonable suspicion of being either under the influence of alcohol or drugs, or of misusing prescribed medications to any extent that causes concern regarding their safe and effective performance, may be subjected to required reasonable suspicion drug testing, A workforce member may decline such testing, but will be subject to disciplinary action on the basis of rebuttable presumption.

Misuse, sale, and possession of alcohol or drugs may constitute a criminal act, and may also violate State and Federal laws regarding license, registration, permit and/or certification and such violations will be reported to the appropriate licensure/registration/permit/certification board or agency.

Los Angeles County has established the Employee Assistance Program (EAP) to provide assistance to Los Angeles County workforce members with counseling and referrals for alcohol and drug related problems, as well as other services to promote an effective and productive workforce.

Violation of this policy will result in disciplinary action, which may include discharge.

A non-County workforce member found to be in violation of this policy will be dismissed from his/her County assignment.

SUPERVISOR/MANAGER RESPONSIBILITIES

Supervisors/managers shall ensure all workforce members under their purview are made aware of this policy and procedure at least annually.

If it is obvious that the workforce member is under the influence of drugs or alcohol and may be in danger of harming

himself/herself or others, immediately remove the workforce member from the potentially dangerous situation.

The supervisor/manager shall contact the Sheriff's if he/she finds any alcoholic beverages or drugs on the premises of MLK OPC or its associated facilities or if the workforce member becomes agitated or uncooperative.

If a supervisor/manager suspects that a workforce member may be under the influence of alcohol or illegal drug/substance, the supervisor/manager shall contact the on-site Human Resources to obtain advice on the use of the "Reasonable Suspicion Testing Procedure (below).

WORKFORCE MEMBER RESPONSIBILITIES

Any workforce member who believes that a fellow workforce member may be under the influence of alcohol or an illegal drug/substance or witness the sale or possession of illegal drugs or alcohol on the premises of MLK OPC or on any of its associated facilities must immediately contact his/her supervisor/manager and/or the Sheriff's office.

Workforce members shall not be present on the premises of the MLK OPC or its associated facilities while under the influence of any alcohol, drug, or drug-related substance. Care must be used when using prescription drugs, if such drugs could interfere with the safe operation of equipment and vehicles.

MLK OPC ON-SITE HUMAN RESOURCES RESPONSIBILITIES

The MLK OPC on-site Human Resources (HR) is responsible for ensuring all workforce members are made aware of this policy and procedure upon hire or assignment and annually to all existing workforce members.

REASONABLE SUSPICION TESTING (COUNTY WORKFORCE MEMBERS ONLY)

- Emergent Incident (Monday – Friday: 8:00 a.m. – 5:00 p.m.)
For all emergency incidents that occur during business hours, contact MLK OPC on-site HR
- After-hours Emergent Incident:
Contact the on-site Sheriffs

Reasonable suspicion is based on objective evidence and reasonable inference from such evidence that a workforce member's impaired performance is the result of drugs and/or alcohol. Such evidence may include characteristics of the workforce member's appearance, behavior, mannerisms, speech, equilibrium, lack of orientation, or odors of intoxicants.

Based upon the criteria within this policy, if a workforce member is identified as a candidate for reasonable suspicion testing, the workforce member's immediate supervisor or service area manager shall contact MLK OPC on-site HR for instructions:

1. If it is determined, in consult with MLK OPC HR that a reasonable suspicion testing is warranted, the workforce member shall be advised of the basis for the reasonable suspicion and informed of this governing policy that permits such testing.
2. If the workforce member refuses to submit to such testing, at any point, the refusal will be accepted and the workforce member will be advised that he/she will be considered in violation of the policy and subject to appropriate discipline on the basis of rebuttable presumption.
3. There will be no effort to persuade or coerce the workforce member's cooperation. The workforce member's consent or refusal to permit such testing should be documented by the service area supervisor/manager or MLK OPC on-site HR, including all relevant observations of the workforce member's behavior which gave cause for suspicion.

If the workforce member agrees to submit to reasonable suspicion testing, the supervisor/manager must arrange transportation to the testing site, (unless on-site testing/collection has been arranged) and arrange for subsequent transport of the employee to his or her home. The contract medical testing facility will supervise the specimen collection and chain of custody and will arrange with a clinical laboratory for analysis. The contract medical testing facility should be notified in advance to ensure that there is staff available to perform the collection procedures. Transport of the employee to the contract medical testing facility cannot be delegated to anyone beneath the level of the workforce member's immediate supervisor.

When a reasonable suspicion test is to be performed the Reasonable Suspicion guidelines found at this Los Angeles County link http://hr.lacounty.gov/subsites/DAT/dat_default.htm should be followed. The test results will be submitted to Los Angeles County Occupational Health Programs. Occupational Health Programs will notify DHS for any necessary action.

Replacement Drug Testing for Applicant Workforce Members

This applies to current County Workforce members who apply for a sensitive position which requires drug testing (e.g., a Clerk who wishes to become a Light Vehicle Driver).

A positive drug test will disqualify the applicant from the sensitive position for which he/she is being tested.

Refusal to take the drug test will result in a medical disqualification.

If the drug test is positive and the workforce member is currently working in a sensitive position, Los Angeles County Occupational Health Programs will provide written notification to DHS for appropriate action, as needed.

GUIDELINES:

Identification of Sensitive Classifications (e.g., required to operate motor/motorized vehicles)

Background:

Under the Omnibus Transportation Employee Testing Act (OTETA) of 1991, the County of Los Angeles is required to have a program to meet the provisions of the Act. The Federal Highway Administration (FHWA) has issued the following rules which are to be implemented by January 1, 1996.

Testing Guidelines

All employees holding sensitive classifications will be subject to the following tests:

- Pre-employment Testing – Prior to performing a safety-sensitive function, a driver must undergo a breath test for alcohol and a urine test for controlled substances. A breath alcohol concentration (BAC) of less than 0.02 is considered a “negative” test. Controlled substances for which the urine samples are analyzed include marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
- In conducting civil service examinations for sensitive positions, the DHS Examination Unit will include appropriate statements indicating the requirement of a urine/drug screen as part of the pre-employment medical examination.
- Employees will not commence employment prior to DHS Human Resources obtaining test results indicating no drug usage.
- Applicant with test results affirming drug usage shall be disqualified from County employment. In the event the temporary employee challenges test results, DHS may elect to send the applicant to a different contracted testing center for a second opinion.
- All test results indicating the presence of drugs will be kept on file as supporting documentation in the event of future legal action.
- Post-accident Testing: A driver involved in an accident where there is loss of life or who receives a citation for a moving traffic violation, must submit to a drug test and an alcohol test within specified time periods following the incident – 2 hours for alcohol and 32 hours for controlled substances. If the tests are not administered within these time periods, the employer must prepare and maintain a record stating the reasons the test was not properly administered.
- Random Testing – must be conducted annually, and drivers must be selected using a scientifically valid selection method. At least 25% of the driver positions must be tested for alcohol, and 50 % for controlled substances. The tests must be spread evenly throughout the year and must be unannounced.
- Each year the FHWA Administrator will publish new annual minimum rates for random alcohol testing which are to be used starting January 1 of the following calendar year. A driver randomly tested for alcohol must be tested just before, during, or just after performance of the safety sensitive functions. A driver who works a night shift must be tested on that night shift, not the next day.
- Reasonable Suspicion Testing must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. Required observations must be made by individuals who have undergone training in accordance with the Department of Transportation rules.
- Return-to-Duty Testing: If a driver is taken off work because of a positive test (see below) this individual must be

retested before returning to work.

- Follow-up Testing: A driver identifies as needing assistance in resolving problems of substance abuse must have unannounced follow-up testing.

Consequences of a positive test

A driver with a positive alcohol or drug test is medically unqualified and must be taken off the road. If the driver has a BAC of 0.02 or greater but less than 0.04, this individual must be placed out of services for 24 hours before returning to work. With a BAC of 0.04 or greater and/or a positive drug test, the driver must be placed off duty and referred to a Substance Abuse Professional (SAP) for evaluation. The driver must complete any treatment recommended by the SAP, take a return-to-duty test which must be negative.

Record Retention

Records of positive results, refusals to take tests, calibration of testing devices, and driver evaluations must be maintained for five years; records related to the collection process and training, for two years; and records of negative and cancelled tests, for one year.

Reporting Requirements

An employer must prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances' testing, by March 15 of the following year. For positive tests, there are detailed reports to be completed such as # of drivers, # of urine specimens collected by type of test, # of positives verified by medical review officer by type, etc.

Medical Review Officer (MRO)

There are a number of detailed requirements for the MRO including time limits for reporting, contents of the report to employers, and record retention.

Release of alcohol and controlled substances test information by prior employers

An employer must obtain information on a driver's alcohol and controlled substances testing from prior employers for the last two years. This information must be obtained and reviewed within 14 calendar days after the first time a driver performs safety-sensitive functions for the employer.

Information, training, and referral

Each driving employee is required to receive this policy. Each driver is also required to sign a statement certifying that he/she has received a copy of this policy.

Each supervisor who is designated to determine reasonable suspicion must receive two hours of training at least 60 minutes each of training on alcohol misuse and controlled substances use.

DHS Human Resources will maintain a listing of substance abuse professionals, counseling and treatment programs.

DISCIPLINARY ACTION

Any of the following actions are considered to be a violation of this policy and will result in disciplinary action which may include discharge from employment, training, or assignment.

1. Under the influence of alcohol, possession of alcoholic beverage(s) and/or consumption of alcoholic beverage(s) while either on duty or on County property.
2. Under the influence of a controlled substance or narcotics, illegal possession of narcotic or other controlled substances, use of narcotics or other controlled substance(s) while on duty or on County property.
3. Unlawful possession of contraband, including drug paraphernalia, while on duty or on County property.
4. Operating County vehicles, equipment or the employee's own vehicle for County business while under the influence of alcohol, non-prescribed drugs or narcotics.

NOTE:

- a. The agreement regarding "Reasonable Suspicion" Drug Testing procedures were approved by the Board of Supervisors on June 9, 1992.
- b. MLK OPC and related facilities are included in the reference to County property for purposes of this policy.

- c. Any workforce member who seeks to interfere with or obstruct an administrative investigation regarding reasonable suspicion of another workforce member being under the influence of drugs, alcohol or any other substance while either on duty or on County premises will be subject to appropriate disciplinary action or termination of assignment.

DEFINITION: WORKFORCE OR WORKFORCE MEMBER

Workforce member is defined as employees, volunteers, trainees, affiliates, students, and any other persons who perform work under the control of DHS, whether or not they are paid by the County.

SENSITIVE POSITIONS

Any position involving duties which pose a potential risk to the County or to the public when performed by persons who have a criminal history incompatible with those duties, whether those persons are employees of the County or perform those services pursuant to contract.

AUTHORITY: LA County/Chief Administrative Office, Employee Assistance Program
New Drug Testing Procedures (June 12, 1992)
Code of Federal Regulations (49 CFR Part 40)
Omnibus Transportation Employee Testing Act of 1991
Los Angeles County Board of Supervisor Policy #9.050
Coalition Memorandum of Understanding Fringe Benefits

CROSS

REFERENCES: DHS Policy No. 305, Alcoholic Beverages on County Premises
DHS Policy No. 748, Employee Alcoholism
DHS Employee Evaluation & Discipline Guidelines

NOTED AND APPROVED:

Cynthia M. Oliver, Chief Executive Officer

Date

Ellen Rothman, M.D., Chief Medical Director

Date

Lessie Barber, Nursing Director

Date

Signature(s) on File.