

**Idaho Department of  
Juvenile Corrections  
Administrative  
Policy/Procedure**

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**SUBJECT: DRUG-FREE WORKPLACE**

**CATEGORY: HUMAN RESOURCES**

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**Policy**

The Idaho Department of Juvenile Corrections (IDJC) is a drug-free workplace and is committed to maintaining a working environment free from illegal drugs and drug/alcohol abuse, fulfilling the Governor's Executive Order 2007-08.

Employee impairment due to the presence of illegal drugs, alcohol, or otherwise legal drugs while in the workplace poses serious safety and health risks to the employee, co-workers, the juveniles in our custody, and visitors. Drug and alcohol abuse also negatively impact morale, lowers productivity, and can denigrate the public confidence in our agency to meet its mission.

It is therefore the policy of IDJC that employees will not report to work or perform duties while impaired by drugs or alcohol, and it is a condition of employment with the IDJC that employees abide by this policy, which outlines employee rights as well as responsibilities.

Any possession, sale, transfer, attempt to sell, or use of prohibited drugs or paraphernalia while on the job, on IDJC time, on IDJC and/or non-IDJC property where work is taking place, or in any other circumstances, which might adversely affect IDJC operation or safety is strictly prohibited. Employees should have no expectation of privacy related to maintaining a drug-free workplace. The IDJC retains the right to search IDJC property at any time or personal property brought on/in IDJC property when there is reasonable suspicion that alcohol or illegal substances or paraphernalia will be found by a supervisor or law enforcement official. Any illegal substance and/or paraphernalia found in the possession of an employee or on/in IDJC property will be turned over to the appropriate law enforcement agency and may result in criminal prosecution.

For the purpose of this policy, prohibited drugs do not include tobacco. However, the use of tobacco or electronic cigarettes by IDJC employees inside IDJC facilities or in the view or presence of juveniles is strictly prohibited. Any use of tobacco, including chewing tobacco, or electronic cigarettes, must take place outside of IDJC facilities during appropriate break time and must be outside the view or presence of any juveniles. "Electronic cigarette" means any oral device, such as one composed of a heating or ultrasonic element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substance, and use or inhalation which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.

The IDJC may require an employee to submit to appropriate tests to determine the existence of prohibited substances in their system. If an employee tests positive for drugs and/or alcohol, such employee shall not be considered disabled by virtue of the test results alone. A

request for rehabilitation may not be made to avoid taking an alcohol or drug test or to avoid the consequences for being under the influence of alcohol or drugs at work.

This policy shall not in any way create a physician-patient relationship with the IDJC and prospective or current employees.

## **Operating Procedures**

### **I. Distribution of the Drug-Free Workplace Policy**

- A. Prospective employees are provided a copy of the Drug-Free Workplace (327) policy and procedure at the time of interview, prior to any testing being administered. The applicant will indicate receipt of the policy by their signature on the Policy Receipt Acknowledgement (DJC-079) form, which is maintained by Human Resources (HR).
- B. As part of New Employee Orientation, new employees will read and sign the Certificate of Understanding (DJC-009) form indicating they have received, read, and understand policy and procedure 327.
- C. Current employees are provided a copy of policy and procedure 327 prior to any testing being administered and will indicate by their signature on the DJC-079 form that they received the policy.

### **II. Impairment Prohibited**

- A. Employees will not be permitted to work with a detectable level of alcohol or prohibited drugs in their system. The basis for determining 'under the influence' and/or 'detectable level' is a positive test result for drugs and/or alcohol. A positive result for alcohol shall be a blood alcohol concentration (BAC) of .02 or more.
- B. Prohibited drugs include both illegal and legal substances, including alcohol and/or prescription drugs not used as prescribed by an appropriate healthcare professional.
- C. Impairment from legally prescribed medications or over-the-counter medications, even if properly used, does not excuse the employee from the responsibility to work free from impairment.
- D. Employees are not to consume alcohol during a meal or other break from work during a scheduled shift.

### **III. Reporting Law Enforcement Contact/Charges**

All employees must report in writing to their supervisor and facility Superintendent/Administrator within two calendar days any drug or alcohol related citations received, arrests, or involvement in any substance abuse charges, or any other circumstance involving law enforcement, regardless of whether such incidents occur on IDJC premises or while conducting IDJC business.

### **IV. Reasons for Substance Testing**

To support the objectives of a drug-free workplace, testing for drugs and/or alcohol may, unless otherwise prohibited by applicable law, be done under the following circumstances:

A. Post-Job Offer (Pre-Employment):

1. Immediately after a written Conditional Offer of Employment has been extended, for the 'safety-sensitive' positions defined below, an applicant must appear for a 9-panel drug test (at IDJC expense) before the collection site's closing time or not later than 5 p.m. on the day of the offer, and must test free of drugs as a condition of employment.
2. The Governor's Executive Order 2007-08 defines 'safety-sensitive' positions as those in which:
  - a. The duties involve a greater than normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; or
  - b. Errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and
  - c. Employees work with such independence that it cannot be safely assumed that mistakes could be prevented by a supervisor or another employee.
3. The IDJC has further defined 'safety-sensitive' positions as those which primarily provide direct-care for juveniles or that have regular and direct contact with juveniles, including, but not limited to the following positions:

*Recreation Coordinator, Correction*  
*Regional Quality Improvement Program Specialist*  
*Rehabilitation Specialist*  
*Rehabilitation Specialist, Associate*  
*Rehabilitation Supervisor*  
*Rehabilitation Technician*  
*Rehabilitation Technician Trainee*  
*Safety and Security Officer*  
*Safety and Security Supervisor*  
*Instruction Assistant*  
*Instructor, DJC*  
*Instructor Specialist, DJC*  
*Building Facility Foreman*  
*Building Superintendent*  
*Clinical Supervisor*  
*Clinician*  
*Cook, Senior*  
*Custodial Lead worker*  
*Custodian*  
*Education Program Manager*  
*Food Service Supervisor*  
*HVAC Specialist*

*Laundry Supervisor*  
*Laundry Worker Lead*  
*Maintenance Craftsman*  
*Maintenance Craftsman, Senior*  
*Nurse, Licensed Practical*  
*Nurse, Registered*  
*Nurse, Registered Manager*  
*Nurse, Registered Senior*  
*Rehabilitation Unit Manager, DJC*  
*Social Worker (JSC)*  
*Superintendent*  
*Youth Program Manager, DJC*

4. All individuals required to submit to a pre-employment test under the conditions of this policy will report to the IDJC-designated collection site by the requested time with proper photo identification and will comply with all of the testing site's procedures for collection. It is best that the individual not consume large amounts of water, coffee, or tea as the sample result may be diluted.
  - a. Testing locations are maintained by Drug Free Idaho and a list is available on the IDJC Intranet.
  - b. HR will provide assistance in arranging testing locations for areas not identified on the Intranet, including out of state.
  - c. Applicants will not be paid for any time spent for drug testing.
5. The hiring supervisor will ensure the appropriate request form is provided/faxed to the collection site and will notify HR when an applicant has been sent for testing.
6. HR will receive test results and notify the hiring supervisor.
7. If a post-job offer drug test is confirmed positive, the employment offer will be rescinded. If an applicant is hired into a 'safety-sensitive' position and begins work, the applicant's employment will be terminated if a positive drug test is reported to HR.
8. If the sample is determined to be diluted, a second test may be required.
9. If the applicant fails to appear for the drug test on the day of the job offer, the employment offer will be rescinded.

**B. Post-accident**

1. The IDJC will test any employee where drug or alcohol use is reasonably believed to have either contributed to an on-the-job accident or injury or cannot be completely discounted as a contributing factor to an accident. The information will be documented on the Observed Behavior Record (DJC-258) form and the completed Employee/Supervisor Accident Report (DJC-045) form will be attached.

2. The option to test such employee(s) for drugs and/or alcohol will be based upon the following conditions:
  - a. If the accident caused injuries to the employee or any others requiring medical treatment provided by a physician or their designee (other than first-aid), and/or
  - b. If the accident resulted in property damage.
3. Time is of the essence and testing should take place as soon as possible after the accident/incident.
4. Prior to returning to work employees who are seriously injured and cannot provide a specimen for testing must authorize the release of relevant hospital reports or other documentation, which indicates whether drugs and/or alcohol were present in the employee's system at the time of the incident.

C. Reasonable suspicion

Reasonable suspicion is when a supervisor or designee has reason to believe an employee may be under the influence of drugs and/or alcohol based on specific physical behaviors or performance indicators, which include but are not limited to wobbling, smells of alcohol or marijuana, stumbling, staggering, slurred speech, dilated or constricted pupils, glassy-eyed appearance, incoherence, inability to concentrate, sleepy, and/or aggressive behavior. Reasonable suspicion also includes when an employee has been involved in an arrest for illegal use/possession/sale and/or manufacture of drugs, alcohol, or paraphernalia, or when such items are found in/on the employee's property or work area.

1. Any IDJC employee who has a reasonable belief that another employee is illegally using, possessing, or distributing controlled substances and/or improperly using other drugs or alcoholic beverages in the workplace must report that belief to their supervisor, or if not available, to security staff as soon as possible. An employee who knowingly makes a false report is subject to investigation and possible corrective and/or disciplinary action.
2. The supervisor has the responsibility to follow up on the reported information using the procedure below:
  - a. If the individual alleged to be impaired is a contract employee, volunteer or intern, the supervisor will escort the individual from the building.
  - b. The supervisor will ensure the individual is transported home in accordance with section VII (D), (E), and (F) of this procedure.
  - c. The contractor or organization overseeing the individual will be contacted to let them know the individual has been escorted from the building and that the IDJC will need assurance that the individual was not under the influence (using 9-panel drug screen and alcohol test results) prior to the individual being allowed to return to the premises.
3. An IDJC employee will be required to submit to a drug and/or alcohol test when the supervisor, or designee or duty officer, based on specific physical

behaviors or performance indicators, has reasonable suspicion to believe an employee is under the influence of drugs and/or alcohol and a second supervisor, or designee or duty officer, observes the behavior and concurs with the suspicion. The facts are recorded on the DJC-258 form.

V. Observed Behavior Record (DJC-258) Form

- A. The supervisor or designee will document any and all behaviors and/or evidence used to make a determination of reasonable suspicion on the DJC-258 form and sign and date the form.
- B. The completed DJC-258 form will be forwarded to the Human Resource Officer (HRO) within 24 hours of the drug/alcohol test. A copy will be provided to the employee at their request.

VI. Notifications and meeting with the employee

- A. After identifying the observed behavior leading to reasonable suspicion, the supervisor or designee will notify the Superintendent/Division Administrator and the HRO. If after-hours or not available, the supervisor will make notifications the following business day.
- B. The supervisor or designee will meet with the employee in a private setting to discuss the job performance concerns and noted observations used as rationale for testing.
- C. The meeting will be documented on the DJC-258 form and signed by the employee.
- D. If the employee admits drug or alcohol use, the employee is still required to be tested.
- E. Once the employee has been notified of the need for drug/alcohol testing, the supervisor or designee will keep the employee within view and the employee will be informed of this requirement. The employee will not be allowed to go to their vehicle, etc. If the employee does not remain in sight of the supervisor or designee, it will be documented on the DJC-258 form and may be considered a refusal to test.
- F. If the employee refuses to be tested, it will be documented on the DJC-258 form and the employee will be placed on Administrative Leave with Pay and transported home in accordance with section VII (D),(E), and (F) of this procedure.

VII. Transportation to/from the test site

- A. A current list of drug testing collection sites is available on the IDJC Intranet, or may be found by contacting IDJC HR. The sites are also listed on the DJC-258 form. If the test is to be conducted after normal business hours, the drug and alcohol testing can be done at the nearest hospital emergency room.
- B. Applicants given a Conditional Offer of Hire are responsible for transporting themselves to the drug testing site.

- C. After an accident or upon reasonable suspicion, an IDJC employee will be escorted using a state vehicle by two supervisors or designees, if possible, to the designated collection site.
- D. After being tested, or if the employee refuses to be tested, the employee will not be allowed to drive home. IDJC staff will ensure that proper arrangements are made to transport the employee to their residence. A taxi may be called at the employee's expense or a friend or family member can be contacted to transport the employee home.
- E. The employee is responsible for later retrieval of their personal vehicle. An IDJC employee should not drive the employee's vehicle home or to any other location.
- F. If the employee chooses to drive home, the supervisor or designee will notify police that the employee is driving and is believed to be impaired or under the influence and give the vehicle's location and direction.

#### VIII. Billing

- A. The IDJC will pay for the cost of the initial drug/alcohol testing. Any re-tests of the original sample that is requested by the employee/applicant will be at the employee/applicant's expense.
- B. For post-accident and reasonable suspicion testing, the supervisor can request the collection site to direct bill IDJC for the test. The supervisor can use a P-Card to pay for the testing if the collection site is unable to direct bill.

#### IX. Testing procedures

- A. Drug Free Idaho, Inc. is the third-party administrator for the IDJC Drug-Free Workplace Program.
- B. The IDJC designates drug testing to be by urine sample and alcohol testing to be by breath test, unless determined otherwise by the collection site.
- C. The IDJC will use the 9-panel drug screen. The 9-panel drug screen tests for: marijuana, PCP, cocaine, opiates, amphetamines, ecstasy/MDMA, heroin, barbiturates, benzodiazepines, propoxyphene, and methadone.
- D. All positive tests will be reported to the IDJC HR.

X. Refusal

- A. Employees have the right to refuse to be tested and/or have their personal property searched. However, refusal to submit to testing/search, insufficient sample, leaving the supervisor's sight, and/or obstructing this process are grounds for disciplinary action, up to and including dismissal.
- B. If the employee refuses to take a drug/alcohol test or cannot provide a sufficient urine sample within three hours, they will be asked to write a statement to that effect on the DJC-258 form and sign and date the statement. If unwilling to do so, the supervisor or designee will document the refusal/insufficient sample on the DJC-258 form and sign and date.
- C. A request for rehabilitation may not be made to avoid taking an alcohol or drug test when requested to do so under this procedure.

XI. Work Time/Administrative Leave with Pay

- A. Any time spent by current IDJC employees for drug and alcohol testing shall be considered work time.
- B. The employee will be in Administrative Leave with Pay (ADT) status pending the results of the drug/alcohol tests or if the employee refused testing. The ADT status will continue until notified by the IDJC. The employee will remain available for contact by IDJC management while on ADT, but may not return to IDJC property or discuss the testing with IDJC staff other than their supervisor.

XII. Results

A. Negatives

- 1. If the test result is negative, the HRO or designee will notify the employee and make arrangements for the employee to return to work.
- 2. If sufficient concerns about the employee's work performance and/or behavior remain due to medical or mental health issues, the HRO or designee should discuss the concern with the employee and discuss other possible reasons for the performance issues. HR will work with the employee to make use of benefits or to determine any necessary accommodations, if applicable, as part of the plan to return to work.

B. Dilutes

- 1. If it is determined by the collection site that the applicant/employee purposely diluted or adulterated the sample, the result will be considered positive.
- 2. If it cannot be determined if an IDJC employee took steps to dilute or adulterate a drug test sample, another sample will be collected as soon as possible with little or no notice to the employee.

C. Positives

1. The HRO or designee will inform the individual in writing of the positive test result and the substance for which the employee tested positive.
2. Employees/applicants will have an opportunity to provide information regarding prescription medications they are taking or other information which may explain the reason for the positive result.
3. The IDJC has the option of disciplinary action, up to and including termination, in accordance with Idaho Code, for a positive test for drugs and/or alcohol.
4. A request for rehabilitation may not be made to avoid the consequences of a positive alcohol or drug test.

### XIII. Re-test

The employee may make a written request for a re-test of the same sample within seven working days of being notified of a positive drug test.

- A. The re-test will be at the employee's expense.
- B. If a re-test is negative, IDJC will reimburse the employee the cost of the re-test.

### XIV. Employee Assistance Program (EAP)

- A. The IDJC recognizes drug and alcohol dependency as a serious problem. It is also a health, safety, and security threat. IDJC employees who need help in overcoming such dependency should contact their supervisor or HR, as well as available alcohol and drug abuse resources within the community or the IDJC employee assistance program. All current IDJC employees will be provided with information on the state's Employee Assistance Program (EAP).
- B. HR will provide resource information to an employee who might wish to seek assistance. Use of these programs is confidential.
- C. The IDJC will direct its efforts toward rehabilitation whenever reasonable. When written counseling or formal disciplinary action, other than dismissal, has been chosen as an option, the employee may return to duty when the following conditions (which may be at the employee's expense) are met:
  1. The employee shall be subject to an evaluation by a substance abuse professional or EAP counselor who shall determine what assistance and/or education, if any, the employee needs in resolving problems associated with alcohol and/or drug abuse.
  2. Any employee identified as needing assistance in resolving problems associated with alcohol and/or drug abuse:
    - a. Must provide a signed statement expressing their commitment to the outlined recommendations and/or testing;

- b. May be required to follow a rehabilitation program prescribed for resolving problems associated with alcohol and/or drug abuse; and
  - c. May be subject to unannounced follow-up alcohol and/or drug testing.
- D. The employee shall undergo a return-to-duty drug and/or alcohol test with a verified negative result. The test shall be performed at the employer's designated collection site no more than 24 hours prior to the employee's return to duty.

XV. Disciplinary action

Any of the following situations shall be considered work-related misconduct and grounds for disciplinary action, up to and including termination:

- A. A confirmed positive test for drugs and/or alcohol according to this policy.
- B. An employee's refusal to provide a sample or submit to testing.
- C. Information from the collection site indicates an employee intentionally adulterated, substituted, diluted, or otherwise tampered with a sample.

XVI. Records/confidentiality

- A. HR maintains all test results in a confidential manner separate from the employee's personnel file and makes the results available to other parties only upon specific written consent of the individual tested or by court order.
- B. The privacy rights of employees are important. Any intervention steps taken upon a violation of this policy, including referral for treatment, counseling or rehabilitation programs includes procedures to protect the confidentiality of treatment records as well as the employee's identity.

XVII. Reporting

- A. The Director or designee reports quarterly (the first of January, April, July, and October) to the Idaho Division of Human Resources any violations of the current executive order. The report, to the extent practicable, protects the confidentiality of the employee involved, but describes the nature of the employee's position.
- B. Compliance is required as part of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) funding.

Employees, sub-grantees, and recipients of OJJDP funds are advised that compliance with this policy is a condition of continued employment or grant eligibility, as appropriate.

- 1. Any conviction for violating the laws regulating controlled substances or personal involvement with a controlled substance is a violation of this policy and may result in suspension (with or without pay) and/or dismissal in accordance with the Idaho Personnel Commission Rules implementing the Drug-Free Workplace Act of 1988 and 34 CFR Part 84, Subpart (F).

2. Convictions relating to workplace violations of this policy will be reported to HR within five days after such conviction.
3. Federal grant offices will be notified within five days or as required by the appropriate grant conditions.

*Reference:*

[Glossary of Terms and Acronyms](#)

*Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F*

*Idaho Executive Order No. 2007-08*

*Drug Free Idaho, Inc.*

*Americans with Disabilities Act*

*Desk Manuals:*

*None*

*Related Policies:*

[Americans with Disabilities Act \(301\)](#)

[Contraband Detection and Disposition/Searches \(620\)](#)

*Related Forms:*

[Employee Orientation, Certificate of Understanding \(DJC-009\)](#)

[Employee/Supervisor Accident Report \(DJC-045\)](#)

[Policy Receipt Acknowledgement \(DJC-079\)](#)

[Observed Behavior Record \(DJC-258\)](#)

*Pre-employment Drug Test Request (HR)*