

ARIZONA Department of Emergency and Military Affairs POLICY	POLICY LETTER NO. 20.06	
	DATE 23 Jan 25	OPR DEMA-TAG
SUBJECT: Alcohol and Drug Free Workplace – Drug and Alcohol Testing of Employees	REGULAR POLICY LETTER DISTRIBUTION (POLICY LETTER 10.01)	

1. Applicability:

This policy applies to all Department of Emergency and Military Affairs (DEMA) state employees. This policy does not create a contract for employment between any DEMA employee and the Department. Nothing in this policy changes the fact that all uncovered employees of the Department are at-will employees and serve at the pleasure of the appointing authority.

2. Purpose:

The Department of Emergency and Military Affairs is committed to protecting the safety, health, and well-being of employees and other individuals in the workplace.

The Department maintains an alcohol and drug-free workplace. All Department employees and management share the responsibility of ensuring the workplace is free from drugs and alcohol. Use of illegal drugs, abuse of prescription and over-the-counter medications, and alcohol use while on duty shall not be tolerated.

The Department has established this policy to address testing or retesting for the presence of alcohol or drugs of its employees, and, if applicable, screening prospective employees. The policy is in accordance with the requirements listed in A.R.S. § 23-493.04(A).

In accordance with Arizona Administrative Code (A.A.C.) R2-5A-504, the Department prohibits the manufacture, distribution, sale, dispensation, possession, or use of alcohol, illegal drugs, unauthorized drugs, inhalants, or other unauthorized controlled substances during working hours or while on state premises or worksites, including state vehicles and property leased to the state. A state employee shall not be impaired by drugs (whether legal or illegal) or alcohol while on duty.

3. References:

- **41 U.S. Code § 81**, Drug-Free Workplace Act of 1988
- **A.R.S. § 41-703**, Duties of director
- **A.R.S. § 41-743**, Powers and duties of the director
- **A.R.S. § 36-2501**, Definitions
- **A.R.S. Title 23**, Chapter 2, Article 14, Drug Testing of Employees
- **A.A.C. R2-5A-504**, Alcohol and Drug-Free Workplace

4. Definitions:

- **“Alcohol”** is defined in A.R.S. § 23-493 and means ethanol, isopropanol, or methanol.
- **“Contracted collection site or laboratory”** means any location(s) used by the state provider or contractor, including any mobile unit or contracted facility.
- **“Controlled substance”** is defined in A.R.S. § 36-2501 and means a drug, substance, or immediate precursor in schedules I through V of Title 36, Chapter 27, Article 2.

- **“Cut-off level(s)”** are recommended by the U.S. Department of Health and Human Services (HHS) and mean the minimum concentrations of drugs or metabolites used to determine whether a specimen is positive or negative for the drug or drug class.
- **“Drugs”** as defined in A.R.S. § 23-493, means any substance considered unlawful under the schedules of the controlled substances section of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, (P.L. 91-513; 84 Stat. 1247; 21 United States Code Section 812) or pursuant to Title 13, Chapter 34, or the metabolite of the substance.
- **“Good faith”** is defined in A.R.S. § 23-493 and means reasonable reliance on fact, or that which is held out to be factual, without the intent to deceive or be deceived and without reckless or malicious disregard for the truth. Good faith does not include a belief formed with gross negligence. A good faith belief may be based on:
 - Observed conduct, behavior, or appearance.
 - Information reported by a person believed to be reliable, including a report by a person who witnessed the use or possession of drugs or drug paraphernalia at work.
 - Written, electronic, or verbal statements.
 - Lawful video surveillance
 - Records of government agencies, law enforcement agencies, or courts
 - Results of a test for the use of alcohol or drugs
 - Other information reasonably believed to be reliable or accurate.
- **“Impairment”** is defined in A.R.S. § 23-493 and means symptoms that a prospective employee or employee, while working, may be under the influence of drugs or alcohol that may decrease or lessen the employee's performance of their duties or tasks, including:
 - Speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor.
 - Irrational or unusual behavior
 - Negligence or carelessness in operating equipment, machinery, or processes
 - Disregard for the safety of the employee or others
 - Involvement in an accident resulting in serious damage to equipment, machinery, or property.
 - Other symptoms causing reasonable suspicion of drug or alcohol use.
- **“Negative test result”** means test results which conclude that alcohol and/or the drug(s) or metabolite(s) tested for are either absent or below the cut-off level(s).
- **“Positive test result”** means test results which conclude the initial and confirmation test for alcohol and/or drug(s) and metabolite(s) are at or above the cut-off level(s).

- “**Sample**” is defined in A.R.S. § 23-493 and means urine, blood, breath, saliva, hair, or other substances from the person being tested.

5. Policy:

- The Department maintains an alcohol and drug-free workplace. All DEMA employees and management share in the responsibility of ensuring the workplace is free from drugs and alcohol.
- Use of illegal drugs, abuse of prescription and over-the-counter medications, and alcohol use while on duty shall not be tolerated.

5.1 Description of Employees Subject to Testing:

- All DEMA employees are subject to reasonable suspicion drug and alcohol testing. Testing shall be conducted in accordance with applicable state statutes, rules, and this policy. Costs incurred for reasonable suspicion drug or alcohol testing, including reasonable transportation costs if the test is conducted at a location other than the employee’s normal worksite, shall be paid by the division initiating the testing order.
- In accordance with the Arizona Medical Marijuana Act, DEMA will not discriminate against a person in hiring, termination, or imposing any term or condition of employment, or otherwise penalize a person based on:
 - The person’s status as a Medical Marijuana Registry Identification card holder.
 - A registered qualifying patient’s positive drug test for marijuana, unless the individual used, possessed, or was impaired by marijuana on Department premises or while on duty.

5.2 Circumstances Under Which Testing May Be Required:

Reasonable suspicion drug and/or alcohol testing may be initiated when there is a good faith belief that an employee is under the influence, currently using, or has used drugs and/or alcohol, based on one or more of the following:

- Observed conduct, behavior, or appearance, including but not limited to:
 - Physical appearance
 - Poor judgment
 - Carelessness and/or erratic behavior
 - Slurred, slow, indistinct, or unusual speech.
 - Any such behavior, in conjunction with an incident or accident
 - Smell or odor of marijuana or alcohol.
- Information reported by a person believed to be reliable, including a report by a person who witnessed the use or possession of drugs, drug paraphernalia, or alcohol by an employee at work.
- In an incident or accident in which law enforcement is involved, the agency may rely on law enforcement to determine whether a drug or alcohol test is warranted and is not required to test if law

enforcement has determined that such tests were not needed. Refusal by an employee to consent to drug and/or alcohol testing during such an incident does not preclude the agency from requiring such testing under this policy.

5.3 Initiating Reasonable Suspicion Drug or Alcohol Testing:

Supervisors shall:

- Obtain prior approval for reasonable suspicion drug and/or alcohol testing from the division director, assistant director, or chief of staff, using the DEMA Supervisor’s Checklist for Making a Reasonable Suspicion Determination form.
- Contact the DEMA State Human Resources Director to:
 - Determine if there is sufficient evidence to support reasonable suspicion drug and/or alcohol testing (if reasonable suspicion drug and/or alcohol testing is conducted after business hours, on a weekend, or on a holiday, the HR Director shall be contacted the next business day during normal business hours).
 - Identify the nearest Concentra testing collection site or an on-site testing vendor meeting the Department’s requirements.
 - Provide the employee with the Drug-Free Workplace Program Employee Test Notification Order form and a copy of this policy in person or electronically, as appropriate.
 - Ensure the employee to be tested is immediately transported to the Concentra collection site by a department supervisor, manager, or designated DEMA official.
- Reasonable suspicion testing normally shall occur immediately, as practical, on the day of the observed behavior(s), including before or after the employee’s regular work hours. The employee’s time spent taking the test is considered hours worked, and the employee must be paid for the time (including any applicable overtime).
- If an alcohol test was not administered within eight hours, the supervisor shall cease attempts to administer the test and submit a written report giving the reasons the alcohol test was not administered.
- A screening test of a breath alcohol concentration:
 - Of less than .02% shall be considered negative and not require further testing.
 - Of .02% or greater shall require a confirmation test to be performed.
- Drug testing shall include confirmation of any positive drug test result as defined in A.R.S. § 23-493.03.

5.4 Substances for Which Testing May Be Required:

Employees may be tested for impairment by:

- Alcohol.
- Controlled substances (schedule I through V) as defined in A.R.S. § 36-2501.

5.5 Test Results and Records:

- The Concentra collection site or laboratory shall transmit test results to the State Human Resources Director in a timely and confidential manner.

5.6 Right of Employee to Request and Obtain Copy of Test Results:

- The employee may obtain a copy of their test results by submitting a written request to the State Human Resources Director.
- The request shall include the employee's name, EIN, method for receiving the test results, signature, and date.
- The employee shall include a mailing address if the results are to be mailed.

5.7 Right of an Employee, on Request, to Explain Test Results:

- The employee has the right, upon request, to explain in a confidential setting a positive test result. The HR Director shall provide an employee with an opportunity to confidentially discuss test results and verify their statements, which may include contacting, with the employee's consent, the employee's treatment of medical professionals. Failure to provide consent may be considered non-compliance with this policy.
- An employee may wish to keep a list of medications taken within the last 30 days or other medical information in conjunction with a specimen collection should a positive result be reported. The employee shall retain this information.

5.8 Confidentiality of Test Results and Records:

- All program files, records, testing information, results, and reports relating to drug or alcohol testing shall be confidential.
- Test results shall be available to DEMA officials only on a need-to-know basis.
- All employee records, contracted laboratory reports, test results, and electronic data related to drug and/or alcohol testing shall be treated as confidential medical records and maintained by DEMA's Human Resources Department and shall not be placed in an employee's official personnel file.
- Unauthorized dissemination of testing information/results is prohibited and may result in disciplinary action.

5.9 Consequences of Refusal to Participate in Testing; Adverse Action Based on Testing or Results:

- An employee may receive disciplinary action, up to and including dismissal, based upon the Department's good faith belief and/or evidence and documentation of drug and/or alcohol use in violation of this policy, including but not limited to:
 - Direct observation of the employee's behavior.
 - Evidence obtained and verified following an arrest or criminal conviction.
 - A verified positive drug or alcohol test result.

- An employee’s voluntary admission to the unauthorized use of drugs and/or alcohol; an employee who admits to drug and/or alcohol use after being notified shall submit to the required testing.
- Providing altered, adulterated, or substituted test specimen(s).
- Refusal to:
 - Submit to any required alcohol and/or drug testing.
 - Allow Concentra collection site professionals to measure body temperature when the temperature of the urine is outside the acceptable temperature range.
- Failure to provide sufficient sample(s) for required drug or alcohol testing.
- Tampering with any part of the drug testing process, including records or specimens.

6.0 Treatment Assistance:

The Department of Emergency and Military Affairs recognizes that substance use disorders are treatable illnesses. Early interventions and support improve the success of rehabilitation. To support employees, DEMA:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Offers all employees assistance with alcohol and drug problems through the State’s Employee Assistance Program (EAP).
- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

7. Related Forms/Attachments:

- Supervisor’s Checklist for Making a Reasonable Suspicion Determination.
- Drug-Free Workplace Program Employee Test Notification form.

8. Administration:

Point of Contact (POC) for this policy is the State Human Resources Office (HRO) at 602-689-7491 or HR@AZDEMA.GOV.



KERRY L. MUEHLENBECK
Major General, AZ ANG
The Adjutant General

Agency Name

DRUG-FREE WORKPLACE EMPLOYEE TEST NOTIFICATION ORDER FORM

You are ordered to immediately report or be available to the collection site indicated below to submit to a reasonable suspicion drug and/or alcohol test.

Failure to report for the test or failure to provide a urine, blood, saliva, or hair specimen or breath sample as ordered will be considered refusal to test and may result in disciplinary action.

Employee Name EIN Report Date

Division Supervisor's Name

Collection Site Name

Collection Site Street Address

Collection Site City Collection Site Zip Code

Within 72 hours of notification of a positive test, you may submit a written request to the Chief Human Resources Officer to have the original, sealed, split urine specimen retested. You are responsible for all costs associated with the retest.

I understand that refusal to report for the drug and/or alcohol test or failure to provide a urine, blood, saliva, hair, or breath sample may subject me to disciplinary action, to include dismissal.

Employee Signature Date

Assistant Director or Designee Signature Date

Chief Human Resources Officer or Designee Signature Date

Attention Collection Site Staff:

Please contact Human Resources at {insert phone number} if additional information is needed.

Employee Name: _____ EIN: _____

Division: _____ Date: _____

This checklist provides guidance to the supervisor on steps to take, including how to obtain prior approval for reasonable suspicion drug and/or alcohol testing. This checklist should be used when a supervisor or manager believes in good faith that an employee may be under the influence of drugs and/or alcohol based on the observed conduct, behavior or appearance.

Supervisor/Leader Checklist

First Steps

- Call 9-1-1 if the employee requires immediate medical attention.
- Consult/notify the employee's chain of command and Human Resources as soon as possible.
- Determine if circumstances constitute Reasonable Suspicion by completing this checklist and obtaining approvals. An employee who self-reports impairment on the job is not exempt from reasonable suspicion testing.
- Contact an [approved testing service vendor](#).

Supervisor/ Leader Discussion with Employee

- Upon approval from the supervisor/leader's chain of command, in a private setting, review the observed conduct, behavior, or appearance of the employee that establishes reasonable suspicion.
- Advise the employee that they will be required to submit to a reasonable suspicion drug and alcohol test, and provide the employee with the Drug-Free Workplace Program Employee Test Notification Order form and a copy of the Alcohol and Drug-Free Workplace - Drug and Alcohol Testing of Employees policy.
- Ask the employee to provide the name and phone number of a person who is to be contacted to provide the employee a ride home from the collection facility.
- Advise the employee that they may be placed on administrative leave, pending outcome/results.
- Do not attempt to "question" the employee about any suspected "substance" or "alcohol" usage.

In the Event of an Employee's Refusal to Cooperate

- Inform the employee that refusal to cooperate with the drug and alcohol testing requirements will result in disciplinary action, up to and including termination.
- If the employee maintains their refusal, ask the employee to put it in writing, or utilize a witness to document the employee's verbal refusal.
- Inform the employee that their emergency contact listed in HRIS will be contacted to make transportation arrangements for pickup from work. The employee may provide another contact for transportation arrangements.
- Inform the employee that they will be placed on administrative leave, pending the outcome of the investigation.
- Note: Once reasonable suspicion has been established do not leave the employee alone, at any time. The supervisor or designee should always remain with the employee until the employee is transported to the collection facility.
- If the employee attempts to drive away, call 9-1-1 to report someone who appears intoxicated is attempting to drive and provide the dispatcher with as much information as possible about the vehicle description, license plate number, and location.

Transportation to Collection Site

- The supervisor/leader and another witness shall transport the employee in a state-owned vehicle to the nearest testing facility. Or, a supervisor who is an authorized driver may transport the employee in a Personally Owned Vehicle (POV) to the nearest testing facility.
- The supervisor and/or witness shall remain with the employee until the sample is collected and the supervisor has confirmed that the employee has a ride home. Afterwards, the supervisor and/or witness may leave the collection facility.

Employee Name: _____

Date: _____

Document

- Send a chronology of events to Human Resources as close to the event as possible.

Information on the ADA

- The Department recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. We encourage employees to seek help if they are concerned they may have a drug and/or alcohol problem.
- Individuals who are currently using illegal drugs are not afforded protection under the Americans with Disabilities Act (ADA). However, an individual who is in recovery from drug addiction may be entitled to reasonable accommodation under the ADA. If an employee requests reasonable accommodation, discloses a history of addiction, or asks for time off to seek treatment for substance abuse, the supervisor or designee will consult with the Department's Chief Human Resources Officer (CHRO) for further guidance.
- An employee who discloses a history of addiction or substance abuse may be considered an individual with a disability under the ADA. An individual with a substance abuse disorder may be covered under the ADA if:
 - The individual has completed a supervised drug rehabilitation program and is no longer using illegal drugs.
 - The individual's substance abuse disorder substantially limits at least one major life activity.

Employee Assistance Program

- Employees are encouraged to refer to the Employee Assistance Program (EAP) to obtain resource information and referral assistance. Consult with the Department's CHRO for further guidance.

Observing and Documenting Current Conduct, Behaviors or Appearance

Reasonable suspicion drug and/or alcohol testing may be initiated when there is a good faith belief an employee is under the influence, currently using, or has recently used drugs and/or alcohol, based on one or more of the following observed conduct, behavior or appearance including, but not limited to the following list; please check any that apply:

Constricted or dilated pupils	Sad, depressed	Overly fast or slow movements	Smell or odor of marijuana or alcohol, or chemical or "burnt rope" odor on breath
Red or watering eyes	Confused	Twitching or shaking	Needle marks
Involuntary eye movement	Argumentative	Muscular incoordination, swaying, staggering, falling	Unconsciousness
Unable to hold eye focus	Carelessness, irrational, or unusual behavior	Excessively active, energetic, or disruptive	Drowsy, yawning
Nasal secretion/ sniffles, red nose	Irritable, anxious or fearful	Slurred, slow, indistinct or unusual speech	Nausea or vomiting
Sweating	Difficulty concentrating	Inability to verbalize	Dizziness
Flushed skin	Poor judgment	Rapid speech, overly talkative or loud	Other (describe below)
Scratching	Violent, angry or aggressive behavior		

Employee Name: _____

Date: _____

Possession of substance that appears to possibly be drug or alcohol
Possession of paraphernalia (such as syringe, bent spoon, metal bottle cap, medicine dropper, glassine bag, paint can, glue tube, nitrate bulb, or aerosol can)
Other:

Please describe specific observations, or explain any of those checked above, and how this differs from employee’s usual behavior:

Determining Reasonable Suspicion

If you are able to document one or more of the list of conduct, behavior or appearance in the section immediately above, ask yourself these questions to establish reasonable suspicion:

	Yes	No
Is some form of impairment showing in the employee’s conduct, behaviors, appearance or work performance?		
Does the impairment appear to result from the possible use of drugs or alcohol?		
Are the facts reliable? (Did you witness the situation personally, or are you sure that the witness(es) are reliable and have provided firsthand information?)		
Is the impairment current, today, now?		

Supervisor or HR Representative Section

Completed by first Supervisor or HR Representative

Name (Print or type): _____

Signature: _____

Date: _____

Employee Name: _____

Date: _____

Concurrence from second Supervisor or HR Representative (If available. Concurrence is not required in all instances, especially if no other supervisor is present. However, the supervisor should make every effort to contact human resources before arranging for testing.)

Name (Print or type): _____

Signature: _____

Date: _____

Approval Section

Reasonable suspicion established for drug and/or alcohol testing

Reasonable suspicion not established

Assistant Director/Designee's Name: _____

Time: _____

Assistant Director/Designee's Signature: _____

Date: _____

If you have any questions about the use or content of this form, please contact the Department's human resources office.