

Administrative Policy No. 18.75

Title:	Drug and Alcohol-Free Workplace
Applies To:	All Department of Social and Health Services (DSHS) Employees
Authorizing Sources:	Federal Drug Free Workplace Act of 1988 Mandatory Guidelines for Federal Workplace Drug Testing Programs Federal Omnibus Transportation Employer Testing Act of 1991 Federal Commercial Motor Vehicle Act of 1986 49 CFR Parts 40 and 382 US Coast Guard 46 CFR Parts 4 and 16 Chapter 69.50 RCW Uniform Controlled Substances Act. Chapter 46.25 RCW Washington's Uniform Commercial Driver's License Act WAC 296-800-11025 Prohibit alcohol and narcotics from your workplace WAC 357-37-200 Drug/Alcohol Testing Chapter 357-40 WAC Discipline Chapter 357-52 WAC Appeals
Information Contact:	Human Resources Division
Effective Date:	July 1, 2005
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Approved By:	<u>original signed by Glen Christopherson</u> Senior Director, DSHS Human Resources

Purpose

This policy establishes the rules and standards of employee conduct toward the use of, and impairment by, alcohol and other drugs in the DSHS workplace. It is intended to promote a safe, efficient, and productive work environment, to protect the health and safety of its employees and

those citizens who come into contact with them. It is also intended to assist employees who develop job performance problems as a result of a dependence on alcohol or other drugs.

DSHS recognizes chemical dependence as a treatable illness, and will keep any request for assistance confidential. An employee suffering from dependency on alcohol and/or other drugs will be given the same consideration extended to employees having any other illness, including the use of sick leave to pursue a professionally prescribed program of treatment. No employee will have his or her job security or promotional opportunities jeopardized, or be retaliated or discriminated against in any way, as a consequence of seeking treatment.

Common Definitions

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl alcohol and isopropyl alcohol.

Approved treatment program: Chemical dependence service providers certified by the Division of Alcohol and Substance Abuse (DASA). Certified providers are listed in the directory of Certified Chemical Dependency Services in Washington State, published semi-annually by DASA, which also lists the specific services the agency is certified to provide. The listing is also found on the DASA website.

Chemical dependency: A progressive and chronic illness characterized by lack of control over the use of alcohol or other drug, and the continued use of the substance in the face of negative effects of the use in any major life area.

Chemical Dependency Professional: A Chemical Dependency Professional (CDP) is certified as such by the Washington State Department of Health under [chapter 18.205 RCW](#). CDPs provide chemical dependency counseling services in approved agencies.

Controlled substance: Any substance or its immediate precursor listed in Schedules I through V of Article II, [RCW 69.50](#). Examples of such substances include, but are not limited to, amphetamines, methamphetamines, cannabinoids, cocaine metabolite, phencyclidine (PCP), opiates metabolite, barbiturates, benzodiazepines, methadone, Marijuana methaqualone, propoxyphene, or a metabolite of any such substance.

Drug: Any substance, whether controlled, medically prescribed, or over-the-counter, which has or tends to have the effect of altering one's mood or mental functioning, and of interfering with an employee's ability to perform duties safely and with the exercise of necessary judgment.

For purposes of this policy, testing for drugs or controlled substances refers to the five illegal substances for which employees can be tested: amphetamines, cocaine, marijuana, opiates, and PCP (phencyclidine). Depending on the incident, expanded non-DOT drug testing may be required by management.

Drug and Alcohol Coordinator: Management employee designated to oversee the operations of this policy, and to act as the Designated Employer Representative (DER) as described in [49 CFR Part 40](#).

Drug or Alcohol Abuse: The use of alcohol or other drug which is either illegal, counter to medical advice, or in violation of the rules of this policy.

Drug paraphernalia: Any object that facilitates use, storage, or sale of drugs.

Reasonable Suspicion: The inference that an employee may be under the influence of alcohol or drugs based on specific, contemporaneous, describable observations concerning the employee's appearance, behavior, speech, or body odors.

Under the influence: Exhibiting behavior, work performance and/or judgment, and/or physical characteristics leading to a reasonable belief that the employee may be impaired because of the use of alcohol or drug(s). Examples of characteristics include, but are not limited to:

- Eyes: glassy; dilated or constricted pupils; lack of focus
- Speech: slurred; uncharacteristically rapid or very slow and deliberate
- Head/body: staggers; sways while attempting to stand still; has to hold on to furniture or steady self to walk or stand; head bobs; extreme sleepiness; eyelids drooping
- Behavioral manifestations: uncharacteristic aggressiveness; impulsive behavior; fighting
- Odor of alcohol, marijuana or other drugs
- Sudden or unexplained mood changes
- Loud or inappropriately talkative; persistently boisterous; difficulty in concentrating; displays emotion not appropriate to situation; verbally abusive; belligerent. ¹

Policy

What are the general rules for all DSHS employees concerning workplace drugs and alcohol?

1. All employees shall report to work in a condition fit to perform their assigned duties, unimpaired by alcohol or drugs. An employee who is unable to report for, or return to duty, because he/she is under the influence will be ineligible to receive regular or standby pay. Employees must notify their supervisor of their inability to report for unscheduled overtime if under the influence of alcohol or other drugs. They will not be penalized in these instances.
2. Any activities involving the use, possession, distribution or sale of alcohol, unauthorized prescription drugs, controlled substances or drug paraphernalia in state vehicles, on state owned and/or leased property, or on official business are prohibited.
3. The use or possession of alcohol by an employee is prohibited in all state premises, except when the premises are considered residences.

4. The unlawful use, possession, delivery, dispensing, distribution, manufacture or sale of drugs in state vehicles, on agency premises, or on official business is prohibited at all times.
5. The use or possession of illegal substances, or any other trafficking in drugs, is totally incompatible with the DSHS mission. However, the off-duty activities of an employee will not be grounds for disciplinary action unless said activities are a conflict of interest as set forth in [chapter 42.52](#) RCW or are detrimental to the employee's work performance, the program or reputation of the agency.
6. Employees taking physician-prescribed or over-the-counter medications, if there is substantial likelihood that such medication will affect job safety, must notify their supervisor. In the supervisor's absence, the employee must inform the next available official in the chain of command. The employee will disclose the fact that they are taking a medication and the side effects of the medication.

Employees whose work performance is temporarily impacted by prescription or over-the-counter drugs may be reassigned productive alternate work if available. If no alternate work is available, the employee may be required to take leave.

7. Employees convicted of a violation of a criminal drug statute for an offense occurring in the workplace or on duty assignment must notify their immediate supervisor, within five days of the conviction. Within 10 days of this notification, DSHS will notify the federal agency which provides funding for the office in which the convicted employee works. DSHS will impose appropriate disciplinary action, up to and including dismissal, and require, as a condition of continued employment, that the employee satisfactorily complete an approved substance abuse rehabilitation program.
8. Employees whose position requires that they drive a state vehicle, a personal or rented vehicle on state business must notify their immediate supervisor of any revocation or suspension of their driver's license. Such notification must be on the first work day following the license suspension or revocation.
9. Employees must submit to alcohol and controlled substance testing when required by the provisions of this policy. A refusal to test is considered the same as a positive test.
10. All employees will comply with these rules. Those found in violation will be subject to disciplinary action, which may include immediate dismissal.
11. Disciplinary action, up to and including dismissal, will be considered for any violation of this policy. ²

Drug and Alcohol Testing

A. Definitions

Chain of Custody: The process whereby a urine sample is transmitted to a federally-certified laboratory for analysis and the results of the testing transmitted to a Medical Review Officer for review and verification of the results. To ensure the correct identity of the urine sample, a Federal Drug Testing Custody and Control Form (CCF) accompanies the sample from the collection site (where the employee attests to the identity of the sample) to the laboratory and then to the Medical Review Officer. The employee retains one copy of the CCF, and another is sent to the employer. If the chain is suspected of inaccuracy at any point, the urine sample is discarded and the result is noted as negative.

Commercial Driver License (CDL): A license required by the Commercial Vehicle Safety Act of 1986, or [chapter 46.25 RCW](#), in order to operate a commercial motor vehicle.

Confirmation Test: For alcohol testing, a confirmation test means a second test by an Evidential Breath Testing machine following a screening test resulting in a test result of 0.02 or greater which provides quantitative data of alcohol concentration.

For controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screening test and uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO has: knowledge of substance abuse disorders; appropriate medical training to interpret and evaluate a person's confirmed positive test result together with the person's medical history and any other relevant biomedical information; provides verification of laboratory test results; may not have any financial relationship with a treatment program; and may not provide chemical dependency treatment for employees whose test results he or she has reviewed.

Refusal to Submit (to an alcohol or controlled substances test): Besides outright refusal, this term includes situations in which the employee:

1. Fails to provide adequate breath, (blood or saliva. US Coast Guard testing only) for testing without a valid medical explanation after having received notice of the requirement for breath testing;
2. Fails to provide adequate urine for drug testing without a valid medical explanation after having received notice of the requirement for urine testing;
3. Engages in conduct that clearly obstructs the testing process;
4. Fails to cooperate with any part of the testing process; or
5. Refuses to read and sign a statement on the drug testing custody and control form certifying the specimen is in fact the employee's driver's specimen.

6. Failing to appear for any test within a reasonable time period as determined by DSHS and after being directed to do so.
7. Leaving the scene of an accident without valid reason before a drug and alcohol test has been conducted.

Return-to-Duty (or Return-to-Work) Plan: A written document, developed by a Substance Abuse Professional or other approved alcohol/drug specialist involved in monitoring the personal progress of an employee who has violated the policy, which includes all the requirements with which the employee must comply before returning to safety-sensitive duties following the violation, such as a positive drug or alcohol test. The requirements may include treatment, aftercare, frequency of follow-up tests, and requirements for continuing care beyond the date of the employee's return to work.

Safety-sensitive position: For purposes of this policy, safety-sensitive positions are:

1. Licensed health care professionals who prescribe, administer or dispense medications as part of their job duties;
2. Licensed emergency medical technicians (EMT);
3. Employees who are issued firearms;
4. Non-represented employees who provide security on state property or ensure public safety are also subject to testing, per WAC [357-37-200](#);
5. Employees required having a Commercial Driver License (CDL); and
6. Marine Employees as defined by US Coast Guard Regulations.

For CDL employees, safety-sensitive functions include such duties as operating, loading, unloading, inspecting, maintaining or repairing a commercial vehicle, obtaining assistance or remaining in attendance with a disabled vehicle, or as otherwise set forth in the Code of Federal Regulations (CFR). A CDL employee is considered to be performing a safety-sensitive function during any period in which the employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Marine employees safety-sensitive functions include but are not limited to:

- a. Piloting Marine vessels;
- b. Standing lookout watch underway;
- c. Mooring and unmooring vessel;
- d. Directing and mustering passengers in emergencies;
- e. Passing out lifejackets;
- f. Controlling and operating lifesaving equipment; or,
- g. Controlling and operating firefighting equipment.
- h. Controlling and directing the loading of passengers and/or vehicles;
- i. Performing inspections, maintenance or mechanical repairs on Marine vessels;
- j. Making operational decisions that affect vessel operations.

Marine Casualty or Accident: means any casualty or accident involving a vessel other than public vessels if such casualty or accident occurs upon the navigable waters of the United States, its territories or possessions or any casualty or accident wherever such casualty or accident may

occur involving the United States' vessel which is not a public vessel. (Note: a public vessel means any vessel that is owned or demise chartered, and operated by the U.S. Government or government of a foreign country.) The term marine casualty or accident includes any accidental grounding, or any occurrence involving a vessel which results in damage by or to the vessel, its apparel, gear or cargo or injury or loss of life of any person; and includes among other things collisions, stranding, groundings, flooding, collision, foundering, fires, explosions, any incident involving significant harm to the environment, failure to gear and equipment and any other damage that might affect or impair the seaworthiness of the vessel

Screening Test (initial test): In alcohol testing, an analytical procedure, administered by Evidential Breath Testing (EBT) machine to determine whether an employee may have a prohibited concentration of alcohol in the employee's system. In drug testing, an immunoassay screen is administered to eliminate "negative" urine specimens from further consideration, or in certain limited circumstances a blood test.

Serious Bodily Injury: As a criterion in requiring a post-accident drug and alcohol test, this term means a workplace accident or injury severe enough that off-site medical attention is required.

Service Agent: The firm retained by DSHS to designate approved sites for the collection of specimens – urine for drug testing, breath for alcohol testing – transport urine specimens to approved laboratories for analysis, provide Medical Review Officer Services to verify test results, report results to the DSHS Drug and Alcohol Program Coordinator, and/or provide other allied services requested by DSHS.

Significant property/environmental damage: as a criterion in requiring a post-accident drug and alcohol test, this term means a workplace accident or incident which results in damage estimated to be in excess of \$500.

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors or by the International Certification Reciprocity Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

In addition to these credentials, the SAP must have undergone qualification training, have satisfactorily completed an examination, and complete at least 12 professional development hours relevant to the SAP duties in each three years following qualification. While there is no official list of qualified SAPs, federal guidelines require that each SAP keep records of compliance with these requirements and be willing to show them at each legitimate request.

B. Which employees are subject to alcohol and drug testing?

Testing for the presence of alcohol and/or drugs can be required of employees in a number of situations:

1. Employees Required to Possess a Commercial Driver License (CDL) or employees required to be licensed by the United States Coast Guard or Employees who are required to perform “safety sensitive” duties aboard a marine vessel.

Employees whose position requires them to possess a valid CDL by the Commercial Motor Vehicle Safety Act of 1986, RCW 46.25, 49 CFR, or employees who perform “safety sensitive” functions aboard a marine vessel or is required to be licensed by the US Coast Guard as regulated by 46 CFR 16, 46 CFR 4.06, 49 CFR 40, and 33 CFR 95, are subject to drug and/or alcohol testing in several circumstances:

Pre-Employment Testing: Applicants for positions requiring a CDL, positions performing safety sensitive duties aboard a marine vessel or is required to be licensed by the US Coast Guard **are required** to have a negative pre-employment drug test. DSHS employees transferring into a position must test before being allowed to perform safety sensitive functions. Applicants who fail this test, or who refuse to test, will not be considered for DSHS “safety-sensitive” positions for a minimum of 12 months.

Post-Accident/Incident Testing: Employees are subject to testing for the presence of alcohol and other drugs following a work-related incident as defined below.

Work related incidents for employees required to possess a CDL result in the following:
Death.

- a. Bodily injury of anyone involved in the incident serious enough to require medical treatment away from the scene.
- b. One of the vehicles involved is left undrivable, except for tire or headlight damage.

All individuals directly involved in a serious marine incident, are subject to testing for the presence of alcohol and other drugs following a “Serious Marine Incident” or SMI. A Serious Marine Incident means a reportable marine casualty or accident under 46 CFR 4.05-1, which results in any of the following:

- a. One or more fatalities;
- b. An injury to a crew member, passenger, or other person which requires professional medical treatment beyond first aid, and in case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine duties;
- c. Property damage in excess of \$100,000;
- d. Actual or constructive total loss of any inspected vessel subject to inspection under 46 U.S.C. 3301;
- e. Actual or constructive loss of any self-propelled uninspected vessel, not subject to inspection under 46 U.S.C. 3301 of 100 gross tons or more;
- f. A discharge of oil into a navigable waters of the U.S. excess of 10,000 gallons whether or not resulting from a marine casualty; or,

- g. A release of Hazardous Substance greater than or equal to its reportable quantity into a navigable waters of the U.S. or into the environment of the U.S., whether it result in marine casualty or not.

Reasonable Suspicion Testing: Employees are subject to testing for alcohol (CDL only) and/or drugs when their supervisor has reason to suspect, based on observations of the employee's behavior and other indicators, that the employee may be under the influence of alcohol or drugs.

Random Testing: Under RCW 46.2, Federal CFR 49 part 40, or US Coast Guard regulations, all DSHS CDL positions or positions required to perform safety sensitive functions aboard a marine vessel are subject to random testing for the presence of alcohol or drugs. Drug testing is 50% of the total number of employees in each prospective "pool" annually, and alcohol testing (CDL holders only) is 10% annually.

Return to Duty Testing: Employees testing under the Federal Regulations, who test positive for drugs or alcohol, must provide a negative test result before returning to safety-sensitive duty.

Follow-Up Testing: Employees who tested positive and has been cleared to return-to-duty by a SAP or MRO, is subject to a minimum of six unannounced follow-up tests within the first year after the individual returns to work. The SAP or MRO may require additional follow-up tests.

All employee tests conducted under Federal Regulations will follow applicable Federal CFR.

2. **Safety-sensitive employees (WFSE)**

Safety-sensitive employees (WFSE) are subject to drug and/or alcohol testing in a number of situations:

Pre-employment: Applicants for DSHS safety-sensitive positions *may be* required to produce a negative drug test result after receiving a conditional offer of employment. Applicants who fail this test, or who refuse to test, will not be considered for DSHS positions for a minimum of 12 months.

Post-accident: Safety-sensitive employees may be required to submit to an alcohol and drug test following a workplace incident resulting in:

- a. Death, serious bodily injury or significant property/environmental damage; or
- b. The potential for death, serious bodily injury or significant property/environmental damage; and
- c. When an employee's action(s) or inaction(s) either contributed to the incident, or cannot be completely discounted as a contributing factor.

Post-firearm shooting incidents: Following any incident in which a safety-sensitive employee uses his or her weapon, that employee will be required to submit to testing for

alcohol and drug use as soon as the incident has been concluded. A refusal to test will be considered the same as a positive test. The employee will be transported to the collection site by a supervisor or other management official.

Reasonable suspicion: Reasonable suspicion testing for alcohol or controlled substances may be directed by the employer for any employee performing safety-sensitive functions when there is reason to suspect that alcohol or controlled substance use may be adversely affecting the employee's job performance or that the employee may present a danger to the physical safety of the employee or another.

Specific, objective grounds must be stated in writing that support the reasonable suspicion. Examples of specific objective grounds may include, but are not limited to:

- a. Physical symptoms consistent with controlled substance and/or alcohol use;
- b. Evidence or observation of controlled substance or alcohol use, possession, sale, or delivery; or
- c. The occurrence of an accident(s) where a trained manager, supervisor, or lead worker suspects controlled substance/alcohol use may have been a factor.

A trained manager, supervisor, or lead worker is one who has completed drug and alcohol training on detecting the signs/symptoms of being affected by controlled substances and/or alcohol. A referral for testing will be made on the basis of specific objective grounds documented **and** verified in person or over the phone by another trained manager, supervisor, or lead worker.

When reasonable suspicion exists, employees must submit to alcohol and/or controlled substance testing when required by the employer. A refusal to test is considered the same as a positive test. When an employee is referred for testing, he or she will be removed immediately from duty and transported to the collection site.

Follow-up testing can be required of safety-sensitive employees if required in a Return-to-Work Plan.

3. **Safety-sensitive employees (SEIU Local 1199)**

Safety-sensitive employees (SEIU Local 1199) cannot be tested on a random or periodic basis. However, as DSHS employees or as applicants for such positions, they are subject to testing in a number of circumstances:

Pre-employment: Applicants for DSHS safety-sensitive 1199 positions may be required to take a pre-employment drug test following a conditional offer of employment and must produce a negative test result. Applicants who fail this test, or who refuse to test, will not be considered for DSHS positions for a minimum of 12 months.

Post-accident: Safety-sensitive employees may be required to submit to an alcohol and drug test following a workplace incident resulting in:

- a. Death, serious bodily injury or significant property/environmental damage; or

- b. The potential for death, serious bodily injury or significant property/environmental damage; and
- c. When an employee's action(s) or inaction(s) either contributed to the incident or cannot be completely discounted as a contributing factor.

Reasonable suspicion: Reasonable suspicion testing for alcohol or controlled substances may be directed by the employer for any employee performing safety-sensitive functions when there is reason to suspect that alcohol or controlled substance use may be adversely affecting the employee's job performance or that the employee may present a danger to the physical safety of the employee or another.

Specific objective grounds must be stated in writing that support the reasonable suspicion. Examples of specific objective grounds may include, but are not limited to:

- a. Physical symptoms consistent with controlled substance and/or alcohol use;
- b. Evidence or observation of controlled substance or alcohol use, possession, sale, or delivery; or
- c. The occurrence of an accident(s) where a trained manager, supervisor or lead worker suspects controlled substance/alcohol use may have been a factor.

A trained manager, supervisor, or lead worker is one who has completed drug and alcohol training on detecting the signs/symptoms of being affected by controlled substances and/or alcohol. A referral for testing will be made on the basis of specific objective grounds documented **and** verified in person or over the phone by another trained manager, supervisor, or lead worker.

When reasonable suspicion exists, employees must submit to alcohol and/or controlled substance testing when required by the employer. A refusal to test is considered the same as a positive test. When an employee is referred for testing, he or she will be removed immediately from duty and transported to the collection site.

Follow-up testing can be required of safety-sensitive employees if required in a Return-to-Work Plan.

4. **Safety-sensitive employees (Coalition)**

Safety-sensitive employees (Coalition) are subject to drug and/or alcohol testing in a number of situations:

Pre-employment: Applicants for DSHS safety-sensitive positions may be required to produce a negative drug test result after receiving a conditional offer of employment. Applicants who fail this test, or who refuse to test, will not be considered for DSHS positions for a minimum of 12 months.

Post-accident: Safety-sensitive employees may be required to submit to an alcohol and drug test following a workplace incident resulting in:

- a. Death, serious bodily injury or significant property/environmental damage; or

- b. The potential for death, serious bodily injury or significant property/environmental damage; and
- c. When an employee's action(s) or inaction(s) either contributed to the incident or cannot be completely discounted as a contributing factor.

Reasonable suspicion: Reasonable suspicion testing for alcohol or controlled substances may be directed by the employer for any employee performing safety-sensitive functions when there is reason to suspect that alcohol or controlled substance use may be adversely affecting the employee's job performance or that the employee may present a danger to the physical safety of the employee or another.

Specific objective grounds must be stated in writing that support the reasonable suspicion. Examples of specific objective grounds may include, but are not limited to:

- a. Physical symptoms consistent with controlled substance and/or alcohol use;
- b. Evidence or observation of controlled substance or alcohol use, possession, sale, or delivery; or
- c. The occurrence of an accident(s) where a trained supervisor suspects controlled substance/alcohol use may have been a factor.

A trained manager, supervisor, or lead worker is one who has completed drug and alcohol training on detecting the signs/symptoms of being affected by controlled substances and/or alcohol. A referral for testing will be made on the basis of specific objective grounds documented **and** verified in person or over the phone by another trained manager, supervisor, or lead worker.

When reasonable suspicion exists, employees must submit to alcohol and/or controlled substance testing when required by the employer. A refusal to test is considered the same as a positive test. When an employee is referred for testing, he or she will be removed immediately from duty and transported to the collection site.

Follow-up testing can be required of safety-sensitive employees if required in a Return-to-Work Plan.

5. **Non-represented employees**

Non-represented employees are subject to testing in a number of circumstances:

Pre-employment: Any applicant for a DSHS position performing safety-sensitive functions where impairment due to the presence of alcohol or controlled substances presents a danger to the physical safety of the employee or another may be required to produce a negative drug test result following a conditional offer of employment. A refusal to test will be considered the same as a positive test result. Applicants who fail the test, or refuse to test, will not be considered for DSHS positions for a minimum of 12 months.

Post-accident: Safety-sensitive employees may be required to submit to an alcohol and drug test following a workplace incident resulting in:

- a. Death, serious bodily injury or significant property/environmental damage; or
- b. The potential for death, serious bodily injury or significant property/environmental damage; and
- c. When an employee's action(s) or inaction(s) either contributed to the incident or cannot be completely discounted as a contributing factor.

Reasonable suspicion: Reasonable suspicion testing for alcohol or controlled substances may be directed by the employer for any employee in a position performing safety-sensitive functions when there is reason to suspect that alcohol or controlled substance use may be adversely affecting the employee's job performance or that the employee may present a danger to the physical safety of the employee or another.

Specific objective grounds must be stated in writing that support the reasonable suspicion. Examples of specific objective grounds may include, but are not limited to:

- a. Physical symptoms consistent with controlled substance and/or alcohol use;
- b. Evidence or observation of controlled substance or alcohol use, possession, sale, or delivery; or
- c. The occurrence of an accident(s) where a trained manager, supervisor, or lead worker suspects controlled substance/alcohol use may have been a factor.

A trained manager, supervisor, or lead worker is one who has completed drug and alcohol training on detecting the signs/symptoms of being affected by controlled substances and/or alcohol. A referral for testing will be made on the basis of specific objective grounds documented **and** verified in person or over the phone by another trained manager, supervisor, or lead worker.

When reasonable suspicion exists, employees must submit to alcohol and/or controlled substance testing when required by the employer. A refusal to test is considered the same as a positive test. When an employee is referred for testing, he or she will be removed immediately from duty and transported to the collection site.

Follow-up testing can be required of employees performing safety-sensitive functions if required in a Return-to-Work Plan.

C. What are the general provisions for drug and alcohol testing?

Testing for the presence of alcohol or controlled substances will be conducted in such a way as to ensure maximum accuracy and reliability.

Testing will use the techniques, chain of custody procedures and forms, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services in the Mandatory Guidelines for Federal Workplace Drug Testing Programs. Collection of test samples – urine for controlled substances, breath for alcohol – will be done only at approved collection sites.

To ensure compliance with these requirements, DSHS will contract with an outside qualified and experienced drug/alcohol service agent.

D. What are the consequences for an employee who has a positive alcohol or drug test?

Employees who test positive will be immediately removed from all safety sensitive functions.

An employee who has a positive alcohol test result and/or a confirmed positive controlled substances test result that is verified positive by a Medical Review Officer will be subject to disciplinary action. Disciplinary action may include dismissal. Action taken will be based on the incident which prompted the testing, including a violation of the drug and alcohol-free workplace rules.

Management may disclose the results at the employee's request or as necessary for the conduct of DSHS business. This could include any challenge to the disciplinary action arising from the incident or behavior that led to the testing.

The employee will be advised of the test results and, in the event of a positive test report, the employee may be required to receive an assessment from the Washington State Employee Assistance Program (EAP) or other approved case management resource, such as the SAP or Washington Health Professional Services, as assigned by the Coordinator, and sign a Return-to-Work agreement developed in cooperation with the EAP or other assigned resource. CDL drivers and Marine employees covered under Federal testing programs must comply with all Federal requirements following a positive drug test.

Since the controlled substance methadone is often used in the treatment of opiate addictions, an employee who tests positive for this drug will be required to disclose this fact to the coordinator, and give his or her permission for the coordinator to verify with the employee's treatment case manager the circumstances of the treatment. In addition, the employee will be required to sign a Return-to-Work agreement developed in cooperation with the case manager and the coordinator.

An employee who violates the terms of the Return-to-Work agreement will be subject to further disciplinary action, up to and including dismissal. The employee may also be required to sign a consent for release of information giving the case management resource permission to notify the supervisor of any non-confidential requirements affecting the employee's position and cooperation with the Return-to-Work agreement.

E. What provisions have been established for payment and other compensation for testing?

DSHS will compensate employees for their time and reimbursable expenses related to providing samples for reasonable suspicion and post-accident testing.

If an employee's drug test is confirmed positive and the employee requests that the split sample be tested, the test of the split sample will be at the employee's expense. DSHS will approve the request, provided that the request is submitted within 72 hours of the notification of the positive test result to DSHS by the MRO. If the result of the split sample testing is negative, the employee will be reimbursed by DSHS.

F. What provisions are there for receiving and safeguarding test results?

All results of alcohol or controlled substances testing will be maintained confidentially and released only on a need-to-know basis. Supervisors will be notified only of a positive or negative result. The type or quantity of the substance will not be disclosed.

Results of testing will be given to the Drug and Alcohol Program Coordinator, who will release them only in the named situations. The Coordinator will keep testing records in a confidential and locked file, and will ensure that they are not included in the employee's personnel file.

If an employee who tests positive chooses to resign rather than meet with the EAP or other resource as directed, or if an employee is dismissed, a copy of the resignation/dismissal letter is to be forwarded to the Drug and Alcohol Program Coordinator for inclusion in the record.

G. What provisions are there for training employees in this policy?

Training will be required for all DSHS managers, supervisors, and lead workers who are in a position to require testing of CDL/Marine and other designated employees. The focus of this training will be the criteria for requiring a reasonable suspicion alcohol and/or drug test, and the procedures for executing the testing. A record will be kept by the Coordinator of all who have completed the training, and made available to managers and supervisors at their request for the purpose of substantiating reasonable suspicion observations.

Specific training and/or educational material concerning drug and alcohol testing will be provided to CDL and Marine employees, other safety-sensitive employees, and to all employees subject to drug and alcohol testing.

Since compliance with the policy is a condition of employment, an employee awareness program will be made available to all DSHS managers, supervisors, and employees, with a focus on the elements listed in the Federal Drug-Free Workplace Act of 1988.

H. Who is responsible for additional information or questions regarding this policy?

Drug/Alcohol Program Coordinator
Human Resources Division
(360) 725-5856

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- ¹ 7/15/08 Housekeeping change made to the [definition of “under the influence”](#) - examples of characteristics were added. The examples of characteristics existed in previous policy.
- ² 1/9/09 Housekeeping change made to question 11 on page 4. The following language has been removed: ~~As a general rule, DSHS will focus on rehabilitation through the Washington State Employee Assistance Program (EAP) for the first violation. However, subsequent violations will result in severe disciplinary action, up to and including dismissal.~~

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