
Laboratory Policy and Procedure for Alcohol and Drug Free Workplace

1.0 Purpose – The North Carolina State Crime Laboratory (Laboratory) is an alcohol and drug free workplace. The purpose of this policy is to promote a safe, healthy working environment for all employees; to reduce absenteeism and tardiness and improve work performance; and to avoid accidental injuries to people or damage to property.

2.0 Scope – This policy applies to all Laboratory employees, including contractors and temporary workers. This policy applies to alcoholic beverages, prescription drugs, inhalants, and illegal drugs. Persons violating this policy, failing to cooperate, refusing to be tested, providing false information or omitting information may be subject to disciplinary action, including termination. The Laboratory has the right to conduct inspections of all Laboratory property and premises and to implement and conduct drug and alcohol screening tests pursuant to this policy. For the purpose of this policy, “drugs” include: “illegally-used controlled substances” which encompasses narcotic and non-narcotic drugs, including prescription drugs used abusively and “non-controlled” (over the counter) medicines if they render one unfit for work. Additionally, the abuse of any substance (including consumption of alcohol) for the purpose of achieving a drug-like effect will fall under the prohibition against “drugs.” For the purpose of this policy, “under the influence” is a state of having levels where screening test results are reported as being positive. It may also include being unable to perform work in a safe, productive manner, or being in a physical or mental condition that creates a risk to the safety or wellbeing of the employee, other employees, or Laboratory property.

3.0 Definitions

- **Applicant** - A person who applies for employment or appointment to a position in the Laboratory, to include employees working as temporary and/or on contract.

Note: Volunteer/Student applicants will not be subject to drug testing if they are providing support services and volunteer/student applicants seeking to observe and/or work under close supervision. Drug testing is to be performed on those expected to have access to confidential documentation and/or sensitive information.

- **Certified Laboratory** - A lab certified under the U.S. Department of Health and Human Services that has mandatory guidelines for federal workplace drug testing programs.
- **Collection Site** - A designated place where employees present themselves to provide, under controlled conditions, urine or breathe specimen which will be analyzed for the presence of drugs or alcohol.
- **Collection Site Personnel** - A person who instructs and assists individuals in the collection of the requested specimen for drug and/or alcohol testing under specific protocol.
- **Confirmed Positive Result** - The presence of an illegal or unauthorized substance in the pure form or its metabolites at or above the specified cutoff level identified on two (2) consecutive tests which employ different testing methods.

- **Confirmation Test** - A second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. At this time, gas/chromatography/mass spectrometry (GC/MS) shall be used.
- **Consent and Acknowledgement Form** - The Applicant Consent and Acknowledgement Form and the Consent and Acknowledgment Form for Random Testing and Reasonable Cause provide consent for testing and inform the applicant/employee of substances subject to testing.
- **Controlled Substance** - A controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation at 21 CFR 1300.11 through 1300.15; also a controlled substance in schedules I through VI of the North Carolina Controlled Substances Act (Article 5 of Chapter 90 of the North Carolina General Statutes); also a controlled substance in schedules I through VI in title 10A, chapter 26F of the North Carolina Administrative Code. Major substances for review by this policy shall include: marijuana/cannabinoids (THC); cocaine metabolites; opiates; phencyclidine (PCP); amphetamines/methamphetamines; methadone; barbiturates; benzodiazepines and tricyclic antidepressants.
- **Conviction** - A finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- **Criminal Drug Statute** - A federal or state criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.
- **Drug Test** - A chemical, biological or physical analysis or test administered for the purpose of determining the presence or absence of a drug or its metabolites and/or alcohol.
- **Impaired** - Performance and/or behavior which would indicate to the observer that the employee's ability to handle job assignments safely and efficiently may be compromised.
- **Initial Drug Test** - A sensitive, rapid, and reliable immunoassay procedure to identify negative and presumptive positive specimens.
- **Medical Review Officer** - A licensed physician whose duties include the review and interpretation of positive results from confirmatory testing and who evaluates those results together with medical history or any other relevant biomedical information to verify positive results. This person has knowledge of substance abuse disorders and appropriate medical or forensic training.
- **Negative Result** - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial screen or confirmatory test or as determined by a Medical Review Officer.
- **Random Drug Test** - A test performed according to rates established annually by the Laboratory on positions identified by the Director and Laboratory Management. Employee selection is randomly generated from a list of eligible employees.

- **Reasonable Cause or Reasonable Suspicion Drug Testing** - Testing based on specific objective and articulable facts and reasonable inferences that an employee is using or has used alcohol or drugs in violation of the department's policy. Such facts and inferences may include, but are not limited to, any of the following:

Direct observations of abnormal conduct or erratic behavior by the employee which may render the employee unable to perform assigned duties or which may pose a threat to safety or health;

Report of alcohol or drug use provided by a reliable and credible source;

On-the-job accident or occurrence where there is evidence to indicate the accident or occurrence, in whole or in part, may have been the result of the employee's use of a controlled substance or alcohol;

Evidence that an employee is involved in the illegal or unauthorized use, possession, sale, solicitation, or transfer of drugs or alcohol while working, while on the employer's premises when off duty or while operating the employer's vehicle, machinery, or equipment;

Employee's conviction of a criminal drug or alcohol statute violation within the past year.

- **Refusal to Submit to an Alcohol or Drug Test** - The failure of an employee to provide adequate breath or urine specimen upon request for testing without a valid medical explanation or unreasonable conduct which clearly interferes with the testing process.
- **Release of Information Form** - Outlines the information that will be released to management from an Employee Assistance Program referral.
- **Substance Abuse Professional** - Licensed physicians, as well as licensed or certified psychologists, social workers, employee assistance professionals, and alcohol and drug counselors certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) to assess or evaluate an employee who has engaged in prohibited alcohol or drug conduct.
- **Verified Positive Result** - The positive result reported by a Medical Review Officer after the assessment of collection and testing protocols and a determination of no alternate medical explanation for the presence of the controlled substance.

4.0 Confidentiality

- 4.1 All drug and alcohol test results shall be released directly to the Assistant Director of Administrative Operations, or designee.
- 4.2 The results are included in the affected employee's medical file maintained in accordance with State policies and procedures and Federal law.

5.0 Laboratory Policy Coverage

- 5.1 A reasonable cause or reasonable suspicion drug testing program for Laboratory employees when there is cause to believe an employee is using drugs or is impaired on the job.
- 5.2 A pre-employment drug testing program for all applicants for initial hire positions in the Laboratory.
- 5.3 Applicants for employment with the Laboratory who currently use illegal drugs will be found unsuitable for employment. Those applicants with prior drug use may be deemed unsuitable for employment if they:
 - 5.3.1 Have used any illegal drug (including anabolic steroids after February 27, 1991), other than marijuana, within the past ten years, or engaged in more than minimal experimentation in their lifetime.
 - 5.3.2 Have used marijuana/cannabis within the past three years, or have extensively used marijuana/cannabis over a substantial period of time.
 - 5.3.3 Have used any prescription drug or used a legally obtainable substance in a manner for which it was not intended within three years (36 months) preceding the date of the application for employment.
 - 5.3.4 Have sold or delivered any illegal drug at any time.
 - 5.3.5 Have engaged in the unauthorized use of any illegal drug while employed in a position of public trust.
 - 5.3.6 In making the determination about an applicant's suitability for Laboratory employment, all relevant facts, including the frequency of use, will be evaluated.
- 5.4 A random drug testing program for all positions.
- 5.5 A drug testing program on employees that return to duty following a mandatory referral to the Employee Assistance Program for substance abuse.

6.0 Prohibitions

- 6.1 The Laboratory prohibits all persons from engaging in the following behavior while performing Laboratory business, while on Laboratory property, or while operating or riding in a motor vehicle on Laboratory business:
 - 6.1.1 Being impaired by drugs or alcohol; or
 - 6.1.2 The sale, transfer, distribution, or unauthorized use or possession of drugs or alcohol; or
 - 6.1.3 Unauthorized use of Laboratory or other state property for the storage or transportation of drugs or alcohol.

- 6.2** The above prohibitions shall not include drugs taken according to the verifiable prescription of a licensed physician.
- 6.3** In addition, the following activities are prohibited at all times:
 - 6.3.1** No employee shall possess, ingest or otherwise use any illegal controlled substance or other drug in a manner which is illegal under State or Federal law.
 - 6.3.2** No employee shall ingest or otherwise use any controlled substance without a valid prescription.
 - 6.3.3** No employee shall ingest or otherwise use any prescribed drug(s) or controlled substance in amounts above prescribed dosage or otherwise contrary to medical advice.
 - 6.3.4** No employee shall order, or have ordered on his/her behalf, any controlled substance from an internet provider, unless such drug was prescribed by a physician licensed by the State of North Carolina, with whom the employee has developed a physician/patient relationship, and the drug is prescribed for a legitimate medical purpose.

7.0 Implementation

- 7.1** Management is committed to providing an alcohol and drug free workplace for all employees of the Laboratory.
- 7.2** The unlawful manufacture, distribution, dispensation, sale, possession, or use of controlled substances; the unlawful use of prescription drugs; the possession or use of alcoholic beverages; and the possession of and manufacture or delivery of drug paraphernalia is prohibited on department premises and workplaces. The Laboratory maintains a zero tolerance position on the above issues.
- 7.3** Violation of the policy set out above and/or alcohol or controlled substance impaired behavior on the job shall be viewed as unacceptable personal conduct and shall be cause for disciplinary action up to and including dismissal.
- 7.4** An employee determined, by administrative or other investigation, to be involved in the manufacture, distribution, dispensation, or sale of a controlled substance or alcohol on Laboratory premises or workplaces shall be dismissed.
- 7.5** An employee determined to be using or under the influence and/or functioning below acceptable work standards due to alcohol or a controlled substance or unlawful use of prescription drugs on Laboratory premises or workplaces shall receive at least a written warning.
- 7.6** The Laboratory will notify appropriate law enforcement officers when violations of criminal drug statutes occur in the workplace.
- 7.7** An employee arrested, charged or convicted of any criminal drug or alcohol statute violation must notify his or her supervisor immediately after such occurrence. Failure to provide notification

may result in disciplinary action, up to and including dismissal. When required by the Federal Drug-Free Workplace Act of 1988, Laboratory management shall notify the appropriate federal contracting agency of such a conviction.

- 7.8** The Laboratory, in accordance with Employee Assistance Program principles, will support the responsible action of an employee seeking help for an alcohol or controlled substance problem. An employee's efforts to obtain help through the department will be handled in confidence.
- 7.9** Every employee shall receive orientation on this policy and documentation shall be maintained by the Laboratory to support that this occurred.
- 7.10** Disciplinary action, in the form of a written warning, disciplinary suspension without pay, demotion or dismissal, shall be taken when an employee violates the provisions of this policy including, but not limited to, the following:
 - 7.10.1** Refuses to submit to a required drug or alcohol test;
 - 7.10.2** Fails to show for a scheduled drug or alcohol test;
 - 7.10.3** Intentionally tampers, or attempts to tamper, with a drug or alcohol sample; or
 - 7.10.4** Produces a confirmed positive alcohol test or a verified positive drug test.
- 7.11** Substances that may be tested for under this policy include, but are not limited to, the following:
 - 7.11.1** Marijuana/cannabinoids (THC);
 - 7.11.2** Cocaine metabolites;
 - 7.11.3** Opiates;
 - 7.11.4** Phencyclidine (PCP);
 - 7.11.5** Amphetamines/methamphetamines;
 - 7.11.6** Alcohol;
 - 7.11.7** Methadone;
 - 7.11.8** Barbiturates;
 - 7.11.9** Benzodiazepines; and
 - 7.11.10** Tricyclic antidepressants.
 - 7.11.11** Note: Substances to be tested for can be expanded only for cases which reasonable cause identifies a need to test for a substance. Employees must be informed of the substances for which they will be tested.

- 7.12** An employee who produces a confirmed positive alcohol test or a verified positive drug test may be subject to disciplinary action. Should the employee be allowed to return to duty, they must first:
- 7.12.1** Undergo an evaluation or assessment by a substance abuse or medical professional;
 - 7.12.2** Satisfactorily complete any rehabilitation process that is recommended through this assessment;
 - 7.12.3** Successfully complete any return to duty requirements which will include a return to duty drug/alcohol test; and
 - 7.12.4** Successfully undergo follow-up testing within the first 12 months of returning to work at the direction of management and the Employee Assistance Program.
- 7.13** An employee/applicant who receives a positive drug test may request through the Medical Review Officer the same or split specimen be tested at another certified laboratory with the cost of such testing at employees/applicant expense. Notification for re-testing of a sample must be made within 72 hours upon employee/applicant receiving written notice of a positive test results.
- 7.14** Applicants or employees with a confirmed positive test will be afforded the opportunity for appealing the results. This is accomplished by providing medical data/history for review and assessment by the Medical Review Officer who will make a final determination of the test result.
- 7.15** An employee who tests positive in a second drug or alcohol test shall be dismissed.
- 7.16** Should an applicant test positive on a drug test, he or she will not be allowed to reapply for employment/service for a period of three (3) years from the date of the test result.

8.0 Investigations and Drug Testing

- 8.1** All employees must cooperate with any substance abuse inquiry. An inquiry may include a requirement that an employee submit to a drug screen test. During the inquiry, the employee will have the opportunity to list all drugs taken or used (prescription, over-the-counter, or other) and to explain the circumstances surrounding the use of such drugs. All records containing medical information will be maintained in accordance with applicable law.
- 8.2** An employee who refuses to sign a release or authorization to submit to any drug screen test, or who refuses to undergo such a test, or refuses to permit the medical facility to provide the results to the Laboratory will be considered in violation of this policy and may be subject to disciplinary action.

9.0 Situations Warranting Reasonable Suspicion Testing

- 9.1** A Laboratory employee may be required to submit to a drug test when the Laboratory has reason to suspect, based upon observed employee behavior, credible reports or other credible

information, that the employee may be under the influence of alcohol or illegal drugs, or may have otherwise violated Laboratory drug policy.

9.2 Circumstances exist that reasonably suggest that such testing is appropriate including, but not limited to, the following:

9.2.1 Unexplained significant deterioration in individual job performance;

9.2.2 Significant changes in individual personality, appearance, hygiene;

9.2.3 Excessive absenteeism, including tardiness; or

9.2.4 The employee is involved in an accident that caused or was capable of causing injury to any person or damage to property.

10.0 Testing Actions

10.1 Drug Screen testing shall take place during the application process. The test conducted shall not be more than sixty (60) days old calculated from the time when the laboratory reports the results to the date of employment/service.

10.2 In order to maintain the effectiveness and reliability of the drug testing process, applicant/employees should not be given more than 24 hours advance notice of the testing date and time.

10.3 Employees subject to random testing shall be chosen randomly by the testing contractor. The contractor shall notify the Assistant Director of Administrative Operations, or designee, of the employees selected for testing. Arrangement for employee testing will immediately follow notification.

10.4 When management has reasonable cause to believe an employee is using or is under the influence of alcohol or a controlled substance in violation of this policy, the employee may be required to submit to a drug and/or alcohol test.

10.4.1 All tests conducted for reasonable cause must have the approval of the Assistant Director of Administrative Operations, or designee.

10.4.2 The employee shall be informed that, as a condition of employment, management has the right to ask him or her to submit to a drug or alcohol test.

10.4.3 The employee shall be advised of the following: basis for the reasonable cause; methods of testing which may be used; substances which may be identified; importance of cooperating with the collection site personnel; confidentiality of individual test results; appeals process through a Medical Review Officer following a confirmed positive drug test; and the consequences of refusing to sign consent forms, failing to submit to testing, failing to report for a specimen collection, or receiving a verified positive test result or confirmed positive alcohol test.

- 10.4.4** The Assistant Director of Administrative Operations, or designee, shall initiate a testing process as soon as possible. The employee shall be given verbal notification of the time, date and location of the test and be required to sign a Consent and Acknowledgement Form. The employee will be given a copy of the form and a copy is placed in the personnel file.
- 10.4.5** If the employee refuses to sign the consent form or to undergo testing as scheduled, the direct supervisor shall take appropriate disciplinary action upon consultation with the Assistant Director of Administrative Operations, or designee, in accordance with Laboratory policy.
- 10.4.6** If a negative test result occurs, the direct supervisor shall notify the employee immediately. If the test is positive, the Assistant Director of Administrative Operations, or designee, shall notify the employee immediately of results and within five business days of receiving a positive test confirmation shall inform the employee in writing of the results and proposed action to be taken.
- 10.4.7** The employee who tests positive, if not dismissed, shall be referred to the Employee Assistance Program as provided in the DOJ policy for use of the program.

11.0 Employment Actions

- 11.1** All offers for positions requiring pre-employment drug testing shall be conditional offers upon satisfactory test results.
- 11.2** A refusal to submit, fail to show, or tampering with sample or a positive test result that cannot be explained to the satisfaction of the Medical Review Officer and the Crime Laboratory shall result in the offer of employment or continued employment service being withdrawn.
- 11.3** If the drug test produces a positive result, the Crime Laboratory will notify the applicant of such and that the conditional offer of employment/service is being withdrawn.
- 11.4** In cases which involve possible manufacture, distribution, dispensing, selling, or possession of controlled substances at the workplace, the Supervisor shall contact the Director.
- 11.5** All drug and alcohol test results will be maintained in a secure and confidential manner in the employee's personnel file and will not be released without written consent of the applicant or employee except as a result of action initiated by or on behalf of the applicant or employee or by court order. Test results are to be maintained for the life of employment.

12.0 Drug and Alcohol Testing Protocol

- 12.1** Drug tests administered shall comply with the procedures for specimen collection, testing, and other safeguards provided in the North Carolina Controlled Substance Examination Regulation Act (Sections 95-230 through 95-235 of the North Carolina General Statutes), North Carolina Department of Labor Controlled Substance Examination Regulation (title 13, Chapter 20 of the NC Administrative Code), 12 NCAC 9B.0101, and this Procedure.

-
- 12.2** The testing laboratory shall report results of all drug tests directly to the Medical Review Officer. In those cases where a confirmed positive result is received, the Medical Review Officer shall:
- 12.2.1** Conduct an interview with the employee.
 - 12.2.2** Interpret and evaluate all drug test results of employees tested under procedures described in this administrative order and make a final determination as to whether the results are positive or negative and whether or not the employee qualifies as a medical exception.
 - 12.2.3** Advise the employee of his or her right to have the sample re-tested and the cost associated with the re-test (if the Medical Review Officer determines the drug test results are positive the employee does not have a qualified medical exception).
- 12.3** The Medical Review Officer shall report all employee drug screen results to the Assistant Director of Administrative Operations, or designee. The Assistant Director of Administrative Operations shall be responsible for directing an investigation in any case where an employee has a confirmed positive drug screen that does not qualify as a medical exception.
- 12.4** Upon written request, the employee in question shall have the right to have a confirmed positive urine specimen retested at the same or another approved laboratory pursuant to N.C.G.S. 95-232(f). The requesting employee shall be responsible for all reasonable expenses for chain or custody procedures, shipping, and re-testing of confirmed positive samples. The Medical Review Officer shall inform the affected employee that full payment to cover the cost of expenses associated with the re-testing must be paid prior to the sample being released.
- 12.5** Employees shall be required to submit to drug testing under the following circumstances:
- 12.5.1 Reasonable Suspicion Testing.** A supervisor who suspects, based on objective factors, an employee is abusing drugs or alcohol shall contact the Assistant Director of Administrative Operations, or designee. The Assistant Director of Administrative Operations will make the final determination whether reasonable suspicion exists and either authorize the supervisor to direct the employee to submit to a drug screen or direct that an investigation be conducted in order to obtain additional facts prior to making a determination as to whether the employee should be required to submit to a drug screen. In any case where a drug screen is authorized, the Assistant Director of Administrative Operations shall prepare a summary of the facts supporting the order to submit to testing. Objective factors to support reasonable suspicion testing may include, but are not limited to, the following:
 - 12.5.1.1** Evidence of impairment during work hours;
 - 12.5.1.2** Incapable of performing job duties;
 - 12.5.1.3** Reduced productivity or other change in work habits;

- 12.5.1.4 Excessive vehicle collisions (shall apply if the employee is required to operate a state owned vehicle);
- 12.5.1.5 Excessive absenteeism;
- 12.5.1.6 Behavior which poses a threat to the safety or health of the employee or another person;
- 12.5.1.7 Reporting to work with odor of alcohol;
- 12.5.1.8 Any other facts and circumstances from which a rational inference that a person is using illegal drugs may be inferred.

12.5.2 Random Testing. All employees shall be subject to unannounced, random-selected drug testing under the direction of the Assistant Director of Administrative Operations, or designee.

13.0 Reasonable Suspicion Testing Procedures

- 13.1 When an employee is ordered by the Assistant Director of Administrative Operations, or designee, to submit to drug and/or alcohol testing in Reasonable Suspicion incidents, the appropriate supervisor shall accompany the employee to the testing facility and ensure compliance with testing procedures.
- 13.2 The employee and supervisor shall report to the nearest designated testing facility **immediately** after notification has been made, and the employee shall comply with the testing procedures. The Medical Review Officer may be contacted for further instructions.
- 13.3 The designated testing facility shall be advised to forward an invoice for these services to the following:

Assistant Director of Administrative Operations
121 E. Tryon Road
Raleigh, NC 27603
- 13.4 Employees may be requested to complete a medical questionnaire which describes all drugs, both prescription and non-prescription, consumed during the past thirty days. Refusal to complete the medical questionnaire prohibits employee from challenging positive test results.
- 13.5 An employee who willfully refuses to report and/or comply with the testing procedures shall be placed on Investigatory Placement with Pay as provided by Section 7 of the State Personnel Manual.

14.0 Random Testing

- 14.1 Using a computer generated random selection program, a third party administrator will randomly select employees for testing. The Assistant Director of Administrative Operations, or designee, shall notify the appropriate supervisor of the names of personnel randomly selected for testing.

- 14.2** The supervisor will notify the selected employee(s) in person to report to the testing facility and comply with the testing procedures. A supervisor, or designee, shall accompany the employee(s) to the designated testing facility. If a selected employee is unavailable or on leave, the supervisor shall wait until the employee's next scheduled work day to make the notification.
- 14.3** The assigned supervisor shall notify the Assistant Director of Administrative Operations, when a selected employee refuses to report and/or comply with the test procedures.
- 14.4** An employee who willfully refuses to report and/or comply with the testing procedures shall be placed on Investigatory Placement with Pay as provided by Section 7 of the State Personnel Manual.

15.0 Available Treatment for Employees for Substance Abuse (Including Alcohol)

- 15.1** Crime Laboratory management encourages any employee who feels that he or she has a substance abuse problem to get treatment and will confidentially assist employees to find treatment. Additionally, there will be no stigma or penalty associated with any employee who voluntarily seeks treatment so long as there is no violation of policy or law.
- 15.2** The request for substance abuse assistance may be made by the employee directly to the Employee Assistance Program or through the employee's supervisor.

16.0 Employee Assistance Program

- 16.1** The State of North Carolina provides an Employee Assistance Program (EAP) as a benefit to assist employees who may be experiencing personal difficulties.
- 16.2** The EAP is a company-sponsored benefit that offers support and resources to address personal or work-related challenges and concerns. The program seeks to maintain and restore individual health and well-being, improve productivity, and retain valued and experienced employees.
- 16.3** The EAP is designed to help with all kinds of life situations. Examples include, but are not limited to, the following: marital difficulties, family problems, parenting, stress, balancing work and family, relationship issues, work-related concerns, depression, alcohol and drug use/abuse, grief and loss, elder care, healthy living, and crisis events.
- 16.4** Confidentiality is an essential part of the EAP.
- 16.5** More information regarding the EAP may be found at www.oshr.nc.gov.

Revision History

Effective Date	Version Number	Reason
08/03/2015	1	Original Document
08/11/2015	2	Removed 5.0 – Self-reporting