

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

SUBJECT: <b>Offender Substance Abuse Testing</b>	PAGE <u>1</u> OF <u>7</u> . NUMBER: 103-SPS-07
RULE/CODE REFERENCE: OAC 3745-27-30	SUPERSEDES: 103-SPS-07 dated 09/19/14
RELATED ACA STANDARDS: 4-APPFS-2D-04	EFFECTIVE DATE: November 23, 2015
	APPROVED: 

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to establish uniform guidelines and procedures for substance abuse testing of offenders under the supervision of the Adult Parole Authority (APA).

**III. APPLICABILITY**

This policy applies to all employees of the Adult Parole Authority who are involved in the supervising and/or testing of offenders for substance abuse.

**IV. DEFINITIONS**

**Adulteration** - Mixing in a foreign substance or by ingesting substances that shall mask drugs of abuse in urine.

**Alcohol Breath Analysis Instrument** - A device used to determine the alcohol concentration in a breath sample. The instrument must be listed on the U.S. Department of Transportation's conforming products for evidential breath measurement device and must be approved internally by the Chief of the APA or designee. An example of an approved device is the Intoximeter, ALCO-SENSOR IV.

**Chain Of Custody** - The process of collection, storage, testing, and transportation of a urine specimen and dissemination of test results in a manner that ensures the specimen and the results are correctly matched to the person who gave the specimen and that the specimen is not altered or tampered with from the point of collection through the reporting of test results.

**For Cause Testing** - Discretionary substance abuse testing that is based on belief or certain criteria that would indicate the offender has used drugs and/or alcohol.

**Gas Chromatography/Mass Spectrometry Testing (GC/MS)** - A chromatographic procedure used to identify substances in urine and to confirm drug use. All GC/MS testing shall be conducted only at the request and the expense of the offender.

**Mandatory Testing** - A substance abuse testing regimen determined by an offender's participation in an Ohio Department of Mental Health and Addiction Services (OhioMHAS) substance abuse treatment program.

**On-Site Screening Instrument** - A screening device for substances which provides immediate results. The instrument must hold 510K approval from the Food and Drug Administration (FDA) and must be approved by the Offender Services Network Administrator/designee. (Also referred to as an "instant test" or "on-site test")

**Random Testing** - A substance abuse testing regimen determined by the lab technician/designee on a random basis with no advance warning to the individuals being tested, which may be administered at any time throughout the period of supervision.

**Substance** - This includes, but is not limited to, alcohol, opiates, cannabinoids, benzodiazepines, PCP, LSD, barbiturates, amphetamines/methamphetamines, inhalants, and other drugs of abuse.

**Substance Abuse Education And/or Treatment Program** - Any OhioMHAS certified programming where the primary focus is on substance abuse. This includes education, outpatient, intensive outpatient, day reporting, relapse prevention, aftercare, or residential programming. Fellowship meetings such as AA are not considered substance abuse education and/or treatment.

**Substance Abuse Test** - Any use of an approved on-site screening instrument, alcohol breath analysis instrument, approved testing device, or urinalysis specimen collected and tested utilizing FDA approved testing methods to detect the presence of substances in offenders under the supervision of APA.

**Tamper** - The act of adding a substance to a urine specimen in order to adulterate it or any other attempt to improperly interfere or alter a sample.

**Urinalysis** - Analysis of urine to determine the presence or abuse of illegal substances.

## V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction to provide mandatory, random, and for cause substance abuse testing of offenders in order to identify those individuals who are abusing substances and to allow for appropriate supervision and intervention strategies.

## VI. PROCEDURES

### A. Categories of Substance Abuse Testing

1. Staff may randomly select individual or groups of offenders from the total population under supervision for substance abuse screening with the approval of the Regional Administrator/designee.
2. Offenders in mandatory substance abuse programming shall be tested once a quarter; one time per three months based upon a standard quarter of January-March, April-June, July-September and October-December.

- a. Mandatory programming includes only Ohio Department of Mental Health and Addiction Services (OhioMHAS) certified outpatient and/or residential programming. No other program shall be considered for the purpose of this section of the policy.
  - b. Halfway houses that offer Alcoholics or Narcotics Anonymous (AA/NA) or other substance abuse services that are not certified by OhioMHAS to provide outpatient and/or residential programming shall not be considered as mandatory programming.
  - c. The supervising parole officer/designee shall assure the offender in programming is tested quarterly while in programming and for six (6) months following programming. Testing which is done due to mandatory programming shall be documented in the field officer tablet (FOT) and shall be scheduled accordingly by the supervising parole officer/designee or program personnel.
  - d. Programs that wish to test an offender more frequently may do so at no cost to the state. The APA may request the results of such tests.
  - e. Testing shall, for the purpose of this section by APA staff, be of the instant/on-site type.
3. For Cause substance abuse testing shall be conducted based on the belief or criteria that would indicate the offender has used drugs and/or alcohol or when there is an assumption the offender is under the influence of such substance.
- a. For Cause testing criteria:
    - i. There is a known violation of any substance abuse related condition of supervision.
    - ii. There is an odor or an observation of substances.
    - iii. There is a change in the offender's appearance or demeanor (e.g. loss of weight or change in hygiene).
    - iv. A report of substance abuse is received from family members, a co-worker, or other reliable collateral sources.
    - v. The offender discloses his/her substance abuse.
    - vi. There is a major change in the offender's life (e.g. loss of employment, legal involvement, family problems) or other situation that may contribute to increased stress.
  - b. If an offender does not admit to the usage, then the parole officer or other staff shall utilize an instant/on-site testing device.
  - c. Each region shall be allotted instant/on-site test devices for the purpose of for cause testing. The Regional Administrator/designee shall distribute an allotted amount to unit supervisors for distribution and usage.
  - d. If an offender is suspected of being under the influence of an illegal substance and/or is suspected of recent alcohol use, APA staff shall not allow an offender to operate a motor vehicle.

- e. For cause testing shall be documented in the supervising officer's FOT or NOTEC, including the reason for conducting the test and the results.

**B. Testing Instruments**

1. A breath analysis instrument is acceptable for testing offenders whose primary drug of choice is alcohol.
2. The Office of Correctional Health Care or designee must approve all test instrumentation, including new technologies, prior to its adoption.

**C. Positive Test Results**

1. Positive test results shall be documented in the FOT.
2. Positive test results from offenders involved in substance abuse education and/or treatment shall be shared with the offender's primary counselor within three (3) business days by the supervising officer/designee to facilitate appropriate intervention and treatment strategies.
3. The documentation of those contacts shall be made in the FOT per Department Policy 100-APA-14, Sanctions for Violations of Conditions of Supervision.
4. Positive tests shall result in a sanction or verbal reprimands being imposed upon the offender. The sanction or verbal reprimand shall be based on the individual circumstance and shall be staffed with the unit supervisor/designee in accordance with Department Policy 100-APA-14, Sanctions for Violations of Conditions of Supervision.
5. The Admission or Denial Form (DRC3072) shall be completed after a positive test result has been received. The completed and signed form shall be maintained in the offender file. If an offender does not request further testing to be performed, the urine specimen may be destroyed.

**D. Confirmation Testing**

1. Positive tests shall not be confirmed by further testing unless specifically requested and paid for by the offender.
2. The offender has three (3) calendar days from the request for further confirmation testing in which to pay monies for that test.
3. All confirmations requested by the offender shall be of the GC/MS nature and shall be at the expense of that offender. The test shall be performed by a facility certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). A money order or other acceptable means of payment (other than cash) made payable to the Treasurer, State of Ohio shall be forwarded to the Operation Support Center business office by the offender including his or her CCIS number and "confirmation test" noted on the envelope. Once processed, the offender's parole officer and the APA staff shall be notified that funds have been deposited and shall be directed to forward the sample to the lab for confirmation testing. The confirmation test results shall be communicated by the lab to the APA staff

and the parole officer. The lab shall directly bill the DRC business office at Operation Support Center where the funds are held.

**E. Exemption to Substance Abuse Testing Policy**

Adult Parole Authority staff shall comply with the standards set forth in the Substance Abuse Testing Policy. However, if the Regional Administrator believes circumstances exist to warrant an exemption to the requirements, a variance may be requested through the Chief of Adult Parole Authority and Managing Director of Court and Community pursuant to Department Policy 01-COM-01, Department Directives. The Substance Abuse Testing policy must be adhered to while the variance request is pending.

**F. Adulteration of or Inability to Provide a Urine Specimen**

1. Any offender reporting for a urine collection shall be given up to ninety (90) minutes to provide a urine specimen. The offender shall be permitted to consume no more than twelve (12) ounces of fluid during this time. If the offender is unable to provide the specimen within this time period, the test shall be considered as refused and sanctions shall apply as if the offender tested positive. All such incidents shall be documented in the FOT.
2. Any attempt by the offender to either adulterate the urine specimen or substitute another person's urine shall be considered as a positive specimen and appropriate sanctions shall be imposed in accordance with Section C4 of this policy.

**G. Chain of Custody**

1. Collection

The employee collecting the sample, hereafter referred to as collection personnel, shall make a positive identification of the offender before collecting the specimen.

- a. The restroom shall always be secured (e.g. checked for contraband) prior to being used for specimen taking. All caustic and/or flammable materials shall be in locked metal containers and inaccessible to offenders. There shall be nothing available to offenders that they can use to adulterate the specimen.
- b. The offender shall be escorted by the collection personnel to the restroom.
- c. The offender shall wash and dry his/her hands in the presence of the collection personnel prior to providing the specimen. The offender's arms and hands shall be checked to ensure there are no devices for holding substitute liquid.
- d. The employee shall provide the offender with an APA approved testing device. The collection personnel shall observe the offender while the specimen is being provided, unless the offender is of the opposite sex. Offenders of the opposite sex shall provide the urine specimen in the restroom unattended. When offenders are unattended while providing the urine specimen, collection personnel shall utilize the blue color tabs, when available, in the commode. The collection personnel and the offender shall keep the specimen container in view at all times.

- e. All positive specimens being stored within the APA Office shall be secured and labeled with the last name, CCIS number, and the date of collection along with the completed chain of evidence form provided by the manufacturer. All samples awaiting confirmation testing must be refrigerated until sent to the lab.
  - f. At no time are offenders permitted in lab area.
  - g. Support staff, interns, and volunteers shall not assist in the collection of urine specimens.
2. Storage
- a. The refrigerator shall be locked at all times when not attended by authorized personnel. Access to keys shall be as limited as possible.
  - b. The retention schedule for all positive specimens in an APA office is one (1) calendar day. These specimens shall be maintained in a secure storage area. Specimens may be kept longer if deemed necessary by the supervising officer. If an offender signs the Admission form DRC 3072, the specimen may be disposed of immediately.
3. Disposal
- a. Urine waste shall be properly disposed of by pouring it down a sink or toilet and flushing the waste with water or by double bagging the secured specimen container and placing it in the refuse. All used supplies (e.g. specimen containers) shall be placed in disposable plastic trash containers and removed with the refuse.
  - b. Pursuant to Department Policy 10-SAF-13, Infectious Waste Management, if there is an appearance of blood visible in the urine specimen, the specimen shall be considered a potentially infectious material and shall be disposed of into a sanitary sewer if the disposal is allowed for the waste water treatment system.
  - c. Pursuant to Department Policy 10-SAF-13, Infectious Waste Management, if a urine specimen container is contaminated with blood, the urine specimen container shall be disposed of by placing the container in a secured plastic bag manufactured for Infectious waste disposable.

## **H. Statistical Reports**

APA staff shall prepare monthly and annual statistical reports to include, but not limited to, the following:

1. Frequency of tests for the respective region;
2. Positive results; and
3. Negative results

### **Related Department Forms:**

Admission or Denial Form DRC3072