

Marijuana and the District's Drug & Alcohol Testing



District Personnel Manual Instruction No. 4-32

Effective Date	Expiration Date	Related DPM Chapters
June 27, 2016	Until superseded	4

i **NOTE:** This DPM instruction supersedes DPM Instruction No. 39-3 (same title), dated August 4, 2015, for the purpose of including clarifying language on the use medical marijuana (shown on page 2). The remaining provisions that were contained in DPM Instruction No. 39-3 are unchanged and are provided in this instruction.

Overview

The District of Columbia government provides its employees with a drug-free workplace and aims to actively discourage drug and alcohol abuse. In this context, the Department of Human Resources provides ongoing guidance related to its drug and alcohol testing procedures. This instruction reiterates information concerning Initiative 71; addresses how medical marijuana is treated during the D.C. government’s drug and alcohol testing process; and outlines the requirements for employees authorized, as outlined herein, to use medical marijuana.

In this Instruction

Initiative 71 Overview.....	2
Safety-Sensitive Positions.....	2
Impact of Initiative 71	2
Medical Marijuana.....	2
Legal Authorities and Applicability	3
Authorities:.....	3
Applicability:	4
Additional Information	4

Initiative 71 Overview

On November 4, 2014, District voters approved Initiative 71 – Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014, which among other things legalized the limited possession and cultivation of marijuana. Specifically, adults who are 21 years of age or older may, within the interior of a house or rental unit that constitutes their principal place of residence, possess or grow marijuana plant(s) in accordance with the provisions of the law. Initiative 71, which became effective on February 26, 2015, does not apply to federal property in the District and therefore possessing any amount of marijuana on federal property remains illegal. The sale and public consumption of marijuana also remains illegal anywhere in the District, whether it is on District or federal property.

Safety-Sensitive Positions

1. Title 6B of the District of Columbia Municipal Regulations contains provisions relating to drug and alcohol testing. These provisions require drug and alcohol testing of candidates for and employees in safety-sensitive positions. Safety sensitive positions include, but are not limited to, positions that involve:
 - a. Direct contact with children and youth;
 - b. Direct care and custody of children or youth; and
 - c. Typical duties that may affect the health, welfare, or safety of children or youth.
2. For an exact list of safety-sensitive positions in the District government, please refer to [issuances related to DPM Chapter 4](#). (See, for example, the most recent E-DPM Instruction entitled “Positions Subject to Enhanced Suitability Screening.”)
3. This instruction shall apply to any future safety-sensitive position designations.

Impact of Initiative 71

Initiative 71 has **no impact** on the District government’s current enforcement and application of employment related drug testing requirements. This is because the provisions contained in D.C. Law 20-153 expressly permit employers to continue to enforce and establish policies which restrict marijuana use amongst employees. Specifically, the plain language of the legislation permits District government agencies to maintain and develop policies which prohibit any marijuana use by employees. The legislation also, among other things, expressly permits District government agencies to bar the possession, consumption, use, or transportation of marijuana on District government property. Accordingly, Initiative 71 has no legal effect or impact on the District government’s drug and alcohol testing programs.

Medical Marijuana

1. An employee of the District government who has been authorized by a licensed physician to use marijuana for medicinal purposes is permitted to do so in accordance with applicable laws, rules and regulations of their state of residence.

2. The use of medical marijuana for a qualifying medical condition or to relieve side effects of qualifying medical treatment, is to be treated as any other form of prescription medication as it relates to the District government's drug testing requirements.
3. In the event a candidate for or an employee in a safety-sensitive position has been authorized to use medical marijuana by a licensed physician, he or she, at the time of any required drug test MUST:
 - a. Inform the intake coordinators and the collectors about their participation in the medical marijuana program;
 - b. Present a copy of a valid Physician's Recommendation for the use of medical marijuana; and
 - c. Present the drug testing officials with a valid medical marijuana registration identification card (issued by the D.C. Department of Health) or other equivalent documentation issued by an appropriate state agency.



NOTE: The Physician's Recommendation is a form issued by the Department of Health and completed by the medical provider. This is the only written recommendation that is acceptable for employees who are District of Columbia residents. For additional information, employees should review the "Medical Marijuana Program" section of the DOH website at www.doh.dc.gov/mmp.

Legal Authorities and Applicability

Initiatives:

- Section 2(b)(1C) of Initiative Measure 71 – Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014

District Statutes:

- D.C. Official Code § 1-620.31 *et seq.*, *Child and Youth Safety and Health Omnibus Amendment Act of 2004*.
- D.C. Official Code § 1-620.33, *Anti-Drunk Driving Clarification Amendment Act of 2006*.
- D.C. Official Code § 48-904.01 *et seq.*, *Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014*.
- D.C. Official Code § 7-1671.01 *et seq.*, *Legalization of Marijuana for Medical Treatment Amendment Act of 2010*.



NOTE: District government employees who reside in states other than the District of Columbia must also refer to any applicable law(s) in place pertaining to the legalization of medical marijuana.

District Municipal Regulations:

- 6B DCMR § 400, *et seq.*, *Personnel - Suitability*.

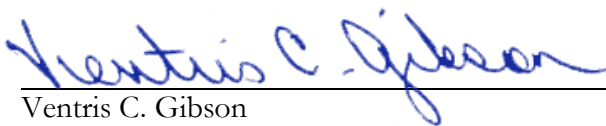
Applicability

The provisions of this instruction apply to those District government agencies which are subordinate to the Mayor's personnel authority. Other personnel authorities or independent agencies may adopt any or all of these procedures.

Additional Information

For additional information, contact the following:

- Provisions of this instruction – Department of Human Resources, Policy and Compliance Administration, by calling (202) 442-9700 or by sending an e-mail to dchr.compliance@dc.gov; or
- Medical Marijuana Program – (D.C.) Department of Health, Health Regulation and Licensing Administration, by calling (202) 724-4900. Information concerning the Program can be accessed at www.doh.dc.gov.
- An appropriate state agency.



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