

Reasonable Suspicion Referral Drug & Alcohol Testing



District Personnel Instruction No. 4-39

Effective Date	Expiration Date	Related DPM Chapters
October 6, 2017	Retain Until Superseded	4

Overview

Employees’ use or impairment by drugs or alcohol threatens the safety of our coworkers, the public we serve and the integrity of the District government. Managers and supervisors have an obligation to be observant and take remedial steps whenever an employee is suspected of being impaired by drugs or alcohol. The purpose of this instruction is to provide guidance on administering reasonable suspicion referrals under the D.C. Department of Human Resources’ Drug and Alcohol Testing Program.

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A Drug Free Workplace

The District government provides its employees with a drug free workplace. For this reason, employees may not engage in the unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance while on duty. Employees are also prohibited from using, possessing, or being impaired by any drug or alcohol at work.

Whenever there is a reasonable suspicion that an employee is working while under the influence of alcohol or drugs, he or she shall be subject to drug and alcohol testing. Any employee who tests positive for drugs or alcohol shall be subject to disciplinary action.

Manager and Supervisor Training

Before an employee may be subjected to a reasonable suspicion drug and alcohol test, a trained manager or supervisor must record his or her observations of the employee that warrant the testing. All managers and supervisors shall participate in reasonable suspicion training as outlined below.

1. **Frequency.** Managers and supervisors shall participate in reasonable suspicion training within 60 days of appointment to a supervisory position and at least once every two years.
2. **Training Provider.** Reasonable suspicion training shall be administered through DCHR, or a qualified vendor approved by DCHR.
3. **Content.** Training shall include –
 - a. *physical, behavioral, speech, and performance indicators of possible alcohol or drug impairment; and*
 - b. *the confidentiality obligations of supervisors and managers relating to an employee's suspected impairment and test results.*

Reasonable Suspicion

When a trained manager or supervisor sees an employee exhibiting signs of impairment that may be related to the use of drugs or alcohol, the manager or supervisor must record his or her observations of the employee on a *Reasonable Suspicion Observation Form*. Observations that should be recorded include, but are not limited to, the employee's current appearance, behavior, speech, or smells that are usually associated with drug or alcohol use. Whenever possible, a second trained supervisor or manager should complete a separate observation form, as well.

An incident report or similar document detailing the events from everyone involved shall also accompany the form. The *Reasonable Suspicion Observation Form* must be submitted to DCHR's Compliance Team within 24 hours of the observed behavior or before the test results are released, whichever is earlier.

Some Signs of Impairment
1. Bloodshot eyes, pupils larger or smaller than usual
2. Unusually disheveled physical appearance
3. Falling asleep or fainting
4. Tremors, slurred speech, or impaired coordination
5. Unusual smells on breath, body, or clothing.

Process for Making Referrals

After a supervisor or manager observes an employee who has exhibited signs of impairment and immediately documents his or her findings using the *Reasonable Suspicion Observation Form*, the supervisor or manager must refer the employee for testing by following these steps:

1. **Make the referral to DCHR.** Report your suspicions and provide the *Reasonable Suspicion Observation* form and supporting documents to either of the below representatives on DCHR’s Compliance team via email and telephone and notify your agency MDAAT Coordinator or HR Advisors of the referral.

Business Hours Collections	
David Harris, Management Analyst (202) 442-9694 david.harris2@dc.gov	André Easley, Compliance Manager (202) 442-9631 andre.easley@dc.gov

After Hours Collections
In the event that an employee needs to be tested outside of normal business hours, contact Cherry Collections at (301) 792-5205 for a collector. The collection company will arrange the collection with the collector, agency’s representative, and employee’s supervisor.

2. **Receive confirmation.** DCHR’s Compliance Team will review the information provided and determine if testing is warranted. If testing is not warranted, the agency will receive communication to end reasonable suspicion efforts. If testing is warranted, DCHR will notify the agency’s point of contact of the time and location for the drug and alcohol testing.

3. **Prepare the employee for Testing.** The supervisor or manager should meet with the employee privately to discuss his or her suspicion and the next steps. During this meeting, the supervisor or manager will inform the employee that he or she will be receiving a drug and alcohol test. The reporting supervisor or manager **must remain** with the employee until completion of the testing process. Union employees are entitled to representation from the first available union representative, if requested.

4. **Special procedures for alcohol testing.** A reasonable suspicion alcohol test should be conducted within two (2) hours, and no more than eight (8) hours, of the observation. If a reasonable suspicion alcohol test is not administered within two (2) hours following the observation, the supervisor shall prepare a written record that will be sent to DCHR's Compliance Team stating the reason(s) the test was not administered promptly.

If a reasonable suspicion alcohol test is not administered within eight (8) hours following the observation, attempts to administer the test shall cease, and the supervisor shall prepare the record noted above, to be maintained by DCHR's Compliance Team.

5. **After the testing.** After the employee completes the required tests, he or she shall be relieved from his or her duties for the day and placed on administrative leave. No supervisor or manager shall permit an employee who he or she suspects of being under the influence to drive home. Instead, managers must take all necessary steps to ensure the employee is transported home safely. The employee should remain on administrative leave until the testing results are received.

Suitability Determinations

Upon receipt of the results of the applicable test(s), DCHR's Compliance Team will issue an electronic suitability notification via email.

Negative Test Results

The employee will be deemed ***suitable*** if the results are negative. The notification will state that the employee's test results were negative and that he or she is suitable for continued employment. Agencies should take the following steps after receiving a suitable notification:

1. Prepare and serve the employee with a return to duty notice; and
2. Discuss with the employee why the test was conducted, the test results and, if performance or conduct are implicated, expectations going forward.

Positive Test Results

If the test results are positive, the outcome depends on the nature of the position occupied by the employee. If the position is “safety-sensitive,” pursuant to Chapter 4 of the District Personnel Manual, the employee will be deemed **unsuitable** for continued employment in the position. If the position is not “safety-sensitive,” the employing agency will take disciplinary action consistent with its practices and procedures.

Safety-Sensitive Employees

When a safety-sensitive employee is found unsuitable due to a reasonable suspicion drug test, the agency must immediately send the materials listed below to DCHR’s Compliance Team. The Compliance Team will provide the agency additional guidance on next steps

- a. Position description;*
- b. Previous progressive disciplinary actions;*
- c. Personnel evaluations for the last 3 years;*
- d. Completed Reasonable Suspicion Form;*
- e. Sworn affidavit(s); and*
- f. Collective bargaining agreement, if applicable.*

General Population Employees (not Safety-Sensitive)

For employees not occupying safety sensitive positions, DCHR’s Compliance Team will notify the agency of the results. The agency must take either corrective or adverse action, consistent with its past practice, internal policies, and Chapter 16 of the District Personnel Manual.

Legal

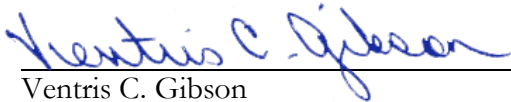
- D.C. Mun. Regs. tit. 6B, § 400 *et seq.* (2017).
- Mayor’s Order 90-27, *Drug Free Workplace Policy*

Applicability

All District government employees including those in independent agencies who are subject to Chapter 4 of the D.C. personnel regulations, are subject to reasonable suspicion drug and alcohol testing.

Additional Information

For additional information concerning this instruction, please contact the Department of Human Resources, Policy and Compliance Administration, by calling (202) 442-9700 or by sending an e-mail to dchr.mdat@dc.gov.



Ventris C. Gibson
Director

Attachment:

- Reasonable Suspicion Observation Form
- Reasonable Suspicion Quick Reference Guide

Attachment 1 – Reasonable Suspicion Observation Form

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Employee Name: _____ Date of Observation: _____
 Time of Observation – From: _____ To: _____ Location: _____

DC DEPT. of HUMAN RESOURCES
 REASONABLE SUSPICION
 OBSERVATION FORM



OBSERVATIONS – PLEASE CHECK ALL THAT APPLY									
Speech	Normal ___	Slurred ___	Loud ___	Whispering ___	Walking & Talking	Normal ___	Stumbling ___	Swaying ___	Arms Raised for Balance
Balance	Normal ___	Swaying ___	Staggering ___	Falling ___	Awareness	Normal ___	Confused ___	Sleepy ___	Lack of Coordination
Odor	Alcohol ___	Marijuana ___							

WORK HABITS	YES	NO	INTERACTION WITH CO-WORKERS	YES	NO
Clear refusal to do assigned tasks			Frequent or intense arguments		
Significant increases in errors			Verbal abusiveness		
Repeated errors in spite of increased guidance			Physical abusiveness		
Reduced quantity of work			Unpredictable response to supervision		
Inconsistent, "up/down" quality/quantity of work			Intentional avoidance of supervision		
Change in frequency or nature of complaints			Expressions of frustration or discontent		
Procrastination on significant decisions or tasks			Behavior that disrupts work flow		
Cynical, "distrustful of human nature" comments			More than usual supervision necessary		
Frequent, unsupported explanations for poor work performance			Unusual sensitivity to advice or critique of work		
Noticeable change in written or verbal communication			Unpredictable response to supervision		
Passive-aggressive attitude or behavior, doing things "behind your back"			Persistently withdrawn or less involved with people		
JOB PERFORMANCE			OBSERVATIONS		
Excessive unauthorized absences – number in last 12 months:			Changes in or unusual personal appearance (dress/hygiene)		
Excessive authorized absences – number in last 12 months:			Changes in or unusual speech (incoherent, stuttering, loud)		
Frequent unexplained disappearances			Unusual fears		
Excessive use of sick leave in last 12 months:			Changes in or unusual physical mannerisms (gesture, posture)		
Frequent Monday-Friday absence or other pattern			Changes in or unusual facial expressions		
Excessive "extension" of breaks or lunch			Changes in or unusual level of activity (much reduced/increased)		
Frequently leaves work early			Changes in or unusual topics of discussion		
You have increased concern about (actual incidents) safety offenses involving the employee			Engages in detailed discussions about death, suicide, harming others		
Experiences or causes job accidents			Increasingly irritable or tearful		
Major changes in duties or responsibilities			Lacks appropriate caution		
Interferes with or ignores established procedures			Unpredictable or out-of-context displays of emotion		
Inability to follow through on the job performance recommendations			Persistently boisterous or rambunctious		
Other Observations:			Engages in detailed discussions about obtaining/using drugs/alcohol		
			Makes unfounded accusations towards others, i.e. has feelings of persecution		
			Secretive or furtive		
			Memory problems (difficulty recalling instructions, data, past behavior)		
			Excessive fatigue		
			Makes unreliable or false statements		
			Temper tantrums or angry outbursts		
			Demanding, rigid, inflexible		

Reasonable Suspicion Document

ABOVE BEHAVIOR WITNESSED BY:

Never accuse an individual of being under the influence of drugs or alcohol. Only relate factual observations. A supervisor who has received reasonable-suspicion training is to complete this form.

Supervisor Name: _____ Signed: _____ Date: _____

Note: Retain for a minimum of 5 years and file in secure, confidential drug and alcohol program file.

Attachment 2 – Reasonable Suspicion Quick Reference Guide

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Reasonable Suspicion Quick Reference Guide

1 Reasonable Suspicion

Whenever there is reasonable suspicion that an employee is working while under the influence of alcohol or drugs, he or she shall be subject to drug and alcohol testing.

2 Record Observation

A trained manager or supervisor must record their observation of the employee's impairment on the Reasonable Suspicion Observation Form.

3 Know the Signs of Impairment

Some examples of impairment are:

- Bloodshot eyes, pupils larger or smaller than usual;
- Unusually disheveled physical appearance;
- Falling asleep or fainting;
- Tremors, slurred speech, or impaired coordination; or
- Unusual smells on breath, body, or clothing.

4 Complete Incident Report

An incident report or similar document detailing the events that occurred from everyone involved should be included with the Reasonable Suspicion Observation Form.

<p>5 Submit Reasonable Suspicion Observation Form</p>	<p>Submit the Reasonable Suspicion Observation Form to the D.C. Department of Human Resources' Compliance Team (DCHR) <u>within 24 hours of the observed behavior or before the test results are released</u>, whichever is earlier.</p>		
<p>6 Make Referral</p>	<p>Make the referral to DCHR's Compliance team via email and phone:</p> <table border="0"> <tr> <td data-bbox="1136 711 1533 795"> <p>David Harris, Management Analyst (202) 442-9694 david.harris2@dc.gov</p> </td> <td data-bbox="1583 711 1984 795"> <p>André Easley, Compliance Manager (202) 442-9631 andre.easley@dc.gov</p> </td> </tr> </table> <p>Notify your agency's MDAT Coordinator or HR Advisor of the referral.</p> <p style="text-align: center;">After Hours Collections</p> <p>In the event that an employee needs to be tested outside of normal business hours, contact Cherry Collections at (301) 792-5205 for a collector. The collection company will arrange the collection with the collector, agency's representative, and employee's supervisor.</p>	<p>David Harris, Management Analyst (202) 442-9694 david.harris2@dc.gov</p>	<p>André Easley, Compliance Manager (202) 442-9631 andre.easley@dc.gov</p>
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<p>7 Meet Privately with Employee</p>	<p>The supervisor or manager should meet with the employee privately to discuss his or her suspicion and that they will be receiving a drug and alcohol test. The supervisor or manager must remain with the employee until the completion of the testing process.</p>		

8 Reasonable Suspicion Alcohol Test

Should be conducted within (2) hours of the observation.



If a reasonable suspicion alcohol test is not administered within two (2) hours following the observation, the supervisor shall prepare a written record that will be sent to DCHR's Compliance Team stating the reason(s) the test was not administered promptly.



If a reasonable suspicion alcohol test is not administered within eight (8) hours following observation, attempts to administer the test shall cease, and the supervisor shall prepare a written record that will be sent to DCHR's Compliance Team stating the reason(s) the test was not administered promptly

9 After Testing

The employee is relieved from duty after completion of the required tests and placed on administrative leave. No supervisor or manager shall permit an employee who he or she suspects of being under the influence of driving home. Instead, manager must take all necessary steps to ensure the employee is transported home safely. The employee should remain on administrative leave until the testing results are received.

10 Negative Test Results

The employee will be deemed suitable if the results of the tests are negative.

11 Positive Test Results

If the test results are positive, for positions designated as "safety-sensitive" pursuant to Chapter 4 of the D.C. personnel regulations, Suitability, the employee will be deemed unsuitable for continued employment in the position. If the position is not designated as "safety-sensitive", the employing agency will take disciplinary action consistent with its practices and procedures.