



May 2019

# Employee Mandatory Drug and Alcohol Testing Policy

This Employee Mandatory Drug and Alcohol Testing Policy rescinds and supersedes all previous policy, memoranda, and/or guidance promulgated by DCPS on this subject matter including, but not limited to, the prior Employee Mandatory Drug and Alcohol Testing Policy issued in July 2013.

Chancellor Approval: \_\_\_\_\_

Effective: May 31, 2019

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# Overview

## Section 1 - Authority

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The District of Columbia Public Schools (DCPS) is committed to protecting the safety, health, and welfare of the young people in its charge as well as that of its employees. Towards that end – and by the authority provided by Title I of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (D.C. Law 15-353, D.C. Official Code § 1-620.31 *et seq.*), DCPS hereby revises and updates the requirements of the DCPS Employee Mandatory Drug and Alcohol Testing (MDAT) Program. This document sets forth the policy for said program.

## Section 2 - Affected Individuals

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DCPS employees occupying “safety-sensitive” positions (“covered employees”) shall be subject to drug and alcohol testing. Per the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (D.C. Law 15-353, D.C. Official Code § 1-620.31 *et seq.*), a “safety-sensitive” position is defined as “employment in which the District employee has direct contact with children or youth; is entrusted with the direct care and custody of children or youth; and whose performance of his/her duties in the normal course of employment may affect the health, welfare, or safety of children or youth.”

At DCPS, all school-based positions are considered “safety-sensitive,” and employees occupying those positions shall be deemed “covered employees.” Covered employees shall be notified that they are subject to this Policy before being directed to undergo drug or alcohol testing.

## Section 3 - Substances Tested

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Covered employees shall be subject to testing for alcohol and controlled substances, including but not limited to:

1. Marijuana
2. Cocaine
3. Opiates
4. Amphetamines
5. Phencyclidine

## Section 4 - Notification

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### 4.1 Employee Notification

Each covered employee shall be provided the Notification of the revised Drug and Alcohol Testing requirements (“Notification”) indicating that the employee is subject to drug and alcohol testing. Each covered employee shall sign an acknowledgement that the employee received the Notification. Refusal to sign shall be documented by DCPS, after which the school system shall be permitted to proceed with testing. A copy of the Notification is included in the Appendix of this Policy. All covered employees, excluding those who have disclosed a drug or alcohol problem and are participating in a counseling and rehabilitation program (as set forth in Section 4.2), shall be subject to drug and alcohol testing.

### 4.2 Disclosure of Drug or Alcohol Problem Prior to Testing

#### 4.2.1 Right to Disclose Problem

A covered employee who, during the time periods set forth in Section 4.2.2, notifies his/her supervisor or the MDAT Team that s/he has a drug or alcohol problem shall be provided one opportunity to seek treatment for his/her drug or alcohol problem, and shall be subject to the policies set forth in Section 4.2.3. Such a covered employee shall not be subject to drug or alcohol testing by DCPS while undergoing approved treatment as set forth in Section 4.2.3.

#### 4.2.2 Timing of Disclosure

To be exempted from drug or alcohol testing while undergoing treatment, a covered employee must disclose his/her drug or alcohol treatment prior to the employee being directed by DCPS to submit to drug or alcohol testing.

#### 4.2.3 Policies Concerning Disclosure

An employee who discloses a drug or alcohol problem within the time periods specified in Section 4.2.2 shall be subject to the following policies:

1. DCPS shall give the employee a mandatory referral to the Employee Assistance Program (EAP). An employee receiving a mandatory referral to the EAP must follow the treatment plan developed by the EAP professionals and any drug or alcohol counseling and rehabilitation program to which the EAP refers the employee.
2. DCPS shall place the employee on unpaid administrative leave, until they successfully complete any drug or alcohol counseling and rehabilitation program to which they are referred by the EAP. At the employee’s discretion, the employee may elect to use their sick and/or annual leave to provide compensation while in this leave status. Once their paid leave is exhausted, the employee shall remain on approved leave in a leave without pay status.
3. DCPS shall not subject the employee to drug or alcohol testing until after they complete any drug or alcohol counseling and rehabilitation program to which they are referred by the EAP.
4. Before being permitted to return to work in a safety-sensitive position, the employee must successfully complete any drug or alcohol counseling and rehabilitation program to which they are referred by the EAP.

5. After DCPS receives certification from the EAP that the employee has successfully completed their counseling and rehabilitation program, the employee shall be required to submit to drug and alcohol testing before returning to work. The employee must test negative for drugs and alcohol before being allowed to return to a safety-sensitive position.
6. After successful completion of the counseling and rehabilitation program, the employee shall be required to participate in periodic follow-up testing for one year.

## 4.3 Marijuana Usage and Prescribed Narcotics

### 4.3.1 Initiative 71

Initiative 71 changed the laws of the District of Columbia to make it lawful under District of Columbia law for a person 21 years of age or older to possess marijuana in certain situations.

However, DCPS employees are not permitted to use, possess, or be under the influence of marijuana during their tour of duty. Confirmed use or possession shall be grounds for discipline up to and including termination.

### 4.3.2 Disclosure of Medical Marijuana Card

If an employee is legally registered for a medical marijuana card, the employee shall submit proof of registration to the DCPS Mandatory Drug and Alcohol Testing (MDAT) team prior to being tested for drugs and alcohol. Failure to submit this evidence to the MDAT prior to testing positive for marijuana shall be a basis for separation from DCPS.

### 4.3.3 Disclosure of Narcotic Prescription Drug Use

If an employee has been prescribed to use narcotics for medical treatment, the employee shall submit proof of prescription to the DCPS Mandatory Drug and Alcohol Testing (MDAT) team. Failure to submit this evidence to the MDAT prior to testing positive for illegal drugs shall be a basis for separation from DCPS.



## Section 5 - Circumstances for Testing

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Covered employees shall be required to participate in reasonable suspicion, post-accident, return-to-duty, and follow-up drug and alcohol testing, as described below.

### 5.1 Reasonable Suspicion Testing

Drug and alcohol testing is required when a supervisor has a reasonable belief that an employee, while on duty, is impaired or otherwise under the influence of a drug or alcohol, as more fully described in 6-B DCMR § 431, including when the employee is 1) under the influence of illegal drugs or alcohol; 2) impaired in his/her ability to perform his/her duties due to the use of any drug (including prescription drugs) or alcohol; 3) in possession of any controlled substance or related paraphernalia while on duty or on DCPS property; 4) in possession of alcohol while on duty or on DCPS property; or 5) in possession of alcohol in a District government vehicle.

### 5.2 Post-Accident Testing

According to 6-B DCMR § 432, drug and alcohol testing is required after an employee is involved in a vehicular or other type of accident while on duty that results in personal injury, property damage, or both, and in which the cause of the accident could reasonably be believed to have been, in whole or in part, due to the employee's use of drugs or alcohol.

### 5.3 Return-to-Duty Testing

According to 6-B DCMR § 433, drug and alcohol testing is required after a covered employee has completed drug or alcohol counseling and rehabilitation, but before that employee is permitted to return to a safety-sensitive position.

### 5.4 Follow-Up Testing

A schedule for drug and alcohol testing shall be developed following successful completion of a counseling and rehabilitation program by a covered employee who disclosed to DCPS a drug or alcohol problem as specified by the EAP.

## Section 6 - Prohibited Conduct

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### 6.1 Alcohol Possession

A covered employee is prohibited from possessing, while on duty, a container of alcohol.

### 6.2 Alcohol Use

A covered employee is prohibited from consuming and/or having an alcohol concentration of 0.38 micrograms or more per milliliter of breath while on duty.

### 6.3 Controlled Substances Possession

A covered employee is prohibited from possessing, while on duty, any controlled substance or related paraphernalia, except for medication that is approved by a licensed physician.

### 6.4 Controlled Substances Use

A covered employee is prohibited from being under the influence of or using, while on duty, any controlled substance or related paraphernalia without medical authorization. This includes a covered employee's use of a controlled substance without a prescription and an employee's use of a prescribed medication not in accordance with the terms of the prescription.

### 6.5 Refusal to Submit for Testing

A covered employee is prohibited from refusing to submit to drug or alcohol testing when directed by DCPS to do so. Refusal to submit for testing shall be grounds for termination. Refusal to submit to a test for alcohol and drugs pursuant to this Policy shall include, but not be limited to the following:

1. Failure to appear for a required test;
2. Failure to remain at the collection site for a required test;
3. Failure to provide a specimen for a required test;
4. Failure to permit direct observation when required by DCPS or the collector;
5. Failure to provide sufficient urine for a drug test or adequate breath for alcohol testing without valid medical evidence and explanation of the inability from a licensed physician;
6. Failure to take a second test when required;
7. Failure to undergo a medical exam when required; or
8. Failure to comply with any part of the testing process or written or verbal testing instructions.

### 6.6 Tampering with the Testing Process

A covered employee is prohibited from tampering with the testing process in any way. Tampering with any part of the testing process shall be grounds for separation.

### 6.7 Failure to Comply with Treatment Recommendations

A covered employee who discloses a drug or alcohol problem as set forth in Section 4 is required to comply with the recommendations of the EAP or any drug or alcohol counseling and rehabilitation program in which the employee participates. Failure to do so shall be grounds for separation.

## Section 7 - Consequences

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### 7.1 Separation

DCPS shall have the right to separate any covered employee who engages in any of the prohibited conduct outlined in Section 6.

### 7.2 Ineligibility for Rehire

An employee who is separated because of this Policy shall be denied employment to a position within DCPS for a period of one year from the date of the separation.

### 7.3 Fitness for Duty Evaluation

Covered employees who are believed to be impaired in their ability to perform the duties of their job due to the legitimate use of medication shall not be subjected to discipline but may be required to undergo a Fitness for Duty examination by an independent medical provider. The employee shall be placed on paid administrative leave pending the results of the examination. Employment status of the employee following that Fitness for Duty evaluation shall be determined by the results of that examination.

## Section 8 - Duty to Report

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### 8.1 Duty

DCPS employees shall be required to report any suspected drug or alcohol abuse on the part of another employee to a supervisor, or directly to the MDAT Team. Failure to report shall be grounds for discipline up to and including separation.

### 8.2 Confidentiality

The identity of the employee making the report shall be held confidential to the full extent permitted by law.

# Testing Types and Methods

## Section 9 - Reasonable Suspicion Testing

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### 9.1 Grounds for Testing

A supervisor shall make a “reasonable suspicion referral” if the supervisor has a reasonable belief that an employee is:

1. Under the influence of illegal drugs or alcohol during their tour of duty or on DCPS property;
2. Impaired in his/her ability to perform his/her duties due to the use of any drug (including prescription drugs) or alcohol;
3. In possession of any controlled substance or related paraphernalia while on duty or on DCPS property;
4. In possession of a container of alcohol while on duty, on DCPS property, or in a District government vehicle.

### 9.2 Testing Location

The covered employee shall be required to complete reasonable suspicion testing in a staff restroom or other suitable private area at the employee’s worksite.

### 9.3 Testing Procedure

#### 9.3.1 Training for Supervisors

Supervisors of employees in safety-sensitive positions are required to attend training in drug and alcohol abuse detection and documentation. Failure to complete this training when directed by DCPS may result in supervisor not receiving reappointment to a supervisory position.

The training shall:

1. Include at least two hours of instruction focused on the indicators of abuse of drugs and alcohol; and
2. Be provided by appropriately designated personnel within DCPS, or by a qualified vendor approved by DCPS.

#### 9.3.2 Scheduling a Reasonable Suspicion Test

Following an observation of suspicious behavior, a trained supervisor must document their observation and receive a second documented observation from another supervisor trained in drug and alcohol abuse detection prior to making a reasonable suspicion referral. The supervisor shall contact the MDAT Team immediately following the observations of suspicious behavior to schedule a reasonable suspicion test.

The MDAT Team will immediately send a certified collector to the worksite for onsite collection. The supervisor shall remove the covered employee from his/her safety-sensitive position and the employee shall be detailed to a confidential area to await testing.

### 9.3.3 Recording and Submitting Observations

Supervisors shall document their observations in writing and submit them to the MDAT Team using a process prescribed by DCPS. Observations must be submitted as soon as possible but no later than 24 hours of the suspicious behavior.

### 9.3.4 Notifying Employee of Testing

The supervisor shall notify the covered employee as soon as possible after the second trained supervisor concurs that the employee must submit to testing. The covered employee shall remain with the referring supervisor in a location away from other staff and students until the collector arrives to complete the test.

### 9.3.5 Placing the Employee on Leave

After the covered employee has completed reasonable suspicion testing, the employee shall immediately be placed on paid administrative leave pending the results of the test, and shall be required to leave the worksite. If the employee drove to work, the supervisor shall offer alternate transportation. If the employee refuses alternate transportation and insists on driving, the supervisor shall notify the Metropolitan Police Department immediately.

## 9.4 Test Result

The covered employee shall be notified of the test result within ten (10) business days unless the facility takes longer to process the results. The reasonable suspicion test result must be negative for the covered employee to return to duty and remain employed by DCPS. If the test result is positive, the employee shall be subject to separation. If the test result is negative dilute, the process outlined in 13.8 shall be implemented.

## Section 10 - Post-Accident Testing

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### 10.1 Grounds for Testing

A supervisor shall refer a covered employee for testing following an accident that resulted in personal injury or property damage, and that could reasonably be believed to have been caused, in whole or in part, by the employee's use of drugs or alcohol.

### 10.2 Testing Location

The covered employee shall be required to complete post-accident testing at the site of the accident, or at a site designated by the MDAT Team.

### 10.3 Testing Procedure

#### 10.3.1 Medical Attention

Necessary medical attention for injuries following an accident shall not be delayed for post-accident testing.

#### 10.3.2 Timeframe for Testing

When a required post-accident test has not been administered within the timeframes listed below, the following actions shall be taken:

##### 1. Alcohol Testing

If the covered employee has not completed alcohol testing within two hours following the accident, the MDAT Team shall prepare and maintain a file stating the reason a test was not promptly administered.

If the covered employee has not completed testing within eight hours following the accident, attempts to administer the alcohol test shall cease. All attempts to administer the alcohol test shall be documented within the file described above.

##### 2. Drug Testing

If the covered employee has not completed drug testing within 48 hours following the accident, attempts to administer the drug test shall cease, and a file as described above shall be prepared and maintained.

### 10.4 Test Result

The covered employee shall be notified of the test result within ten (10) business days unless the facility takes longer to process the results. The post-accident test result must be negative for the covered employee to remain employed by DCPS. If the test result is positive, the employee shall be subject to termination. If the test result is negative dilute, the process outlined in 13.8 shall be implemented.



## Section 11 - Return-to-Duty Testing

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### 11.1 Grounds for Testing

Return-to-duty testing is required after a covered employee has completed drug or alcohol counseling and rehabilitation as determined by the EAP as set forth in Section 4, but before that employee is permitted to return to a safety-sensitive position.

### 11.2 Testing Location

The covered employee shall be required to complete return-to-duty testing at a site designated by the MDAT Team.

### 11.3 Testing Procedure

The covered employee shall be required to complete return-to-duty drug testing through the direct observation collection procedure. In a direct observation collection, a same-gender collector or observer accompanies the donor into the stall/toilet area and observes the act of urination.

### 11.4 Test Result

The covered employee shall be notified of the test result within ten (10) business days unless the testing facility takes longer to process the results. The return-to-duty test result must be negative for the covered employee to remain employed by DCPS. If the test result is positive, the employee shall be subject to termination. If the test result is negative dilute, the process outlined in 13.8 shall be implemented.

## Section 12 - Follow-Up Testing

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### 12.1 Grounds for Testing

A schedule for drug and alcohol testing shall be developed by MDAT and the EAP professionals (or any drug or alcohol counseling and rehabilitation program to which the EAP refers the covered employee) following successful completion of a counseling and rehabilitation program by a covered employee who disclosed a drug or alcohol problem and completed a counseling and rehabilitation program.

### 12.2 Testing Location

Covered employees shall be required to complete follow-up testing at a site designated by the MDAT Team.

### 12.3 Testing Procedure

1. Covered employees shall be required to complete follow-up drug testing through the direct observation collection procedure. In a direct observation collection, a same-gender collector or observer accompanies the donor into the stall/toilet area and observes the act of urination.
2. A minimum of six follow-up tests shall be administered during the first 12 months following the completion of a drug or alcohol counseling and rehabilitation program. If deemed necessary by the treatment professional, follow-up testing may extend for up to 60 months.
3. A follow-up test may be conducted any time a covered employee who is subject to follow-up testing is on duty.

### 12.4 Test Result

The covered employee shall continue to report to duty while awaiting follow-up test results. The covered employee shall be notified of the test result within ten (10) business days unless the testing facility takes longer to process the results. Each follow-up test result must be negative for the covered employee to remain employed by DCPS. If any follow-up test result is positive, the employee shall be subject to termination. If the test result is negative dilute, the process outlined in 13.8 shall be implemented.

## Section 13 - Testing Methods

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### 13.1 Certified Laboratory

All MDAT program testing shall be performed by a DCPS-selected external laboratory certified by the United States Department of Health and Human Services (HHS) to perform job-related drug or alcohol forensic testing.

### 13.2 Collection Procedures

1. Each covered employee shall submit to breath and urine specimen collection at his/her scheduled test date, time, and place.
2. Prior to specimen collection, the covered employee shall present a government-issued picture identification to the collector.
3. Employees are not entitled to representation during the collection or testing processes, and collection shall not be delayed to permit an employee to obtain representation.
4. Specimen collection shall be done at a site that affords visual and aural privacy to the employee being tested.
5. The covered employee shall provide a urine specimen in the privacy of a stall/toilet area, except where a direct observation is required for reasons listed elsewhere in this Policy.

### 13.3 Alcohol Testing

#### 13.3.1 Initial Test

Initial testing for the presence of alcohol shall be conducted using an evidentiary breath testing (EBT) device, commonly referred to as a "breathalyzer." An EBT test shall be deemed positive if one milliliter of the employee's breath (consisting of substantially alveolar air) contains 0.38 micrograms or more of alcohol.

#### 13.3.2 Confirmation Test

If the initial test is positive, following a fifteen-minute waiting period, a second breathalyzer test shall be conducted. The confirmation test result shall be the official test result.

### 13.4 Drug Testing

#### 13.4.1 Initial Test

Initial testing for drugs including, but not limited to, Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine shall be conducted using the Enzyme-Multiplied-Immunoassay Test (EMIT). If the result of this initial screening test is negative, no additional testing for the presence of drugs or drug metabolites shall be done, unless adulteration is suspected.

#### 13.4.2 Confirmation Test

If the initial test is positive for the presence of drugs or drug metabolites, the positive result shall be confirmed using the Gas Chromatography/Mass Spectrometry (GC/MS) testing method.

#### 13.4.3 Medical Review Officer Verification

If a confirmation test is positive for the presence of drugs or drug metabolites, a medical review officer (MRO), (an external, licensed physician trained to interpret drug test results), shall consult with the donor to determine whether the confirmed test result could be a false positive or whether the employee has a legitimate medical reason for testing positive (e.g., the employee is using an otherwise prohibited drug in accordance with a prescription). If a positive test result is determined to be a false result, or the MRO determines a legitimate medical reason exists for the positive result, the MRO shall certify the test as negative.

#### 13.4.4 Split Sample Test

If the test is verified as positive by the MRO, the donor may make a request within 72 hours of his/her positive result that the MRO send the split sample specimen to an HHS-certified laboratory of his/her choice for testing. Testing of the split sample shall be at the donor's expense.

If the test result of the split sample specimen is negative, the test shall be considered negative, regardless of the results of the initial test, and DCPS shall rescind adverse actions taken against the donor, if any.

### 13.5 Specimen Integrity

The certified collector shall take every precaution to ensure that a urine specimen is not adulterated or diluted during the collection process.

All of the following steps shall be taken:

1. The covered employee to be tested shall remove unnecessary outer garments such as coats or jackets that might conceal items or substances that could be used to tamper or adulterate a sample.
2. Personal belongings such as purses or briefcases shall remain outside the testing area.
3. The covered employee shall be instructed to wash and dry his/her hands.
4. The covered employee shall not have access to any adulterating agents.
5. Where practicable, there shall be no other source of water in the enclosure where urination occurs.
6. The certified collector shall make note of any unusual behavior by the covered employee.

### 13.6 Direct Observation Collections

13.6.1 Direct observation collections are required under certain circumstances. In a direct observation collection, a same-gender collector or observer accompanies the donor into the stall/toilet area and observes the act of urination. The reasons for a direct observation collection are identified below:

1. The specimen temperature of the original specimen is outside the acceptable range;
2. The donor presents a specimen that appears to be adulterated, such as the specimen is of unusual smell or color, or is foaming, has other liquids added, among other things;

3. The collector observes materials brought into the collection site to be used for adulteration, or the donor's conduct clearly indicates an attempt to tamper with his/her specimen;
  4. DCPS is required to direct the donor to have an immediate, direct observation collection (with no advance notice) because: 1) the laboratory reported to the MRO that the specimen was invalid and the MRO reported to the employer that there was not an adequate medical reason for this; or 2) the MRO reported that an original positive, adulterated, or substituted test result had to be cancelled because the test of the split sample (as discussed elsewhere in this Policy) could not be performed or
  5. The drug and/or alcohol test is required for return-to-duty or follow-up testing.
- 13.6.2 Should a donor be required to submit a urine sample under direct observation, the donor shall be required to submit the sample before leaving the testing site.
- 13.6.3 It is the responsibility of the MDAT Team to notify the collector when a direct observation collection is required for issues which are not outlined above.

### 13.7 "Shy Bladder" Protocol

If the donor being tested is unable to provide the minimum amount of urine necessary to permit drug testing, the collection site personnel shall follow the protocol detailed below:

1. Instruct the employee to drink no more than 40 ounces of fluid within a three-hour period, and to then attempt to provide a complete sample using a fresh collection container.
2. If the next sample is of a sufficient quantity, the collection shall be properly packaged and forwarded to the laboratory. However, if the next sample is of an inadequate quantity, the employee shall be given an opportunity to submit a doctor's statement to the MRO that adequately explains the employee's inability to provide adequate urine. The employee must submit the doctor's statement to the MRO and MDAT Team within three business days for it to be considered.
3. The statement, if accepted by the MRO, shall remain on file and shall be updated as determined by the MRO. In the event that the employee fails to provide a doctor's statement, or should the doctor's statement provided be rendered unacceptable by the MRO, the employee shall be considered to have failed to provide adequate urine or a valid medical explanation for the drug test.
4. Failure to provide adequate urine for drug testing without a valid medical explanation (as verified by the MRO) shall be considered a refusal to submit to a test.

### 13.8 Dilute Specimens

If the MRO informs DCPS that a negative test was dilute, DCPS shall require that a second test be completed and take the following action, in accordance with this Policy and/or guidance provided by the MRO:

1. If the MRO requires that a recollection take place under direct observation, DCPS shall do so immediately.
2. If retesting is required, the donor shall be given two (2) days' notice that the donor must submit another sample. The result of the retest, not the result of the first test, shall be considered the final result.

3. If the second test is also negative-dilute, that test shall be the test of record, and shall be treated the same as an MRO-verified positive result.
4. If the employee declines to take a retest required because of a dilute specimen, the action shall be considered a “refusal to test” and shall be treated the same as an MRO-verified positive result.
5. If the MRO informs DCPS that a positive test was dilute, the test shall be treated as an MRO-verified positive result.

# Employee Assistance and Rights

## Section 14 - Employee Assistance Program (EAP)

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### 14.1 Services Provided

The EAP shall offer confidential counseling, and shall make referrals, as appropriate, to drug and alcohol abuse counseling and rehabilitation programs, crisis intervention programs, and other follow-up services.

### 14.2 Availability of Service

Employees shall be able to access EAP services on their own via referral from a DCPS supervisor or the MDAT Team. For information on how to contact the EAP, please visit <https://dcps.dc.gov/page/employee-assistance-program-00>

### 14.3 Confidentiality of Service

EAP services shall be confidential, with the following exception: Employees who receive mandatory referrals to the EAP after disclosing a drug or alcohol problem to DCPS must consent in writing to the MDAT Team receiving periodic updates from the EAP regarding the employee's progress toward recovery and the employee's compliance with the directives of the EAP and any counseling and rehabilitation program.



## Section 15 - Recordkeeping and Confidentiality

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### 15.1 Recordkeeping

DCPS shall keep a record showing the type of test, date of collection, name of the entity performing the collection, name of the laboratory performing the test, name of the MRO evaluating the test, and results of the test for each covered employee.

### 15.2 Confidentiality

All matters relating to test results for covered employees shall be confidential. All records relating to drug and alcohol testing shall be kept by the MDAT Team separate from the employees' official personnel folders.

The results of a drug or alcohol test shall not be turned over to any law enforcement agency without the subject's written consent unless required by law (e.g. a court order or lawfully-issued subpoena).

# Additional Matters

## Section 16 - Savings Clause

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In the event that any provision of this Policy is determined to be contrary to law or otherwise invalidated by a court of law, all other provisions of this Policy shall continue in effect.

## Section 17 - Definitions

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### Alcohol Use

The drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) that contains alcohol as an intoxicating agent (e.g., beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol).

### Breathalyzer

An evidentiary breath testing (EBT) device that tests for the presence of alcohol.

### Children

Persons 12 years of age and under.

### Confirmation Test

For alcohol testing, a second test following the initial positive breathalyzer test with a result of 0.38 micrograms or more of alcohol per one milliliter of breath that provides quantitative data of alcohol concentration.

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

### Controlled Substances

Drugs whose general availability is restricted or outlawed because of their potential for abuse or addiction, as defined by the Controlled Substances Act (D.C. Official Code § 48-901 *et seq.*). Controlled substances include any prescription drugs that are governed by the Controlled Substances Act.

### Dilute Specimen

A urine specimen with a creatinine level of less than 20 g/dl and a specific gravity of 1.003 or less. When a urine specimen is “dilute”, it is possible that drugs in one’s system may not be detected.

### Drug

A habit-forming medicinal or illicit substance, including a controlled substance and over-the-counter medication.

### Employee Assistance Program (EAP)

A health services counseling program established by the District government, pursuant to D.C. Official Code § 1-620.07, that offers employees confidential counseling services and a referral to other resources for treatment. District government employees may obtain EAP services on their own, or be referred to the EAP by their supervisors, or by a union representing the employee.

### Enzyme-Multiplied Immunoassay Technique (EMIT)

The methodology used for initial urine sample drug tests.

### Gas Chromatography/Mass Spectrometry (GC/MS) Testing Method

The methodology used for all confirmation urine sample drug tests.

## Mandatory Drug and Alcohol Testing (MDAT) Team

The DCPS team responsible for planning, directing, implementing, evaluating, and coordinating activities pertaining to this Policy.

## Medical Review Officer (MRO)

A licensed physician, who is: 1) responsible for receiving, reviewing, and evaluating laboratory test results; 2) knowledgeable about substance abuse disorders; and 3) appropriately trained to interpret and evaluate an individual's confirmed positive drug test result in the context of his/her medical history and any other relevant biomedical information.

## Reasonable Suspicion

A reasonable belief by a trained supervisor that an employee in a safety-sensitive position is: 1) under the influence of illegal drugs or alcohol; 2) impaired in his/her ability to perform his/her duties due to the use of any drug (including prescription medication) or alcohol; 3) in possession of any controlled substance or related paraphernalia while on duty or on DCPS property; 4) in possession of alcohol while on duty or on DCPS property; or 5) in possession of alcohol in a District government vehicle.

## Reasonable Suspicion Referral

A referral of an employee in a safety-sensitive position to the MDAT Team for immediate testing of alcohol and/or drugs due to reasonably suspicious behavior.

## Safety-Sensitive Position

Employment in which the District employee has direct contact with children or youth; is entrusted with the direct care and custody of children or youth; and whose performance of his/her duties in the normal course of employment may affect the health, welfare, or safety of children or youth.

## Split Sample Testing

The process of separating the urine specimen in drug testing into two separate containers. The primary (first) specimen is used for the immunoassay test and gas chromatography/mass spectrometry test. The split (second) specimen is used if the employee being tested requests a confirmation test after being informed of an initial confirmed positive drug test. When tested, the split specimen is the test of record for the employee.

## Youth

Persons between 13 and 17 years of age, inclusive.

# Appendix

# Notification of Drug and Alcohol Testing

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## Part I – Notification

The District of Columbia Public Schools (DCPS) is committed to protecting the safety, health, and welfare of the young people in its charge as well as that of its employees. Towards that end—and pursuant to the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (“CYSHA”)—DCPS established an Employee Mandatory Drug and Alcohol Testing Policy (“Policy”), which is included with this Notification of Drug and Alcohol Testing (“Notification”).

Under CYSHA, persons occupying “safety-sensitive” positions shall be subject to drug and alcohol testing prior to hire and under certain other circumstances. A “safety-sensitive” position is defined as “employment in which the District employee has direct contact with children or youth; is entrusted with the direct care and custody of children or youth; and whose performance of his/her duties in the normal course of employment may affect the health, welfare, or safety of children or youth.”

This Notification serves to inform you that your position has been designated as “safety-sensitive.” Pursuant to this Policy, you will be required to participate in drug and/or alcohol testing upon reasonable suspicion of drug or alcohol use while on duty, before being permitted to return-to-duty after seeking drug or alcohol treatment, on a periodic basis as a follow-up to drug or alcohol treatment, and after an accident while on duty.

As discussed in the Policy, employees who have a drug or alcohol problem will have an opportunity to seek treatment if they notify DCPS of such a problem prior to being directed to submit to drug and/alcohol testing. While engaged in treatment, employees shall be removed from their “safety-sensitive” duties and will not be subjected to drug or alcohol testing by DCPS, until after completing treatment. Employees who fail to disclose a drug or alcohol problem prior to being tested pursuant to the Policy will be subject to testing and all related consequences.

All employees are expected to comply with the requirements of the Policy, including those who refuse to acknowledge receipt of the Policy. Employees who test positive for drugs or alcohol, without legitimate medical reason, or who refuse to submit to testing when so instructed, shall be subject to separation from DCPS.

## Part II - Acknowledgment

By signing below, I acknowledge that I have received this Notification and the Policy.

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EMPLOYEE NAME (PRINT CLEARLY)

LAST FOUR DIGITS OF SSN OR EMPLOYEE ID NUMBER

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EMPLOYEE SIGNATURE

DATE

## Part III – If the Employee Refuses to Sign Acknowledgement

The employee identified below has received this Notification and the Policy, but the employee has elected not to acknowledge receipt of these documents. By signing below, I attest that the employee identified below received this Notification and the Policy.

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EMPLOYEE NAME (PRINT CLEARLY)

---

WITNESS NAME (PRINT CLEARLY)

WITNESS TITLE

---

WITNESS SIGNATURE

DATE