Policy and Procedure #1.204

Drug Free Workplace Program

Authority: Wyoming Statute(s): 25-1-104; 25-1-105 ACA Standard(s): 4-4063 Revised 2-CO-1C-20-Revised; 4-APPFS-3C-01; 1-CTA-1C-07	**Effective Date:** August 15, 2016 **Revision/Review History:** 08/15/15, 06/01/14, 10/01/13, 09/01/12 **Summary of Revision/Review:** Updates existing policy pursuant to annual review.
Cross Reference of Policy: P&P #1.014, *Investigations*; P&P #3.011, *K-9 Operations*	**Supersedes Existing Policy :**
Approved: R.O. Lampert — 7-26-16 Robert O. Lampert, Director — Date	

REFERENCE

1. ATTACHMENTS

A. WDOC Form 119.2, *Affirmation of Drug Free Workplace Program*
B. WDOC Drug Free Workplace Program Contact List

2. OTHER

A. Federal Register Vol. 59, No. 110 – *Mandatory Guidelines for Federal Workplace Drug Testing Programs*; Final Guidelines, June 9, 1994
B. *Procedures for Transportation Workplace Drug and Alcohol Testing Programs*. Department of Transportation, Amendment 49 CFR Part 40, February, 1994
C. *Wyoming Public Records Act*, 16-4-203(d) (i) & 203 (d)(ix)

I. PURPOSE

A. Drug Free Workplace Program. The purpose of this policy is to provide standard operating procedures and practice in order to support the Wyoming Department of Corrections (WDOC) Drug Free Workplace Program (DFWP). These procedures are consistent with the Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing programs. The WDOC supports a drug-free and alcohol-free workplace for all employees. (4-4063-R, 2-CO-1C-20-R) This policy and procedure includes, but is not limited to, the following:

1. Prohibition on the use of illegal drugs, abuse of controlled substances, misuse of prescription medication, and reporting to work under the influence of alcohol;

2. Prohibition of possession of any illegal drug except in the performance of official business;

3. The procedures to be used to ensure compliance;

4. The opportunities available for treatment and/or counseling for drug abuse; and,

5. The penalties for violation of the policy.

B. Commitment to Health and Safety. The Wyoming Department of Corrections has a unique responsibility to establish and insure safety and security for its employees, inmates, and the public by promoting a drug and alcohol free work environment within all of WDOC facilities and offices.

1. This policy is designed to deter employee possession, sale, or use of illegal drugs and abuse of controlled substances; and to disallow any adverse affects from substance, possession, use and abuse in the Department's workplaces.

2. The policy advocates professional behavior in the commission of all WDOC job responsibilities; and serves to discourage any illegal and inappropriate behavior among the employees tasked to carry out our mission.

3. This policy establishes and supports the department's commitment to the health, safety and wellbeing of WDOC employees, inmates, and the community at large.

4. The DFWP activities are conducted by WDOC to determine the use of drugs while on or off duty by employees. It is accepted that the use/abuse of certain substances off duty can impair judgment, peripheral vision, coordination; and response time for hours up to days after actual use. Some drugs remaining in the body after use can have a negative effect on performance; and thus create a hazard and risk to safety and security within the institutions or in the community.

II. POLICY

A. General Policy. It is the policy of WDOC to support a drug-free and alcohol-free workplace for all DOC employees, contract workers, and volunteers. This helps ensure security and a safe working environment for the Department's employees, while maintaining the integrity, trust and confidence bestowed on WDOC by the community.

B. Zero Tolerance. Any possession or use of prohibited substances in the workplace; or off duty that may compromise the performance or judgment of any WDOC employee at work will not be tolerated and the full range of disciplinary actions are subject to use. All WDOC employees have the responsibility and expectation to insure strict compliance and adherence to this policy.

1. The use, possession, or dispensing of any illegal drugs or any controlled substances by WDOC employees (on or off-duty) without medical prescription is strictly forbidden. (ACA 4-4063-R; 2-CO-1C-20-R; 4-APPFS-3C-01; 1-CTA-1C-07)

2. Alcohol or illegal drug use on duty, or impairment at work from alcohol or misuse of prescription medications, or drug use while off duty is prohibited

C. Prohibitions

1. Any WDOC employee, contract worker, or volunteer who uses and/or possesses illegal drugs, abuses controlled substances, misuses prescription medications, or reports to work under the influence of alcohol poses a potential threat to the safety of the community and his/her fellow WDOC employees, contract workers, and volunteers and diminishes the morale and integrity of the WDOC.

2. Use and/or possession of illegal drugs, abuse of controlled substances, misuse of prescription medications, or working under the influence of alcohol could place WDOC employees, contract workers, or volunteers in

association with the criminal element and has the potential to seriously compromise the WDOC.

3. The use and/or possession of illegal drugs, abuse of controlled substances, misuse of prescription medications, or working under the influence of alcohol by WDOC employees, contract workers, and volunteers is prohibited. Violations will be cause for management/supervisor intervention that may result in corrective and/or disciplinary action up to and including dismissal from employment. (ACA 4-4063-R; 2-CO-1C-20-R; 4-APPFS-3C-01; 1-CTA-1C-07)

D. **Drug and Alcohol Testing.** It is the policy of the WDOC to require drug testing of applicants pending selection. It is the policy of the WDOC to require drug and alcohol testing on all employees involved in accidents resulting in death, serious injury, or property destruction; any employee suspected of being under the influence of alcohol or drugs and therefore impaired at work, any employee returning to work following substance abuse treatment; and random testing of all WDOC employees in safety-sensitive positions All collections and drug/alcohol testing conducted for WDOC employees shall be done in strict accordance with the procedures contained in this document. This policy covers the following types of drug/alcohol testing (ACA 4-4063 Revised; 4-APPFS-3C-01; 1-CTA-1C-07):

1. **Pre-Employment Testing.** Pre-employment testing will be required for all applicants selected for employment with WDOC.

2. **Random Testing.** Random drug testing will be conducted on a quarterly basis. All safety-sensitive positions are subject to test.

3. **Reasonable Suspicion Testing.** Reasonable suspicion testing will be required for any WDOC employee who is suspected to be under the influence of alcohol, illegal drugs or other control substances while on duty.

4. **Post-Accident Testing.** Post-accident/incident/extraordinary occurrence testing will be required for any WDOC employee involved in an on-the-job vehicular accident or other type of accident resulting in another's death, serious injury or property damage while in on-duty status.

5. **Follow-Up Testing.** Follow-up testing is required for all employees returning to work following inpatient substance abuse treatment.

III. DEFINITIONS

A. **Accident/incident/extraordinary occurrence:** (*For this policy only.*) An unintended and unforeseen injurious occurrence that could not be reasonably anticipated. Accidents that may result in injury to persons or property while on duty. Any injury to a person in which a workers' compensation report is or could be filed shall be considered an accident for purposes of this policy, as well as any injury to property in which an accident report is required (*e.g.*, as required by the *State Vehicle Use Policy*, in accordance with the *State Risk Management Manual*, *etc.*)

B. **Applicant:** (*For this policy only.*) An individual applying or tentatively selected for employment for placement with the Wyoming Department of Corrections.

C. **Breathalyzer:** Method for measuring level of alcohol presence in an individual.

D. **Certified Laboratory:** (*For this policy only.*) A laboratory which has been certified by the US Department of Health and Human Services to perform job related forensic testing for drugs and alcohol.

E. **Chain of Custody:** (*For this policy only.*) Procedures to account for the integrity of each urine and/or alcohol specimen by tracking its handling and storage from point of collection to final disposition of the specimen.

F. **Chief Executive Officer (CEO):** A CEO is identified, but not limited to, the following positions: Director, Deputy Director, division administrators, deputy administrators, wardens/superintendents, district managers, district supervisors, adult community corrections coordinator, adult community corrections directors.

G. **Collectors:** (*For this policy only.*) Trained personnel who administer the urine/breath specimen collections in accordance with the procedures set forth in this manual.

H. **Confirmatory Test:** (*For this policy only.*) A second analytical procedure, which is independent of the initial test, used to identify the presence of a specific drug or metabolite. It uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. The gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for the drugs for which the Department of Corrections is testing.

I. **Department:** Wyoming Department of Corrections (WDOC).

J. **Designated Site:** (*For this policy only.*) A place designated by the Department of Corrections where employees present themselves for the purpose of providing a specimen for their urine or breath screening, to be analyzed for the presence of drugs and/or alcohol.

K. **Disciplinary Action:** (*For this policy only.*) A corrective or adverse action intended to correct behavior, conduct, or improve non-performance.

L. **Drug/Alcohol Abuse:** The use of illegal drugs, or the misuse of prescription drugs or alcohol.

M. **Drug Dogs:** Canines trained in the detection of illegal/prohibited substances. (*i.e.*, cocaine, marijuana, methamphetamine, opiates, *etc.*)

N. **Drug/Alcohol Test:** A procedure to determine if a breath or urine specimen contains drugs, alcohol or the metabolites of drugs or alcohol.

O. **Drug Free Workplace Program Manual:** The document that specifically describes the operational procedures for the implementation of the WDOC Drug Free Workplace Program.

P. **Drug Program Coordinator (DPC):** The Department of Corrections employee(s) with the responsibility for implementing directing and managing the WDOC Drug Free Workplace Program. The Administrator of the WDOC Central Services Division shall serve as the DPC for the agency.

Q. **Employee:** (*For this policy only.*) A person working in and compensated by the Executive Branch of State Government, over which management has the right to direct and control the way the person works, both as to the final results and as to the details of when, where and how the work is done.

R. **Evidential Breath Testing Device (EBT):** A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing or breath and is listed in the "Conforming Product's List of Evidential Breath Measurement Devices" (CPL).

S. **Illegal Drugs:** (*For this policy only.*) Substances which are illegal to possess without a prescription under local, state, or federal law Section 5 of this guide lists illegal drugs from which applicants and employees will be tested. Employees may also be tested for illegal substances not listed in Section 5 if information is available to warrant such testing.

T. **Independent/Confirmation Test (ICT):** An employee may request a second confirmation test of his/her specimen by an independent certified laboratory. The laboratory that conducted the first confirmation test will ship a split

sample of the specimen to a certified DHHS laboratory of the employee's choice. The employee is responsible for the expense of an independent test. If a Urine Drug Analysis Rapid test result is positive, a portion of the same sample will be forwarded to a 2nd certified DHHS laboratory for a confirmation test. The agency assumes this cost.

U. **Independent Laboratory:** (*For this policy only.*) A secondary laboratory retained by an employee which uses GC/MS methodology to confirm previous drug test results. The independent laboratory must be certified by the US Department of Health and Human Services Administration (SAMHSA) to perform job-related forensic testing for drugs and alcohol.

V. **Initial Test:** (*For this policy only.*) This is an enzyme multiplied immunoassay screening technique (EMIT) test which is the initial screening procedure designed to eliminate negative samples.

W. **Medical Review Officer:** (*For this policy only.*) An individual responsible for receiving laboratory results generated from the DFWP who has knowledge of substance abuse disorders and the appropriate training to interpret and evaluate all positive test results together with an individual's medical history and any relevant biomedical information.

X. **Metabolite:** (*For this policy only.*) That portion of a substance which remains in a blood or urine specimen when the substance is broken down during metabolism.

Y. **Negative Dilute Result:** (*For this policy only.*) The result of a substance abuse test when a submitted sample is unreadable during the testing process.

Z. **Negative Substance Abuse Test:** The absence of a substance or metabolite in sufficient quantities to be identified by either an initial or confirmatory substance abuse test.

AA. **Positive Substance Abuse Test:** The presence of a substance or metabolite as identified in two consecutive tests on the same specimen.

BB. **Post-Accident/Incident/Extraordinary Occurrences:** (*For this policy only.*) Any accident (as defined by this policy) which results in the required drug test to be conducted after the occurrence of the accident/incident.

CC. **Probationary Employee:** An at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason.

DD. **Reasonable Suspicion:** (*For this policy only.*) A reasonable belief based on objective facts sufficient to lead a prudent supervisor to suspect that an employee is under the influence of a substance to the extent that the employee's ability to perform the functions of the job is impaired or the employee's ability to safely perform his/her job is compromised.

EE. **Safety Sensitive Positions:** (*For this policy only.*) Those positions or types of jobs with assigned duties that include regular or recurring, direct access to inmates, or to offenders on supervised parole/probation; or who otherwise carry a firearm or transport inmates. Safety sensitive positions shall also include staff assigned to the central or regional offices, whose positions require them to travel to offices or institutions on a regular basis to tour, inspect, audit, support, supervise, or monitor inmate interaction and activities.

FF. **Split Sample:** (*For this policy only.*) The splitting of the original specimen into a second collection bottle. One sample is transferred to the drug screening unit of the laboratory for separate storage and another is transferred for screening.

GG. **Substance:** (*For this policy only.*) Includes, but is not limited to alcohol, opiates, cannabinoids, benzodiazepines, cocaine, methaqualone, barbiturates, amphetamine/ methamphetamines, LSD, phencyclidine, inhalants and other drugs of abuse by any individual not prescribed by a physician for that individual.

IV. PROCEDURE

A. Process for notification of the DFWP to WDOC staff.

1. All WDOC employees and potential WDOC employees are required to comply with the policies and procedures herein and are to be notified of said policy as outlined.

i. Vacancy announcements for all positions within the Department will clearly state the DFWP policy. This includes the information that employee candidates are tested for drug or alcohol abuse and are subject to further drug/alcohol testing upon acceptance of the position.

4. Any employee who tests positive for alcohol or drugs, or who refuses to submit to testing, is subject to disciplinary action, up to and including, dismissal from employment or rescind the conditional offer. (ACA 4-4063 Revised;1-CTA-1C-07)

5. The Chief Executive Officers (CEOs) are required to ensure employee notification of the drug testing policy upon initial employment. As outlined in Policy and Procedure #1.226, *OnBoarding, Recruiting and Selection of WDOC Employees*, applicants receive notice at the interview stage and upon conditional offer regarding WDOC drug free workplace expectations and the required pre-employment testing.

6. Employees shall complete, sign and date WDOC form 119.2, *Affirmation of Drug Free Workplace Program,* as part of new employee orientation. A supervisor/designee shall observe such receipt and understanding of the policy. This action shall constitute official employee notification.

B. K-9 Operations

1. Drug dogs will periodically visit Departmental worksites unannounced to search for illegal substances as described in WDOC Policy and Procedure #3.011, *K-9 Operations*. If the dogs alert on an individual employee or articles belonging to an employee, reasonable suspicion will be established and the identified employee(s) will be referred for immediate urinalysis in accordance with paragraph IV.E.3 of this policy and procedure.

C. Employee Requirements

1. Employees required to be tested must submit to testing when requested by WDOC. Failure to submit to testing will be considered flagrant misconduct and constitutes grounds for dismissal from employment.

2. Employees shall complete required drug and alcohol testing forms.

3. Employees shall report immediately any suspected drug or alcohol use/abuse to their supervisor or another manager within their supervisory chain of command. That official shall determine if circumstances exist that suggest reasonable suspicion of alcohol or drug use. If so, a referral for testing is required.

D. Employee Assistance Program (EAP). WDOC encourages staff to seek assistance for drug and alcohol abuse.

1. EAP services are available through self-referral by the employee as well as referrals by supervisors, medical staff, and administrative level management.

2. The EAP will continue to offer prevention education, confidential referrals to community resources, crisis interventions, critical incident stress debriefings, and follow-up.

3. Each employee who participates in the EAP in conjunction with substance abuse treatment is still subject to all testing and penalties. However, EAP services shall continue to be provided confidentially for all employees. (4-4063 Revised)

E. Signs & Symptoms of Substance Abuse.

1. Although other signs and symptoms may exist, the following behaviors and conduct in the work place may indicate substance use/abuse. When these signs or other signs and symptoms are observed, supervisors will make a determination of fitness for duty:

i. Unsteady walking;

ii. Slurred speech;

iii. Inability to focus;

iv. Unusually loud incoherent talking;

v. Blurred eyes;

vi. Apparent lack of attention to matters at hand;

vii. Inability to stay awake; and

viii. Demonstrated pattern of unreliability.

2. Any of these symptoms in isolation may not indicate substance use/abuse; however any of these symptoms alone or a combination of these symptoms could indicate a substance abuse problem. Recognition of symptoms and early attention to resolve problems can lead to a more positive outcome/resolution.

F. Types of Drugs Tested. The following types of drugs will be tested for in the DFWP:

1. Amphetamines;

2. Cannabinoids

3. Cocaine;

4. Opiates;

5. Barbiturates;

6. Alcohol; and

7. Any other substance deemed appropriate and justified.

G. **Types of tests to determine drug/alcohol use or impairment.** WDOC will utilize a contracted testing service to conduct the following tests utilizing established protocols as determined by applicable federal and state law. Tests for all categories are conducted at the contracted testing service designated site unless otherwise arranged and approved by the Drug Program Coordinator (DPC). Generally, the following tests will be used.

1. **Breathalyzer.** Alcohol testing applied to the Reasonable Suspicion and Post-Accident/Incident/ Extraordinary Occurrence categories.

i. Any result .02 and above is considered a positive test result.

ii. If the result is .02 or above, a confirmation test shall be performed in accordance with established procedures. The results of the confirmation test will be the final, valid test result.

2. **Urinalysis.** Testing applied to all testing categories.

i. The contracted testing service will be responsible for collection, packaging, and shipment of all samples to a laboratory approved and certified under Department of Health and Human Services (DHHS).

ii. All tests will be conducted using a certified laboratory. Laboratories will collect and process urine samples according to USDOT Chain of Custody regulations.

iii. All positive results will be confirmed and processed through a Medical Review Officer (MRO) to confirm the result.

iv. **Negative Dilute Results.** In the event a urinalysis sample submitted to the lab is a negative dilute result, the applicant or employee will be required to submit to a second urinalysis test. This test will be unannounced and the applicant or employee must provide a sample at the time of request. Failure to provide a urinalysis sample will result in withdrawal of the offer of employment or appropriate disciplinary or administrative action.

3. **Independent/Confirmation Test (ICT).** In the event of a positive urinalysis, applicants and employees have the opportunity to have the split sample of the original urine sample tested by a laboratory of the applicant's or employee's choice.

   i. The applicant or employee will be notified in writing of the positive result and offered the opportunity to have an ICT within five (5) working days of the initial positive.

   ii. ICTs are conducted at the applicant's or employee's expense; regardless of test results the employee is responsible for this expense.

   iii. ICTs are the final, valid test result. If the applicant or employee does not choose to conduct an ICT, the initial positive result is the final, valid result.

H. Testing Procedures/Responsibilities

1. **Pre-Employment Testing.** Testing that will occur for all applicants who have received a conditional job offer.

   i. Applicants selected for employment with WDOC are required to report to a designated test site for a urinalysis prior to starting employment. Applicants must comply with all established laboratory procedures.

      a. Tampering or contaminating the urine sample or urine container will result in the rescinding of the conditional offer for employment.

   ii. All results will be sent to the DPC and the servicing Human Resources office responsible for processing the applicant. Applicants with a negative result are cleared for hire.

      a. At no time is an applicant allowed to start employment prior to the receipt of the urinalysis result.

   iii. Applicants with a positive result will be notified in writing and offered the opportunity to have an ICT.

      a. If the ICT is negative, the applicant will have the opportunity to accept the position at that time.

b. If the ICT is positive, the servicing Human Resources office will send a letter notifying the applicant of the positive result and rescinding of the offer of employment.

c. If the applicant chooses not to have an ICT, the servicing Human Resources office will send a letter rescinding of the offer of employment.

2. **Random Testing.** Random drug testing will occur for safety sensitive positions as defined by this policy.

i. On a quarterly basis, an updated employee list will be submitted to the WDOC contracted testing service, who will randomly select five percent (5%) of employees for testing. The contracted testing service will establish the identity of employees being tested. A total of twenty percent (20%) of eligible employees will be tested annually.

ii. The contracted testing service will notify the DPC of the individuals required to test, who in turn will coordinate with the servicing human resources office for testing of identified employees.

iii. Staff members will be given up to two (2) hours to present themselves at a designated site to submit a urine sample.

a. Any employees who are scheduled to work must test or provide justification and endorsement by their immediate supervisor to be excused from testing.

b. Failure to test without an approved excuse shall be considered flagrant misconduct and constitutes grounds for dismissal from employment.

iv. Test results will be sent to the DPC.

a. If the result of the test is negative, no further action is necessary.

b. If the result of the test is positive, the DPC will prepare a letter to the affected employee(s) informing him/her of the positive result and the opportunity to contest the result through an ICT.

(1) The employee may be placed on Administrative Review Leave pending the results of the ITC and/or disciplinary action at the discretion of the CEO in consultation with Human Resources.

(2) If the employee does not choose an ICT, the initial positive result shall be considered flagrant misconduct and constitutes grounds for dismissal from employment.

c. If the ICT is negative, there is no further action against the employee.

d. If the ICT is positive, the positive result shall be considered flagrant misconduct and constitutes grounds for dismissal from employment. (1-CTA-1C-07)

3. Reasonable Suspicion Testing

i. Pursuant to WDOC Policy and Procedure #1.014, *Investigations*, WDOC has a zero tolerance policy on illegal drug use and alcohol consumption that impairs an employee's ability to perform his/her duties. Where there is reasonable suspicion, an employee may be ordered to submit to a drug test to determine the presence of alcohol or illegal drugs in his/her system.

a. Once any employee is suspected to be under the influence of alcohol, illegal drugs, or other controlled substances while on duty, his/her supervisor shall remove that individual from duty status, to determine if the employee is fit to remain on duty. It is recommended that the supervisor obtain the assistance of another supervisor in order to verify and validate this interaction. If another supervisor is not available, another employee may assist in the verification and validation of this interaction.

b. The supervisor/manager shall notify the CEO of the claim. The CEO, in consultation with the servicing Human Resources office shall determine the need for testing and refer the employee for immediate testing. In extraordinary circumstances where another supervisor or staff is not available the manger may contact local law enforcement.

c. In the instance of a drug dog alerting on an individual employee or articles belonging to an employee, reasonable

suspicion will be established and the identified employee(s) will be referred for immediate urinalysis.

ii. Employees who are suspected to be under the influence shall be escorted to a designated test site for testing.

a. Refusal to test, for any reason, shall be considered flagrant misconduct and constitutes grounds for dismissal from employment. (1-CTA-1C-07)

iii. The contracted testing service will conduct a breathalyzer, and/or collect and process the urine sample according to established procedures.

a. The employee will not be allowed to drive either to or away from the designated test site. The supervisor or designee will arrange for transportation. If the employee refuses this assistance and drives him/herself, the supervisor is required to notify the authorities of this suspected impaired driver.

b. The employee will be placed on Administrative Review Leave pending the results of the test.

iv. The test results will be reported to the DPC and servicing Human Resources office.

a. If the test results are negative, no further action is necessary.

b. If the result of the test is positive, the servicing Human Resources office will prepare a letter to the affected employee(s) informing him/her of the positive result and the opportunity to contest the result through an ICT.

(1) The employee may be placed on or continued on Administrative Review Leave status pending the results of the ICT and/or disciplinary action.

(2) If the employee does not choose an ICT, the initial positive result shall be considered serious misconduct and constitutes grounds for dismissal from employment. (1-CTA-1C-07)

c. If the ICT is negative, there is no further action against the employee.

d. If the ICT is positive, the positive result shall be considered serious misconduct and constitutes grounds for dismissal from employment. (1-CTA-1C-07)

4. **Post-Accident/Incident/Extraordinary Occurrence Testing.** Testing which occurs after WDOC employee(s) is involved in an on the job accident or incident (see definition for accident/incident/extraordinary occurrence). The employee(s) shall submit a urine sample or be administered a breathalyzer no later than eight (8) hours after the incident.

i. Employees who are involved in an on the job accident, incident or extraordinary occurrence shall immediately report the accident, incident, or occurrence. Testing shall be completed immediately, if possible, but in no event shall testing be completed later than eight (8) hours after occurrence of the accident, incident, or occurrence.

1. The reporting supervisor shall attempt to contact the appropriate testing site or designated HR Manager to obtain the proper test as outlined above in this policy.

2. If the supervisor is able to make contact with the testing site the employee shall follow the procedure as outlined in this policy.

3. Should the reporting supervisor be unable to contact the testing site he/she shall contact the Drug Program Coordinator (DPC) (*see Attachment A: WDOC Drug Free Workplace Program Contact List*) or his/her designee, to make arrangements for a test to occur within eight (8) hours. If able, the employee may return to work but shall be advised that arrangements will be made for a test to occur within eight (8) hours.

a. Should the accident occur during extraordinary hours (*i.e.* after 10:00 PM) and the testing site is not available to provide a test within the required eight (8) hours follow-up will occur immediately the following day.

ii. Employees will report to the designated site for testing. In the event of hospitalization of the employee, the DPC will request a drug test through the hospital.

a. Failure to report for testing shall be considered serious misconduct and constitutes grounds for dismissal from employment.

b. Failure to report for testing within the required timeframe may be considered misconduct and may constitute grounds for disciplinary action.

iv. The drug test results will be sent to the DPC and servicing HR.

a. If the results of the test are negative, the employee may return to work and no further action is necessary.

b. If the result of the test is positive, the servicing Human Resources office will prepare a letter to the affected employee(s) informing him/her of the positive result and the opportunity to contest the result through an ICT.

(1) The employee may be placed on or continued on Administrative Review Leave status pending the results of the ICT and/or disciplinary action.

(2) If the employee does not choose an ICT, the initial positive result shall be considered serious misconduct and constitutes grounds for dismissal from employment.

c. If the ICT is negative, there is no further action against the employee.

d. If the ICT is positive, the positive result shall be considered serious misconduct and constitutes grounds for dismissal from employment.

I. **Post Treatment Testing.** All WDOC employees who participate in any substance abuse treatment programs, and subsequently receive follow-up or monitoring through the EAP, will be tested quarterly for one year following release from treatment and included in the pool of employees designated for random testing.

J. **Disciplinary Actions**. Violation of this policy may constitute grounds for disciplinary action up to and including dismissal from employment. (4-4063 Revised)

1. The WDOC Director has delegated the disciplinary authority for the DFWP to the CEO's, with oversight by the DPC. The "Deciding Official" for disciplinary actions related to the DFWP, is the WDOC Director.

2. Pursuant to Wyoming Personnel Rules, if the dismissal of an employee is warranted, the WDOC Director will provide the employee written notification specifying the reason(s), and summary of the evidence and an opportunity for the employee to respond in writing to the charge(s).

3. Cause or reason may not be provided for termination of At-Will Contract Employees (AWECs) or probationary employees.

K. Confidentiality. Files, records, and drug testing data shall be maintained in accordance with Federal Privacy Act 5, USC 552a, and Wyoming Public Records Act, W.S. §§ 16-4-203(d) (i) & 203 (d) (ix).

L. Training

1. The implementation of the education and awareness portion of the testing program will begin with training for supervisors and managers on policy issues, DFWP testing procedures and substance abuse recognition. Education/training on prevention and policy issues will then be initiated for all other employees.

2. Training will be designed and conducted through a cooperative effort between the EAP Manager, respective Training Manager and the DPC.

3. Supervisors shall receive two (2) hours of DFWP training every year. Training shall address DFWP policies and procedures, signs, symptoms and effects of substance abuse, as well as disciplinary and referral procedures for employees as appropriate. At least one (1) hour will discuss alcohol, misuse and one (1) hour will discuss drug use.

4. Employees will receive one (1) hour of training each year on substance abuse education and DFWP policies and procedures as well as disciplinary and referral procedures for employees as appropriate.

M. Posting Requirement

1. Notification of the DFWP shall be posted in appropriate and conspicuous locations at each WDOC work site.

2. Copies of the DFWP, the DFWP manual and this policy are available on the WDOC Intranet as well as in each WDOC Human Resources Office.

Copies will be made available for all WDOC employees and job applicants as requested.

N. Data Collection

1. The contracted testing serviced shall provide the DPC a monthly statistical summary of urinalysis and breathalyzer testing. The summary shall not include any personal identification information. Initial and confirmation data shall be included from test results reported within that month. The DPC will be responsible for submitting monthly data to WDOC management.

2. All statistical data reports and data base files shall be maintained for a period of at least three (3) years. The contracted testing service shall maintain and make available documentation of all aspects of the testing process for three (3) years.

V. TRAINING POINTS

A. Which employees are subject to random drug testing?

B. What is the supervisor's responsibility when an employee is suspected of being under the influence of drugs/alcohol at work?

C. Where will Pre-Employment, Post-Accident, For Cause and Repeat Testing collections occur?

D. If an employee is on the list for random testing, under what circumstances can they be excused for testing that day?

E. If a urine sample test result is positive, the employee has the option to retest that sample. Who pays for the re-test?