Beverly A. H. Buscemi, Ph.D.
State Director
David A. Goodell
Associate State Director
Operations
Susan Kreh Beck
Associate State Director
Policy
Thomas P. Waring
Associate State Director
Administration

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
803/898-9600
Toll Free: 888/DSN-INFO
Website: www.ddsn.sc.gov

COMMISSION
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Secretary
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Deborah C. McPherson
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THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS (DDSN). THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. DDSN RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. GENERAL PURPOSE

In compliance with the Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and Article 5.0 of South Carolina Transportation Regulation 43-80, the purpose of this policy is to establish the Department of Disabilities and Special Needs (DDSN) policy on the maintenance of an alcohol and drug free workplace, and to provide notification that DDSN will test for drug use and/or alcohol abuse as stated in this directive.

II. POLICY STATEMENT

DDSN is committed to protecting the safety, health and well-being of all employees and individuals in the workplace. It is recognized that alcohol abuse and drug use pose a significant threat to our goals, the safe operation of the DDSN worksites and agency vehicles. DDSN has established a drug-free workplace program that balances our respect for individuals with the need to maintain a safe alcohol and drug-free environment.

The DDSN Director of Human Resources is assigned the overall responsibility and authority for the implementation and administration of this policy. Upon request, this policy will be provided as certification to Federal agencies that DDSN has implemented an effective and viable program to ensure an alcohol and drug-free workplace. DDSN is also in compliance with applicable requirements of the Americans with Disabilities Act and the Family and Medical Leave Act.

DDSN shall develop and maintain an awareness program to inform employees about the dangers of alcohol and drug abuse. Every employee shall receive initial orientation and be given a copy of the alcohol and drug-free workplace policy.

III. DEFINITIONS

DOT - The United States Department of Transportation.

DDSN - Department of Disabilities and Special Needs.

EAP or JRS – Job Retention Services, commonly known as an Employee Assistance Program (EAP). DDSN utilizes the programs provided through the South Carolina Vocational Rehabilitation's Job Retention Services (JRS). For the purposes of this policy, "JRS" is the acronym used to mean the employee assistance program.

Alcohol Test - A test administered by a breath alcohol technician on the breath specimen using a breath testing device and any other test conducted as on scene post-accident testing by federal, state, or local law enforcement officials.

Alcohol Use - The consumption of any beverage, mixture or preparation containing alcohol including, but not limited to, medications.

Applicant - A person, other than a current employee who applies for employment or appointment to a position with DDSN.

Certified Laboratory - A laboratory certified to provide alcohol and controlled substance analysis in compliance with the Drug-Free Workplace Act of 1988.

Chain of Custody - The method used to control documentation and ensure the privacy of an individual who is being tested for drug or alcohol use.

Collection Site - A designated place where employees present themselves to provide, under controlled conditions, a urine, blood or breath specimen that will be analyzed for the presence of drugs and/or alcohol.

Confirmed Positive Result - The determination that the presence of an illicit substance in the pure form or its metabolites is at, or above, a specified cutoff level as identified in two (2) consecutive tests that employ different testing methods.

Confirmation Test - A second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedures.

Consent And Acknowledgement Form - Upon review and signature, provides consent for testing and informs the individual subject to drug/alcohol testing of the substances for which they are being testing.

Controlled Substance - A substance as defined in Schedules I-V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by Regulation 21 CFR 1300.11-1300.15. Major substances for review by this policy shall include Marijuana/Cannabinoids (THC), Cocaine metabolites, Opiates, Phencyclidine (PCP), and Amphetamines/Methamphetamines.

Conviction - means a finding of guilt (including a plea of "nolo contendere") or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal statutes.

Covered Worker - Please see Section IV below.

Direct-Care Position - A position that requires the employee have regular contact with the individuals we serve. Such positions function in areas including, but not limited to, residential services, health services, housekeeping, food services, and other human services areas.

Drug - Any controlled substance or possessed medication without verified valid prescription.

Drug Test - A chemical, biological or physical analysis or test administered for the purpose of determining the presence or absence of a drug or its metabolites and/or alcohol. Specimens will also be analyzed for such other substances as DOT may direct, or as may otherwise be required by Federal or State law. In the event that DOT or other regulatory entity expands the list of drugs for which testing is required DDSN may begin testing immediately for those drugs without prior notice to employees or applicants, unless notice is required by DOT or other applicable law.

Impaired - This shall mean such performance and/or behavior that would indicate to the observer that a person's ability to handle assigned job functions safely and efficiently may be compromised.

Medical Review Officer (MRO) - A person who is a licensed physician knowledgeable of substance abuse disorders and trained to interpret and evaluate drug and alcohol tests. DDSN will use the State contract vendor for making evaluations.

Negative Result - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial or confirmatory test as determined by a MRO.

On Duty - Includes, but is not limited to, any time work is performed on DDSN premises or in a DDSN vehicle or any other vehicle being used for DDSN business on or off DDSN premises including meals or break times.

Reasonable Suspicion - Alcohol and/or drug testing will occur when management has reason to believe that a covered worker is under the influence of alcohol or other controlled substance. The quantity of proof or evidence required to test a covered worker based upon reasonable suspicion is more than a hunch, but less than probable cause. Reasonable suspicion is based on identified objective facts. Rationally derived conclusions from those facts would lead the reasonable person to suspect that a person is using or is under the influence of drugs and/or alcohol while on duty.

Refusal to Test - Failure to provide an adequate urine specimen for drug test without a valid medical explanation; failure to provide adequate breath for an alcohol test without a valid medical explanation; failure to submit to either test as directed; engaging in any conduct which clearly obstructs the testing process; or leaving the scene of an on-the-job accident.

Safety-Sensitive Employees - Covered workers whose positions require they perform a "safety-sensitive" job function. A safety-sensitive function is any of the following duties when performed by covered workers as defined by this policy:

- Operating a vehicle, when required to be operated by a holder of a Commercial Driver's License;
- Operating a State-owned vehicle (car or van), including when the operation of such is not strictly being used to transport employees or DDSN consumers;
- Operating a State-owned service vehicle (heavy equipment), such as a van, truck, forklift, overhead cranes, aerial/man-lifts, etc.;
- Controlling the dispatch or movement of a State-owned vehicle;
- Maintaining (including conditioning, repairing, overhauling and rebuilding) a State-owned vehicle or heavy equipment service vehicle; and
- Supporting and supervising covered workers who are in engaged in any of the above safety-sensitive functions.

IV. COVERED WORKERS

Any person who conducts business for DDSN, is applying for employment with DDSN, or is conducting business on DDSN property is covered by this drug-free workplace policy. This includes (but is not limited to) the DDSN State Director, Executive Management, District Directors, Facility Administrators, Division Directors, Managers, Supervisors, full-time employees, part-time employees, temporary staff, contracted staff, employees assigned to off-site work stations, volunteers, interns and applicants.

V. APPLICABILITY

This drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the organization. Therefore, this policy applies to covered workers during all working hours, whenever conducting business or representing DDSN, while on-call, while on any departmental worksites and properties, and at agency-sponsored events.

VI. PROHIBITED ACTIVITY

Covered workers, as defined by this policy, found taking part in any of the activities listed below will be subject to disciplinary measures in accordance with DDSN Standards of Disciplinary Action Policy, up to and including dismissal from employment.

- The unlawful manufacture, distribution or possession of alcohol, controlled substances or illegal drugs at any DDSN worksite or while conducting DDSN business is prohibited.

- The possession, manufacture or delivery of drug paraphernalia is prohibited at any DDSN worksite, or while conducting DDSN business.

- The purchase, sale, trade, solicitation (or offer to purchase, sell or trade), transport, or illegal personal possession of controlled substances, illegal drugs or alcohol at any DDSN worksite **or** while conducting DDSN business is prohibited.

- Drinking, possessing, or being under the influence of alcohol at any DDSN worksite or while conducting DDSN business (or on-call) is prohibited (this includes medications containing alcohol, except where medically valid).

- Reporting to work for DDSN under the influence of alcohol, illegal drugs, or controlled substances (except as prescribed by a licensed healthcare professional) is prohibited.

- Performing safety-sensitive and DDSN job functions, including but not limited to operation of DDSN vehicles and heavy equipment while under the influence of alcohol, illegal drugs, or controlled substances is prohibited.

- Consumption or personal possession of any controlled substance, unless as prescribed by a licensed healthcare professional is prohibited. Covered workers (as defined above)

shall notify Human Resources (HR) in writing when required to use prescription or over-the-counter medications that have the potential to impair job performance. This written notice shall advise of known possible side effects, and the duration of use. An employee may be temporarily reassigned to other duties or may be placed on sick leave while on medication, if no other duty is available.

- Using, possessing, or being under the influence of illegal drugs at any DDSN worksite, while acting as DDSN representative, or while conducting DDSN business is prohibited.

- No employee shall violate applicable federal, state or local laws governing the use of drugs and/or alcohol.

VII. CONSEQUENCES

One of the goals of this drug-free workplace program is to encourage covered workers to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

Temporary staff, contracted staff, volunteers, interns and applicants are not covered by the DDSN Standards of Disciplinary Action Policy, and if they are determined to have violated the terms of this policy, they will have violated the terms of their work agreements/contracts and will be dismissed and prohibited from working further with DDSN.

Employees in Full Time Equivalent (FTE) positions, both full and part-time, determined to have violated the terms of this policy will be subject to the **DDSN Standards of Disciplinary Action Policy**, and may be required to participate in an JRS as a condition of continued employment with the Department. Failure to successfully complete this program or a repeated violation of this policy will result in dismissal from employment. Participation in an JRS for alcohol/drug use does not exempt the employee from progressive disciplinary actions for other violations of rules and regulations.

Standard consequences for FTE employees for violations of this policy:

- Violation of the policy causing impaired or inappropriate behavior on the job shall be viewed as unacceptable personal conduct, and shall be cause for disciplinary action up to and including dismissal from employment.

- An employee determined, by administrative or other investigation, to be involved in the unlawful manufacture, distribution, dispensation, or sale of illegal drugs on department premises or workplaces shall be dismissed from employment.

- An employee determined, by administrative or other investigation, to have participated in the following shall receive at least a Three-day (3-day) Suspension, and may be required to participate in the JRS:

- In possession of alcohol at a DDSN worksite or while conducting DDSN business;
- In illegal possession of a controlled substance at a DDSN worksite or while conducting DDSN business; or
- In possession of drug paraphernalia, or involved in the manufacture or delivery of drug paraphernalia at a DDSN worksite or while conducting DDSN business.

- An employee determined, by administrative or other investigation, to be using and/or functioning below acceptable work standards due to misuse of alcohol or controlled substances on DDSN worksites shall receive at minimum a Written Warning and Suspension, and may be referred to the JRS.

- The Department will report violations of criminal drug statutes occurring at DDSN worksites and property to the appropriate law enforcement authority.

- Disciplinary action, in the form of a Written Warning, Suspension, Demotion or Dismissal from employment, shall be taken when an employee:

  - Refuses to submit to a required drug or alcohol test;
  - Fails to attend a scheduled drug or alcohol test;
  - Intentionally tampers, or attempts to tamper with a collection specimen; or
  - Produces a confirmed positive alcohol test at 0.04 or above or a verified positive drug test result.

- Substances that may be tested for under this policy include:

  - Marijuana/cannabinoids (THC)
  - Cocaine metabolites
  - Opiates
  - Phencyclidine (PCP)
  - Amphetamines/methamphetamines.
  - Alcohol

Note: Substances to be tested for can be expanded to a 10 panel test for cases which reasonable cause identifies a need to test for a substance. Covered workers must be informed of the substances for which they will be tested.

- A covered worker who produces a confirmed positive alcohol test at 0.04 or above or a verified positive drug use test, if not dismissed from employment, shall receive at least a

Written Warning and Suspension. To be eligible to return to duty, the covered worker must:

- Undergo an evaluation or assessment by a substance abuse professional through the JRS; and
- Satisfactorily complete any rehabilitation process that is recommended through this assessment.

- Any covered worker who produces a positive alcohol test of at least 0.02, but less than 0.04, may receive disciplinary action in accordance with DDSN's Standards of Disciplinary Action policy.

- Covered workers (including applicants) who receives a positive drug test may request, through the MRO, that the same or split specimen be tested at another certified laboratory with the cost of such testing at the covered worker's/applicant's expense. Notification for re-testing of a sample must be made within 72 hours upon receipt of written notice of a positive test result.

- Applicants or covered workers with a confirmed positive test will be afforded the opportunity to appeal the results by providing medical data/history for review and assessment by the MRO who will make a final determination of the test result.

- Covered workers who are dismissed from employment may be referred to JRS for evaluation, assessment or treatment.

- A covered worker who tests positive in a second drug or alcohol test shall be immediately dismissed from employment.

- Should an applicant test positive during the pre-employment screening, the offer of employment will be rescinded, and they will not be eligible for employment consideration for a period of one (1) year from the date of the positive test results.

- When management has reasonable suspicion to believe a covered worker is using or is under the influence of alcohol or a controlled substance in violation of this policy, the employee may be required to submit to a drug and/or alcohol test. Such testing must be approved by the DDSN Director of Human Resources in coordination with the Associate State Director, District Director or Facility Administrator or his/her designee.

VIII. NOTIFICATION OF CONVICTIONS

Any covered worker, as defined by this policy, who is convicted of a criminal drug violation, must notify their local HR representative in writing within five (5) calendar days of the conviction.

HR will communicate with DDSN management as necessary, and within thirty (30) days after receiving notice from an employee of the conviction of a criminal drug violation, DDSN shall take appropriate disciplinary action against the employee up to and including dismissal from employment, or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for the purposes by a federal, state, local health, or local law enforcement.

Federal contracting agencies will be notified if appropriate.

IX. RESPONSIBILITY TO REPORT

All DDSN employees, as covered workers, have a responsibility to report observed and suspected violations of this policy to their supervisor or local HR manager. Failure to report such activity may be grounds for disciplinary action in accordance with the DDSN Standards of Disciplinary Action policy.

X. JOB RETENTION SERVICES (JRS) – THE EAP

DDSN encourages employees to voluntarily seek help with drug and alcohol use. We will support the responsible action of a covered worker seeking help for an alcohol or controlled substance use problem. A covered worker's efforts to obtain help through the department will be handled in confidence.

JRS is available to assist covered workers with personal problems that may affect their job responsibilities including, but not limited to, the treatment of alcohol and/or drug addiction. DDSN utilizes the JRS sponsored by the South Carolina Vocational Rehabilitation Department's (SCVRD).

If a covered worker or their immediate family member desires JRS, they may call HR or the local SCVRD. All voluntary requests for JRS assistance will be handled confidentially. Participation is voluntary, and will not affect employment status; although leave from work duty may be required if recommended by JRS staff. Employees may use accumulated leave quota to participate in JRS.

XI. TESTING PROCEDURES

General

The initial test performed by the state contract laboratory will be a sensitive and rapid screening to eliminate "true negative" specimens from further consideration. For specimens initially testing positive, a second analytical procedure will be employed to identify the presence of a specific drug or metabolite.

In order to ensure the full reliability and accuracy of drug/alcohol tests, the accurate reporting of test results, and the integrity and effectiveness of the DDSN drug/alcohol testing program, the

State Director may make changes to this policy and these testing procedures to reflect improvements in the available science and technology. Failure to make such changes to the policy before the actual use of an improved drug/alcohol test shall in no way invalidate the use of the improved test or its results.

General Testing and Specimen Collection Procedures

Procedures for collecting urine specimens shall allow individuals privacy unless the collection personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection personnel may have reason to believe that a particular individual may alter or substitute the specimen when:

- The individual is being tested under the reasonable suspicion provisions of this policy;
- Facts and circumstances suggest that the individual is an illegal drug user;
- Facts and circumstances suggest that the individual is under the influence of drugs and or alcohol at the time of the test;
- The individual has previously tested positive;
- Facts and circumstances suggest that the individual has equipment or implements capable of tampering or altering urine samples; or
- The individual has previously tampered with a sample.

Collection personnel shall require positive photo identification from each employee to be tested before entering the testing area. Also, the collection personnel will require each employee to complete a form documenting any prescription medications or over the counter medications currently being used by the employee or which the employee has ingested in the last 30 days. This information must be provided by the employee prior to the production of the sample for testing.

The bathroom facility of the testing area shall be private and secure containing no other source of water other than the toilet in the enclosure where urination occurs.

The collection personnel shall require the employee to remove any bulky or unnecessary clothing prior to entering the bathroom facility. No purses or briefcases shall be allowed in the collection area.

Both the tested employee and collection personnel shall keep the specimen in view at all times prior to its being sealed and labeled. The collection personnel shall place securely on the bottle an identification label which contains the date, the individual's specimen number and any other identifying information provided or required. The employee shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from the

employee. The sample shall be stored in a secure refrigerated atmosphere until delivery to the testing lab.

Each step in the collection and processing of a urine specimen shall be documented to establish procedural integrity and chain of custody.

Where the employee is unable or unwilling to give a specimen at the time of the drug test, testing personnel shall document the circumstances on the drug-test report form. The employee shall be permitted no more than three (3) hours to give a sample on site. Reasonable amounts of water and/or other acceptable liquid may be given to an employee to encourage urination. Failure to submit a sample shall be considered a refusal to submit to a drug test.

XII. RECORDS AND REPORTS

Confidentiality of Test Results

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by DDSN through the substance abuse testing program are confidential communications, but may be used or received in evidence, obtained in discovery, or disclosed in any civil or administrative proceeding, pursuant to a valid court order.

DDSN, collection and/or testing laboratories, medical review officers, insurers, drug or alcohol rehabilitation programs, and employer drug prevention program agents who receive or have access to information concerning test results shall keep all information confidential. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed voluntarily by the employee tested, or his/her designee, unless the release is completed through disclosure by an agency of the State in a civil or administrative proceeding, order of a court of competent jurisdiction, or determination of a professional or occupational licensing board in a related disciplinary proceeding.

The consent form must contain (at a minimum):

- The name of the person who is authorized to obtain the information;
- The purpose of the disclosure;
- The precise information to be disclosed;
- The duration of the consent; and
- The signature of the person authorizing release of the information.

XIII. DDSN- REQUIRED DRUG AND ALCOHOL TESTING

Drug and/or alcohol testing shall be conducted on employees under the following circumstances:

1. Pre-employment Applicant Testing
2. Employee Random Testing (Safety-Sensitive Employees Only)
3. Post-Accident/Post Injury Testing
4. Reasonable Suspicion of Alcohol or Drug Use
5. Return to Duty
6. Follow-up Testing

To ensure the integrity and accuracy of each test, all specimen collection, analysis, and laboratory procedures shall be conducted in accordance with DOT's procedural protocols and the safeguards set forth in Part 40 of Title 49 of the Federal Code of Regulations.

Employees will be permitted to give a urine specimen in privacy and without being observed by collection site personnel. However, this right may be forfeited if there is a reason to believe that an employee may alter or substitute a specimen.

Before being tested for drugs, an employee will have an opportunity to list on their copy of the chain-of-custody form, any prescription and non-prescription medications they are lawfully using at the time. A "positive" drug test may be declared "negative" by the Medical Review Officer if the employee can provide adequate justification that the drug was prescribed by a licensed physician.

A confirmed positive result of any drug test without a legitimate medical explanation shall result in disciplinary action up to and including dismissal from employment. Nothing in this policy limits the discretion of DDSN to terminate any employee found to be abusing drugs.

1. ***Pre-Employment Applicant Testing***

All applicants for employment with DDSN shall be required to take a drug test during the pre-employment screening process as a condition of continued employment. All offers of employment with DDSN shall be, in part, contingent upon "negative" results of pre-employment drug and alcohol testing.

An applicant shall be disqualified from further consideration for employment with DDSN for the following reasons:

- Refusal to submit to a required pre-employment drug test; or

- A confirmed positive pre-employment drug test indicating substance use prohibited by this policy.

2. ***Random Testing for Safety-Sensitive Workers Only***

Covered workers performing safety-sensitive functions as defined by this policy shall be randomly tested for drug and alcohol use as a condition of continued employment in order to ensure a drug-free work environment. Safety-sensitive workers shall be tested on an

unannounced, random basis. Every such covered worker will have an equal chance of being selected each and every time the process is conducted.

A safety-sensitive worker selected for random testing and his/her first line supervisor shall be notified the same day the test is scheduled, preferably within two (2) hours of scheduled testing. The supervisor shall explain to the covered worker that the he/she is under no suspicion of taking drugs, and that his/her name was selected randomly.

Selection Process

- The selection process and testing will be managed by a third party medical facility and will not involve DDSN employees. Appropriate safeguards shall be taken to ensure that the identity of the employee will not be determined prior to or at the time of selection.

- When a safety-sensitive worker is randomly selected, he/she shall be notified of this in writing and instructed to report to the collection site within two (2) hours of notification.

- Any safety-sensitive worker who tests positive may be suspended immediately and determined to be unavailable for work. In accordance with the DDSN Standards of Disciplinary Action Policy, such actions could be subject to further disciplinary action up to and including dismissal from employment.

- Refusal to provide a specimen or unjustified failure to appear for testing shall be considered failure to follow a direct order and grounds for disciplinary action up to and including dismissal from employment, in accordance with the DDSN Standards of Disciplinary Action Policy.

Deferral Of Testing

A safety-sensitive covered worker selected for random drug/alcohol testing may obtain a deferral of testing if her/his first-line and second-line supervisor concur that a compelling need supports the request. A deferral may be approved on the grounds that the covered worker is:

- On approved leave as per an official DDSN Leave Request; or

- On official travel status away from the specimen collection or work site, or is about to embark on official travel as scheduled prior to testing notification.

An employee whose random drug/alcohol test is deferred will be subject to an unannounced test within the following 30 days.

3a. *Post-Accident (Motorized Vehicle) Testing for Safety-Sensitive Covered Workers*

Covered workers performing safety-sensitive functions are subject to drug/alcohol use testing when they cause or contribute to accidents that damage a State vehicle, machinery, equipment, or

property that results in an injury to themselves or another person in the course of operating said equipment.

A reasonable suspicion circumstance will be presumed in any instance involving a work-related accident or injury in which a covered worker who was operating a State-owned motorized vehicle (including, but not limited to a car, van, truck, forklift, overhead cranes, aerial/man-lifts) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two (2) hours following the accident if not sooner. Under no circumstances will the covered worker be allowed to drive himself or herself to the testing facility.

Covered workers in safety-sensitive positions must submit to a post-accident testing to determine the presence of illegal drugs or alcohol under the following circumstances:

- When performing safety-sensitive functions, and
  - Involved in an on-the job vehicle accident that results in injury or death of another human being;
  - Involved in an on-the-job vehicle accident that results in a citation to the covered worker under state or local law for a moving traffic violation;
  - Involved in an on-the-job vehicle accident that requires a State vehicle to be towed away from the accident scene; or
- Upon sustaining an on-the-job injury.

A covered worker performing safety-sensitive functions may be tested on the scene of a vehicle accident by a law enforcement officer. If a local law enforcement officer directs an employee to submit to a drug and/or alcohol test at the scene of an accident, it will be the responsibility of the employee to notify his/her supervisor or HR immediately and provide the following information:

- Name and badge number of the officer.
- Jurisdiction (Federal, State, County, City, etc.).
- Telephone number of officer conducting (or conducted) the test.
- Any arrest charges against the employee in connection with the motorized vehicle accident.

If an employee is not tested on the scene by law enforcement officials, the employee must submit to an alcohol and drug test no later than eight (8) hours after the motorized vehicle accident or injury.

In the case where an covered worker performing safety-sensitive functions is seriously injured and cannot provide a specimen at the time of the accident or injury, he/she must provide the necessary authorization to release the results of substance testing performed by the treating healthcare professionals to HR.

3b. ***Post-Accident/Post-Injury Testing for all Other Covered Workers***

Other covered workers, as defined by this policy, must submit to a post-accident/post-injury drug and/or alcohol test under the following circumstances:

- Upon sustaining an on-the-job injury; or
- Upon causing the death or injury to another person in the performance of their duties at a DDSN worksite.

If a covered worker tests positive for drug or alcohol use subsequent to post accident/post injury testing, he/she shall be subject to disciplinary action in accordance with the consequences outlined in Section VII and with the DDSN Standards of Disciplinary Action Policy up to and including dismissal from employment.

4. ***Reasonable Suspicion***

Testing based upon "Reasonable Suspicion" of alcohol or drug use depends upon specific facts (capable of being described) concerning observed behavior, such as eyewitness accounts of drug use, possession, physical symptoms, or abnormal conduct. Certainty is not required; however, mere "hunches" are not sufficient to require a covered worker be tested based upon a reasonable suspicion of drug or alcohol use. A covered worker may be tested for drugs and/or alcohol when these objective factors lead a reasonable person to suspect that the worker is under the influence of drugs and/or alcohol.

To report a concern of reasonable suspicion, a "Report of Suspected Alcohol/Drug Impairment Form" must be completed and taken to HR for follow-up and retention. If reasonable suspicion of drug or alcohol use/impairment is based upon the physical appearance or behavior displayed by a covered worker, the Supervisor, AOD, Facility Administrator or HR staff member should be contacted to observe the worker him/herself. Reports of reasonable suspicion shall be treated as confidential information. Persons submitting false reports of suspected alcohol or drug impairment on other covered workers shall be subject to disciplinary action in accordance with The Standards of Disciplinary Action, up to and including dismissal from employment.

Covered workers, as defined by this policy, will be subject to testing for reasonable suspicion of using or being impaired by drugs or alcohol in the following situations:

- When a covered worker's possession of an illegal substance, or use of an illegal substance is observed as reported by a credible source;

- When a covered worker's consumption of alcohol at a DDSN worksite or while performing job-related responsibilities for DDSN is observed as reported by a credible source;

- When a covered worker displays inappropriate conduct or erratic behavior, including unexplained and frequent absences from assigned workstations, exaggerated excitability, confusion or irritability, threatening or violent outbursts that are not otherwise normally explained;

- When a covered worker displays poor physical appearance or hygiene, including extremely soiled and disheveled clothing or smelling of alcohol or a controlled substance at a DDSN worksite or while performing job-related responsibilities for DDSN; or

- When a covered worker is observed using slurred, incoherent or slow speech, displays exaggerated sleepiness, displays uncoordinated and unsteady mobility, movement or coordination, appears to have impaired concentration, or losses consciousness without a reasonable explanation.

Any DDSN employee determined to have willfully provided false statements to management about observing a covered worker's use/possession of drugs or use/possession of alcohol at a DDSN worksite, will be subject to disciplinary measures in accordance with the DDSN Standards of Disciplinary Action up to and including dismissal from employment.

Any DDSN employee determined to have willfully provided false statements to management about the appearance or behavior of a covered worker to falsely imply he or she is impaired or under the influence of alcohol or drugs will be subject to disciplinary measures in accordance with DDSN Standards of Disciplinary Action, up to and including dismissal from employment.

Procedure Following Report of Reasonable Suspicion of Alcohol or Drug Use

- When a covered worker is notified that he/she is suspected of drug and/or alcohol use in violation of this policy, he/she must be tested within one (1) hour or face disciplinary action as outlined in "Section VII. Consequences."

- The covered worker shall be given the necessary documentation and driven to the test site by a DDSN Administrative/Facility Officer on Duty (AOD/FOD) or other designated employee. Because the covered worker is being tested based upon a reasonable suspicion and may possibly be under the influence of alcohol or controlled substance, she/he shall not be allowed to operate a vehicle.

- DDSN reserves the right to take appropriate action if necessary to prevent a covered worker from driving a vehicle to the site for testing based upon a reasonable suspicion, including contacting law enforcement.

- When a covered worker is transported to a test site based upon a reasonable suspicion and the result is positive, DDSN will attempt to make arrangements for the covered workers' transport home after the test is completed.

- If a covered worker is reasonably suspected of being in violation of this policy, he/she may be considered unavailable for work and placed on immediate suspension pending the outcome of the drug and/or alcohol testing. **If the test results based upon a reasonable suspicion are negative, the covered worker shall be reinstated and compensated for the period of suspension.**

- If a covered worker tests positive for alcohol or drug use based upon a reasonable suspicion, he/she shall be subject to disciplinary action as outlined in "Section VII. Consequences."

- If any covered worker has a reasonable and objective basis to believe that another covered worker is using illegal drugs, or in possession of alcohol, prescription or controlled substances at a DDSN worksite (or while conducting DDSN business) in violation of this policy, they are to report the facts and circumstances to their supervisor, the Facility Administrator or HR immediately.

- If the supervisor is the covered worker under suspicion, or if the need to report occurs after administrative business hours, then the employee is to contact the AOD/FOD. Central Office staff should contact their Associate State Director or Director of Human Resources.

5. ***Return To Duty Testing***

If a covered worker is allowed to return to work following a verified positive result of alcohol misuse or drug use, a refusal to submit to further testing, or after engaging in other substance abuse-related activity that violates this policy, then he/she must first be evaluated by a Substance Abuse Professional (SAP) and deemed able to return to work. All expenses incurred in an effort to return to duty will be the responsibility of the covered worker.

Covered workers performing safety-sensitive functions must have a verified negative alcohol or drug use test result before any attempt is made to return him/her to a safety-sensitive position.

Before returning to work, the HR Manager will communicate with the SAP to determine whether the covered worker has followed the recommendations for action as outlined, including but not limited to participation in any JRS or rehabilitation program.

6. ***Follow Up Testing***

Follow up substance abuse testing is separate from and in addition to any regulated random employee testing. Once allowed to return to duty, the covered worker shall be subject to unannounced follow-up testing for at least 12, but no more than 60 months. The frequency and duration of the follow-up testing shall be recommended by the SAP; however, a minimum of six (6) tests must be performed during the first 12 months after the employee has returned to duty.

Safety-sensitive workers subject to follow-up testing shall continue to participate in the random selection pool even though it may result in duplicate testing.

XIV. COMMUNICATION

A covered worker who may be suspended pending the results of a drug and/or alcohol test must provide DDSN with a valid telephone number and contact address information, and must remain available to the Medical Review Officer (MRO) at all times. Applicants or covered workers with a confirmed positive test will be afforded the opportunity to appeal the results by providing medical data/history for review and assessment by the MRO. The MRO will make the final determination of the test result.

The responsibility to provide valid and adequate contact information and to be readily available to speak with the MRO lies with the applicant and/or covered worker. Failure to do so may result in disciplinary action in accordance with the Standards of Disciplinary Action Policy up to and including dismissal from employment.

XV. DRUG AND ALCOHOL EDUCATION PROGRAM

DDSN shall provide training and educational material to employees whose positions are covered by this policy.

Employees engaging in any conduct that is prohibited by this policy shall be provided information concerning the resources available to evaluate and resolve a drug and/or alcohol problem including, but not limited to, the names, addresses, and telephone numbers for JRS community substance abuse professionals, counselors and treatment programs.

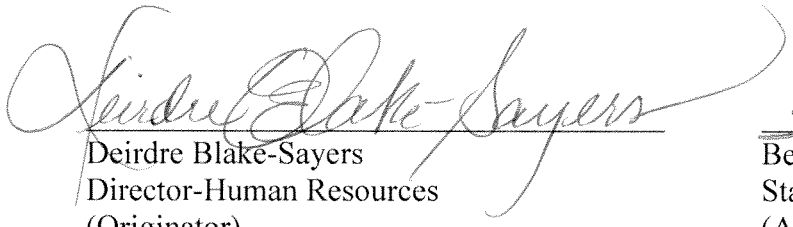
All employees shall be required to sign the attached statement certifying that they have received a copy of the policy and have read or been briefed about the Drug-Free Workplace and Drug and Alcohol Testing Program Policy, and understand its contents.

XVI. ADMINISTRATIVE REQUIREMENTS

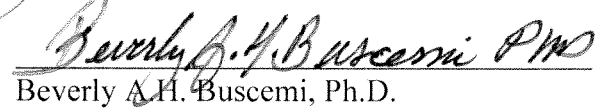
HR Directors will act as coordinator at each Regional Center and Central Office for the drug and alcohol-testing program. The coordinator will be responsible for the following.

- Serving as the contact person for the testing contractor and Central Office.
- Notifying employees and supervisors of testing dates and locations.
- Maintaining all DOT records as required. DOT records cannot be included in the employees' personnel file. They must be maintained separately and filed securely. All information in a DOT file is strictly confidential.
- Ensuring safety-sensitive employees attend the training session.
- Ensure the provision of training to all covered workers as defined by this policy including holders of Commercial Driver Licenses, employees who are considered safety-sensitive, and all new employees about the Drug-Free Workplace and Drug and Alcohol Testing Program Policy.

- Maintaining updated listings of employees who are required to be tested. Notifying contractors of new employees and employees who are no longer employed by DDSN if necessary.



Deirdre Blake-Sayers
Director-Human Resources
(Originator)



Beverly A.H. Buscemi, Ph.D.
State Director
(Approved)

Susan Kreh Beck, Ed.S. NCSP
Associate State Director-Policy

To access the following attachments, please see the agency website page "Attachments to Directives" under this directive number.

Attachment A: Employee Acknowledgment of DDSN Drug and Alcohol Testing Policy
Attachment B: Report of Suspected Alcohol/Drug Impairment Form

Resources:

- SC Code Ann. § 8-11-110
- State Human Resources Division Regulations: 19-710-04 B.5
- U.S. Department of Labor: www.DOL.gov "e-laws "Drug-Free Workplace Advisor"
- Society for Human Resource Management: www.SHRM.org
- FirstLab.com: http://www3.firstlab.com/resources.aspx
- FirstLab DOT Regulations, "Am I Covered by DOT Drug and Alcohol Testing Regulations?": http://www3.firstlab.com/resources/dot-regulationsupdates.aspx
- U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, "Why You Should Care About Having a Drug-Free Workplace, Fact Sheet"; www.samhsa.gov
- U.S. Department of Transportation, "Procedures for Transportation Workplace Drug and Alcohol Testing"; http://www.dot.gov/odapc/part40

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