



# **Superior Court of Guam**

## **DRUG FREE WORKPLACE POLICY**





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Hon. Alberto C. Lamorena III  
Presiding Judge

### MESSAGE FROM THE PRESIDING JUDGE

Hafa Adai. I am pleased to issue the Court's official Drug Free Workplace Policy which provides concise guidelines for a safe drug and alcohol free environment for employees.

This is the first time ever that such a policy has ever been written for the Judiciary, and on behalf of the Judicial Council, I would like to thank the Superior Court's Human Resources Division who put many diligent work hours into this project to ensure that we comply with all federal requirements of the Federal Drug-Free Workplace Act of 1988.

This policy serves as a statement of the "zero tolerance level" that I have imposed upon each and every court employee. There will be no compromise on this issue, for we must uphold the highest degree of trust and professionalism as officers of the Court - the community we serve deserves nothing less.

As Co-Chairperson on the Island's "War on Ice", it is my personal pledge to ensure that every effort is taken towards prevention, education, and rehabilitation - so that we can eradicate this vicious plague caused by illicit drug abuse, in particular, crystal methamphetamine. Our commitment is clear and the Court's Prevention Unit has taken this edict into the villages and schools where they meet and educate our Island Youth about the damaging effects of drugs and alcohol.

We are cognizant of the fact that we cannot teach if we do not first practice what we preach in our own homes and in our workplace. Each year we mandate attendance at court sponsored Drug & Alcohol Abuse Awareness seminars so each employee can learn and discuss issues about drug awareness and substance abuse. Additionally, drug screening is a pre-requisite for anyone seeking or accepting employment with the Superior Court of Guam.

We will continue to be an advocate of living in a drug free community. It is our philosophy that by implementing mandates such as the Drug Free Work Policy, we will set the standard and by working together we will make Guam a better place to live and call home.

  
ALBERTO C. LAMORENA, III



BEFORE  
THE JUDICIAL COUNCIL OF GUAM

FILED  
8:00 a.m.  
DATE: 7/8/99  
JUDICIAL COUNCIL, GUAM  
[Signature]

RESOLUTION NO. 04-99


WHEREAS, the Judicial Council, in Resolution No. 5A-96, having previously determined that it is in the best interest to implement a Drug-Free Workplace Policy, and;

WHEREAS, the Superior Court of Guam; submitted a Revised Drug Free Workplace Policy to the Judicial Council at the June 24, 1999.

NOW THEREFORE BE IT RESOLVED, the Judicial Council hereby adopts the revisions as suggested by the Superior Court. Therefore be it known that the Revised Drug-Free Workplace Policy shall take immediate effect and shall be enforced forthwith.

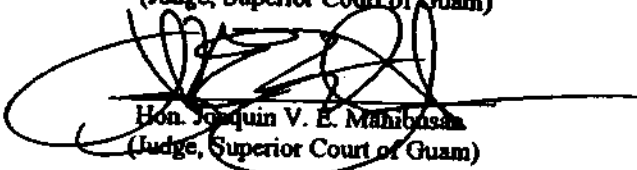
DULY ADOPTED ON THIS DAY 24TH OF JUNE, 1999.


  
Hon. Alberto C. Lamorena III  
(Presiding Judge, Chairman)


  
Hon. Katherine A. Maraman  
(Judge, Superior Court of Guam)

(OFF-ISLAND)

  
Hon. Frances Tydingco-Gatewood  
(Judge, Superior Court of Guam)

  
Hon. Joaquin V. E. Mahibasa  
(Judge, Superior Court of Guam)

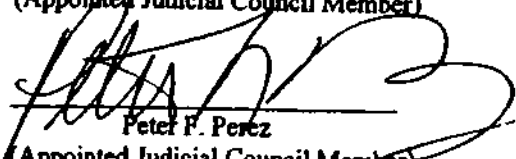
  
Hon. Steven S. Unpingco  
(Judge, Superior Court of Guam)

  
Hon. Michael J. Bordallo  
(Judge, Superior Court of Guam)

  
Hon. Elizabeth Barrett-Anderson  
(Judge, Superior Court of Guam)

  
RayRay Isabelo  
(Appointed Judicial Council Member)

  
Carlyn Torres  
(Appointed Judicial Council Member)

  
Peter F. Perez  
(Appointed Judicial Council Member)



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BEFORE THE GUAM JUDICIAL COUNCIL

RESOLUTION NUMBER 5A-96

RELATIVE TO THE ADOPTION  
OF THE DRUG-FREE WORKPLACE POLICY

WHEREAS, the Judicial Council has determined that it is in the best interest to implement a Drug-Free Workplace Policy, and;

WHEREAS, The Superior Court of Guam is mandated by law to efficiently and effectively administer quality justice to the people of Guam. It is within the halls of this dignified institution that the laws governing our Territory are most respected, and fervently protected and upheld, and;

WHEREAS, Employees play a critical role in the judicial process, and are the Superior Court of Guam's most valuable resources and, therefore, their health and safety is a serious concern. The Court will not tolerate substance abuse or use which imperils the health and well-being of its employees or threatens the Court's ability to properly fulfill its obligation to the people of Guam as mandated by law, and;

WHEREAS, The use of illegal drugs and abuse of controlled substances, on or off-duty, is inconsistent with law abiding behavior expected of all Superior Court of Guam employees. Employees who use illegal drugs or abuse controlled substances or alcohol, on or off-duty, tend to be less productive, less reliable and prone to greater absenteeism resulting in the potential for increased cost, delay and risk of fulfilling professional responsibilities. Ultimately these types of behavior threaten the Court's ability fulfill its mandated responsibility, and;

WHEREAS, Employees have the right to work in a drug and alcohol free environment and to work with persons free from the effects of drug or alcohol abuse. Employees who abuse drugs or alcohol are a danger to themselves, other employees and the public. Substance abuse inflicts a terrible toll on the Court's productive resources and the health and well-being of Superior Court of Guam workers and their families, and;

WHEREAS, The Court will vigorously comply with the requirements of the Federal Drug Free Workplace Act of 1988, and;


1 WHEREAS, In recognition of the Court's obligation, duty and responsibility  
2 to maintain a safe, healthful, and productive work environment  
3 for each employee, and in recognition of each employee's  
4 obligation, duty and responsibility to perform his/her duties and  
5 responsibilities for the public as safely, effectively, and  
6 efficiently as possible; the Court and its employees submit that  
7 the work environment and the services performed shall not be  
8 adversely affected or impaired in anyway by the use or presence  
9 of alcohol or drugs, and;


10 WHEREAS, An employee who is influenced or impaired by alcohol or drugs  
11 is a hazard and endangers the safety, health and well-being of  
12 other people and himself/herself, and;


13 WHEREAS, This Drug-Free Workplace Policy shall take immediate effect and  
14 shall be enforced forthwith.


15 NOW, THEREFORE, BE IT RESOLVED, that the Judicial Council  
16 adopts the Drug-Free Workplace Policy.

17 DULY AND REGULARLY ADOPTED THIS 3<sup>RD</sup> DAY OF APRIL,  
18 1996.

19   
20 \_\_\_\_\_  
21 Honorable Alberto C. Lamorena III  
22 (Presiding Judge)  
23 Chairman

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20 \_\_\_\_\_  
21 Calvin E. Holloway, Sr.  
22 (Attorney General of Guam)  
23 Member

24   
25 \_\_\_\_\_  
26 Senator Mark C. Charfauros  
27 (Chairperson, Committee on  
28 Judiciary, Criminal Justice &  
Environmental Affairs)  
Member

24   
25 \_\_\_\_\_  
26 Attorney Robert J. Torres, Jr.  
27 (President, Guam Bar Association)  
28 Member

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Agreement and Acknowledgment - AAF - #002	Consent for Release of Information - CFRI - #008
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Access to Records - ARF - #004	Self - Referral Letter - SRL - #008



## Superior Court of Guam DRUG FREE WORKPLACE POLICY

### I. Scope and Purpose:

The Superior Court of Guam is mandated by law to efficiently and effectively administer justice to the people of Guam. It is within the halls of this dignified institution that the laws governing Guam are most respected, and fervently protected and upheld.

Employees play a critical role in the judicial process, and are the Superior Court of Guam's most valuable resources and, therefore, their health and safety is a serious concern. The Court will not tolerate illegal use of drugs or abuse of alcohol which imperils the health and well-being of its employees or threatens the Court's ability to properly fulfill its obligation to the people of Guam as mandated by law.

The illegal use of drugs or abuse of alcohol, on or off-duty, is inconsistent with the law abiding behavior expected of all Superior Court of Guam employees. Employees who illegally use drugs or abuse alcohol, on or off-duty, may be less productive, less reliable and prone to greater absenteeism which may result in increased costs, delays and the failure to fulfill professional responsibilities. These behaviors threaten the Court's ability to fulfill its mandated responsibilities.

Employees have a reasonable expectation to work in a drug and alcohol free environment and to work with persons free from the effects of the illegal use of drugs or the abuse of alcohol. Employees who illegally use drugs or abuse alcohol may be a danger to themselves, other employees and the public. Illegal use of drugs or abuse of alcohol by employees may decrease the Court's productive resources and the health and well-being of Superior Court of Guam workers and their families.

The Court will vigorously comply with the requirements of the Federal Drug Free Workplace Act of 1988(Appendix A).

It is the duty and responsibility of the Court and its employees to maintain a safe and productive work environment, and to perform duties and responsibilities as safely, effectively, and efficiently as possible. In order to accomplish this goal, the Court and its employees shall not be adversely affected or impaired in any way by the illegal use of drugs, abuse of alcohol, or the presence of illegal drugs.

### II. Objectives:

- (A) To strengthen the leadership of the Superior Court of Guam and its employees to ensure a drug-free and alcohol-free work environment.
- (B) To provide justice to the people of Guam.
- (C) To provide a safe and productive work environment for all employees.

- (D) To provide a work environment free of any adverse effects on job performance caused by drug or alcohol related problems.
- (E) To provide reasonable assistance toward rehabilitation for an employee seeking help for a drug or alcohol related problem.
- (F) To satisfy and conform with the requirements of the Federal Drug-Free Workplace Act of 1988 (PL 100-690 or 28 CFR Part 67).

**III. Policy:**

It shall be the policy of the Superior Court of Guam to maintain a leadership and workforce free of the illegal use of drugs and abuse of alcohol.

- (A) Reporting to work or performing work for the Court while impaired by or under the influence of illegal drugs or alcohol is prohibited.
- (B) The illegal use, possession, dispensation, distribution, manufacture or sale of a controlled substance by an employee at the work-site, during normal work hours or while the employee is on duty, official Superior Court of Guam business or stand-by duty is prohibited.
- (C) Violation of prohibitions of Sections III (A) and (B) above is considered conduct detrimental to the ability of the Superior Court of Guam to perform its mandated duties and will result in appropriate actions in accordance with Superior Court of Guam Personnel Rules and Regulations.
- (D) Employees are required to notify the Administrative Director within five (5) working days of any criminal drug or alcohol related conviction where such conviction was due to an occurrence at the work-site, during normal work hours or while on duty, official business or stand-by duty.
  - (1) An employee who is convicted of violating any criminal drug or alcohol statute in such workplace situations as stated above will be subject to appropriate actions in accordance with Superior Court of Guam Personnel Rules and Regulations.
  - (2) A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in a court of law.
- (E) All Superior Court of Guam employees will be given a copy of the Superior Court of Guam Drug Free Workplace Policy and amendments thereafter. Employees are hereby informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy.

Notification and receipt of this policy will be required as part of a new employee orientation.

Employees must read and sign the Drug Free Workplace Affirmation Form which will be made a part of their

confidential file.

**IV. Employee Assistance Program (EAP):**

The Superior Court of Guam will make available an employee assistance program (subject to the limitation of availability of local resources) to employees needing education, counseling or rehabilitation for illegal drug use and alcohol abuse.

**V. Drug and Alcohol Abuse Awareness Program:**

The Superior Court of Guam will educate employees about the dangers of the illegal use of drugs and alcohol abuse. The Court will provide a Drug and Alcohol Abuse Awareness Program to assist employees to understand and avoid the perils of drug and alcohol abuse. This training will be given on a yearly basis and requires mandatory attendance of all employees.

The Court will use the program in an ongoing educational effort to prevent and eliminate illegal drug use and alcohol abuse.

The Drug and Alcohol Abuse Awareness Program shall provide information to employees as follows:

- ▶ The dangers of the illegal use of drugs and abuse of alcohol;
- ▶ The Superior Court of Guam Drug Free Workplace Policy;
- ▶ The availability of treatment and counseling for employees who voluntarily seek such assistance; and
- ▶ The appropriate actions the Superior Court will take for violations of its Drug Free Workplace Policy.

**VI. Drug and Alcohol Screening Program:**

The Superior Court of Guam shall establish a Drug and Alcohol Screening Program for employees as well as those individuals who have received a conditional offer of employment. Employees in Testing Designated Positions will be notified when the testing will begin. The Drug and Alcohol screening program will be implemented and maintained by the Human Resources Division. Please refer to the standard operating procedures governing this program.

**VII. Types of Drug and Alcohol Testing:**

1. Pre-Employment testing - Conditional offer of employment;
2. Random testing of testing designated positions;

The testing designated positions are as follows:

- a. Chief Marshal
  - b. Deputy Chief Marshal
  - c. Deputy Marshal Supervisor
  - d. Deputy Marshal I, II & III
  - e. Deputy Marshal Recruit
  - f. Chief Probation Officer
  - g. Deputy Chief Probation Officer
  - h. Probation Officer Supervisor
  - i. Senior Probation Officer
  - j. Probation Officer I & II
  - k. Facilities Maintenance Superintendent
  - l. Facilities Maintenance Supervisor
  - m. Facilities Maintenance Worker
  - n. Maintenance Leader (Electrician, Mechanic, Plumber)
  - o. Official Vehicles Officer
- 3. Promotion, demotion, or transfer to a testing designated position - Conditional Offer of Employment;
  - 4. Reasonable Suspicion testing;
  - 5. Critical Incident testing;
  - 6. Follow-Up Testing; and
  - 7. Voluntary Testing.

**VIII. Applicability:**

The Drug Free Workplace Policy applies to all Superior Court of Guam employees.

**Superior Court of Guam**  
**Drug Free Workplace Policy**  
**Standard Operating Procedures**

**I. Purpose**

To provide procedural guidelines in the implementation of the Drug Free Workplace Policy, hereafter referred to as "DFW Policy" as adopted by the Judicial Council on April 3, 1996 - Resolution Number #5A-96, revised on August 1998 and adopted on June 24, 1999 - Resolution No. 04-99.

**II. Definition of Terms:**

- (1) **Administrative Director** - the individual responsible for overseeing the administrative operations of the Superior Court of Guam.
- (2) **Alcohol** - any alcohol or alcoholic beverage as defined in Sections 25003 and 25004 of the Government Code of Guam.
- (3) **Allquot** - a portion of a specimen used for testing.
- (4) **Applicant** - an individual who has applied for a position with the Superior Court of Guam. This includes both current and prospective employees.
- (5) **Chain-of-Custody** - the method of tracking each requested specimen to maintain control from initial collection to final disposition, for samples and accountability at each stage of handling, testing, storing and reporting.
- (6) **Collection site** - a place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen which will be analyzed for the presence of illegal drugs or alcohol.
- (7) **Collection site person** - a person at the collection site who instructs individuals and receives and makes an initial examination of urine specimens provided by those individuals.
- (8) **Conditional Offer of Employment** - an offer of employment given by Superior Court of Guam to individuals who are selected for employment/appointment on the condition that the individual submit to a urinalysis to screen for the illegal use of drugs prior to employment/appointment. A negative test result must be received in order to proceed with recruitment.

- (9) **Confidentiality** - treated as private and not for public information.
- (10) **Confirmatory test** - an analytical procedure which is independent of the initial test to identify the presence of alcohol, or of a specific drug or metabolites and which uses different chemical principles from that of the initial test to ensure reliability and accuracy. Presently, gas chromatography/mass spectrometry (GC/MS) is the accepted standard confirmation method for cocaine, marijuana, opiates, amphetamines, methamphetamine, barbiturates and phencyclidine.
- (11) **Confirmed Positive Test Result** - the presence of an illegal drug or alcohol in the pure form or its metabolites or above the specified cut off level identified in two consecutive tests which employ different test methods and which was not determined by the Medical Review Officer to have been caused by an alternate medical explanation or technically insufficient data.
- (12) **Contracted Medical Review Officer (MRO)** - a physician licensed on Guam, contracted by the Superior Court of Guam to receive and interpret all test results and evaluates those results together with medical history or any other relevant biomedical information to confirm the positive test result. This person must possess knowledge of substance abuse disorders and the required medical or forensic training.
- (13) **Controlled Substance** - any substance listed in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812 & 9 G.C.A., Chapter 67) (Appendix B).
- (14) **Critical Incident** - a circumstance which occurs while on duty or stand by duty where there are signs and symptoms of illegal use of drugs or abuse of alcohol by the employee, or when an employee is reasonably suspected to have caused or contributed to a serious on-the-job accident or unsafe job related activity.
- (15) **Designee** - a third party appointed or contracted by the Administrative Director of the Superior Court of Guam.
- (16) **Drug** - any substance in Schedules I through V, (Appendix B) other than alcohol. Drug is synonymous with controlled substance.
- (17) **Employee** - any classified (probational/permanent), unclassified, contracted (full or part-time/limited term), appointed/elected individual employed with the Superior Court of Guam including Division Heads, Administrative Hearing Officers, Referees, Judges Pro Tempore and Judges.
- (18) **Employee Assistance Program (EAP)** - a program that offers a referral service to employees experiencing personal, marital, family, financial, drug or alcohol related problems.

- (19) **Employees in Testing Designated Positions** - employees involved in jobs that pose a special threat to public safety:
- a. Chief Marshal
  - b. Deputy Chief Marshal
  - c. Deputy Marshal Supervisor
  - d. Deputy Marshal I, II & III
  - e. Deputy Marshal Recruit
  - f. Chief Probation Officer
  - g. Deputy Chief Probation Officer
  - h. Probation Officer Supervisor
  - i. Senior Probation Officer
  - j. Probation Officer I & II
  - k. Facilities Maintenance Superintendent
  - l. Facilities Maintenance Supervisor
  - m. Facilities Maintenance Worker
  - n. Maintenance Leader (Electrician, Mechanic, Plumber)
  - o. Official Vehicles Officer
- (20) **Follow-Up Testing** - employees who successfully complete an education, rehabilitation or treatment program will be subject to unannounced testing within a period of one year following the completion of such a program.
- (21) **Gas Chromatography/Mass Spectrometry** - a confirmation method using gas chromatography, with a mass spectrometer which can be used to identify compounds on the basis of molecular structure. It is the only confirmation method authorized by the Department of Health and Human Services (DHHS).
- (22) **Human Resources Administrator** - the individual overseeing the Human Resources Division of the Superior Court of Guam.
- (23) **Illegal drugs** - any drug in Schedule I and non-prescription use of any drug in Schedules II and III in Chapter 67 of Title 9 GCA (Uniform Controlled Dangerous Substance Act - Appendix B).
- (24) **Immunoassay** - the test that identifies a substance through its capacity to act as an Antigen.
- (25) **Impairment in or Reduction in Job Performance** - the quality or quantity of an employee's performance on the job is less than should be expected or accepted, or less than usual, substandard, or below average as judged against the past job performance of the employee.

- (26) **Initial test** - a screen to eliminate negative urine specimens or other requested specimens from further consideration.
- (27) **Legal drug** - any drugs in Schedules IV and V, Schedules II and III (Appendix B) or any other substance which has been legally obtained and is being used in the manner, combination and quantity for which it was manufactured, prescribed or intended to be used.
- (28) **Need to Know** - the confidential information is only to be made known to individuals if it is necessary for the implementation of policy procedures, unless the employee has authorized the release of such information to other individuals.
- (29) **Negative Test Result** - the absence of alcohol or an illegal drug in the pure form or its metabolites in sufficient quantities to be identified by either an initial screen confirmatory test or as determined by a Superior Court of Guam contracted Medical Review Officer.
- (30) **On Duty** - the span of time the employee is scheduled to work including any time the employee is on standby duty.
- (31) **Over-the-counter drug** - any drug contained in Schedules IV or V (GCA, Chapter 67) or any other substance that can be purchased without a prescription.
- (32) **Participate in an Education, Rehabilitation or Treatment Program** - to engage in, cooperate in, make satisfactory progress in, and complete an education, rehabilitation or treatment program.
- (33) **Prescription drug** - any drug listed in Schedules II and III (Appendix B) or any other drug legally prescribed for an individual by a licensed medical practitioner.
- (34) **Property** - includes all Superior Court of Guam owned or leased property, work sites, parking lots, vehicles, including property assigned to or used by employees, such as desks, lockers, and storage bins.
- (35) **Random Testing** - unannounced testing using a statistical sampling lacking a pattern of Testing Designated Positions without individualized suspicion that a particular individual is using illegal drugs or abusing alcohol.
- (36) **Reasonable Suspicion** - as it relates to the Drug Free Workplace Policy, belief based on objective facts and reasonable inferences drawn from those facts, that an employee's action has been caused by the use of illegal drugs or the abuse of alcohol.

- (37) **Supervisor/Division Head/Management** - an employee having authority to do one or more of the following: hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees. The exercise of the authority is not merely clerical in nature, but requires the consistent exercise of independent judgment.
- (38) **Under the influence** - use of an illegal drug or use of alcohol beyond the legal limit of .08 Blood Alcohol Content (B.A.C.).
- (39) **Voluntary Testing** - an employee not in a testing designated position but volunteers to submit to unannounced random testing.

**III. Employee Duties and Responsibilities:**

An employee shall:

- (A) Continue to observe public trust and confidence by personal support and compliance appropriate to the intent and provisions of the Drug Free Workplace Policy.
- (B) Notify immediate/appropriate supervisor before reporting to duty, before using Superior Court of Guam equipment, or before or immediately upon entering Superior Court of Guam property:
  - 1. When taking any medication or drug, either prescription or nonprescription, which might impair the effectiveness or safety of job performance.
  - 2. When having ingested alcohol in amounts which may impair the effectiveness or safety of job performance.
- (C) Consider volunteering for and completing an education, rehabilitation or treatment program if the employee has an addictive alcohol or drug intake which might impair the effectiveness or safety of job performance or consider participating in an education, rehabilitation or treatment program when directed by the Administrative Director.
- (D) Encourage other employees who use illegal drugs or abuse alcohol in ways that may impair the effectiveness or safety of job performance, to volunteer for and complete an education, rehabilitation or treatment program.
- (E) Be aware that:
  - 1. Involvement in any illegal activity such as but not limited to: the illegal use, possession,

- dispensation, distribution, manufacture, sale, purchase, or offer of an illegal drug while on duty or while on Superior Court of Guam property, or while using Superior Court of Guam equipment shall be reported to the Guam Police Department (GPD) or the appropriate agency.
2. The illegal use of drugs or alcohol while on duty, while on Superior Court of Guam property, or while using Superior Court of Guam equipment may result in such incident being reported to GPD or other appropriate agency.
  3. Violation of the Drug Free Workplace Policy may result in:
    - a. A directive to participate in a drug or alcohol analysis testing process, and/or;
    - b. A directive to participate in and complete an education, rehabilitation or treatment program, and/or;
    - c. A disciplinary action, up to and including termination.
    - d. Immediate placement on personal leave status until successful completion of an education, rehabilitation or treatment program.
  4. Any recommendation or directive to participate in an education, rehabilitation or treatment program which has been mutually agreed to by the Administrative Director or designee and the affected employee, is available as a possible alternative to disciplinary action. Participation in an education, rehabilitation or treatment program does not replace normal procedures for dealing with unsatisfactory job performance or unsatisfactory conduct.
    - a) Refusal to sign, adhere to, or fulfill an agreement to participate and complete an education, rehabilitation or treatment program may result in disciplinary action.
    - b) Participation in an education, rehabilitation or treatment program shall not be used in a Performance Evaluation (PE) or disciplinary action.
    - c) Any employee may inform the Administrative Director either orally or in writing of any violation of the Drug Free Workplace Policy.
  5. Employees will pay all costs resulting from participation in an education, rehabilitation or treatment program, when such services are not covered by the employee's insurance carrier or other available community resources.
  6. All employees will acknowledge the receipt and review of the Drug Free Workplace Policy by signing the **Affirmation of Policy Form (DFW - APF #001)**.

**IV. Division Head and Supervisor Responsibilities:**

A Division Head and supervisor in addition to responsibilities as an employee shall:

- (A) Comply with all provisions set forth in the Drug Free Workplace.
- (B) Attend all Superior Court of Guam sponsored training on drug and alcohol awareness.
- (C) Ensure that each subordinate employee has received a copy of the Drug Free Workplace Policy.
- (D) Be available to explain the purpose, objectives, and responsibilities under the Drug Free Workplace Policy to each employee supervised.
- (E) Adhere to procedures for reporting "critical incidents" and "reasonable suspicion" (please refer to Section IX, Subsections C and D ) if a "critical incident" occurs or "reasonable suspicion" exists.
- (F) Maintain the confidentiality, on a need-to-know basis of the following:
  - 1. Any information received from an employee self referral.
  - 2. Any advice or recommendations given to the appropriate individuals under the chain-of-command.
  - 3. Any information regarding education, rehabilitation or treatment program for employees.
  - 4. Any drug and alcohol test results.
  - 5. Any recommendation or advice by the Administrative Director, Human Resources Administrator, Division Head or Staff Attorney.
- (G) Assist in employee education, rehabilitation or treatment efforts.
- (H) Attend specialized training in the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be illegally using drugs or abusing alcohol as provided by the Human Resources Division.

**V. Drug and Alcohol Awareness Training:**

- (A) Employees need to know the dangers of the illegal use of drugs and the abuse of alcohol in the workplace, the Superior Court of Guam policy about drug and alcohol abuse, and what help is available to combat drug and alcohol problems. In keeping with the need to educate employees on the use of illegal drugs and the abuse of alcohol, the Human Resources Division shall institute an education program for all employees on the dangers of drug and alcohol abuse on a yearly basis. Attendance to this training is mandatory.
- (B) The Human Resources Division shall distribute and explain the Drug Free Workplace Policy at all orientation training for new employees.

**VI. Employee Assistance Program (EAP):**

**(A) Functions:**

1. The Employee Assistance Program plays an important role in preventing and resolving illegal use of drugs and abuse of alcohol by:
  - providing employees an opportunity, with appropriate assistance, to discontinue their drug or alcohol abuse;
  - providing educational materials on the illegal use of drugs and the abuse of alcohol;
  - making referrals to appropriate treatment and rehabilitation programs.
2. The Employee Assistance Program does not extend to the collection of urine samples or the reporting of test results.
3. The Employee Assistance Program plays an important role in helping to prevent and resolve personal, marital, family, financial, drug or alcohol related problems of employees.

**(B) Referral and Availability:**

The Employee Assistance Program shall provide referrals for counseling or rehabilitation, as well as education and training regarding the effects of the illegal use of drugs and the abuse of alcohol. The Employee Assistance Program shall be administered separately from the testing program, and shall be available to all employees without regard to a finding of the use of illegal drugs or the abuse of alcohol.

**(C) The Human Resources Administrator shall:**

1. Administer the Employee Assistance Program for the Superior Court of Guam;
2. Provide referral services for counseling and treatment for employees who self-refer or whose drug and alcohol tests have been confirmed positive, and monitor the employees' progress throughout treatment and rehabilitation;
3. Inform the Administrative Director or designee of the recommended treatment programs and progress of the employee;
4. Provide educational materials and training to Division Heads, Supervisors, Management and employees on the effects of the illegal use of drugs and the abuse of alcohol in the workplace;
5. Inform the Administrative Director or designee about employees' work performance or personnel problems that may be related to the illegal use of drugs or abuse of alcohol;
6. Monitor the progress of referred employees during and after the rehabilitation period and provide feedback to the Administrative Director or designee in accordance with the confidentiality requirements;

7. Maintain a list of rehabilitation or treatment organizations which provide counseling and rehabilitative programs. Serve as the initial point of contact for employees who ask for or are referred to counseling;
8. Be familiar with all applicable laws and regulations, including drug and alcohol treatment and rehabilitation, and insurance coverage for employees;
9. Consider the nature and severity of the problem, location of the treatment, cost of the treatment, intensity of the treatment environment, other special needs and the preference of the employee when making referrals; and
10. Be knowledgeable of current procedures, standards and techniques related to drug and alcohol testing; and
11. Shall issue advisories to Supervisors, Division Heads and Management concerning the Drug Free Workplace Policy.

**VII. Violations of the Drug Free Workplace Policy:**

- (A) Any employee violating the Drug Free Workplace Policy is subject to adverse actions up to and including termination, for the first offense.
- (B) Any employee convicted of violating a criminal drug statute including but not limited to Chapter 67 of Title 9 GCA (Uniform Control Dangerous Substances Act) must inform the Administrative Director of such conviction (including pleas of guilty and *nolo contendere*) within five (5) working days of the conviction. Failure to so inform the Administrative Director subjects the employee to disciplinary action, that may include termination for the first offense.
- (C) The Administrative Director may offer an employee convicted of a criminal drug or alcohol statute, participation in an approved rehabilitation or treatment program as an alternative to discipline. If such a program is offered, and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.
- (D) An employee under "reasonable suspicion" of violating the Drug Free Workplace Policy may be directed by the Administrative Director to complete a drug or alcohol analysis testing process. The Superior Court shall pay for any costs incurred for drug or alcohol analysis testing.

**VIII. Employee Rights:**

- (A) Employee Rights:

Employees have legal rights as defined by the Constitution of the United States, Federal and Local laws, and administrative rules and regulations that must be honored and respected at all times.

(B) Confidential Rights:

Confidentiality is an essential element of the Drug Free Workplace Policy.

1. Voluntary Participation:

- (a) All information relating to self-referrals shall be held in confidence unless the employee authorizes, through specific written release, that any other party be notified.
- (b) The self-referred employee's job security and/or promotional opportunities will not be jeopardized by participation. In no event shall this program be used to shield the employee from, or replace, normal procedures for unsatisfactory job performance.

2. Directed Participation:

- (a) Notwithstanding any other provisions of the Drug Free Workplace Policy, medical information about any employee shall be treated in accordance with prevailing laws and practices protecting the confidentiality of such information.
- (b) If, for protection of public health or public safety confidential information is required by law or by judicial proceedings, legal process for obtaining and/or disclosing such information shall be followed.
- (c) Reports to the Administrative Director or Human Resources Administrator resulting from an education, rehabilitation or treatment program source shall be strictly limited to statements of compliance or noncompliance. This information may be disseminated to other appropriate officials on a need-to-know basis.
- (d) For protection of health and safety, the disclosure of drug and alcohol test results without employee authorization may occur when the information is required by medical personnel for the diagnosis or treatment of an employee who is unconscious or physically incapacitated.

IX. Types of Drug and Alcohol Testing:

Testing for the illegal use of drugs and/or the abuse of alcohol will be required for the following:

- 1. Pre- Employment testing - Conditional offer of employment.
- 2. Random testing for employees in testing designated positions.

3. For critical incidents when there is reasonable suspicion of the use of illegal drugs or the abuse of alcohol.
4. For reasonable suspicion.
5. For voluntary testing
6. For follow-up testing.
7. Promotion, demotion, or transfer to a testing designated position - Conditional offer of employment

(A) Pre-Employment Testing:

All individuals selected will be given a conditional offer of employment from the Superior Court of Guam and will be required to submit to urinalysis to screen for the illegal use of drugs prior to employment. Refusal to comply with this requirement will result in the offer of employment being rescinded. The applicant's name shall remain on the certified list of eligibles for a period of one year and may apply to any other position within the Superior Court of Guam. The applicant will be notified in writing of the consequences for refusing to undergo urinalysis.

1. Announcements:

All announcements for positions in the Superior Court of Guam shall state:

**All individuals selected will be given a conditional offer of employment and will be required to submit to urinalysis to screen for the illegal use of drugs prior to employment.**

2. Procedure:

When selection has been made by the Administrative Director, the Human Resources Officer will give a conditional offer to the selected applicant. If the offer of employment is accepted, the Human Resources Officer will process, direct, and schedule the individual to a designated collection facility within 48 hours. Extenuating circumstances affecting this time line will be considered on an individual basis.

3. Human Resources Division:

The Human Resources Administrator or designee shall contact the collection site to determine whether the test has been conducted on the individual.

4. Consequences:

A. The Superior Court of Guam will rescind the conditional offer of employment on any individual when:

1. A confirmed positive test result is received;

2. The applicant fails to report to the designated collection site without just cause.

When a confirmed positive test result is received, the name of the applicant will be removed from the certified list of eligibles and automatically restored after a period of six (6) months or upon presentation of a certificate of completion from a drug or alcohol treatment program approved by the Superior Court of Guam. The individual may apply to any other open position within the Superior Court of Guam. A written notice will be mailed to the applicant advising of these conditions.

- B. If an applicant refuses to undergo a urinalysis to screen for the illegal use of drugs prior to employment, the conditional offer of employment will be rescinded. The name shall remain on the certified list of eligibles for one year. The individual may apply to any other position within the Superior Court of Guam. A written notice will be mailed to the applicant advising of these conditions.

(B) Random Testing:

Positions designated for random testing: The job functions associated with these positions directly and immediately relate to public health and safety. The Guam Judicial Council will have full authority in amending the list of testing designated positions (please refer to Drug Free Workplace Policy Standard Operating Procedures, page 3, item (19) Employees in Testing Designated Positions). Additionally, the Council may also determine that the testing of certain testing designated positions are no longer necessary.

The Administrative Director shall have full discretionary authority to determine the date and frequency in administering random testing of testing designated positions.

Employees in testing designated positions will be informed through written notice at least thirty (30) days before the initial implementation of random testing. In addition, each employee, upon entering a testing designated position will receive an individual notice.

Each employee in a testing designated position will be required to acknowledge in writing (a) receipt of notice which states that the employee's position has been designated for random drug testing; and (b) understands that refusal to submit to testing will result in administrative action and the initiation of disciplinary action.

If the employee refuses to sign the acknowledgment, the employee's supervisor will note on the acknowledgment form that the employee received the notice. An employee's failure to sign the notice will not preclude testing of the employee.

**1. Implementing Random Testing:**

The Human Resources Administrator is responsible for implementing and maintaining random testing and shall:

- a. Ensure that the method of random selection is documented and the results remain confidential, refer to Part 6 - Random Testing of Testing Designated Positions.
- b. Evaluate and recommend to the Administrative Director whether the number of employees tested and the frequency of the tests administered satisfy the Superior Court's commitment in maintaining a drug and alcohol free work force.

2. **Notification of Selection:** The Human Resources Administrator shall notify the Division Head/supervisor of the names selected for random testing. Notification will be given on the day the test is scheduled. The Human Resources Administrator shall annotate the list with the date and time the Division Head and supervisor was contacted.
3. **Employee Notification:** The Division Head and supervisor shall immediately meet with the employee to explain that the employee's name was selected randomly for testing and that there is no reasonable suspicion that the employee is using illegal drugs and/or abusing alcohol. The Division Head shall instruct the employee to immediately report to the Human Resources Division for drug and/or alcohol screen processing. The Human Resources Division shall annotate on the drug and/or alcohol screen processing forms the time the employee reported.
4. **Deferral of Testing:** An employee selected for drug /alcohol testing may be given a deferral from testing if the employee's higher-level supervisors concur that a compelling need necessitates a deferral on the grounds that the employee is:
  - ▶ In a non-duty status (leave status).
  - ▶ In an official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.
  - ▶ Working a different shift.
5. The division head/supervisor will inform the Human Resources Administrator of the deferral and attempt to reschedule for the same day at a different time provided the employee is on work status.
6. If the test is not administered that day, the employee's name will be deferred for future random testing by the Human Resources Administrator.

**(C) Critical Incident:**

The Superior Court of Guam is committed to providing a safe and secure work environment. The Court also has a legitimate interest in determining the cause of a serious on-the-job accident or unsafe job related activity

so that additional corrective measures may be undertaken to ensure the safety and well-being of all court employees.

Accordingly, employees while on duty or stand by duty may be subject to testing when based upon the circumstances of the on-the-job accident or unsafe job-related activity, the employee's action(s) are reasonably suspected of having caused or contributed to a serious accident or unsafe practice that meets either of the following criteria:

1. Grounds:
  - a. Observe the appearance, conduct, activity/inactivity, equilibrium, speech, attention span, behavior, mental and physical reactions, and/or note any odor of intoxicants on breath or clothing of the employee. If possible, have another supervisor or witness observe and note these factors.
  - b. The accident or unsafe practice results in a death or personal injury requiring hospitalization.
  - c. An accident involving Superior Court of Guam property or privately owned vehicle causing substantial damage to property or person.
  - d. Mental or physical impairment sufficient to raise doubt that job duties can not be safely or effectively performed.
  - e. Illegal use, possession, dispensation, distribution, manufacture, or sale of an illegal drug, drug paraphernalia or open container of alcohol.

An employee shall not be physically searched nor shall an employee's private property (purse, briefcase, car, etc.) be searched by a supervisor.

2. Procedures:

If a supervisor suspects or becomes aware that an employee has caused or contributed to an on-the-job accident or unsafe job-related activity that meets either of the criteria stated above, the supervisor shall:

  - a. Gather all information, facts and circumstances leading to and supporting the incident which occurred. Prepare and compile documentation of events.
  - b. The supervisor shall immediately make arrangements to meet with the Division Head, Human Resources Administrator and Staff Attorney to review the documentation of the series of events which led the supervisor to consider recommending screening for the illegal use of drugs or the abuse of alcohol by the employee. If the Division Head, Human Resources Administrator and the Staff Attorney concur that screening for the illegal use of drugs or the abuse of alcohol is warranted, their recommendation shall be forwarded to the Administrative Director for review

and approval.

- c. The Administrative Director shall meet and inform the employee of the facts upon which the determination that a critical incident has occurred and request explanations or facts concerning the employee's behavior, conduct, actions, etc. (factors set forth in C-1 a through e).
- d. If after consultation, the Administrative Director determines that sufficient grounds exist to administer a drug and/or alcohol screen test based on the critical incident, the Administrative Director shall inform the division head and supervisor of his decision and instruct the Human Resources Administrator to initiate the testing. If the Administrative Director determines that the recommendation for a drug or alcohol screen test is not warranted, the employee will not be tested.

3. Notification:

The Administrative Director shall issue a written notice to the employee describing all relevant circumstances which formed the basis for the decision to conduct critical incident testing. The employee will be instructed to immediately report to the Human Resources Division for drug and/or alcohol screen processing. The Human Resources Administrator will annotate on the drug and/or alcohol screen processing forms the time the employee reported. If practicable, the decision to conduct a test will be made the same day the event or behavior occurs, or as soon as management becomes aware of the event or behavior.

(D) Reasonable Suspicion Testing:

1. Grounds:

Reasonable suspicion testing may be based upon **objective facts** and does not require certainty. Mere "hunches" or "rumors" are not sufficient to meet this standard.

However, if a supervisor observes or is aware of any of these situations listed below, and there is reason to believe that drugs have been used illegally or alcohol abuse may have been involved, the supervisor will proceed with the steps outlined herein before requesting that the employee undergo a drug or alcohol screen.

- a. Observable phenomena, such as direct observation of the illegal use of drugs or the abuse of alcohol, or possession and/or the physical symptoms of being under the influence of a drug or alcohol.
- b. Identification of an employee as the focus of a criminal investigation for illegal drug possession,

use or trafficking; information provided either by reliable and credible sources or independently corroborated.

- c. Evidence that the employee has tampered with a previous drug or alcohol test.
- d. Impaired or reduced job performance:  
The supervisor shall follow normal performance evaluation and counseling procedures. In most cases, following normal performance evaluation and counseling procedures as defined in the Superior Court of Guam Personnel Rules and Regulations is appropriate to improve an employee's job performance. Also, an employee whose job performance is reduced or impaired as a result of the illegal use of drugs or the abuse of alcohol will have demonstrated a history or pattern of poor job performance sufficient for the supervisor to know of, or have proof of, poor job performance. Documentation of impaired or reduced job performance is extremely important. These records may provide a basis for supervisors to recommend that an employee submit to a drug and alcohol screen test, and provides a record for the employee to review. The performance evaluation process may be used as a part of the documentation. For more guidance on patterns of impaired or reduced job performance, please see Part 5 - Identifying and Documenting Reasonable Suspicion. The Human Resources Administrator should be consulted if the supervisor is uncertain of what action to take regarding an employee's job performance.

Document actual events and observations. Good work should be documented as well as poor performance. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances.

Do not include medical diagnosis, conclusions about medical conditions or opinions about causes of the observed behavior.

A supervisor should not request that an employee undergo a screen for the illegal use of drugs or the abuse of alcohol based on an isolated situation, unless it is an emergency situation such as an accident or threat to safety, nor should a supervisor request that an employee submit to a screen for the illegal use of drugs or the abuse of alcohol without first counseling the employee about a problem of deteriorating job performance.

During the counseling session, the supervisor should not diagnose the employee's problem, but point out where and how the employee's work performance has deteriorated. Refrain from identifying the employee as an illegal user of drugs or an abuser of alcohol, or as addicted to illegal drugs or alcohol, or other statements that could be construed as defamation of character. Provide the employee with suggestions regarding improving work performance. Encourage the

employee to seek appropriate counseling or seek assistance from the Employee Assistance Program.

Under these circumstances, the supervisor should counsel the employee at least twice about the employee's deteriorated work performance before recommending a drug or alcohol screen test. These counseling sessions must be documented thoroughly.

If an employee's job performance has not improved after two documented counseling sessions, and the employee continues to exhibit characteristics consistent with the illegal use of drugs or the abuse of alcohol, the supervisor shall follow the procedures stated herein.

2. Procedures:

If an employee is reasonably suspected of illegally using drugs or alcohol on the job the appropriate supervisor will gather all information, facts and circumstances leading to and supporting this suspicion. The appropriate supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing. The report should include the appropriate dates and times of the alleged illegal use of drugs or abuse of alcohol, reliable sources of information, rationale leading to the request for drug and/or alcohol screen test, and the action taken.

The supervisor shall immediately make arrangements to meet with the Division Head, Human Resources Administrator and Staff Attorney to review the documentation of the series of events which led the supervisor to consider recommending screening for the illegal use of drugs or the abuse of alcohol by the employee. If the Division Head, Human Resources Administrator and the Staff Attorney concur that screening for the illegal use of drugs or the abuse of alcohol is warranted, their recommendation shall be forwarded to the Administrative Director for review and approval. If the Administrative Director determines that the recommendation for a drug or alcohol screen test is not warranted, the request will be disapproved.

If the Administrative Director determines the need to screen for the illegal use of drugs or the abuse of alcohol, the Administrative Director shall inform the Division Head and supervisor of the decision and instruct the Human Resources Administrator to initiate the testing process.

3. Notification:

The Administrative Director shall issue a written notice to the employee describing all relevant circumstances which formed the basis for the decision to conduct reasonable suspicion testing. The employee will be instructed to immediately report to the Human Resources Division for drug and/or alcohol screen processing. The Human Resources Administrator shall annotate on the drug and/or alcohol screen processing forms the time the employee reported.

(E) Voluntary Testing:

Employees not in testing designated positions may volunteer for unannounced random testing by notifying the Human Resources Administrator or designee. These employees will then be included in the pool of testing designated positions subject to random testing, and be subject to the same conditions and procedures. Volunteers shall remain in the testing designated positions pool until they withdraw from participation by notifying the Human Resources Administrator or designee. The volunteer employee must be informed that they may withdraw from the random program at any time, even after being notified of an impending random drug test.

(F) Follow-up Testing:

Employees who successfully complete an education, rehabilitation or treatment program for illegal use of drugs or abuse of alcohol will be subject to unannounced drug or alcohol testing as a follow-up to the program. This testing is separate from the regular random testing of testing designated positions. The employee will be tested within a period of one year upon completion of the treatment program.

X. Voluntary Self-Referral for "Safe Harbor":

A fundamental purpose of Superior Court of Guam's Drug Free Workplace Policy is to assist employees who are seeking treatment for the illegal use of drugs or the abuse of alcohol. The Court provides an opportunity to assist those employees who voluntarily seek treatment for the illegal use of drugs or abuse of alcohol by submitting a "Self Referral Letter" (DFW - SRL #008) for "safe harbor". For this reason, the Superior Court of Guam will not initiate disciplinary action against any employee who meets the following conditions:

- a. Voluntarily identifies themselves as an illegal user of drugs or an abuser of alcohol prior to being identified by other means.
- b. Participates and completes an education, rehabilitation or treatment program.
- c. Agrees to be tested as part of or as a follow-up to counseling and rehabilitation.
- d. Thereafter refrains from illegally using drugs or abusing alcohol.
- e. Consents in writing, to release to the Administrative Director or Human Resources Administrator all counseling and rehabilitation records related to the illegal use of drugs or abuse of alcohol.

The Self-Referral Letter will be submitted to the employee's immediate supervisor with the concurrence of the Division Head. The Division Head will then submit the letter to the Human Resources Administrator. The Human Resources Administrator shall meet with the employee and discuss the option of signing the **Agreement to Participate in Education, Rehabilitation or Treatment Program form (DFW - APERTP #005)**. Procedures set forth in the Drug Free Workplace Policy Standard Operating Procedures - Item XI,

(M) 2. will be followed accordingly to complete this referral.

The Court will initiate disciplinary action up to dismissal to an employee who invokes "safe harbor", and subsequently tests positive for the illegal use of drugs or abuse of alcohol. The subsequent positive test will be considered a second confirmed positive result for illegal use of drugs or abuse of alcohol.

Since the key to this provision's rehabilitative effectiveness is willingness to admit a drug or alcohol problem, "safe harbor" is not available to an employee who requests protection under this provision after:

1. Being asked to provide a urine sample in accordance with this policy; or
2. Having received a confirmed positive test result for the illegal use of drugs or the abuse of alcohol through Critical Incident, Reasonable Suspicion or Random Testing.

#### **XI. Drug/Alcohol Screening:**

- (A) The drug screening test may screen for any substances listed in Chapter 67, of Title 9 GCA (Uniformed Controlled Dangerous Substance Act) or any controlled substances listed in Schedules I through III of Section 202 of the Controlled Substance Act (21 U.S.C. 812) as amended (Appendix B).
- (B) Samples from applicants and employees will be screened in all cases to identify the following classes of substances:
  1. Marijuana (THC);
  2. Cocaine Metabolites;
  3. Opiates;
  4. Phencyclidine (PCP);
  5. Amphetamines/Methamphetamine; and
  6. Barbiturates.
- (C) The Judicial Council shall have full authority to determine if any additional substances are to be identified by the test. The Administrative Director may also require an employee to undergo a Breath Alcohol Testing (BAT) or a urine screen to determine if the use of alcohol is beyond the legal limit of .08 Blood Alcohol Content (B.A.C.) as a result of a "critical incident" or "reasonable suspicion" or "random testing".
- (D) The Human Resources Administrator shall determine the location sites of the drug screening specimen collection.
- (E) Laboratories and test methods used to conduct drug screening tests shall follow the standards found in 49 CFR part 40. Please refer to Part 2 - Collection Sites and Laboratory Procedures.

- (F) Individual drug and alcohol screening test records maintained by the Human Resources Administrator pursuant to the policy shall be considered **"confidential"**.
- (G) All employees shall be informed of the Superior Court of Guam's Drug and Alcohol Screening Program prior to being subjected to any screening for the use of illegal drugs or the abuse of alcohol. The Human Resources Division shall provide training on this program. Please refer to Part 7 - Drug and Alcohol Screening Program.
- (H) An individual who has received a conditional offer of employment or an employee required to submit to a drug and alcohol screening test shall be advised by a Human Resources Officer of the following:
  - 1. Methods of drug screening that may be used;
  - 2. Substances which are identified;
  - 3. Consequences of a refusal to submit to a drug and alcohol screening test;
  - 4. Consequences of a "confirmed" positive test result; and
  - 5. The confidentiality of test results and any medical information which may be provided;
  - 6. Importance of providing medical information to and cooperating with the collection site personnel;
  - 7. Time frame of test result notification;
  - 8. Responsibility to comply with scheduled appointment and consequences of failure to report to the collection site;
  - 9. Effective date of employment is dependent upon receipt of test results.

(I) Agreement and Acknowledgment Form:

An individual who has received a conditional offer of employment or an employee scheduled to undergo a drug or alcohol screen test shall be required to sign the **Agreement and Acknowledgment Form (DFW - AAF #002)**.

- 1. Refusal by an individual who has received a conditional offer of employment to sign this form will result in the rescinding of the conditional offer of employment.
- 2. Refusal by an employee to sign the Agreement and Acknowledgment Form will be considered refusal to submit to a drug/alcohol screening test and will result in disciplinary action.

(J) Drug/Alcohol Screening Collection Location and Time:

All individuals who must undergo drug and alcohol testing shall be informed by a Human Resources Officer of the drug screening collection location and time.

1. An employee who is required to submit to a drug and alcohol screen test shall be given administrative leave with pay for the duration of the drug screen test procedures to include travel time to and from the job site.
2. Unreasonable failure by an individual who has received a conditional offer of employment to report to the collection site at the scheduled time will be considered refusal to submit to a drug and alcohol screen test and will result in the rescinding of the conditional offer of employment.
3. Unreasonable failure by an employee to report to the collection site at the scheduled time will be considered refusal to submit to a drug and alcohol screen test and will result in disciplinary action.

(K) Drug/Alcohol Screening Test Results:

The contracted Medical Review Officer will receive all test results from the laboratory for review and certification. The Medical Review Officer shall report within the prescribed time frames all drug and alcohol test results to the Administrative Director or the Human Resources Administrator.

1. An employee who is deemed to pose a threat to health or safety will be removed from the work site pending the results of the drug or alcohol screening test. This employee shall be immediately placed on administrative leave pending further investigation and the drug or alcohol test result. This is pursuant to the Superior Court of Guam adverse action procedures as contained in the Superior Court of Guam Personnel Rules and Regulations.
2. A confirmed positive test result means the presence of an illegal drug or alcohol in the pure form or its metabolites or above the specified cut off level identified in two consecutive tests which employ different test methods. The Medical Review Officer will evaluate alternative medical explanations of a positive test result. This may include conducting a medical interview with the individual, review of the individual's medical history, or consideration of other relevant biomedical factors. If the Medical Review Officer determines there is no medical justification for the positive test result, such result will be reported as a confirmed positive test result.
3. A negative result means no detection of an illegal drug or alcohol in its pure form or its metabolites at or above the threshold level as determined by the contracted Medical Review officer.

(L) Confirmed Positive Test Result - Conditional Offer of Employment:  
Written notice will be mailed to individuals explaining these conditions.

1. **Pre-Employment**

An individual who receives a confirmed positive test result shall have the conditional offer of employment withdrawn and their name removed from the certified list of eligibles. The individual's name shall be automatically restored to the certified list of eligibles after a period six (6) months or upon completion of an approved drug or alcohol treatment program. However, the individual may immediately apply to other positions within the Superior Court of Guam.

2. **Initial Probational Appointment - Employee:  
(First Six Months of Employment with Superior Court of Guam)**

When an employee on initial probational appointment status is given a conditional offer of employment to a testing designated position and receives a confirmed positive test result, the conditional offer of employment shall be withdrawn and their name removed from the certified list of eligibles. The individual's name shall be automatically restored to the certified list of eligibles after a period of six (6) months or upon completion of an approved drug or alcohol treatment program. However, the individual may immediately apply to other positions within the Superior Court of Guam.

Upon receipt of a confirmed positive test result, employees in this status are subject to immediate dismissal. The employee is not eligible for referral to an education, rehabilitation or treatment program.

3. **Permanent Employee:**

An employee who receives a confirmed positive test result shall have the conditional offer of employment withdrawn and their name removed from the certified list of eligibles. The employee's name shall be automatically restored to the certified list of eligibles after a period of six (6) months or upon completion of an approved drug or alcohol treatment program. Please refer to Item M - Confirmed Positive Test Result/Permanent Employee/ #2 for further procedures.

(M) **Confirmed Positive Test Result:**

1. **Initial Probational Appointment - Employee  
(First Six Months of Employment with the Superior Court of Guam)**

An employee in this appointment status receiving a confirmed positive test result will be subject to immediate dismissal. The employee is not eligible for referral to an education, rehabilitation or treatment program.

2. **Permanent Employee:**

An employee who receives a confirmed positive test result and who has not had a previous

confirmed positive test result shall be referred to an appropriate education, rehabilitation or treatment program.

- a. The Human Resources Administrator shall inform the employee in writing of the confirmed positive test result and discuss the option of signing the agreement (**Agreement to Participate in Education, Rehabilitation or Treatment Program form DFW - APERTP #005**) as an alternative to disciplinary action in accordance with the adverse action procedures as defined in the Superior Court Personnel Rules and Regulations.
- b. When the option is offered, the Human Resources Administrator shall inform the employee of the agreement and of the specific disciplinary action or actions that may be sought if the employee refuses to participate in completing the treatment program. In the event the employee fails to progress in or complete a recommended rehabilitation program, disciplinary action will be imposed on the employee.
- c. An employee who refuses to participate in an approved education, rehabilitation, or treatment program as a condition of employment will be subject to disciplinary action up to dismissal.
- d. Request the employee to read and sign the agreement and submit to the Human Resources Administrator for filing in the employee's confidential file.
- e. The employee shall be liable for all costs pertaining to the education, rehabilitation or treatment program.
- f. The employee shall provide verification to the Human Resources Administrator that the employee is participating in an approved education, rehabilitation or treatment program.
- g. An employee will be immediately placed on annual or sick leave, compensatory time earned or approved leave without pay to participate and complete the recommended, rehabilitation or treatment program.
- h. **Successful Completion of Education, Rehabilitation or Treatment Program:**  
Upon completion of such program/treatment, the employee will submit the Education, Rehabilitation or Treatment Program Verification Form to the Human Resources Administrator to record proper documentation.
- i. Upon receipt, the Human Resources Administrator shall meet with Division Head

and Staff Attorney to submit a recommendation to the Administrative Director whether to return the employee to work status.

2. The Human Resources Administrator shall place a copy of the verification in the employee's confidential file. The employee shall be subject to follow-up drug and/or alcohol testing within in a period of one (1) year after the completion of such program.

- i. **Second Confirmed Positive Test Result - Employee:**

An employee who receives a second confirmed positive test result will be subject to adverse action procedures for immediate dismissal.

(N) **Tampering with Drug/Alcohol Screen Testing Process:**

1. An individual who has received a conditional offer of employment, and intentionally tampers with a sample provided for drug or alcohol screening, violates the chain-of-custody or identification procedures or falsifies test results shall have the conditional offer of employment withdrawn and such actions shall be grounds for disqualification to the position.
2. Any employee who intentionally tampers with a sample provided for drug or screening, violates chain-of-custody or identification procedures or falsifies a test result shall be subject to adverse action procedures up to and including dismissal.

(O) **Opportunity to Justify a Positive Test Result:**

The Medical Review Officer will give an individual with a positive test result an opportunity to justify the result by submitting medical records, a valid prescription, biomedical, and/or other relevant information. The individual will discuss the test results with the Medical Review Officer.

(P) **Retesting:**

If the Medical Review Officer believes that the technical standards established for test methods or chain-of-custody procedures may have been violated in deriving a confirmed positive test result or has other appropriate cause to warrant a retest, the Medical Review Officer may authorize a retest by the original or a different laboratory on the same or a new specimen.

(Q) **Procedure for Termination of Employment:**

If the result of a drug or alcohol screening test warrants dismissal or other disciplinary action, the adverse action procedures outlined in the Superior Court of Guam Personnel Rules and Regulations shall be followed.

**XII. Leave Allowance:**

Absences during participation in an education, rehabilitation or treatment program must be charged to the appropriate leave category in accordance with the law and the Superior Court Personnel Rules and Regulations.

**XIII. Access to Records:**

Individuals may request access to their records pertaining to the Drug Free Workplace Policy. This request must be made in writing to the Administrative Director. Individuals must sign the Access to Records Form (DFW - ARF #004).

**XIV. Amendment to Policies and Procedures:**

The Administrative Director may modify, supplement, clarify or substitute the policies and procedures stated herein except provisions which require authority of the Judicial Council.

**XV. Severability:**

If any of the provisions of the policies and procedures stated herein or the application for such provisions to any person or circumstances shall be found invalid, the validity of the remainder of the provisions as applied to other persons or circumstances shall not be affected thereby.

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# **DRUG FREE WORKPLACE POLICY**

## **PARTS 1 - 7**

**Orientation and Notification Procedures ..... Part 1**

**Collection Sites and Laboratory Procedures ..... Part 2**

**Reporting and Maintaining Results and Records Procedures ..... Part 3**

**Referral for Education, Rehabilitation or Treatment ..... Part 4**

**Identifying and Documenting Reasonable Suspicion ..... Part 5**

**Random Testing of Testing Designated Positions ..... Part 6**

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**PART 1**

**Orientation and Notification  
Procedures**

# Orientation and Notification Procedures

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**PART 1  
ORIENTATION AND NOTIFICATION PROCEDURES**

**I. Scope and Purpose:**

These procedures are established as guidelines for the provisions set forth in the Drug Free Workplace Policy Standard Operating Procedures.

**II. Orientation:**

The Human Resources Division shall:

A. Coordinate orientation for the Drug Free Workplace Policy to all Superior Court of Guam employees. Employees should be aware of the provisions of the policy, what is expected of each employee, and the sanctions which may be imposed upon violation of the policy. In addition, orientation will be provided for the following Drug Free Workplace Policy procedures.

1. Collection Sites and Laboratories;
2. Reporting and Maintaining Results, and Security of Records;
3. Referral for an Education, Rehabilitation or Treatment Program;
4. Identifying and Documenting Reasonable Suspicion;
5. Drug and Alcohol Screening Program; and
6. Random Testing for Testing Designated Positions.

B. Coordinate the implementation of the annual Drug and Alcohol Abuse Awareness training to all employees.

C. Orientate all employees on the Employee Assistance Program.

D. Provide all divisions with information and materials for distribution to employees. Applicants will be informed about the Drug Free Workplace Policy at time of drug/alcohol screen processing.

E. Submit recommendations to the Administrative Director for policy improvements.

**III. Notification Procedures:**

A. Applicants:

Applicants are advised during the interview process that should an individual be selected and given a

conditional offer of employment with the Superior Court of Guam the individual will be required to submit to urinalysis to screen for the illegal use of drugs prior to employment. A Human Resources Officer reads the Conditional Offer of Employment form to each new applicant before the interview panel proceeds with questioning. Each applicant is then asked to read the provision and acknowledge that they have been informed by signing the Conditional Offer of Employment form.

1. Selection:

Once an individual is selected, a Human Resources Officer will notify the applicant via telephone of the selection and will give a conditional offer of employment. A notice of selection is also prepared indicating that the effective date of employment will depend on the drug screen results.

Upon acceptance of the offer, the Human Resources Officer shall schedule the appointment for drug screen processing. The drug screen processing must be completed within forty-eight (48) hours after a conditional offer of employment has been made.

2. Drug Screening Processing:

During processing, the Human Resources Officer shall advise the applicant that acceptance of the conditional offer of employment requires the individual to submit to a urinalysis to screen for the illegal use of drugs prior to employment.

The Human Resources Officer shall advise the applicant as to the following:

- a) date, time and collection site location by providing the Employer Referral form;
- b) methods and process of drug screening;
- c) substances which will be identified;
- d) confidentiality of test results and medical information provided by the applicant;
- e) importance of providing medical information to and cooperating with the collection site personnel;
- f) consequences of refusing or failing to complete the drug screening process and receiving a confirmed positive test result;
- g) time frame of test result notification;
- h) responsibility to comply with the scheduled appointment;
- i) effective date of employment upon receipt of test results;
- j) provide a copy of the Superior Court Drug Free Workplace Policy and give the applicant an opportunity to thoroughly read the policy;
- k) request the applicant to read, sign and date the Affirmation of Policy Form (DFW - APF # 001);
- l) request the applicant to read, sign and date the Agreement and Acknowledgment Form

(DFW - AAF #002);

- m) provide the Medical Information Form (DFW - MIF #003) to the applicant explaining the importance of this form and advise that completion of this form will be done at the collection site;
- n) applicant's access to drug screen records by completing the Access to Record Form (DFW - ARF #004);
- o) maintain a complete set of the completed drug screening processing forms and provide copies to the applicant and collection site;
- p) record the applicant's name on the Drug/Alcohol Screen Processing Log Book;
- q) document and maintain records of any such nonparticipation by identifying the applicant, the nature of the refusal or failure, the date of the incident, names of witnesses and the position for which a conditional offer of employment was made.

3. Results:

The Medical Review Officer will report the test results to the Administrative Director/Human Resources Administrator. Upon receipt of a negative test result, the Human Resources Administrator will instruct a Human Resources Officer to notify the applicant of the decision to hire for employment. If a confirmed positive test result is received, the applicant will be notified by mail that the conditional offer of employment is withdrawn. Refer to Drug Free Workplace Standard Operating Procedures, Page 21/Item L - Conditional Offer of Employment /#1 Pre-Employment.

B. Employees:

Employees applying for testing designated positions (TDPs) are advised during the interview process that should the employee be selected and given a conditional offer of employment, the employee will be required to submit to urinalysis to screen for the illegal use of drugs prior to appointment. A Human Resources Officer reads the Conditional Offer of Employment to the employee before the interview panel proceeds with questioning. Each employee is then asked to read the provision and acknowledge that they have been informed by signing the Conditional Offer of Employment Form.

1. Selection:

Once the employee is selected for a testing designated position, a Human Resources Officer will notify the employee via telephone of the selection and give a conditional offer of employment. A notice of selection is also prepared indicating that the effective date of employment will depend on the drug screen results.

Upon acceptance of the offer, a Human Resources Officer shall schedule the appointment for

drug screen processing. The drug screen processing must be completed within forty-eight (48) hours after a conditional offer of employment has been made.

2. Drug Screening Processing:

During processing, the Human Resources Officer shall advise the employee that acceptance of the conditional offer of employment requires the employee to submit to a urinalysis to screen for the illegal use of drugs prior to appointment.

The Human Resources Officer shall advise the employee of the following:

- a) date, time and location of collection site by providing the Employer Referral form;
- b) methods and process of drug screening;
- c) substances which will be identified;
- d) confidentiality of test results and medical information provided by the employee;
- e) importance of providing medical information to and cooperating with the collection site personnel;
- f) consequences of refusing or failing to complete the drug screening process and receiving a confirmed positive test result;
- g) time frame of test result notification;
- h) responsibility to comply with the scheduled appointment;
- i) provide a copy of the Superior Court Drug Free Workplace Policy and give the applicant an opportunity to thoroughly read the policy;
- j) request the applicant to read, sign and date the Affirmation of Policy Form (DFW - APF # 001);
- k) effective date of employment upon receipt of test results;
- l) request the employee to read, sign and date the Agreement and Acknowledgment Form (DFW - AAF - # 002);
- m) provide the Medical Information Form (DFW - MIF #003) to the employee explaining the importance of this form and advise that completion of this form will be done at the collection site;
- n) employee's access to drug screen records by completing the Access to Record Form (DFW - ARF #004);
- o) maintain a complete set of the completed drug screening processing forms and provide copies to the employee and collection site;
- p) record the employee's name on the Drug/Alcohol Screen Processing Log Book;
- q) document and maintain records of any such nonparticipation by identifying the employee, the nature of the refusal or failure, the date of the incident, names of witnesses and the position for which a conditional offer of employment was made.

3. Results:

The Medical Review Officer will report the test results to the Administrative Director/Human Resources Administrator. Upon receipt of a negative test result, the Human Resources Administrator will instruct a Human Resources Officer to notify the employee and Division Head of the position appointment. If a confirmed positive test result is received, the employee will be given a written notice advising that the conditional offer of employment is withdrawn. Please refer to Drug Free Workplace Policy Standard Operating Procedures, Item L and Item M as applicable for further procedures.

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**PART 2**

**Collection Sites and Laboratory**

**Procedures**

## PART 2

### Collection Sites and Laboratory Procedures

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**PART 2**  
**COLLECTION SITES AND LABORATORY**  
**PROCEDURES**

**I. Scope and Purpose:**

These procedures are established to provide guidelines for the collection of all drug and alcohol screen tests.

**II. Specimen Collection:**

**A. Site Specifications and Locations:**

A collection site used for Superior Court of Guam's Drug Screening Program will meet the following requirements.

1. Possess all necessary materials, equipment and facilities to provide for the collection, refrigeration, temporary marshaling and transportation (shipping or delivery) of specimens to designated laboratory.
2. Employ sufficient qualified personnel, including trained laboratory technicians and necessary security staff, to provide for integrity and security of records and specimens.
3. Execute the chain-of-custody procedures established by the Administrative Director/Human Resources Administrator or such chain-of-custody procedures established jointly between the contracted laboratory and the Superior Court of Guam.

**B. Collection Procedures:**

The collection site shall be secured at all times. Only authorized personnel shall be permitted in the collection site where specimens or records are obtained or stored. The collection site shall document the persons authorized to enter any sensitive or critical part of the collection site premise. The collection site shall assure the Court that it maintains sufficient security measures. The Court may from time-to-time request to inspect the collection site's security procedures whenever it deems necessary.

Standardized forms and identification methods should be completed accurately throughout the collection process.

Procedures for obtaining specimens should allow for individual privacy unless cognizant in authority or collection site personnel has reason to believe that a particular individual may alter or substitute the specimen. When necessary the Administrative Director/Human Resources Administrator will notify the collection site personnel of reasons for not granting privacy when a drug screen is scheduled.

Collection site personnel will take precautions to ensure that a specimen is not adulterated or contaminated. Collection site personnel must ensure that the information with a specimen container, on the forms, and in the log book accurately relate to a given individual.

The steps taken by collection site personnel during specimen collection should adhere to the following minimum standards:

1. Maintain a toilet bluing agent in the toilet tank so that the water is blue at all times. No other source of water will be available in the enclosure where the individual voids the sample.
2. Request proper photo identification of the individual (e.g. Superior Court of Guam Employee I.D. or Driver's License) and ask to see a signed copy of Superior Court of Guam's consent form.
  - a. If proper identification cannot be established or appropriate forms have not been completed at the time the individual arrived at the collection site, collection of specimen should not proceed. Notify the Administrative Director/Human Resources Administrator immediately for further instructions.
  - b. Immediately notify the Human Resources Administrator/Administrative Director if the individual fails to arrive at the collection site.
3. Explain the importance of the Medical Information Form (DFW - MIF #003) to the individual and have the individual complete the form with the necessary information on any medical, physical or ingestion of substance.
4. Assign the individual a specimen ID number (SIN) and make appropriate entries on the forms.
5. Request the individual to remove all unnecessary bulky or concealing outer garments such as jackets, boots, coats, or vests and leave personal belongings where items could be concealed (such as a purse, wallet, or brief case outside the collection enclosure; and empty items from pockets).
6. Instruct the individual to wash and dry the hands prior to urination.

7. Allow the individual to select a specimen container and direct the individual to provide the needed amount of specimen in the container in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The individual will only be given three (3) minutes to provide the urine.
8. Note any unusual behavior or appearance on the Medical Information Form (DFW -MIF # 003). Notify the Administrative Director/Human Resources Administrator immediately.
9. Receive the container with the specimen from the individual and determine that it contains at least 45 milliliters of urine.
  - (a) If there is less than 45 milliliters of urine in the container, the specimen collected will be voided. The individual must recollect within an hour.
  - (b) If necessary, give the individual a reasonable amount of liquid, such as a glass of water, to drink for this purpose.
10. Allow the individual to wash the individual's hands after enough specimen has been provided and submitted.
11. Examine each specimen immediately.
  - (a) Measure the temperature of each specimen with a clean device within four (4) minutes of urination to determine if it is within 90.5 to 99.8 degrees Fahrenheit.
  - (b) Inspect each specimen to determine its color and look for any signs of contamination such as sediments or cloudiness.
  - (c) Note any unusual findings on the Medical Information Form (DFW - MIF #003).
12. Seal the specimen container and label with the individual's SIN while the individual observes. Direct the individual to initial and date the specimen label to certify that it is the individual's urine.
13. Sign and date the specimen label. Initiate and attach the Chain-of-Custody Form (CCF) to accompany the sealed specimen.
14. Prepare the specimen and CCF for shipment.
  - (a) If the specimen is not immediately prepared for shipment, ensure that it is appropriately safeguarded in a refrigerated temporary storage.

- (b) When specimens are ready for shipment, place the containers in packing materials designed to minimize the possibility of damage during shipment, such as padded mailers or specimen boxes. Make sure the containers are sealed securely and that the CCF is attached.

15. Arrange for shipment and transport of collected specimens to the contracted laboratory.

**C. Collection Control:**

The following safeguards should be observed by the collection site personnel during the entire collection process.

1. Minimize the number of persons handling specimens.
2. Maintain visual contact with the individual and the container before and after the collection of specimen. Maintain visual contact of the specimen prior to its being sealed and labeled.
3. Allow the individual to observe all handling of the specimen after it is provided and prior to its being sealed and initialed by the individual.
4. Maintain possession of the specimen and identification documents until they are securely stored or packed for shipping or transport.
5. If there is reason to believe during the collection process that a sample has been contaminated or adulterated by the individual, obtain a second sample under direct observation by a staff of the same gender. Notations of unusual findings, behavior, or appearance during the collection steps constitute grounds for disciplinary action. Therefore, all observations shall be sufficiently documented to sustain any adverse action taken against the individual. The collection site personnel shall confirm its observation with the immediate supervisor. The Administrative Director/Human Resources Administrator shall be notified immediately. The Administrative Director/Human Resources Administrator shall make the decision before observed collection is done. Two samples are sent for testing; a) the contaminated; b) the observed.

**III. Transportation of Specimens:**

The contracted laboratory is responsible for providing transportation arrangements for the specimens from the collection site to the laboratory.

**IV. Laboratory Specifications and Procedures:**

**A. Laboratory Personnel:**

Laboratory(ies) contracted to conduct drug/alcohol screens on Superior Court of Guam employees and applicants will adhere to the following educational, experience and responsibility requirements for their personnel.

1. Maintain an individual who is responsible for the day-to day management of the urine testing program, including quality control and meets the following minimum qualifications in analytical forensic toxicology:
  - (a) Certification by the Territory of Guam in forensic or clinical laboratory toxicology; or
  - (b) A Ph.D. in one of the natural sciences with an undergraduate and graduate education in biology, chemistry and pharmacology or toxicology; or
  - (c) Training and experience comparable to Ph.D. in one of the natural sciences, such as a medical or scientific degree with additional training and laboratory research experience in biology, chemistry and pharmacology or toxicology.
  - (d) Appropriate experience in forensic toxicology including the analysis of biological material for illicit drugs; and
  - (e) Appropriate training and experience in analytical forensic applications such as publication, court testimony, research and other factors which qualify the individual as an expert witness in forensic toxicology.
  
2. Employ an individual who is responsible for the day-to-day operations of the urine testing program and supervision of the technical analysis and meets the following minimum qualifications:
  - (a) A Bachelor's degree in the Chemical Sciences or Medical Technology or equivalent; and
  - (b) Training and experience in the theory and practice of laboratory procedures including quality control chain of custody, interpretation of test results and remedial action for observant test results or quality control reports.
  
3. Employ sufficient personnel with the necessary training and experience (including in-service education) to supervise and conduct the work of the urine testing facility. Ensure competency of this staff by documenting their in-service training, reviewing their work and verifying their skills.
  
4. Maintain an up-to-date procedures manual which is available to personnel performing test and followed by those staff.

5. Include qualified personnel for test validation who review all pertinent data and quality control results and certify that the laboratory's results are valid. These may be the individuals responsible for the day-to-day management of operation or their designees.
6. Employ a medical director who is responsible for verifying all confirmatory test positive results and meets the following minimum qualifications:
  - (a) Licensed Physician;
  - (b) Knowledge of substance abuse; and
  - (c) Appropriate medical or forensic training in the review of medical history and biomedical information.
7. All laboratory personnel must have proper police clearance from the Guam Police Department.

**B. Laboratory Requirements:**

Laboratory(ies) contracted for the Superior Court of Guam's Drug and Alcohol Screening Program must meet the following criteria:

1. Maintain stringent security measures to control access.
2. Execute rigorous chain-of-custody procedures approved by the Human Resources Administrator to maintain control and accountability of all specimens.
3. Maintain the capability to perform initial and confirmatory tests at the same facility for all five classes of drugs specified in schedule I to V of section 202 of the Controlled Substance Act (21 U.S.C. 812).
4. Prepare laboratory standards with pure drug standards which are properly marked as to content and concentrate. Label all standards with dates identifying when the standard was received, prepared or opened and placed in service. The expiration date must also be shown on the standard.
5. Use instruments and equipment which are certified for accuracy and reproducibility or checked by gravimetric, calorimetric or other verification procedures before being placed into service and periodically thereafter. This includes volumetric and automatic pipettes, measuring devices and dilutors.
6. Establish written procedures for instruments set-up and normal operation, a schedule for

checking critical operating characteristics, tolerance limits and trouble shooting and repair. Make available to the Human Resources Administrator records on preventive maintenance.

7. Employ capacity to store all of Superior Court of Guam's specimens at the same facility where testing occurs in secure short-term refrigerated and long-term frozen storage.
8. Maintain and make available to the Administrative Director/ Human Resources Administrator documentation on all aspects of the drug testing process involving Superior Court of Guam's employees for at least three years. Retain documentation for any test under appeal or legal challenge until all remedies have been exhausted. Documentation includes:
  - (a) Personnel files on all individuals authorized to have access to specimens;
  - (b) Chain-of-custody documents;
  - (c) Quality assurance/quality control records;
  - (d) Procedure manuals;
  - (e) All test data and reports;
  - (f) Performance records on performance testing; and
  - (g) Hard copies of computer-generated data.
9. Perform all testing with their own personnel and equipment and not subcontract for work unless otherwise authorized by the Administrative Director.
10. Permit Superior Court of Guam officials to conduct inspections of the laboratory facilities at will.

**C. Laboratory Procedures:**

The contracted laboratory shall follow industry standards concerning operations and processes observed in the drug testing program. The contracted laboratory must meet the following standards imposed by Superior Court of Guam:

1. Laboratory must have well systematized Chain-of-Custody procedures which include the packing of specimens for shipping from collection site to final destination; completion of testing and verification, reporting of results, storage and final disposition.
2. Testing procedures are to be completed within 72 hours to ensure sample integrity and rapid turn around of test results to the Superior Court of Guam contracted Medical Review Officer.
3. Standardized forms, record maintenance and requesting methods must be used by laboratory personnel throughout the drug/alcohol screening process.

4. Report any evidence or tampering of specimens to the Administrative Director or Human Resources Administrator immediately.
5. Follow standard procedure for the handling of shipment of specimens.
6. Conduct the initial screening test applying such technology which meets the requirements of the Food and Drug Administration. Screen for the classes of drugs listed below at acceptable cutoff levels.
  - (a) Marijuana/Cannabinoids (THC);
  - (b) Cocaine Metabolites;
  - (c) Opiates;
  - (d) Phencyclidine (PCP);
  - (e) Amphetamines/Methamphetamine
  - (f) Barbiturates
  - (g) Alcohol

Screening for alcohol shall be tested using a urine screen or Breath Alcohol Testing.

7. Report as negative all screened specimens where illicit drug levels were not at or above the threshold. Confirm all specimens which showed the presence of drugs above the cutoff levels with a test using different technology to establish a confirmed positive test result and provide quantitative confirmation.
8. Conduct confirmatory test using gas chromatography/mass spectrometry (GC/MS) techniques. Confirm for the classes of drugs listed below.
  - (a) Marijuana/Cannabinoids (THC);
  - (b) Cocaine Metabolites;
  - (c) Opiates;
  - (d) Phencyclidine (PCP);
  - (e) Amphetamines/Methamphetamine.
  - (f) Barbiturates
  - (g) Alcohol
9. Report as negative all specimens where illicit drug levels were not at or above the cutoff levels and dispose all samples which produce negative results.

10. Submit to the Superior Court of Guam's contracted Medical Review Officer all test result certified by the designated laboratory personnel for review and final certification.
11. Retain samples which produce confirmed positive test results in long-term frozen storage for a minimum of three (3) years, or until the appeal process and all legal remedies have been exhausted. Positive samples should be frozen at 2 degrees centigrade or 20 Degrees Fahrenheit. Note the time and place of storage on the Chain-of-Custody Form (CCF).

**D. Quality Control:**

Contracted laboratory(ies) shall maintain a quality assurance program. The standard of the industry should be adhered to.

**Source: 49 CFR Part 40.**



**PART 3**

**Reporting and Maintaining Results  
and Records Procedures**

**PART 3**  
**Reporting and Maintaining Results and Records Procedures**  
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**PART 3**

**REPORTING AND MAINTAINING RESULTS AND RECORDS**

**I. Scope and Purpose:**

To provide guidelines in keeping confidentiality of all records and maintaining results pertaining to the Drug Free Workplace Policy.

**II. Records:**

The importance of confidentiality of all records as it relates to the Drug Free Workplace Policy cannot be overemphasized. All records relative to this policy will be marked "confidential". To ensure confidentiality of all records, the Administrative Director/Human Resources Administrator will be the only individuals accessible to the records relative to the Drug Free Workplace Policy.

**The Human Resources Administrator shall be responsible for:**

- A. Placing a copy of the Affirmation of Policy Form (DFW - APF #001) in the individuals confidential file. Individuals are to complete this form when they have received a copy of the Drug Free Workplace Policy.
- B. All drug/alcohol screen processing forms.
- C. The drug/alcohol screen referral log book .
- D. All drug and/or test results which will be placed in the applicant/employee confidential file.
- E. All information and documentation relative to employees being referred to an education, rehabilitation or treatment program.
- F. All information pertinent to random testing of testing designated positions and follow-up testing.
- G. Documentation for all reasonable suspicion and critical incident testing.
- H. Removal of disqualified names from the certified list of eligibles.
- I. Placement of names onto the certified list of eligibles after a period of six (6) months or upon receipt of certification of completion of an education, rehabilitation or treatment program.
- J. Generating the list of employee names for random testing and follow-up testing.

**III. Maintenance and Security of Records:**

The Human Resources Administrator is responsible for maintaining strict security and confidentiality of the lists of applicants and employees sent for drug/alcohol screening and the records pertaining to the Drug Free Workplace Policy. The confidentiality of these records are subject to the Freedom of Information Act, 5

GCA Chapter 10. An employee's supervisory chain of command and employee's Division Head may have access to these records upon request to the Administrative Director.

All records will be stored in an assigned cabinet for all Drug Free Workplace Policy records, under lock and key, in the Human Resources Administrator's Office. The only other individual accessible to the records will be the Administrative Director.

The collection site, laboratory and Medical Review Officer are responsible for maintaining confidentiality of all records related to drug/alcohol screening of employees and applicants.

**IV. Access to Records:**

Applicants and employees may request access to their records regarding the Drug Free Workplace Policy. The request is made in writing to the Administrative Director. Applicants and employees must sign an Access to Records Form (DFW - ARF #004) waiver releasing complete information from the laboratory and Medical Review Officer, Superior Court of Guam and its officers, and relieving the Human Resources Administrator, Superior Court of Guam and its officers, laboratory and Medical Review Officer (MRO) from any liability relating to the confidentiality of the individual's records.

**V. Retention of Records:**

The Human Resources Administrator will maintain all records of the Drug Free Workplace Policy consistent with local and federal laws, rules and regulations regarding the retention of confidential records.

**VI. Reporting Results:**

**Medical Review Officer :**

- A. The Medical Review Officer receives all laboratory test results for review and certification. The Medical Review Officer will report final results and any comments only to the Administrative Director or Human Resources Administrator within three (3) days upon completion of review, ensuring confidentiality of all test results. The Medical Review Officer shall be the sole custodian of an individual's test result. The Medical Review Officer shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for confirmed positive test results.

**B. Monthly Reports:**

The Medical Review Officer will provide monthly reports to the Human Resources Administrator with statistical information regarding the testing of Superior Court of Guam employees and applicants. Personal information will be included in the statistical summary. The report will include the following information:

- (1) Number of tests received;
- (2) Number of tests reported (negative);
- (3) Number of retests requested;
- (4) Number of tests confirmed positive for:
  - a. marijuana (THC) metabolites
  - b. cocaine metabolites
  - c. opiate metabolites
  - d. phencyclidine
  - e. amphetamines/methamphetamine
  - f. barbiturates
  - g. alcohol

Upon receipt of the report, the Human Resources Administrator shall compile the data and other pertinent information to submit a quarterly report for the Administrative Director's review. Additionally, the Human Resources Administrator shall also provide the Administrative Director with quarterly reports for the following:

1. Random, reasonable suspicion, critical incident, follow-up, voluntary or pre-employment drug and/or alcohol tests administered.
2. Confirmed positive test results, by type of test and drug.
3. Any disciplinary actions, dismissals, or withdrawal of conditional offers of employment.
4. Employees who successfully completed an education, rehabilitation or treatment program.

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**PART 4**

**Referral for Education, Rehabilitation  
or Treatment**

## PART 4

### Referral for Education, Rehabilitation or Treatment

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## Part 4

### REFERRAL FOR EDUCATION, REHABILITATION OR TREATMENT

**I. Scope and Purpose:**

To provide procedural guidelines in referring employees to an education, rehabilitation or treatment program.

**II. Goals:**

The Superior Court of Guam's plan for addressing the issue of drugs and alcohol in the workplace includes provisions for counseling and education or treatment. The goal is for the employee to become and remain drug/alcohol free. Employees whose first drug/alcohol screen is a confirmed positive result will be required to undergo drug/alcohol assessment and recommended education or treatment at the Department of Mental Health and Substance Abuse or other substance abuse treatment facility. It is the Superior Court of Guam's primary objective to retain employee's state of physical and mental capacity as a productive and safe member of the workforce.

**III. Confidentiality:**

The nature and extent of the employee's problem or information the employee provided to the education/treatment counselor or mental health clinician is confidential and privileged information. This information will not be disclosed to anyone outside the treatment or rehabilitation setting without the employee's consent.

The Administrative Director/Human Resources Administrator will need a statement or verification form from the Department of Mental Health and Substance Abuse Counselor or other treatment facility as to: 1) whether or not the employee is actively participating in the recommended education or treatment program, and 2) if the employee has successfully completed the education or treatment program. This information is necessary to document whether the employee has met the rehabilitation requirements. This information will only be released to the Administrative Director/Human Resources Administrator.

Persons in the employee's supervisory chain of command will only be provided limited general information concerning the employee's participation in an education, rehabilitation or treatment program. Persons receiving some type of information that may disclose and can be related to the employee's participation in an education, rehabilitation or treatment program shall maintain confidentiality of this information.

**IV. Authorized Treatment:**

The Administrative Director shall approve an employee's referral for drug education or treatment program once a confirmed positive test result is received and has not had a previous confirmed positive test result. The Human Resources Administrator will notify the employee of the referral for assessment and education or treatment. The treatment facility will determine the type of rehabilitation program the employee needs. Rehabilitation programs may vary depending on the nature and severity of the employee's substance use or abuse problem.

No provisions in Part 4, Referral for Education, Rehabilitation or Treatment shall prohibit an employee from seeking treatment from other substance abuse treatment facilities. Any expenses related to the treatment will be the employee's responsibility.

**A. Program Requirements:**

Any services rendered by a treatment facility will be charged to the employee's personal health insurance as applicable. Employees without health insurance coverage shall be self-pay.

The treatment facility shall determine the appropriate treatment, education or rehabilitation program needed for the employee. This includes the type and length of treatment; whether it is an inpatient or outpatient or both; and whether after-care treatment or follow-up are included.

**B. Procedures:**

When an employee is referred to participate in an education, rehabilitation or treatment program, the Human Resources Administrator shall follow the steps listed below:

1. Schedule an appointment with the treatment facility for intake screening processing. Complete the "Referral Form for Services" at this time.
2. The treatment facility shall give the Human Resources Administrator the earliest appointment date available.

3. Once a date has been confirmed, the Human Resources Administrator shall meet with the employee to advise of the scheduled appointment.
4. Request the employee to read and sign the Consent For Release of Information Form. This form authorizes the treatment facility to release limited necessary information about the employee to the Administrative Director/Human Resources Administrator.
5. The Human Resources Administrator shall give the original Consent for Release of Information (DFW - CFRI #006) and Referral Form for Services to the employee for submission to the treatment facility.
6. The treatment facility shall provide feedback to the Administrative Director/Human Resources Administrator within five (5) working days after the intake processing concerning employees who are referred for assessment and education or treatment.
  - (a) Inform the Administrative Director/Human Resources Administrator whether or not the referred employee sought assistance in an education or treatment program.
  - (b) The treatment facility will provide a written statement whether or not the referred employee is engaged in an education or treatment program.
7. It is the responsibility of the participating employee to provide all necessary information about participation in an education, rehabilitation or treatment program to the Administrative Director/Human Resources Administrator.
8. Failure by the employee to contact Administrative Director/Human Resources Administrator about his/her participation in drug/alcohol assessment or recommended treatment program or other pertinent information, is considered failure to successfully complete the program. The Administrative Director/Human Resources Administrator will notify the employee of proposed disciplinary action in accordance with the Personnel Rules and Regulations for the Superior Court of Guam.

**V. Leave:**

Absences during participation in an education, rehabilitation or treatment program must be charged to the appropriate leave category in accordance with law and the Superior Court Personnel Rules and Regulations.

**VI. Successful Completion of Education, Rehabilitation or Treatment Program:**

Upon completion of such program/treatment, the employee will submit the Education, Rehabilitation or Treatment Program Verification Form (DFW-ERTV #007) to the Human Resources Administrator for recording of proper documentation.

Upon receipt of the form, the Human Resources Administrator shall meet with Division Head and Staff Attorney to discuss and submit a recommendation to the Administrative Director whether to return the employee to work status. The Administrative Director will advise the employee in writing of the decision.

The Human Resources Administrator shall place a copy of the verification in the employee's confidential file. Once the employee is returned to work status, the employee shall be subject to follow-up drug and/or alcohol testing within a period of one (1) year after the completion of such program.

**VII. Disciplinary Action:**

When an employee fails to complete or participate in a recommended education, rehabilitation or treatment program, the Administrative Director/Human Resources Administrator shall initiate disciplinary action in accordance with the adverse action procedures as defined in the Superior Court Personnel Rules and Regulations.

An employee receiving a second confirmed positive test result will not be eligible for referral to an education, rehabilitation or treatment program and shall be subject disciplinary action up to dismissal.

**PART 5**

**Identifying and Documenting Reasonable  
Suspicion**  
(A Guide for Supervisory Chain-of-Command)

## PART 5

### Identifying and Documenting Reasonable Suspicion

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**PART 5**

**IDENTIFYING AND DOCUMENTING REASONABLE SUSPICION  
(GUIDE FOR SUPERVISORY CHAIN OF COMMAND)**

**I. Purpose:**

To assist supervisors in recognizing conditions and behaviors of employees that constitute "reasonable suspicion" for the illegal use of drugs or the abuse of alcohol.

**II. Scope:**

Supervisors play a critical role in the drug/alcohol screening process for employees. The Administrative Director, Human Resources Administrator, Staff Attorney, Division Head and supervisor will determine if there is reasonable suspicion on the illegal use of drugs or alcohol abuse by an employee. An informed decision shall be made when a drug/alcohol screen request is recommended for an employee. All employees are subject to a drug and/or alcohol screen test if there is reasonable suspicion on the illegal use of drugs or the abuse of alcohol. Reasonable suspicion is a belief based on objective facts and reasonable inferences drawn from those facts, that an employee's action has been caused by the illegal use of drugs or the abuse of alcohol.

The supervisor's action will be determined by each unique situation. Some situations may require immediate action while others may require a series of documented steps over a period of time.

If the supervisor is uncertain about what action to take, the supervisor shall seek assistance from the next person in the supervisor's chain-of-command or contact the Human Resources Administrator.

**III. Patterns of Deteriorating Performance:**

When an employee begins to show a pattern of deteriorating job performance, the supervisor should document each pattern over a period of time. The illegal use of drugs and the abuse of alcohol can affect an employee's job performance in many ways. Supervisors will be trained to recognize the effects of the illegal use of drugs and the abuse of alcohol on employee job performance. Supervisors need to be alert for and document the following behaviors if appearing as part of a pattern and not as isolated incidents.

**(A) General Trends:**

Documentation should begin when one or more factors from Group 1 and one or more factors from Group 2 are observed.

**I. Group 1**

- a. an unusual pattern of unplanned absenteeism, peculiar excuses for absences;
- b. an unusual pattern of sick leave use, particularly for minor illness such as colds, flu, or stomach problems;
- c. frequent unplanned absences on Fridays, Mondays, or before or after holidays and/or;
- d. frequent tardiness with peculiar excuses.

2. Group 2

- a. long breaks, frequent trips to the bathroom, break area or parking lot and frequent early departures from work;
- b. higher than normal accident rates, both on and off the job;
- c. changes in appearance, such as flushed face, red eyes, carelessness in dress or appearance, hand tremors;
- d. mood swings which over several days seem to occur at similar times of the day and/or;
- e. drastic unexplained weight loss, unexplained increased energy and productivity.

**(B) Performance Related Trends:**

Documentation should begin when one or more factors from Group 1 and one or more factors from Group 2 are observed.

1. Group 1 - Interpersonal Problems

- a. friction with co-workers; placing blame on others;
- b. requesting different job assignments;
- c. lack of cooperation;
- d. disregard for co-worker safety;
- e. morale problems;
- f. unusual behavior;
- g. overly reactive to supervisor's admonishment or compliment and/or;
- h. demonstrates a pattern of avoiding co-workers and supervisors, especially supervisors who have been trained to recognize drug or alcohol abusers.

2. Group 2 - Personal Problems

- a. inconsistent work patterns or disruption of work patterns;
- b. decreasing reliability; procrastination; memory gaps;
- c. tendency to neglect details formerly not neglected;
- d. making frequent errors in judgment; missing deadlines;
- e. frequent and recurring financial problems, including borrowing from co-workers or supervisors;
- f. frequent wasting of office supplies or materials due to errors;
- g. poor service to the public; complaints from the public;

- h. decreased productivity or inconsistent work quality and/or;
- i. confusion.

There are other explanations for these trends, and supervisors should be cognizant of this. **Supervisors should use these indications as a guide and not as specific diagnostic criteria for the illegal use of drugs or for the abuse of alcohol.** Supervisors are not to assume and should use good judgment and thoroughly document each situation.

Objective facts may include unusual characteristics of the employee's appearance, behavior, mannerisms, speech or body odors. It may also be based on actual observation of the employee using drugs illegally or abusing alcohol, or be based upon reliable information that an employee is using or has recently used or possessed a drug illegally or was observed with an open container of alcohol or drug paraphernalia on Superior Court of Guam property or while on duty status.

Examples include, but are not limited to:

- **Equilibrium:** Does the person stagger, sway side to side or backward and forward when standing? Does the person stagger when walking?
- **Manner of Speech:** Is the manner of speech slurred, rapid or exceptionally slow when compared to the person's normal manner of speech?
- **Mental reaction:** Are statements consistent with the current topic of conversation? Is the person's logical pattern consistent or wandering?
- **Odor of intoxicants on breath or clothing :** Is there any odor emitted from their breath or clothing?
- **Eyes:** Are the pupils constricted or dilated? Are the eyes extremely red or red rimmed? Does the person have difficulty focusing their eyes?
- **General appearance:** Is the general appearance unusual compared to your knowledge of person's usual dress habits?
- **Physical actions:** Is a person who is usually calm, hyperactive or nervous? Is a usually energetic, active gregarious person dejected, inattentive, or withdrawn?
- **Work behavior:** Is the person who usually has a high quantity or quality of work producing less work or making more mistakes?

Documentation of deteriorating work performance is extremely important to the drug and alcohol screening program. These records may provide a basis for supervisors to recommend that an employee submit to a drug and alcohol screen test, and provide a record for the employee to review. The performance evaluation process may be used as a part of the documentation.

Document actual events and observations. Good work should be documented as well as poor performance. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances.

**Please refer to Drug Free Workplace Policy Standard Operating Procedures, Item IX, Letter (D), Reasonable Suspicion Testing.**

## **PART 6**

### **Random Testing of Testing Designated Positions**

## PART 6

### Random Testing of Testing Designated Positions

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## PART 6

### Random Testing of Employees in Testing Designated Positions

**I. Purpose:**

This part provides procedural guidelines on the implementation of random testing of testing designated positions.

**II. Scope:**

Employees in testing designated positions are identified when their jobs pose a special threat to public safety. Other positions are identified for random testing because they require the highest degree of trust and confidence. The Judicial Council has full authority in amending the list of testing designated positions.

The Administrative Director has full discretionary authority in determining the actual number of employees to be tested. This determination may be based on Court's funding availability. This authority also extends to the frequency and selecting the date to administer random testing of testing designated positions.

Employees in testing designated positions who are required to undergo random testing for the illegal use of drugs or abuse of alcohol are as follows:

- a. Chief Marshal
- b. Deputy Chief Marshal
- c. Deputy Marshal Supervisor
- d. Deputy Marshal I, II & III
- e. Deputy Marshal Recruit
- f. Chief Probation Officer
- g. Deputy Chief Probation Officer
- h. Probation Officer Supervisor
- i. Senior Probation Officer
- j. Probation Officer I & II
- k. Facilities Maintenance Superintendent
- l. Facilities Maintenance Supervisor
- m. Facilities Maintenance Worker
- n. Maintenance Leader (Electrician, Mechanic, Plumber)
- o. Official Vehicles Officer

**III. Implementing Random Testing:**

The Administrative Director will instruct and give written notice to the Human Resources Administrator to conduct random testing of the designated positions. The Human Resources Administrator shall immediately initialize the Drug/Alcohol Test Randomizer Program (DATR) on that given day to generate the list of employees to undergo the drug and alcohol screening process.

The Human Resources Administrator is responsible for maintaining the Drug/Alcohol Test Randomizer Program.

Once the list of names has been established and logged, it is then printed. The Human Resources Administrator shall notify the appropriate Division Head/supervisor of the names selected for random testing. Notification will be given on the day the test is scheduled. The Human Resources Administrator shall annotate the list with the date and time the Division Head and supervisor was contacted.

The Division Head and supervisor shall immediately meet with the employee to explain that the employee's name was selected randomly for testing and that there is no reasonable suspicion that the employee is using illegal drugs and/or abusing alcohol. The Division Head shall instruct the employee to immediately report to the Human Resources Division for drug and/or alcohol screen processing. The Human Resources Division shall annotate on the drug and/or alcohol screen processing forms the time the employee reported.

**IV. Drug/Alcohol Test Randomizer:**

The Drug/Alcohol Test Randomizer (DATR) is a program designed and created by the Superior Court Management Information Systems unit. This program is used to randomly select individuals who will be required to undergo a drug and/or alcohol screen test. The names of employees are randomly selected from a database of active employees in testing designated positions.

This program provides a fair and unbiased way of selecting employees to undergo a drug and/or alcohol screen test. It also provides several security features such as multi-layer access and password encryption to ensure that no tampering can be done to the data. These security features guarantee that no user of the DATR could add, edit, or remove members from the database without getting prior password encrypted authorization from the Administrative Director.

**1. How the Computer Selects the Candidates:**

The following steps demonstrate how the computer generates a random list of names to be tested.

- a. First, the computer cycles through the entire list of records, each record represents a drug/alcohol test candidate, assigning each one a unique random number.

- b. Depending on the number of employees to be tested, the DATR selects the corresponding record with the largest random numbers. The DATR generates a list of names to be tested and logs it in a file.
- c. The logged file is saved in a secure location on the server in a format which will not support editing or tampering.

2. **Security Features of the Drug/Alcohol Test Randomizer:**

To initialize the Drug/Alcohol Test Randomizer (DATR) program, a password is required from the Human Resources Administrator. Once this password is decoded and accepted, the DATR will only allow access to view the list of employees. A second password from the Administrative Director is required in order to create a random list of employees in testing designated positions. The list is immediately printed out with a time and date stamp to confirm that the list was created the same day the testing occurred. Additionally, this list is logged and saved in a tamper proof file.

If employees need to be added, removed, or edited in the system, the DATR program requires two passwords to allow access to modify the database. The Administrative Director will know the other password. This system of passwords will require that two individuals be physically present in the event that data needs to be modified. The password information is known only to the person and can be changed only by that assigned person.

V. **The Drug/Alcohol Test Randomizer Reports:**

The Human Resources Administrator shall provide the Administrative Director with all monthly activities, to include but not limited to quarterly and annual reports.



**PART 7**

**DRUG AND ALCOHOL SCREENING PROGRAM**

**PART 7**

**DRUG AND ALCOHOL SCREENING PROGRAM**

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**PART 7**

**DRUG AND ALCOHOL SCREENING PROGRAM**

**I. Scope and Purpose:**

To provide procedural guidelines for processing drug and/or alcohol screen tests.

**II. Responsibilities:**

The Human Resources Division is responsible for processing all drug and/or alcohol screen test referrals. Each Human Resources Officer shall ensure confidentiality in all aspects of the drug and/or alcohol screen processing.

**III. Drug/Alcohol Screen Processing:**

The following steps are followed in processing all drug and/or alcohol screen test requests. A Human Resources Officer shall advise the individual as to the:

- a) date, time and collection site location by providing the Employer Referral form;
- b) methods and process of drug screening;
- c) substances which will be identified;
- d) confidentiality of test results and medical information provided by the applicant;
- e) importance of providing medical information to and cooperating with the collection site personnel;
- f) consequences of refusing or failing to complete the drug screening process and receiving a confirmed positive test result;
- g) time frame of test result notification;
- h) responsibility to comply with the scheduled appointment;
- i) effective date of employment upon receipt of test results;
- j) provide a copy of the Superior Court Drug Free Workplace Policy and give the individual an opportunity to thoroughly read the policy;
- k) request the individual to read, sign and date the Affirmation of Policy Form (DFW -APF #001);

The Affirmation of Policy Form is to be read, signed and dated by applicants and employees when they have received a copy of the Drug Free Workplace Policy. The APF is used as a permanent record of prior knowledge by the applicants and employees of the drug/alcohol screening policy.

The APF contains a general statement of policy. The form also includes the name, social security number of an applicant or employee. It also includes a space for the applicant or employee signature and the date.

- l) request the individual to read, sign and date the Agreement and Acknowledgment Form (DFW - AAF #002);

The Agreement and Acknowledgment Form is to be read, signed and dated by each applicant or employee requested to take a drug/alcohol screen. If an applicant or employee is requested to submit to drug screening more than once, a new consent form must be signed each time.

The AAF is used to obtain from the employee or applicant a signed statement of consent to collect and analyze a urine specimen taken for the purpose of a drug/alcohol screen. It is also used to acknowledge that the results of the screen will be made available to the Administrative Director, Human Resources Administrator and the Medical Review Officer.

The AAF includes a space for the applicant's or employee's name, the social security number, badge number, the recruiting division, and a space where the applicant and a witness sign and date the form.

- m) provide the Medical Information Form (DFW - MIF #003) to the individual explaining the importance of this form and advise that completion of this form will be done at the collection site;

The MIF is used to list all prescription and non-prescription drugs the applicant or employee may be taking at the time of, or immediately preceding (within 48 hours) the test. The accuracy of test results depend on it. Collection site personnel will explain this form to each applicant or employee. Collection site personnel will also note any personal behavior, circumstances or findings on this form.

- n) access to drug/alcohol screen records by completing the Access to Record Form (DFW - ARF #004);

The purpose of the ARF is to allow the individual access to records concerning the individual's drug screen and to release Superior Court of Guam from any liability for that release. The applicant or employee requesting access to the records must read, sign and date this form. This

form requires a notary public.

- o) maintain a complete set of the completed drug screening processing forms and provide copies to the applicant and collection site;
- p) record the individual's name on the Drug/Alcohol Screen Processing Log Book;
- q) document and maintain records of any such nonparticipation by identifying the individual, the nature of the refusal or failure, the date of the incident, names of witnesses and the position for which a conditional offer of employment was made.

Once all the forms have been completed, the Human Resources Officer shall instruct the individual to immediately report to the designated collection site.

**IV. Collection Site:**

Each individual will follow the step by step process for providing a urine specimen. Physician's Diagnostic Laboratory is contracted by the Superior Court of Guam to collect all urine specimens for drug and/or alcohol screen tests.

Preliminary Paper Work Preparation: The laboratory personnel shall:

- A. Verify positive identification (driver's license, passport, employee id, etc.) with the "Employer Referral Form".
- B. **Step 1.** COLLECTOR writes down SSN or Employee ID no.  
Indicate Employer or Private Use for personal cases  
Check off whether Photo ID was presented or Employer verified
- C. **Step 2.** Check off Reason for Test
- D. **Step 3.** Check off Other:  
Alcohol or  
GU Industrial Screen #0627 (non-DOT)
  - 1. Marijuana (THC);
  - 2. Cocaine metabolites;
  - 3. Opiates;
  - 4. Phencyclidine (PCP);

- 5. Amphetamines/Methamphetamine; and
- 6. Barbiturates.

E. Have DONOR verify all information.

**SPECIMEN COLLECTION PROCEDURE:**

- A. **COLLECTOR**, using a sample bottle, explains that the required amount for collection is 45 ml of urine, and that the **DONOR** is given 3 minutes to collect the urine. In the event the individual should give an insufficient amount, the **DONOR** is advised to discard the urine and drink plenty of fluids. Under no circumstances is the **DONOR** allowed to leave the premises unless the proper authority is notified.
- B. If the **DONOR** is ready and understands the procedure, the **DONOR** empties out all pockets, removes coat, jacket, hat, bag, etc. (Donor's personal effects are secured in a locked box until completion of specimen collection).
- C. **COLLECTOR** accompanies the **DONOR** to the sink to rinse their hands with soap and water.
- D. **DONOR** chooses a specimen kit and ensures that it has not been tampered with in any manner.
- E. **COLLECTOR** accompanies **DONOR** to the restroom.
- F. Prior to starting the specimen collection, the **COLLECTOR** ensures that the **DONOR** has no access to water in the restroom by sealing faucets shut, putting tamper-proof seals on cabinets and windows, and by placing a bluing agent in the toilet bowl.
- G. **COLLECTOR** seals the bottle(s) in the back pouch of the specimen bag and place copies 1,2, and 3 of the Chain of Custody form in the front pouch. Copy 4(Pink) is forwarded to the contracted Superior Court of Guam Medical Review Officer.
- H. **DONOR** verifies the bag is sealed and places his/her initials on the bag.
- I. **COLLECTOR** gives **DONOR** copy 5 (Green) of the Chain of Custody form. **COLLECTOR** advises the **DONOR** to list on the back of the Chain of Custody form any medications taken within the last 30 days.
- J. **COLLECTOR** keeps copy 6 (Yellow) of the Chain of Custody form for the collection site's record.

- K. **COLLECTOR** forwards copy 7 (blue) of the Chain of Custody form to the client (contracted Superior Court of Guam Medical Review Officer) along with the results within 3 to 5 working days.

Once the laboratory receives test results, the results are immediately forwarded to the Medical Review Officer.

V. **Medical Review Officer:**

The primary medical review officer responsibilities shall be carried out by **Dr. Florencio (Larry) Lizama, M.D., Certified Medical Review Officer (MRO)**.

The primary role of the medical review officer is to review, interpret and certify all drug and alcohol test results. In carrying out this responsibility, the **MRO** will examine alternative medical explanations for review of positive test results.

A. **MRO Responsibilities:**

1. **Interview:**  
Once a positive test result is received, the **MRO** will conduct a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors when a confirmed positive test is reported. The **MRO** may perform a physical examination when necessary to carry out his duty as the **Medical Review Officer**.
2. **Initial Contact of Employees:**  
The **MRO** will make reasonable efforts to contact an individual and make available to the tested individual the opportunity to discuss a laboratory confirmed positive test result. A staff person, or **MRO** Assistant may make the initial contact.
3. If the **MRO** is unable to contact a tested individual, after making and documenting all reasonable efforts, the **MRO** shall contact the Human Resources Administrator to arrange for the individual to contact the **MRO** within twenty-four (24) hours.

The **MRO** may verify a positive test without having communicated with the tested individual if:

- a. The individual expressly declines the opportunity, or
- b. After documented notification by the **Employer** for the tested individual to contact the **MRO** and the individual fails to contact the **MRO**, such failure will be recorded by the employer. The employer will note such failure within five (5) days after giving notice to the tested individual to contact the **MRO**, or
- c. The **MRO** and the **EMPLOYER** are unable to contact the tested individual, the

**EMPLOYER** will note such failure within fourteen (14) days.

**B. Obtaining Additional Laboratory Tests, Re-Analysis, and Information:**

1. **SPLIT SAMPLE RETEST PROTOCOL:** In situations in which the **EMPLOYER** uses the split sample method of collection; if the employee requests an analysis of the split sample within **seventy-two (72) hours** of having been informed of a verified positive test, the **MRO** will direct, in writing, the laboratory to provide the split sample to another Department of Health and Human Services-certified laboratory for analysis. If the analysis of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split sample is unavailable, inadequate for testing, or untestable, the **MRO** will cancel the test.
2. **SINGLE SAMPLE RETEST PROTOCOL:** In a situation in which the **EMPLOYER** has used the single sample method of collection, the **MRO** will direct, in writing, a reanalysis of the original sample if requested to do so by the employee within **seventy-two (72) hours** after the employee has been informed of a verified positive test. The **MRO** may also direct, in writing, such an analysis if the **MRO** questions the accuracy or validity of any test result. Only the **MRO** may authorize such a reanalysis, and such a reanalysis, may take place only at laboratories certified by Department of Health and Human Services (DHHS). If the reanalysis fails to confirm the presence of the drug or drug metabolite, the **MRO** will cancel the test.
3. **MRO** may independently order a reanalysis of a sample if necessary.
4. **MRO** may order additional laboratory separation and quantitation of *d + l* isomers of methamphetamine and amphetamine when necessary.
5. **MRO** may order request analysis for 6-monoacetyl-morphine (6-MAM).
6. **MRO** may order additional laboratory tests for the purposes of determining adulteration.
7. **MRO** may request, if needed, a quantitative description of test results and maintain same in appropriate files.
8. **MRO** will receive and maintain a certified copy of the original custody and control form which should include a daytime telephone number where the applicant or employee may be reached.
9. **MRO** may consult with laboratory director and representatives concerning laboratory results.
10. **MRO** may cancel laboratory results that do not comply with **EMPLOYER** guidelines, or

Department of Health and Human Services (DHHS) guidelines.

**C. Reporting Results to the Employer:**

The MRO will report to the Administrative Director or the Human Resources Administrator of Superior Court of Guam using any communications device that ensures the maintenance of confidentiality, but in all instances a signed written notification will be forwarded within three (3) business days of completion of the MRO's review:

The MRO written report will include the following:

- a. The name of the individual for whom the test results are being reported;
- b. The type of test indicated on the custody and control form;
- c. The date and location of the test collection;
- d. The identities of the persons or entities performing the collection, analysis of the specimens and serving as the MRO for the specific test;
- e. The verified results of a controlled substances test, either positive or negative, and if positive, the identity of the controlled substance(s) for which the test was verified positive.

**D. Confidentiality:**

The MRO will not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process. The MRO may disclose such information to the EMPLOYER when the MRO has informed the employee before obtaining medical information from the employee, that such information may be disclosed to the third parties; and

1. In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified;
2. In the MRO's reasonable medical judgment, the information indicates that continued performance by the employee could pose a significant health and safety risk;
3. Disclosure is requested by the employee and the MRO is provided with a written request and release from the employee.

**E. MRO Record Keeping and Record Authorization:**

1. The MRO shall be the sole custodian of an individual's test result. The MRO shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive test results.

2. The **MRO** will not release individual test results to any person other than the **EMPLOYER**, without first obtaining specific written authorization from the tested individual. Nothing shall prohibit the **MRO** from releasing information relating to an individual's verified positive test result to the **EMPLOYER**, its designated agent, or any local or federal officials with regulatory authority over the controlled substances testing program.

**APPENDIX A**

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## DRUG-FREE WORKPLACE ACT OF 1988

### Section 4804 of Anti-Drug Abuse Act of 1988

Subtitle D--Drug-Free Workplace Act of 1988 SEC. 5151 SHORT TITLE.  
This subtitle may be cited as the "Drug-Free Workplace Act of 1988".

#### SEC. 5152. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

##### (a) Drug-Free Workplace Requirement.--

(1) Requirement for persons other than individuals.-- No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41) U.S.C. 403(8), for the purposes of being awarded a contract for the procurement of any property or services of a value of \$25,000 or more from any Federal agency unless such person has certified to the contracting agency that it will provide a drug-free workplace by--

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibitions;

(B) establishing a drug-free awareness program to inform employees about--

(i) the dangers of drug abuse in the workplace;

(ii) the person's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will--

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5154; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Requirement for Individuals.-- No Federal agency shall enter into a contract with an individual unless such contract includes a certification by the individual that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

##### (b) Suspension, Termination, or Debarment of the Contractor.--

(1) Grounds for Suspension, Termination, or Debarment.-- Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder or the individual who entered the contract with the Federal agency, as applicable, shall be subject to suspension or debarment in accordance with the requirements of this

section if the head of the agency determines that--

(A) the contractor or individual has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) Conduct of Suspension, Termination, and Debarment Proceedings.--

(A) If a contracting officer determines, in writing, that cause for suspension of payments, termination, or suspension or debarment exists, an appropriate action shall be initiated by a contracting officer of the agency, to be conducted by the agency concerned in accordance with the Federal Acquisition Regulations and applicable agency procedures.

(B) The Federal Acquisition Regulations shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and such other procedures as may be necessary to provide a full and fair proceedings to a contractor or individual in such proceeding.

(3) Effect of Debarment.-- Upon issuance of any final decision under this subsection requiring debarment of a contractor or individual, such contractor or individual shall be ineligible for award of any contract by any Federal agency, and for participation in any future procurement by an Federal agency, for a period specified in the decision, not to exceed 5 years.

#### SEC. 5153. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) Drug-Free Workplace Requirement.--

(1) Persons Other Than Individuals.-- No person, other than an individual,

shall receive a grant from any Federal agency unless such person has certified to the granting agency that it will provide a drug-free workplace--

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about--

(i) the dangers of drug abuse in the workplace;

(ii) the grantee's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will--

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5154; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Individuals.-- No Federal agency shall make a grant to any individual unless such individual certifies to the

agency as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(b) Suspension, Termination, or Debarment of the Grantee.--

(1) Grounds for Suspension, Termination, or Debarment.-- Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant, or both, and the grantee thereunder shall be subject to suspension or debarment, in accordance with the requirements of this section if the head of the granting agency or his official designee determines, in writing, that--

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1).

(2) Conduct of Suspension, Termination, and Debarment Proceedings.-- A suspension of payments, termination, or suspension or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive Order.

(3) Effect of Debarment.-- Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

**SEC. 5154. Employee Sanctions and Remedies.**

A grantee or contractor shall, within 30

days after receiving notice from an employee of a conviction pursuant to section 5152(a)(1)(D)(ii) 5153(a)(1)(D)--

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a Federal, State, or local health, law enforcement, or other appropriate agency.

**SEC. 5155. WAIVER.**

(a) In General.-- A termination, suspension of payments, or suspension or debarment under this subtitle may be waived by the head of an agency with respect to a particular contract or grant if--

(1) in the case of a waiver with respect to a contract, the head of the agency determines under section 5152(1), after the issuance of a final determination under such section, that suspension of payments, or termination of the contract, or suspension or debarment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public, or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

(b) Exclusive Authority.-- The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

**SEC. 5156. REGULATIONS.**

Not later than 90 days after the date of enactment of this subtitle, the government wide regulations governing actions under this subtitle shall be issued pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

**SEC. 5157. DEFINITIONS.**

For purposes of this subtitle-- (1) the term "drug-free workplace" means site

for the performance of work done in connection with a specific grant or contract described in section 5152 or 5153 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 5152 or 5153;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substance Act (21 U.S.C. 812);

(4) the term "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 drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person responsible for the performance under the contract, and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of Title 5, United States Code.

#### **SEC. 5158. CONSTRUCTION OF SUBTITLE.**

Nothing in this subtitle shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this subtitle.

#### **SEC. 5159. REPEAL OF LIMITATION ON USE OF FUNDS.**

Section 628 of Public law 100-440

(relating to restrictions on the use of certain appropriated amounts) is amended--

(1) by striking "(a)" after "Sec. 628"; and

(2) by striking subsection (b).

#### **SEC. 5160. EFFECTIVE DATE.**

Sections 5152 and 5153 shall be effective 120 days after the date of enactment of this subtitle.

#### **SEC. 4804. CONSISTENCY WITH INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.**

(a) In prescribing regulations under subtitle D of title V of this Act, the head of the appropriate agency--

(1) shall only establish requirements that are consistent with the international obligations of the United States, and

(2) shall take into consideration any applicable laws and regulations of foreign countries.

(b) Section 5152 shall not be construed as conferring extraterritorial application of the provisions of such section.

## APPENDIX B

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§67.22. Standard for Schedule I. The Governor shall place a substance in Schedule I if he finds that the substance:

- (1) has a high potential for abuse; and
- (2) has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

§67.23. Schedule I. (a) The controlled substances listed in this Section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

1. Acetylmethadol;
2. Allylprodine;
3. Alphacetylmethadol;
4. Alphameprodine;
5. Alphamethadol;
6. Benzethidine;
7. Betacetylmethadol;
8. Betameprodine;
9. Betamethadol;
10. Betaprodine;
11. Clonitazene;
12. Dextromoranamide;
13. Dextrorphan;
14. Dimpromide;
15. Diethylambutene;
16. Dimenoxadol;
17. Dimepheptanol;
18. Dimethylambutene;
19. Dioxaphety/butyrate;
20. Dipipanone;
21. Ethylmethylthiambutene;
22. Etonitazene;
23. Etoxidine;
24. Furethidine;
25. Hydroxypethidine;
26. Ketobemidone;

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27. Morpheridine;
28. Moracymethadol;
29. Morlevorphanol;
30. Normethadone;
31. Norpipanone;
32. Phenadoxone;
33. Phenampromide;
34. Phenomorphan;
35. Phenoperidine;
36. Piritramide;
37. Proheptazine;
38. Properidine;
39. Racemoramide;
40. Trimeperidine;

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

1. Acetorphine;
2. Acetyldihydrocodeine;
3. Benzylmorphine;
4. Codeine methylbromide;
5. Codeine-N-Oxide;
6. Cyprenorphine;
7. Desomorphine;
8. Dihydromorphine;
9. Etorphine;
10. Heroin;
11. Hydromorphinol;
12. Methyldesorphine;
13. Methyldihydromorphine;
14. Morphine methylbromide;
15. Morphine methylsulfonate;
16. Morphine-N-Oxide;
17. Myrophine;
18. Nicocodeine;
19. Nicomorphine;
20. Normorphine;
21. Phocloidine;
22. Thebacon;

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically

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excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 3, 4-methylenedioxy amphetamine;
2. 5-methoxy-3, 4-methylenedioxy amphetamine;
3. 3, 4, 5-trimethoxy amphetamine;
4. Bufotanine;
5. Diethyltryptamine;
6. Dimethyltryptamine;
7. 4-methyl-2, 5-dimethoxylamphetamine;
8. Ibogaine;
9. Lysergic acid diethylamide;
10. Marihuana;
11. Mescaline;
12. Peyote;
13. N-ethyl-3-piperidyl benzilate;
14. N-methyl-3-piperidyl benzilate;
15. Psilocyn;
16. Psilocion;
17. Tetrahydrocannabinol.

§67.24. Standards for Schedule II. The Governor shall place a substance in Schedule II if he finds that:

- (1) the substance has a high potential for abuse;
- (2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) abuse of the substance may lead to severe psychic or physical dependence.

§67.25. Schedule II. (a) The controlled substances listed in this Section are included in Schedule II.

(b) Any of the following substances except those narcotic drugs listed in other schedules, whether produced directly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

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1. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

2. Any salt, compound, isomers, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in number 1, but not including the isoquinoline alkaloids of opium;

3. Opium poppy and poppy straw;

4. Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their immediate isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

1. Alphaprodine;
2. Anileridine;
3. Bezitramide
4. Dihydrocodeine;
5. Diphenoxylate;
6. Fentanyl;
7. Isomethadone;
8. Levomethorphan;
9. Levorphanol;
10. Metazocine;
11. Methadone;
12. Methadone-Intermediate, 4-cyano-2 dimethylamine-4, 4-diphenyl butane;
13. Meramide-Intermediate, 2-methyl-3 morpholino-1, 1-diphenyl-propane-carboxylic acid;
14. Pethidine;
15. Pethidine-Intermediate-A, 4-cyano-1 methyl-4-phenyl-piperidine;
16. Pethidine-Intermediate-B, ethyl-r phenyl-piperidine-4-carboxylic acid;
17. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;

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18. Phenazocine;
19. Piminodine;
20. Racemethorphan;
21. Racemorphan.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

1. Amphetamine, its salts, optical isomers, and salts of its optical isomers;
2. Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

§67.26. Standards for Schedule III. The Governor shall place a substance in Schedule III if he finds that:

- (1) the substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) the substance has currently accepted medical use in treatment in the United States;
- (3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

§67.27. Schedule III. (a) The controlled substances listed in this Section are included in Schedule III.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulate effect on the central nervous system:

1. Phenmetrazine and its salts;
2. Methylphenidate.

(c) Unless listed in another schedule any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse

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associated with a depressant effect on the central nervous system:

1. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative or barbituric acid, except those substances which are specifically listed in other schedules;
2. Chlorhexadol;
3. Glutethimide;
4. Lysergic acid;
5. Lysergic acid amide;
6. Methyprylon;
7. Phencyclidine;
8. Sulfondiethylmethane;
9. Sulfonethylmethane;
10. Sulfonmethane.

(d) Nalophine.

(e) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

1. Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
2. Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
3. Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
4. Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;
5. Not more than 1.3 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage

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unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

6. Not more than 300 milligrams of ethylmorphine of any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

7. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

8. Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters of per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(f) The Governor may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in Subsections (b) and (c) of this Schedule above from the application of all or any part of his Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which do have stimulant or depressant effect on the central nervous system.

§67.28. Standards for Schedule IV. The Governor shall place a substance in Schedule IV if he finds that:

(1) the substance has a low potential for abuse relative to substances in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological

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dependence relative to the substances listed in Schedule III.

§67.29. Schedule IV. (a) The controlled substances listed in this Section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances or salts thereof having a potential for abuse associated with a depressant effect on the central nervous system:

1. Barbitol;
2. Chloral betaine;
3. Chloral hydrate;
4. Ethchlorvynol;
5. Ethinamate;
6. Methohexital;
7. Meprobamate;
8. Methylphenobarbital;
9. Paraldehyde;
10. Petrichloral;
11. Phenobarbital;

(c) The Governor may except by rule any compound, mixture, or preparation containing any depressant substance listed in Subsection (b) from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

§67.30. Standards for Schedule V. The Governor shall place a substance in Schedule V if he finds that:

- (1) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

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(2) the substance has currently accepted medical use in treatment in the United States; and

(3) the substance has limited physical dependence, or psychological dependence liability relative to the controlled substances listed in Schedule IV.

§67.31. Schedule V. (a) The controlled substances listed in this Section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

1. Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

2. Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

3. Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

4. Not more than 2.5 milligrams of diphenoxylate, and not less than 25 micrograms of atropine sulfate per dosage unit;

5. Not more than 100 milligram of opium per 100 milliliters or per 100 grams, or not more than 5 milligrams per dosage unit.

§67.32. Governor to Revise and Republish Schedules Annually. The Governor shall review and republish the Schedules annually and make them available to any registrant law enforcement agency or any member of the public desiring such list.



# **DRUG FREE WORKPLACE**

## **POLICY FORMS**



# Superior Court of Guam Affirmation of Policy Form

I acknowledge that I have received and reviewed the Superior Court of Guam Drug Free Workplace Policy and;

*Please initial appropriate category:*

• \_\_\_\_\_ Applicant (Pre-Employment)

As an individual who has received a conditional offer of employment, I am aware that my offer of employment is conditional upon the test results of the screen for the illegal use of drugs. I also acknowledge that should I receive a confirmed positive test result, or if I refuse to be tested or fail to report to the designated collection site without just cause, my offer of employment will be rescinded.

• \_\_\_\_\_ Applicant (Employee) for a Testing Designated Position

As an individual who has received a conditional offer of employment, I am aware that my appointment is conditional upon the test results of the screen for the illegal use of drugs. I also acknowledge that a confirmed positive test will result in a referral to an education, rehabilitation or treatment program, and/or disciplinary action in accordance with the Superior Court of Guam Personnel Rules and Regulations. If I refuse to be tested, or fail to report to the collection site without just cause, my conditional offer of employment will be rescinded. An individual on initial probational status receiving a confirmed positive test result will not be eligible for referral to an education, rehabilitation or treatment program and will be subject to immediate dismissal.

• \_\_\_\_\_ Employee (Non-Testing Designated Position)

I am aware that I may be required to undergo a test to screen for the illegal use of drugs and the abuse of alcohol based upon "reasonable suspicion", "critical incident", or "follow-up testing", and that I will be informed prior to the screen for the illegal use of drugs or abuse of alcohol. I also acknowledge that if I receive a confirmed positive test result, I will be referred to an education, rehabilitation or treatment program and subject to disciplinary action in accordance with the Superior Court of Guam Personnel Rules and Regulations. Refusal to be tested will also result in disciplinary action. An individual on initial probational status receiving a confirmed positive test result will not be eligible for referral to an education, rehabilitation or treatment program and will be subject to immediate dismissal.

Superior Court of Guam  
Drug Free Workplace Policy  
Affirmation of Policy Form

• \_\_\_\_\_ Employee (Testing Designated Position)

I am aware that I may be required to undergo a test to screen for the illegal use of drugs and the abuse of alcohol based upon "random testing", "reasonable suspicion", "critical incident" or "follow-up testing", and that I will be informed prior to the screen for the illegal use of drugs and/or the abuse of alcohol. I also acknowledge that a confirmed positive test result will result in a referral to an education, rehabilitation or treatment program, and/or disciplinary action in accordance with the Superior Court of Guam Personnel Rules and Regulations. I also acknowledge that if I refuse to be tested, I will be subject to disciplinary action in accordance with the Superior Court of Guam Personnel Rules and Regulations. An individual on initial probational status receiving a confirmed positive test result will not be eligible for referral to an education, rehabilitation or treatment program and will be subject to immediate dismissal.

• \_\_\_\_\_ Employee (Voluntary Testing)

As an employee volunteering to participate in an unannounced random testing, I acknowledge that if I receive a confirmed positive test result, I will be referred to an education, rehabilitation or treatment program and/or subject to disciplinary action in accordance with the Superior Court of Guam Personnel Rules and Regulations. An individual on initial probational status receiving a confirmed positive test result will not be eligible for referral to an education, rehabilitation or treatment program and will be subject to immediate dismissal. I am also aware that my name shall remain in the testing designated positions pool and that I may withdraw my participation at any time by notifying the Human Resources Administrator.

Name: \_\_\_\_\_  
(Print Name)

Division: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resources Division Representative

\_\_\_\_\_  
Date

Original: Employee's Confidential File  
Copy: Employee/Applicant

# Superior Court of Guam

## Agreement and Acknowledgment Form

As an applicant or an employee of the Superior Court of Guam, I hereby agree and acknowledge that I am scheduled to undergo a urinalysis to screen for the illegal use of drugs or abuse of alcohol.

The drug and/or alcohol screen test will involve an analysis of a urine sample which I will provide at a designated collection site. The purpose of this test is to screen for the presence of the following substances: marijuana, cocaine, opiates, phencyclidine, amphetamines/methamphetamine, barbiturates, or alcohol. I understand that the test results will be made available to the Superior Court of Guam contracted Medical Review Officer for review and certification. The Medical Review Officer will report the results to the Administrative Director or Human Resources Administrator.

As an applicant given a conditional offer of employment, I am aware that should I fail to report to the designated collection site without just cause or receive a confirmed positive test result, the offer of employment will be rescinded.

As an employee, I am aware that I will be referred to an education, rehabilitation or treatment program and subject to disciplinary action should I receive a confirmed positive test result. If I refuse to undergo treatment or fail to successfully complete the recommended treatment program, I am aware that I will be subject to disciplinary action(s) in accordance with the Personnel Rules and Regulations for the Superior Court of Guam. I am also aware that should I receive a second confirmed positive test result, I will be subject to disciplinary action up to dismissal. An individual on initial probational appointment status receiving a confirmed positive test result will not be eligible for referral to an education, rehabilitation or treatment program and will be subject to immediate dismissal.

**Superior Court of Guam  
Drug Free Workplace Policy  
Agreement and Acknowledgment Form**

**I will present a copy of this form to the designated collection site when I report for my  
scheduled drug and/or alcohol screen.**

**Name:** \_\_\_\_\_  
**Print**

**Social Security Number :** \_\_\_\_\_

**Division/Section:** \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Human Resources Representative**

\_\_\_\_\_  
**Date**

**Original: Confidential File  
1<sup>st</sup> Copy: Collection Site  
2<sup>nd</sup> Copy: Applicant/Employee**

# Superior Court of Guam

## Medical Information Form

I hereby agree to have a specimen of my urine submitted and I understand that it will be used for analysis by the Superior Court's contracted laboratory. The result of the test on my specimen will be made available to the Medical Review Officer and the Superior Court of Guam to be used for employment, evaluation or referral for education, treatment or rehabilitation. I hereby release all physicians, medical facilities, testing facilities, clinics, and the Superior Court of Guam, its employees and officers, from any and all liability whatsoever arising from the release of the information discovered from my test. All information listed and given is strictly confidential.

Social Security Number: \_\_\_\_\_

Name: \_\_\_\_\_

Please circle one:            Male            Female

Date of Birth: \_\_\_\_\_

### *CONFIDENTIAL*

Have you taken any over-the-counter or prescription medication in the last 48 hours? Yes/No

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Medication: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Medication: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Medication: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Medication: \_\_\_\_\_

I hereby certify the above statement is accurate and true to the best of my knowledge.

\_\_\_\_\_  
Signature of Applicant or Employee

Date: \_\_\_\_\_

Sample obtained by: \_\_\_\_\_

Signature of Technologist  
or Laboratory Personnel: \_\_\_\_\_

Date: \_\_\_\_\_

Drug Free Workplace Policy Form - DFW - MIF #003



# Superior Court of Guam Access to Record Form

As an applicant or employee of the Superior Court of Guam, I request access to my drug screening test or all of my records pertaining to the Drug Free Workplace Policy. I understand that by requesting access to these records, I hereby release the Superior Court of Guam from any and all liability regarding the confidentiality of these records.

Name of Applicant or Employee: \_\_\_\_\_

Division/Section: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

\_\_\_\_\_  
Signature Date

Subscribed and sworn to before me this \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My appointment expires: \_\_\_\_\_

- Original: Human Resources Administrator
- 1<sup>st</sup> Copy: Employee/Applicant
- 2<sup>nd</sup> Copy: Medical Review Officer
- 3<sup>rd</sup> Copy: Treatment Facility



# Superior Court of Guam

## Agreement to Participate in an Education, Rehabilitation or Treatment Program

### *Part A*

Participation in an education, rehabilitation or treatment program is offered to you as an alternative to the following disciplinary action(s):

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### *Part B*

If you agree to participate, cooperate, make satisfactory progress in , and complete the recommended program which may include illegal drug or alcohol analysis testing, the disciplinary action above will not be taken.

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Superior Court of Guam  
Drug Free Workplace Policy  
Agreement to Participate in an Education, Rehabilitation or Treatment Program

**Part C**

Your signature below signifies your agreement to participate and complete an education, rehabilitation, or treatment program. Refusal to sign this agreement or failure to successfully complete an education, rehabilitation or treatment program will result in the disciplinary action indicated in *Part A* above.

Name: \_\_\_\_\_  
(Print)

Division/Section: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resources Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrative Director of the Court

\_\_\_\_\_  
Date

Original: Employee's Confidential File  
1<sup>st</sup> Copy: Employee

(Confidential)

## CONSENT FOR RELEASE OF INFORMATION

As an employee referred to an education, rehabilitation or treatment program, I hereby authorize the release of any and all information regarding my referral to the following individuals:

**SIGNATURE AND DATE:**

Your signature allows us to release to, or obtain information from the following individuals:

1. Administrative Director \_\_\_\_\_
2. Human Resources Administrator \_\_\_\_\_
3. Medical Review Officer \_\_\_\_\_

\_\_\_\_\_  
Employee's Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

Consent to be canceled on: \_\_\_\_\_  
Date

\_\_\_\_\_  
Initials of Employee

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date



# SUPERIOR COURT OF GUAM EDUCATION, REHABILITATION OR TREATMENT VERIFICATION FORM

(Confidential)

This certifies that the employee participated in a drug and/or alcohol evaluation and was recommended for an education, rehabilitation or treatment program in accordance with the Superior Court of Guam's Drug Free Workplace Policy.

Name of Employee: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Check appropriately to designate the employee's status at the end of their program participation.

1. \_\_\_\_\_ The employee successfully completed the recommended program. Determination is based on clinical evidence contained in our records that the individual is free of illegal use of drugs or abuse of alcohol.
2. \_\_\_\_\_ The employee failed to successfully complete the recommended program. Determination is based on:
- (a) \_\_\_\_\_ failure by the individual to participate; and/or
- (b) \_\_\_\_\_ clinical evidence contained in our records that the individual is not free of the use of illegal drugs or abuse of alcohol.

Clinical evidence includes a drug screening test result.

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

Comments: \_\_\_\_\_  
\_\_\_\_\_

Name of Treatment Facility: \_\_\_\_\_

\_\_\_\_\_  
Signature                      Date  
(Treatment Facility Authorized Representative)

\_\_\_\_\_  
Signature of Employee                      Date

\_\_\_\_\_  
Human Resources Administrator Signature                      Date

Original:            Human Resources Administrator            2<sup>nd</sup> Copy:    Treatment Facility  
1<sup>st</sup> Copy:            Employee

Drug Free Workplace Policy Form - DFW - ERTV #007



# SUPERIOR COURT OF GUAM DRUG FREE WORKPLACE POLICY

## *SELF REFERRAL LETTER*

NAME: \_\_\_\_\_ SS#: \_\_\_\_\_

As an employee of the Superior Court of Guam, I acknowledge that I am an illegal user of drugs and/or abuser of alcohol and I hereby submit this Self Referral Letter requesting for "Safe Harbor".

I have not been asked to provide a urine sample nor have I received a confirmed positive test result in accordance with the Drug Free Workplace Policy. I understand that by requesting for "Safe Harbor" the Superior Court of Guam will not initiate any disciplinary action against me provided:

1. I participate and successfully complete an education, rehabilitation or treatment program.
2. I agree to be tested as part of or as follow-up to counseling and rehabilitation.
3. I refrain from illegally using drugs or abusing alcohol.
4. I consent in writing, to release all counseling and rehabilitation records related to the illegal use of drugs or the abuse of alcohol to the Administrative Director or Human Resources Administrator.

In addition, I understand that if I do not fully participate in the rehabilitation program as recommended, or subsequently test positive for the illegal use of drugs or the abuse of alcohol, I will be subject to disciplinary action up to dismissal.

**"I certify that I have read the foregoing requirements in my self referral letter and by virtue of my signature duly noted below agree to comply accordingly."**

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

