

 <p style="text-align: center;">Massachusetts Department Of Correction</p> <h1 style="text-align: center;">POLICY</h1>	Effective Date	Responsible Division Deputy Commissioner, Administration
	8/1/2021	
	Annual Review Date	
	8/1/2021	
Policy Name	M.G.L. Reference: M.G.L., c. 124, Section 1 (c) and (q).	
103 DOC 240 EMPLOYEE DRUG TESTING/SCREENING	DOC Policy Reference:	
	ACA/PREA Standards: 5-ACI-1C-16	
	Applicability: All Bargaining Unit 4 Massachusetts Correction Officers Federated Union (MCOFU) and Unit 4A New England Police Benevolent Association (NEPBA) Employees. In addition, all Unit 2 employees within their nine (9) month probationary period, as well as those that continue to be bound by the policy because they tested positive for drug use during their probationary period.	
Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Inmate Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Location: Department's Central Policy File Each Institution's Policy File Department's Personnel Policy Manual	
<p>PURPOSE: To establish Department of Correction ("Department") policy concerning the drug testing/screening of certain Department employees, to ensure a drug-free work environment. NOTE: Unit 7 employees at the Massachusetts Treatment Center are subject to a separate Drug Testing/Screening procedure based on reasonable suspicion which is contained in the Collective Bargaining Agreement between the Commonwealth of Massachusetts and the Massachusetts Nurses Association.</p> <p>RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY: Director of Employee Relations Assistant Deputy Commissioner's of the Northern and Southern Sector Superintendents and Division Heads</p> <p>CANCELLATION: 103 DOC 240 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules or regulations regarding employee drug testing/screening which are not consistent with this policy.</p> <p>SEVERABILITY CLAUSE: If any part of 103 DOC 240 is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.</p>		

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DRUG TESTING/SCREENING DEFINITIONS

1. Chain of Custody - procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.
2. Collection Area - that specific area of a collection site which has been designated by the Deputy Commissioner of Field Services as the area in which employee urine specimens shall be taken.
3. Collection Official - a qualified physician designated by the Department who administers the urine testing of employees.
4. Collection Site - the site designated by the Deputy Commissioner of Administration as the site at which employee urine specimens shall be taken.
5. Collection Supervisor - the individual designated by the Commissioner as the person responsible for overseeing the process of collection and testing of employee urine specimens throughout the Department.
6. Confirmatory Test - a second test of an initial screening of a urine specimen performed off-site by a second independent laboratory using the analytical process of gas chromatography/mass spectrometry for drugs of abuse.
7. Initial Test - a gas chromatography/mass spectrometry test of a urine sample completed by an off-site, independent laboratory to determine the presence of drugs which, if found to be positive, shall be followed up with a confirmatory test.
8. Probable Cause - there must be facts and circumstances sufficient to warrant a prudent person's belief that an employee more probably than not has used illegal drugs.
9. Reasonable Suspicion - there must be specific and articulable facts sufficient for a prudent person to believe that an employee has used illegal drugs.
10. Storage Refrigerator - a secure refrigerator in which urine specimens are maintained after being collected until such time as they are tested.

240.02

GENERAL PROCEDURES

All Unit 2 employees within their nine (9) month probationary period from initial hire shall be subject to random drug testing. Such testing shall be done during an employee's regularly scheduled shift.

Whenever, in the opinion of a superintendent/division head or his/her/their designee, probable cause (in the case of a Unit 4 or Unit 4A employee) or reasonable suspicion in the case of a probationary Unit 2 employee exists to believe that an employee has used or is using an illegal drug, and upon the approval of the Commissioner or Deputy Commissioner of Field Services, said employee shall be subject to drug testing/screening as outlined in this policy statement.

240.03

SUPERINTENDENT/DIVISION HEAD RESPONSIBILITIES

When a superintendent/division head believes that an employee has used or is using an illegal drug, he/she/they shall present to the Commissioner and/or Deputy Commissioner of Field Services the grounds for probable cause (in the case of a Unit 4 or Unit 4A employee) or reasonable suspicion in the case of a probationary Unit 2 employee. Upon the approval of the Commissioner or Deputy Commissioner of Field Services to conduct a drug test/screen on an employee, the superintendent/division head and/or his/her/their designee shall:

1. Advise the employee of his/her/their right to union representation;
2. Advise the employee that he/she/they is believed to have used or be using an illegal drug, and ask the employee to submit to a drug test. The issues of probable cause or reasonable suspicion leading to the decision to have the employee submit to a drug test shall be explained to the employee;
3. If the employee refuses to submit to a drug test, the employee shall be detached with pay pending appropriate administrative action;
4. If the employee agrees to submit to a drug test, contact:
 - a. Health Service Unit during business hours, and health service duty officer via the Department Duty Station during non-business hours to dispatch a contractual medical care provider physician to the designated site;
 - b. The Chief of Internal Affairs Unit to coordinate the dispatch of the Commissioner's designee, i.e., collection supervisor, to the site where the urine sample is to be taken;

5. Identify an area on-site to obtain the urine specimen that affords the employee providing same appropriate privacy and confidentiality.

240.04

COLLECTION PROCEDURES

1. Pre-collection activities:

Prior to the employee providing the urine sample, the collection supervisor shall:

- a. Ensure that the collection site is clean, well-lighted, and dedicated solely to urine testing during the collection process. A toilet stall of a rest room is a preferred location;
- b. Ensure that all required materials, personnel and supervision are available;
- c. Place toilet bluing agent in toilet bowl, and also in tank if there is a toilet and tank at the site being utilized, and ensure no other source of water is available in the enclosure where urination occurs;
- d. Request photo identification from employee providing the sample, e.g., Department, identification card.
- e. Ensure employee providing sample removes all unnecessary outer garments, e.g., coat, hat;
- f. Ensure employee providing sample leaves personal belongings, e.g., purse, briefcase, outside the collection area;
- g. Ensure employee providing the sample washes and dries his/her/their hands prior to providing the sample, and conduct a visual inspection under the employee's fingernails for any foreign materials;
- h. Provide the employee with the urine sample collection bottle;
- i. Introduce employee providing the sample to the physician who will collect specimen.

2. Collection Activities:

The Deputy Commissioner of Field Services or designee shall designate a qualified physician of the same gender as the sample provider, if possible, to collect the urine sample. The collection official shall be the only

individual who enters the collection area with the employee providing the sample. The collector shall:

- a. Ensure the employee providing the sample understands that he/she/they shall be under direct observation throughout the collection;
- b. Position himself/herself/their self in such a manner as to verify that the specimen passes directly from the employee's body into the specimen bottle;

NOTE: The observation of an individual urinating is highly sensitive and no information concerning this event shall be released except that it was performed. Notwithstanding, any attempt by the employee to adulterate or tamper with the specimen shall be reported to the collection supervisor.

- c. Take possession of the urine sample from the employee.
- d. Keep specimen in view of employee at all times prior to its being sealed and labeled;
- e. Ensure sixty (60) ml of urine is collected in the specimen bottle. If the employee provides less than the sixty (60) ml, the collector maintains custody of the incomplete specimen in full view of the employee, additional urine is collected in a separate bottle, and the partial specimens are combined in one container at the end of collection;
- f. Measure temperature of the specimen utilizing a liquid crystal and/or digital thermometer as provided by the collection supervisor;

NOTE: Acceptable range is 90.5 - 99.8 degrees Fahrenheit, and measurement must take place within four (4) minutes of the urination to secure a good reading.

- g. Inspect the specimen's color and look for any signs of contaminants;
- h. Place tamper proof seal over the specimen bottle's cap and submit to collection supervisor;
- i. Sign the Permanent Record Book (Attachment #1) in the space provided as official collector of the urine specimen.

3. Post-collection activities:

The collection supervisor, now in possession of the urine specimen, shall keep the specimen in full view of the employee who provided same, and shall:

- a. Label the urine specimen entering all information identifying the specimen on the bottle, to include:
 - i. Date
 - ii. Collector's initials
 - iii. Test type requested (See Attachment #1)
 - iv. Specimen number
 - v. Initials of person providing urine;
- b. Ensure that the lid to bottle has been sealed by the collector (make sure seal has been attached to cap and bottle side);
- c. Place specimen bottle in self-sealing plastic bag, and ensure that bag is sealed;
- d. Enter all information identifying the specimen as noted on bottle in the Permanent Record Log (Attachment #1) and initial this entry;
- e. Ensure employee providing the specimen signs the Permanent Record Book (Attachment #1) certifying that the specimen identified as having been collected from him/her is, in fact, that specimen he/she/they provided;
- f. Complete the Urinalysis Chain of Custody Form (Attachment #2) and secure urine specimen in the secured refrigerator for employee urine at the Central Office Internal Affairs Unit or at each facility in the designated area of the IPS office, until picked up by outside lab;
- g. Contact the designated outside lab and arrange for the immediate pick-up of specimen (within twenty-four (24) hours), ensuring that the chain of evidence form is maintained when transferring the sample to the lab courier;
- h. Ask employee providing urine specimen if they are currently on any prescribed medications. A positive response shall be verified and documented in the permanent log. The information recorded shall include the type of medication, dosage and frequency taken.

240.05

DRUG TESTING/SCREENING PROCEDURES

1. The initial testing of employee urine shall be by the gas chromatography/mass spectrometry test.
2. The lab performing the initial screen shall be required to contact the Department collection supervisor with the results of same as soon as they are known.
3. The collection supervisor shall record the results in the Permanent Record Book (Attachment #1) and, if the results are positive, shall direct the lab to forward the specimen to a second lab, as designated by the Department, where a second confirming gas chromatography/mass spectrometry test is conducted. The chain of evidence form shall accompany the urine specimen and be maintained at all times.
4. Upon confirmation of the second test, the clinical director and/or his/her/their designee of the second lab shall call the collection supervisor with the results as soon as they are available, and mail the completed chain of evidence form with a written copy of the results.
5. The collection supervisor shall record all results in the Permanent Record Book (Attachment #1), and notify the Deputy Commissioner of Field Services office of same.

240.06

PROGRAM COST

The Department shall assume responsibility for all costs related to this drug testing/screening program.

240.07

DISCIPLINARY ACTIONS

1. An employee who refuses to be tested shall be detached with pay pending appropriate administrative action.
2. If an employee agrees to testing and the results of both tests (initial and confirmation) prove positive, the employee shall be relieved of duty and placed on sick or vacation pay pending completion of a Department approved drug rehabilitation program. Termination proceedings shall be initiated should the employee refuse to participate in such a program.
3. Upon the return to duty of a Unit 4 or 4A employee who successfully completes a drug rehabilitation program, the employee shall be subject to drug testing based on probable cause for a period of two (2) years during

which time if the employee tests positive for drug use, he/she/they shall be subject to termination. Any employee refusing to be tested during this two (2) year period when requested to by his/her/their superintendent/division head or management designee, based on probable cause, shall be terminated.

4. Upon return to duty of a Unit 2 employee who successfully completed the drug rehabilitation program, the employee shall be subject to drug testing based on reasonable suspicion for a period of two (2) years, during which time if the employee tests positive for drug use, he/she/they shall be subject to termination. Any employee refusing to be administered a drug test during this two (2) year period when requested to by the Appointing Authority or his/her/their designee, based on reasonable suspicion, shall be terminated.

PERMANENT RECORD BOOK

Attachment #1

COLLECTION DATE/TIME	TESTED EMPLOYEE'S NAME	ID VERIFIED (YES/NO)	SPECIMEN NUMBER	TEST TYPE	TEMP OF SPECIMEN	COMMENTS RE: COLLECTION	COLLECTOR'S NAME (PRINT & SIGN)	EMPLOYEE TESTED (PRINT & SIGN)	COLLECT'N SUPERVISOR INITIALS	INITIAL TEST RESULTS/ DATE	CONFIR-MATION TEST RESULTS/DATE
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TEST TYPES:

1 = DRUGS OF ABUSE PANEL

(Opiates, Benzodiazepines, cocaine, barbiturates)

2 = CANNABINOIDS (marijuana)

3 = OTHER

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION**

URINALYSIS CHAIN OF CUSTODY FORM

SAMPLE NUMBER:			
TEST(S):			
DATE	RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE/REMARKS
	<u>Signature:</u> name:	<u>signature:</u> name:	
	<u>Signature:</u> name:	<u>signature:</u> name:	
	<u>Signature:</u> name:	<u>signature:</u> name:	
	<u>Signature:</u> name:	<u>signature:</u> name:	
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