

22.6 Mandatory Drug Testing

I. INTRODUCTION

The Oneida County Sheriff's Office and the Oneida Sheriff's Department Employees Local 1249, Council 82, AFSCME, AFL-CIO recognize the importance of a safe, efficient, and healthy work environment for all employees of the bargaining unit. To ensure the integrity of the Sheriff's Office and its employees and to preserve public trust and confidence in a law enforcement agency and profession free from illegal drug use, the following random testing program is hereby implemented.

II. DEFINITIONS

DRUG TEST. The compulsory production and submission of urine by an employee for chemical analysis to detect prohibited usage of illegal drugs.

III. PROCEDURES/RULES

A. PROHIBITED ACTIVITY. The following rules shall apply to all employees employed in the Corrections, Civil, and Court Divisions of the Oneida County Sheriff's Office while on or off duty:

1. No employee shall possess any illegal drugs.
2. No employee shall ingest any illegal drugs.
3. Any employee who unintentionally breathes, ingests, or is made to ingest an illegal drug shall immediately report the incident to the Sheriff so that appropriate medical steps may be taken to ensure the employee's health and safety.
4. No employee shall report for duty while under the influence of any illegal drug.
5. While on duty, no employee shall use or be under the influence of any illegal drug.

B. EMPLOYEE DRUG TESTING. All employees in the Corrections, Civil, and Court Divisions of the Sheriff's Department will be required to take random drug tests for illegal drugs use, as provided below:

1. Employees shall be uniformly tested during any unannounced, mandatory mass (department-wide) or mandatory individual or

group (by employee number) random drug testing required by the Sheriff's Office. A minimum of twenty percent (20%) of employees shall be tested each year. The Sheriff shall determine the frequency, departments, shifts and timing of such tests. Upon request, Local 1249 will be provided with a copy of the random selection lists after testing has been completed. No employee shall refuse to submit to a drug test required by this policy.

2. An employee will be deemed to have refused to submit to a drug test if he/she fails to appear for any drug test, fails to remain at the drug testing site after directed to do so, fails to provide an adequate urine sample, fails to take a second or third drug test, or fails in any way to cooperate in the drug testing process.

C. DRUG-TESTING PROCEDURES. The testing procedures and safeguards provided herein to ensure the integrity of Sheriff's Office drug-testing shall be adhered to by any personnel administering drug tests:

1. Personnel authorized to administer drug tests shall require positive identification from each employee to be tested before they enter the testing area.
2. The bathroom facility of the testing area shall be private and secure. Authorized testing personnel shall search the facility before an employee enters it to produce a urine sample, and document that it is free of any foreign substances.
3. Testing personnel of the same sex as the employee shall be present and observe production of the urine sample.
4. Where the employee is unable or unwilling to give a specimen at the time of the test, testing personnel shall document the circumstances on the drug-test report form. The employee shall be permitted no more than three (3) hours to give a sample, during which time said employee shall remain in the testing area, under observation. Reasonable amounts of water may be given to the employee to encourage urination. Failure to submit a sample shall be considered a refusal to submit to a drug-test.
5. Whenever there is a reason to believe that the employee may have altered or substituted the specimen to be provided, a second specimen shall be obtained immediately, under direct observation of the testing personnel.

6. Specimen samples shall be sealed, labeled and checked against the identity of the employee to ensure the results match the tested specimen. Samples shall be stored in a secured and refrigerated atmosphere until tested or delivered to the testing lab representative.
7. The results of each and every test performed hereunder shall be provided to the Sheriff and the Commissioner of Personnel. The chain of custody documentation for each test shall be provided to and maintained by the Sheriff, with a copy to the Commissioner of Personnel.
8. An employee's urine sample shall be split and stored in case of legal disputes. The urine samples must be provided at the same time and marked and placed in identical specimen containers by authorized testing personnel. One sample shall be submitted for immediate drug-testing. The other sample shall be secured in frozen storage. If the results of the original test are positive, the employee may within ten (10) calendar days of the employee's written notification of the positive test, at his/her own cost, elect to have the remaining specimen tested by a laboratory of his/her choice licensed by Section Five Hundred Seventy-Five (575) of the New York State Public Health Law for testing by Gas Chromatography, with mass spectrometry or an equivalent scientifically accepted method.
9. In the event that the employee does not request to have the remaining specimen tested, the positive result shall be deemed final on the eleventh (11th) calendar day, and the County and the Sheriff shall proceed with the Consequences pursuant to Section 3.7 herein below.
10. In the event that the employee requests a second drug test, and the same is returned with a positive result, the positive result shall be deemed final upon written notification of the same to the employee, and the County and the Sheriff shall proceed with the Consequences pursuant to Section 3.7 herein below.
11. In the event that the employee requests a second drug test and the same is returned with negative results, the employee shall be notified in writing and the Commissioner of Personnel shall immediately arrange for a third drug test, the result of which shall be final, to be administered by a drug testing company licensed under Section 575 of the New York State Public Health Law and not employed in the first two tests to administer the third test.

12. If the third test is returned with a positive result, the positive result shall be deemed final upon written notification of the same to the employee, and the County and the Sheriff shall proceed with the Consequences pursuant to Section 3.7 herein below.

13. If the results of the third test are negative, the employee shall be reimbursed for his/her out of pocket cost of the second test.

D. CHAIN OF CUSTODY. Each step in the collection and processing of the urine specimens shall be documented to establish procedural integrity and the chain of custody specific procedures may be promulgated by the Sheriff to ensure compliance. Where a positive result is confirmed, urine specimens shall be maintained in secured, frozen storage for an indefinite period determined by the date of final disposition and statute of limitations for appeal if applicable.

E. TESTING. The urine sample first shall be tested using the initial drug screening procedure. An initial positive test result will not be considered conclusive; rather, it will be classified as “confirmation pending” until the final confirmation test results are obtained.

1. A standard 5-panel drug screening test for illegal drugs use shall be used to check for the use of amphetamines, THC, cocaine, opiates, and phencyclidine. Personnel utilized for conducting the testing will be certified as qualified to collect urine samples or adequately trained in collection procedures. Concentrations of a drug at or above the following levels shall be considered a positive test result when using the initial drug screening test:

INITIAL TEST
LEVEL (ng/ml)

Marijuana metabolite	50
Cocaine metabolite	300
Opiate metabolites	2000
Phencyclidine	25
Amphetamines	1000

2. Concentration of a drug at or above the following levels shall be considered a positive test result when performing a

confirmatory GC/MS test on a urine specimen that tested positive using a technologically different initial screening method:

CONFIRMATORY
TEST LEVEL (ng/ml)

Marijuana metabolite 15 (1)

Cocaine metabolite 150 (2)

Opiates

Morphine 2000

Codeine 2000

Phencyclidine 25

Amphetamines

Amphetamine 500

(1).....Delta-9-tetrahydrocannabinol-9-carboxylic acid

(2),.....Benzoyllecgonine

F. DRUG-TEST RESULTS. An employee having negative drug test results shall receive a letter stating that no illegal drugs were found. If the employee requests such, a copy of the letter will be placed in the employee's personnel file.

1. All records pertaining to required drug tests shall remain confidential, and shall not be provided to other employers or agencies without the written permission of the person whose records are sought.
2. Any employee who breaches the confidentiality of testing information shall be subject to discipline up to and including discharge.
3. Drug test results and records shall be stored and retained in compliance with state law, or for an indefinite period in a secured area where there is no applicable state law.

G. CONSEQUENCES. Any bargaining unit employee who tests positive for the use of illegal drugs and fails to produce a valid medical prescription for the same with forty-eight (48) hours of notification of a positive result and/or fails to comply with the foregoing procedures and rules shall be

required to: (1) undergo an evaluation by the County's substance abuse professional; (2) begin, comply with, and complete a treatment process as recommended by the County's substance abuse professional; (3) enter into a return-to-work agreement to include a follow-up testing protocol recommended by the County's substance abuse professional; and (4) be cleared to return to duty by the County's substance abuse professional. The Oneida County Employee Assistance Program will be available to all employees. Any bargaining unit employee who tests positive for the use of illegal drugs a second time and fails to produce a valid medical prescription for the same with forty-eight (48) hours of notification of a positive result and/or fails to comply with the foregoing procedures and rules shall be terminated in accordance with the collective bargaining agreement's disciplinary procedures.

- H. REVIEW. Any claimed violation, misinterpretation, or inequitable application of this policy and procedure be may be grieved in accordance with the collective bargaining agreement's grievance procedures.