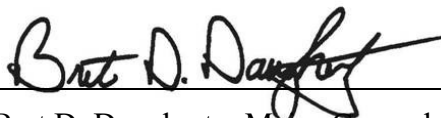




## Department Policy No. HR-201-08

<b>Title:</b>	Ensuring a Drug and Alcohol Free Workplace
<b>Former Number:</b>	Procedures HR-201a-08, HR-201b-08, HR-201c-08, and HR-201d-08
<b>Authorizing Source:</b>	WAC <a href="#">296-800-11025</a> ; <a href="#">357-040</a> Federal Drug-Free Workplace Act of 1988 <a href="#">RCW 69.50</a> & <a href="#">46.25</a> <a href="#">Executive Order 92-01</a> Applicable Collective Bargaining Agreements
<b>References:</b>	<a href="#">WMD Form 2037-17</a> , Written Statement of Specific Objective Grounds for Reasonable Suspicion Testing <a href="#">WMD Form 2038-17</a> , Reasonable Suspicion Supervisor's Observations
<b>Information Contact:</b>	Human Resources Director Building # 33 (253) 512-7940
<b>Effective Date:</b>	October 1, 2008
<b>Mandatory Review Date:</b>	September 13, 2021
<b>Revised:</b>	September 13, 2017
<b>Approved By:</b>	 Bret D. Daugherty, Major General The Adjutant General Washington Military Department Director

### Purpose

The Washington Military Department (WMD) seeks to promote a safe, efficient, and productive work environment and protect the health and safety of its employees and those citizens who come into contact with them. This policy establishes the rules and standards of employee conduct toward the use of, and impairment by, alcohol and other drugs in the WMD workplace.

### Scope

This policy applies to all state employees of the WMD. This policy does not apply to federal personnel to include Active Guard and Reserves (AGRs) and traditional guardsmen in a federal military status or military technicians.

## **Policy**

### **A. General Rules for All WMD Employees**

1. Must report to work in a professional manner in a condition fit to perform their assignments unimpaired by alcohol or drugs.
2. Employees are responsible for consulting their physician and/or pharmacist as to any limits on their ability to perform the duties of their position as a result of taking physician prescribed drugs or medical marijuana. Employees shall report any such limitations to their supervisor or other designated official before resuming their official work duties.
3. The use or possession of marijuana while on duty, during work hours which include lunch breaks and rest periods, or in stand by status, by an employee is prohibited in state vehicles, on agency premises, or other governmental or private worksites where employees are assigned to conduct official state business.
4. The unlawful use, possession, delivery, dispensation, distribution, manufacture or sale of drugs in state vehicles or agency premises or on official business is prohibited.
5. May not use or possess alcohol while on duty, during work hours which include lunch breaks and rest periods, or in standby status, in state vehicles or on WMD premises or other government or private worksites where employees are assigned to conduct official state business.
6. An employee must remove themselves from performing any safety-sensitive function (as described in the definitions section) and report the situation to their supervisor if they are experiencing any impairment from prescription or non-prescription medicines or if there is the potential for impairment.
7. An employee shall not perform safety sensitive functions within four (4) hours after using alcohol.
8. Any employee charged with or convicted of a controlled substance statute violation, or charged with Driving Under the Influence (DUI), must notify his/her Assistant Director or Director within 48 hours of the conviction.
9. Any employee arrested for DUI while driving during the course of state business for a controlled substance statute violation or DUI must notify his/her Assistant Director or Director and the HR Director immediately or as soon as reasonably possible.
10. An employee must notify their supervisor immediately or as soon as reasonably possible that their driver's license is suspended, revoked, or canceled.

11. No employee shall refuse to submit to a post-accident or reasonable suspicion test.
12. An employee required to take a post-accident alcohol test under this policy shall not use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
13. Employees who violate this policy may be subject to disciplinary action up to and including dismissal from employment.
14. The WMD Human Resources (HR) Office provides information to all employees on a drug and alcohol free workplace program.
15. WMD encourages employees to voluntarily seek treatment for drug and alcohol abuse. Employees may seek confidential, professional help with personal or work-related problems through the [Employee Assistance Program](#) (EAP). There is no charge for assessment or assistance. EAP services are available statewide.

#### **B. Employees Subject to Drug and Alcohol Testing**

1. Pre-Employment Testing: All Security Guards, and Washington Youth Academy staff who have regularly scheduled unsupervised access to or regular interactions with Washington Youth Academy (WYA) Cadets.
2. Post-Accident Testing: All employees who perform safety-sensitive functions, including those where an employee is issued a firearm, operates motorized equipment, drives a vehicle during the course of state business, handles hazardous substances, dispenses medications or transports clients or students.
3. Reasonable Suspicion Testing: All employees who perform safety-sensitive functions, including those where an employee is issued a firearm, operates motorized equipment, drives a vehicle during the course of state business, handles hazardous substances, dispenses medications or transports clients or students.
4. Random Testing: All Security Guards are subject to quarterly random drug testing.

#### **C. General Provisions for Drug and Alcohol Testing**

Employees subject to drug testing who refuse to comply with a request for an alcohol or controlled substance test are in violation of this policy. Refusing to comply with a request for testing of alcohol or controlled substances will be documented as a refusal and treated as a positive test result for a controlled substance and/or an alcohol test.

Refusing to comply includes providing false information about a test, attempting to falsify test results through tampering, contamination, adulteration, or substitution. Refusal to comply may include an inability to provide a specimen or breath sample

without a valid medical reason or failure to proceed immediately to the collection site designated by WMD.

#### **D. Consequences of a Positive Alcohol or Drug Test**

WMD employees subject to testing under this policy who have a positive alcohol and/or a positive controlled substance test may be subject to disciplinary action, up to and including dismissal, based on the incident that prompted the testing. If testing comes back with positive results, the employee will be relieved from all duties. It is the responsibility of the employee to make arrangements for safe transport to his/her residence.

#### **E. Payment and Other Compensation for Testing**

WMD pays for alcohol and/or initial controlled substance testing. The Supervisor/Manager ensures candidates selected to fill covered positions undergo a pre-employment controlled substance test with a negative result prior to performing duties (also applies to current WMD employees who haven't previously performed said duties, or those returning to the job after a long absence).

WMD employees are considered on duty while traveling to and from and participating in drug and alcohol testing. If an employee's initial controlled substance test is positive, the employee may request the split sample be retested at WMD's expense. If the test result is positive, WMD will charge the employee for the cost of the split sample testing.

#### **F. Provisions for Receiving and Safeguarding Test Results**

Confidentiality and privacy will be maintained throughout all stages of the testing process including reporting of test results. All alcohol and controlled substance testing shall be done in accordance with procedures set forth by the U.S. Department of Health and Human Services (DHHS). All records involving drug and alcohol testing information will be maintained in the State Human Resources Office with controlled access.

#### **G. Employee Training Requirements**

1. All employees are expected to review and be familiar with this Policy.
2. Managers, supervisors, and lead workers must attend training to recognize drug and alcohol abuse to learn how to recognize behaviors that may indicate alcohol and/or controlled substances abuse.
3. Supervisors must notify HRC/Risk Manager of any changes to Washington Youth Academy Positions, Security Guard positions, or safety-sensitive staffing (i.e.,

hiring, terminations, transfers, etc.) through personnel paperwork to ensure records are accurate.

4. Employees performing safety sensitive functions must sign a training verification form for Drug and Alcohol Training and submit it to HR for recordkeeping purposes.

#### **H. Process for Dealing with Employees who are suspected to be Impaired by Drugs or Alcohol**

1. If reported or the supervisor notices that an employee is impaired or smells of drugs and/or alcohol, the supervisor should contact their Executive Management Team (EMT) member and the HR Office to notify them of what was observed.
2. After the notification occurs, the supervisor will work with the EMT member and the HR Office to determine who has the required documented training for detecting the signs/symptoms of probable alcohol or controlled substance use, and who will conduct the Reasonable Suspicion Supervisor's Observations check with the supervisor (if the supervisor is trained). The check must be conducted with two trained individuals. If two trained individuals are not available, contact the HR Office.
3. The supervisor (if trained) and other designated trained supervisor(s) will conduct the check and document the findings on the Reasonable Suspicion Supervisors Observations Form ([WMD Form 2038-17](#)).
4. The findings are then reported to the EMT member and the HR Office. If a reasonable suspicion of drug or alcohol use exists, the employee is to be removed from duty until a reasonable suspicion drug test is administered and a confirmed negative test result is received.
5. The supervisor coordinates drug/alcohol testing with HRC/Risk Manager or their designee. The test should be conducted within two (2) hours of observed behavior. The collection form will be sent with the employee, the HR Office or faxed it to the collection site.
6. The employee's supervisor, or another manager in the division if they are unavailable, transports the employee who appears to be impaired directly to the testing site.
7. The Supervisor prepares the written statement of specific objective grounds ([WMD Form 2037-17](#)) leading up to the reasonable suspicion test and submits it with the completed Reasonable Suspicion Supervisor's observation forms to the HR Office. If an alcohol test was not administered within 2 hours of the observation, the supervisor will cite the reason why it was not administered. The supervisor will hand deliver the report to HRC/Risk Manager or their designee within 24 hours or as soon as reasonably possible.

8. Except as provided above, supervisors are **not** to take any action against an employee based solely on the employee's behavior and appearance with respect to alcohol use, in the absence of an alcohol test.
9. The supervisor may not return the employee to the full scope of job duties if he/she refuses to submit to, or fails to have satisfactory result(s) on a return-to-duty test. Next steps will be determined by the EMT member working with the HR Office.

## **I. Contact for Additional Information or Questions**

Human Resource Director: 253-512-7940

Human Resource Office: 253-512-7942

## **Definitions**

**Accident:** An occurrence involving a state owned motor vehicle operating on a public road that results in: 1) a fatality; or 2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident and the driver receives a citation under state or local law; or 3) one or more motor vehicles incurring disabling damages as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle and the driver receives a citation under state or local law.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

**Alcohol Concentration (or content):** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Test (EBT).

**Alcohol Use:** The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

**Breath Alcohol Technician (BAT):** An individual who has undergone training equivalent to the National Highway Traffic Safety Administration's (NHTSA) model course. The BAT instructs and assists individuals in the alcohol testing process and operates an EBT approved by the NHTSA.

**Confirmation Test:** For alcohol testing: a confirmation test means a second test, following a screen test of 0.02 or greater, which provides quantitative data of alcohol concentration. For controlled substance testing: a confirmation test means a second analytical procedure on the primary sample to identify the presence of a specific drug or metabolite. The confirmation test is independent of the screen test and uses a different technique and chemical principle from that of the screen test to ensure reliability and accuracy.

**Contractor:** The firm retained by WMD to collect/transport/test samples collected, determine random testing, provide medical review officer services, report results to WMD, etc.

**Controlled Substances or Drugs (see RCW 69.50):** Amphetamines, barbiturates, cocaine, marijuana, methaqualone, opiates, phencyclidine (PCP) inhalants, hallucinogens, prescription drugs, and any other substance, legal or illegal, that impairs or tends to impair an employee's physical or mental ability to perform his or her duties in a safe and competent manner.

**Dilute Specimen:** A specimen with creatinine and specific gravity values which are lower than expected for human urine.

**Driver:** Any permanent, seasonal career, probationary, temporary or intermittent employee performing duties which requires possession of a current driver's license to operate a motor vehicle. For the purpose of pre-employment/pre-duty testing, the term Driver includes all prospective persons applying for positions with duties which require a valid driver's license.

**Evidential Breath Testing Device (EBT):** A breathalyzer device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath for the use of alcohol containing substances.

**Drug:** Any controlled substances, prescription or over the counter medications.

**Impaired:** Observable and documented deterioration in work-related performance due to the use of alcohol, any type of controlled substance or non-prescription drugs.

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**Objective Grounds:** Examples may include but are not be limited to:

1. Physical symptoms consistent with controlled substance and/or alcohol use;
2. Evidence or observation of controlled substance or alcohol use, possession, sale, or delivery; or
3. The occurrence of an accident(s) where a trained manager, supervisor or lead worker suspects controlled substance/alcohol use may have been a factor; or
4. Indications of the chronic use and withdrawal effects of controlled substances.

**Observed Collection:** Under normal circumstances the employee will be afforded complete privacy in the restroom for providing a urine sample. Certain situations do require the urine sample to be provided under same gender direct observation. When that occurs, the donor will be required to follow the observer's instructions, raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer

to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

**Pre-Employment Test:** A controlled substance test required prior to performance of Washington Youth Academy or Security Guard functions. This requirement also applies to current WMD employees who haven't previously performed safety-sensitive functions or those returning to safety-sensitive duties after a long absence.

**Reasonable Suspicion:** For all employees covered under this policy – A reason to suspect that alcohol or controlled substance usage may be adversely affecting the employee's job performance or that the employee may present a danger to the physical safety of the employee or others. Specific objective grounds must be stated in writing that support the reasonable suspicion. All employees subject to this policy are tested for: 1) Marijuana, 2) Opiates, 3) Cocaine, 4) Amphetamines, and 5) Phencyclidine (PCP). In addition, employees may be given an Evidential Breath Test (EBT).

**Safety-sensitive Employees:** Any employee who performs or may be subject to a call to perform safety-sensitive functions as defined in this policy.

**Safety-sensitive Functions/Duties:** Includes those where an employee is issued a firearm, operates motorized equipment, drives any vehicle (State, POV, Rental) during the course of state business, handles hazardous substances, dispenses medications or transports clients.

**Screening Test (initial test):** In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

**Split Sample or Split Specimen:** In drug testing, it means a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that split sample be tested following a verified positive test of the primary specimen or a verified adulterated or substitute test result.

**Under the Influence:** Under the influence means that an employee is exhibiting behavior and/or has a physical appearance and/or odor leading supervisory staff to believe that the employee is impaired due to the use of alcohol, any controlled substance, or non-prescription drugs.

**Washington Youth Academy Staff** – Any WMD state employee, who by the nature of their employment with the Youth Academy, have regularly scheduled or unscheduled access to and interaction with cadets in an educational, residential, office, or community setting.