

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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|-------------------------------|---|---------------------------|
| In the Matter of:             | ) |                           |
|                               | ) |                           |
| AMENDING ARIZONA CODE OF      | ) | Administrative Order      |
| JUDICIAL ADMINISTRATION       | ) | No. 2021 - <u>126</u>     |
| § 6-106: PERSONNEL PRACTICES, | ) | (Affecting Administrative |
| APPENDIX A                    | ) | Order No. 2021-21)        |
|                               | ) |                           |
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Pursuant to the Arizona Code of Judicial Administration (ACJA) § 1-201(E), the Chief Justice may adopt technical changes in existing administrative code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the amendments to Appendix A of ACJA § 6-106 as indicated on the attached document are adopted. All other provisions of § 6-106 remain unchanged and in effect.

Dated this 4th day of August, 2021.

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ROBERT BRUTINEL  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 1: General Administration**  
**Section 6-106: Personnel Practices**

**A. – M. [No Changes]**

**Section 6-106: Personnel Practices**  
**APPENDIX A**

**MODEL POLICY FOR DRUG TESTING**

**I. – IV. [No Changes]**

**V. Authorized Testing Conditions.**

A. Pre-employment drug testing shall be conducted in conjunction with, or in lieu of a pre-employment polygraph examination.

B. Reasonable Suspicion Testing.

1. All employees shall submit to a drug test based upon reasonable suspicion of prohibited or illegal use of drugs, cannabis/marijuana or alcohol.

2. Reasonable suspicion that an employee uses alcohol, cannabis/marijuana or illegal drugs may be based upon, but not limited to, the following situations:

a. Direct observation of drug or alcohol use or the physical symptoms of being under the influence of drugs or alcohol; for example, slurred speech or odor of alcohol.

b. A pattern of abnormal conduct or erratic behavior.

c. Arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation of illegal drug possession, use or trafficking.

d. Information provided by reliable or credible sources or by admission of the employee.

e. Evidence that the employee tampered with a previous drug test.

f. All employees driving a state, county, or personal vehicle within the scope of their employment shall submit to a drug test after a traffic accident involving any of the following incidents:

(1) Loss of life or

(2) Reason to believe that alcohol or drug usage may have contributed to the accident.

3. The supervisor shall document, in writing, a description of the circumstances which form the basis of reasonable suspicion. The supervisor shall forward the documentation to the chief adult probation officer, director of juvenile court services, or a designee to authorize such testing. The results of the testing shall be retained in the employee's personnel file and remain confidential.

**V. C. – F. [No Changes]**

**VI. – VII. [No Changes]**

**VIII. Testing Procedures.**

A. Tests shall be conducted by an approved provider for the illegal use of the following drugs, or classes of drugs:

~~1.~~ 1. Cannabis;

~~2.~~ 1. Cocaine;

~~3.~~ 2. Opiates;

~~4.~~ 3. Amphetamines/Methamphetamine;

~~5.~~ 4. Ecstasy (MDMA);

~~6.~~ Alcohol (only for pre-employment and reasonable suspicion testing);

~~7.~~ 5. Oxycodone;

~~8.~~ 6. Heroin.

~~9.~~ 7. Alcohol (only for pre-employment and reasonable suspicion testing);

8. Cannabis/marijuana (only for pre-employment and reasonable suspicion testing).

B. The employee shall be notified prior to the testing for any additional drugs or classes of drugs.

C. Urine samples shall be rendered for testing within three hours of arrival at the laboratory.

**IX. Test Results.**

A. All testing results and any disciplinary actions resulting from a positive test result shall be confidential.

B. The provider shall send the results of the test to the chief adult probation officer or director of juvenile court services, or designee. The department shall forward a copy of the results to the employee.

C. The chief adult probation officer, director of juvenile court services, or designee shall notify the AOC of positive results and any disciplinary or other action taken.

D. Disciplinary action, up to and including termination, may be taken under any of the following circumstances:

1. Reporting to work or, while on duty, having any detectable or measurable presence of alcohol or illegal drugs.
2. Use of illegal drugs.
3. Refusal to:
  - a. Submit an adequate sample;
  - b. Cooperate with the collection procedures set forth in this policy;
  - c. Sign the consent for release of information; or
  - d. Enter or successfully complete a rehabilitation program when such program has been required by the employer.
4. Adulteration, substitution or other attempt to falsify the results of a drug test.
5. On-duty illegal drug or cannabis/marijuana use, or possession of, or impairment, or alcohol consumption or impairment of alcohol or alcohol impairment.
6. Off-duty use or possession of illegal drugs or unauthorized use of prescription drugs.
7. A determination that an employee has engaged in illegal drug trafficking including, but not limited to:
  - a. Buy;
  - b. Sale;
  - c. Manufacture;
  - d. Grow;
  - e. Distribute;
  - f. Transport; or
  - g. Aiding, abetting or conspiring to commit offenses listed in IX(D)(7)(a - f).
8. Failure to notify the supervisor of an arrest or citation for an offense involving drug or alcohol violation by the next business day.

E. Employee Assistance Program (EAP).

1. In situations where an employee who tests positive for any illegal substance is not terminated from employment, the employee shall be referred to the EAP and be given the opportunity to successfully undertake rehabilitation. The ultimate responsibility to be drug and alcohol-free rests with the employee.

2. An employee needing help in addressing drug or alcohol dependency is encouraged to use and may be directed to use the confidential services of the EAP or the substance abuse treatment program provided within the employee's health insurance coverage.

**X. – XI. [No Changes]**