



## SCDC POLICY/PROCEDURE

**NUMBER: GA-03.02**

**TITLE: DRUGFREE WORKPLACE PROGRAM**

**ISSUE DATE: FEBRUARY 1, 2010**

**RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES**

**OPERATIONS MANUAL: GENERAL ADMINISTRATION**

**SUPERSEDES: GA-03.02 (June 1, 2007); (January 1, 2004)**

**RELEVANT SCDC FORMS/SUPPLIES: 8-13, 8-14, 8-15, 8-16**

**ACA/CAC STANDARDS: 4-ACRS-7E-07, 4-ACRS-7C-02, 4-4048, 4-4063**

**STATE/FEDERAL STATUTES: Drug Free Workplace Act of 1988, 41 U.S.C. § 701 et seq.; 21 U.S.C. § 802 et seq., CFR Title 49 Part 40**

**THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

**PURPOSE:** To set forth guidelines for the establishment and administration of a Drugfree Workplace Program at the South Carolina Department of Corrections.

**POLICY STATEMENT:** The South Carolina Department of Corrections maintains a zero tolerance for all employees regarding the use of illegal drugs which may inhibit their ability to perform required duties. In order to promote this philosophy and to provide for a safe, secure, and drugfree workplace, the South Carolina Department of Corrections will establish an Employee Drug Testing Program (EDTP) to assist in the detection and deterrence of illegal drug use by employees. This program will include pre-employment applicant testing, random drug testing, reasonable suspicion drug testing, and special category drug testing.

Any covered or temporary employee (pink slip) having an unjustified, verified positive drug test; any employee who refuses/fails to appear for testing; or any employee who alters or attempts to alter a specimen or sample or test results will be terminated.

**Note:** Covered and temporary (pink slip) employees who may have an addiction or dependency problem are encouraged to seek assistance through the Employee Assistance Program (EAP). All other such persons who are included in the category of employee as defined within this policy/procedure, but who are not eligible for the agency's Employee Assistance Program, are encouraged to seek assistance through their personal or company sponsored treatment program. However, enrollment in EAP does not prevent an employee from being terminated for a positive drug test.

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## **1. RESPONSIBILITIES:**

**1.1 Division Director of Human Resources:** The Division Director of Human Resources will:

- have overall responsibility for the SCDC Employee Drug Testing Program (EDTP);
- evaluate the program on an on-going basis in relation to the needs and changing circumstances of the Agency;
- ensure that non-confidential information from the results of the EDTP is shared as needed with the appropriate authorities within the Agency to assist in the reduction of illegal drug activity at all SCDC institutions, buildings, and work sites;
- supervise the SCDC Employee Drug Testing Coordinator;
- evaluate, investigate, and act upon all complaints and/or allegations arising from the administration of the EDTP; and
- compile and publish monthly statistical information on the EDTP.

**1.2 Employee Drug Testing Coordinator:** The SCDC Employee Drug Testing Coordinator will:

- be responsible for and manage all routine operations of the EDTP;
- serve as the Agency liaison for all contract and service providers and ensure that commitments and obligations are fulfilled as required;
- arrange for the testing of all employees who are selected under the guidelines of this policy /procedure;
- ensure that confidentiality is maintained; and
- promptly notify the appropriate manager whenever positive test results, failure to appear for testing, or altering/attempting to alter a specimen/sample or test results require the termination of an employee.

## **2. TYPES OF DRUG TESTING:**

**2.1 Applicant Testing:** All applicants for employment with the SCDC will be subject to urinalysis screening of illegal drug use in accordance with SCDC Policy/Procedure ADM-11.28, "Applicant Selection Process." (NOTE: In addition to this testing, commercial vehicle drivers will also be subject to drug and/or alcohol testing pursuant to SCDC Policy/Procedure OP-20.01, "Drug and Alcohol Testing of Commercial Vehicle Drivers." The Division of Transportation will be responsible for the testing of commercial vehicle drivers.)

**2.2 Random Testing:** All employees (to include certain non-SCDC employees who are issued an employee or temporary identification card) will be subject to mandatory urinalysis drug testing for illegal drug use. The SCDC reserves the right to increase or decrease the frequency of random drug testing based upon the SCDC's mission, need, availability of resources, and experience. The Division Director of Human Resources will ensure that the means of random selection remain confidential.

**2.3 Reasonable Suspicion Drug Testing:** All SCDC employees may be subject to urinalysis drug testing for reasonable suspicion testing, as follows:

**2.3.1 Grounds:** Reasonable suspicion drug testing may be based upon, but not limited to, the following:

- observable phenomena, such as direct observation of apparent drug use or possession and/or the physical symptoms of being under the influence of a drug;
- a pattern of abnormal conduct or erratic behavior;
- the identification of an employee as a suspect in a criminal investigation involving illegal drug possession, use, distribution, or trafficking;
- information provided either by reliable and credible sources or independently corroborated; or
- newly discovered information indicating that the employee may have tampered with a previous drug test.

**2.3.2** Although reasonable suspicion drug testing does not require certainty, mere "hunches" will not be sufficient to meet this threshold. Hearsay may be an acceptable basis for reasonable suspicion if it contains indicators of credibility or is corroborated by other evidence. See Definition for Reasonable Suspicion Drug Testing in Specific Procedure 14., DEFINITIONS, below, for additional information.

**2.3.3 Training:** Information will be provided to assist members of the Director's Staff, Division Directors, Employee Drug Testing Coordinator, Wardens, and their designee(s) to determine whether reasonable suspicion exists to require an employee to undergo testing. This information will cover the physical, behavioral, speech, and performance indicators of probable controlled substances use and/or alcohol misuse.

**2.4 Special Category Testing:** Certain SCDC employees may be identified by the Division Director of Human Resources for periodic urinalysis testing in addition to their potential for being selected randomly for testing. Such categories will include, but not be limited to, Division Director of Human Resources, Employee Drug Testing Coordinator, Investigations Investigators, K-9 Drug Interdiction employees, Inmate Drug Testing employees, and institutional Contraband Officers.

**3. TYPES OF DRUGS FOR WHICH EMPLOYEES WILL BE TESTED:** Generally, SCDC employees will be tested for the following types of drugs: cocaine, amphetamines, opiates, marijuana, and phencyclidine (PCP). (**NOTE:** The Agency Director or designee reserves the right to test for the presence of any controlled substances in Schedules I through V, as defined in 21 U.S.C. 802(6) and listed in Part B, Subchapter 13 of Title 21 of the United States Code.) (**4-ACRS-7C-02, 4-4063**)

#### **4. GENERAL TEST PROCEDURES:**

**4.1** The SCDC's drug testing program will have professionally trained collection personnel, a certified laboratory, rigorous analytical standards, and quality assurance requirements for urinalysis procedures as well as strict confidentiality requirements.

**4.2** The initial test performed by the laboratory will be a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

**4.3** For specimens initially testing positive, a second analytical procedure will be employed to identify the presence of a specific drug or metabolite. This confirmatory test will be a gas chromatography/mass spectrometry (GS/MS) procedure, which is, at this time, the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine (PCP).

**4.4** The SCDC may make changes to this policy and these testing procedures to reflect improvements in the available science and technology. Failure to make such changes to the policy/procedure before the actual use of an improved drug test or protocol will in no way invalidate the use of the improved test /protocol or its results. (**4-ACRS-7C-02, 4-4063**)

**4.5** Procedures for collecting urine specimens will allow individual privacy, unless the collection personnel have reason to believe that the individual may alter or substitute the specimen to be provided. Collection personnel could have reason to believe that a particular individual may alter or substitute the specimen (and, therefore, may observe the collection of the specimen) when:

- the individual is being tested under reasonable suspicion provisions of this policy/procedure;
- facts and circumstances suggest that the individual may be an illegal drug user;
- facts and circumstances suggest that the individual is under the influence of drugs at the time of the test;
- facts and circumstances suggest that the individual may have equipment or implements capable of tampering with or altering urine samples; or
- the individual is suspected of having previously tampered with a sample.

**4.6** The South Carolina Department of Corrections maintains a zero tolerance for all employees regarding the use of illegal drugs. In order to promote this philosophy and to provide for a safe, secure, and drug free workplace, the Agency has established an Employee Drug Testing Program to assist in the detection and deterrence of illegal drug use by employees. Employees found in violation of this provision will have their employment with the SCDC terminated. Switching, tampering with, or adulterating any specimen or sample collected under the Employee Drug Testing Program or attempting to do so, or assisting another in an attempt to do so, is prohibited. Any such effort will result in corrective action up to and including termination pursuant to ADM-11.04, "Employee Corrective Action." (**4-ACRS-7E-07, 4-ACRS-7C-02, 4-4048, 4-4063**)

## **5. RANDOM DRUG TESTING PROCEDURES:**

**5.1 Notification of Selection:** When an individual is selected for random testing, the Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee(s) will be notified by the Employee Drug Testing Coordinator the same day that the test is scheduled, preferably less than one (1) hour before the scheduled testing. Once the Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee(s) has been contacted, the employee will not be allowed to resign until/unless the drug test is completed and the results are negative. The Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee(s) will notify the employee that s/he has been randomly selected for a drug test. The employee will then be escorted to the testing area. Collection personnel will ensure that SCDC Form 8-13, "Employee Random Drug Testing Notice," is completed.

**5.2 Reporting for Testing:** Employees will report at the given time to the location indicated by the Employee Drug Testing Coordinator.

**5.3 Deferral of Testing:** An employee selected for random drug testing who is not available due to compelling, legitimate, verified reason(s) may be subject to an unannounced test within 60 days.

### **5.4 Random Specimen Collection/Processing Procedures:**

- Collection personnel will require that a positive photograph identification be provided by each employee to be tested before the employee enters the testing area. A photograph SCDC Identification Card and/or driver's license may be used for this purpose.
- The bathroom facility of the testing area will be private and secure and will contain no other source of water except the toilet.
- The employee will be required to remove any bulky and/or unnecessary clothing prior to entering the bathroom facility. No purses, briefcases, or bags will be allowed in the collection area.
- the employee will be instructed that they are not to flush the toilet at any time during the testing process. If the employee flushes after being instructed not to do so, the test will be invalidated and the Employee Drug Testing Coordinator will be notified to determine if corrective action is warranted. The employee will not be allowed to leave the collection site. The employee will be furnished 40 ounces of fluids over a three (3) hour period and any attempt to provide a specimen will be observed by the collection personnel. If the employee does not provide a sufficient specimen within three (3) hours of the first invalidated sample, the collection site person shall discontinue the collection and notify the Employee Drug Testing Coordinator. The Employee Drug Testing Coordinator shall treat this as a failure to provide an immediate specimen and follow the procedures as directed in Section 5.5 of this policy.
- Both the employee being tested and the collection personnel will keep the specimen in view at all times prior to its being sealed and labeled. Collection personnel will be responsible for securely placing an identification label on the bottle which indicates the date, the individual's specimen number, and any other identifying information provided or required by the SCDC. The employee

will initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from him/her.

- Each step in the collection and processing of a urine specimen will be documented by contracting agency personnel to establish procedural integrity and chain of custody.
- Testing laboratory personnel will store all specimens for a minimum of 30 days. All confirmed positive tests will be stored for a minimum of one (1) year or as otherwise directed by the Division Director of Human Resources or designee.

## **5.5 Failure to Provide an Immediate Specimen:**

**5.5.1** Should the employee be unable to provide a specimen immediately, s/he will be required to remain in the medical or testing area with an escort and will be furnished 40 ounces of fluids over a three (3) hour period. **Note:** This section of the policy applies to employees selected for random drug testing or employees who have tested positive on a preliminary reasonable suspicion agency field test and then required to submit to a reasonable suspicion test at a designated collection site.

**5.5.2** If the employee has not provided a sufficient specimen within three (3) hours of the first unsuccessful attempt to provide the specimen, the following shall occur:

**Random Testing:** the collection site person shall discontinue the collection and notify the Employee Drug Testing Coordinator. The Employee Drug Testing coordinator shall direct any employee who does not provide a sufficient urine specimen to obtain within three calendar days an evaluation from a licensed physician who is acceptable to the SCDC concerning the employee's ability to provide an adequate amount of urine. The employee must provide his/her doctor's name, address, and telephone number to the Employee Drug Testing Coordinator or designee, prior to the appointment. Employees unable to provide a specimen following a random drug test will be authorized to return to work pending receipt of the determination of their medical condition from their physician.

**Reasonable Suspicion Drug Test:** the same procedures outlined in the Random Testing section immediately above will apply, except the employee will not be authorized to return to work and will be placed on administrative suspension pending receipt of the determination of their medical condition from their physician.

**5.5.3** The Employee Drug Testing Coordinator or designee will provide the employee with the name, address, and telephone number of the Medical Review Officer who reviews drug test results for the Department of Corrections and typed instructions for the employee's doctor. It is the employee's responsibility to provide this information to his/her doctor at the time of his/her evaluation and for the employee to sign a medical release form from his/her physician, if necessary. The employee's doctor must send the results to the Medical Review Officer within two work days of the date of the appointment with the employee.

**5.5.4** If the physician determines, in his or her reasonable medical judgment, that a medical condition has, or with a high degree of probability, could have precluded the employee from providing an adequate amount of urine, the employee's failure to provide an adequate amount of urine shall not be deemed a refusal to take a test. For purposes of this paragraph, a medical condition includes an ascertainable physiological condition (e.g., a urinary system dysfunction) or a documented pre-existing psychological disorder, but does not include unsupported assertions of "situational anxiety" or dehydration. The physician shall provide to the Medical Review Officer a brief written statement setting forth his or her conclusion and the basis for it, which shall not include detailed information on the medical condition of the employee. Upon receipt of this statement, the Medical Review Officer shall report his or her conclusions to the SCDC in writing.

***An employee with this documented situation will be required to submit to an alternate method of drug testing when his/her name is randomly selected. The types of testing utilized may include hair or saliva drug samples. The Drug Testing Coordinator/Designee will make arrangements for the employee to be escorted to a designated site to have the random drug test administered.***

**5.5.5** If the physician, in his or her reasonable medical judgment, is unable to make the determination, the employee's failure to provide an adequate amount of urine shall be regarded as a

refusal to take a test. The physician shall provide to the Medical Review Officer a brief written statement setting forth his or her conclusion and the basis for it, which shall not include detailed information on the medical condition of the employee. Upon receipt of this statement, the Medical Review Officer shall report his or her conclusions to the SCDC in writing.

**5.5.6** Any expenses incurred for a doctor's visit or consultation shall be at the employee's expense.

**5.6 Positive Test Results:** Laboratory results will be reviewed by the Medical Review Officer. Positive results will be evaluated to ensure that there is no justification to mitigate the findings. In the absence of legitimate extenuating circumstances, all employees whose tests are positive will be terminated immediately unless the employee requests a reconfirmation test. If a reconfirmation test is requested, Specific Procedure 5.7.2, below, will apply.

### **5.7 Reconfirmation Test:**

**5.7.1** An employee will be notified of his/her positive drug test by the Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee. Upon being notified, the employee may request a reconfirmation test utilizing the same specimen sample previously taken at an independent laboratory designated by the SCDC contractor.

**5.7.2** This reconfirmation test must be requested on SCDC Form 8-14, "Request for Drug Reconfirmation Testing," through the Division Director of Human Resources or designee, and it will be at the employee's expense. Payment for the reconfirmation test must be submitted by money order or cashier's check only, and within twenty-four (24) hours. (**NOTE:** Failure to submit payment for the reconfirmation test within twenty-four (24) hours of notification of a positive result will cancel the employee's request for a reconfirmation test.) The employee will be placed on "administrative suspension" without pay pursuant to SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," pending the reconfirmation test results. If the reconfirmation test is positive, the employee will be terminated; if the test is negative, the employee will be permitted to return to work, receive back pay, and be refunded the amount paid for the testing.

## **6. REASONABLE SUSPICION DRUG TESTING PROCEDURES:**

**6.1 Documentation:** If any employee is suspected of using illegal drugs, the Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee will complete SCDC Form 8-16, "Recommendation for Employee Drug Testing: Observed Behavior Reasonable Suspicion/For Cause Record," and gather all information, facts, and circumstances leading to and supporting this suspicion, and will document all the information used in forming the basis for testing. The Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee will immediately forward his/her findings to the Division Director of Human Resources or designee, who will be responsible for reviewing the documentation and, if appropriate, ordering the testing. Once the Division Director of Human Resources or designee authorizes testing and notifies the Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee, the employee will not be allowed to resign until /unless drug testing is completed and the results are negative. SCDC Form 8-15, "Notification-Reasonable Suspicion or For Cause Drug Testing," will be used for notification testing. The Director's, the appropriate member of the Director's Staff's, Division Director's, Warden's, or designee's written report will become part of the file created and maintained by the Division Director of Human Resources or designee for each reasonable suspicion drug test ordered.

**6.2 Testing:** The employee will be escorted to medical or to a test site determined by the *Employee Drug Testing Coordinator* or designee where the initial test will be conducted. *In the event that the medical area is not staffed or the employee to be tested is the medical employee, the employee will be escorted to the closest Institution that has medical staff available.* Procedures for collecting urine specimens will allow individual privacy, unless the collection personnel have reason to believe that the individual may alter or substitute the specimen to be provided. See Specific Procedure 4.5, for additional information. Should the employee be unable to provide a specimen immediately, s/he will be required to remain in the medical area with an escort and will be furnished 40 ounces of fluids over a three (3) hour period. If the employee cannot provide a specimen during the three (3) hour time frame, the escorting Supervisor will

ensure that contact is made with the ***Employee Drug Testing Coordinator*** or designee for further instructions. See Specific Procedure 5.5.2, for additional information.

**6.3 Positive Test Results:** If the employee's initial drug test is positive, ***the SCDC Employee Drug Testing Coordinator will be contacted for instructions and procedures required for obtaining the drug confirmation test. A photocopy of the test cup results will be made and mailed/faxed to the Employee Drug Testing Coordinator in order to document the positive test result. The SCDC will send that urine specimen to an outside laboratory for confirmation testing. The employee will be placed on "administrative suspension" without pay pursuant to SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action." The employee will be allowed to make arrangements for transportation, but s/he will not be allowed to drive home. The employee will remain on "administrative suspension" until the results of the confirmatory tests are received. If the confirmatory test is positive, the employee will be offered a reconfirmation test. If the reconfirmation test is refused, the employee will be terminated.***

**6.4 Reconfirmation Test:** An employee whose results are positive will be notified of his/her positive drug test by the Director, the appropriate member of the Director's Staff, Division Director, Warden, or designee. Upon being notified, the employee may request a reconfirmation test (utilizing the same specimen sample previously taken) at an independent laboratory designated by the SCDC contractor. ***If the reconfirmation test is positive, the employee will be terminated. If the reconfirmation test is negative, the employee will be permitted to return to work, receive back pay, and be refunded the amount paid for testing.*** See Specific Procedure 5.7.2, for additional information.

## **7. WORKERS' COMPENSATION DRUG TESTING:**

**7.1** If an employee is injured on the job and requires outside medical care a drug screening test will be conducted by SCDC medical staff. Results of the drug screening (positive or negative) will be recorded on SCDC Form 22-1 (A.I.R.). If the results of the drug screening test are negative, no further action is required. If the results of the drug screening test are positive, the SCDC Employee Drug Testing Coordinator in the Division of Human resources will be contacted for instructions and procedures required for obtaining a drug confirmation test. For further information, refer to SCDC Policy/Procedure ADM-16.15, "Workers' Compensation."

**8. FAILURE TO APPEAR FOR TESTING:** Failure to appear for testing without a deferral will be considered a refusal to participate in testing and the employee will be terminated. **(4-ACRS-7C-02, 4-4061)**

## **9. MEDICAL REVIEW OFFICER:**

**9.1** When a confirmed positive result has been returned by the laboratory to the Medical Review Officer, the Medical Review Officer will attempt to contact the employee within twenty-four (24) hours to discuss any medications taken that might have affected the urine sample. The Medical Review Officer will review all medical records made available by the employee and determine whether a confirmed positive test could have resulted from legally prescribed for that employee.

**9.2** If the Medical Review Officer is unable to make contact with the employee within the twenty-four (24) hours time frame, the Medical Review Officer will notify the Employee Drug Testing Coordinator. The Employee Drug Testing Coordinator will attempt to contact the employee and instruct him/her to call the Medical Review Officer, and will explain the consequences of failing to do so. The employee must contact the Medical Review Officer within twenty-four (24) hours after the notification by the Employee Drug Testing Coordinator. If the employee does not contact the Medical Review Officer within twenty-four (24) hours after being contacted by the Employee Drug Testing Coordinator, the employee will be terminated.

**9.3** The Medical Review Officer may require the employee to submit additional evidence in order to justify a positive drug test result, including, but not limited to a valid prescription or a letter from the individual's physician verifying a valid prescription for that employee.

**9.4** If there is no justification for the positive drug test result, then it will be considered a verified positive test result under the provisions of these procedures. An employee will be notified of his/her positive drug test by his/her Warden, Division Director, Office Director, or the Agency Director, and the individual's employment will be terminated immediately unless s/he requests that a reconfirmation test be performed (from the same specimen sample already on hand in the inventory) at an independent laboratory



designated by the SCDC contractor. See Specific Procedure 5.7.2 for additional information. Results from the analysis of the second test on the same specimen sample will be evaluated by the Medical Review Officer and will be the final step for determining positive or negative findings. If there is a positive result, the individual's employment will be terminated. (4-ACRS-7C-02, 4-4063)

**9.5** If the Medical Review Officer defers to the Employee Drug Testing Coordinator as authorized in Specific Procedure **9.2** above, and the Employee Drug Testing Coordinator is unable to contact an employee by telephone, or to locate the employee through his/her supervisory staff, the Employee Relations Branch, Division of Human Resources, will be informed so that a termination notice can be mailed to the employee.

**10. COSTS OF TESTS:** The SCDC will pay the costs of all drug testing to which it requires or requests an employee to submit. The employee will be required to pay the cost of any additional drug testing that s/he has requested. However, if the reconfirmation testing requested by the employee and authorized by the Division Director of Human Resources or designee indicates negative results, the Agency will refund the amount to the employee that s/he paid for the testing.

**11. CONFIDENTIALITY OF TEST RESULTS:** The results of a drug test on an employee may not be disclosed without prior written consent of the employee unless disclosure would be: to the Medical Review Officer; to the EAP administrator where the employee is receiving counseling or treatment or is otherwise participating; to the SCDC Employee Drug Testing Coordinator; to management officials within SCDC having authority to terminate the employee; or as required by law or pursuant to a valid court order.

**12. EMPLOYEE ASSISTANCE PROGRAM (EAP):** To protect the confidentiality of all employees, the Agency will prohibit the EAP provider from divulging any information concerning an employee's participation in the Employee Assistance Program without the employee's written consent or as otherwise required by law, except for supervisory or manager referrals where the referring official will be advised only if the employee sought assistance and is cooperating or where the employee informs the Agency of such participation as an alternative to the consequences of drug use being discovered. (NOTE: All persons who are included in the category of "employee" as defined within this procedure, but who are not eligible for the Agency's Employee Assistance Program, and who know that they have a problem, suspect that they have a problem, or desire counseling and guidance, are encouraged to seek assistance through their personal or company sponsored treatment program.)

**12.1** The Employee Assistance Program (EAP) will be available to assist employees (covered and temporary [pink slip]) with problems, whether personal, medical, or addictive; to find the appropriate treatment; for follow up during recovery and rehabilitation; and, if there is a substance abuse problem, to help the employee remain drug or alcohol free pursuant to SCDC Policy/Procedure ADM-11.19, "Employee Assistance Program."

**12.2** Attending EAP in no way lessens a positive drug test result, the employee will still be terminated.

**12.3** Assistance will be provided for SCDC employees (covered and temporary [pink slip]) by *an SCDC approved contractor*. A trained professional will help a distressed employee identify the problem and determine the appropriate resources designed to correct the problem. The employee must then take advantage of the identified programs or resources on a voluntary basis and will be guaranteed confidentiality by the *SCDC contractor*.

**12.4** Any SCDC employee (covered and temporary [pink slip]) who knows that s/he has a problem, suspects that s/he has a problem, or desires counseling and guidance, is encouraged to contact the *Employee Relations Branch, Division of Human Resources, for the current contractor's contact information*.

### **13. NOTICE:**

**13.1** In compliance with the Drug Free Workplace Act of 1988 (as amended) and applicable American Correctional Association Standards, all SCDC employees will be provided orientation and in-service training on drug awareness, the Agency's zero tolerance position regarding drugs, and the services available through the EAP for covered and temporary employees. In addition to previous announcements, the orientation received regarding these procedures by all SCDC employees will be



acknowledged in writing on the New Employee Orientation Checklist used at the SCDC Training Academy. (NOTE: A copy of this checklist will be maintained in the employee's personnel file and a copy will be maintained at the Training Academy.) The employee will be acknowledging that s/he has received orientation regarding the Drugfree Workplace Program and understands that random drug testing will be implemented and that refusal to submit to testing will result in termination from employment.

**13.2** An employee's failure to sign the checklist or omission on the checklist will not preclude testing that employee, or otherwise affect the implementation of the testing procedures or the consequences arising from positive test results. **(4-ACRS-7C-02, 4-4063)**

#### **14. USE OF PRESCRIBED DRUGS THAT MAY IMPAIR AN EMPLOYEE'S PERFORMANCE:**

An employee who is prescribed a medication(s) that causes adverse side effects (e.g., drowsiness or impaired reflexes or reaction time) should not accept a duty assignment that may place himself/herself or others at risk. If there is uncertainty on the part of the employee then s/he is responsible for informing his/her supervisor prior to beginning of duty of the possible effects of the drug(s) on performance and expected duration of use. If the prescription drug use could cause security or safety problems, the employee may be placed on sick leave or temporarily assigned different duties.

#### **15. DEFINITIONS:**

**Applicant** refers to any individual who is seeking to become, or is otherwise tentatively selected by the SCDC to become, an employee of the Agency. Applicants also include, for purposes of this policy, those individuals who are conditionally employed by the SCDC.

**Confirmatory Test** refers to a drug test conducted at a designated laboratory for the purpose of validating a positive drug screen test. The SCDC will pay the costs of all confirmatory drug testing.

**Confirmed Positive Test** refers to the results of a confirmatory test that has established the presence of drugs or drug metabolites in a specimen at or above the established cut-off level.

**Controlled Substance** refers to a drug or other substance, or immediate precursor, included in Schedule I, II, III, IV, or V of Part B, Subchapter 13 of Title 21 of the United States Code.

**Deferral** refers to the postponement of testing an employee who has been selected for random drug testing because s/he is not available due to a compelling, legitimate, verified reason(s).

**Drug/Illegal Drug** refers to any substance, other than alcohol, which has psychological and/or physiological effects on a human being and which is not an authorized prescription for that employee or non-prescription medication. For purposes of this policy, drug/illegal drug includes controlled dangerous substances and controlled substance analogs which produce the psychological and/or physiological effects of a controlled dangerous substance through deliberate inhalation, ingestion, or injection. Illegal drug also refers to a controlled substance included in Schedule I or II, as defined by Section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. **(4-ACRS-7C-02, 4-4063)**

**Drug Test** refers to the compulsory production and submission of a urine specimen by an employee or the drawing of a blood sample from an employee for chemical analysis to detect prohibited drug use or to verify that the employee is negative for prohibited drugs.

**Employee**, for the purposes of this policy, refers to any employee of the Agency, to include full-time and part-time employees, both permanent and pink slip; volunteers; students; contracted employees; interns; consultants; and any other persons providing services to the SCDC.

**Employee Assistance Program (EAP)** refers to the SCDC or state counseling program that offers assessment, short-term counseling, and referral services to employees (permanent and pink slip only) for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

**Employee Drug Testing Coordinator** refers to the individual assigned to the Division of Human Resources who is responsible for carrying out the duties prescribed by this policy.

**Immunoassay Screen** refers to a variety of techniques used to determine levels of antigens and antibodies in tissues. When screening for drugs, laboratory personnel look for levels of antigens created by the body to get rid of a drug.

**Initial Test** refers to an initial drug test to determine the presence or absence of drugs or their metabolites in a specimen(s).

**Medical Review Officer** refers to the individual (non-SCDC employee) who serves in an advisory capacity to the Employee Drug Testing Coordinator when the laboratory forwards a positive result to the SCDC under this testing program. The individual will be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

**Metabolite** refers to a substance that takes part in the process of metabolism. Metabolites are either produced during metabolism or are constituents of food or substances taken into the body. When screening for drugs, laboratory personnel look for what is left in the urine after the body has broken down a complex drug into smaller pieces, i.e., they will find metabolites of the drug, not the original drug itself.

**Prescription or Non-Prescription Medication** refers (a) to a drug prescribed to the employee for use by a duly licensed physician, dentist, or other medical practitioner who is licensed to issue prescriptions or (b) to a drug that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, and/or injuries.

**Random Testing** refers to a method for selecting employees for drug testing which results in an equal probability that any employee from a group of employees subject to the selection method will be chosen and does not give an employer discretion to waive the selection of any employee selected under the method.

**Reasonable Suspicion Drug Testing** refers to drug testing predicated on a belief that an employee is using or has used drugs in violation of SCDC policy when such suspicion is based upon specific, objective, and articulable facts and reasonable inferences drawn from facts in light of experience. Hearsay may be an acceptable basis for establishing reasonable suspicion.

**Reconfirmation Test** refers to a test (utilizing the same specimen sample previously taken) performed at an independent laboratory designated by SCDC to verify a positive test result. The employee is required to pay for the reconfirmation test, but this payment may be refunded if the reconfirmation test is negative. See Specific Procedure 9, above for additional information.

**Verified Positive Test Result** refers to a test result that has been screened positive by an approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay or other confirmatory test approved by the SCDC, evaluated by the Medical Review Officer at the request of the Employee Drug Testing Coordinator, and determined to be unsupported or unjustified by a valid prescription or other authorized medical use.

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**s/Jon E. Ozmint, Director**

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