



NEW MEXICO JUDICIAL BRANCH

GENERAL PERSONNEL POLICY AND PROCEDURE

Reference NMJBPR Part 1, Section 12.03
NMJBPR Part 2, Section 23.03

Inquiries: AOC HR (505) 827-4937 or 827-4810
Dev.: 1/24/07; Rev: 02/13/12

DRUG/ALCOHOL TESTING POLICY

1. PURPOSE

The New Mexico Judicial Branch is committed to protecting the safety, health and well being of all employees and other individuals in our workplaces. The New Mexico Judicial Branch expects all employees to be productive during work hours and illegal drug and alcohol use impairs employee productivity. The New Mexico Judicial Branch shall require employees to undergo drug and/or alcohol testing if the judicial entity has a reasonable suspicion that the employee is impaired to any degree by a controlled substance or alcohol.

No Judicial Entity shall waiver from this judicial policy; unless a specific internal standard operating policy regarding the specifics (i.e., job titles, pre or post-employment) of the drug/alcohol testing is approved by the Director.

2. DEFINITIONS

- A. **Administrative Authority** – Individual or designee with the primary responsibility to supervise and coordinate the administration of a Judicial Entity, or as designated by the Chief Judge and approved by the Supreme Court order. (Ref: Administrative Authority, Appointing Authority and At-Will Employee List Policy.)
- B. **Alcohol** – Consumable non-prescription substances, which contain alcohol such as, without limitation, spirits, wine, malt beverages and intoxicating liquors.
- C. **Controlled Substance** – Any drug or other substance listed in schedules of the Controlled Substances Act (21 U.S.C. 812), and as further defined by 21 C.F.R. §1308.11 through 1308.15, including any material which contains any quantity of methamphetamines. Generally, these are drugs that have a high potential for abuse such as, but not limited to, marijuana, cocaine, opiates, phencyclidine (PCP), heroin, amphetamines and “crack;” metabolite of those drugs, or any non-prescription substance containing those drugs. The term *controlled substance* also includes “legal drugs” that were not prescribed by or taken under the supervision of a licensed physician. (Changed 2/13/12)



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- D. Disciplinary Action** – A constructive action designed to correct an employee’s performance and/or behavior that is below acceptable standards.
- E. Drug Testing Coordinator** – An employee appointed by the Administrative Authority for the respective Judicial Entity to coordinate drug testing. (Changed 2/13/12)
- F. Just Cause**– Performance and/or behavior relating to the employee’s work that is inconsistent with the employee’s obligation to the employer and forms the basis for discipline. For example: using, selling or possessing intoxicants or controlled substances or being under the influence of intoxicants or controlled substances while on duty. (Added 2/13/12)
- G. NMJBPR AWE** – New Mexico Judicial Branch Personnel Rules – Part II for at-will employees. (Added 2/13/12)
- H. NMJBPR** – New Mexico Judicial Branch Personnel Rules – Part I for employees. (Added 2/13/12)
- I. Reasonable Suspicion** – A belief drawn from specific facts and the logical inferences drawn from those facts.
- J. Work Place** – A site for the performance of work. This includes buildings and grounds for such sites.

3. DRUG TESTING COORDINATOR

- A.** The Director of the Administrative Office of the Courts (AOC) shall appoint a member of the AOC Human Resources Department as a Drug Testing Coordinator for the Supreme Court, Court of Appeals, AOC, JID, Law Library and Magistrate Courts.
- B.** The Administrative Authority of District and Bernalillo Metropolitan Courts shall appoint a member of his or her staff as the Drug Testing Coordinator for his or her Court.
- C.** All drug and/or alcohol testing shall be first approved by the Administrative Authority, to be coordinated by the Drug Testing Coordinator for that assigned judicial entity.



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4. TESTING

- A. Drug and/or alcohol testing shall be performed at a laboratory certified to perform such tests and the judicial entity ordering the test shall pay all costs associated with those tests.
- B. In accordance with this policy testing shall be performed only based upon reasonable suspicion. (Added 2/13/12)
- C. If there is reasonable suspicion that any of the following circumstances have occurred, any employee may be tested:
 - (1) the employee is impaired to any degree by use of a controlled substance or alcohol while on duty; or
 - (2) the employee has been observed using or possessing controlled substances or drug paraphernalia, or alcohol while on duty; or
 - (3) the employee is operating a state vehicle and at any time while in possession of the state vehicle is involved in a vehicle accident occurring on duty or any time; or
 - (4) the employee is operating a private vehicle while on duty or state business and is involved in a vehicle accident; or
 - (5) the employee returns after being referred to treatment, counseling, a substance abuse or alcohol rehabilitation program at the discretion of the Administrative Authority, within 30 to 180 calendar days from the date of referral; or
 - (6) the employee has entered into a contract to abide by the Drug Testing Policy and, as a condition of the contract, has agreed to be tested at random.
- D. Refusal to submit to a test will be deemed a positive test and the employee will be subject to disciplinary action.



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- E. Drug and/or alcohol test results shall be reported to the Administrative Authority who ordered the testing be conducted.
- F. An employee may appeal the test results at his/her own expense and the re-test will be performed by the same laboratory.
- G. Records concerning test results shall be maintained in a confidential file and shall not be placed in the personnel file unless the information is included or attached to a formal disciplinary action. Such records may be inspected only with the written permission of the employee, pursuant to lawful court order or as otherwise required by law.
- H. An employee may be placed on administrative leave with pay pending the results of any test administered under this policy.
- I. An employee who, while on duty, illegally sells, purchases or transfers drugs or any substance in schedules of the Controlled Substances Act NMSA 1978, §§30-31-1 to 30-31-41, may be subject to disciplinary action up to and including termination and shall be reported to the local law enforcement agency.
- J. An employees who, while on duty, possesses drugs or any substances in schedules of the Controlled Substances Act 1978, §§30-31-1 to 30-31-41 without a valid prescription or as otherwise authorized by law, may be subject to disciplinary action up to and including termination and shall be reported to the local law enforcement agency.
- K. Voluntary Self-Identification

Disciplinary action will not be initiated if the employee, prior to being arrested for or reasonably suspected of drug or alcohol abuse or notification of a required drug or alcohol test, voluntarily contacts the Administrative Authority or Drug Testing Coordinator for assistance.

- (1) An employee who voluntarily identifies himself/herself as a user of drugs or abuser of drugs, controlled substances and/or alcohol will be referred to the Drug Testing Coordinator for referral and information regarding rehabilitation.



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- (2) The employee will be afforded appropriate leave benefits under the NMJBPR and NMJBPR AWE, and must participate in a treatment program, fully cooperate with the Administrative Authority and the Drug Testing Coordinator and successfully complete the treatment program.

Approved By Supreme Court Order #: 07-8500

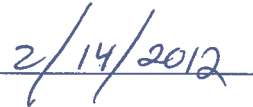
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Effective:



Arthur W. Pepin, Director
Administrative Office of the Courts



Date