



State of Hawaii Drug and Alcohol Testing Program

Supervisor Guidelines

July 30, 2003

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HGEA Drug and Alcohol Testing Memorandum of Agreement

(Units 2, 3, 4, 9, and 13)

DISCLAIMER: This guideline is intended to assist supervisors and administrators in the implementation of the HGEA Drug and Alcohol Testing Memorandum of Agreement (Agreement). Should there be a conflict in this guideline and the Agreement, the Agreement shall prevail.

INTRODUCTION

The State of Hawaii and other jurisdictions entered into an agreement with the Hawaii Government Employees Association (HGEA) on drug and alcohol testing. The agreement is part of the arbitrated collective bargaining agreements for units 2, 3, 4, 9, and 13.

The stated purpose of the agreement:

1. This Drug Testing Agreement (DTA or Agreement) is intended to keep the workplace free from the hazards of the use of alcohol and controlled substances by adopting a drug and alcohol testing program.
2. Employees are expected to report to work in a physical and mental condition consistent with this Agreement, which enables them to perform their duties in a safe and productive manner.
3. Employees subject to alcohol and controlled substance tests and who are subject to disciplinary actions under this Agreement shall be afforded “due process” as provided in this Agreement and applicable provisions of the respective collective bargaining agreements.

The purpose of this guideline is to assist supervisors, managers, and program administrators in the implementation of the Agreement. It contains guidelines, charts, forms, checklists and instructions on how to maintain the random selection pool. The impetus for testing is part of an arbitrated collective bargaining agreement.

Implementing the Agreement

It may be easier to understand the Agreement once the structure of the Agreement is understood. The Agreement is applicable to **all employees in positions** in HGEA bargaining units 2, 3, 4, 9, and 13 covered by the Agreement (**covered employees**). Of the covered employees, there are two sub-categories of employees: **regular drivers**, and **HSPT employees** (health, safety, and public trust). Employees in HSPT positions are identified by class title. Changes to the HSPT list require consultation and agreement with the union.

The Agreement is in two parts. Part I addresses **all** covered employees and regular drivers. Part II only applies to employees in HSPT positions. It is significant to understand the relationship of Parts I and II and the category of employees as testing is specific to the Part and/or category specific. (For example: reasonable suspicion tests apply to all employees. Post accident tests only apply to regular drivers in Part I. Only employees in HSPT positions are subject to random tests.)

One test not in the Agreement but implemented by policy is the pre-employment post-offer test. Applicants are not members of the bargaining unit and therefore, not covered by the Agreement. This test is implemented for applicants to HSPT positions pursuant to HRS 78. Supervisors, managers, and administrators should also become familiar with the employee handbook as much of what is contained there is not repeated in these guidelines.

The format of this guideline is to present the background of a process, activity, or action that a supervisor is likely to face in the implementation of the testing program by providing checklists with the applicable forms.

The guide begins with the use of the Test Notification form and process.

ALCOHOL AND/OR CONTROLLED SUBSTANCE TEST NOTIFICATION

State Department of : _____

Employee/Applicant Name (Print First, M.I. Last): _____

You are hereby notified of the requirement to test pursuant to HGEA Drug and Alcohol Testing Memorandum of Agreement or the HRS 78 (post offer test).

1. The test is scheduled: Date: _____

Location: _____

Appointment Time: _____

2. Test for: Alcohol Controlled Substance

3. Type of test: Pre-Employment (Post-Offer) Pre-Duty

Probationary Return to Duty Follow-up

Random Post-Accident Reasonable Suspicion

4. Employee/Applicant has picture identification card: Yes No

5. Transportation to test site or appointment instructions/comments:

6. Time of notification: _____ a.m. p.m.

I understand that the identified test is required and if I refuse to sign this form or refuse to take the tests identified, I am subject to consequences as stated in the Agreement.

Applicants who refuse to sign are removed from the list of eligibles.

Employee/Applicant Signature

Date

Department Representative

Date

RETAIN IN EMPLOYEE'S CONFIDENTIAL FILE

July 2003

Notification to Test

This is the basic document of the program. It initiates all processes and the results determine all outcomes. The notification form (on the opposite page), informs the employee of the type of test that is required (reasonable suspicion, random, etc.) and what sampling is to be accomplished (alcohol, drug, or both). This process follows the U.S. Department of Transportation (DOT) Rules. Tests are initiated in a number of ways. In general, the Personnel Office usually initiates the pre-duty/employment tests. The contract laboratory initiates the random test pursuant to contract provisions. The supervisors initiate reasonable suspicion and post accident tests. The Substance Abuse Professional (SAP) instructs department coordinators when to conduct return to duty and follow up tests. Personnel or department coordinators initiate probationary tests.

This information is general in scope; therefore, the test initiator must know the purpose of the test, type of test, employee category, test site, who is to be tested, and if an appointment for testing is required. Guidelines:

- ___ Schedule test, as applicable. No appointment for post accident and reasonable suspicion; send to 24-hour facility, as needed.
- ___ Complete applicable parts of the form prior to meeting with the employee including "test for" (alcohol, drugs or both) and "type of tests".
- ___ Verify that the employee has a valid picture ID card. If the employee does not have a valid ID card, a management representative must accompany the employee to the test location and verify the identity of the employee.
- ___ Ask the employee if transportation is needed to the test location. The supervisor or another employee can drive the employee to the test site.

Note: The employer (department) is required to transport the employee to the test site for reasonable suspicion and post accident tests. The department may also provide transportation for other types of tests.

- ___ Enter the time of notification and inform the employee when the employee is expected to be at the test site.
- ___ Ask the employee to read the "I understand" statement on the notification form and to sign on the line.
- ___ The department representative signs the form, provides a copy to the employee, and instructs employee to give forms to site personnel.
- ___ After the employee receives the appropriate documents (alcohol, drug, or both), release the employee for immediate testing. This minimizes the employee's opportunity to discuss testing with other employees or attempt to obtain adulterants, substitutes, or otherwise impede the testing process.
- ___ Place a copy of the completed Test Notification form in the employee's confidential file.

State Breath Alcohol Testing Form

(U.S. Department of Transportation form – reformatted)

STEP1: TO BE COMPLETED BY BREATH ALCOHOL TECHNICIAN

<p>A. Employee Name:</p> <p>B. SSN or Employee ID No.</p> <p>C. Employer Name: Address, & Telephone No.</p> <p>Reason for Test: <input type="checkbox"/> Pre-employment; <input type="checkbox"/> Pre-Duty; <input type="checkbox"/> Probationary; <input type="checkbox"/> Post-Accident; <input type="checkbox"/> Follow-Up; <input type="checkbox"/> Return to Duty; <input type="checkbox"/> Random; <input type="checkbox"/> Reasonable Suspicion.</p>	<div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> <p><i>Sample Form. Forms to be provided by Testing Service to the department</i></p> </div>
--	--

STEP 2: TO BE COMPLETED BY EMPLOYEE

<p><i>I certify that I am about to submit to breath alcohol testing required by HGEA - State Drug and Alcohol Testing Memorandum of Agreement and the identifying information provided on this form is true and correct.</i></p>	
<p>Employee Signature</p>	<p>Date</p>

STEP 3: TO BE COMPLETED BY BREATH ALCOHOL TECHNICIAN

<p><i>I certify that I have conducted breath alcohol testing on the above named individual in accordance with the procedures established in the U.S. Department of Transportation regulation, 49 CFR 40, that I am qualified to operate the testing devices identified, and that the results are as recorded.</i></p>					
<p>Screening test: Complete <u>only if</u> the testing device is not designed to <u>print</u> the following.</p>					
<p>Test No.</p>	<p>Testing Device Name</p>	<p>Testing Device Serial No.</p>	<p>Time</p>	<p>am pm</p>	<p>Result</p>
<p>Confirmation test: Confirmation test results <u>MUST</u> be affixed to the back of each copy of this form.</p>					
<p>Remarks: _____</p> <p>_____</p>					
<p>(Print) Breath Alcohol Technician's Name (First, MI, Last)</p>		<p>Signature of Breath Alcohol Technician</p>		<p>Date</p>	

STEP 4: TO BE COMPLETED BY EMPLOYEE

<p><i>I certify that I have submitted to the breath alcohol test, the results of which are accurately recorded on this form. I understand that I must not work or operate any equipment if the results are 0.02 or higher (0.02 or higher if I am in a Health, Safety, Public Trust position or subject to post accident testing).</i></p>	
<p>Signature of Employee</p>	<p>Date</p>

COPY 1- ORIGINAL – FORWARD TO THE EMPLOYER

July 2003

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM



41124080 6152993 SPECIMEN ID NO.

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

LAB ACCESSION NO.

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

FORM ID: NDA500020

Sample Form. Forms to be provided by Testing Service to the department

C. Donor SSN or Employee I.D. No.

D. Reason for Test: Pre-employment Random Reasonable Suspicion/Cause Post-Accident
 Return to Duty Follow-up Other (specify) _____

E. Drug Tests to be Performed: THC, COC, PCP, OPI, AMP THC & COC Only Other (specify) _____
 () 7643N NIDA 5 DRUG PANEL

F. Collection Site Name: _____ Collection Site Code: _____ Collector Phone No.: _____
 Address: _____ Collector Fax No.: _____
 City, State and Zip: _____

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? Yes No, Enter Remark _____ Specimen Collection: Split Single None Provided (Enter Remark) _____ Observed (Enter Remark) _____

REMARKS _____

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable Federal requirements.

Signature of Collector _____ AM/PM _____ Time of Collection _____
 (Print) Collector's Name (First, MI, Last) _____ Date (Mo./Day/Yr.) _____ SPECIMEN BOTTLE(S) RELEASED TO: _____
 Name of Delivery Service Transferring Specimen to Lab _____

RECEIVED AT LAB: Signature of Accessioner _____ Primary Specimen Bottle Seal Intact Yes No, Enter Remark Below
 (Print) Accessioner's Name (First, MI, Last) _____ Date (Mo./Day/Yr.) _____ SPECIMEN BOTTLE(S) RELEASED TO: _____

STEP 5a: PRIMARY SPECIMEN TEST RESULTS - COMPLETED BY PRIMARY LABORATORY

NEGATIVE POSITIVE for: MARIJUANA METABOLITE CODEINE AMPHETAMINE ADULTERATED
 DILUTE COCAINE METABOLITE MORPHINE METHAMPHETAMINE SUBSTITUTED
 REJECTED FOR TESTING PCP 6-ACETYLMORPHINE INVALID RESULT

REMARKS _____

TEST LAB (if different from above) _____

I certify that the specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

Signature of Certifying Scientist _____ (Print) Certifying Scientist's Name (First, MI, Last) _____ Date (Mo./Day/Yr.) _____

STEP 5b: SPLIT SPECIMEN TEST RESULTS - (IF TESTED) COMPLETED BY SECONDARY LABORATORY

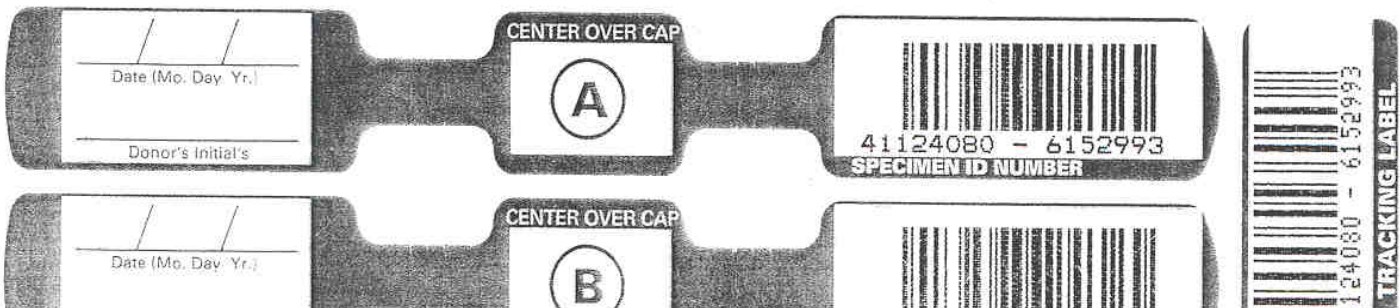
Laboratory Name _____ RECONFIRMED FAILED TO RECONFIRM - REASON _____
 Laboratory Address _____ I certify that the split specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.
 Signature of Certifying Scientist _____ (Print) Certifying Scientist's Name (First, MI, Last) _____ Date (Mo./Day/Yr.) _____

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Statement Declining Placement on the Temporary Assignment List for HSPT Positions

I have been informed that I am currently eligible to be placed on the temporary assignment (TA) list for a Health, Safety, and Public Trust (HSPT) position. The Agreement stipulates that before an employee can be placed on the list the employee must submit to and test negative to a controlled substance test.

I acknowledge that promotion to a HSPT position is at times through the TA list and that once tested, the employee shall not be subject to another controlled substance in a promotion to that position. Irrespective of these conditions, I hereby decline placement onto said TA list and understand by doing so, I shall not be considered for a promotion to such a position for six (6) months starting from the date of acceptance of this request by a department management representative.

I further understand that should I seek placement onto the TA list or promotion into said HSPT position in the future, I shall be subject to controlled substance testing requirements per the Agreement.

Temporary assignment position: _____

Employee name: _____ Job title: _____

Employee Signature

Date

Management Representative

Date accepted

Personnel Office

Date received

Note: Release of temporary assignment is contingent upon department resource requirements and personnel assessment of workforce planning requirements.

PRE-DUTY GUIDELINES

The bargaining unit contract addresses the application of a temporary assignment list. Should there be a temporary assignment (TA) list for a HSPT position there must also be a “pre-duty” controlled substance test prior to placement onto the list. Most often, opportunity to be on the list is through seniority. However, the senior employee may not seek a HSPT position or placement on the TA list for whatever reasons including responsibilities, shift work, stand by, etc. Therefore, the employee may want to avoid repeated opportunities to be on the TA list or in the HSPT position. Accordingly, with advanced notice an employee may wish to initiate a declination memo, such as shown on the opposite page. The declination memo is revocable at any time by the employee. The revocation must be in a written revocation statement to the Department Personnel Officer with a copy to the employee’s supervisor. The supervisor or the personnel office:

- ___ Informs the employee of the requirements of the Agreement for temporary assignment into a HSPT position.
- ___ Informs the employee of the drug testing process, Pre-Duty test, that test results must be negative, and the means to decline the HSPT temporary assignment opportunity.
- ___ Issues the employee a copy of the Employee’s Handbook that contains all the educational materials, who to see for additional information, and the Agreement.
- ___ Informs the employee of the consequences for a positive drug test result, including:
 - ___ Discharge; unless, the employee agrees to the condition of a Last Chance Agreement. Review document for details.
 - ___ Removal from the TA list, placement on leave status until a determination if the employee may return to their current position with a positive test result (suitability).
 - ___ Medical evaluation and/or evaluation by a Substance Abuse Professional (SAP). The employee will be required to be evaluated by the SAP and abide with the rehabilitation plan.
 - ___ The employee will be required to pay for educational and rehabilitation requirements and subject to negative return to work and follow on test results.
- ___ Informs the employee that a test will be scheduled and when notified, is subject to testing (employee pursuing temporary assignment). Follow testing procedures.
- ___ Instructs the employee to complete the declination form when temporary assignment is not sought.
- ___ Files the form.

POST-OFFER GUIDELINES

This check list is designed to guide the supervisor and manager through the process of implementing controlled substance testing for applicants into Health, Safety, Public Trust (HSPT) positions. Pre-employment post-offer testing follows the intent of HRS 78, to institute controlled substance pre-employment testing as a condition of employment in state civil service. Use the following Post-Offer Guidelines after an applicant is selected and a conditional job offer is extended.

- ___ Inform the applicant of the employment offer and the requirement to test negative on a controlled substance test. Also inform the applicant that employees in HSPT positions are subject to controlled substance and alcohol tests consistent with the union agreement.
- ___ Inform the applicant that failure to attain a negative controlled substance test or “refusal to test” test result will invalidate the employment offer. Refusal to test report includes obstruction of the testing process, tampering with the specimen, or a failure to take the test.
- ___ Inform the applicant that test results of other than “negative” or “refuse to test” will be referred to the Department of Human Resources Development, Employee Staffing Division, which may result in the removal of the applicant’s name from the list of eligibles.
- ___ Inform the applicant that the controlled substance test is part of the physical examination required for entrance into civil service and as such the applicant pays for the cost of the test. The approximate cost of the test is \$40.00.
- ___ Review the Test Notification form (and check list) with the applicant. Add to item #5, **“Applicant pays for testing, send results to personnel office”**. **Check for** picture identification card. NO picture, NO test, NO Job!
- ___ Complete Item #6. Have applicant read and sign the form where indicated.
- ___ Complete the drug testing custody and control form and instruct the applicant to present it to the test site personnel. Type on the “Employer” portion of the form or attach note **“Applicant pays for pre-employment testing, send results to personnel office”** (provide department name, address, and name of department representative to receive test results).
- ___ Provide instructions to test site. Instruct the applicant to report to test site immediately with forms when called to test. (Whenever possible, schedule test at time and place convenient to the applicant.)
- ___ Inform the applicant that the Personnel Office will provide the test results.

POST-ACCIDENT TEST FORM

Date of Accident: _____ Time of Accident: _____ a.m. p.m.

Location of Accident: _____

Name of Regular Driver _____

Vehicle Make: _____ Model _____

Color _____ License No: _____

- 1. Is the vehicle a state vehicle?: _____ Yes _____ No
- 2. Is the driver a "regular driver" per Agreement? _____ Yes _____ No
- 3. Did the accident occur on a public highway? _____ Yes _____ No

If the answer is yes to questions 1, 2, and 3, proceed to question #4. **If the answer to question 1, 2, or 3 is no; STOP, no testing is required.**

- 4. Did the driver receive a citation for a moving traffic violation? _____ Yes _____ No

If no, proceed to question 7. If the answer is yes, proceed to question 5.

- 5. Did a person involved in the accident require treatment away from the scene of the accident? _____ Yes _____ No
- 6. Did one or more vehicles involved in the accident become disabled and was towed from the scene? _____ Yes _____ No

If the answer is **no** to questions 5 and 6; **go to question 7**. **If the answer is yes to 5 or 6 or both, testing is required** (Note: Question 4 must also be Yes)..

- 7. Did the accident involve a loss of human life? _____ Yes _____ No

If the answer is yes, testing is required (up to 32 hours of time of the accident). No test required if death reported after 32 hours.

When required, **both alcohol and drug tests are required; however, the requirement for alcohol ceases after eight (8) hours following the accident. Testing for drug ceases after 32 hours have elapsed after the accident.**

Was testing required? _____ Yes _____ No Notice of death received: _____

Employee Tested for: Alcohol Time Tested: _____ am pm Date Time

Drug Time Tested: _____ am pm

Employee Not Tested, Reason: _____

Supervisor/Management Representative Signature _____ Date _____

Name(print) _____ Phone _____

Post Accident Test Guidelines

Following an accident, the driver must be tested for alcohol and controlled substances subject to the provisions of the Agreement. Provisions of the Agreement include: accident must be on a public highway, the driver must be a “regular driver” and the vehicle must be a state vehicle. Only then, testing is required if a loss of human life or the driver receives a citation for a moving traffic violation and either a person involved in the accident requires treatment away from the scene or one or more vehicles involved in the accident is disabled and must be towed from the scene, **Critical to any accident is that the injured are attended to and a call is made for assistance.**

A driver must not leave the scene of the accident except for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. Responding to the accident the management representative must inform the driver:

- ___ Do not leave the accident scene unless released by the management representative. The driver should not need to leave the scene without receiving permission (except for medical requirements).
- ___ Do not drink any alcohol as alcohol test may be required up to 8 hours of the accident. Drug testing requirement extends to 32 hours from the time of the accident.
- ___ Do not attempt to drive. Any transportation away from the scene of the accident shall be coordinated by the department representative or designee.

Also important is for the management representative to:

- ___ Follow the post accident form as it should guide all activities following an accident.

Note: The liability for testing is 32 hours, therefore, the department representative must inform the police or medical personnel of how the department representative can be reached, especially if the injured dies and testing is required.

- ___ Instruct the driver to inform the representative of the employee’s whereabouts for 32 hours after the accident.
- ___ Instruct the driver to take both alcohol and drug test if testing requirement materializes after the accident, as required.

Note: The alcohol breath test must be administered within 2 hours but not later than 8 hours following the accident. A controlled substance test must be administered within 32 hours following the accident.

No tests, alcohol or controlled substance may be administered after the specified time period of 8 and 32 hours respectively, from the time of the accident.

**Exhibit C
RESIGNATION AGREEMENT**

This Agreement entered into this _____ day of _____ by
and between the employee _____ and the Employer.

1. The employee agrees to sign Exhibit C instead of being discharged and whereby the employee agrees to resign from employment in the event of a first positive controlled substance test occurring during the initial probationary period.
2. The employee agrees that Exhibit C has been carefully read and voluntarily accepts Exhibit C with full knowledge and understanding of its contents and meaning.
3. The employee agrees that a resignation from employment deprives the employee of the right to grieve as provided in the grievance section of the applicable bargaining unit agreement or challenge the resignation.
4. The Employer agrees that the employee's resignation from employment as provided in Section R-XVI.b.4 shall be reported in the employee's Personnel file as a resignation without fault.
5. Exhibit C shall be confidential, except as may be necessary to ensure compliance with its terms.

Employee:

Employer:

Signature

Signature

Date: _____

Date: _____

PROBATIONARY TESTING GUIDELINES

Resignation Agreement

The probationary period provides both the new employee and management an opportunity to assess the work setting and determine if continued association is desired. Controlled substance testing adds another dimension to the probationary period for employment in HSPT positions. Employees in these positions are expected to be free of implements that impede the mental and physical process of these trained employees that the public expects in critical and emergency situations. In recognition of public expectation, employees in HSPT positions are subject to random, probationary, and other alcohol and controlled substance tests. Employees in these positions should have been informed of probationary test requirements.

Accordingly, the Agreement requires employees in these HSPT positions to be tested for controlled substance at least once in their initial or new probationary period. The departments should establish probationary period test dates prior to employment so as to avoid accusations of targeting or harassment. Use the test notification form to initiate testing. In addition, initial probationary employees are subject to a resignation agreement.

Initial Probationary Period Employee:

- ___ Instruct the employee that the Agreement (between the union and the state) requires the employee to sign the resignation agreement prior to testing. The Agreement stipulates that the employee will resign rather than be discharged from employment in the event of a first positive controlled substance test occurring during the initial probationary period. Refusal to sign will result in termination.
- ___ Schedule the test ahead of test date.
- ___ Inform the employee of immediate testing and follow test notification process.
- ___ Inform employee of test results. If positive inform the employee that the Agreement deems the employee to have resigned in lieu of discharge. If negative, inform the employee of potential of additional test in the probationary period.

New Probationary Period Employee (Employee Applicant):

- ___ Schedule the test ahead of test date.
- ___ Inform the employee of immediate testing and follow the test notification process.
- ___ Inform the employee of the test results. If positive, inform the employee that their probationary period has been terminated and the employee shall go through the process of those who tested positive (discharged or last chance agreement with 20 day suspension on leave status, and must see a SAP).
- ___ Provide employee an opportunity to indicate leave status.

State Drug and Alcohol Testing Program Observed Behavior Reasonable Suspicion Record

Employee Name: _____ Date Observed: _____

Dept: _____ Div: _____ Time Observed: _____

Location of Observation: _____

Reasonable suspicion determined for: Alcohol Controlled Substance

Mark items based on your visual observation of the employee.

1. **APPEARANCE:** normal ___ messy ___ dirty ___ partially dressed ___
unsteady ___ stumbling ___ shaking ___ trembling ___ swaying ___ staggering ___
Additional _____

2. **BEHAVIOR:** normal ___ erratic ___ irritable ___ excited ___ mood swings ___
lethargic ___ argumentative ___ sleepy ___ crying ___ fighting ___ hostile ___
Additional _____

3. **SPEECH:** normal ___ slurred ___ use of profanity ___ loud ___ shouting ___ inaudible
___ whispering ___ incoherent ___
Additional _____

4. **EYES/FACE:** normal ___ bloodshot ___ watery ___ glassy ___ flushed ___
pale ___ sweaty ___
Additional _____

5. **BODY ODORS:** normal ___ alcohol odor ___ offensive smell ___ burnt rope ___

6. **Other observations for reasonable suspicion:** _____

Supervisor: Name (Print)	Signature	Date	Time
--------------------------	-----------	------	------

Title	Phone
-------	-------

Witness: Name (Print)	Signature	Date	Time
-----------------------	-----------	------	------

Witness: Title	Phone
----------------	-------

Management Representative	Phone	Date	Time
---------------------------	-------	------	------

Reasonable Suspicion Testing Guidelines

The Agreement requires that employees be tested when there is a reasonable suspicion that the employee has violated the prohibitions on alcohol misuse or drug use. **Only supervisors who have received training as specified in the Agreement can determine if reasonable suspicion exists.** The determination of reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

The behavior giving rise to reasonable suspicion must be a recognized symptom of impairment of alcohol or controlled substance use and not reasonably explained as the result of other causes. A Reasonable Suspicion Observation Checklist is used to assist in making such determinations. **Whenever a supervisor suspects that an employee's action or behavior impairs the safe operation of the worksite, the supervisor must stop or intercede so as not to endanger the employee, the worksite, or other employees. Do not permit the employee to operate any vehicle or equipment including employee personal vehicle.** The supervisor:

- _____ Document behavior on checklist and determine if conditions exist for reasonable suspicion. Show relationships between observation and safe job performance. Determine type of test(s) required/recommended.
- _____ Obtain a witness (employee of the state) to observe and document employee behavior on a separate checklist (if the supervisor determines that reasonable suspicion exists).
- _____ Talk to the employee to determine if the employee has a reasonable explanation for their appearance, behavior, speech, or body odor. Do not accuse the employee of being under the influence of drugs or alcohol.
- _____ Prepare test documents and direct the employee to submit to alcohol and/or controlled substance test. **A management representative must drive the employee to the test site. Do not permit the employee to operate any equipment including the employee's own vehicle.**
- _____ Prepare a written record of the observation leading to an alcohol or controlled substance reasonable suspicion test and signed by the supervisor and approved by the Department Coordinator (Personnel Officer, Division Chief, etc.) within 24 hours of the observed behavior. Provide confidential copy of all documents to the Division Chief and Department Personnel Officer
- _____ If testing is required, inform the employee of the requirement for testing, and transport the employee to the test site to administer alcohol, drug, or both tests.
- _____ Irrespective of the test results, ensure that the employee is transported home.

Regular Driver Notification Letter

HGEA Drug and Alcohol Testing Program

TO:

FROM:

SUBJECT: NOTIFICATION OF REGULAR DRIVER STATUS

This is to inform you that you are considered a "regular driver" under Part I of the Memorandum of Agreement on Drug and Alcohol Testing (Agreement) between the State of Hawaii and the Hawaii Government Employees Association (HGEA). If there are significant changes in your driving duties, contact your departmental drug testing coordinator.

The Agreement requires that you notify your supervisor (or another designated representative if your supervisor is unavailable) of an accident and you take a drug and alcohol test if you were driving an Employer-owned vehicle at the time of the accident, and the accident involved:

1. A fatality, or
2. You received a citation for a moving violation and
 - a. There was bodily injury to any person who as a result of the injury received medical treatment away from the scene of the accident, or
 - b. One or more of the vehicles incurred disabling damage requiring the vehicle to be towed or otherwise transported by another motor vehicle away from the scene.

You must be available for alcohol testing up to eight hours (therefore, do not use alcohol), and up to 32 hours for controlled substance testing following the accident or until post accident tests has been administered, or until your supervisor or another representative of management has informed you that a test is not required. If testing is required, your department will arrange for your transportation to the test site. **DO NOT DRIVE YOURSELF TO THE TEST SITE AFTER AN ACCIDENT. FAILURE TO REMAIN AVAILABLE FOR TESTING MAY RESULT IN YOU BEING DEEMED TO HAVE REFUSED TO SUBMIT TO SUCH TESTING.**

NOTE: You are not prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care. Necessary medical treatment shall not be delayed because of this testing requirement.

Effective date as a Regular Driver is: _____ End Date: _____

Please sign below acknowledging receipt of regular driver notice

Employee Signature: _____ Date _____

Return this notification letter to _____ by (date): _____

REGULAR DRIVER DETERMINATION

The Agreement requires that the “regular driver” be identified annually and informed of their status by January 1 of each year. Under the Agreement, regular drivers are subject to special provisions and post accident testing if testing requirements are met. A regular driver is identified as an **employee who drives a state vehicle more than 120 round trips a year** (multiple round trips a in a single day shall be counted as one trip) in the performance of their duties and responsibilities. If 120 or more, the employee is a regular driver. Use the following to determine regular driver status (place the number of round trips in each month below – October to September as specified in the Agreement):

Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep

Total the number of trips: _____

If the above is 120 trips or more, notify the employee of being a **regular driver** by January 1, for the forth coming year.

If the total number of trips is less than 120 for the year due to leaves or unavailable days, such as: temporary assignment or temporary reallocation use the following formula:

$$\mathbf{120 \text{ days} - (\text{days unavailable} \times 50\%) = \text{adjusted trips/days}}$$

Example: Total round trips recorded for the period = 100 (trip/days)

Baseline:	120 days
60 (temporary assignment and vacation) unavailable days X 50%:	- <u>30</u> days
Total (adjusted) days	= 90

Therefore, as the total number of trips (100) exceed 90 the employee is a regular driver.