



# Washington Headquarters Services

## ADMINISTRATIVE INSTRUCTION

NUMBER 17  
November 6, 2007

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WHS

SUBJECT: Civilian Employee Alcohol and Drug Abuse Prevention, Testing, and Control Program

- References:
- (a) Administrative Instruction Number 17, "Civilian Employee Alcoholism and Drug Abuse Program," November 29, 1988 (hereby canceled)
  - (b) Washington Headquarters Services, "OSD/OJCS Drug-Free Workplace Program Plan and Procedures," October 13, 1987 and reissued June 2002<sup>1</sup>
  - (c) Executive Order 12564, "Drug-Free Federal Workplace," September 15, 1986
  - (d) Title 29, Code of Federal Regulations, "Uniform Guidelines"
  - (e) through (n), see Enclosure 1

### 1. REISSUANCE AND PURPOSE

This Administrative Instruction (AI):

1.1. Reissues Reference (a) consistent with References (b) through (d) and DoD Directive 1010.9; page 29908-01 of volume 59, Federal Register; AI Number 8; part 731.202 of title 5, Code of Federal Regulations (CFR); part 2 of title 42, CFR; AI 81; AI 15; Executive Order 12958; sections 7103, 8331, and 8401 of title 5, United States Code (U.S.C.); and section 802(6) of title 21, U.S.C. (References (e) through (n), respectively).

1.2. Incorporates updates to DoD policies and responsibilities for the prevention of alcohol and drug abuse among civilian employees.

1.3. Prescribes procedures for the implementation of Reference (b).

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<sup>1</sup> Copies can be obtained from the Labor and Management Employee Relations Division, Human Resources Directorate, Washington Headquarters Services.

## 2. APPLICABILITY AND SCOPE

2.1. This AI applies to the Office of the Secretary of Defense (OSD), the Office of the Chairman of the Joint Chiefs of Staff, and other activities for which operational support is provided by the Washington Headquarters Services (WHS) Human Resources Directorate Customer Support Operating Office (hereafter referred to collectively as “WHS-serviced activities”).

2.2. Employees of WHS-serviced activities located outside the Washington metropolitan area shall receive counseling, rehabilitation services, and drug testing through their servicing civilian personnel office or under other applicable servicing agreements.

## 3. DEFINITIONS

Terms used in this Instruction are defined in Enclosure 2.

## 4. DRUG ABUSE PREVENTION, TESTING, AND CONTROL PROGRAM

The WHS policy and procedures on drug abuse prevention, testing, and control, as required by References (c) and (d) are promulgated by Reference (b), which shall be distributed to all employees covered under this AI.

## 5. POLICY

5.1. The DoD goal is to be free of the effects of alcohol and drug abuse. Such abuse is incompatible with the maintenance of high standards of performance, the accomplishment of the mission, and readiness. Alcoholism is a progressive, noncompensable disease that is both preventable and treatable and that affects the family, health, conduct, and job performance of employees.

5.2. A drug-free workplace shall be provided for employees with due regard to the rights of the Government, the employee, and the general public. A positive work atmosphere shall be maintained where drug abuse by employees is not tolerated.

5.3. Employees are prohibited from possessing, selling, or using drugs, or using alcohol other than in accordance with appropriate laws, regulations, and Instructions.

5.4. Alcohol abusers shall be provided counseling and shall be referred for treatment or rehabilitation. Individuals who refuse to participate in counseling or refuse to enter or fail to complete successfully a treatment and/or rehabilitation program shall be subject to the full range of disciplinary or adverse actions, including removal, as appropriate, in accordance with

applicable policies and regulations. Drug abusers shall be counseled, disciplined, and/or separated, as appropriate. Referral for treatment and rehabilitation shall be provided for individuals determined to be drug dependent in accordance with appropriate laws, regulations, and Instructions. Individuals who are offered treatment, but refuse or fail to successfully complete a treatment and/or rehabilitation program, shall be subject to the full range of disciplinary or adverse actions, including removal, in accordance with applicable policies and regulations.

5.5. Education and training shall be provided to managers, supervisors, and employees on DoD policies on drug and alcohol abuse and/or dependency and effective measures to alleviate problems associated with alcohol and drug abuse.

5.6. Sick leave shall be granted for treatment or rehabilitation, as in any other illness or health problem.

5.7. An employee's job security or promotional opportunities shall not be jeopardized by his or her request for assistance, except as limited by Reference (e), relating to sensitive positions.

5.8. Management shall enlist the active support of labor organizations, as key elements to the success of the alcohol and drug abuse program.

5.9. The confidential nature of medical records of employees undergoing counseling and treatment shall be preserved in accordance with applicable laws and regulations.

## 6. RESPONSIBILITIES

6.1. The OSD Principal Staff Assistants (PSAs) shall ensure that all personnel within their organization are aware of this Instruction and the Presidential initiatives on a drug-free workplace.

6.2. The Director, WHS, under the authority, direction, and control of the Director, Administration and Management, shall:

6.2.1. Be the Component Head for WHS-serviced employees covered by Reference (b).

6.2.2. In accordance with Reference (e), enter into a Memorandum of Understanding with the Department of the Army or other Federal government entities to provide:

6.2.2.1. Professionally trained personnel to perform specimen collection.

6.2.2.2. Professionally trained personnel to process specimens for laboratory testing.

6.2.2.3. Testing of specimens at a DoD-certified forensic toxicology drug testing laboratory.

6.2.2.4. Chain of custody procedures on all specimens.

6.2.2.5. Services of a Medical Review Officer (MRO).

6.2.2.6. Confidentiality of all testing results.

6.3. The Director, Human Resources (HRD), WHS, under the Director, WHS, shall:

6.3.1. Coordinate applicable aspects of the program with supervisors, civilian medical authorities, and the Pentagon Employee Referral Service (PERS).

6.3.2. Coordinate training programs with PERS for:

6.3.2.1. Supervisors to assist them in identifying and addressing drug and alcohol abuse by employees.

6.3.2.2. Employees on the control and prevention of alcohol and drug abuse.

6.3.2.3. Ensuring that educational material on alcohol and drug abuse is available to all personnel.

6.3.3. Compile sufficient statistical data to provide the basis for evaluating and reporting program results and effectiveness to the Department of Health and Human Services, in accordance with Reference (f).

6.3.4. Provide advice and assistance to supervisors on proposed adverse or disciplinary actions when drug or alcohol abuse may be involved.

6.3.5. Designate a Drug Program Coordinator (DPC) to administer the Drug Testing Program in accordance with Reference (b).

6.4. Managers and Supervisors shall:

6.4.1. Support the program and be alert to adverse changes in work patterns and behavior of assigned employees.

6.4.2. Contact an Employee Relations Specialist within the Labor and Management Employee Relations (LMER) Division, HRD, WHS, if such changes in work patterns and behavior affect job performance or conduct.

6.5. Employees:

6.5.1. May seek assistance in counseling by requesting assistance from PERS.

6.5.2. Shall not use illegal drugs.

6.5.3. Shall not abuse alcohol to the detriment of the mission of the Department of Defense.

6.5.4. Shall not abuse prescription drugs by using a prescription other than in the employee's name, or use not in accordance with doctor's instruction, or use other than what the prescription was originally intended.

6.6. The Employee Assistance Program (EAP) shall:

6.6.1. Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been confirmed positive, and monitor the employees' progress through treatment and rehabilitation.

6.6.2. Provide needed education and training to all levels of the WHS-serviced activities on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP with the drug testing program, and related treatment, rehabilitation, and confidentiality issues.

6.6.3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records is maintained in accordance with section XIV of Reference (b).

## 7. PROCEDURES

7.1. The alcohol and drug abuse program supplements existing procedures for dealing with employees who:

7.1.1. Management has reason to believe may be under the influence of alcohol or other intoxicants during work hours. If an employee is not able to perform assigned duties or is exhibiting conduct unbecoming to a Federal employee, the employee must be removed from the work environment. The supervisor has the option to:

7.1.1.1. Escort the employee to the Civilian Employees' Health Service; or

7.1.1.2. Contact a family member for transportation; or

7.1.1.3. Escort the employee out of the building to obtain public transportation (e.g., taxi service). If the employee refuses to leave, management should contact the Pentagon Force Protection Agency for employees within the National Capital Region (NCR). For employees outside the NCR, management should contact the appropriate authority for assistance. Under no condition should the employee drive his/her vehicle. The supervisor should contact LMER for further assistance.

7.1.2. Voluntarily admit their drug use prior to notification of a random drug test. Upon such admission, the supervisor shall contact the Drug Program Coordinator in LMER for

guidance on further actions and in the creation of a “safe harbor” for employees who meet the conditions prescribed in paragraphs 7.1.2.1 through 7.1.2.3.

7.1.2.1. The employee voluntarily identifies him/herself as a user of illegal drugs prior to being identified by other means;

7.1.2.2 The employee obtains counseling or rehabilitation through an EAP; and

7.1.2.3. The employee thereafter refrains from using illegal drugs.

7.1.3. Do not improve their performance, conduct, or attendance after counseling by the supervisor. Those employees shall be provided with the choice of either accepting assistance through professional diagnosis and counseling for the problem, or accepting the consequences of continued unsatisfactory job performance or conduct.

7.1.4. Are referred to an EAP. Employees shall be allowed up to 1 hour of excused absence to attend the INITIAL counseling session.

7.2. Disciplinary or adverse action proceedings against an employee who is abusing alcohol or using illegal drugs shall be taken in compliance with Reference (g).

7.3. Candidates for testing-designated positions (TDPs) shall be subject to urinalysis testing to determine if they are drug free in accordance with Reference (b).

7.3.1. A candidate occupying a TDP in any DoD Component (i.e., Military Department, Defense Agency) who is tentatively selected for a position within OSD or the Joint Staff, is not subject to pre-employment drug testing prior to appointment provided the servicing personnel office furnishes certification that the individual is currently in a TDP.

7.3.2. A candidate tentatively selected for a TDP who tests positive for illegal drugs shall be denied employment. All candidates with a verified positive drug test shall not be considered for employment for a period of 6 months from the date of the test result. After satisfying the 6-month requirement, the length of time since the last abuse of alcohol or drugs is less important than the steps taken by the applicant to secure treatment of his or her illness through medical care, rehabilitation, or similar actions (Reference (h)).

7.4. Except as stated in paragraph 7.3., applicants for non-sensitive positions who have a history of alcohol abuse may be considered if they are determined good employment risks. An incumbent of a non-sensitive position can be refused or denied employment on the grounds of current illegal drug use.

## 8. CONFIDENTIALITY OF CLIENT RECORDS

8.1. Disclosure authorization. Records of the identity, diagnosis, prognosis, or treatment of any employee that are maintained in connection with the performance of any drug abuse prevention function or alcohol-related treatment conducted, regulated, directly or indirectly, may be disclosed only for the purposes and under the circumstances expressly authorized pursuant to Reference (i).

8.2. Alcohol and drug abuse treatment records may only be disclosed without the prior written consent of the patient:

8.2.1. To medical personnel to the extent necessary to meet a genuine medical emergency.

8.2.2. To qualified personnel - for the purposes of conducting scientific research, management audits, financial audits, or program evaluation - but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

8.2.3. Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

8.3. It is prohibited to use record of drug or alcohol abuse in making criminal charges or investigation of employee/patient.

8.4. Confidentiality prohibitions do not apply to the reporting under state law of incidents of suspected child abuse or neglect to the appropriate state and/or local authorities.

## 9. RECORDS MAINTENANCE

9.1. General supervisory documentation of employee job performance and actions taken to motivate correction of job deficiencies shall be maintained confidentially in the supervisor's work folder.

9.2. Official personnel folders shall not include information on an employee's alcohol or drug abuse problem or efforts to rehabilitate the employee, except as they apply to specific charges leading to disciplinary actions, including separation.

9.3. In accordance with References (i) and (j), medical records on alcohol and drug abuse shall be disclosed to the individual to whom they pertain, unless a determination is made in consultation with a physician that the disclosure could have an adverse effect on the individual's physical or mental health. In that case, this information may be transmitted to a physician named by the individual concerned.

9.4. All records generated on an employee's alcohol or drug abuse problem shall be maintained consistent with Reference (j), and all other applicable Federal laws, rules, and regulations on confidentiality of records. Disciplinary action case files on actions taken against employees for drug use, possession, failure to comply with drug testing procedures, and similar matters and any records that are relevant to litigation or disciplinary actions shall be destroyed four years after case is closed (Reference (k)).

9.5. Employee assistance and/or counseling records on personal problems or drug and/or alcohol abuse problems, when an employee formally enters into such a program, shall not be maintained in the employee medical file (EMF). Counseling records are maintained by the EAP, however formal counseling records may be included in the EMF only with the consent of the employee.

9.6. The following records shall be maintained by the DPC under file number 202-51 and destroyed when three years old (Reference (k)) :

9.6.1. Lists of employees to be tested.

9.6.2. Those employees who report or fail to report for testing.

9.6.3. Those employees with confirmed positive test results released by the MRO.

9.6.4. All other administrative records on the drug testing program.

## 10. EFFECTIVE DATE

This Instruction is effective immediately.



Michael L. Rhodes  
Director

Enclosures - 2

E1. References, continued

E2. Definitions



E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Directive 1010.9, "DoD Drug Abuse Testing Program," August 23, 1988
- (f) 59 Federal Register 29908-01, June 9, 1994, Mandatory Guidelines for Federal Workplace Drug Testing Programs
- (g) Administrative Instruction Number 8, "Disciplinary and Adverse Actions," August 17, 1981
- (h) Title 5, Code of Federal Regulations, Part 731.202, "Suitability," current edition
- (i) Title 42 Code of Federal Regulations, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records"
- (j) Administrative Instruction Number 81, "Privacy Program," February 4, 1999
- (k) Administrative Instruction Number 15, "Administrative Procedures and Records Disposition Schedule," February 4, 1999
- (l) Executive Order 12958, as amended, "Classified National Security Information," March 25, 2003
- (m) Sections 7103, 8331, and 8401 of title 5, United States Code
- (n) Section 802(6) of title 21, United States Code

E2. ENCLOSURE 2  
DEFINITIONS

E2.1. Alcohol Abuse. The use of alcohol to an extent that it has an adverse effect on the user's health or behavior, family, community, or the Department of Defense, or leads to unacceptable behavior as evidenced by one or more acts of alcohol-related misconduct.

E2.2. Alcohol Dependence and/or Alcoholism. Psychological and/or physiological reliance on alcohol, as such reliance is defined by the American Psychiatric Association Manual.

E2.3. Applicant. Any individual tentatively selected for a testing-designated position with the OSD or the Joint Staff.

E2.4. Candidate. An applicant who has been tentatively selected for a testing-designated position.

E2.5. Drug Abuse. The wrongful use, possession, distribution, or introduction onto a military installation or Federal leased space of a controlled substance, prescription medication, over-the-counter medication, or intoxicating substance (other than alcohol). "Wrongful" means without legal justification or excuse, and includes use contrary to the directions of the manufacturer or prescribing healthcare provider, and use of any intoxicating substance not intended for human ingestion.

E2.6. Drug Dependence. Psychological and/or physiological reliance on a chemical or pharmacological agent as such reliance is defined by Reference (c). The term does not include the continuing prescribed use of pharmaceuticals as part of the medical management of a chronic disease or medical condition.

E2.7. Drug Program Coordinator (DPC). Under the supervision of the Assistant Director, LMER Division, HRD, is responsible for the implementation, direction, administration, and management of drug program activities for OSD/Joint Staff.

E2.8. Employee Assistance and Counseling Record. The record created when an employee formally enters and participates in the Agency EAP for drug or alcohol abuse or personal counseling.

E2.9. Employee Assistance Program (EAP). The counseling program that offers assessment, short-term counseling, and referral services to WHS-serviced activity employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

E2.10. Employee Medical Folder (EMF). A separate file folder (SF-66D, or equivalent) that contains all medical records designated for long-term retention, which accompanies the employee during his or her Federal career, and which is stored separately along with the OPF at the NPRC.

E2.11. Employees in Sensitive Positions

E2.11.1. Employees in positions designated by an OSD PSA as Special Sensitive, Critical Sensitive, or Noncritical-Sensitive.

E2.11.2. Employees in positions designated by an OSD PSA as sensitive in accordance with Reference (i).

E2.11.3. Employees granted access to classified information or who may be granted access to classified information under a determination of trustworthiness by the OSD PSA according to Part 4 of Reference (l).

E2.11.4. Law enforcement officers, as defined in sections 8331(20) and 8401(17) of Reference (m).

E2.11.5. Other positions that the OSD PSA determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

E2.12. Illegal Drugs. A controlled substance included in Schedule I or II, as defined by Reference (n), the possession of which is unlawful pursuant to Chapter 13 of Reference (n). The term "illegal drugs" does not mean a controlled substance used under a valid prescription or other uses authorized by law.

E2.13. Management Official. An employee required or authorized by the OSD or the Joint Staff to formulate, determine, or influence the policies of the OSD or the Joint Staff, respectively, pursuant to section 7103(a)(11) of Reference (m).

E2.14. Medical Review Officer (MRO). The individual responsible for receiving laboratory results generated from Reference (b) who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

E2.15. Principal Staff Assistant(s) (PSAs). The Under Secretaries of Defense, the Director of Defense Research and Engineering, the Assistant Secretaries of Defense, the General Counsel of the Department of Defense, the Under Secretary of Defense (Comptroller), the Assistants to the Secretary of Defense, and the OSD Directors or equivalents who report directly to the Secretary or Deputy Secretary of Defense.

E2.16. Selective Placement Coordinator. An individual, usually on the staff of the civilian personnel office, who is directly involved with the recruitment, placement, follow-up, counseling, and career development of handicapped individuals, including disabled veterans.

E2.17. Supervisor. An official having authority to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove employees; to adjust their grievances; or to effectively recommend such action if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment (section 7103(a)(10) of Reference (m)).

E2.18. Testing-Designated Positions. Those positions described in section 7(d) of Reference (c) that are designated under Reference (b) as subject to random drug testing of the incumbent. The positions are characterized by their critical safety or security responsibilities, as they relate to the mission of the WHS-serviced activity. The job functions associated with those positions have a direct and immediate impact on public health and safety, the protection of life and property, law enforcement, or national security. Those positions require the highest degree of trust and confidence.