



5-17. Drug and Alcohol Abuse and Testing

In compliance with the Drug-Free Workplace Act of 1988, the Oklahoma City Indian Clinic has a longstanding commitment to providing a safe, quality-oriented and productive work environment consistent with the standards of the community in which we operate. Alcohol and drug abuse pose a threat to the health and safety of our patients, staff and visitors and to the security of our equipment and facilities. For these reasons, we are committed to the elimination of drug and/or alcohol use and abuse in the workplace.

This policy outlines the practice and procedure designed to correct instances of identified alcohol and/or drug use in the workplace. This policy continues to apply to all employees and all applicants for employment of the Oklahoma City Indian Clinic. The Human Resources Department is responsible for policy administration.

A. EMPLOYEE ASSISTANCE AND DRUG-FREE AWARENESS

Illegal drug use and alcohol misuse have a number of adverse health and safety consequences. Information about those consequences and sources of help for drug/alcohol problems is available from the Human Resources Department, who has been trained to make referrals for employees with drug/alcohol problems. The Oklahoma City Indian Clinic will assist and support employees who voluntarily seek help for such problems before becoming subject to discipline and/or termination under this or other policies. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Such employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety-sensitive or require driving, or have violated this policy previously. Once a drug test has been scheduled, the employee will have forfeited their right to be granted a leave of absence for treatment and possible discipline, up to and including discharge, will be unavoidable.

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely and promptly disclose any work restrictions to their supervisor.

B. WORK RULES

1. Whenever employees are working, are operating any Clinic vehicle, are present on Clinic premises, or are conducting Clinic related work off-site, they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug, to include possession of drug paraphernalia
 - b. Being under the influence of alcohol or an illegal drug as defined in this policy; and
 - c. Possessing or consuming alcohol
2. The presence of any detectable amount of any illegal drug or illegal controlled substance in an employee's body system, while performing Clinic-related business or while in a company facility, is prohibited.
3. The Oklahoma City Indian Clinic will also not allow any employee to perform their duties while taking prescribed drugs that are adversely affecting the employee's ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in the container labeled by a licensed pharmacist or be prepared to produce this if asked.



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4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

C. REQUIRED TESTING

1. **Pre-employment:** All applicants must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.
2. **Reasonable Suspicion:** Employees are subject to testing based upon observations of apparent workplace use, possession or impairment. A Human Resources representative, Chief Operating Officer or other senior official shall be consulted before sending an employee for testing. All levels of supervision making this decision must document specific observations and behaviors that create a reasonable suspicion that the person is under the influence of illegal drugs and/or alcohol. If further action is justified, the supervisor should confront the employee with the documentation and another member of management.

Under no circumstances will the employee be allowed to drive to the testing facility. A member of the human resources staff, a supervisor or manager must escort the employee to the facility and make arrangements for the employee to be transported home.

3. **Post-Accident:** Employees are subject to testing when they cause or contribute to accidents that seriously damage a Clinic vehicle, machinery, equipment, or property and/or result in an injury to themselves or another employee requiring medical attention. In these instances, the investigation and subsequent testing must take place within two (2) hours following the accident, if not sooner.

Under no circumstances will the employee be allowed to drive to the testing facility.

4. **Follow-up:** Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including discharge. Depending upon the circumstances and the employee's work history and employment record, the Clinic may offer an employee who violates this policy or tests positive the opportunity to return to work on a last chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the Clinic for a minimum of one (1) year but not more than two (2) years as well as a waiver of the right to contest any termination resulting from a subsequent positive test.
5. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, they will be subject to immediate discharge from employment.

D. COLLECTION AND TESTING PROCEDURES

Employees subject to alcohol testing shall be escorted or driven to a Clinic-designated facility and directed to provide breath specimens. Breath specimens shall be tested by trained technicians using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol concentration is .04 or more, a second breath specimen shall be tested approximately 20 minutes later. The results of the second test shall be determinative. Alcohol tests may be a breath, blood or saliva test. For purposes of this Policy, the Clinic may consider test results generated by law enforcement or medical providers as work rule violations.

Applicants and employees subject to drug testing shall be driven to a Clinic-designated medical facility and directed to provide urine specimens. Applicants and employees may provide specimens in private unless they appear to be submitting altered, adulterated or substitute specimens. Collected specimens shall be sent to a federally certified laboratory and tested for evidence of marijuana, cocaine, opiates, amphetamines, PCP,



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benzodiazepines, methadone, methaqualone and propoxphane use. (Where indicated, specimens may be tested for other illegal drugs.) The laboratory shall screen all specimens and confirm all positive screens. There shall be a chain of custody from the time specimens are collected through testing and storage.

The laboratory shall transmit all positive drug test results to a Medical Review Officer ("MRO") retained by the testing facility, who shall offer persons with positive results a reasonable opportunity to rebut or explain the results. Persons with positive test results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test. In no event shall a positive test result be communicated to the Oklahoma City Indian Clinic until such time that the MRO has confirmed the test to be positive.

E. CONSEQUENCES

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to re-apply or re-test in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be terminated. *If the employee refuses to be tested yet we believe they are impaired, under no circumstances will the employee be allowed to drive home.*

The first time an employee tests positive for alcohol or illegal drug use under this policy, the result will be discipline up to and including discharge.

Employees will be paid for time spent in alcohol and/or drug testing and then suspended pending the results of the drug and/or alcohol test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a member of management/supervision, and Human Resources. Should the results prove to be negative, the employee will receive back pay for the times and/or days of suspension.

F. CONFIDENTIALITY

Information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided to the MRO shall be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed where relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

G. INSPECTIONS

The Oklahoma City Indian Clinic reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas, and property that might conceal a drug, alcohol, or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge.

H. CRIMES INVOLVING DRUGS

The Oklahoma City Indian Clinic prohibits all employees, including employees performing work under government contracts, from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on Clinic premises or while conducting company business. Clinic employees are also prohibited from misusing legally prescribed or OTC drugs. Law enforcement personnel shall be notified, as appropriate, where criminal activity is suspected.



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The Oklahoma City Indian Clinic does not desire to intrude into the private lives of its employees, but recognizes that employee's off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the Clinic reserves the right to take appropriate disciplinary action for drug usage, sale and/or distribution while off Clinic premises. All employees who are convicted of, plead guilty to, or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to Human Resources within five days. Failure to comply will result in automatic discharge. Cooperation in complying may result in suspension without pay to allow management to review the nature of the charges and the employee's past record with the Clinic.

I. DEFINITIONS

- a. **"Company Premises"** includes, but is not limited to, all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by the Clinic or on any site on which the Company is conducting business.
- b. **"Illegal Drug"** means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308)
- c. **"Refuse to Cooperate"** means to obstruct the collection or testing process; to submit an altered, adulterated, or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.
- d. **"Under the Influence of Alcohol"** means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.
- e. **"Under the Influence of Drugs"** means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly over-the-counter) where there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.)

J. REASONABLE SUSPICION AND POST-ACCIDENT TESTING PROTOCOL

- a. The employee will be advised that the Clinic management believes that there is reasonable suspicion to believe that he/she is affected by illegal drugs or alcohol (or due to the nature of the accident the policy mandates this) and that this test is being offered to confirm or deny this suspicion.
- b. The employee will be transported to the Clinic's contracted testing facilities. One member of Management or designee will accompany the employee.
Under no circumstances will the employee be allowed to drive to the testing facility.
- c. Prior to leaving for the testing facility, a representative of Clinic management will contact the testing facility to inform them that staff from the Clinic will be arriving and will need a drug and/or alcohol test completed.
- d. The employee may be provided water before leaving for the testing facility.
- e. The employee to be tested MUST present a PHOTO ID (i.e., a driver's license or state ID card) to the testing facility staff before the specimen can be obtained. Ensure that the employee has the ID when leaving Clinic premises.
- f. The employee to be tested must sign a consent form provided by the testing facility. Refusal to sign is addressed under the "Consequences" section of this document.
- g. A Clinic representative must sign as a witness to the collection procedure, along with the tested employee.
- h. After returning to the Clinic or when leaving the testing facility, the Clinic representative MUST make arrangements to transport the employee home, unless testing results are immediate.
Under no circumstances will the tested employee be allowed to drive home.