NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
349

EMPLOYEE/APPLICANT ALCOHOL AND DRUG TESTING

Supersedes: AR 349 (06/17/12); and AR 349 (Temporary, 04/07/14)
Effective Date: 09/16/14

AUTHORITY

NRS 284.406; 284.4061; 284.4062; 284.4063; 284.4064; 284.4065; 284.4066; 284.4067; 284.4068; 284.4069; 284.407
NAC 284.653; 284.880 – 284.894; NAC 284.888

RESPONSIBILITY

All Department employees shall comply with the provisions of this regulation.

The Human Resources Division will be responsible to maintain alcohol/drug testing records.

349.01 DRUG TESTING PROCEDURES FOR APPLICANTS

1. Nevada Revised Statutes require post-offer/pre-employment testing of applicants for positions designated by the Personnel Commission as affecting public safety.

2. Applicants shall submit to a screening test to detect the general presence of a controlled substance unless they are currently employed in a designated public safety position at the time of application.

3. Upon completion of the interview process pursuant to AR 300, the Warden/Division Head shall forward the hiring recommendation packet to the Human Resources Division.

4. Upon approval of the hiring packet, the Human Resources Division shall issue a written conditional offer of employment.

5. The applicant must complete and sign the Alcohol/Drug Test Consent Form (DOC-1004) prior to testing. The original consent form is retained by the Human Resources Division.

   A. Applicants will be referred to one of the contracted drug testing collection sites. Refer to OP 349 located on the Stewart shared drive/Human Resources/OP.

   B. Should the applicant refuse to sign the consent form or to take the test, the applicant will be advised their refusal will constitute withdrawal of the job offer.

   C. The applicant must be informed that completion of the alcohol/drug test is required within 24 hours of conditional offer. Should the applicant not complete the test within the required 24 hours, it will constitute a withdrawal of the job offer.

6. Test results will be returned to the Human Resources Division.

7. The Department shall consider the results of the screening test when determining whether to employ an applicant.

A. The appointing authority shall not hire an applicant who tests "positive" for controlled substances.

8. The results of the screening test are confidential and will be securely maintained only by the Human Resources Division. Screening tests must not be disclosed to anyone, except as provided in NRS 284.4068.

349.02 EMPLOYEE–REASONABLE SUSPICION TESTING

1. The Shift Supervisor, Warden or Division Head shall determine the need for alcohol and/or drug testing of employees based on objective facts of an employees workplace performance behaviors, speech, appearance, odor and/or incidents that may cause a supervisor to reasonably suspect that an employee is under the influence while on duty or upon reporting to duty.

2. If there is reasonable belief that an employee is impaired, the appointing authority or designee must complete a Report Form for Suspected Alcohol/Drug Impairment (TS-77)-and an Alcohol/Drug Test Consent Form (DOC-1004) prior to administration of the test.

A. Forms may be obtained from the Stewart shared drive/Human Resources/Forms.

B. The employee should be relieved of duty and quietly removed to a private area away from the work site.

C. A second supervisor should be present if possible to also objectively observe and evaluate behavior.

D. The employee must be informed of the specific facts supporting the belief and a written record of the specific facts must be prepared on the report form (TS-77).

E. The employee should be advised whether they will be tested for alcohol, drugs or both.

F. The employee must sign the alcohol and drug testing consent form (DOC-1004).

3. Human Resources shall be informed of the testing and the original TS-77 and DOC-1004 forms shall be forwarded and retained by the Human Resources Division.

A. A copy of the TS-77 should be given to the employee.

B. A copy of the DOC-1004 should be given to the employee, and a copy is delivered to the collection site at the time of collection.

4. If the employee refuses to sign the consent form (DOC-1004) or submit to the screening test, the employee must be advised their refusal may result in dismissal. Such refusal should be noted on the form and witnessed and arrangements should be made for the safe transportation of the employee to their home. Should the employee insist on driving home, they should be advised the Nevada Highway Patrol or other local law enforcement personnel will be notified.

5. The cost of any return to duty testing and counseling services will be at the expense of the employee.

6. An employee who does not pass a return to duty test will be subject to disciplinary action up to and including termination.

7. An employee testing positive on an alcohol and/or drug screening test for a second time within a 5-year period may be summarily terminated at the discretion of the appointing authority.

8. The results of the screening test are confidential and will be securely maintained only by the Human Resources Division. Screening tests must not be disclosed to anyone, except as provided in NRS 284.4068.

9. Employees are advised to refer to OP 349 located on the Stewart shared drive/Human Resources/Operational Procedures.

349.03 POST ACCIDENT TESTING

1. During the performance of duties, employees involved in a motor vehicle accident causing bodily injury to himself or another person; substantial damage to property causing more than $500 worth of damage; or reckless/careless operation of a motor vehicle causing two property accidents within a 1-year period will result in alcohol and/or drug testing.

2. Testing for alcohol and/or drugs under post accident conditions utilizes the following forms located in the commercial vehicle:

A. Alcohol/Drug Testing Consent Form (DOC-1004)

B. Chain of Custody lab form.

3. Testing for post accident reasons, the employee and agency will be required to follow the procedures outlined in 349.04, 349.05, 349.06 and 349.07 as applicable.

4. It will be considered a positive test result, if the employee: refuses to test; will not sign the required forms; or refuses to cooperate in the testing process in such a way that prevents completion of the test.

5. Any exceptions to this process shall be approved by the Director or Deputy Director.

349.04 ALCOHOL BREATH TESTING FOR EMPLOYEES

1. The forms utilized for alcohol breath testing are:

A. Report Form for Suspected Alcohol/Drug Impairment (TS-77)

B. Alcohol/Drug Testing Consent Form (DOC-1004)

C. Employee Breath Test for Alcohol/Intoxilyzer 5000 Check List form (TS-69)

D. These forms may be obtained from the Stewart shared drive/Human Resources/Forms.

2. The Nevada Highway Patrol (NHP) shall be contacted to provide a preliminary alcohol breath test on the worksite.

3. A confirmatory alcohol breath test must be conducted immediately following receipt of a positive preliminary test at the worksite.

A. The confirmatory test must be performed at one of the designated confirmatory test sites. Refer to OP 349 located on the Stewart shared drive/Human Resources/OP.

B. Transportation to the confirmatory test site may be provided by NHP.

C. A Supervisor, Warden or Division Head must accompany the employee to the confirmatory test site.

D. The Supervisor, Warden or Division Head is responsible for providing appropriate transportation home following the completion of the confirmatory testing.

E. Employee should be placed on administrative leave pending the result.

F. An employee must not have a concentration of alcohol in his breath greater than .02 gram by weight of alcohol per 210 liters of his breath upon reporting to or while on duty.

G. Should a screening test indicate that the concentration of alcohol is greater than .02 gram; the employee will be subject to disciplinary action.

H. The Human Resources Division shall provide the employee with written results within three working days of their alcohol breath test.

I. The employee will then be placed on sick leave or leave without pay and mandatorily referred to the Employee Assistance Program (EAP) as described under 349.05.

J. Upon clearance from a licensed or certified counselor who has training or experience in substance abuse treatment, the employee must submit to and pass a return to duty alcohol screening test.

349.05 DRUG TESTING FOR EMPLOYEES

1. Screening tests for controlled substances must be conducted by the State contracted medical laboratory.

2. The forms utilized for testing for controlled substances are:

A. Report Form for Suspected Alcohol/Drug Impairment (TS-77)

B. Alcohol/Drug Testing Consent Form (DOC-1004)

C. Chain of Custody lab form. May be obtained from the Human Resources Division.

3. The employee should be advised when completing the consent form, DOC-1004, that pertinent information relevant to medication legally taken by the employee should be noted on the form and will be considered by the Medical Review Officer (MRO) when assessing a positive test.

4. The Supervisor, Warden, or Division Head shall arrange transportation and accompany the employee to the collection site. Refer to OP 349 located on the Stewart shared drive/Human Resources/OP.

5. After an employee submits to a screening test the employee should be placed on administrative leave and transported home.

A. The employee should be informed that while on administrative leave, they must be readily available for department contact during normal work hours.

6. The Human Resources Division shall provide the employee with written results of the screening test within three working days after receipt of the results.

A. An employee who fails a drug test has 72 hours upon receipt of notice to provide proof that the controlled substance was directed pursuant to a current and lawful prescription issued in his name.

B. The employee shall also be provided an opportunity to have the same sample tested by a certified laboratory of their choice and at their expense.

7. An employee who tests positive for a controlled substance will be subject to disciplinary action up to and including termination.

8. An employee testing positive for drugs will be required to:

A. Utilize sick leave or leave without pay;

B. Attend a mandatory counseling referral;

C. Provide documentation from a licensed or certified counselor who has training or experience in substance abuse treatment that the employee is able to return to duty;

D. Submit to and pass a return to duty alcohol and/or drug screening testing as determined by the appointing authority.

349.06 EMPLOYEE ASSISTANCE PROGRAM

1. Employees testing positive for alcohol and/or drugs for the first time and who have committed no other acts of misconduct for which they may be subject to termination will require a mandatory referral to the Employee Assistance Program (EAP) and successful completion of a drug and alcohol diversion treatment program.

2. The Human Resources Division will contact the contracted EAP vendor of employee referral.

A. Human Resources Division will present the employee with an EAP referral memo, and the EAP vendor's release of information form for signature.

B. Employee is required to contact EAP vendor within 48 hours of receipt of referral memo to schedule appointment with a local counselor.

C. Employee may be subject to disciplinary action if they fail to contact the contracted EAP vendor within the required time period.

3. The employee shall provide evidence to the Human Resources Division of their consultation with EAP and any recommended plan of treatment within five working days after the date of the initial consultation.

A. Employees referred to a rehabilitation program shall provide monthly updates on treatment progress.

B. Employees completing a rehabilitation program shall provide evidence of completion within five working days of completion of the program.

4. Refusal to attend or provide evidence of consultation to the employee assistance or failure to complete a rehabilitation program successfully will be subject to disciplinary action up to and including termination.

349.07 COLLECTION SITES FOR CONTROLLED SUBSTANCE TESTING AND CONFIRMATION TEST SITES FOR ALCOHOL TESTING

1. Refer to Operational Procedure 349 located on the Stewart shared drive/Human Resources/Operational Procedures.

APPLICABILITY

1. This regulation applies to all Department employees.

2. This regulation requires an Operational Procedure from the Human Resources Division.

3. This regulation does not require an audit.

Director _____ Date 9/17/14