

## Lesson Content

### DLA's Drug-Free Workplace Plan

#### Introduction

DLA, like all other Federal agencies, is committed to a drug-free workplace. That commitment is manifested in DLA's Drug-Free Workplace Plan. The Plan offers help to employees who use drugs, while at the same time, demonstrating that drugs will not be tolerated in the workplace.

DLA's Drug-Free Workplace Plan states the objectives, policies, procedures, and guidelines for achieving a drug-free workplace consistent with Executive Order 12564 and Public Law 100-71.

#### Program components

There are five key program components of DLA's Drug-Free Workplace Plan:

1. Notice to employees
2. Employee education
3. Employee Assistance Program
4. Drug testing
5. Program safeguards

#### Department of Defense (DOD) and DLA policies

The following DOD and DLA policies pertain to DLA's Drug-Free Workplace Plan and drug testing:

- Executive Order 12564
- Public Law 100-71
- Additional requirements of applicable labor agreements
- DOD Directive 1010.4, Drug and Alcohol Abuse by DOD Personnel, dated September 3, 1997 (changes incorporated January 11, 1999)
- DOD Instruction 1010.6, Rehabilitation and Referral Services for Alcohol and Drug Abusers, dated March 13, 1985
- DOD Directive 1010.9, Civilian Employees Drug Abuse Testing Program, dated August 23, 1988 (includes administrative reassurance changes incorporated on January 20, 1992)
- DOD Administrative Instruction Number 17, Civilian Employee Alcohol and Drug Abuse Prevention, Testing and Control Program, dated November 29, 1988 (changes incorporated April 23, 1993)

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### Notice to employees

The right to due process is an essential part of DLA's Drug-Free Workplace Plan. Employees who occupy testing designated positions (TDP) each receive a specific 30-day notice in advance of random drug testing. This notice informs the employee that he or she is subject to periodic, unannounced random drug tests, which will begin no sooner than after the expiration of the notice period.

### Employee education

Each DLA activity is responsible for educating its employees on the program. DLA does not require formal classroom training.

DLA Human Resources Centers (DHRC) and the Employee Assistance Programs (EAP) offer leaflets, videos, bulletins, and other drug testing and EAP materials.

### EAP

EAP plays an important role in preventing and resolving employee drug use by providing a wide range of services, which include

- counseling
- monitoring employee progress through treatment and rehabilitation
- providing education on illegal drug use
- assisting supervisors in confronting employees who have problems, and
- making referrals to appropriate treatment and rehabilitative facilities.

Information on EAP is available on the DLA Human Resources Web site at <http://www.hr.dla.mil>.

### Drug testing

DLA's Drug-Free Workplace Plan outlines

- positions specifically identified as TDPs
- types of illegal drugs tested for
- guidelines for specimen collection, and
- types and conditions for drug testing.

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### Program safeguards

The following safeguards are in place to maintain compliance and ensure success of DLA's Drug-Free Workplace Plan:

- Strict chain-of-custody procedures
- Confidentiality of test results
- Cut-off levels for concentrations of drugs
- Double-testing of each sample
- Reporting of positive test results to a contracted Medical Review Official (MRO) before DLA management

These safeguards are described in more detail later in this module.

## Personnel and Responsibilities

### Introduction

Various personnel are involved in the implementation and oversight of the Drug-Free Workplace Plan. This section identifies associated responsibilities for

- supervisors
- EAP, and
- drug testing program personnel.

### Supervisor responsibilities

The supervisor plays a significant role in the program. The following are the supervisor's responsibilities:

- Identify positions subject to drug testing.
- Coordinate scheduling of drug testing with the Drug Testing Coordinator and employees, and answer common employee questions regarding the program.
- Take appropriate action in response to positive drug tests by working with the servicing DHRC Employee Relations Specialist.
- Initiate a reasonable suspicion test after
  - making appropriate factual observations
  - documenting the observations, and
  - obtaining approval from the higher-level supervisor.

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- Refer employees to EAP for counseling and rehabilitation upon finding illegal drug use.
- Initiate appropriate disciplinary action upon a finding of illegal drug use.
- Assist higher-level supervisors in evaluating employee performance that may be related to illegal drug use.

### **EAP responsibilities**

The following are EAP responsibilities:

- Demonstrate DLA's commitment to eliminating illegal drug use.
- Provide employees an opportunity to discontinue their drug use.
- Provide educational materials to supervisors and employees on drug issues.
- Make referrals to appropriate treatment and rehabilitative facilities.
- Follow up with individuals in rehabilitation.
- Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been confirmed positive, and monitor them through rehabilitation.
- Ensure confidentiality of test results, related medical treatment, and rehabilitation records.

### **Drug testing personnel responsibilities**

The following personnel are also responsible for oversight of the program:

- Drug Testing Program Administrator—Responsible for implementing, directing, administering, and managing the drug program in DLA.
- Drug Testing Program Manager (DTPM)—Responsible for service population within the appropriate DHRC.
- Drug Testing Program Coordinator—Responsible for implementing and operating the drug testing program within the Field Activity.
- Medical Review Official (MRO)—Responsible for the following:
  - Receive all laboratory results.

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- Assure individual tested has opportunity to justify test results.
- Refer verified positives test results to DTPM.
- Offer retest of same specimen upon confirmed positive test.

## Drug Testing

### Introduction

The DLA's Drug-Free Workplace Plan provides specific guidelines of drug testing.

### Positions tested

Applicant and random drug testing applies to the following positions:

- Positions with secret or top secret access
- Criminal and general investigative positions
- Security positions including guards and police
- Mobile equipment operators
- Firefighters
- Nurses

Additional positions can be found in appendix A of DLA's Drug-Free Workplace Plan.

### Illegal drugs

Under DLA's Drug-Free Workplace Plan, DLA employees may be tested only for the following drugs:

- Cannabis (Marijuana)
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP)

Note: Effective May 1, 2010, DLA will begin testing for Ecstasy and heroin as well as the drugs listed above.

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### **What are the signs of potential illegal drug use?**

Ongoing performance problems that do not respond to normal supervisory actions may be signs of addiction and other personal problems and may require more intervention. The following are examples of common performance problems that may be indicators of underlying addiction or illegal drug use:

- Increased absenteeism
- Unexplained absences
- Monday/Friday illnesses
- Mood swings
- Inability to keep commitments
- Missing deadlines
- Lack of responsibility
- Irritability
- Lack of motivation
- Family difficulties
- Financial problems
- Marked changes in level of activity after lunch or breaks

### **Evidence of illegal drug use**

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to

- direct observation
- evidence obtained from an arrest or criminal conviction
- a verified positive urine test result, or
- an employee's voluntary admission.

### **Specimen collection**

Drug testing must strictly follow the guidelines established by the Department of Health and Human Services (DHHS). Unlike military drug testing programs, direct observation of collections is usually not permitted, but there are exceptions. Generally, most civilian employees provide their specimens in the privacy of a toilet stall.

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### Short notice for random testing

Those employees occupying TDPs selected for random drug testing also receive written, **advance notification from their supervisors not more than 2 hours before their scheduled test.**

The random drug testing notice explains the

- reasons for ordering the test
- employee's rights in the testing process, and
- consequences of failure to participate.

The short notice period is required to protect the validity of the test result because many drugs stay in the body for only a short time. It is imperative that employees be given as little notice as possible of scheduled random tests to ensure program success.

## Types of Drug Testing

### Introduction

There are various types or conditions for drug testing:

- Applicant testing
- Voluntary testing
- Accident or unsafe practice testing
- Random testing
- Reasonable suspicion testing
- Deferred testing
- Follow-up testing

### Applicant testing

Applicant testing is used to screen out illegal drug users during the initial employment process. A verified, positive test result or refusal by the applicant to take the test will result in the employment offer being withdrawn.

All individuals selected for employment in a TDP are required to be applicant-tested. For example:

- DLA employees who are not in a TDP concurrent with their selection and who are subject to be promoted, reassigned, or detailed to a TDP for more than 120 consecutive days must be tested.
- Vacancy announcements for TDPs include a statement informing applicants that they will be screened for illegal drug use prior to employment in the position and periodically thereafter.

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- Each applicant is notified that appointment or placement in the position will be contingent upon a negative drug test result.

Exception: Federal employees occupying a TDP concurrent with their selection and verified by the servicing DHRC are exempt from applicant testing.

### **Voluntary testing**

Employees not in a TDP may volunteer for unannounced random testing by notifying their servicing DTPM.

These employees will be included in the pool of TDPs for as long as they occupy their position or until the employee asks to be removed from testing coverage, which can be done at any time by notifying the DTPM. The employee's name, however, will remain in the TDP pool until the end of the testing cycle. An employee cannot volunteer and then immediately withdraw without ever running the risk of being tested.

Volunteers for random testing are subject to the same procedures and administrative actions as other employees in TDPs.

### **Accident or unsafe practice testing**

DLA is committed to providing a safe and secure work environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

1. The accident results in a death or personal injury requiring immediate hospitalization.

OR

2. The accident results in damage to Government or private property estimated to be in excess of \$10,000.

If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the Activity Commander for approval. Once approval has been obtained and arrangements made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

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### Random testing

Random testing is a system of drug testing under which each employee in a TDP has an equal chance of being tested. In DLA, such testing is accomplished quarterly using a computer-generated, random sample of employees in TDPs.

The following are procedures and position responsibilities for random testing:

1. DHRC-S (HR Information Systems) creates and generates the listings for random drug testing and forwards them to the Drug Testing Program Managers (DTPM) for review. The DTPMs then forward the listings to the Drug Testing Program Coordinators.
2. Drug Testing Program Coordinator notifies the selected employee's supervisor to confirm availability of the employee. (If the first-level supervisor is not available, the next level supervisor is notified.)
3. Supervisor informs employee in private of his or her selection. No advance notification is required and under no circumstances should notice be given more than 2 hours in advance, since drugs stay in the body only a short time. The validity of the test could be compromised by an extended advance notice period.
  - The supervisor shall explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly.
  - The employee shall be provided with written notification.

### Reasonable suspicion testing

Reasonable suspicion testing may be required of any employee when there is a reasonable suspicion that the employee uses or possesses illegal drugs whether on- or off-duty. The first line supervisor must receive approval of the employee's second line supervisor and the Director of the servicing DHRC before any testing.

Reasonable suspicion testing may be based upon the following:

- Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug
- A pattern of abnormal conduct or erratic behavior consistent with the use of illegal drugs or drug related impairment

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- Arrest or conviction of a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, trafficking, or distribution
- Information provided, whether by reliable and credible sources or independently corroborated
- Newly discovered evidence that the employee has tampered with a previous drug test

### Caution to supervisors

Although there are various signs and symptoms associated with drug usage, supervisors must use caution in reaching the reasonable suspicion determination. Symptoms of illegal drug use are similar to symptoms of other health, behavioral, or personal problems.

When ordering a reasonable suspicion test, keep in mind that the problem may not be drugs but could be attributed to some other physical or mental condition. Before ordering a test, the supervisor should

- document reasons for suspecting drug abuse, and
- obtain concurrence from the next level supervisor in the organization and the Director of the servicing DHRC.

It is also recommended that supervisors consult with the on-site Drug Testing Program Coordinator.

When reasonable suspicion has been established, the appropriate supervisor will promptly detail, for the record, and in writing, the circumstances that formed the basis to warrant the testing. A written report will be prepared to include, at a minimum, the appropriate dates and times of reported drug related incidents, reliable/credible sources of information, rationale leading to the test, findings of the test, and the action taken. This information will be maintained by the appropriate DTPM.

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### Deferred testing

The test for a randomly selected employee may be deferred, if the employee is

- in an approved leave status (sick, annual, administrative, or leave without pay), or
- in official travel status away from the test site or will embark on official travel scheduled prior to the testing notification and occurring prior to the time of the scheduled drug test.

All deferred tests will be rescheduled within 60 days from the date of the last deferral or the date the employee returns to the duty/work site. The employee should not be advised of the rescheduled test in advance.

### Follow-up testing

Employees referred through administrative channels to EAP and who undergo a counseling or rehabilitation program for illegal drug use, will be subject to unannounced random testing as a follow up to their program by the Agency as part of their rehabilitation.

Follow-up testing is conducted at least quarterly. This follow-up testing is separate from the regular random testing conducted by the activity. The requirement for follow-up testing lasts for a period of 1 year or more. The Substance Abuse Professional (Counselor) determines the exact frequency of the follow-up testing and notifies the DTPM. Once this frequency is set, it may be decreased but not increased. This does not apply to employees who have entered EAP voluntarily without management referral.

The EAP counselor will notify the DTPM when an employee completes treatment following a finding of illegal drug use so that follow up testing can begin along with after care treatment.

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### Program Safeguards

#### Introduction

The following safeguards are in place to maintain compliance and ensure success of DLA's Drug-Free Workplace Plan:

- Strict chain-of-custody procedures
- Confidentiality of test results
- Cut-off levels for concentrations of drugs
- Double testing of each sample
- Reporting of positive test results to a contracted MRO before DLA management

#### Chain of custody

Chain-of-custody procedures ensure that samples are not tampered with, switched, or mislabeled. If the chain of custody is broken, then the sample is not used. Depending on the circumstances of the drug test, an employee may be asked to provide another sample.

#### Confidentiality of test results

Employees are protected by Public Law 100–71. This protection applies to the medical test results to ensure confidentiality.

#### Cut-off levels

Concentrations of drugs in urine samples have been set above the levels caused by secondhand exposure to ensure that positive results are due to active use.

#### Double testing

Each positive sample is tested at least twice:

- First by an initial screening test
- Second by an extremely accurate gas chromatography/mass spectrometry procedure

At the employee's request, confirmed positive samples may be retested again by a National Certified Laboratory utilizing the same sample. DLA pays for all of these tests.

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### Reporting of positive test results

The laboratory reports positive test results to the contracted MRO who reviews the laboratory report and discusses it with the employee before reporting it to the Agency. The employee is aware of his or her positive test result before DLA management, and has an opportunity to justify the result to the MRO.

The MRO will notify the servicing DHRC of the positive test result. The servicing DHRC will contact the employee's supervisor notifying them of the positive result and that the employee must be referred to the EAP for counseling and rehabilitation.

### Disciplinary Actions

#### Introduction

DLA's Drug-Free Workplace Plan outlines specific disciplinary actions and exceptions to those actions for conditions when

an employee tests positive  
an employee refuses to be tested  
a specimen is altered or substituted, or  
a specimen is diluted.

#### What happens if an employee tests positive?

The following disciplinary actions will be taken if an employee tests positive for illegal drugs:

- The employee found to use illegal drugs will be immediately removed from the TDP through
  - reassignment or detail to a non-TDP
  - placement on leave, or
  - removal from the duties that require testing.
- The employee will be referred to EAP.
- The severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case (consistent with the Executive Order) and includes the full range of disciplinary actions up to, and including, removal from the Federal service.
- For a first offense, penalties range from a 15-day suspension to removal. If the employee refuses rehabilitation for a first offense, removal may be appropriate.

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- For a second offense, the supervisor must initiate removal from the Federal service.

It is important to work with the servicing Employee Relations Specialist to ensure that the appropriate disciplinary action is taken.

### **Refusal of test**

An employee who refuses to be tested when required will be subject to the full range of disciplinary actions previously described.

### **Altered or substituted specimens**

Attempts to alter or substitute the specimen provided will be treated as severely as a refusal or a positive drug test. This will also result in testing the employee under direct observation based on reasonable suspicion.

### **Diluted specimens**

Employees who submit diluted specimens will be retested as soon as possible.

### **Exceptions to disciplinary actions**

A disciplinary action must be initiated upon a finding of drug use except when

- an employee voluntarily identifies himself or herself as a user of illegal drugs prior to being identified by other means
- successfully completes counseling and/or rehabilitation, and
- thereafter refrains from drug use.

### **Problems to report for all drug testing**

Supervisors should immediately report to the Drug Testing Program Coordinator

- problems supervisors encounter during the employee notification
- employees who fail to appear, or
- employees who fail to cooperate with the collection procedures.

Such problems will be subject to disciplinary actions up to and including removal from the Federal service.

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