

IDAHO STATE POLICE PROCEDURE

03.14 DRUG-FREE WORKPLACE

A. General

The Idaho State Police (ISP) is a drug-free workplace. Employee impairment due to the presence of illegal drugs, alcohol, or otherwise legal drugs while in the workplace poses serious safety and health risks to the employee, co-workers and the general public. This procedure provides a program to ensure a safe, secure and productive work environment for all employees while protecting ISP's property, information, equipment, operations and reputation. All information relating to drug or alcohol testing or the identification of persons as users of drugs or alcohol is protected to the extent allowed by law.

While some employees are occasionally required to come into contact with or possess alcohol or illegal substances as a regular part of their job duties, the use, sale, distribution, manufacture, purchase, transfer, storage or possession of alcohol, illegal drugs or paraphernalia, or the unauthorized use of prescription drugs or any combination of these behaviors while acting in the scope and course of employment is otherwise prohibited. Possession of drug paraphernalia as defined in [Idaho Code section 37-2701\(n\)](#), other than that held as evidence or used for training/demonstration purposes, is also prohibited in the workplace.

ISP supervisors may access training in detecting the signs and behaviors of persons who may be under the influence of drugs or alcohol in the workplace and are informed of the health and safety dangers associated with drug and alcohol use.

ISP employees may undergo drug testing prior to assuming employment; for reasonable belief of prohibited drug use or alcohol abuse; as follow up or prior to return to work after an initial positive test result; post-incident; and in compliance with ISP's random drug testing program.

Drug testing is a condition of continued employment with the ISP. The confirmed results of a drug test indicating positive results while in the workplace constitutes evidence of workplace drug use. A refusal to test is considered the same as a positive test result.

Drug testing is administered under contract by a state of Idaho-approved service provider. Testing procedures and threshold amounts of substances tested for are defined within the contract.

B. Definitions

“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

“Alcohol test” means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. For ISP employees the test threshold is any detectable amount.

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“Controlled substances” and “illegal drugs” mean drugs whose dissemination and use are controlled by regulation or statute, including but not limited to narcotics, depressants, stimulants, hallucinogens, and cannabis.

“Drug” means any substance, other than alcohol, that may affect an employee’s ability to perform his or her job or creates a threat to the safety of others.

“Drug use” means any ingestion including but not limited to smoking, injecting, absorbing, sniffing, or inhaling of any drug not prescribed, administered, or provided to the user by a licensed physician, their authorized agent, or practitioner allowed to do so by Idaho statute.

“Drug test” means an analytical procedure to determine whether an employee may have alcohol, a drug or its metabolites in his or her system.

“Impaired (impairment)” means testing positive for the threshold amounts of drugs or alcohol, whether or not impairment of ability to perform duties safely or competently is observed.

“Medical Review Officer” means the physician used by the testing service provider to review all drug test results.

“Negative result” means the drug test indicates no presence of any substance tested for.

“Positive result” means the drug test indicates the presence of one or more substances tested for.

“Post-incident” means immediately following any incident, to include any fleet crash, accidental firearm discharge, use of force during which aerosol weapons, ground fighting or impact weapons are used or arrest techniques resulting in injury, or any workplace injury to an employee regardless of whether or not a workers compensation claim is filed.

“Reasonable belief” means the quality of proof is more than a hunch but less than probable cause. Reasonable belief must be based on specific, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs or alcohol, based on the totality of the circumstances.

“Safe harbor” means a program of assistance to an employee who voluntarily identifies himself/herself to have an alcohol or drug problem, under certain conditions set out in this procedure.

“Workplace” means any facility, building, yard, vehicle or other space an ISP employee occupies during assigned working hours. “Workplace” also refers to state-owned vehicles and storage spaces such as lockers, desks and drawers, whether locked or unlocked. There is no expectation of personal privacy within state-owned, work-related resources.

C. Sensitive Positions

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1. Positions subject to mandatory pre-employment and random drug testing are:
 - a. all commissioned officers, regardless of assignment;
 - b. all regional communications center employees who perform dispatch functions, including supervisors; and
 - c. all ILETS control room employees.

D. Impairment Due to Lawful Use of Drugs

1. Employees taking prescription or over-the-counter non-prescribed drugs or medication are responsible for knowing any side effects of the medication that might interfere with job performance based upon the prescribing physician's advice or the warning on the medication label.
2. The fact that a drug is legally prescribed or does not require a prescription is not an excuse for impairment.

E. Unintentional or Forced Ingestion

1. If an employee unintentionally ingests, or is made to ingest, any controlled substance:
 - a. the employee must report the incident to his or her supervisor as soon as possible; and
 - b. the supervisor obtains appropriate medical attention for the employee.
2. The supervisor takes appropriate supervisory action based on the medical information and ISP procedures.

F. Employee Assistance Program (EAP), Self-Referral and Safe Harbor

1. Self-referral for an alcohol or drug problem initiates a process that both assists the employee and protects ISP.
2. An employee who voluntarily identifies him/herself to have an alcohol or drug problem may receive rehabilitation assistance when:
 - a. the disclosure is made prior to any alcohol or drug-related accident or violation of ISP's conduct expectations; and
 - b. the employee obtains counseling, evaluation and treatment recommended by a physician or through the state EAP.
3. The employee reports the issue to the Human Resource (HR) Officer:
4. The HR Officer:
 - a. assists the employee with information regarding counseling;
 - b. informs the employee that admission of criminal activities may result in a criminal investigation;

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- c. informs the employee's Major/Manager of the issue and may assist with developing an action plan; and
 - d. informs the Director, who may place the employee on paid administrative leave.
 5. The Major/Manager informs the appropriate levels within the chain of command.
 6. The supervisor:
 - a. develops the employee action plan;
 - b. if appropriate, reviews previous work product or cases for compromising elements;
 - c. if appropriate, consults with the Legal Services Office to determine any ISP liability and the manner in which to address it.
 7. The employee may return to work with a written release to return to work, and after taking a drug or alcohol test with a negative result.
 8. The employee's return to work is governed by a [Return to Work](#) agreement.
 9. A request for safe harbor does not protect the employee from criminal charges when the addiction or abuse stems from illegal substances, or the employee has engaged in illegal activities.
 10. A request for rehabilitation may not be made to avoid taking an alcohol or drug test when requested to do so under this procedure.
 11. A request for rehabilitation may not be made to avoid the consequences of a positive alcohol or drug test.
 12. Self-referral for alcohol or drug rehabilitation by the employee occurring more than once within a 5-year period may result in an administrative investigation under ISP procedure [03.01 Incident Review and Administrative Investigation](#).
- G. Employee Charge Related to Criminal Drug or Alcohol Offense
1. If an employee is permitted to return to work while charges are pending for the use, manufacture, purchase, possession or distribution of illegal drugs, ISP may require the employee to take a drug test with a negative result prior to resuming job duties.
 2. Upon an employee's arrest for any criminal drug or alcohol offense:
 - a. the employee reports the arrest to his or her supervisor within 1 working day of the arrest;
 - b. the supervisor initiates an administrative investigation under ISP procedure [03.01 Incident Review and Administrative Investigation](#); and
 - c. if the employee is supported by federal funds, the director notifies the appropriate federal agency as required.

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H. Pre-Employment Testing

1. All applicants for positions listed in section C.2. of this procedure receiving a conditional offer of employment are tested for the presence of alcohol and drugs:
 - a. the Human Resource (HR) Office informs the candidate of the time, date and place for the drug test when the conditional offer of employment is made, in accordance with ISP procedure [03.04 Hiring and Employment Changes](#);
 - b. the offer of employment is contingent upon a negative alcohol and drug test result;
 - c. the conditional offer of employment is rescinded when there is a confirmed positive test result.

I. Reasonable Belief Testing

1. Any employee who has a reasonable belief that another employee is illegally using, possessing or distributing controlled substances and/or improperly using other drugs or alcoholic beverages must report that belief to his or her supervisor as soon as possible.
2. Any employee who knowingly files a false report is subject to investigation under ISP procedure [03.01 Incident Review and Administrative Investigation](#).
3. Supervisors may use ISP Drug Recognition Experts in establishing reasonable belief.
4. Any supervisor may order any employee to undergo testing for alcohol or drugs based on a reasonable belief that the employee is, or has recently been, improperly or illegally using drugs or abusing alcohol.
5. Observations constituting a factual basis for determining reasonable belief may include but are not limited to: odor of alcoholic beverage, slurred speech, erratic behavior, violent mood swings, excessive unexplained absenteeism, tardiness, or an accident that was caused by the apparent action or inaction of the employee.
6. Reasonable belief testing is conducted within an administrative investigation as described in ISP procedure [03.01 Incident Review and Administrative Investigation](#).
7. If the alcohol/drug test sample cannot be collected on-site by the contracted service provider, the supervisor/designee transports the employee to a collection site.
8. The supervisor/designee ensures the employee is safely transported home.
9. An employee tested for reasonable belief is placed on administrative leave with pay pending receipt of written test results and any other required inquiries.

J. Post-Incident Testing

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1. Employees involved in any workplace incident resulting in personal injury or property damage may be assessed or tested for the use of drugs and alcohol as soon as possible following the incident and preferably within 4 hours, based upon a supervisor's reasonable belief of drug or alcohol use, through the process in section I. Reasonable Belief Testing, above.
2. Employees involved in fatal vehicle crashes while on duty are subject to mandatory drug testing:
 - a. Breath tests are conducted for the presence of alcohol;
 - b. Urine tests are conducted for the presence of drugs; or
 - c. Blood tests are conducted for both alcohol and drugs.
3. Seriously injured employees who cannot provide a specimen for testing must authorize the release of relevant hospital reports or other documentation that would indicate whether there were drugs or alcohol in the employee's system at the time of the incident:
 - a. Breath tests are conducted for the presence of alcohol;
 - b. Urine tests are conducted for the presence of drugs; or
 - c. Blood tests are conducted for both alcohol and drugs.

K. Random Testing

1. All employees occupying positions listed in section C.2. of this procedure are subject to mandatory random drug testing.
2. Random tests are unannounced and occur throughout the calendar year.
3. The annual number of random tests is approximately 15% of the average number of employees in sensitive positions.
4. The annual number of random tests may be adjusted based on an evaluation of whether the number of employees tested and the frequency of the testing satisfies ISP's goal of a drug-free workplace.

L. Drug/Alcohol Specimen Collection and Testing

1. Specimen collection, preservation and testing are conducted by the service provider for drug and alcohol testing, in accordance with the conditions of the contract.
2. Names of employees selected for testing are confidential among the service provider, HR Officer, and supervisor.
3. The service provider contacts the HR Officer with information identifying employees to be tested.

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4. The HR Officer contacts the employees' Captain/Manager (or higher chain of command if the employee is a Captain/Manager or higher rank) with all relevant information.
5. Employees receive instruction regarding transportation to the sample collection site when notified of their selection by their supervisor.
6. Employees selected for testing report to a collection site at the time and location designated by their Captain/Manager.
7. The chain of custody is preserved according to the conditions of the drug testing contract.
8. All specimens are tested for both alcohol and drugs, consistent with the technology used by the contract service provider.
9. A second specimen is requested when the collection monitor detects an effort by the employee to adulterate or substitute a specimen:
 - a. while the second test is being conducted, the employee is placed on administrative leave with pay until results are known;
 - b. if the second specimen is refused, the collection monitor immediately notifies the HR Officer of the refusal;
 - c. the HR Officer immediately notifies the OPS Coordinator of the refusal;
 - d. the OPS Coordinator contacts the employee's supervisor;
 - e. a refusal to submit a second specimen is considered equivalent to a confirmed positive result and triggers an administrative investigation under ISP procedure [03.01 Incident Review and Administrative Investigation](#).
10. Employees testing positive for drugs or alcohol may request an independent test using the portion of the specimen that yielded the positive result, at their own expense:
 - a. the request must be made to the medical review officer (MRO) within 72 hours of the employee's notification of the positive test result; and
 - b. if the retest reverses the positive result, the employee may submit the receipt and a cash voucher for reimbursement of the testing fee.

M. Test Result Notification

1. Results of drug and alcohol tests are forwarded from the laboratory to the testing service provider, for medical review.
2. The service provider contacts the HR Office when the test result is negative, generally within 2 weeks of the test:
 - a. employees receiving no contact regarding test results within 2 weeks of the test may assume the result is negative; or
 - b. employees may contact the HR Office for the results of their drug and alcohol test 2 weeks after the testing date.

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3. The MRO contacts the employee directly when the test result is positive:
 - a. the employee may provide an explanation for the positive result;
 - b. the MRO may review the employee's medical history, conduct interviews or review any other documentation to explain the positive result;
 - c. when the MRO's review concludes that the positive result was due to authorized use of prescription medicine, a negative result is reported to the HR Officer.
4. All test results are reported to the HR Officer:
 - a. the HR Officer immediately notifies the OPS coordinator of positive results;
 - b. the OPS coordinator initiates an administrative investigation under ISP procedure [03.01 Incident Review and Administrative Investigation](#).

N. Workplace Inspections

Any part of any ISP workplace, including furnishings and equipment, may be inspected at any time for the presence of alcohol, drugs or drug-related paraphernalia.

Donor Information and Instructions

The collection of a urine specimen is conducted allowing for individual privacy unless there is reason to believe that an individual may alter or substitute the specimen to be provided. The collection site person takes precaution to ensure that your specimen is not adulterated or diluted during the collection procedure. Specimen collection also follows strict chain of custody and security procedures.

In addition:

- Photo identification (e.g. driver's license, ISP badge) is required at the collection site.
- Remove any unnecessary outer garments such as a coat or jacket and empty your pockets prior to the collection. All personal belongings like purses or briefcases must remain with the outer garment. You may retain your wallet.
- Wash and dry your hands prior to providing a specimen.
- The collection site person working with you will be of the same gender during an observed collection.
- Your specimen will be provided in a partitioned area allowing for individual privacy, unless otherwise indicated.
- Keep the specimen in full view at all times until it is sealed and labeled. This protects you against incorrect labeling or someone tampering with the specimen.
- The temperature of your specimen will be taken within 4 minutes. Provide the specimen to the

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collector as soon as possible so that an accurate temperature can be attained.

- If the collector believes that you may have altered or substituted the specimen, the collector must collect a second specimen under direct observation by a same gender collector. This is reported to a collection supervisor and to your designated employer representative as soon as possible.
- Initial the identification label on the specimen bottle to certify that it came from you.
- Samples are tested for cannabinoid, cocaine, amphetamines, opiates, PCP and alcohol.
- Records concerning your collection and testing are covered under the privacy Act 5 U.S.C. 522a.