



DEPARTMENT OF THE NAVY
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NAVAIRWARCENACDIVINST 12792.1 CH-1
730000A
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NAVAIRWARCENACDIV INSTRUCTION 12792.1 CHANGE TRANSMITTAL 1

From: Commander, Naval Air Warfare Center Aircraft Division

Subj: CIVILIAN DRUG-FREE WORKPLACE PROGRAM

Encl: (1) Revised pages 5 and 6 to the Subject Instruction

1. Purpose. To issue Change Transmittal 1 to the subject instruction. This change incorporates corrections and provides revised pages to bring the instruction in line with Department of Navy regulations.

2. Action. Addressees shall:

a. Change Paragraph 7.c.(2), the second sentence to read:

At a minimum, the request for approval will contain documentation of the incidents, reliable and/or credible sources of information, and reasons leading to the request for testing.

b. Replace pages 5 and 6 of the subject instruction with the revised pages 5 and 6 of enclosure (1) of this change.


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DEPARTMENT OF THE NAVY
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CH-1 OF 18 Feb 1999

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NAVAIRWARCENACDIV INSTRUCTION 12792.1

From: Commander, Naval Air Warfare Center Aircraft Division

Subj: CIVILIAN DRUG-FREE WORKPLACE PROGRAM

Ref: (a) OPNAVINST 5355.4
(b) CPI 792-3a

Encl: (1) Civilian Drug-Free Workplace Program Process

1. Purpose. To define NAVAIRWARCENACDIV policy and procedures necessary to implement the requirements of references (a) and (b).

2. Cancellation. NAVAIRTESTCENINST 12792.5, NAECINST 12792.6, NACINST 12792.2, and NAVAIRDEVCEININST 12792.2.

3. Background. The basic requirements for a Federal drug-free workplace were established by Executive Order 12564 and Public Law 100-71. Under the command of the Chief of Naval Operations, the Drug-Free Workplace Program (DFWP) is standardized to the greatest degree possible by following the guidance of references (a) and (b). This instruction augments references (a) and (b) by identifying those requirements that are determined locally, and specifies how they will apply at NAVAIRWARCENACDIV sites.

4. Policy. It is Department of Navy and NAVAIRWARCENACDIV policy to eliminate the use of illegal drugs by civilian employees following the requirements established by Executive Order 12564 and Public Law 100-71.

5. Responsibilities. The Commander, NAVAIRWARCENACDIV, will ensure that a Drug Program Coordinator (DPC) is appointed to direct, administer, and manage the DFWP and receive all test results on behalf of the command. The DPC will be properly trained to perform the functions of the position with regard to the requirements of the DFWP and collection procedures established by the Department of Health and Human Services. In addition to the responsibilities listed in references (a) and (b), the DPC will:

a. Ensure that all locally maintained agency records pertaining to an employee's drug test will be kept in designated secure containers in a secure area. Automated records will be maintained on a disc that will be locked in a safe when not in use. The operation and updating of records will be performed on a

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stand alone computer system kept in an office with a lockable door. All records and reports will be maintained in accordance with enclosure (1), paragraph 18, and Appendix C, Section 6 of reference (b).

b. Notify employees of test results within 72 hours of receipt of such test results by the DPC (under normal conditions.) Employees will be notified of negative drug test results in writing. This written notification will be addressed to the employee at their work site and clearly marked as containing material covered by the Privacy Act.

c. Ensure the specimen collection site is located in a sanitary, secluded area which provides the employee supplying the specimen with a modicum of privacy. Tested employees will be able to provide information to collection site personnel out of earshot of other personnel. The approved collection site generally shall be physically located at a NAVAIRWARCENACDIV site.

6. Voluntary Self-Referral for "Safe Harbor".

a. Executive Order 12564 allows agencies to provide an opportunity for assistance to those employees who voluntarily seek treatment for drug use. NAVAIRWARCENACDIV has adopted the "safe harbor" provision of reference (b). Safe harbor insulates an employee from discipline for admitted acts of illegal drug use when the agency otherwise would be unaware of such use. NAVAIRWARCENACDIV will offer a "safe harbor" for an employee who meets all of the following conditions:

(1) Identifies himself/herself voluntarily as an illegal user of drugs to a supervisor or other higher level management official before being identified through other means.

(2) Obtains counseling and rehabilitation through the Civilian Employee Assistance Program.

(3) Agrees to be tested by the activity as part of or as a follow-up to counseling and rehabilitation.

(4) Consents in writing to the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to the illegal use of drugs.

(5) Refrains from subsequent illegal use of drugs. All of these conditions must be documented in the agreement between the employee and the activity.

b. An employee who meets the "safe harbor" conditions will not be subject to discipline for the admitted acts of the illegal use of drugs, including possession incident to personal use. However, if the employee occupies a testing designated position (TDP), he or she must be immediately removed from the TDP. The Personnel

Security Office will be advised of any safe harbor request and that information can be used to determine whether the employee will retain his or her security clearance. If an employee's security clearance is suspended following the employee's resort to safe harbor, management will assign/detail the employee to nonsensitive duties during the security clearance adjudication.

c. The employee's Level 1 Competency Manager can return an employee to duty in a sensitive position as part of a rehabilitation and counseling program, if it would not endanger public health, safety, or national security.

7. Procedures.

a. Random Drug Testing. Random drug testing applies to employees in TDPs without individualized suspicion that the employee is using illegal drugs. TDPs are identified, and testing will be conducted in strict compliance with the guidance provided in references (a) and (b).

b. Volunteer Testing. Employees not identified by other means as subject to testing under the DFWP can volunteer to participate in the random testing program by submitting a signed request to their site's DPC. Such employees are included in the pool of TDPs and are subject to the same conditions and procedures for random testing. An employee who volunteers to be included in the random testing program can withdraw from the random program at any time, even after being notified of an impending random drug test. A volunteer's withdrawal from the random testing program must be in writing and be submitted to the DPC.

c. Reasonable Suspicion Testing.

(1) First line supervisors or higher management officials, per reference (a), are authorized to request testing of an employee when there is reasonable suspicion based on specific objective facts and reasonable inferences drawn from those facts that the employee has used illegal drugs. The supervisor/manager requesting the test must gather the data and facts supporting the conclusion that the employee has used illicit drugs. A reasonable suspicion test may be authorized for employees in TDPs when management has a reasonable suspicion that an employee is using drugs illegally. A test may be authorized for non-TDP employees only when management has a reasonable suspicion that the employee is using drugs illegally on-duty or performing work while drug-impaired. Although reasonable suspicion testing does not require certainty, mere hunches or rumors are not sufficient cause.

(2) If an employee is suspected of illegal use of drugs, the appropriate supervisor or management official will gather all information, facts, and circumstances leading to and supporting this suspicion. At a minimum, the request for approval will

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contain documentation of the incidents, reliable and/or credible sources of information, and reasons leading to the request for testing. If the collection is to be performed under direct observation, e.g., there is a reason to believe that the individual may alter or substitute the specimen, the reasons for requiring direct observation must also be documented. Approval for testing must be received from at least one level above the supervisor or manager requesting the test. If practicable, the decision to conduct a test will be made the same day the event or behavior occurred or as soon as management becomes aware of the event or behavior.

(3) On receipt of the approved supporting documentation from the requesting official, the DPC will usually arrange for the collection to be conducted immediately, on the same day as the test was approved by management. If a bargaining unit employee requests that the appropriate union be notified of the test, documentation of the reasons for the test may be reviewed by the employee's union representative. If appropriate, the local medical officer may be consulted prior to testing. The DPC will ensure that all aspects of the reasonable suspicion test are conducted in compliance with reference (b).

(4) If an employee believes that he/she is being sent for reasonable suspicion testing for punitive reasons, the employee may pursue this matter under the appropriate grievance procedure, however, the pursuit of a grievance will not be a basis for delay of a reasonable suspicion test.

d. Post Accident/Unsafe Practice Testing.

(1) NAVAIRWARCENACDIV employees are subject to Post Accident/Unsafe Practice drug testing when they are reasonably suspected of having caused or contributed to an accident or unsafe work practice that meets either of the following criteria:

(a) The accident or unsafe practice results in a death or personal injury requiring hospitalization.

(b) The accident or unsafe practice results in damage to the government or a private party estimated to be in excess of 10,000 dollars;

(2) First line supervisors or higher management officials, per reference (b), are authorized to request drug testing of an employee who caused or contributed to an on-the-job accident or unsafe, on-duty, job-related activity that meets either of the criteria stated above. The supervisor/manager requesting the test is responsible for gathering all information, facts, and circumstances to support a request for a drug test. After gathering the required information, the requester will request the drug test by following the same procedures listed above for Reasonable Suspicion Testing (see paragraph 7.c.).

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e. Applicant Testing.

(1) Drug testing will be required of all individuals tentatively selected for a TDP unless the selection involves only a temporary position change of 30 days or less or the individual currently occupies a TDP within the Department of Defense. These selections may include those made under merit promotion procedures and any other personnel action resulting in the placement of an individual in a TDP (i.e., reassignment, promotion, and change to lower grade actions). Supervisors of positions that require a Top Secret clearance or access to special access programs will inform the Human Resources Department (HRD) of this job requirement before recruitment.

(2) Employees who are referred from the Priority Placement Program (PPP) to TDPs are not excepted from applicant testing under the DFWP. An applicant test will be conducted prior to placement in the TDP and only if the test is negative will the placement be made into the TDP. If the person tests positive for the use of illegal drugs, he or she will not be placed in the TDP, and will have lost his or her eligibility for placement under the PPP Program.

(3) Applicant testing is not applicable to management-directed actions; e.g., reductions in force, management directed reassignments associated with transfer-of-work, change in position sensitivity.

(4) Vacancy Announcements for TDPs will contain the following statement:

“An applicant tentatively selected for this position will be required to submit to urinalysis for illegal use of drugs prior to a final selection. (Exception: If the position change is for 30 days or less, or the applicant currently occupies a Department of Defense Testing Designated Position (TDP), no applicant test is authorized.) The selection is contingent upon a negative drug test result, and thereafter, the selectee will be subject to drug testing on a random basis as the incumbent of a TDP. Further, all Department of the Navy employees may be subject to drug testing under certain circumstances such as reasonable suspicion and after an accident or unsafe practice. All individuals will have an opportunity to submit medical documentation that may support the legitimate use of a specific drug to a Medical Review Officer. An applicant’s test results will be provided to the selecting official and the servicing Human Resources Department before a final selection is made. A verified positive drug test result of a current Department of Navy employee will also be provided to the employing activity/command.”

(5) The DPC will make arrangements to drug test the applicant and ensure that testing procedures are in accordance with reference (b).

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f. Follow-up Testing. All Department of the Navy employees referred by administrative action to counseling or rehabilitation through the CEAP for illegal drug use are subject to unannounced drug testing as a follow-up to their rehabilitation or treatment program. The employee will be tested for a period of 1 year or for such time as specified in an abeyance agreement, rehabilitation plan, or other form of written agreement. While undergoing initial treatment through CEAP, and at the request of the CEAP Counselor, the employee may be exempted from random testing for a period of not to exceed 60 days or a time period specified in the rehabilitation plan. Follow-up testing will be conducted in compliance with references (a) and (b).

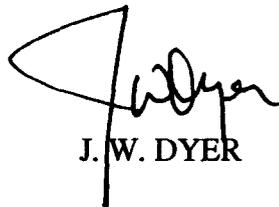
8. Consequences of a Positive Drug Test. All administrative actions will be taken in accordance with enclosure (1), paragraph 16 of reference (b), and any disciplinary procedure or adverse action taken must be consistent with the provisions of applicable laws, regulations, and collective bargaining agreements. Prior to initiating any action against an employee, management officials and supervisors will secure guidance from the appropriate Human Resources Advisor.

9. Leave Authorization. Generally, drug testing is scheduled during an employee's regular work shift. In the case of a collection which extends beyond the end of the employee's regular shift, NAVAIRWARCENACDIV may elect to require the employee to remain at the collection site. The DPC, after consultation with an employee's supervisor or higher level manager, will approve overtime pay or compensatory time for:

a. An employee to remain at the collection site after his/her regular shift to complete the collection procedures when an employee experienced difficulties in providing a sample.

b. Completion of a reasonable suspicion or post accident/unsafe practice test. These tests can be conducted without regard to an employee's work shift.

10. Review. The NAVAIRWARCENACDIV DPC shall review this instruction annually on its anniversary date making revisions as necessary.



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