

AMERICAN SAMOA GOVERNMENT



DRUG AND ALCOHOL POLICY

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FOREWORD



It is with great pride and a deep sense of satisfaction as Governor of American Samoa that I present the Territory's first ever Drug and Alcohol Policy ("the Policy"), culminating years of observation, research, and assessment of the effects of the use and/or abuse of drugs and alcohol on the performance of an ASG employee in the workplace.

The Policy provides a framework for testing as well as guidelines for education, counseling, and potential discipline arising from drug and alcohol testing.

The abuse of alcohol and drugs has the potential to adversely affect the health, safety, and productivity of employees. Accordingly, ASG is concerned and is thus committed to ensuring that the well-being and productivity of its employees are promoted and sustained.

My office, in close collaboration with the Department of Human Resources, has developed the *American Samoa Government Drug and Alcohol Policy*, which is aligned with ASG's commitment to the achievement of its vision to maintain a drug and alcohol-free work environment so that each ASG employee will be fully empowered to deliver and render quality public service to the people of American Samoa.

The Policy provides guidelines and standards for managing government employees with drug and alcohol challenges, by putting in place relevant intervention mechanisms. It also provides a tool for strategic leadership and guidance to human resources management and development in the prevention, treatment, and management of employees with alcohol or drug challenges.

The comprehensive implementation of the Policy by all ASG employees and departments, Authorities, and partners of ASG, will go a long way in reducing the incidence of and curbing the workplace drug and alcohol menace.

Therefore, all ASG Departments are directed to implement this Policy to the fullest extent possible in order to guarantee the achievement of its intended outcomes.

Lolo Matalasi Moliga

Governor of American Samoa

ACKNOWLEDGMENT



Entrusting and delegating the tremendous responsibility of maximizing the productivity of the human resource component of the American Samoa Government's ("ASG") comprehensive service infrastructure to the Department of Human Resources is accepted with gratitude and great humility. Notwithstanding, it is blatantly clear that the success of this critical endeavor and initiative lies not with the Department of Human Resources alone, but rather on our collective commitment to work collaboratively to ensure that the intended outcomes of these articulated policies and procedures will be uncompromisingly achieved.

Founded on the desired principle of collaboration and cooperation, the successful development and completion of ASG's Drug and Alcohol Policy would not have been attained had it not been for the concerted efforts of the ASG agency stakeholders, the Office of the Governor, the Legislature, and the Department of Human Resources.

These policies and procedures would be inconsequential if we lack the collective will and unswerving determination to make sure that said guidelines are aggressively implemented. As the director of your agency, you unequivocally bear the sole responsibility to implement this policy document. If you fail to perform this formidable duty we will jointly fail our commitment to the people of American Samoa relative to the delivery of the best quality service; we will fail our government in not maximizing the returns on our limited financial resources; and equally important, we will fail to render the opportunity and chance to the drug and alcohol victim for rehabilitation so that he/she can live and enjoy a productive life.

While we have established the foundation facilitating the successful implementation of these articulated Policies and Procedures, it is just as important to acknowledge and recognize individual contributions, which gave rise to the development of this policy platform. My sincere gratitude goes to former Senator Paepae Faiai for providing technical assistance to the Honorable Governor Lolo M. Moliga, and for his kind assistance during the introduction of the Bill in the Fono. My heartfelt thank you to Director John Suisala (DHSS), Director Tuileama Nua (DOH), CEO HC Faumuina John Faumuina (LBJ Tropical Medical Center), Director Samana Ve'ave'a (DHS), and Commissioner, HTC Lei Sonny Thompson (DPS). The Drug and Alcohol Legislation was authored entirely by the Senate Legislative Counsel, Mitzie Jessop Taase, and I cannot thank her enough for her ongoing assistance in the framing of policies and procedures, and providing the implementation blueprint to guide, govern, and control drug testing for the ASG workforce.

I acknowledge with thanks the task carried out by Tosimae'a Tupua and Iulogologo J. Pereira of the Office of the Governor in providing effective drafting, editing, and ensuring the successful completion of this Policy Document.

These policies, when they are fully implemented, will bolster the realization of economic and social rights, which will play a crucial role particularly in the attainment of highest standards of health and safety in the workplace.

The Department of Human Resources is fully conscious of its indebtedness connected with the development of this Policy Document through the valuable contributions of all of those mentioned above, and to these contributors, we are indeed very grateful.

Last, but not the least, is my personal expression of profound gratitude to the Honorable Lolo Matalasi Moliga, Governor of American Samoa, and to Lieutenant Governor Lemanu Peleti Mauga, for the trust and confidence accorded as manifested in the delegation of this significant, noteworthy, and life changing initiative to the Department of Human Resources. Thank you for your bold and progressive leadership, not only in the establishment of an audacious vision, but also daring to defy the status quo.

Eseneiaso J. Liu

Director of the Department of Human Resources

DEFINITIONS AND TERMS

In this policy, unless the context otherwise requires:

Drug

A drug is any substance which when introduced into the body will alter the normal functioning of the body and eventually destroy the productive life of the user (social, physical, mental, economical and spiritual).

Alcohol

The intoxication agent in the beverage alcohol, ethyl alcohol or other low molecular weight alcohol, including methyl or isopropyl alcohol and including any medication containing alcohol.

Alcohol Concentration

Alcohol Concentration (AC) or Breath Alcohol Concentration (BAC) refers to the amount or concentration of alcohol within a person's body. And evidential breath test ('EBT') may be used to measure the concentration of alcohol in a person's breath, and that measurement is expressed in grams of alcohol per 210 liters of breath.

Alcohol use

Consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Breath Alcohol Technician

A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

Collection Site

A place used for conducting and/or alcohol tests

Collector

A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the Chain of Custody Form provided by ASG/HR of the specimen taken. Collector may also be the Medical Officer.

Confirmation Test

For drug testing, a second analytical procedure, gas chromatography/mass spectrometry, to identify the presence of a specific drug. ASG/HR shall initiate a confirmation test for alcohol, as a second test to confirm the alcohol concentration of the initial alcohol screening test (e.g EBT) that resulted in a finding of 0.02% or greater.

Confirmed Positive Test

For drugs means a finding based on a positive initial or screening test result has been confirmed by another positive test on the same sample.

Confidentiality

Assurance that information shared during counseling will not be revealed without the written consent of the client as per the counseling professional ethics.

Counseling

Assistance provided by qualified professionals to employees, especially, but not limited to those employees whose job performance is or might be, impaired as a result of alcohol and/or illegal drug use or a medical behavioral problem. Such assistance may include short term counseling and assessment, crisis intervention, referral to outside treatment facilities, and follow up services to the employee after completion of treatment and return to work.

Drug Certification

A written assurance signed by an employee with known past illegal drug involvement, which states that said employee will refrain from using or being involved with illegal drugs while employed with ASG. This drug certification shall be a condition for obtaining or retaining employment with ASG.

Elected official

Any person who is elected to office for either the American Samoa Government or any political office in the territory.

Employee

Any employee of ASG, including but not limited to elected officials, political appointees, and contract workers with ASG. For the purpose of pre-employment/pre duty testing the term employee includes a person applying for employment with ASG

Evidential Breath Testing

A device that has been approved by the National Highway Traffic Safety Administration for the purpose of verifying the amount or concentration of alcohol within a person's body.

Illegal Drug

A controlled substance as specified in A.S.C.A Title 13, Chapter 10, et Seq. and CFR Title 21, Chapter II, Part 1308, Schedule of Controlled Substances.

Occurrence

Any incident that is a deviation from the expected behavior or planned course of events in connection with any ASG employee or ASG controlled operation that impacts or could impact public health, public safety, or the environment.

Independent Contractor

A person or entity that undertakes to perform work for ASG pursuant to a contract, express or implied, without being subject to the control of ASG except as to the result of the work performed.

Medical Review Officer

A person who is licensed physician and who is responsible for receiving and reviewing laboratory results generated by an ASG's drug testing procedures under this Chapter and evaluating medical explanations for certain drug test results.

Radom Testing

The unscheduled, unannounced drug testing of randomly selected employees by a process designed to ensure that selections are made in a non- discriminatory manner.

Reasonable Suspicion

An articulated belief that is drawn from particularized facts and reasonable inferences from those facts that an employee improperly uses or used alcohol or illegal drugs

Referral

The direction of an employee toward an Employee Assistance Program or to an outside treatment facility by the Employee Assistance professional, for assistance with prevention of illegal drug use, treatment, or rehabilitation from alcohol or illegal use or other problems. Referral to an Employee Assistance Program can be made by the employee (self-referral) or immediate supervisors or managers or by Directors of Human Resources or his/her designee.

Rehabilitation

A formal treatment process aimed at the resolution of behavioral medical problems, including alcohol or illegal drug use, and resulting in such resolution.

Safety Sensitive Position

Any position, the performance of which would present a serious and immediate danger to the employee, co-workers, or the public if the employee is under the influence of alcohol or drugs or which demands the exercise of discriminating judgment or a high degree of care and caution where the health or safety of the employee, co-workers, or the public is significantly involved or impacted; or

Any position directly related to the enforcement of any territorial or federal law prohibiting the illegal use, sale, manufacture, or transporting of alcohol or drugs.

Substance Abuse Professional

A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and

Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and drug related disorders. The professional is to evaluate the need for a rehabilitation plan for employees referred to the Substance Abuse Professional, develop a rehabilitation program as required, monitor and assist the employee in their progress to return to full duties and schedule return to duty and follow up tests.

ABBREVIATIONS AND ACRONYMS

AC	Alcohol Concentration
BAC	Breath Alcohol Concentration
BAT	Breath Alcohol Technician
CCF	Chain of custody form
EBT	Evidential Breath Test
CPT	Confirmed Positive Test
MRO	Medical Review Officer
SAP	Substance Abuse Professional
CS	Collection Site
SSP	Safety Sensitive Position
RT	Random Testing
DHR	Department of Human Resources
ASG	American Samoa Government
DC	Drug Certification
DHSS	Department of Human and Social Services
DOH	Department of Health
LBJ	Lyndon B. Johnson Tropical Medical Center
IA	Immunoassay Test
GS-MS	Gas chromatography-mass spectromet

CHAPTER ONE: INTRODUCTION

1. BACKGROUND

Alcohol and drug use is common throughout the world, and has a long history. From the workplace perspective the problem is that social use can sometimes encourage irresponsible use, such as excessive consumption, or use immediately before or during working hours.

The American Samoa Government operations include people who may use drugs and alcohol occasionally as well some regular social users and may from time to time over indulge. Additionally, there may be some who try a variety of substances but never becomes addicted, while others who are less fortunate may develop problems. The policy acknowledges that social use and the problem use of drugs and alcohol. It further provides that the inappropriate use of drugs and alcohol in the workplace context can affect the safety and security of American Samoa Government employees.

Drugs and alcohol can reduce the user's ability to form logical judgment and sensible assessment. Excessive use of drugs and alcohol can affect health of individual user's, making them more susceptible to minor illnesses and increasing sickness absence rates. These individuals run the risk of dependency on a particular drug, and dependency in itself is considered an illness.

With this in mind, ASG are realizing that doing nothing is no longer an option. Ignoring the possibility can appear to condone it, leading to drug users to believe their activity is tolerated, thus allowing the problem to grow.

The Alcohol and Drug Policy prohibits the consumption of alcohol during paid working hours or at any ASG workplace, except as agreed to by the Director. It also prohibits the possession, consumption or administering of illegal drugs and is designed to prevent employees from presenting for duty in a state where they are unable to perform their duties to an acceptable standard due to the influence of alcohol or other drugs.

ASG is not attempting to dictate the personal activities of employees whilst they are off duty, however for the safety of everyone, ASG is ensuring that its employees do not participate in the workplace under the influence of alcohol or other drugs in an altered state or where they would be deemed unfit for work.

1.1 Purpose and Objective

Drug and Alcohol abuse is a critical problem which cannot be isolated from the workplace. It has serious physical, emotional and social implications to the well being of American Samoa Government employees. Its affects are manifested in the declining employee's productivity and performance. Therefore, workplace is a potentially significant channel for dealing with Alcohol and Drug.

The purpose of this policy is to ensure that all employees are fit for work, particularly in relation to the use and/or abuse of drugs and alcohol. This policy also provides a framework

for testing as well as guidelines for education, rehabilitation and counseling and potential discipline rising from drug and alcohol testing.

To assist directors and managers, the policy endeavors to assist government departments to:

- Deal appropriately with work performance and conduct problems caused by misuse of abuse of alcohol and other drugs;
- Protect confidentiality;
- Refer affected employees to counseling;
- Provide education and information for managers and employees on the policy.

In addition, the policy sets out the workplace testing regime and guidance regarding disciplinary action following positive results.

There are some government departments in American Samoa that have successfully implemented similar policies however, the American Samoa Government feels that there is still a lack of uniformity in approaches employed in addressing this workplace challenge.

The quality of work performance is crucial to ASG therefore our work will not be compromised by the presence of employees under the influence of alcohol or drugs.

1.2 Policy Statement

The Office of the Governor in close collaboration with the Department of Human Resources is committed to providing standard guidelines in managing alcohol and drug abuse in the workplace. The policy shall guide the prevention, treatment and management of ASG employees.

1.3 Education of Employees

The misuse of abuse of alcohol and or other drugs may result in poor performance or conduct. Therefore, managers and heads of government departments should be aware of the common indicators that suggest that an alcohol or other drug problem may exist. These indicators may include:

- Violence
- Smell of alcohol on breath
- Frequent absences
- Forgetfulness
- Neglect of personal grooming
- Mood swings or depression
- Habitual lateness

The American Samoa Government is fully committed to supporting the education of employees by conducting information sessions on roles and responsibilities and specialist programs presented by external representatives.

Information will be provided so that so that employees will aware of the health and safety implications of alcohol and other drugs abuse.

1.4 Scope

The policy applies to all American Samoa Government employees, contractors, subcontractors and their employees and applicants for employment with ASG.

CHAPTER TWO: LEGAL AND REGULATORY FRAMEWORK

2. Overview

This policy is informed by the Constitution of American Samoa which advocates for the well being of employees and the need to observe work ethics.

2.1 The American Samoa Code Annotated

A.S.C.A Title 13, Chapter 11 Tobacco Restriction Act stipulates the risk of tobacco and exposure to both users and non users especially minors. It recognizes the risks to be a continuing problem with grave health consequences. It also proposes remedial measures by advocating smoke free environment. The employees and stakeholders shall adhere to the provisions of this Act.

A.S.C.A Chapter 10, Medicine and Drugs provides definition of controlled substance substances strictly prohibited under the Act and makes specific reference on safety, health and welfare of workers and all persons lawfully present at workplaces.

A.S.C.A Chapter 6, Medical Treatment explains the type of medical attention provided free of charge by the government to all American Samoans, including those who are not American Samoans at the time medical attention is rendered.

A.S.C.A Chapter 16, Judicial Commitment of Mentally Ill or Deficient, the policy endeavors to be sensitive to the needs of persons living with disabilities and persons suffering from mental illness or deficiency

Labor Law Title 32 32.0104 Unlawful Acts of Employer, explains unlawful acts of Employers.

CHAPTER 3: PRINCIPLES AND GUIDELINES FOR REHABILITATION

In a Nutshell

The American Samoa Government encourages all employees to seek advice and get appropriate treatment if any person suspects they have an alcohol or drug dependency condition.

They may seek counseling assistance through the Assistance Program offered by the government. Participation in this program is confidential. Information the employee provides will remain a property of the Government of American Samoa and will not be passed on to anyone without written consent of the employee.

If a director or manager observes a decline in work performance or conduct that he or she cannot explain, then it is the role of the director or manager to involve the employee in an initial, informal interview on a confidential basis. It is important that action be taken promptly. Taking an early intervention approach would hopefully alleviate the decline in work performance or conduct thus addressing the problem directly.

It is also crucial to take into consideration the possibility that a decline in work performance or conduct could be the result of an illness, disability, medication or withdrawal from smoking cigarettes. In such cases, the use of disciplinary procedures is inappropriate.

If an employee indicates that the decline in their work performance or conduct is related to an alcohol or other drug problem, the director or manager must encourage the employee to seek assistance.

It is important that counseling by Director or Manager must be limited to work performance or conduct or conduct issues. Counseling on personal issues is the domain of professional counselors.

3.1 Fitness for Work

To be considered 'fit for work' a person must be in a state (physical, mental and emotional) which enables them to perform assigned tasks competently and in a manner which does not threaten the safety or health of other employees.

3.2 Alcohol Testing

As a general rule the acceptable of blood alcohol is less than 0.02% or greater; BAC of 0.04% or greater. This is in line with the current legal limit for driving a motor vehicle. An evidential breath testing (EBT) device approved by the National Highway Traffic Safety Administration will be used to confirm BAC. The testing will be conducted by a certified Breath Alcohol Technician (BAT). If an employee is found with a 0.02 or higher alcohol reading, will be released from duty for 24 hours.

3.3. Other drugs

Employees are expected to present for work in a fit state to undertake their duties safely. They must not possess or consume or be under the influence of alcohol or impairing substance. The American Samoa Government has a 'zero tolerance' to drugs and alcohol. Employees are not permitted to work under the influence of drugs or alcohol. Anyone suspected of being impaired due to alcohol or substance abuse or taking drugs, legal or illegal, must be immediately removed from the workplace. Being in possession of or consuming illegal drugs or consuming alcohol during working hours will be regarded as serious misconduct. Employees who contravene this rule may be subject to disciplinary action up to and including termination of their employment.

3.4 Approved Function

In special circumstances such as farewell or retirement of employees, Christmas parties or other similar work functions, the Director of each government department may approve the moderate consumption and responsible serving of alcohol during and after working hours on Government property. A specified timeframe will also be nominated by the Director for the function. In all such circumstances permission is to be obtained from the Director or Acting Director prior to the event.

3.5 Pre-Employment Drug Test

A pre-employment drug test is required before ASG can offer employment. This is part of DHR'S application process and employment is contingent on the new applicant passing these drug screenings. Applicants who return a negative drug/alcohol test results will be offered employment with ASG. Applicants who return positive readings will be not be hired by ASG. It is the responsibility of the Department Director or Deputy Director not DHR to notify the Applicant of the outcome of the positive test result. *The Applicant may be able to re-apply after 3 months and employment selection is contingent on the employee testing negative for drugs and alcohol.*

3.6 Contract Renewal Employee's (CRE)

Employees renewing their employment contracts will be treated as new applicants. That is, offer of employment is contingent on the CRE passing DHR's pre employment checks and/or ASG drug test. ASG considers these tests to be conditions of employment, and these conditions can be in effect even after the CRE started with ASG. CRE's who return a negative drug/alcohol results will have their contracts with ASG renewed. CRE's who return a positive test result will have their contracts revoked. It is the responsibility of the Department Director or Deputy Director not DHR to notify the Applicant of the positive result. *(Please refer to your contract of employment).*

3.7 Rescheduling Tests - New Applicant, Contract Renewals, Current Employees

Any employee who wishes to reschedule a drug and alcohol tests can only do so twice subject to availability. The employee must provide a valid reason as to why he/she cannot do the test as scheduled. *(Valid reasons = funeral, sickness, overseas travel, accident).* The employee is required to provide evidence to support reason for rescheduling.

3.8 Conversion

Contract employees converting to become career employees must go through the drug and alcohol screening as well as other employment assessments conducted by DHR.

3.9 Transfer

Current employees transferring to another ASG Department must go through the drug and alcohol screening as well as other employment assessments conducted by DHR.

Current employees working part time for another ASG Department must undertake the drug and alcohol screening. Employees tested positive for drug and alcohol may be subject to disciplinary measures up to and including termination.

Note: Employees converting and/or transferring employment are not required to go through DHR assessments including the drug and alcohol screening if he or she had done so within six months of employment with ASG. The same applies to current employees working part time for another ASG Department.

CHAPTER 4: TESTING PROCEDURE FOR ALCOHOL AND DRUGS

Testing Regimes

To assist in achieving our vision of ‘**zero tolerance**’, the types of testing that may be carried out include the following:

- **New Applicant Testing** – potential employees will be required to have an alcohol and drug test, as part of their pre-employment medical check. The test will be the final stage before hiring. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant. DHR may order tests for candidates ASG have already extended a job offer to, but that offer will be contingent upon them clearing the drug test. Candidates have the right to refuse drug testing and thus decline the ASG job offer.
- ASG test candidates based on their job role. ASG do not single out candidates based on protected characteristics (e.g race, disability).
- **Occurrence Testing**- ‘any incident that is a deviation from the expected behavior or planned course of events in connection with any ASG employee or ASG controlled operation that impacts or could impact public health, public safety, or the environment. Alcohol testing shall be done within 4 hrs of the occurrence. DHR shall work with DPS/LBJ to ensure alcohol testing is done within the 4hrs of the occurrence. Drug testing shall be done within 24 hrs of the occurrence. DHR shall work with DOH to ensure drug testing is done within the 24 hrs of the occurrence.
- **Reasonable Suspicion Testing** – A mandatory drug and alcohol test when it is reported that there is a reasonable belief that a person is under the influence of drugs and alcohol. An employee found to be exhibiting the effects of drugs or alcohol, or returning a positive drug or alcohol reading, or refusing to participate in testing, will be required to cease work immediately and leave the workplace.
As part of the government’s commitment to maintaining a safe working environment, ASG is unable to allow employees to resume work until such time as they undertake

testing and a negative result is obtained. A referral is made from the ASG agency/ department to DHR for testing once determination is made of reasonable suspicion (definition and factors listed in statute) by 2 or more supervisors. DHR is responsible of referring the matter to DOH. Employees sent home or to seek medical help must report to work the following day or when they are no longer under the influence of drugs and alcohol to discuss the incident. ASG reserves the right not to pay for the Employees time off work if the employee returns a positive test or refuse testing. Two or more supervisors must be informed of the result.

- **Safety Sensitive Position Testing (includes first responders)-*Drug and Alcohol Testing for all First Responders are mandatory.*** Safety-sensitive positions constitute not only the ones that immediately come to mind – truck driver, equipment operator, police officers, bus drivers and so forth but others where failure to perform can cause harm. A safety sensitive position is one where the employee holding this position has the responsibility for his/her own safety or other people’s safety. Obviously, if a person operating in this type of job is under the influence of drugs and/or alcohol, members of the workforce, the public or even themselves could be injured or even killed.
- **Random Testing-** The American Samoa Government reserves the right to carry out a non-discriminatory random testing where it is considered appropriate. The disciplinary process will be invoked, and may lead to summary dismissal, in the case of any direct employee who:
 - is removed from a workplace due to impairment or suspicion of impairment due to drugs or alcohol consumption
 - tests positive of illegal drugs
 - is found to have a blood alcohol level of 0.00 or more, or the equivalent in urine or breath samples
 - refuses to undertake a screening test for alcohol or drugs, or
 - is found supplying illegal drugs in the workplace.

For random testing, the preferred method of testing for the presence of alcohol is via a ‘breathalyzer’ test for alcohol. However, confirmatory testing may involve saliva testing or other methods of testing as deemed appropriate and necessary by the Department of Health. The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees’ identification numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made. Each employee who is notified of selection for random drug or random alcohol testing shall proceed to the test site immediately.

4.1 Standard Procedure for Drug Testing

All employees entering the workplace may be tested in accordance with the following procedures:

- Testing individuals in the workplace will be conducted privately on a one on one basis. However, the person being tested may request a witness.
- The employee can ask for a witness to be present during the test, but it must not in any way affect or hinder the results of the testing. If a preferred witness is not immediately available the testing is to proceed, with the Director of the Department being given the opportunity of selecting an alternate witness that is immediately available, such as a work colleague.
- In the case of Random Testing, individual persons will be selected randomly by the Director of DHR. Random testing will not be used to target individuals or groups. The result of the test will be reported by the MRO to the DHR and Director of DHR is then responsible to notify the Department/ Agency Director.
- The first step for all alcohol and other drugs testing is the completion of a pre-screening form provided by the Department of Human Resources.

4.2 Standard Procedure for Alcohol Testing

Note: The Medical Review Officer (MRO) and the Director of HR will make referral of employee to DPS certified officer to conduct Alcohol Testing.

- Referral should include ASG-DHR consent form employee encoded number for encounter
- DPS certified officer will conduct test at DHR office once employee completes registration.
- Once registered, employee's file will be marked as **REFERRAL**.
- Prior to the test, DPS's certified officer will conduct a brief recorded interview with the employee.
- If an employee returns a negative test for the presence of alcohol, that is, their result is below the 'fit for work' level, no further action is required and the person is allowed to resume their normal duties. The employee may be reimbursed any leave entitlement as appropriate. *Information of the test will not be included in the employee's employment file.*
- Where an employee returns an unconfirmed positive result to the presence of alcohol which exceeds the appropriate 'fit for work' level, they are to be tested a second time after 20 minutes, during which time the person is to remain in the controlled testing environment and is not to return to work.
- If the second test returns another positive reading, the person is prevented from returning to work. The MRO will advise DHR and the Director of the Department immediately about the second positive test result.
- Following the second positive test, the Director of DHR has the discretion to either refer the employee for rehabilitation, consistent with ASG/DHR policies.

For further information refer to DPS's Alcohol Testing Manual.

4.3 Drug Testing Procedure for Current Employees

Note: DOH - ASHC Laboratory will follow necessary procedures to perform drug screening test.

- MRO receive employee referred from DHR. Referral should include ASG-DHR consent form employee encoded number for encounter
- Employee and escort/observer will be taken directly to the Collection Site.
- Once registered, employee's file will be marked as **REFERRAL**. During this process, the employee's vital signs (blood pressure, temperature, pulse and weight) will be taken
- If an employee returns a negative test for the presence of other drugs, no further action is required. Information of the test will not be included in the employees employment file.
- Where a person returns and unconfirmed positive result to the presence of drugs, the sample will be sent to a laboratory for confirmation.
- Immediate advice regarding the unconfirmed positive test will be provided to the Director of DHR who will then notify the Director of the Department by email of the test result.
- The employee will be sent home pending the results from the laboratory. The employee may return to work if they return a negative test.
- If the laboratory results show that the result is negative, no disciplinary actions is required and the person can return to full duties. The Director may reimburse any leave entitlements as appropriate.
- If a current employee returns a positive result to the presence of drugs, if it is their first determination, said employee may be offered a reasonable opportunity for rehabilitation, consistent with ASG/DHR policies. If the employee holds a safety sensitive position, s/he will be removed from the position immediately.
- If rehabilitation is offered, said employee will be placed in an acceptable 'non safety sensitive position' (if such position exists) during their rehabilitation period.
- If an acceptable non safety sensitive position does not exist, s/he will be placed on sick, annual leave, or other leave status for the amount of time needed rehabilitation.
- The employee "will not be protected from disciplinary action" resulting from violating work rules, other than testing positive for alcohol or drugs.

Note: Current Employees and First Responders will be subject to Mandatory Random and Reasonable Suspicion Testing.

CHAPTER 5: TRAFFIC CRASHES INVOLVING ASG OWNED VEHICLES

5. Drinking and Driving – General Procedures

Alcohol impairs judgment, making drivers over-confident and more likely to take risks. It slows their reactions, increases stopping distances, affects judgment of speed and distance and reduces the field of vision. Even a small amount, well below the legal limit, seriously affects the ability to drive safely.

All employees of ASG are automatically required to be drug and alcohol tested as soon as practical within two hours following a vehicle collision while on ASG business in which they were driving.

Department of Public Safety Officers will, upon being dispatched to the scene of the accident, involving ASG owned vehicle(s), investigate the crash and complete a Crash Report. A new assigned code will be provided and noted in the Police Report to initiate a breathalyzer testing. BAC 0.02 is considered an offence.

If the operator of the ASG vehicle has a passenger with an 'open alcohol' container, based upon observation and evidence, the officer shall comply with existing procedures for citation and/or apprehension.

For further information, see Department of Public Safety Policy Manual

5.1 Alcohol Testing Procedure for Current Employees

If the employee is to be tested for alcohol, DPS will conduct an alcohol screening.

- A negative test for alcohol will be taken as confirming that the employee is not impaired, i.e., has a blood alcohol level less than .02 safety sensitive employees. No additional action need be taken unless the circumstances of the accident warrant disciplinary action.
- A positive test for alcohol will be taken as confirming that the employee is impaired on the job. The employee should be asked to go home immediately. The Director or Supervisor should then advise the employee to report to work on a specified day to discuss the results of the positive test. The Director of the Department will then proceed with disciplinary action up to and including disciplinary actions or termination. The Director may refer the employee for an assessment by a Substance Abuse Practitioner.
- Employees who are not discharged will be required to be evaluated and may be required to participate in the DHSS Substance Abuse Program. See appendix VI document, Counseling consent form.

5.2 Drug Testing for New Applicants and Contract Renewals

When the Applicant is tested for drugs, MRO will collect a sample and send it to the DOH laboratory following strict chain of custody procedures, for testing. The lab will conduct a urinalysis immunoassay screen followed by a gas chromatography/mass spectrometry confirmation test.

Immediately after the drug test sample is collected, the employee will be allowed to return to work if he /she present a negative drug test. If the employee presents a positive test, the result will be reviewed by a Medical Review Officer (MRO) and the employee will be advised not to return to work until the final reconfirmation test result is received. If the test is confirmed, the MRO will notify the Director of the Department and Director of DHR of the result.

- a) If the MRO verifies that the results are positive for illegal drugs, the director will immediately begin disciplinary action for the current employee up to termination proceedings. The employee will not be allowed to resign.
- b) If the tests results are positive as verified by the MRO (above the acceptable level) perhaps due to prescription drugs for which the employee has a current prescription or for over-the-counter medication, the employee may be asked to go home.
- c) Should the applicant wish to have the original sample retested, he may do so at his expense.
- d) If the tests results are positive as verified by the MRO (above the acceptable level) perhaps due to prescription drugs for which the employee has a current prescription or for over-the-counter medication, the employee may be asked to do a retest within 20 minutes.
- e) Should the employee wish to have the original sample retested, he may do so at his/her expense.

The employee has 24 hours to request and pay for the additional test. A second test involving a new sample will not be conducted.

Note: The turnaround time for results is 2-3 days. Positive results will be sent off island for reconfirmation.

5.3 Collection Procedure

1. Prepare the collection site to collect urine specimens:
 - Assemble supplies.
 - Ensure that there is bluing agent in the toilet. If no bluing agent is available or if there is an automatic flushing system, turn off the water supply and flush the toilet to remove any water in the toilet when possible.
 - Turn off the water supply or secure water sources inside the restroom.
 - ASG must provide a means for the donor to wash their hands before and after the collection. Secure the water source after the donor washes their hands and restore the water supply after the collection, or provide another means (e.g moist towelette).
 - If a water source inside the restroom cannot be turned off or secured, a monitored collection must be performed.
 - Remove any soap, cleanser, disinfectant, or other potential adulterants, and
 - Inspect and/or secure areas or items that could be used to conceal adulterants (e.g false ceilings, ledges, trash cans, towel dispensers).
 - If donor fails to arrive at the collection site at the assigned time for the drug test, DHR may refuse to carry out the test on the spot.
 - Begin the collection without delay when the donor arrives at the collection site. Do not wait because the donor states that they are unable to urinate.
 - Verify the donor's identity with photo identification.

- Answer any reasonable and appropriate questions that the donor has about the collection process.
- Ask the donor to remove any unnecessary outer clothing that could be used to conceal items or substances that could be used to adulterate or substitute the urine specimen. *(Do not ask the donor to remove other articles like shoes, shirts, pants, undergarments).*
- It is not necessary for the donor to remove work boots, hat or head covering that the donor refuses to remove based on religious practices unless you suspect that they are concealing something that may be used to adulterate or substitute a specimen.
- Empty their pockets and display items to ensure that no items are present that could be used to adulterate, substitute or dilute the specimen.
- If an item is present that appears to have been brought to the collection site with the intent to adulterate, substitute or dilute the specimen, this is considered a refusal to test. DHR certified staff must stop the collection and report the refusal to the MRO to make sure immediate notification is received.
- If an item that could be used to adulterate, substitute or dilute specimen appears to have been inadvertently brought to the collection site, secure the item and continue with the normal collection procedure.
- If the donor refuses to display the items in their pockets, this is considered a refusal to test. DHR staff/ certified officer must stop the collection and report the refusal to the test immediately to MRO.
- Instruct the donor to wash and dry their hands under your observation prior to the urine collection (bar soap not allowed).
- Give the donor the collection container.
- Unwrap or break the seal of the collection container in view of the donor. DHR staff/certified personnel may allow the donor to perform this step.
- Both the certified personnel and the donor must be present.
- After you receive the specimen from the donor, read the temperature. Do this within 4 minutes. If the temperature is outside the acceptable range (32-38 degrees; 90 C - 100 F) mark NO and perform a second test. Notify the MRO.
- Get the donor to write his/her first name and initial of surname.
- Inspect the specimen for adulteration or substitution by examining the physical characteristics of the urine. Unusual color (e.g specimen is blue), presence of foreign objects or material, unusual odor such as bleach or sign of adulteration such as excessive foam when shaken.
- Check the specimen volume to ensure it is at least 45mL. If less, discard the specimen and begin second test using a new clean collection container.
- After the collection of specimen, the donor and the monitor must leave the restroom and the donor hands the collection container directly to the collector.
- The DHR staff/ collector must ensure the specimen is given to the MRO.

5.4 Tampering with an Alcohol or Drug Sample

Tampering with an alcohol or drug sample will lead to disciplinary action, which may result in termination of employment. For new applicants and contract renewals, tampering with test result will be considered a positive test.

5.5 Refusal to Undertake a Test – Current Employees

Refusal by an employee to submit or cooperate fully at the test will be treated in the same manner as any other refusal to comply with DHR policies.

Refusal will result in the employee being advised on the spot as to the consequences of the refusal. The employee will then be directed to undergo the test. If the person continues to refuse to undertake the test, as a minimum, the refusal will be treated prima facie as a Confirmed Positive Result and as such, the following actions will apply:

1. Disciplinary action will be taken in accordance with section 5.8 below.
2. The employee will be suspended without pay for refusal of duty in accordance with suspension and termination policies of the American Samoa Government.
3. A negative test will need to be provided by the employee under strict guidance of the DHR before the employee will be able to return to work.

Continued refusal to undertake testing in accordance with specific random testing will result in disciplinary action up to and including termination of employment.

The same applies to contractors and third parties who are engaged from time to time by the American Samoa Government. If an employee refuses to undertake a test he/she will be asked to leave the workplace and will not be permitted back until they have undergone a screening test and returned a negative result. The same applies to new applicants and contract renewal candidates.

Refusal by Contract Renewal or New Applicants to carry out the drug or alcohol test will be treated as a positive test.

5.6 Avoidance of a Random Test

If an employee refuses to undertake the random test, they will be treated prima facie as a Confirmed Positive Result:

- Unless he/she can provide a medical confirmation to confirm their inability to partake in the random screening; or
- There is a genuine family emergency that required them to leave the site; or
- There is a pre-arranged reason with the Department Director for that employee not to conduct the test.

5.7 Current Employees - Confirmed Positive Results

The following steps are to be taken for a Confirmed Positive Result:

1. The person tested and the Director or his/her assistant will be informed of the result by DHR;
2. A disciplinary discussion will take place which will include consideration as to the level of disciplinary action that should be taken.
3. If an employee returns a confirmed positive test or has been deemed prima facie as a confirmed positive result and it is identified the person is undergoing medical treatment/support/rehabilitation specific to alcohol and drugs, the employee will access available sick leave entitlements upon presentation of medical certificate. If employees exhaust all sick leave requirements, consideration will be given to accessing their annual leave entitlements.

5.8 Disciplinary Procedure

The following steps should be considered where an employee:

- a) Records a confirmed Positive Result; or
- b) Refuses to undertake a screening test sample; or
- c) Avoids a random screening test; or
- d) Breaches the policy in any demonstrated way.

It is the role of the DHR to make sure that the employees full work history is included when considering what, if any disciplinary action should be taken.

Disciplinary action may include termination of employment taking into account the seriousness of the breach. The following sets out a guide to the action which may be taken when employees return a Positive result to an alcohol or drugs test.

In circumstances where the breach is of a more serious nature, ASG has the discretion to take action which does not conform to the guide set out below, e.g. the employee's conduct endangers the safety of others.

1. First Positive Result

A written warning may be issued to the employee stating very clearly the behavior that is considered unacceptable. The employee is then given the opportunity to seek assistance through the EAP and will be required to undergo random tests for a period of 3 months. The employee may also be required to attend counseling if necessary or other medical assistance

2. Second Positive Result

Termination of employment may occur.

It is the role of the Director to monitor the employee's actions and liaise with DHR about the employee's progress.

CHAPTER 6: RECORDS OF DOCUMENTATION

It is the role of DHR to keep records of the employee's drug and alcohol tests in a personal file and maintained in accordance with the legislation.

Reports of any disciplinary action taken as a result of breaches to this policy will be maintained on the employee's personal file for the life of the employee's employment, as they are required fit for work throughout their employment term with ASG. These records/reports may be taken into account in future disciplinary actions. The records/reports can be discarded after years the employee cease employment with ASG.

6. Confidentiality

When addressing issues relating to alcohol and drug use, all parties should be sensitive to the individual's right to confidentiality, privacy and dignity. Any person that comes into contact with confidential information in respect to this policy must not disclose any of this information to another party except where:

- A disclosure is necessary in the course of official duties as ASG Code of Conduct; or
- A disclosure is made with the consent of the Individual to whom the information relates; or A disclosure is otherwise permitted under relevant legislation.

7. Summary of Responsibilities

7.1 Employee Responsibilities

ASG takes its role seriously to prevent drug and alcohol abuse in the workplace. The following responsibilities must be respected by all employees defined herein and those covered by the scope of this policy, regardless of their role or position, including employees engaged on a contract basis, contractors, employees working outside normal hours, employees required to be on stand-by and members of the Board of Directors.

Employees must take responsibility to ensuring the health and safety of themselves and of others. In particular, employees must act responsibly by:

- Ensuring that they do not, by the consumption of alcohol or drugs, endanger their own safety or the safety of any other person, including members of the public in the workplace;
- Attending and resuming work unimpaired by alcohol or other drugs and notifying their Director or Assistant Director if aware that their work performance or conduct could be adversely affected or if there is a risk to the safety of themselves or others as a result of the effect of a prescribed or non-prescribed drug.
- Taking action to resolve their own alcohol or other drug-related problems;
- Consulting their Directors if they have genuine reason to believe that a person is under the influence of alcohol or other drugs and may pose a risk to the health and/or safety of the employee and all others including the public.

7.2 ASG Responsibilities

ASG is responsible for:

Determining the drug and alcohol policy and procedure for the ASG;

- Authorizing the use of workplace drug and alcohol testing;
- Appointing an MRO to conduct drug and/or alcohol testing;
- Maintaining an Employee Assistance Program Provider and referring employees requesting assistance for drug and alcohol related issues;
- Taking measures to achieve a workplace culture that supports health, safety and welfare;
- Reducing the effects on the workplace of the misuse or abuse of alcohol and other drugs and related costs;
- Informing employees of the potential work-related problems that may arise from the misuse or abuse of alcohol and other drugs;
- Providing guidelines to Directors and Assistant Directors to deal with employees whose work performance or conduct is adversely affected by the misuse or abuse of alcohol and other drugs;
- Ensuring all contractors and third parties working directly with ASG are aware of and comply with this policy; and
- Providing information about referral to counseling, treatment and rehabilitation services where appropriate.

8. Monitoring, Evaluation and Reporting

It is intended that there will be continuous monitoring on implementation of the policy.

Evaluation of expected outcomes will be undertaken annually to ensure effective and efficient service delivery. Implementation will be in line with ASG guidelines and legal requirements.

9. Policy Review

The policy shall be reviewed from time to time to address the emerging trends in the ASG workforce.

10 Approval

Date:

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APPENDIX I

AMERICAN SAMOA GOVERNMENT



DRUG AND ALCOHOL ACKNOWLEDGEMENT FORM

The purpose of this policy is to ensure public safety and to maintain a safe and productive work environment for all employees by preventing accidents. The use of alcohol and or drugs during working hours is strictly prohibited. Employees of ASG are prohibited from reporting to work under the influence of alcohol or drugs. An employee who is taking prescription drug is required to present to DHR a statement from the physician that the prescription drug will not impair the employees work performance.

ASG will require drug testing of applicants from time to time and employees are expected to act accordingly when selected to be tested. Any employee who refuses to submit to the test will be subject to disciplinary measures set out in the policy. Drug testing will be conducted according to guidelines set out in the Policy. In the interest of safety and health of its employees, ASG reserves the right to randomly test its employees for the presence of drugs or alcohol. Employees **MUST TEST NEGATIVE** at all times.

Acknowledgement and Declaration

1. I acknowledge that I understand that the core objective of this Policy is to prevent the use of drugs of alcohol in the workplace.
2. I acknowledge that I understand that I am, directly or indirectly through my employment with ASG responsible for deterring and preventing the use of drugs or alcohol in my workplace.
3. I acknowledge that I understand that ASG will consider whether I have consumed, participated in or knowingly had an ongoing association with persons involved in the use, sale, distribution, manufacture, exportation or importation of drugs as part of my Employment Suitability Clearance.

4. I declare that I will not consume drugs and alcohol for the duration of my employment or association with ASG.
5. I acknowledge that I understand I must declare associations with any person that I know or reasonably suspect to consume drugs or be involved in the sale, distribution, manufacture, exportation or importation of drugs.
6. I acknowledge that I understand that ASG will undertake a risk assessment of the declaration and, taking into account my circumstances, may take the following actions;
 - a. Written warning,
 - b. Disciplinary actions,
 - c. Termination of Employment.
7. I acknowledge that I understand that providing false or misleading information to ASG is a violation of the law.
8. I acknowledge that if I do not turn up to do the scheduled drug and/or alcohol test twice, my name will be removed from the process and the employment opportunity will be forfeited.
9. I acknowledge that I must attend the drug and alcohol orientation when asked to do so by DHR staff.
10. I acknowledge that I will abide by the instructions of the MRO/Lab Technicians during the drug and/or alcohol test.

I _____, acknowledge that I have read the ASG Drug and Alcohol Policy, and that I fully understand that violation of this policy may be grounds for immediate termination of employment.

Signature _____ **Date** _____

Disclaimer

The information contained in these documents is confidential, privileged and only for the information of the intended recipient and may not be used, published or redistributed without the prior written consent of the employee.

APPENDIX II

AMERICAN SAMOA GOVERNMENT



RELEASE INFORMATION AGREEMENT AND CONSENT

I, _____ hereby authorize American Samoa Government ('ASG'), upon receipt of a fully executed copy of this document, to release any and all records, in any of its files, concerning me and/or my employment with the ASG to _____.

By this document I authorize a full disclosure of all records, or any part thereof, concerning me and my employment with ASG, whether such records are considered public, private or confidential. I consent to the release of any and all records that ASG has in its possession concerning me, my work record, my background and reputation, my education and criminal record. I understand that in addition to my complete personal file, this release will include all complaints or grievances filed by or against me and all disciplinary records.

This waiver supersedes and replaces any prior agreements between me and ASG regarding the release of information concerning me and/or my employment with ASG. Additionally, I am hereby and knowingly and voluntarily releasing ASG from any and all liability arising out of its compliance with the terms of this document. I hereby authorize and agree that a photo of this document can be accepted with the same authority as the original.

Date _____ Printed Name: _____

Signature: _____

Address: _____

APPENDIX III

AMERICAN SAMOA GOVERNMENT



EMPLOYEE REFERRAL FORM

A) Personal Information

Name: _____ Phone _____

Employee ID#/SSN: _____

Department _____

Reasons for Referral (Tick the appropriate)

i. Drug Use _____

ii. Alcohol Use _____

iii. Work related _____

iv. Any other (specify) _____

DHR Director _____

Signature _____ Date: _____

APPENDIX IV

AMERICAN SAMOA GOVERNMENT



DRUG TESTING CONSENT FORM

Employee Name _____ Employee ID#/SSN _____

Department _____

I, _____ hereby consent to provide urine specimen and/or blood hair or saliva specimens for the purpose of testing for the presence of drugs. I understand that the test results will be sent to the Medical Review Officer and/or ASG Department (Employer) who is responsible for the drug testing program, unless prohibited by law. I understand that refusing to provide or tampering with urine or providing false information may constitute grounds for termination of my employment. I understand that failure to pass the drug test may result in disciplinary action up to and including termination, and that I may be required to participate in a mandatory rehabilitation treatment program as a condition of continued employment should my drug results indicate drug use. I consent freely and voluntarily to the ASG request for specimen. I hereby release and hold harmless the ASG and its employees and departments from any liability whatsoever arising from this request to furnish my specimens and the testing of my specimens. I understand that all information derived from this test will be kept confidential and released only to my employer Department and DHR. I also understand a documented chain of specimen custody exists ensure the identity and integrity of my specimens throughout this collection and testing process.

Signature _____ Date _____

Time _____ MRO Signature _____ Department _____

APPENDIX V

AMERICAN SAMOA GOVERNMENT



ALCOHOL TESTING CONSENT FORM

I, _____ hereby consent to provide a blood, breath, urine or saliva specimens for the purpose of testing for the presence of alcohol. I understand that this information will be sent to the Department of Human Resources who is responsible for ASG's drug and alcohol program. I understand that failure to pass the test may result in disciplinary action up to and including termination, and that I may be required to participate in a mandatory rehabilitation treatment program (if offered) as a condition of my continued employment should my alcohol test indicate abuse. All information I provide is held under the highest degree of care and standards of security, confidentiality, and privacy. Only ASG DHR, Home Security, DOH and LBJ Tropical Medical Center will view the information I provide.

Employee ID#/SSN _____

Signature _____ Print Name _____

Date _____

Department _____ Time _____

MRO signature _____

AMERICAN SAMOA GOVERNMENT



COUNSELING CONSENT FORM

During the counseling process, I.....

and.....shall be bound by the following terms:

1. Adherence to referral procedure; and
2. Active participation during counseling session(s).

Employee's Signature: _____ Date _____

Counselor's Signature: _____ Date _____

Department Director _____ Signature _____

Comments: _____

APPENDIX VII

AMERICAN SAMOA GOVERNMENT



RETURN TO WORK AGREEMENT

This is a return to Work Agreement between the Government of American Samoa and the employee due to the fact that:

1. The employee has violated a policy/regulation that would result in termination;
2. The American Samoa Government has given the employee another chance to work free of alcohol and drugs;
3. The employee agrees to comply with all aspects of the treatment professionals recommendations of treatment plan;
4. The employee agrees that ASG will monitor the employee's progress in the workplace by receiving updates from the MRO, including but limited to random drug testing for up to twelve (12) months;
5. The employee agrees to abstain from the use of alcohol and drugs except as prescribed by a doctor;
6. If absence from work is required as part of employees recovery process, it will be regarded as sick leave, annual leave or some combination thereof, depending upon accrued leave;

7. The employee agrees to comply with all employment policies and procedures and understands that nothing in this agreement prohibits ASG from applying discipline for other violations; and
8. The employee understands this is his/her last chance to successfully address his/her problem with alcohol and drugs.
9. The employee must satisfactorily meet ASG' expectations and standards. The employee understands that failure to comply fully with this agreement may result in **IMMEDIATE** termination.

Signature of Employee _____ **Date** _____

Signature of DHR Director _____ **Date** _____

SPECIAL ACKNOWLEDGEMENT

Staff of LBJ Tropical Medical Center

- Counsel Aitofele Sunia
- Dr Akapusi Ladua
- Dr Shisram Shisram
- Dr Evelyn Ah Hing Faaiuas

Staff of the Department of Health

- AS-Community Health Center (ASCHC) Clinical Director - Dr. Saipale Fuimaono
- ASCHC Executive Director - Elisapeta Ponausuia (Acting)
- DOH-Behavioral Health Services (DOH-BHS) Administrator - Siitia Soliai Lemusu
- DOH-SAP Temp MRO - Dr. Jay Dean Lincoln
- DOH-Laboratory Manager - June Leo
- DOH-Certify Lab Technician - Paeai Tufono

American Samoa Drug and Alcohol Commission

- Dr Mikaele Etuale