

**CHEYENNE & ARAPAHO  
TRIBES**



**Cheyenne and Arapaho Tribes  
Drug and Alcohol Free  
Workplace Policy**

**Effective January 1, 2017**

# **Cheyenne and Arapaho Tribes Drug and Alcohol Free Workplace Policy**

## **Purpose**

The Cheyenne and Arapaho Tribes provides a variety of governmental and community services. The employees of the tribes are its most valuable resource, since it is through their work that services are provided. When delivering services, the health and safety of the community and the health and safety of employees are of utmost importance.

The Cheyenne and Arapaho Tribes values its employees and the contributions they make to the community. It recognizes, however, that employees can fall victim to drug and alcohol abuse. This policy is an attempt to achieve a drug and alcohol free workplace through drug and alcohol testing. It also, however, attempts to recognize the need to salvage valuable employees and allow for second chances through the "Last Chance Agreements."

The Cheyenne and Arapaho Tribes strive to maintain a safe and efficient workplace free of drugs and alcohol.

The Cheyenne and Arapaho Tribes desire to help employees be free from abuse of, and addiction to, drugs and alcohol. In this spirit, the tribes will offer rehabilitation and treatment options to employees through referral sources.

**The federal Drug-Free Workplace Act of 1988 holds employers receiving federal grants or contracts of \$25,000 or more, responsible for certifying that they maintain a drug-free workplace. This policy is intended to comply with the requirements of the law.**

## **Scope**

This policy applies to all Cheyenne and Arapaho Tribes ("CAT") employees. This policy also applies to all individuals selected for hire by a tribally owned enterprise unless the enterprises have adopted their own personnel policies.

Employee work areas and tribal issued equipment, containers and vehicles under employee's control may be subject to search and surveillance at all times while on CAT property or while conducting tribal business off-property. Private vehicles used for tribal business may be subject to search and surveillance while being used for such business.

## **Employees Arrested for Drug and Alcohol Related Offenses**

Employees who are arrested for drug related offenses shall submit to a "for cause" drug test administered under the procedures contained within this policy.

Employees who are arrested for alcohol related offenses will be offered a "Last Chance Agreement."

Employees who are arrested for drug and/or alcohol related offenses shall be required to report the arrest to their supervisor and/or Drug Free Workplace Officer ("DFWO") within 72 hours of the arrest.

### **Searches and Inspections**

The CAT reserves the right at all times and without prior notice to have authorized personnel conduct searches and inspections of an employee's personal effects, including but not limited to offices, baggage, and vehicles located on CAT premises for the purpose of determining if an employee is in possession of any illegal or unauthorized items. These searches will be conducted from time to time without prior notice. Such illegal and unauthorized items discovered may be taken into custody and turned over to the proper law enforcement authorities. An employee who refuses a search and/or inspection or who is found to be in violation of the policy may face disciplinary action up to and including termination.

### **Authorized Use of Prescribed or Over-The-Counter ("OTC") Drugs**

An employee undergoing medical treatment with any drugs, whether prescribed or OTC, that may impair his/her physical or mental ability to safely perform his/her duties should immediately report this treatment to his or her supervisor and/or the Drug Free Workplace Officer ("DFWO"). Violations of this section may lead to disciplinary action.

### **Reporting**

All employees who have witnessed an on-the-job accident/injury or situation in which they believe drugs or alcohol may be involved shall report that situation in writing to the Alcohol/Drug Officer ("ADO") within their department or to the DFWO.

### **Prohibitions**

The Cheyenne and Arapaho Tribes Drug and Alcohol Policy prohibits the following:

- The use, possession, distribution, dispensation of Illegal Drugs, equipment and paraphernalia or Controlled Substance on the CAT premises, work sites or vehicles.
- The use, possession, sale or distribution of alcohol or being under the influence of alcohol on CAT premises, work sites or vehicles.

- The manufacture or sale of Illegal Drugs on CAT premises, work sites or vehicles. If it is discovered that an employee is involved in the manufacture or sale of Illegal Drugs, appropriate law enforcement authorities will be notified.
- A positive test result for Illegal Drugs.
- A Breath Alcohol Content ("BAC") test result of .02 or greater.
- Refusal to consent to provide a Sample for a drug and/or alcohol test as required.
- Tampering with or adulterating any Sample submitted for testing, or submitting a false Sample for testing.
- Failing to immediately notify the CAT of use of any prescribed or OTC medication which contains warnings or restrictions indicating that use of the medication may jeopardize the employee's ability to perform his/her duties.
- Failing to report an arrest for drug and/or alcohol related offenses within 72 hours of the arrest.
- Failing to report a suspected on-the-job accident/injury or situation in which an employee believes drugs or alcohol may be involved.
- Refusal of a search and/or inspection.
- Failing to comply with rules and regulations made known under any testing program maintained by the CAT in accordance to such rules and regulations.
- While representing the CAT, employees under the influence of drugs or alcohol who engage in behavior reflecting poorly on the CAT. (This section is not to be interpreted as in any manner allowing the use of illegal drugs. The use of illegal drugs is, regardless of whether it leads to behavior reflecting poorly on the CAT, a violation of these policies that shall be grounds for disciplinary action.)

A violation of these prohibitions shall be grounds for disciplinary action.

### **Testing Administration**

Drug/alcohol testing will be conducted with accuracy and reliability. The CAT upholds a high regard for privacy and dignity in specimen collection, testing and the notification process.

- Drug Free Workplace Officer. It is the responsibility of DFWO to provide notice of procedures and possible consequences to employee(s), obtain employee consent to testing, arrange for testing and transportation to the collection site or testing facility, give notice of right to further testing at employee expense, give notice of any pending disciplinary action, and document any refusals to test.
- Alcohol/Drug Officers. CAT Directors and Personnel staff will be designated alcohol/drug officer(s). ADOs shall be fully trained in the detection of alcohol/drug use and the CAT Drug and Alcohol Policy. The DFWO will preside over, and manage to completion, any situation where testing may be required.
- Designation of Testing Facilities. The DFWO shall designate certified testing facilities, collection sites, and laboratories to be used by the CAT in administering all testing for CAT employees. The DFWO shall work with these facilities to develop a testing protocol and to ensure that all testing procedures comply with the requirements of this policy.
- Cost and Availability of Initial and Subsequent Testing. The CAT is responsible for funding the testing policy and shall assume the costs for initial employee testing. Job applicants and employees, at their own expense, can have confirmation testing completed.
- Employee Consent. It is the ADO's/DFWO's responsibility to ensure the notice is provided and the employee's consent is obtained prior to testing. No alcohol test may be administered, urine sample collected, nor any drug test administered without first giving notification of the right to refuse such testing, the consequences of a refusal, the consequences of a positive result, and then obtaining the written consent of the person being tested.
- Employee Transport. Pre-employment applicants shall be given a place, date and time at which to appear, by the use of their own transportation, for the purposes of sample collection. Employees tested for the reasons of For Cause/Reasonable Suspicion and Post-Accident/Injury shall be transported, at CAT expense, to the testing facility. Under no circumstances shall an employee be permitted to transport him/herself to the testing facility. If an employee refuses to accept transportation, such refusal will be considered as refusal to take the test.
- The Testing/Collection Facility/CAT Collector. All steps necessary shall be taken to ensure employee privacy and confidentiality. After collection, the sample is to be properly sealed and labeled, initialed and confirmed, to reflect the employee's identity as well as the time/date of collection. The sample must be stored in a

secure/locked place until it can be transported to the testing laboratory. The time between collection and transportation should be minimized, and the storage area must be climate controlled in order to insure that the sample does not degrade. In the event that it is necessary to handle or take possession of the sample between collection and transportation, a record must be kept of each instance (including the identity of the person who takes such action, the date, time, place, and purpose of such action) in order to insure that the proper chain of custody is maintained. An appropriate carrier to the testing laboratory must then transport the sample. Records must be kept by the testing facilities at all stages of the process.

- Records. The CAT shall maintain, as confidential records, separate from other personnel records of an employee and/or an applicant, all drug and alcohol test results and related information, including, but not limited to, interviews, reports, statements, and memoranda. Testing and all related records are the property of CAT.

## **Testing Required**

The Cheyenne and Arapaho Tribes reserves the right to conduct Pre-Employment, Random, For Cause/Reasonable Suspicion, Post-Accident and Post-Rehabilitation Follow-up testing for drugs and alcohol.

Employees shall be required to present a government issued photo identification before a sample can be taken for any type of testing.

- Pre-Employment. The CAT will test all final applicants, including new hires and rehires. Each offer of employment shall be conditioned upon a successful completion of a test for Illegal Drugs and Controlled Substance Abuse as defined by this policy. Applicants who receive a positive drug test result will not be eligible for hire and may not reapply for employment for three (3) months. Applicants will not be eligible for a Last Chance Agreement ("LCA").
- Random Testing. All employees will be subject to quarterly random drug testing at any time with no advance notice. A Third Party Administrator ("TPA") will randomly select the employees (no less than 25%) for testing and ensure each employee in the pool an equal chance of selection. Employees on personal time off or travel are excused. Employees who call-in on a testing day will be tested on their next scheduled work day.
- Post-Accident Testing. The CAT shall take all reasonable steps to test employees whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. As such, the employee is

required to undergo Post-Accident drug and alcohol testing as soon as possible when the employee or another person has sustained a work related injury or property has been damaged, including damage to equipment. A drug test must be conducted and an alcohol test must be conducted within two (2) hours after the accident. For purposes of this section, property shall include, but not limited to: personal, tribal government, client or any other type of property.

If an employee is injured, unconscious, or otherwise unable to provide consent to the test, the DFWO will request that the hospital or medical facility obtain a sample. If an employee is conscious and he or she is able to provide consent to the test and provide a test Sample (in the opinion of a medical professional), the sample shall be collected.

- For Cause/Reasonable Suspicion. When there is reasonable belief that an employee has used Illegal Drugs or engaged in Controlled Substance Abuse or prohibited alcohol use, the CAT may require the employee to submit a Sample for testing For Cause/Reasonable Suspicion, as outlined:
  - The decision to test must be based on reasonable belief by a supervisor that an employee is using drugs and/or prohibited alcohol use on the basis of specific, physical, behavioral, or performance indicators. At least two employees, who have been trained in the detection of the possible symptoms of Illegal Drugs, Controlled Substance or alcohol use, shall document and concur in the decision to test an employee. In making a determination of reasonable belief, the factors that may be considered include, but are not limited to, the following:
    - Adequately documented accidents, incidents and a pattern of unsatisfactory work performance (including excessive or unexplained absenteeism or tardiness), where some drug or alcohol related documentation indicates a change in an employee's prior patterns of work performance or a reasonable suspicion.
    - Physical signs and symptoms consistent with drug and/or alcohol use.
    - Evidence of Illegal Drug use, possession, sale or delivery while on duty or other evidence of on-the-job alcohol use or Controlled Substance Abuse.
    - An incident or an occurrence of a serious or potentially serious accident that may have been caused by human error, or any violation or established safety, security, or other operational procedures.

All drug and alcohol testing under this policy can be urinalysis, an oral strip test, or a breathalyzer test for detecting drugs and/or alcohol administered under approved conditions and procedures for the sole purpose of detecting drugs and alcohol. All testing will be conducted by trained/certified CAT personnel or a certified facility.

**At a minimum, the Cheyenne and Arapaho Tribes drug tests shall test for the following substances:**

- Amphetamines (meth, speed, crank, ecstasy)
- THC (cannabinoids, marijuana, hash)
- Cocaine (coke, crack)
- Opiates (heroin, opium, codeine, morphine)
- Phencyclidine (PCP, angel dust)
- Barbiturates (phenobarbital, butalbital, secobarbital, downers)
- Benzodiazepines (tranquilizers like Valium, Librium, Xanax)
- Methaqualone (Quaaludes)
- Methadone (often used to treat heroin addiction)
- Propoxyphene (Darvon compounds)
- Synthetic (K2)

**Testing Results**

- Medical Review Officer. The Medical Review Officer ("MRO") is a physician knowledgeable about drugs and alcohol. The MRO will be the sole recipient of positive testing laboratory results. The MRO will verify that the results are reasonable. That review may include:
  - Review of the information provided by the employee at the collection interview.
  - Affording the individual employee an opportunity to discuss the test results with the MRO.
  - Requesting, as needed and after patient authorization, medical records to verify information obtained.
  - Determining whether there is a legitimate medical explanation for the results, including legally prescribed medication.
- Notification.
  - The MRO will report each test result (after review) exclusively to the DFWO. The names of CAT contacts will be on file with the MRO in the event the DFWO is unavailable.

- A DFWO shall notify the employee with positive test results of their rights and responsibilities immediately upon their availability of the test results or within 72 hours.
- Employees may have the opportunity, at their own expense, to complete a confirmation drug test for an initial positive drug test result. All confirmation tests must be performed with a sample taken simultaneously with the original test sample or split specimen.
- Employees who have a positive drug test will be immediately placed on administrative leave without pay if they are eligible for a "Last Chance Agreement." Employees may use annual or sick leave in place of leave without pay. If an employee is not eligible for a "last chance agreement," he/she will be immediately terminated.

### **Last Chance Agreement**

Employees with a positive verified drug or alcohol test may not be terminated solely because they have had a positive test result. However, a positive test result, in combination with other circumstances, could lead to immediate termination.

An employee with a positive test may be allowed to retain employment by signing a "Last Chance Agreement" and referred to a drug and alcohol assessment and/or program. By signing the Last Chance Agreement, the employee agrees to all of its requirements. Failure to sign or to adhere to the requirements of the agreement will result in immediate termination.

The Last Chance Agreement requires:

- The employee to obtain an appointment for alcohol and/or chemical dependency assessment within 24 hours of receiving their positive drug test result.
- The employee to sign a release of information to the CAT regarding the recommendations for treatment and the "fitness for duty" of the employee.
- The employee to start a treatment plan immediately upon its formation.
- The employee to comply with all of the recommendations for treatment and the treatment plan.
- The employee to agree to periodic random testing by the CAT (in addition to regular random employee testing) for one year following treatment.

Individuals will be responsible for paying for the assessment and treatment, and may utilize health insurance or Medicaid for those eligible. CAT is only responsible for the cost of one year of random testing.

Employees must use their annual leave, sick leave, or leave without pay to attend

required treatment. All leave shall be taken in accordance with the CAT Personnel Policies.

Employees who enter into a Last Chance Agreement shall not be allowed to return to work until they have started the treatment program recommended by their assessment.

A second verified positive drug or alcohol test or any violation pertaining to the CAT drug and alcohol policy will result in immediate termination. This includes during treatment and/or the one (1) year random testing or at any time during employment.

Temporary, Seasonal and On-Call employees are not eligible for a "Last Chance Agreement."

### **Confidentiality**

All drug and alcohol testing, information regarding a specific individual, interviews, reports, statements, memoranda, and test results, written or otherwise, will remain strictly confidential.

Any communications between the DFWO and the third party administrator regarding specific employees will be kept confidential and will be restricted to issues of compliance.

All test results will be regarded as medical data and will not be filed in an employee's personnel file. The status of an employee's drug test will be communicated within the CAT on a strict need-to-know basis.

### **Consequences for Violation of the Drug and Alcohol Policy**

The CAT reserves the right to take disciplinary action, up to and including termination based on any violation of the Drug and Alcohol policy.

An employee who fails a drug or alcohol test or refuses to submit to testing as required by this policy may be subject to termination.

### **Drug-Free Awareness Program**

To assist employees in understanding and avoiding the risks of Illegal Drug use and Controlled Substance Abuse and alcohol abuse, the CAT will provide a comprehensive drug-free awareness program. The CAT will use this program in an ongoing education effort to prevent and eliminate Illegal Drug use and Controlled Substance Abuse and alcohol abuse. The drug-free awareness program will inform employees about:

- The dangers of Illegal Drug use and Controlled Substance Abuse and alcohol use; and
- The CAT Drug and Alcohol Policy and the sanctions imposed for violations of policy.

### **Assistance in Overcoming Illegal Drug Use or Controlled Substance or Alcohol Abuse**

Early recognition and treatment of Illegal Drug use or Controlled Substance Abuse or alcohol abuse is important for successful rehabilitation, return to productive work, and reduced personal, family and social disruption. The CAT encourages the earliest possible diagnosis and treatment for Illegal Drugs use or Controlled Substance or alcohol abuse.

An employee with Illegal Drug use or Controlled Substance abuse or alcohol abuse problems may request assistance from his/her supervisor. Assistance will be provided on a confidential basis, and each employee will be referred to the appropriate treatment and counseling services.

### **Employee Assistance Program**

The CAT provides a confidential Employee Assistance Program ("EAP") through the health insurance carrier. Counseling services are available to employees for Illegal Drug use or Controlled Substance Abuse or alcohol abuse and associated problems.

### **Employee & Supervisor Substance Abuse Training & Education**

Every employee will be required to read this policy and sign an acknowledgement statement of understanding and compliance. The CAT will conduct a policy orientation for all new hires, include this policy in the CAT Personnel Policy Handbook, and will continue to publicize the program throughout the organization.

The CAT shall provide training to supervisors and appropriate personnel on an annual basis. This training shall include: the connection between job performance deficiencies and impairment through drug and alcohol abuse; the importance of documentation of work performance deficiencies and impairment; how to refer impaired employees to evaluation and treatment; circumstances and procedures for post-injury testing or incident; supervisor responsibilities in a last chance agreement, and employee confidentiality.

The CAT shall provide education to all employees regarding drug and alcohol abuse and its effects on the workplace by the Personnel Department on an annual basis.

The CAT shall provide education to all employees at the initial adoption of the policy and at any time of revision.

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