

Michigan Civil Service Commission

Regulation 2.09

Subject: Drug and Alcohol Testing Self-Reporting		
SPDOC No.: 16-06	Effective Date: January 1, 2017	Replaces: Reg. 2.09 (SPDOC 07-14, October 7, 2007)

1. Purpose

This regulation provides procedures for notifying civil service when an employee voluntarily discloses a drug or alcohol problem to the appointing authority under rule 2-7.5.

2. CSC Rule References

2-7 Drug and Alcohol Testing

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2-7.5 Self-reporting

- (a) Reporting. An employee who voluntarily discloses to the appointing authority a problem with controlled substances or alcohol cannot be disciplined for such disclosure if, and only if, the problem is disclosed before the occurrence of any of the following:*
- (1) For reasonable suspicion testing, before the occurrence of an event that gives rise to reasonable suspicion that the employee has violated this rule.*
 - (2) For preappointment testing, follow-up testing, and random selection testing, before the employee is selected to submit to a drug or alcohol test.*
 - (3) For post-accident testing, before the occurrence of any accident that results in post-accident testing.*
- (b) Employer action. After receiving notice, the appointing authority shall permit the employee an immediate leave of absence to obtain medical treatment or to participate in a rehabilitation program. In addition, the appointing authority shall remove the employee from the duties of a test-designated position until the employee submits to and passes a follow-up drug test or alcohol test. The appointing authority may require the employee to submit to further follow-up testing as a condition of continuing or returning to work.*
- (c) Limitation. An employee may take advantage of subsection (a) no more often than two times while employed in the classified service. An employee making a report is not excused from any subsequent drug test or alcohol test or from otherwise complying in full with this rule. An employee making a report remains subject to all drug and alcohol testing requirements after*

making a report and may be disciplined as the result of any subsequent drug test or alcohol test, including a follow-up test.

3. Definitions

A. CSC Rule Definitions.

1. **Reasonable suspicion** means a belief, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, that an employee is using or may have used drugs or alcohol in violation of a agency work rule or a civil service rule or regulation. By way of example only, reasonable suspicion may be based upon any of the following:
 - (a) *Observable phenomena, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being impaired by, or under the influence of, a drug or alcohol.*
 - (b) *A report of on-duty or sufficiently recent off-duty drug or alcohol use provided by a credible source.*
 - (c) *Evidence that an individual has tampered with a drug or alcohol test during employment with the state of Michigan.*
 - (d) *Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs or alcohol while on duty, while on the employer's premises, or while operating the employer's vehicle, machinery, or equipment.*
2. **Rehabilitation program** means an established program to identify, assess, treat, and resolve employee drug or alcohol abuse.
3. **Test-designated position** means any of the following:
 - (a) *A safety-sensitive position in which the employee is required to possess a valid commercial driver's license or to operate a commercial motor vehicle, an emergency vehicle, or dangerous equipment or machinery.*
 - (b) *A position in which the employee possesses law enforcement powers or is required or permitted to carry a firearm while on duty.*
 - (c) *A position in which the employee, on a regular basis, provides direct health care services to persons in the care or custody of the state or one of its political subdivisions.*
 - (d) *A position in which the employee has regular unsupervised access to and direct contact with prisoners, probationers, or parolees.*
 - (e) *A position in which the employee has unsupervised access to controlled substances.*
 - (f) *A position in which the employee is responsible for handling or using hazardous or explosive materials.*

4. Standards

- A. Civil Service will maintain a central, confidential repository of self-reports.
- B. Within 14 calendar days after an employee self-reports a drug or alcohol problem, an appointing authority must provide civil service with the following:
 - 1. Employee name.
 - 2. Employee ID number.
 - 3. Agency.
 - 4. Whether the report was for drugs or alcohol.
 - 5. Verification that the employee was removed from a test-designated position, if applicable.
 - 6. Dates of leave of absence.
- C. Within seven calendar days, civil service will notify the appointing authority if an employee has had two or more previous disclosures.
- D. An employee who self reports a third time is not entitled to a leave under rule 2-7.5(b).
- E. If an employee self reports a third time, the appointing authority shall do the following:
 - 1. Rescind a leave granted under rule 2-7.5(b) and take other appropriate action.
 - 2. Require the employee, if on duty, to immediately submit to a reasonable-suspicion test under rule 2-7.2(a)(1).
 - 3. Institute follow-up testing in accordance with rule 2-7.2(a)(3).
 - 4. Take appropriate disciplinary action in accordance with agency work rules.
- F. Within seven calendar days of notification, civil service will follow up to ensure the appointing authority took action.
- G. Civil service staff will immediately notify the director if an employee had two or more previous disclosures and the appointing authority took no follow-up action.
- H. The director may direct the appointing authority to take necessary action.

5. Procedures

Responsibility	Action
Appointing Authority	1. Notifies civil service that an employee self-reported.

Responsibility	Action
Civil Service	2. Enters the information into the central registry. 3. Notifies appointing authority if the employee has two or more previous disclosures.
Appointing Authority	4. Takes appropriate action in accordance with civil service and agency work rules.
Civil Service	5. Follows up with appointing authority to determine if action was taken. 6. Notifies the director if the employee has had two or more previous disclosures without action by the appointing authority.
State Personnel Director	7. Determines if further action is needed and notifies appointing authority.
Civil Service	8. Follows up with appointing authority to ensure appropriate action was taken.

CONTACT

Questions on this regulation may be directed to Classifications and Selections, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone at 517-284-0103, or to MCSC-OCSC@mi.gov.