



STATE PERSONNEL DIRECTOR OFFICIAL COMMUNICATION

SPDOC No. 23-11

TO: ALL APPOINTING AUTHORITIES, HUMAN RESOURCES OFFICERS,
AND RECOGNIZED EMPLOYEE ORGANIZATIONS

FROM: JOHN GNODTKE, STATE PERSONNEL DIRECTOR

A handwritten signature in black ink, appearing to read "John Gnodtke", with a long horizontal line extending to the right.

DATE: SEPTEMBER 15, 2023

SUBJECT: **AMENDMENTS TO RULE 2-7, DRUG AND ALCOHOL TESTING, AND
REGULATIONS 2.07, DRUG AND ALCOHOL TESTING, AND 2.10,
DRUG TESTING COMPLAINTS BY NON-EMPLOYEES**

**THIS DOCUMENT IS AVAILABLE UPON REQUEST IN ALTERNATIVE FORMATS.
FOR FURTHER INFORMATION CALL 517-284-0115.**

At its July 12 meeting, the commission adopted rule amendments to allow rescinding active sanctions for some applicants who tested positive for marijuana since 2020. The attached revised rule book reflects those changes to rule 2-7, effective October 1, 2023.

Support was also expressed for related regulation changes ending marijuana testing for new hires to some state positions. To clarify the effects of upcoming rule and regulation changes:

- Employment testing of state employees is unchanged. They remain subject to reasonable-suspicion, random-selection, post-accident, and follow-up testing for marijuana, other covered drugs, and alcohol as provided in union contracts, rules, and regulations.
- Having prohibited levels of alcohol or drugs—including marijuana—in one's system while working remains grounds for discipline, up to and including dismissal.
- Pre-employment testing for test-designated positions is unchanged. Testing for marijuana—along with other substances—before appointment will continue for designated positions (1) operating certain vehicles, equipment, and machinery, (2) with law enforcement powers or allowed to carry a firearm on duty, (3) providing healthcare services, (4) working with prisoners, probationers, or parolees, (5) with unsupervised access to controlled substances, or (6) handling hazardous or explosive materials.

The regulation amendments published today will make two principal changes starting October 1, 2023:

First, they clarify that conditional offers of employment to new hires for positions not designated for random testing can no longer be rescinded based on marijuana. The previously circulated proposal is modified slightly with the following language adopted:

- b. **Drugs included.** Rule 9-1 defines drugs as those included in schedule 1 or 2 ~~of controlled substances~~ at MCL 333.7201, et seq. Hundreds of drugs are covered under schedules 1 and 2, but it is not feasible to test routinely for all of them. When a drug test is required, an appointing authority shall require testing for marijuana, cocaine, opiates, amphetamines, and phencyclidine, except that marijuana testing is not authorized for a preemployment drug test for a new hire to a position that is not test-designated and cannot be used to rescind a conditional offer of employment to such a position. ~~Before~~If an agency requires testing for other drugs, it must first obtain written approval from the director. A request must include the agency's proposed initial test methods, testing levels, and performance test program. When conducting reasonable-suspicion or post-accident testing, an agency may require testing for any drug listed in schedule 1 or 2.

A clause is also added to § 4.C.1 to clarify the effect of the above addition on any conflicting positive test results.

Second, they establish a specific process in regulation 2.10 for applicants sanctioned for positive results for pre-hire testing for marijuana for positions no longer subject to that testing to request by email the lifting of their sanctions. Previously circulated amendments implementing this rescission process will be adopted as proposed.

All rule and regulation changes are effective October 1, 2023.

Attachments