

CHAPTER 3. ADMINISTRATIVE SERVICES
SUBCHAPTER 11. RISK MANAGEMENT
PART 1. DRUG POLICY

377:3-11-5. Substance screening

Drug and alcohol testing may be required for employees and job applicants under the following circumstances:

(1) Job applicant testing. Every job applicant who is conditionally offered employment in the following job families shall be tested:

- (A) Juvenile Justice Specialist;
- (B) Youth Guidance Specialist;
- (C) Police Officer;
- (D) Recreational Therapist;
- (E) Institutional Safety & Security Coordinator;
- (F) Registered Nurse;
- (G) Licensed Practical Nurse;
- (H) Nursing Manager; ~~and~~
- (I) Food Service Personnel; and
- (J) Psychological Clinician.

(2) Reasonable suspicion testing. ~~For-cause testing.~~ Any employee ~~may be tested~~, at the request of the Executive Director or, if he is unavailable, the Chief of Staff, ~~if a reasonable suspicion exists that the employee has violated this policy while on duty. A reasonable suspicion may be drawn from specific objective and articulate facts and reasonable inferences drawn from those facts in light of experience, and, among other things, may be based upon:~~ may be requested or required to undergo drug or alcohol testing at any time it is reasonably believed that an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

- (A) Observable phenomena such as:
 - (i) The physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty; or
 - (ii) The direct observation of drug or alcohol use while at work or on duty;
- (B) A report of drug or alcohol use while at work or on duty provided by reasonable and credible sources and which has been independently corroborated;
- (C) ~~Evidence that an individual has tampered with a drug or alcohol test during his employment with OJA; or~~ Information that an employee has tampered with drug or alcohol testing at any time;
- (D) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs while on duty or while on any OJA premises or premises with which OJA has contracted services, or operating any OJA vehicle, machinery, or equipment;
- (E) Drugs or alcohol on or about the employee's person or in the employee's vicinity;
- (F) Negative performance patterns; or
- (G) Excessive or unexplained absenteeism or tardiness.

(3) Post-accident testing. Any employee may be tested when the Director of Safety and Risk Management has a reasonable suspicion that the employee or another person has sustained an ~~work-related~~ injury while at work or that Office of Juvenile Affairs property has been damaged as a direct result of the employee's use of drugs or alcohol, including damage to equipment, ~~in an amount reasonably estimated at the time of the accident to exceed \$500.00.~~ No employee who tests positive for the presence of substances, as set forth in 63 O.S., § 465.20, or who consumes or intakes such substances in a manner prohibited by such section, or who refuses to take a drug or alcohol test shall be eligible for Workers' Compensation Benefits.

(4) Post-rehabilitation. Any employee who has had a ~~confirmed~~ positive test or has participated in a drug or alcohol dependency treatment program may be tested ~~without prior notice~~ for a period of up to two (2) years, commencing with the employee's return to work.

(5) Random Testing. The Executive Director may order random drug testing for OJA permanent, temporary or probationary employees who hold a position within the applicable job families as listed in paragraph one of this rule. The affected employees shall be notified of the effective date and process for testing.

377:3-11-6. Substances to be tested

The following substances or their metabolites will be subjects for testing Testing for substances or their metabolites shall include, but not be limited to, the following:

(1) alcohol;

(2) marijuana;

(3) opiates/synthetic narcotics such as:

(A) codeine (a.k.a. Tylenol #3 and #4, etc., cough syrups, Robitussin AC);

(B) hydrocodone (a.k.a. Vicodin or Lortab);

(C) hydromorphone (a.k.a. Dilaudid);

(D) meperidine (a.k.a. Demerol);

(E) methadone (a.k.a. Dolophine);

(F) oxycodone (a.k.a. Percodan or Percocet);

(G) propoxyphene (a.k.a. Darvon);

(H) heroin;

(I) morphine;

(4) cocaine;

(5) phencyclidine;

(6) amphetamines:

(A) amphetamines (a.k.a. Dexadrine, Benzedrine);

(B) methamphetamines (a.k.a. Desoxyn);

(C) methylenedioxyamphetamines;

(D) methylenedioxymethamphetamines;

(E) phentermine (a.k.a. Adipex, Fastin, Ioamin);

(7) barbiturates:

(A) amobarbital (a.k.a. Amytal);

(B) butalbital (a.k.a. Florinal, Fioricet);

(C) pentobarbital (a.k.a. Nembutal);

(D) secobarbital (a.k.a. Seconal; **NOTE:** Amobarbital and secobarbital combination to form Tuinal).

(8) benzodiazepines:

- (A) diazepam (a.k.a. Valium);
- (B) chlordiazepam (a.k.a. Librium);
- (C) alprazolam (a.k.a. Xanax);
- (D) clorazepate (a.k.a. Tranxene); and

(9) methaqualone (a.k.a. Quaalude, Parest, Sopor).

(10) Any other substance approved for testing by the Commissioner of Health of the Oklahoma State Department of Health (OSDH).

377:3-11-8. Collection procedures

Collection of samples for drug and alcohol testing shall be in accordance with the Drug and Alcohol Testing Rules of the OSDH. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

377:3-11-9. Consequences of refusal

(a) Employees. Any employee who refuses testing under this policy shall be subject to discipline up to and including discharge from employment. Inability to give an adequate urine sample shall be deemed a refusal, but the employee may overcome this conclusion by providing conclusive medical evidence of a pre-existing condition, which prevents the production of an adequate sample. Adulteration of a specimen of a drug or alcohol test shall be considered as a refusal to test.

(b) Job applicants. Any job applicant who has received a conditional offer of employment from OJA and who refused to undergo drug and alcohol testing will not be hired by OJA. Unreasonable delay in submitting to testing shall be deemed a refusal.

377:3-11-10. Consequences of positive test results

~~(a) Any positive test results shall be confirmed by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as prescribed by the State Board of Health.~~

~~(b)~~ Any employee who has a ~~confirmed~~ positive test result will be subject to discipline up to and including discharge from employment. Such an employee will also be referred to the Administrator of Employee Assistance Program. After evaluation, the employee may be required to complete drug and alcohol education and/or treatment. Unsuccessful completion or refusal to participate will result in termination of employment.

~~(c)~~(b) Any job applicant who has received a conditional offer of employment and who has a confirmed positive test result will not be hired by OJA.

(c) An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a positive drug or alcohol test shall be considered to have been discharged for misconduct for purposes of unemployment compensation benefits as provided for in Section 2-406A of Title 40. In order to prove misconduct, the employer need only provide proof of a testing policy and either a refusal to take a drug or alcohol test or a positive test result.

377:3-11-11. Job applicant and employee ~~rights~~ opportunities

(a) Explanation of test results.

(1) Any job applicant who has received a conditional offer of employment and who has a confirmed positive test result shall have an opportunity to confidentially explain the result orally and in writing to the Director of Safety and Risk Management.

(2) Any employee who has a ~~confirmed~~ positive test result shall have an opportunity to confidentially explain the result orally and in writing to the Director of Safety and Risk Management.

(3) An employee may challenge a positive test result within 24 hours of notice of a positive test result. The cost of such confirmation test shall be the responsibility of the employee unless the confirmation test reverses the findings of the challenged positive test.

~~(b) Confidentiality.~~ All information relating to employee drug testing will be treated with strict confidence. All records relating to drug testing will be kept separate from personnel files.

~~(e) Information.~~ Records of all drug and alcohol test results and related information shall be the property of OJA and, upon the request of the job applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. OJA will not release such records to any person other than the job applicant, employee, or the employee's review officer, unless the job applicant or employee, in writing and following receipt of the test results, has expressly granted permission for OJA to release such records ~~or pursuant to~~ in order to comply with a valid judicial or administrative court order. If OJA contracts with another employer, OJA may share drug or alcohol testing results of any tested person who works pursuant to such contractual agreement.

~~(d)~~(c) Appeal. Any employee disciplined pursuant to this policy shall have grievance and appeal rights as provided by the OJA Rules and by the Oklahoma Merit Protection Commission in accordance with the Oklahoma Personnel Act, Title 74, Section 840.1 ~~et~~ seq.

377:3-11-12. Severability

If any portion of this policy is declared or adjudged unconstitutional, such declaration or adjudication shall not affect the remaining portions of the ~~Policy~~ policy.

Chapter 10. Office of Juvenile Affairs
Subchapter 7. Contract Programs and Services
Part 3. Contract-Based Residential Care

377:10-7-20. Specialized residential high intensity treatment programs (“Level E”)

The standardized set of criteria for each “Level E” community based residential care facility is provided in (1)-(9) of this Section.

(1) **Nature of program services.** Intervention is characterized by a highly structured environment and regularly scheduled contact with professional staff. Crisis intervention shall be formalized on a 24-hour basis.

(A) Social services shall be delivered in both group and individual sessions. The primary goal shall be behavior-focused. Structured group treatment shall be provided at a minimum of two hours per week. Individual treatment shall be provided at a minimum of one hour per week. Families shall be involved in the therapeutic process, as indicated by the juvenile’s individual treatment plan.

(B) The residential component of this level shall include 24-hour awake supervision by professional staff. Juveniles in this level are considered a high risk to themselves or the community. The contractor shall be required to assist in apprehending and returning to the facility juveniles who are AWOL.

(2) **Description of juveniles to be served.** Juveniles in this group have displayed extreme antisocial and aggressive behavior but are typically not psychotic, although may have DSM IV R diagnosis and may receive psychotropic medication. Juveniles may frequently exhibit serious behavioral problems, which may reflect emotional disturbance. Juveniles may have resided in an OJA-operated or private institution, residential psychiatric facility, or other community-based placement prior to placement into “Level E.” In many instances, juveniles may be placed into this program as a diversion from institutionalization. These juveniles require a structured, controlled environment with a high degree of supervision accompanied by intensive services. Juveniles considered for placement into a “Level E” facility evidence a combination of behavioral descriptors including:

(A) very high AWOL risk;

(B) dysfunctional behavior in public school settings;

(C) repeated indiscriminate acts of violence and aggression toward peers, property and/or authority figures;

(D) multiple delinquent offenses; and

(E) may have substance abuse related problems, coupled with:

(i) a current diagnostic evaluation that calls for placement into a highly structured community-based setting;

(ii) multiple failed placements in community-based residential care, especially “Level D₂”; “Level D Plus₂”; and OJA-operated group homes;

(iii) institution eligibility; or

(iv) parole eligibility from the institution with a recommendation for community placement into a staff secure facility.

(3) **Educational services.** The facility shall provide educational opportunities to conform with the standards of the State Board of Education. The facility shall provide juveniles enrolled in the public education program six hours of structured classroom education as outlined by the ~~local~~ board of the appropriate school boards/district. Four of the six hours shall include math, social

studies, English and science. Certified teachers shall provide educational services. The facility shall ensure that each juvenile completes a pre- and post-program test to measure educational progress using a test approved in writing by OJA. The facility shall enter the testing data into the OJA database. ~~Four of the six hours shall include math, social studies, English and science.~~ The facility shall ensure that the summer education program is accredited to provide appropriate credit for studies completed by juveniles. ~~Certified teachers shall provide educational services.~~ Programs shall have in-house education operated in conjunction with the ~~local~~appropriate school districts. The facility shall ensure that:

(A) each juvenile is provided the training and education appropriate to the juvenile's abilities;

(B) special, remedial, and vocational education are available; and

(C) tutoring services are provided for juveniles who need them.

(4) **Recreational services.** The facility shall provide supervised indoor and outdoor recreation for each juvenile. The facility shall develop and maintain a policy, which includes a written recreational program as required by 340:110-3-152(e)(7), and as set forth in an individual treatment plan or contract. ~~The Executive Director or the affected division director shall approve the policy.~~ The program shall include clearly defined objectives designed to attain positive behavior changes. Recreational programs may be available either on campus or through facilities in the community as outlined in 340:110-3-154(b)(1)~~(A)(B)~~ and 340:110-3-154.1(a)(3)(N).

(5) **Employment services.** The facility shall provide necessary services to prepare juveniles for employment and, when appropriate, facilitate job placement and job retention.

(6) **Staffing guidelines.** Facilities shall be staffed in accordance with DHS rule 340:110-3-153.1(d) for Executive Program Director qualifications. In addition, the following requirements shall be used for other facility positions:

(A) One full-time Administrator, who shall direct the treatment plans for each juvenile, ~~participate in providing individual or group interactions,~~ implement and supervise the facility's programs and services, administratively supervise the counseling staff and administer the program. The administrator shall be on 24-hour call.

(B) One Consultant is available for each facility. Consultation is provided on an as needed basis by a Psychiatrist, Psychologist, MSW, Licensed Social Worker, Licensed Professional Counselor, or Licensed ~~Martial~~Marital and Family Therapist who shall be available to the ~~Executive Director~~executive director and all counseling and direct care staff;

(C) The program shall employ ~~two~~ recreation specialists, if applicable, as designated in the facility contract;

(D) At a minimum, each program must have a:

(i) certified teacher;

(ii) part-time secretary; and

(iii) nutritionist who in accordance with DHS Rule (340:110-3-154.4) is responsible for:

(I) planning meals; and

(II) assuring compliance with licensing and Health Department standards.

(7) **Direct care staffing guidelines.** The contractor must meet the staffing guidelines set forth in the Department of Human Services "~~Standards for Child Placing Agencies~~" or "~~Standards for Residential Child Care Facilities~~". Staffing shall be sufficient to allow for at least two direct-care staff at all times-, one of which is a licensed counselor on the evening shift.

(8) Reporting requirements.

(A) Counseling and direct-care staff shall:

- (i) participate in developing treatment plans for each juvenile;
- (ii) provide individual and group interactions with the juveniles;
- (iii) provide crisis intervention and assist with the juveniles in the on-site classroom;
- (iv) participate with the juveniles in recreational opportunities or interact with the juvenile in the experiential/recreational component as required by the programmatic requirements;
- (v) prepare daily log narrative as to each juvenile's behavior;
- (vi) participate in the weekly staffings of each juvenile; and
- (vii) provide information for court reports.

(B) Facility shall submit a monthly and year-end report to OJA as outlined in the facility's contract.

(9) **Staff training.** The facility director shall be responsible for ensuring staff meet the training requirements as set forth in DHS Licensing Standards for Residential Child Care Facilities Rule 340:110-3-153.1 (m & n) and Oklahoma Health Care Authority (OHCA) 317:30-5-1043. In addition, each staff shall have an orientation training, which shall include a behavior management course on a passive restraint modality such as MANDT training.

(10) **Description of facility.** The facility must be free standing and meet all fire, health and safety standards and ~~Standards for Child Placing Agencies or Residential Child Care Facilities.~~ If a provider seeks to establish a "Level E" Program on an existing campus, the provider shall develop and submit to the ~~Executive Director~~ executive director or the affected division director a written, demonstrable plan to totally separate this program from a lower level program. Staff may not be shared unless they serve only part-time at each program. Populations may not commingle ~~on a daily basis.~~