

GUIDELINES FOR THE IMPLEMENTATION OF THE DRUG PREVENTION PROGRAM FOR THE FIRST AND SECOND LEVEL COURTS

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Pursuant to Memorandum Order No. 18-2005 dated 25 April 2005 entitled "Establishing a Program to Deter the Use of Dangerous Drugs and Authorizing the Use of Random Drug Testing on the Personnel of the Judiciary " the following guidelines for the Drug Prevention Program in the first and second level courts are hereby adopted:

I. Objectives

- To detect the use of dangerous drugs among lower court employees, impose disciplinary sanctions, and provide administrative remedies in cases where an employee is found positive for dangerous drug use.
- To discourage the use and abuse of dangerous drugs among first and second level court employees and enhance awareness of their adverse effects by information dissemination and periodic random drug testing.
- To institute other measures that address the menace of drug abuse within the personnel of the Judiciary.

II. Definition of terms

- Employee - refers to all judges or personnel of the first and second level courts regardless of status of appointment.
- Area - refers to any of the different judicial regions.
- Dangerous drugs - refers to prohibited or regulated substances that include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the annexes that form part of Republic Act No. 9165.
- Random drug test - refers to the mandatory methodical and unannounced conduct of drug test using appropriate scientific random sampling technique based on time, area, and/or subjects, with each employee having an equal probability of being selected for testing.
- Screening test - a rapid test performed to establish potential or presumptive positive result and conducted for the determination of the type of drug(s) used by the subject.
- Confirmatory test - an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test.
- Custody and Control Form (CCF) - a Department of Health (DOH) approved form used to document the collection, transport, security, and test results of the specimen.

III. Coverage

These Guidelines shall cover (1) all officials and employees in the first and second level courts of the Judiciary; and (2) all other workers detailed or working in the said courts such as, but not limited to: (a) personnel detailed to the courts and compensated by any particular local government unit; (b) security and janitorial services personnel hired through sendee contracts; and (c) other personnel not covered by the term "employees" as defined herein.

IV. Mechanics for the implementation of the Drug Prevention Program

A. Creation of a Drug Prevention Committee for First and Second Level Courts (DPC-FSLC)

1. Composition - The Drug Prevention Committee for First and Second Level Courts (DPC-FSLC) shall be created with the Court Administrator or his representative as Chairperson; the Chief of the Supreme Court Medical and Dental Services or his representative as Vice-Chairperson; and the representatives of the Office of Administrative Services, the Court Management Office, the Legal Office, and the Financial Management Office in the Office of the Court Administrator, as well as two representatives of the Philippine Association of Court Employees (PACE) for the 1st and 2nd level court employees, as Members. The Chairperson, in consultation with the members of the Committee, shall designate the DPC-FSLC Recorder-Secretary and Assistant Recorder-Secretary.

2. Functions.- The DPC-FSLC shall:

(a)

Determine the area and time for the conduct of the mandatory random drug test using appropriate random sampling technique;

(b)

Oversee the conduct of the mandatory random drug test for the employees of the first and second level courts, tapping for this purpose, the assistance and expertise of appropriate government agencies;

(c)

Refer to the appropriate government rehabilitation center employees (i) who voluntarily admit without undergoing the Screening Test that he or she uses dangerous drugs, and (ii) who fail the drug test without challenging the results thereof;

(d)

Evaluate the validity and reasonableness of the ground(s) for refusal or failure of selected employees to undergo the required drug test, and forthwith refer the same to the Office of the Court Administrator for proper disposition;

(e)

Evaluate the fitness of an employee to return to work after having undergone rehabilitation on the basis of medical findings and recommendations;

(f)

Keep the results of the mandatory random drug test and all other data gathered in connection therewith;

(g)

Act on all concerns that may arise in connection with the actual conduct of the mandatory random drug test;
and

(h)

Coordinate with the Executive Judges in gathering and receiving information and other relevant data relative to drug use in their respective regions.

B. Dangerous drug use prevention information campaign

The Philippine Judicial Academy, in coordination with the DPC- FSLC, shall create and implement a program that will increase the awareness and education of the employees of the first and second level courts on the adverse effects of dangerous drugs.

C. Selection of subject personnel

- Pursuant to its functions of overseeing the conduct of random drug tests, the DPC-FSLC shall prepare a strategy using selective sampling of court personnel to determine the subjects and the area for the conduct of the said test. The number of employees to be tested every year must be more or less fifty percent (50%) of the actual number of employees nationwide.

- The DPC-FSLC may motu proprio or, upon the recommendation of the proper Presiding Judge, the Executive Judge may direct a court personnel to subject himself or herself to a drug test should there be reasonable ground to believe that he or she is a habitual user of dangerous drugs. The Executive Judge shall determine such reasonable ground based on specific contemporaneous and articulable observations concerning such matters as the appearance, behavior, speech or physical manifestation of the concerned employee.

C. Random drug testing :

- Procedure

(a)

The DPC-FSLC shall authorize a team, which shall include a specimen collector duly authorized by the DOH, that shall conduct the random drug test in any particular area only after the written permission to conduct the test in his jurisdiction shall have been granted by the Executive Judge.

(b)

The team shall ensure that there is a clean toilet or partitioned area where the test will be conducted to prevent adulteration of specimen.

(c)

The authorized specimen collector shall:

(i)

ensure that the subject employee has not concealed any substance that might be used to adulterate the specimen and that he or she has no access to any such unregulated substance within the testing area;

(ii)

provide the subject employee with a clean specimen container;

(iii)

remain outside the toilet or partitioned cubicle as the subject employee provides the specimen;

(iv)

see to it that the subject employee hands him the specimen before flushing the toilet;

(v)

check the volume of the urine in the specimen container;

(vi)

check the temperature of the urine specimen;

(vii)

inspect the specimen to determine its color and appearance for any signs of contaminants; and

(viii)

note any unusual findings on the chain of the custody form.

(d)

The subject employee shall:

(i)

remove his or her outer garments that might conceal items or substances that could be used to tamper with or adulterate his or her urine specimen;

(ii)

wash and dry his or her hands; :

(iii)

remain in the presence of the authorized specimen collector so that he or she will not have access to any unregulated source of water, soap, dispenser, cleaning agent, or any other material that could be used to adulterate the specimen;

(iv)

collect and provide the specimen inside the toilet or partitioned area; and

(v)

not flush the toilet until after he or she shall have handed over the specimen to the authorized specimen collector.

(e)

Before the urine specimen container is sealed and labeled, both the subject employee and the authorized specimen collector shall keep it within sight of the team.

(f)

The specimen bottle shall have an identification label with these entries: (i) name of subject employee; (ii) date of specimen collection; (iii) signature of the subject employee; and (iv) specimen identification number.

(g)

The authorized specimen collector shall provide all information required in the Custody and Control Form (CCF) and ensure that each copy shall be given to the proper custodian thereof.

(h)

The DPC-FSLC shall have custody of the results of the Screening Test, which are strictly confidential unless its contents are required to be disclosed in an appropriate proceeding.

2. An employee who is found positive for dangerous drug use based on the Screening Test may either:

(a)

admit dangerous drug use, in which case he or she shall be immediately referred to the proper government agency for medical evaluation, counseling and rehabilitation, as circumstances may require; or

(b)

challenge the result of the Screening Test within fifteen (15) days from receipt thereof, in which case, he or she shall undergo a Confirmatory Test.

D. Confirmatory Test

- The procedure prescribed above for the conduct of the Screening Test shall also be observed in the conduct of the Confirmatory Test insofar as the same is applicable without prejudice to the DPC-FSLC coming up with reasonable supplemental procedure as its discretion may dictate.

- An employee who is found positive of dangerous drug use after the conduct of the Confirmatory Test shall be proceeded against either administratively or criminally or both unless he or she voluntarily admits drug use and undergo rehabilitation. The employee shall be accorded ample opportunity to challenge the result of the Confirmatory Test in the administrative case.

V. Liability of subject employee

- An employee who refuses or fails to undergo drug testing for any unmeritorious reason, as determined by the DPC-FSLC, shall be administratively liable for "Insubordination" pursuant to Section 52 (B) (5) of the Uniform Rules on Administrative Cases in the Civil Service;
- An employee who refuses to undergo rehabilitation after having been found positive for dangerous drug use in a Confirmatory Test shall be administratively liable for "Conduct Prejudicial to the Best Interest of the Service," without prejudice to criminal prosecution under the provisions of Republic Act No. 9165.
- An employee who undergoes rehabilitation shall be considered on sick leave, as may be allowed by civil service rules.

VI. Funding

The cost of random drug testing of officials and employees shall initially be funded out of the available savings of the first and second level courts until its inclusion in the general appropriations law for the next fiscal year.

VII. Effectivity

These Guidelines shall take effect immediately.

Issued this 24th day of February 2006.

(Sgd)ARTEMIO V. PANGANIBAN

Chief Justice

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