

# ARKANSAS REGISTER

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93 AUG -6 PM 3:11

Transmittal Sheet



W.J. "BILL" McCUEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

W. J. "Bill" McCuen

Secretary of State

State Capitol Rm. 010

Little Rock, Arkansas 72201-1094

For Office

Use Only:

Effective Date

7/30/93

Code Number

004.00.93--010

Name of Agency Arkansas Department of Correction

Department of Correction

Contact Person Larry Norris, Director

Statutory Authority for Promulgating Rules Act 50 of 1968, First Extraordinary Session,  
as amended

Intended Effective Date

AR202 - Employee Drug Testing

Date

☐ Emergency

Legal Notice Published

7/11-17/92

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Final Date for Public Comment

7/29/92

☒ Other

Filed With Legislative Council

7/7/92

Please use 7/30/93 as  
the effective date

Reviewed by Legislative Council

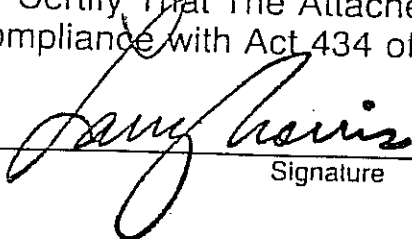
8/6/92

Adopted by State Agency

7/30/93

## CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 As Amended.



Signature

Director

Title

July 30, 1993

Date



**FILED**  
**ADMINISTRATIVE REGULATIONS**  
**STATE OF ARKANSAS**  
**DEPARTMENT OF CORRECTIONS**

93 AUG -6 PM 3:11  
 W.J. "BILL" McCUEN  
 ATTORNEY GENERAL  
 LITTLE ROCK, ARKANSAS  
 BY \_\_\_\_\_

Section Number 202	Page Number 1 of 7
Board of Correction Approval Date: 7/30/93	
Supersedes:	Dated:
Attorney General Review Date: 7/30/93	Date Filed Secy. of State: 7/30/93

**SUBJECT:** Employee Drug Testing

I. AUTHORITY:

The Board of Correction is vested with the authority to promulgate Administrative Regulations by Act 50 of 1968, First Extraordinary Session, as amended.

II. PURPOSE:

To establish the policy on drug testing for specified employees of the Department of Correction and testing of applicants for employment.

III. APPLICABILITY:

To the Director, Warden/Center Supervisors/Administrators, any employee involved in the process of drug testing, all employees currently employed by the Department of Correction, and all applicants for employment.

IV. DEFINITIONS:

- A. Specified Employees: Employees whose job duties may require the use of a firearm; who are in contact with the general inmate population; or employees who would pose a direct threat to the health or safety of themselves or others or to the safety and security of departmental operations if their general functioning was impaired. This may include contracted employees.
- B. Reasonable Suspicion: Exists if specific objective facts and circumstances warrant rational inferences that a person is using or is under the influence of controlled substance. Reasonable suspicion may be based upon, among other matters:
1. Observable phenomena, such as direct observation of use and/or the physical symptoms of using or being under the influence of controlled substance such as, but not limited to, slurred speech, direct



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involvement in a serious accident and/or  
disorientation;

2. A pattern of abnormal conduct or erratic behavior;  
or
3. Information provided either by reliable and  
credible sources or which is independently  
corroborated.

Drug testing of specified employees based on reasonable  
suspicion shall be requested at the discretion of the  
Unit Warden/Center Supervisor/Administrator.

- C. Serious Accident: While the employee is on duty, an  
accident that occurs which results in death, bodily  
injury, or serious property damage.
- D. Controlled Substance: Mind-altering and/or addictive  
substance(s) included under the provisions of the United  
States Government's Controlled Substances Act of 1970,  
as amended. Examples include but are not limited to:
  1. Opiates
  2. Cocaine
  3. Cannabinoids (i.e. marijuana, hashish)
  4. Amphetamines
  5. Barbiturates
  6. Narcotics and hallucinogens (i.e. phencyclidine  
(PCP), Methaqualone (quaalude), peyote, LSD)
  7. Benzodiazepines (i.e. Valium, Librium)

Also encompassed by this definition are substances not  
sold as drugs or medicines but which are used for  
mind-behavior-altering effect.

- E. Illegal/Unlawful Drug Use: Any use of narcotics or  
controlled substances not prescribed by a physician or  
any other medications that may interfere with one's  
performance of duty; refers both to the use of unlawful



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drugs such as cocaine and the unlawful use of prescription drugs.

- F. Under The Influence: Any detectable level of a controlled substance in a urine specimen that results in a positive reading.
- G. Rehabilitation Program: Refers to both in-patient and out-patient programs as well as Employee Assistance Programs and professionally required self-help programs.

V. POLICY:

It shall be the policy of the Board of Correction that a drug testing program be established for the testing of applicants and for the testing of specified employees of whom there is reasonable suspicion that the employee is under the influence of, or using, illegal and/or unlawful controlled substances.

VI. PROCEDURE:

A. Americans with Disabilities Act

The Americans with Disabilities Act provides that an individual currently engaging in the illegal/unlawful use of drugs is not an individual with a disability when the employer or other covered entity acts on the basis of such use.

Individuals who are no longer illegally using drugs and who have either been rehabilitated successfully or are in the process of completing a rehabilitation program are considered individuals with a disability.

1. The Department of Correction is entitled to seek reasonable assurances that no illegal use of drugs is occurring or has occurred recently enough so that continuing use is a real and ongoing problem.



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2. Applicants or employees may be asked to provide evidence that the individual is participating in a drug treatment program (i.e. drug test results).

**B. Applicant Testing**

1. Applicants who have been conditionally recommended for employment shall be required to provide a urine sample as part of the background investigation.
2. When employment testing is being administered by Central Personnel or unit/center designee, all applicants shall be notified of the Department's drug testing requirements and that they will be denied employment if test results are positive for illegal drug usage or if they refuse to provide a urine specimen or attempt to tamper with or adulterate the specimen.

At the request and expense of the applicant, a confirmation test of the positive preliminary result may occur.

3. If the applicant refuses to sign the consent form (F-202-1), the refusal shall be documented and the applicant shall be advised that he or she cannot be considered for employment for a twelve month period. Application may be resubmitted after this time.
4. All applicants shall be interviewed regarding present drug usage and shall be requested at the time of the test to complete a form listing prescription and over-the-counter drugs currently being used.
5. Each person being tested shall be required to produce acceptable verification of his or her identity.



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**B. Employee Testing**

1. If any employee is required to take medicine or narcotics prescribed by a physician, the warden/center supervisor/administrator must be notified.
2. Specified employees for which it is determined reasonable suspicion exists shall be tested for unauthorized drug use.
3. The testing procedure itself includes a preliminary test which, if positive, is followed by a confirmation test.
4. If a positive result occurs in an employee's specimen and as a result of an investigation and/or hearing, just cause is established, disciplinary action shall be imposed. Pursuant to the Administrative Regulation governing Employee Conduct Standards, disciplinary action up to and including termination may occur.

The Department fully supports the Employee Assistance Program and encourages employees to seek the confidential services of the assistance program.

5. If the preliminary test is positive, the employee will be notified, and a confirmation test conducted by another laboratory approved by the Department will occur. Also, the employee will be given the opportunity to present evidence and/or information that the positive test resulted from prescribed or over-the-counter drugs, or that special circumstance may have affected the test results. The employee will be required to sign a release of information form in the event that a physician must be contacted for clarification or verification.



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6. Refusal to provide a specimen, attempts to tamper or adulterate the specimen or positive results which cannot be justified, will result in the employee being placed on leave pending the results of the test and/or a disciplinary hearing.

**C. General Procedures**

1. Employees shall be provided with a copy of this Administrative Regulation and are required to sign the form (F-202-2) acknowledging they have received a copy of the regulation and that they support the department's drug free workplace program.
2. Chain of custody documentation for each specimen shall be maintained from collection to analysis to destruction.
3. Records concerning test results of the employee will be maintained confidentially in a specified, secure location.
4. Confirmed positive urine samples shall be retained until the confirmation tests are complete.
5. The Training Academy shall include in its curriculum a course for all new officers enrolled in Basic Correctional Officers Training on the effects, consequences and indications of controlled substances.

The Training Academy will coordinate the disbursement of any updated materials on substance abuse to correctional supervisors and provide a record of distribution.

**D. Testing Procedures**

Testing procedures to include but not limited to collection kits, type of test required, collection of



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urine specimens and documentation of tests will be addressed in an Administrative Directive on Employee Drug Testing.

AR202



Applicant Acknowledgement: Drug Testing Requirements Conditional  
for Employment

As an applicant for employment with the Arkansas Department of  
Correction, I acknowledge I understand:

- (1) The Arkansas Department of Correction requires drug testing of  
persons applying for employment;
- (2) Employment shall be denied if test results are positive for  
illegal or unlawful use of drugs;
- (3) Employment shall be denied if I refuse to provide a urine  
specimen or attempt to tamper with or adulterate the specimen  
provided;
- (4) I will be pat searched prior to drug testing in accordance with  
departmental regulations and grant permission to do so;
- (5) I will not be considered for employment if I refuse to sign this  
form (F-202-1).

I hereby give my consent to be tested for drug usage at present and  
in the future pursuant to the conditions of the policy attached  
herein.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date Signed

Applicant refused to sign and will no longer be considered for  
employment.

\_\_\_\_\_  
Personnel Administrator

\_\_\_\_\_  
Date

Routing: Original to Central Office Personnel

(Additional forms are to be requested from Duplicating Program at  
Wrightsville)

F202/1 (TXTADMRE)

## Employee Acknowledgement of Receipt of AR 202: Employee Drug Testing

I have received a copy of the Arkansas Department of Correction's Employee Drug Testing procedures, and I understand that it is my responsibility to read and become familiar with all rules, policies, regulations, etc., contained therein. I further understand if I have questions regarding this information, it is my responsibility to contact my immediate supervisor for assistance and/or explanation.

I support the Department's Drug Free Workplace Program; whereby acknowledging:

- (1) the unlawful or illegal manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace. Violators will be disciplined pursuant to Administrative Regulation 202, Employee Drug Testing; and Administrative Regulation 225, Employee Conduct Standards.
- (2) as condition of employment, I will abide by the terms and conditions set forth in the aforementioned regulations in statement (1).

I hereby give my consent to be tested for drug usage pursuant to the conditions of the policy attached herein.

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Name of Employee

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Division/Unit/Center

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Signature of Employee

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Date

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Social Security Number of  
Employee

Routing: Original - Central Personnel Office  
Copy (2) - Unit Personnel Officer  
Supervisor

(Additional forms are to be requested from Duplicating Program at  
Wrightsville)