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MEMORANDUM FOR DISTRIBUTION

Subj: CIVILIAN HUMAN RESOURCES MANUAL SUBCHAPTER 792.3
DRUG FREE WORKPLACE PROGRAM

I have approved the release of Civilian Human Resources Manual Subchapter 792.3, Drug Free Workplace Program. This subchapter is effective immediately and its use by all Department of the Navy (DON) commands and activities is mandatory. Activities must satisfy bargaining obligations before changes are implemented with respect to those employees covered by a negotiated agreement.

Distribution of this subchapter will be made by posting it to the DON Human Resources website, www.donhr.navy.mil.

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Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:
Electronic only, via DON Civilian Human Resources website
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DEPARTMENT OF THE NAVY
CIVILIAN HUMAN RESOURCES MANUAL

SUBCHAPTER 792.3

Drug-Free Workplace Program

TABLE OF CONTENTS

Sections	Pages
1. Purpose	1
2. Applicability	1
3. Policy	1
4. Responsibilities	2
5. Action	11
6. Reports	11
Acronyms	12

DEPARTMENT OF THE NAVY
CIVILIAN HUMAN RESOURCES MANUAL

SUBCHAPTER 792.3

Drug-Free Workplace Program

References: (a) Executive Order 12564
(b) Public Law 100-71
(c) Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 59 FR 29908 and 63 FR, No. 219)
(d) DHHS Medical Review Officer Manual for Federal Workplace Drug Testing Programs
(e) DHHS Urine Specimen Collection Handbook
(f) DON CHRM Subchapter 752
(g) SECNAVINST 5212.5D, Navy and Marine Corps Records Disposition Manual
(h) 42 U.S.C. Part 2

Cancellation: OCPMINST 12792.3A of 10 Sep 93
SECNAVINST 12792.3 of 8 Dec 88
OPNAVINST 5355.4 of 30 Nov 89

1. Purpose. This subchapter establishes policy and assigns responsibility for the Department of the Navy (DON) Drug Free Workplace Program (DFWP). It includes requirements and procedures for administering the DON DFWP consistent with references (a) through (h).

2. Applicability. This subchapter applies to all DON appropriated and non-appropriated funds civilian employees. It also applies to applicants tentatively selected for employment, as described in reference (a). Testing of foreign national employees stationed outside the United States may be conducted only as authorized by and consistent with intergovernmental and labor agreements negotiated on a country-by-country basis.

3. Policy

a. The DON policy is to eliminate the illegal use of drugs by civilian employees.

b. Illegal drug use by any civilian employee of the DON is incompatible with the maintenance of high standards of conduct and performance, military discipline, military readiness and safe and reliable mission accomplishment.

c. The DON will fully comply with references (a) and (b) to achieve a drug-free workplace.

d. The DON will use drug testing to deter illegal drug use through a carefully controlled and monitored program.

e. Appropriate administrative action will be taken in every instance of illegal drug use.

4. Responsibilities

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) ASN (M&RA) has overall responsibility for policies and programs associated with the DON DFWP.

b. The Deputy Assistant Secretary of the Navy (Civilian Human Resources) (DASN (CHR)) will:

(1) Develop and issue DON-wide procedures, guidance, directives and training programs for the DFWP policy.

(2) Identify civilian positions, by title, that are subject to random testing because they meet the criteria in references (a) and (b).

(3) Propose to the Department of Defense (DoD) addition or deletion of preferred and discretionary positions for addition to the DON Test Designated Position (TDP) list. Final approval will be by the Interagency Coordinating Group, which is chaired by the Office of National Drug Control Policy.

c. The Director, Office of Civilian Human Resources (OCHR) will:

(1) Appoint a DON Drug Program Manager (DPM) to administer the DFWP and serve as a central point of contact for DON DFWP issues and DON-wide contracts and agreements.

(2) Propose to the DoD additions to and deletions from the DON TDP list for presumptive positions.

(3) Establish procedures that Navy activities and Marine Corps commands will follow to request the additions to or deletions from the list of DON TDPs.

(4) Approve/disapprove of any waivers to this subchapter, and centrally managed contracts or agreements.

(5) Establish and maintain the DON Drug Free Workplace Program (DFWP) Handbook, which sets forth detailed requirements and procedural guidelines for administration of the DFWP.

d. The Chief of Naval Operations (CNO), the Commandant of the Marine Corps, the Assistant for Administration, Under Secretary of the Navy, and the heads of Echelon II commands will:

(1) Provide guidance and assistance to Heads of Navy activities and Marine Corps commanders to ensure effective execution of the program.

(2) Disseminate the list of DON TDPs to Navy activities and Marine Corps commands under their cognizance.

(3) Forward to the DASN (CHR), via the DON DPM, changes to the DON TDP list submitted by Navy activities and Marine Corps commands, including recommended action.

(4) Notify subordinate Navy activities and Marine Corps commands of testing quotas as mandated by the DoD.

(5) Appoint a command-wide Drug Program Coordinator (DPC).

(6) Consolidate any report information as requested from the DON DPM, which is received from subordinate Navy activities and Marine Corps commands.

(7) Recommend to the Director, OCHR any requests for waivers to this instruction, and DON-wide contracts or agreements.

(8) Ensure that subordinate commands comply with the requirements of the DON DFWP Handbook.

e. The DON DPM will:

(1) Assume the lead role in the operation, maintenance, and evaluation of the DFWP and the preparation of consolidated reports on the DFWP.

(2) Provide guidance and assistance, as required, to Echelon I and II commands on the requirements of this subchapter and the submission of any DFWP reports.

(3) Serve as the primary DON liaison with the DoD, Office of Personnel Management (OPM), DHHS, or other external agencies regarding the DFWP.

(4) Maintain the DON TDP list and process requests from Echelon I commands for changes to that list as approved by the DASN (CHR).

(5) Ensure that Blind Performance Test Specimens are submitted following the requirements provided in reference (c).

(6) Serve as the Contracting Officer's Representative or the primary liaison for any contract or interagency agreement for DFWP services and provide guidance and assistance to activities and commands on these contracts or agreements.

(7) Develop, maintain and provide mandatory training for activity DPC certification.

(8) Prepare and submit budget information to the DON Counterdrug Office.

(9) Serve as primary liaison for any DFWP computer initiatives.

(10) Receive all test results. Distribute documentation of all non-negative test results to appropriate DPCs.

(11) Ensure that the DON DFWP Handbook is current.

f. Heads of Navy Activities and Marine Corps Commands will:

(1) Ensure that DFWP policies and procedures are carried out at the activity level consistent with this subchapter and any other implementing directives issued by DASN (CHR) or other appropriate authorities. Issue any activity or command instruction on DFWP polices and procedures.

(2) Appoint in writing a primary Activity DPC. The primary Activity DPC must be an employee of the DON, and not associated with the administration of the Civilian Employee Assistance Program (CEAP). Alternate DPCs may be appointed in writing. The primary or alternate DPCs should not be an employee located in the security office or an employee relations/labor relations specialist who is involved on a day-to-day basis with the processing of discipline/performance cases. Every Navy activity and Marine Corps command must appoint a primary DPC regardless of whether it has any TDPs. This function may not be obtained through a contract; however, it is permissible to appoint another Navy activity/Marine Corps command's DPC through mutual written agreement to perform these functions on behalf of the activity/command. A waiver must be granted from the Director, OCHR for any DPC service agreement made with a command that contains non-Navy civilian personnel prior to implementation of the DFWP. The agreement must be forwarded to the DON DPM prior to execution.

(3) At his/her option, delegate in writing to the Activity DPC authority to notify employees directly of a scheduled random drug test, defer employees from testing; and/or refer employees to a physician due to a shy bladder.

(4) Ensure that Collection Site Coordinators (CSCs) are appointed, if necessary. A collector with the urine collection contract normally provides these services. In unusual circumstances a DON military member or civilian employee may be used to perform this assignment. Use of the DON urine collection contract for collections services is mandatory.

(5) Ensure that mandatory DFWP training is provided to all supervisors and managers. Ensure that prior to implementation of the Navy activity/Marine Corps command DFWP, the primary DPC attends mandatory OCHR DPC Training. If an alternate DPC is appointed, ensure that the individual has attended the mandatory OCHR DPC training prior to becoming involved in the DFWP.

(6) Ensure that the provisions of the DFWP are publicized to all employees including drug awareness, the hazards of illegal drug use, the CEAP, and "safe harbor" provisions.

(7) Ensure that Navy activity/Marine Corps command positions are reviewed and a determination made that the positions match the DON-wide TDP list. These positions will form the activity/ command TDPs.

(8) Sign (or use signature stamp) and ensure distribution of an individual notice to each employee whose position has been determined to meet the criteria of a TDP at least 30 days prior to the individual being subject to unannounced random testing. This notice is provided in the DON DFWP Handbook, and must be issued without revision.

(9) Request, via the appropriate chain of command, that the DASN (CHR) make additions and/or deletions to the DON TDP list following procedures in the DON DFWP Handbook.

(10) Authorize each random sampling conducted by the Navy activity/Marine Corps command. This authority may be redelegated to the activity DPC.

(11) Ensure that a procedure is established for employees to volunteer for the random testing program.

(12) Identify the approval level for either accident or unsafe practice or reasonable suspicion testing. Approval level may be redelegated to no lower than one level above the supervisor or manager requesting the test.

(13) Ensure that an employee found to use illegal drugs is immediately taken out of his or her TDP. The employee may be returned to his or her position as part of a counseling or rehabilitation program if the activity head/commander determines that such action will not endanger public safety or national security. This authority to reinstate the employee to the TDP may not be further delegated.

(14) Ensure that necessary disciplinary action is taken following the provisions of this subchapter, the DON DFWP Handbook and reference (f).

(15) Notify, in writing, the activity head or commander of other Navy activities/Marine Corps commands that his or her employee had a verified positive drug test as determined under applicant testing.

(16) Ensure that the Navy activity/Marine Corps command's bargaining obligations with exclusively recognized labor organizations are satisfied as required by 5 U.S.C. 71.

(17) Review the TDP determination for non-bargaining unit employees and make a final decision on the issue in any grievance proceedings. This determination cannot be further delegated.

(18) Ensure that the command DPC uses the OCHR authorized DFWP computer system for maintaining a database of the TDP pool, performing random selection and receiving test results.

(19) Forward to the Director, OCHR via Echelon I and II commands any request for waivers to this subchapter, the DON DFWP Handbook, and any contracts or interagency agreements.

(20) Comply fully with the requirements of the DON DFWP Handbook.

g. The Activity DPC will:

(1) Direct, administer, and manage the DFWP within the Navy activity/Marine Corps command. Management will include use of the DFWP computer system.

(2) Provide advice and guidance to employees, supervisors and managers on the DFWP.

(3) Receive all drug test results from the Medical Review Officer (MRO) on behalf of the Navy activity head/Marine Corps commander and maintain them per references (b), (g) and (h).

(4) Manage the issuance of all 30-day individual notices to occupants of TDPs and retain documentation verifying receipt of each notice. Establish and maintain a list identifying each position/occupant in the TDP pool.

(5) Arrange each specimen collection from the pool of employees in TDPs and volunteers per random selection collection procedures and coordinate all other types of testing (i.e., reasonable suspicion, accident/unsafe practice, applicant, and follow-up).

(6) Ensure that collections follow all guidance in references (c) and (e), this subchapter and the DON DFWP Handbook.

(7) Coordinate, schedule and present employee and supervisory training on the DFWP. Ensure that all Navy activity/Marine Corps command collection team members, if used, are fully trained in their functional requirements.

(8) Coordinate with the Human Resources Service Center (HRSC) to schedule pre-employment testing. Notify the HRSC of the candidate's eligibility for hire in writing.

(9) Ensure that an employee is notified of his or her non-negative drug test result. Provide negative test information to the donor\employee only upon request.

(10) Notify the Commanding Officer, the Security Officer, the HRO, the CEAP Administrator, and the appropriate supervisor or manager having the authority to initiate or approve an adverse action against the employee in the event of a verified positive drug test result.

(11) Notify urinalysis laboratories if non-negative specimens are to be retained beyond the normal period of 1 year.

(12) Notify the Medical Review Officer (MRO) through the Navy DPC, of a retest of a specimen or full documentation package is needed.

(13) Prepare and maintain all documentation and reports on the DFWP.

(14) If delegated in writing by the donor's supervisor, notify employees of a scheduled drug test, determine if the employee can have his\her drug test deferred, and refer a donor to a physician upon an occurrence of shy bladder.

(15) Comply fully with the requirements of the DON DFWP Handbook.

h. Alternate Activity DPCs will perform DPC duties and responsibilities when directed by the primary DPC or in the absence of the primary DPC.

i. Supervisors will:

(1) Notify individual employees of a scheduled drug test. This authority may be delegated in writing to the DPC.

(2) Defer an employee's random, volunteer, or follow-up drug test. This authority may be delegated in writing to the DPC.

(3) Initiate a reasonable suspicion test after first making appropriate factual observations and obtaining higher-level approval. This authority may be delegated to the DPC.

(4) Initiate a post-accident test. This authority may be delegated in writing to the DPC.

(5) Refer employees to the activity/command physician or the employee's physician when an employee is unable to provide a specimen. This authority may be delegated in writing to the DPC.

(6) Upon a finding of illegal use of drugs:

(a) Refer employees to the CEAP in writing to obtain counseling and rehabilitation.

(b) Initiate appropriate administrative and disciplinary actions.

(7) Withdraw the job offer to an applicant who has a verified non-negative test result.

(8) Participate in initial DFWP education and every three years participate in a refresher course.

(9) Comply fully with the requirements of the DON DFWP Handbook.

j. Employees will:

(1) Refrain from the illegal use of drugs on and off-duty at all times.

(2) Provide a drug test specimen when required.

(3) Be responsible for successful completion of any rehabilitation or treatment required as the result of illegal use of drugs.

(4) Cooperate with the MRO, as requested, to provide additional information regarding a drug test, or be subject to disciplinary action.

(5) Comply fully with the requirements of the DON DFWP Handbook.

k. Human Resource Offices (HROs) will:

(1) Provide advice and guidance to employees, supervisors, and managers on disciplinary actions with respect to the DFWP.

(2) Forward to the HRSC any corrections necessary for the Defense Civilian Personnel Data System (DCPDS) records as it specifically pertains to the DFWP.

(3) Maintain records and information relating to personnel actions taken against employees following the requirements in this subchapter, references (f) and the DON DFWP Handbook.

(4) Notify the DPC if positive or non-negative specimens need to be retained by the urinalysis laboratory longer than the normal 1-year period, e.g., because of an adverse action appeal or enforcement of a rehabilitation plan or agreement.

(5) Notify the DPC of any changes to TDP positions or incumbents when:

(a) TDP positions are established or abolished.

(b) Significant changes are made to the duties of any TDP position.

(c) A personnel action results in a change of the incumbent of a TDP.

(d) The organizational location of any TDP is changed.

(6) Provide to DPCs copies of any last chance agreements that contain DFWP issues.

(7) Issue the DFWP announcement to all new employees during the entry on duty (EOD) process.

(8) Comply fully with the requirements of the DON DFWP Handbook.

l. Directors of Human Resources Service Centers (HRSCs) will:

(1) Ensure that vacancy announcements include a notice, if applicable, that the position is subject to random drug testing. (Other forms of written notice may be appropriate if a vacancy announcement is not used.)

(2) Notify DPCs when a drug test is needed for an applicant or other placement action. The HRSC will request pre-employment testing. The DPC will schedule the test and inform the HRSC of time, date and location of scheduled test. The DPC or HRSC will notify applicant of test, time, date and location of scheduled test.

(3) Ensure, prior to making a final offer of employment or processing another type of position placement action that a required drug test has been conducted, test results received, and the applicant is eligible for hire or placement. Ineligible candidates are individuals with non-negative drug test results; individuals who fail to appear or miss a scheduled appointment time at the collection site or individuals who tamper with a specimen. Ensure that any applicant who is ineligible to be hired or placed is not considered for employment or other employee-requested placement action for a period of 6 months following the date the test result was verified by the MRO.

(4) Enter the appropriate DFWP data into DCPDS.

(5) Issue the DFWP General Notice to all new employees during the EOD process. (See the DON DFWP Handbook)

(6) Maintain records and information relating to candidates eligibility for hire as regards the DON DFWP.

(7) Provide reports to the DPC from DCPDS.

(8) Comply fully with the requirements of the DON DFWP Handbook.

m. The CEAP Administrator will:

(1) Provide assessment, referral, liaison or short-term counseling.

(2) Monitor the progress of a referred employee during and after the rehabilitation program.

(3) Notify the DPC in writing when the employee has failed to comply with requirements of the rehabilitation process, or is ready to return to work. (See DON DFWP Handbook for sample forms.)

(4) Comply fully with the requirements of the DON DFWP Handbook.

n. Activity Security Officers will notify the DPC and HRO when an employee is granted a Top Secret clearance, a Secret clearance with access to a Special Access Program, or when there is a change in the status of an incumbent previously possessing either.

o. The MRO will:

(1) Receive all drug test results from the urinalysis laboratories.

(2) Assure that an individual who has tested non-negative, or has been unable to provide a specimen is afforded an opportunity to offer alternate medical justification for the test result per references (c), (d) and (e).

(3) Immediately report all verified drug test results into the DFWP computer system. All non-negative test results will be sent in hard copy to the DON DPM.

(4) Coordinate with and report to the DON DPM on all drug testing functions and findings on a regular basis.

5. Action

a. The DASN(CHR) will issue a directive and procedures, which conform to this policy. Addressees will follow this subchapter and directive in the administration of the DFWP.

b. Echelon I and II commands will ensure that Navy activities/Marine Corps commands have met all DFWP requirements prior to drug testing.

6. Reports. The Annual DHHS DFWP report will be compiled by the DON DPM in compliance with references (a), (b) and (c) and the DON DFWP Handbook. Data for this report will be collected by Navy activity/Marine Corps command DPCs and forwarded to Echelon I and II commands, which will report this data to the DON DPM. Commands, activities and individuals with responsibilities shall take necessary actions to implement the provisions outlined in this subchapter.

ACRONYMS

ASN(M&RA) – Assistant Secretary of the Navy (Manpower and Reserve Affairs)

CEAP – Civilian Employee Assistance Program

CFR – Code of Federal Regulations

CNO – Chief of Naval Operations

CSC – Collection Site Coordinator

DASN(CHR) – Deputy Assistant Secretary of the Navy (Civilian Human Resources)

DCPDS – Defense Civilian Personnel Data System

DFWP - Dug Free Work Place

DHHS – Department of Health and Human Services

DoD – Department of Defense

DON – Department of the Navy

DPC – Drug Program Coordinator

DPM – Drug Program Manager

EOD – Entry on Duty

HRO – Human Resources Office

HRSC – Human Resources Service Center

MRO – Medical Review Officer

OCHR – Office of Civilian Human Resources

OPM – Office of Personnel Management

TDP – Test Designated Position

U.S.C. – United States Code