



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON, TN 38055-0000

BUPERSINST 12792.1A
BUPERS-05
16 Aug 2021

BUPERS INSTRUCTION 12792.1A

From: Chief of Naval Personnel

Subj: DRUG-FREE WORKPLACE PROGRAM

Ref: (a) E.O. 12564
(b) Public Law 100-71
(c) DON CHRM 792.3
(d) DON Drug-Free Workplace Handbook

Encl: (1) Definitions
(2) Types of Drug Testing
(3) Testing Procedures
(4) Supervisors Drug Testing Procedures
(5) Employees Drug Testing Procedures

1. Purpose. To implement Bureau of Naval Personnel (BUPERS) responsibilities and procedures for a Drug-Free Workplace Program (DFWP) consistent with 5 U.S.C. 7301 and references (a) through (d). Major updates to this revision include updating the responsibilities of the BUPERS primary and alternate drug program coordinator, contents of the drug program coordinator designation letter, employee notification of drug testing from 15 minutes to 30 minutes prior to the collection. Added the requirement for Federal civilian employees to complete the DFWP training within 60 days of position assignment.

2. Cancellation. BUPERSINST 12792.1.

3. Scope and Applicability. This instruction applies to all Federal civilian employees and to applicants tentatively selected for positions assigned to BUPERS and its subordinate activities.

4. Discussion. Per references (a) through (d), the DFWP's goal is to maintain the well-being of its employees, the successful accomplishment of the mission, and the need to maintain high employee productivity. The intention of the Department of the Navy (DON) is to offer assistance to those civilian employees who need it, while sending a clear message that illicit drug use is incompatible with the Federal service. Federal civilian employees, as a condition of employment, are mandated to refrain from the use of illegal drugs, on or off duty.

5. Policy

a. Federal civilian employees who are recruited into test designated positions (TDP) are subject to pre-employment and random drug testing as a condition of employment per references (a) through (d).

b. Illegal drug use by any Federal employee, on or off duty, is contrary to the efficiency of the Federal Government service and makes an employee unsuitable for Federal employment. All references to "illegal drug use" in this instruction includes any illegal drug misconduct, such as, but not limited to, possession, sale, and transfer, etc.

6. Responsibilities

a. Chief of Naval Personnel:

(1) Appoints a primary activity Drug Program Coordinator (DPC) and an alternate activity DPC.

(2) Authorizes the activity DPC to conduct random tests.

b. BUPERS DPC and alternate DPC:

(1) Administers and manages the DFWP.

(2) Attends the mandatory Office of Civilian Human Resources (OCHR) DPC Certification Course.

(3) Must be appointed by a letter of designation.

(4) Ensures references (a) through (d) and this instruction are fully implemented and procedures are strictly followed.

(5) Collaborates with BUPERS Training Department to ensure supervisors and managers complete supervisor DFWP training within 6 months of position assignment, as well as monitoring refresher DFWP training of supervisors and managers every 3 years. Ensures employees complete DFWP training within 60 days of position assignment.

(6) Provides DFWP education to all employees to include drug awareness, the hazards of illegal drug use, the roles of DON Civilian Employee Assistance Program (DONCEAP), and "safe harbor" per enclosure (1).

(7) Reviews activity position descriptions (PDs) and determines which positions match the series, titles, and justifications in the TDPs per reference (d):

(a) Maintains verified TDP list by activity; containing the name, position title, PD number, series, pay plan (e.g., general schedule and wage schedule), and issue date of 30-day individual notice letter of each position in the TDP testing pool.

(b) Ensures incumbent in a TDP is issued an individual notice of 30 calendar days before that employee is subject to unannounced random drug testing. Employee should sign and acknowledge the receipt of an individual notice of testing. The signed acknowledgement will be retained by the activity DPC.

(c) Conducts random sampling of employees in TDP.

(8) Prepares and maintains all documentation and reports regarding the BUPERS DFWP, and submits an annual consolidated report of all activities to the DON OCHR Drug Program Manager (DPM). Statistical data may include:

(a) All drug tests administered per enclosure (2);

(b) Verified positive or non-negative test results, by type;

(c) Disciplinary actions, terminations, or employee applicant non-selection or denials of employment offers from a verified positive or non-negative drug test result; or failure of drug test per references (c) and (d);

(d) Involuntary and voluntary drug counseling referrals; and

(e) Employee, manager, and supervisory drug education and training.

(9) Liaises and coordinates with DON OCHR DPM. DPM must:

(a) Provide additional and or updates of DFWP directives, which may impact leadership and employees;

(b) Maintain list of the TDP pool;

(c) Perform random selection;

(d) Receive and provide test results; and

(e) Provide additional mandated DFWP DPC training.

(10) Follows the Department of Health and Human Services mandatory guidelines for Federal workplace drug testing programs and enclosures (2) and (3) procedures.

(11) Ensures subordinate command DPCs follow procedures in references (c), (d), and this instruction.

c. Subordinate Command DPC. Work closely with the BUPERS DPC. The BUPERS annual report must include:

(1) Subordinate activity Annual DFWP Report, reporting the DFWP training and drug testing activities.

(2) Subordinate activity DPC designation letters which include:

(a) Designation and authorization of the subordinate activity DPC;

(b) Full name;

(c) Unit identification code; and

(d) Command name and address.

d. Total Force Human Resources and Manpower (BUPERS-05):

(1) Ensures TDP vacancy announcements contain a notice that selected candidates are subject to mandatory pre-employment drug testing and subsequent random drug testing;

(2) Notifies DPC when drug testing is needed for an applicant or other placement action;

(3) Ensures required drug testing has been processed prior to making a final employment offer to a TDP;

(4) Enters the appropriate DFWP TDP data into Defense Civilian Personnel Data System (DCPDS), Total Force Workforce Management System (TWMS), and other civilian personnel data systems; and

(5) Issues the DFWP policy to all new employees during the onboarding process.

e. Supervisors. Supervisors have an essential role in the DFWP and drug-testing processes as indicated in the supervisor's procedures in enclosure (4). Initial supervisory DFWP training is required within 6 months of initial appointment to a supervisory position and annual training is mandatory via TWMS. Supervisors:

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

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

(3) Initiates a reasonable suspicion test after first making appropriate factual observations and obtaining higher-level approval which include:

(a) Coordinates with the legal office, as to whether reasonable suspicion exists in any given case.

(b) Prepares a written memorandum to include at a minimum:

1. Timely preparation;

2. Accurate dates and times of reported drug-related incidents; and

3. Reliable and credible sources of information considered (e.g., the rationale leading to the test).

(c) Coordinates with higher level supervisor within the functional chain of supervision, BUPERS-05, and an attorney.

(d) Once complete, the written memorandum supporting the reasonable suspicion drug test will be maintained by the BUPERS DPC.

(4) Initiates post-accident tests.

(5) Upon the result of a verified positive drug test:

(a) Must refer employee to DONCEAP at: <https://magellanascent.com> or telephone number (1-844-DONCEAP or 1-844-366-2327) to receive guidance and counseling information. DONCEAP will provide member with access to licensed counselors who can provide short-term counseling for a wide range of concerns to include relationships, legal, financial, family, substance abuse, depression, and more.

(b) Check if employee is eligible for safe harbor policies per reference (d).

(c) Initiate appropriate administrative and disciplinary actions with BUPERS-05.

(6) Comply fully with requirements of reference (d) and this instruction.

f. Federal Civilian Employees must provide a workplace free from illegal drug use. Employees are accountable to:

(1) Refrain from illegal drug use, on or off-duty,

- (2) Complete the DFWP training within 60 days of position assignment,
- (3) Provide a drug test specimen (as required) and follow employee procedures in enclosure (5), and
- (4) Cooperate with supervisors and DPC in regard to the DFWP.

7. Mandatory Action for Illegal Use of Drugs. Verification of a positive drug test and or admission or discovery of illegal drug use not covered by safe harbor, as described in enclosure (1), will result in the initiation of administrative and disciplinary action:

a. Administrative. At a minimum, the DPC forwards the notification e-mail from the DPM to the command security manager, human resources office supervisor, and the employee's supervisor of a positive result. The security manager must notify the Department of the Navy Centralized Adjudication Facility (DONCAF) to suspend individual security clearance. The DPM is then notified of the effective date when the action is complete.

b. Disciplinary

(1) Removal action, per reference (c) and SECNAVINST 12752.1A, will be initiated against every employee for the first instance of illegal drug use or for refusing to obtain counselling or rehabilitation through DONCEAP after having been found use of illegal drugs.

(2) An employee who fails to report to the collection site, when notified for any type test, will be subject to the same range of discipline as a verified positive test result for illegal drug use, and removal action will be initiated.

(3) An employee who refuses to be tested (for any type test) is considered to have failed to follow a direct order that results in the same range of discipline as a verified positive test result, and removal action will be initiated.

8. Records Management. Records created as a result of this instruction, regardless of media and format, will be managed per Secretary of the Navy (SECNAV) Manual 5210.1 of September 2019.

9. Review and Effective Date. Per OPNAVINST 5215.17A, BUPERS-05 will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.

10. Information Management Control. Per SECNAV M-5214.1, paragraph 7p, of December 2005, reporting requirements listed in paragraph 6 are exempt.

A handwritten signature in black ink, appearing to read 'A. Holsey', with a stylized flourish at the end.

A. HOLSEY
Deputy Chief of Naval Personnel

Releasability and distribution:

This instruction is cleared for public release and is available electronically only via BUPERS Web site, <https://www.mynavyhr.navy.mil/References/Instructions/BUPERS-Instructions/>.