

# REGULATION

<b>SPDOC No.:</b>  07-14	<b>Effective Date:</b>  October 7, 2007	<b>Index Reference:</b>  Drug and Alcohol Testing	<b>Regulation Number:</b>  <b>2.09</b>
<b>Issued By:</b>  Classifications and Selections	<b>Rule Reference:</b>  Rule: 2-7 (Drug and Alcohol Testing)		<b>Replaces:</b>  Reg. 2.09 (SPDOC 03-34, October 26, 2003)
<b>Authority:</b> Regulations are issued by the State Personnel Director under authority granted in the Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations are subordinate to the Commission Rules.			
<b>Subject:</b>  <b>DRUG AND ALCOHOL TESTING SELF-REPORTING</b>			

## TABLE OF CONTENTS

1. <b>PURPOSE</b> .....	1
2. <b>CIVIL SERVICE COMMISSION RULE REFERENCE</b> .....	1
3. <b>DEFINITIONS</b> .....	3
4. <b>STANDARDS</b> .....	4
5. <b>PROCEDURE</b> .....	5

### 1. **PURPOSE**

This regulation provides standards and guidelines for notifying Civil Service when an employee voluntarily discloses a drug or alcohol problem to the appointing authority under the provisions of Civil Service Rule 2-7.5.

### 2. **CIVIL SERVICE COMMISSION RULE REFERENCE**

Note: This Section 2 reprints only selected Commission Rules for quick reference by the reader. Additional Rules (that are not reprinted below) may apply. The complete, current version of the Rules can be found at [www.michigan.gov/mdcs](http://www.michigan.gov/mdcs).

#### ***Rule 2-7 Drug and Alcohol Testing***

\* \* \*

#### ***2-7.2 Testing Classified Employees***

*An appointing authority shall require an employee, as a condition of continued employment, to submit to a drug test or an alcohol test, as provided in this rule.*

**(a) Tests authorized.** *The following tests are authorized:*

(1) **Reasonable suspicion testing.** *An employee shall submit to a drug test or an alcohol test if there is reasonable suspicion that the employee has violated this rule.*

\* \* \*

(3) **Follow-up testing.** *An employee shall submit to an unscheduled follow-up drug test or alcohol test if, within the previous 24 months, the employee has done any of the following:*

- (A) *Voluntarily disclosed drug or alcohol problems.*
- (B) *Entered into or completed a rehabilitation program for drug or alcohol abuse.*
- (C) *Failed or refused a preappointment drug test.*
- (D) *Been disciplined for violating this rule.*

\* \* \*

### **2-7.5 Self-reporting**

(a) **Reporting.** *An employee who voluntarily discloses to the appointing authority a problem with controlled substances or alcohol cannot be disciplined for such disclosure if, and only if, the problem is disclosed before the occurrence of any of the following:*

- (1) *For reasonable suspicion testing, before the occurrence of an event that gives rise to reasonable suspicion that the employee has violated this rule.*
- (2) *For preappointment testing, follow-up testing, and random selection testing, before the employee is selected to submit to a drug or alcohol test.*
- (3) *For post-accident testing, before the occurrence of any accident that results in post-accident testing.*

(b) **Employer action.** *After receiving notice, the appointing authority shall permit the employee an immediate leave of absence to obtain medical treatment or to participate in a rehabilitation program. In addition, the appointing authority shall remove the employee from the duties of a test-designated position until the employee submits to and passes a follow-up drug test or alcohol test. The appointing authority may require the employee to submit to further follow-up testing as a condition of continuing or returning to work.*

(c) **Limitation.** *An employee may take advantage of subsection (a) no more often than two times while employed in the classified service. An employee making a report is not excused from any subsequent drug test or alcohol test or from otherwise complying in full with this rule. An employee making a report remains subject to all drug and alcohol testing requirements after making a report and may be disciplined as the result of any subsequent drug test or alcohol test, including a follow-up test.*

### 3. **DEFINITIONS**

#### A. Civil Service Commission Rule Definitions

1. **Alcohol test** means a chemical or breath test administered to determine the presence or absence of alcohol in a person's body.
2. **Appointing authority** means each of the following:
  - (a) A single executive heading a principal department or autonomous entity.
  - (b) A chief executive officer of a principal department or autonomous entity headed by a board or commission.
  - (c) The state personnel director.
  - (d) A person designated by any of the preceding as responsible for administering the personnel functions of the department, autonomous entity, or other agency.
3. **Drug test** means a chemical test administered to determine the presence of a drug or metabolites in a person's bodily fluids.
4. **Employee** means a classified employee of the state of Michigan over which the civil service commission has jurisdiction under the constitution.
5. **Reasonable suspicion** means a belief, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, that an employee is using or may have used drugs or alcohol in violation of a agency work rule or a civil service rule or regulation. By way of example only, reasonable suspicion may be based upon any of the following:
  - (a) Observable phenomena, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being impaired by, or under the influence of, a drug or alcohol.
  - (b) A report of on-duty or sufficiently recent off-duty drug or alcohol use provided by a credible source.
  - (c) Evidence that an individual has tampered with a drug or alcohol test during employment with the state of Michigan.
  - (d) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs or alcohol while on duty, while on the employer's premises, or while operating the employer's vehicle, machinery, or equipment.
6. **Rehabilitation program** means an established program to identify, assess, treat, and resolve employee drug or alcohol abuse.
7. **Test-designated position** means any of the following:
  - (a) A safety-sensitive position in which the employee is required to possess a valid commercial driver's license or to operate a commercial motor vehicle, an emergency vehicle, or dangerous equipment or machinery.
  - (b) A position in which the employee possesses law enforcement powers or is required or permitted to carry a firearm while on duty.

- (c) *A position in which the employee, on a regular basis, provides direct health care services to persons in the care or custody of the state or one of its political subdivisions.*
- (d) *A position in which the employee has regular unsupervised access to and direct contact with prisoners, probationers, or parolees.*
- (e) *A position in which the employee has unsupervised access to controlled substances.*
- (f) *A position in which the employee is responsible for handling or using hazardous or explosive materials.*

#### 4. **STANDARDS**

- A. Civil Service will maintain a central, confidential repository of self-reporting occurrences.
- B. Within 14 calendar days after an employee has self-reported a drug or alcohol problem, an appointing authority must notify Civil Service with the following information:
  - 1. Employee's name.
  - 2. Employee identification number.
  - 3. Agency.
  - 4. Whether report was for drugs or alcohol.
  - 5. Verification that the employee has been removed from a test-designated position, if applicable.
  - 6. Dates of leave of absence.
- C. Within seven calendar days, Civil Service will notify the appointing authority if an employee has had two or more previous disclosures.
- D. An employee who self reports for a third time is not entitled to a leave of absence granted under rule 2-7.5 (b).
- E. If an employee self reports for a third time, the appointing authority shall take the following action(s) in accordance with Civil Service rules:
  - 1. The appointing authority shall rescind a leave of absence granted under rule 2-7.5 (b) and take other appropriate action.
  - 2. The appointing authority shall require the employee, if on duty, to immediately submit to a reasonable suspicion test in accordance with rule 2-7.2 (a) (1).
  - 3. The appointing authority shall institute follow-up testing in accordance with rule 2-7.2 (a) (3).
  - 4. The appointing authority shall take appropriate disciplinary action in accordance with established agency work rules.
- F. Within seven calendar days of notifying an appointing authority, Civil Service will follow up to ensure action has been taken by the appointing authority.

- G.** Civil Service staff will immediately notify the State Personnel Director if an employee has had two or more previous disclosures and no follow-up action has been taken by the appointing authority.
- H.** The State Personnel Director may direct the appointing authority to take necessary action.

## 5. PROCEDURE

Responsibility	Action
Appointing Authority	1. Notifies Civil Service that an employee has self-reported via letter or e-mail.
Civil Service	2. Enters the information into the central self-disclosure registry. 3. Notifies appointing authority if the employee has had two or more previous disclosures.
Appointing Authority	4. Takes appropriate action in accordance with established Civil Service and agency work rules.
Civil Service	5. Follows up with appointing authority to determine if action has been taken. 6. Notifies the State Personnel Director if the employee has had two or more previous disclosures without action by the appointing authority.
State Personnel Director	7. Determines if further action needs to be taken and notifies appointing authority.
Civil Service	8. Follows up with appointing authority to ensure appropriate action has been taken.

## CONTACT

Questions regarding this regulation should be directed to Classifications and Selections, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-373-3030 or 1-800-788-1766; or by e-mail to [MDCS-BHRS@michigan.gov](mailto:MDCS-BHRS@michigan.gov).