

DRUG AND ALCOHOL TESTING POLICY FOR TRIBALLY SPONSORED PROGRAMS

I. Purpose

The purpose of this policy is to ensure that Participants in Tribally Sponsored Programs are drug free and to ensure the reputation of the Tribe as good, responsible citizens.

II. Definitions

- A. **"Alcohol"** means an intoxicating agent produced by natural fermentation of sugar and yeast; a drug used for nonmedicinal purposes.
- B. **"Department Director"** means the Director for the Department overseeing the Tribally Sponsored Program.
- C. **"Division Director"** means the Division Director who has oversight of the Department responsible for the Tribally Sponsored Program.
- D. **"Drug"** means any substance, including alcohol, capable of altering the mood, perception, pain level, or judgment of the individual consuming it.
- E. **"Drug Test"** means a blood or urine specimen collection taken by an appointed representative or medical officer for the testing of Illegal Drugs, including, but not limited to Alcohol, and/or Illicit Drugs.
- F. **"Emergency"** means a serious, unexpected and often dangerous situation requiring immediate action to protect life, health and property.
- G. **"Illegal Drug"** means any Drug which is not legally obtained or the possession, use, distribution, or sale of which is prohibited under federal or Tribal laws, or any Drug which may be legally obtainable but has not been legally obtained by the individual using or possessing it. Regardless of what is legal within a state, the federal and Tribal laws on the legality of the Drug shall control. Examples of Illegal Drugs include, but are not limited to, heroin, methamphetamine, marijuana, etc. Alcohol consumption is illegal for minors; therefore, Alcohol shall be considered an Illegal Drug for Participants under the age of 21.
- H. **"Illicit Drug"** means any Prescription Medication or over-the-counter medication which is abused by the individual consuming it. Examples of Illicit Drugs include, but are not limited to, dextromethorphen, hydrocodone, Xanax, phenobarbital, etc.
- I. **"Immediate Family Member"** means spouse (including common law relationship), parent, child, sibling, grandparent, and/or grandchild. These relationships are determined by consanguinity, affinity, adoption, foster care, or legal wardship.
- J. **"Medical Review Officer"** means the Chief Physician for the Tribal Health Department.

- K. **“Participant”** means anyone twelve (12) years and older who has completed an application and has been selected for a Tribally Sponsored Program.
- L. **“Prescription Medication”** means any Drug for which the individual consuming it has a written, legal prescription issued by a licensed medical provider, as long as the consumption occurs within one (1) year of the date on which the prescription was issued.
- M. **“Program Employee”** means any Tribal employee who is assigned to the Tribally Sponsored Program.
- N. **“Testing Site”** means the appointed location the Participant is directed to in order to comply with drug testing and urine collection as required by this Policy.
- O. **“Tribal Attendance Officer”** or **“TAO”** means the Tribal employee within the Education Department who will maintain all records relative to this Policy.
- P. **“Tribally Sponsored Program”** or **“Program”** means any youth and adult programs, including, but not limited to:

YOUTH:

Summer Leadership
 Close – Up
 4-H (Steer, Swine, and Chick Chain)
 Summer Internship
 Co-op Program
 Archery Teams
 Health Camp
 Torch Club

Tribal Youth Council
 Princess Contest
 Pow Wow Club
 Cultural Exchange
 Swim Team
 NAYO
 PCI Tribal Explorers
 Keystone Club

ADULTS:

NASA
 Adult Pow Wow Club
 Princess Contest

Tribal Youth Council Mentors

III. Generally

- A. A Participant in a Tribally Sponsored Program must pass an initial Drug Test and submit to random Drug Tests as long as the Participant is involved in the Tribally Sponsored Program.
- B. Participants must also report if he/she is found guilty by any state, federal or Tribal court of using, manufacturing, selling, possessing, or trafficking Drugs or is found guilty of being under the influence of Drugs. Any Participant found guilty of using, manufacturing, selling, possessing, or trafficking illegal or illicit drugs or under the

influence of illegal or illicit drugs will be terminated from any Tribally Sponsored Program in which he/she is participating and will be ineligible for all Tribally Sponsored Programs for one (1) year.

- C. The Tribal Attendance Officer shall be responsible for administering this Policy and for maintaining all testing information and results.

IV. Types of Drug Tests

A. Initial Drug Tests

1. Once a Participant completes the application and is selected, the Tribal Attendance Officer or Program Staff will schedule an initial Drug Test unless the Participant has tested negative on another initial Drug Test within the last ninety (90) days. .
2. Once the Participant has tested negative on their initial Drug Test, the Participant will not be required to take another Drug Test to enter additional Tribally Sponsored Programs unless ninety (90) days have elapsed from the date of the initial Drug Test. This does not preclude random or reasonable suspicion Drug Tests, and even if a random or reasonable suspicion Drug Test has been given in the last ninety (90) days, the Participant shall still be required to taken another Drug Test to enter the additional Tribally Sponsored Program.
3. If the Participant is under the age of 19, the Tribal Attendance Officer or Program Staff will contact the parent/legal guardian to set up an initial Drug Test. If the Participant is 19 years of age or older, the Tribal Attendance Officer or Program Staff will contact the Participant to set up an initial Drug Test.
4. The Tribal Attendance Officer will make three (3) attempts within a 24 hour period to set up the Drug Test. Each attempt shall be documented with the date, time and manner of attempt, i.e. phone call, voice mail, text, etc. After three (3) unsuccessful attempts, the Participant shall be deemed ineligible for the Tribally Sponsored Program. It is the responsibility of the Participant or the Participant's parent/guardian to ensure the TAO has the correct contact information. The TAO WILL NOT track down a Participant's contact information if the information provided is incorrect.
5. Testing Site
 - a. Tribal Court will be the required Testing Site for any Participant who lives within a 200 mile radius (roundtrip) of the Reservation. This applies to initial, random, and reasonable suspicion testing.

- b. For a Participant who lives beyond that stated radius, the Tribal Attendance Officer will locate a Testing Site that is local for the Participant and schedule an appointment for testing.

B. Random Drug Tests

1. The Tribal Attendance Officer shall use a number system to randomly select Participants for random testing.
2. Once a Participant is selected for a random test, the Tribal Attendance Officer or Program Staff will schedule the Drug Test.
3. If the Participant is under the age of 19, the Tribal Attendance Officer or Program Staff will contact the parent/legal guardian to set up a random Drug Test. If the Participant is 19 years of age or older, the Tribal Attendance Officer or Program Staff will contact the Participant directly to set up a Drug Test.
4. The Tribal Attendance Officer will make three (3) attempts within a 24-hour period to set up the Drug Test. Each attempt shall be documented with the date, time and manner of attempt, i.e. phone call, voice mail, text, etc. After three (3) unsuccessful attempts the Participant shall be deemed ineligible for the Tribally Sponsored Program. It is the responsibility of the Participant and/or Parent/Guardian and the Program Manager to ensure the TAO has the correct contact information. The TAO WILL NOT track down a Participant's contact information if the information provided is incorrect.

C. Reasonable Suspicion

1. A Participant will be required to submit to a Drug Test when there is a reasonable suspicion to believe the individual is using Drugs or is under the influence of Drugs during a Program activity.
2. Reasonable suspicion may be based upon reasonably credible information, including, but not limited to, specific physical, behavioral, or performance indicators of probable Drug use.
3. If sufficient indicators are reported, the Tribal Attendance Officer in conjunction with the Department Director shall decide if there is reasonable suspicion to test the Participant.
4. The Participant will be notified in person by the Tribal Attendance Officer. If the Tribal Attendance Officer is unavailable, then the Department Director shall notify the Participant.
5. The Participant must report to the Testing Site immediately, unless an Emergency arises, or this will be considered failure to test.

V. Process

- A. Testing will be for Illegal and Illicit Drugs. If the Participant is positive for Illegal or Illicit Drugs, then a positive test will be reported.**
- B. The Participant or Participant's parent/guardian shall sign any necessary consent prior to testing. Refusal to sign any necessary consent form shall be considered a failure to test.**
- C. A Participant shall complete a Medication Disclosure Form, listing all Drugs, including Prescription Medication and over-the-counter medication, used in the last thirty (30) days prior to his/her scheduled test. The Participant will be permitted to explain the circumstances of the use. The Tribe reserves the right to verify the use of any Prescription Medication or over-the-counter medications listed on such forms.**
- D. The Participant must provide appropriate identification upon arrival at the collection site if requested. Acceptable forms of identification include:**

 - 1. State issued driver's license or state identification card; or**
 - 2. Any other picture identification issued by a federal, state, Tribal or local government agency.**
 - 3. If the Participant is a minor who does not have a picture identification and the parent/guardian accompanies the minor for testing, a social security card or birth certificate may be used for identification.**
- E. The Participant shall follow all of the rules of the Testing Site.**
- F. It shall be considered a failure to test if a Participant does not present himself/herself to the Testing Site within one (1) hour of the scheduled time, unless approved by the Tribal Attendance Officer before the scheduled time or unless an Emergency arises.**
- G. If an Emergency arises, the Participant, parent/legal guardian, or immediate family member must notify the Tribal Attendance Officer within forty-eight (48) hours of the scheduled Drug Test time with written proof or verification of the Emergency. The Tribal Attendance Officer in conjunction with the Department Director will look at the proof or verification and will contact the Participant. Once contacted, the Participant has forty-eight (48) hours to schedule and complete a Drug Test, unless determined otherwise by the Tribal Attendance Officer. If it is determined that the circumstance was not an Emergency, the Participant will be reported as a failure to test.**
- H. A Drug Test WILL NOT be rescheduled unless the Participant can demonstrate an Emergency.**

I. Inadequate Specimen

1. A Participant must provide a specimen of at least 45 ml.
2. A Participant who is unable to produce an adequate urine specimen should be urged to drink up to six (6) ounces of fluids, distributed reasonably through a period of up to three hours. If the Participant declines to drink, this action will not be considered failure to test.
3. The Participant must be informed that he or she is not permitted to leave the collection site and if he/she does so, then that action will be considered a failure to test.
4. After a three (3) hour wait at the test site, while having access to fluids, if the Participant is unable to produce an adequate urine specimen, it will be reported as a failure to test.
5. If the Participant has a documented medical reason for not being able to produce an adequate sample, the documentation must be submitted to the Tribal Attendance Officer. The Participant will then have two (2) business days to submit to a Drug Test in compliance with this Policy. If the Participant cannot submit to a Drug Test at that time, the Participant will be reported as a failure to test.

J. The temperature of the specimen should be checked no later than four minutes after the Participant produces the specimen. The acceptable temperature range is 32°-38°C/90°-100°F. If the specimen is not within the temperature range, it will be considered a positive test.

K. A refractometer may be used to check the specific gravity of the urine specimen. If results are less than 1.005 the urine specimen will be considered diluted.

L. Adulterated Tests

- i. The specimen collector must inspect the specimen for unusual color, presence of foreign objects or material, or other signs of tampering or adulteration. If it is apparent from this inspection that the Participant has adulterated or substituted the specimen (e.g., the specimen is blue, exhibits excessive foaming when shaken, or has the smell of bleach), the specimen will be considered a positive test.
- ii. If the specimen collector suspects that adulteration of the urine specimen has taken place, an adulteration test will be run immediately. If the test confirms the urine specimen was adulterated, the sample must be sent to an alternate lab for confirmation. If both tests do not confirm adulteration, the test shall be deemed negative.

- iii. An adulteration test will be utilized to check for contaminants. The adulteration test checks for pH level, creatinine, oxidants, nitrite, glutaraldehyde and specific gravity. It also confirms the specific gravity reading.
 - iv. The specific gravity reading will indicate if flushing has occurred. Flushing is the attempt of a Participant to flush out their system by drinking unusual amounts of fluid before testing. If flushing has occurred, a positive result will be reported.
- M. Specimens will be kept by the collection site for ninety-six (96) hours from the time that the specimens are received. If the Tribal Attendance Officer or Participant chooses to have any specimen sent to another laboratory for further testing, then Tribal Attendance Officer must notify the collection site no later than seventy-two (72) hours after the scheduled test.

VI. Results

- A. All results shall be maintained by the Tribal Attendance Officer.
- B. Consequences
 - 1. The first time the Participant is reported as a failure to test or a positive test the Participant is ineligible to participate in any Tribally Sponsored Program for a period of 180 days.
 - 2. The second time the Participant is reported as a failure to test or a positive test the Participant will be terminated from participation in any Tribally Sponsored Program for a period of 365 days.
- C. Notification
 - 1. If the Participant's test is reported as a failure to test or a positive test, then the Tribal Attendance Officer shall notify the Participant within twenty-four (24) hours of the Drug Test that he/she is ineligible to participate in any Tribally Sponsored Program for a period of 180 days. For Participants under the age of 19, parents/legal guardians will be notified that the Participant is ineligible to participate in any Tribally Sponsored Program for a period of 180 days. If a parent/guardian wishes to know more about the ineligibility, then the Participant and the Participant's parent/guardian must meet with the Tribal Attendance Officer. At that time, the Tribal Attendance Officer may make appropriate referrals to the Behavioral Health Department for counseling and/or treatment.
 - 2. If the Participant's test is reported as a failure to test or a positive test, then the Tribal Attendance Officer shall notify Department Director that the Participant is ineligible for a period of 180 days. If the Participant is currently an eligible Participant in another Tribally Sponsored Program, then the Tribal Attendance

Officer shall also notify the Department Director that the Participant is now ineligible for a period of 180 days.

- D. If the Participant applies for another Tribally Sponsored Program within 180 days from the failure to test or positive test, the Tribal Attendance Officer will report the Participant as ineligible to the Department Director.
- E. Retesting
 - 1. Retesting is required before being allowed to enter or reenter any Tribally Sponsored Program.
 - 2. Retesting will not be allowed for 180 days following the failure to test or positive test.
 - 3. It is the responsibility of the Participant to contact the Tribal Attendance Officer at the end of the 180 days and request a retest.
 - 4. After a failure to test or a positive Drug Test, a negative Drug Test is required prior to the Participant being eligible for any Tribally Sponsored Program.

VII. Grievance

- A. Grievance Related to Test Results
 - 1. If the Participant or his/her parent/guardian disagrees with the test results, the Participant can request that the specimen be sent to an alternate lab for confirmation. If the Participant chooses to have any specimen sent to another laboratory for further testing, then Participant must notify the Tribal Attendance Officer no later than forty-eight (48) hours after the scheduled test.
 - 2. All alternate lab confirmation testing shall be at the Participant's own expense. All monies must be paid before the specimen is sent for confirmation. If the alternate lab confirmation shows that the original test was negative, then the money collected will be returned to the Participant as soon as possible.
 - 3. If the alternate lab confirms the test results, then the consequences imposed as a result of this Policy shall stand, and the Participant or his/her parent/guardian shall have no further appeal.
 - 4. If the alternate lab does not confirm the test results, then no penalties shall be issued.
 - 5. Grievances regarding flushing only may be submitted to the Medical Review Officer for review and confirmation. If the Participant chooses to have the test submitted to the Medical Review Officer, the Participant must notify the Tribal Attendance Officer no later than forty-eight (48) hours after the scheduled test.

- a. If the Medical Review Officer's review of the original test and any subsequent testing confirms flushing, then the consequences imposed as a result of this Policy shall stand, and the Participant or his/her parent/guardian shall have no further appeal.
- b. If the Medical Review Officer's review does not confirm the test results, then no penalties shall be issued.

B. Grievance Actions Unrelated to Test Results

1. For any grievances unrelated to test results, the Participant or his/her parent/guardian may file a written complaint within ten (10) business days of the issue to the Department Director. If the complaint is directly related to the decisions or actions of the Tribal Attendance Officer, the written complaint should also be filed with the Education Director who shall review the complaint with the Department Director, if the Department Director is a different person. If the Tribal Attendance Officer's conduct is implicated, the Education Director and the Department Director shall coordinate their response. A response will be provided to the complainant within ten (10) business days.
2. If the Participant or his/her parent/guardian is not satisfied by the Department Director's response, the next step is to file a complaint with any Division Director whose staff and/or program are implicated. The Participant or his/her parent/guardian must file a written complaint within ten (10) business days of receiving the response from the Department Director(s). A written response will be provided to the complainant within five (5) business days.
3. If the Participant or his/her parent/guardian is not satisfied by the decision of the Division Director(s), the Participant may submit a written complaint to the Chief of Staff within ten (10) business days of receiving the response from the Division Director(s). A written response will be provided to the complainant within five (5) business days.

C. Appeal Process

1. When the applicant does not agree with the decision rendered at the departmental level after exhausting all administrative remedies, the applicant may seek to appeal the decision by filing a notice of appeal with the Tribal Grievance Board.
2. The appellant must provide written notice to the Tribal Grievance Board by filing the intent to appeal in the Regulatory Affairs Division Office within 14 calendar days of the receipt of the final departmental decision. The Appeal

Notice shall set forth the specific issues and reason(s) for the request, along with any other relevant statements or documents the appellant desires to include. Upon receipt of the Appeal Notice, the appellant will be provided a copy of the established appeal procedures set forth by the Tribal Grievance Board.

3. Any decision made by the Tribal Grievance Board is considered final and no other administrative action is available to an appellant.