

**WALKER RIVER PAIUTE TRIBE
HUMAN RESOURCES**

PART TWO

**SUBSTANCE ABUSE POLICY
&
PROCEDURES**

Substance Abuse Policy & Procedures

Authority & Introduction

1. Authority: The Constitution and By-Laws of the Walker River Paiute Tribe at Article VI authorizes and holds the Tribal Council responsible for managing the various resources of the Tribe. This Part Two of the Human Resources Policy and Procedures manual has been formally adopted by the Walker River Paiute Tribal Council under Resolution **WR-105-19**. It therefore carries the full weight of the Council's authority and is to be fully complied with by all Tribal employees.

2. Introduction: The most valuable assets of the Walker River Paiute Tribe are its employees; without them, the Tribal government would be unable to carry out its primary duties to the Tribal Membership. It is therefore vitally important to establish policies, guidelines and procedures for the safety and well-being of Tribal employees that are fair and equitable for all concerned, with respect to regarding substance abuse.

You were hired because we believe you can contribute to the success and benefit of our Tribal government and membership. We welcome you to our organization and look forward to a long and mutually rewarding affiliation.

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Substance Abuse Policy & Procedures

Definitions

The following words and phrases, when used in this manual, have the following meanings unless otherwise clearly indicated in the content.

| <u>Word</u> | <u>Definition</u> |
|-----------------------------|---|
| Ability | The present power to perform a physical or mental function. |
| Alcohol | A beverage that contains a substantial amount of ethanol (informally called <i>alcohol</i>), a depressant which in low doses causes euphoria, reduced anxiety, and sociability and in higher doses causes intoxication (drunkenness), stupor and unconsciousness. |
| Applicant | Any candidate for appointment or promotion who formally makes him or herself available for consideration for evaluation for the position. |
| Controlled Substance | A drug or chemical whose manufacture, possession, or use is regulated by a government, such as illicitly used drugs or prescription medications that are designated a Controlled Drug. |
| Days | Calendar days (not business days), unless the context states otherwise |
| Drug | A substance used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; also, a chemical substance, such as a narcotic or hallucinogen, that affects the central nervous system, causing changes in behavior and often addiction. |
| Grievance | Any formal complaint or expressed dissatisfaction by an employee against an action by management in connection with his or her job, pay or other aspects of employment. |
| Job Related | Related to the particular job of the employee, or based on knowledge, abilities, skills or other characteristics shown through careful analysis to be necessary or important for successful performance of a job. |
| Knowledge | An understanding of facts or principles relating to a particular subject or subject area. |
| Non-Prescribed Drug | An illegal drug, or a drug prescribed by a non-authorized person or obtained at a non-licensed pharmacy, or an |

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| | otherwise legal drug prescribed to someone other than the employee. |
| | |
| Policy | A written set of rules, principles or procedures intended to influence and determine decisions, actions, and other matters. |
| | |
| Prescription Drug | A medicine prescribed to the employee by an authorized health professional and obtained from a licensed pharmacy. |
| | |
| Probation | The specified introductory period of employment following hiring, reassignment or transfer to any position in the WRPT service. It is an on-the-job test period for observation and evaluation of the employee's work and must be satisfactorily completed before regular status may be conferred. This period is also known as the "Introductory Period." |
| | |
| Reasonable Suspicion | The reasonable suspicion standard requires facts or circumstances that would lead a reasonable person to believe that a suspect has or is using, selling, manufacturing or under the influence of a controlled substance, illegal drug or non-prescribed drug. |
| | |
| Screening | An examination or test of an individual's urine, blood or hair samples to detect the presence of alcohol, illegal drug or controlled substance. |
| | |
| Substance | A legal or illegal drug, or alcohol. |
| | |
| Substance Abuse | A use of a legal or illegal drug or alcohol in which the user consumes the substance illegally or in amounts or with methods which are harmful to themselves or others. |
| | |
| Suspension | A temporary disciplinary separation of an employee from his or her duties without pay. |
| | |
| Temporary Appointment | An appointment in accordance with the rules to a position established to meet a temporary program need with a specified duration. |
| | |
| Tribal Chairman | The head officer of the Walker River Paiute Tribal Council. Under the immediate supervision, direction and evaluation of the Tribal Council, the Tribal Chairman supervises all WRPT Program Directors and ensures that all Tribal policies are carried out and adhered to during the daily operation of programs. All duties of the Tribal Chairman stated in the Human Resource Policies may be delegated to the Tribal Vice |

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| | Chairman or other Tribal official designated by the Tribal Chairman. |
| | |
| Under the Influence | A condition in which a person is affected by a drug or alcohol in any detectable manner. The condition may be legally determined as being a specific circumstance under the law, such as .08% alcohol in blood. |
| | |

CHAPTER 1 ~ GENERAL PROVISIONS

1.1 Sovereign Immunity

The Walker River Paiute Tribe is a Sovereign Nation organized under the Laws of the United States. As such, Federal or state laws do not apply on Tribal lands unless so mandated by specific legislation of the United States Congress or by decision of the Federal Courts. In some cases, the Walker River Paiute Tribe may agree to observe a particular Federal or state law as a condition for receiving a grant or other benefit. With these exceptions, Federal and state laws do not apply within the Walker River Paiute Tribal Lands or, in most cases, to employees of the Tribe while on official Tribal business regardless of their location. Accordingly, nothing contained in this Policy shall in any way be construed as being a waiver or diminishment of the sovereign immunity of the Walker River Paiute Tribe, or the immunity of the Tribe's officers, employees, agents and/or representatives when acting in their official capacities.

1.2 Relationship

No statement within this Policy shall constitute a contract, implied or direct, between the employee and the Walker River Paiute Tribe. The Tribe is an "at will" employer and may terminate any employee at any time for any reason without notice. However, the Tribe does wish to communicate standards of fairness that it will endeavor to follow in its employer-employee relationship; these standards of fairness are contained within this Substance Abuse Policy.

1.3 Conflict

The information and policies contained within this Substance Abuse Policy of the Walker River Paiute Tribe (WRPT) were written with the Federal laws that currently apply in mind. Laws and their language may change; judicial interpretations of existing laws impact their applicability. In the event of a conflict between this Substance Abuse Policy and applicable Federal laws, the laws shall take precedence.

In the event of a conflict between any provision of this Policy and any other provision of any approved policy of the WRPT, the wording contained in the most-recently Council-approved policy shall prevail.

1.4 Guiding Principles

The Walker River Paiute Tribal Council is committed to providing a drug-free, safe and healthy working environment for all Tribal employees and visitors. The Tribe recognizes the risks associated with controlled-substance use and alcohol misuse and is dedicated to supporting employees who seek treatment for these conditions. The WRPT also recognizes that controlled substance use and alcohol misuse diminish workplace safety and undermine the Tribe's ability to achieve its goals. The Tribal Council has established this Policy and set of procedures for drug and alcohol testing to increase safety, and deter and detect the use of controlled substances and misuse of alcohol by Tribal

employees. Compliance with this Policy is considered to be a condition of employment.

The objectives of this Policy are:

- (a) To create and maintain a safe, drug-free environment for all employees.
- (b) To encourage any employee with a dependence on, or addiction to, alcohol or drugs to seek assistance in overcoming the problem.
- (c) To reduce incidences of absenteeism, tardiness, carelessness, and/or other unsatisfactory characteristic related to job performance.
- (d) To reduce the likelihood of incidents of accidental personal injury and/or damage to Tribal property.
- (e) To reduce the likelihood that Tribal property will be used for illicit drug activities.
- (f) To protect the reputation of the Walker River Paiute Tribe, its government and enterprises, and its employees.

1.5 Applicability

These Substance Abuse Policies and Procedures apply to all salaried and wage-earning employees and contracted employees of the Walker River Paiute Tribe; they do not apply to independent contractors or consultants unless specifically included as part of their engagement contract. Employees whose positions involve work under Department of Transportation or Federal Transit Administration grants or contracts will also be subject to compliance with their Drug and Alcohol Polices.

1.6 Amendment, Rescission, Supersession

When officially adopted by Tribal Council Resolution, this Policy shall supersede all prior drug and alcohol or substance abuse policies and procedures previously adopted by the Walker River Paiute Tribal Council. This Policy shall not be amended, canceled, replaced or superseded except by official Resolution of the Walker River Paiute Tribal Council.

1.7 Confidentiality

- (a) To preserve the integrity of the WRPT Substance Abuse Policy and to preserve employee privacy, all coordination and investigation of suspected drug and alcohol abuse will be handled through the Human Resources Office. Information will be released only on a need-to-know basis.

- (b) It is the Tribe's intent to maintain strict confidentiality in matters regarding enforcement of this policy. It is the responsibility of the Human Resources Manager to establish procedures for dissemination and filing of applicant test reports and to preserve the confidentiality of all records relating to substance abuse by an employee.
- (c) Every effort will be made to limit the number of persons involved in such matters and to restrict information or evidence generated or obtained during such actions on a need-to-know basis.
- (d) All information regarding drug or alcohol test results must be treated as confidential and maintained in a separate locked filing cabinet or secure, password-protected computer in the HR Office.
- (e) Tribal officers or employees with access to such information will not discuss tests results with anyone who does not have a need to know, or with the employee. The employee or applicant may request a copy of the test results.

CHAPTER 2 ~ PRESCRIBED MEDICATIONS

2.1 Uses Not Prohibited

The use or possession of medicines/drugs prescribed to an employee by a medical provider who is licensed to issue prescriptions is generally not prohibited under this Policy.

2.2 Under the Influence

Even properly prescribed and used medications/drugs can adversely affect a person's ability to function.

If, in the opinion of the employee's supervisor or Human Resources Manager, it appears that the employee's job performance is being adversely affected by the use of a prescribed medication/drug, the employee may be sent home and asked to obtain a licensed provider's release to work while taking such medications.

2.3 Abuse

Prescription medications/drugs must be taken in accordance with the instructions on the container or given by the provider. Taking such medicines in larger doses or more frequently than prescribed can be harmful to the employee and his/her ability to function and constitutes substance abuse under his Policy.

2.4 Not Prescribed to Employee

The transfer of non-prescribed medications/drugs to a container intended and marked for use as a prescribed medication is a violation of this Policy. The use of prescription medications/drug prescribed to someone other than the employee is also prohibited under this Policy. Both are considered to be substance abuse under this Policy.

CHAPTER 3 ~ SUBSTANCE ABUSE

3.1 Prohibited Conduct

This Walker River Paiute Tribe Substance Abuse Policy prohibits the following:

- (a) The use, possession, distribution, dispensing of illegal drugs, equipment and paraphernalia or controlled substance on WRPT premises, work sites, equipment or vehicles.
- (b) The use, possession, sale or distribution of any alcoholic beverage on WRPT premises, work sites, equipment or vehicles.
- (c) The manufacture or sale of illegal drugs on WRPT premises, work sites, equipment or vehicles. If it is discovered that an employee is involved in the manufacture or sale of illegal drugs, law enforcement authorities will be notified.
- (d) A positive test result for illegal drugs.
- (e) A breath, urine or blood alcohol test result above .04.
- (f) A refusal to provide a sample for drug or alcohol test screening.
- (g) Tampering with or adulterating any sample submitted for testing, or submitting a false sample for testing.
- (h) Failing to immediately report to the WRPT HR Office the use of any prescribed or over-the-counter medication which contains warnings or restrictions indicating that the use of the medication may adversely affect the employee's ability to perform his or her duties.
- (i) Failing to report an arrest for a drug and/or alcohol related offense within 72 hours of the arrest.
- (j) Failing to report a suspected on-the-job accident, injury or situation in which an employee believes drugs or alcohol may be involved.
- (k) Refusal of a search and/or inspection.
- (l) Failing to comply with rules and regulations made known under any testing or screening program used by the WRPT in accordance with such rules and regulations.
- (m) A positive test for marijuana, even if the person has a medical prescription for marijuana.

3.2 When Testing is Required

It shall be a violation of this policy to refuse to participate in a substance abuse (drug and alcohol) test.

(a) Pre-Employment Screening

Prior to being hired, the candidate must agree to abide by the WRPT Substance Abuse Policy and must take and pass a pre-employment substance abuse screening for Drugs and Alcohol. No applicant may be scheduled or report for work until the drug and alcohol test has been taken and results obtained.

(b) Random Screening

In addition to any additional screening required as condition for employment under any program, the Tribe may conduct random substance abuse screening according to provisions of the Tribe's Substance Abuse Policy and Procedures. The Tribal Chairman or designee shall be responsible for determining once each month by random lottery draw what working date during that month will be used for random screening; the date will be kept confidential. On the date selected, the Tribal Chairman or designee will by random lottery draw select names of employees to be screened on that day. The number of employee names to be drawn will be a minimum of 5 employees each month. It is possible, although unlikely, that an individual will be drawn for testing in two or more successive months or several times during a year.

(c) Post-Accident or Injury Screening

A drug and alcohol test will be required for any employee, who suffers or contributes to a business-related accident requiring medical treatment away from the workplace for himself/herself or another person, or when the accident involves property or equipment damage under circumstances in which the employee, may have contributed to the accident. Such testing shall occur as soon as possible after the accident occurs; persons subject to testing under this Section must remain readily available for such testing or will be deemed to have refused to submit for testing, except that such person may leave the scene for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

(d) Suspicion

An employee, shall be subject to being tested for drugs or alcohol when the employee's supervisor, department head, HR Manager, or Tribal Safety or Law Enforcement Officer, has reasonable suspicion to believe that an individual has used illegal drugs or controlled substance; or in the case of alcohol whether the individual has used alcohol and that such use is interfering with the individual's official duties or job performance. The Tribe may require testing when there is a reasonable suspicion to believe that an employee, is using or under the influence of drugs or alcohol at work, such as:

- Direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence are present, such as appearance, behavior, speech or body odors consistent with drug or alcohol use
- The employee exhibits a pattern of abnormal conduct or erratic behavior
- The employee has been arrested or convicted of an offense related to drugs or alcohol
- Information provided by reliable and credible sources or independently corroborated regarding employee drug or alcohol use
- Evidence that the employee has tampered with or altered a previous substance abuse screening
- Fighting, assaults, or erratic aggressive or violent behavior

While reasonable suspicion testing does not require certainty, mere “hunches” are not sufficient to meet the standard required for mandatory testing.

(e) Screening After First Offense

- (1) Employees who have tested positive within the preceding two (2) years and who continue to be employed as provided under this Policy may be required to take up to four (4) additional screenings per year without advance notice; such testing will not exclude the individual from being selected for random testing. Employees returning to work after completion of an approved Substance Abuse Counseling and Rehabilitation Program shall be required to submit to a drug and alcohol test prior to being reinstated.
- (2) Employees who have satisfactorily completed two (2) years of continuous employment after returning to work subsequent to a first offense will no longer be subject to the screenings in (1) above and shall be treated from that point forward as if no first offense had occurred.
- (3) If an employee who has had a first offense and returned to the workplace subsequently tests positive in any substance abuse test, he/she shall be immediately terminated from employment without further consideration.

(f) Other Required Testing

An employee returning to work after a leave of absence of thirty (30) days or longer must be retested prior to returning to active duty.

3.3 Searches and Inspections

The Walker River Paiute Tribe reserves the right at all times and without prior notice to have authorized personnel conduct searches and inspections of an employee's personal effects including, but not limited to: offices, baggage, purses and vehicles located on WRPT premises, for the purpose of determining if an employee is in possession of any illegal or controlled substances, non-prescribed medications or alcohol. These searches may be conducted from time to time without prior notice. Such illegal and unauthorized items discovered may be taken into custody and turned over to appropriate law enforcement agencies. An employee who refuses a search and/or inspection or who is found to be in violation of this provision may receive disciplinary action up to and including termination.

All searches and inspections will be performed with concern for each individual's personal privacy, dignity and confidentiality.

3.4 Self-Reporting

- (a) All employees, are required to notify their immediate supervisor or the Human Resources Manager, as the case may be, within 72 hours of taking any drugs or medicines which could interfere with their ability to satisfactorily, safely and/or efficiently perform the required duties of their position. Failure to comply with this provision could involve mandatory participation in a rehabilitation program or appropriate penalties as described in HR Policy 8.6.
- (b) When an individual self-reports under this Section, the Tribe may require the individual to obtain a written authorization from a licensed physician indicating:
 - (1) The nature and name of the controlled substance or drugs being administered, and
 - (2) When the individual may return to their duties or positions without restriction.
- (c) An employee who self-reports under this Section and who is away from work for a period of time as a result may use earned leave, sick leave or leave of absence. No individual shall be allowed to return to work or official duties if the medical provider attaches restrictions.
- (d) An individual who complies with this Section and Self-Reports shall not be subjected to disciplinary action.

CHAPTER 4 ~ PROCEDURES

4.1 Types of Substance Abuse Screening

The following types of tests may be used in screening for drugs and/or alcohol:

(A) Drugs

- "Quick Strips" (*)
- Hair (**)
- Blood
- Urine
- Mouth swabs (*)

(B) Alcohol

- Breath
- Blood
- Urine
- Mouth Swabs (*)

(*) If quick strips or mouth swabs are used for a test and if they indicate a positive result, additional testing using one of the other methods listed above must be conducted to confirm and quantify the results.

(**) Hair testing is the least preferred method of testing.

4.2 Drugs to be Screened

In addition to alcohol, the following drugs will be screened:

Amphetamines
Methamphetamine
Cocaine Metabolite (coke, crack)
Opiates (heroin, opium, codeine, morphine)
Codeine
Phencyclidine (PCP, angel dust)
THC (Cannabis, marijuana, hash)
Barbiturates (phenobarbital, butalbital, secobarbital, downers)
Benzodiazepines (tranquilizers such as valium, Librium, Xanax)
Methaqualone (Quaaludes)
Methadone
Propoxyphene (Darvon compounds)
Synthetic (K2)

Additional drugs may be added to this list by amendment to this policy.

4.3 Drug Testing Facility Qualifications

A fully-certified drug and alcohol testing laboratory facility will be used to conduct all drug and alcohol testing for the Walker River Paiute Tribe screening in accordance with this policy. The facility must be staffed with technically competent and experienced technicians and adhere to approved procedures to ensure proper quality control, documentation, chain-of-custody, confidentiality, collection testing and storage.

The selected facility must adhere to the provisions of this Policy and all required forms must be completed by the proper parties.

4.4 Consent

Consent to Substance Abuse Screening is a condition of hiring and continued employment with the Walker River Paiute Tribe. Refusal to consent to testing, search or inspection or to sign a written consent form when requested is sufficient grounds for immediate dismissal or implementation of other disciplinary provisions of this Policy. Nevertheless, no alcohol or drug test may be administered without first providing the individual of the right to refuse such testing, the consequences of refusal and the consequences of a positive result; such notification must be in writing and signed by the individual being tested.

4.5 Testing Procedures

All substance (drugs and alcohol) screening will be conducted in accordance with privacy and confidentiality protections, and safety and security procedures. In all instances except for post-accident testing initiated or performed by a law enforcement officer in the course of investigation of an accident where the individual is physically or mentally unable to sign, the individual being tested must sign a Substance Abuse Screening Consent form.

(a) Positive Result

If the results of a screening test(s) indicate the presence of alcohol in an amount in excess of .04, or any drug defined in Section 4.2:

- (1) The laboratory will immediately conduct a second test from the same sample of urine, hair or blood to ascertain the specific substances and concentrations in the sample, and
- (2) The Tribal Chairman or designee shall, upon notification, provide the person tested with the opportunity to have the same sample retested at his/her own expense at a certified laboratory of their choice.

- (3) Should the employee test positive for the presence of alcohol when an oral test is administered, a blood alcohol test will be made to verify and quantify the results. Should the employee test positive for the presence of a drug listed in Section 4.2 when an oral test is administered, he/she shall be tested by blood or urine sampling.

(b) Required Participation

When an appointment with the selected and approved laboratory has been made for the screening test(s) of an employee, such tests will be held during the normal work day, 9:00 AM through 4:00 PM, Monday through Friday, with the exception of:

- Approved holidays
- Post-Accident Testing
- When an employee is working outside of said hours and the situation requiring screening occurs during such hours

With the exception of pre-employment testing, the employee will receive his or her current rate of pay for the time required to travel to the independent laboratory, the time required to complete the scheduled appointment and time required to return to their assigned work location. Overtime will not be paid to an employee relating to completion of the scheduled appointment. Travel expenses to and from the laboratory are the responsibility of the individual.

If an individual is deemed to be under the influence to the extent that they are incapable of safely transporting themselves to the testing laboratory, he/she must be transported by the Human Resources Office staff, a Tribal Police Officer, qualified medical personnel or designated Tribal employee.

(c) Prescription Medicines

It is the responsibility of the person being screened to promptly notify, either immediately prior to or at the time of testing, laboratory personnel of all pertinent information relative to current or prior medications used under an authorized medical provider's prescription. In the event of a positive test result where the use of a prescribed medication may affect the results of the screening, the laboratory may require a copy of the written prescription, presentation of the medication bottle with appropriate label, or a written explanation from the licensed medical provider which is dated and signed.

Failure to provide the laboratory with the above required information prior to the administering of the testing procedures is a violation of

this Policy and may result in disciplinary action up to and including termination.

(d) Pre-Employment Screening

- (1) The HR Office will schedule an appointment with the designated laboratory for screening prior to acceptance of employment. The appointment must take place within two hours of the time of notification to the candidate and without prior warning.
- (2) If the individual fails to report at the scheduled time, this will be considered as a refusal to submit.
- (3) If the individual is unable, for some reason, to provide a sample for testing for any reason within four (4) hours, this will be considered as a refusal to submit.
- (4) Upon receipt of the substance screening results, the HR Office will notify the individual of the results.
- (5) Applicants for employment who fail the screening tests or who fail to show or submit for testing will not be eligible for employment for a period of one year from the date of testing.
- (6) Employees returning to work after a leave of absence for more than thirty (30) days shall be required to take a pre-employment screening prior to returning to duty.

(e) Random Screening

- (1) Persons are selected for random substance abuse screening under procedures contained in Section 3.2 (b) of this Policy.
- (2) Individuals selected for random screening are not to be considered as being under suspicion of violation of this Policy.
- (3) Persons selected for random screening must immediately be notified that they must submit for testing.
- (4) When an individual is notified of selection for random testing, he/she must proceed immediately to the designated testing site to arrive not more than two (2) hours from the time of notification. The testing laboratory must explain the collection procedures to be used to the employee prior to the test being administered.

- (5) The method of initial testing shall be one of the methods prescribed under Section 4.1 of this Policy.
 - (6) If there is a positive result, the Tribe will make necessary arrangements to get the individual to his/her home, either by HR Office staff, a member of the family, Tribal Police or other transportation.
 - (7) Should an employee test positive for drugs or alcohol, he/she will immediately be suspended from duty until the case can be investigated and the results can be confirmed.
- (f) Suspicion
- (1) The requirements for referring an individual for testing as a result of suspicion are listed under Section 3.2(d) of this Policy.
 - (2) When feasible, it is preferable that the individual's conduct, behavior or appearance which indicates that the individual may be "under the influence" be observed or witnessed by at least two people.
 - (3) The individual will be asked if he or she has any explanation for their unusual conduct, appearance or behavior. If there is no reasonable or medically plausible explanation, the employee will be asked to report to the designated laboratory for testing. **No individual being referred for screening under suspicion shall be allowed to drive themselves to the testing facility; they must be driven by HR Office staff, Tribal Police, qualified medical personnel or designated Tribal employee/official.**
 - (4) Testing must be administered within two (2) hours of referral. If the test(s) are not administered within two hours, a written statement must be prepared as to the reasons why (lab closed, etc.), and in which case the test(s) must be administered at the earliest possible opportunity.
 - (5) A written record will be documented on the Reasonable Suspicion Form of the observations leading to the test and signed by the supervisor, and/or witnesses who make the observations within 24 hours of the observed behavior or before the results of the test(s) are released, whichever is earlier.
 - (6) Should an employee test positive for drugs or alcohol, he/she will immediately be suspended from duty until the case can be investigated and the results can be confirmed.

- (7) The method of initial testing shall be one of the methods prescribed under Section 4.1 of this Policy.
 - (8) If there is a positive result, the Tribe will make necessary arrangements to get the individual to his/her home, either by HR Office staff, a member of the family, Tribal Police or other transportation.
 - (9) If the test results are negative, the employee's supervisor or HR Manager, as the case may be, will review the individual's behavior which gave rise to the testing under suspicion and decide whether any further action is warranted. For example, an employee may have taken too much of a prescribed drug, or may not have followed the prescribing provider's instructions while taking the drug and, as a result the individual's behavior became altered and interfered with his or her ability to function properly; in such a case, disciplinary action may be warranted. If it is determined that no further action is necessary, an employee may return to work with full pay from and including the date and time upon which he/she was suspended.
- (g) Post-Accident Screening
- (1) When an individual is required to take a substance abuse screening as provided under Section 3.2 (c) of this policy, the screening must take place as soon as possible after the accident. Generally speaking, this means within two (2) hours after the individual is released by law enforcement from the scene of an accident, or in the case of a non-vehicular accident within two (2) hours of instruction to take the test by a supervisor or Tribal officer. If an individual is referred for medical treatment or is arrested or detained, the testing should be conducted as soon as reasonably possible and, in this instance, may be performed by a hospital or medical facility laboratory or law enforcement agency.
 - (2) If a law enforcement officer or licensed medical provider conducts a drug and/or alcohol test after an accident in compliance with a federal state or local law and provides the results to the Tribe, the results will satisfy the post-accident requirements of this policy.
 - (3) Alcohol testing must be administered within eight (8) hours of the accident; drug testing must be administered within 32 hours of the accident. If for some reason testing cannot be administered within these time-frames, a written statement must be prepared documenting the reasons why no test was administered and there shall be no further attempts to have the test performed.

- (4) Individuals are prohibited from using alcohol for eight (8) hours after an accident or until an alcohol test is administered, whichever comes first.
 - (5) If there is a positive result, the Tribe will make necessary arrangements to get the individual to his/her home, either by HR Office staff, a member of the family, Tribal Police or other transportation.
 - (6) Should an employee test positive for drugs or alcohol, he/she will immediately be suspended from duty until the case can be investigated and the results can be confirmed.
 - (7) If the test results are negative, the employee's supervisor or HR Manager, as the case may be, will review the individual's behavior which gave rise to the testing under suspicion and decide whether any further action is warranted. For example, an employee may have taken too much of a prescribed drug, or may not have followed the prescribing provider's instructions while taking the drug and, as a result the individual's behavior became altered and interfered with his or her ability to function properly; in such a case, disciplinary action may be warranted. If it is determined that no further action is necessary, an employee may return to work with full pay from and including the date and time upon which he/she was suspended.
- (h) Screening After First Offense
- (1) After a first offense and after an individual has satisfactorily completed a drug or alcohol treatment or counseling program, and taken and passed a pre-employment screening, and in addition to being subjected to random substance abuse screening, an individual is required to consent and submit to a drug and/or alcohol test without warning or suspicion, up to four (4) times per year for the first two years after returning to work or official Tribal duties.
 - (2) A first offender failing to pass a pre-employment screening to return to work after treatment and/or counseling, shall be terminated.
 - (3) A first offender who tests positive for a prohibited drug or alcohol after return to work at any time during the prescribed two (2) year period in this Policy, shall be terminated.

(i) Determination

The Human Resources Manager will investigate all cases involving positive drug or alcohol test results including review of such results, medical reports or statements, law enforcement reports, and accident or suspicion reports. All such information will remain confidential. The HR Manager will advise the employee's supervisor or Tribal Chairman, as the case may be, of the results of the investigation. In the case of an employee, unless there are mitigating circumstances, the individual will either be referred for mandatory treatment and counseling upon the first offense, or terminated upon the second offense or failure to complete the required treatment/counseling program.

4.6 Reconsideration of Results

- (a) An individual whose drug or alcohol test reported positive will be offered the opportunity to discuss the test results with the Human Resources Manager and to offer an explanation and request reconsideration of the results. The purpose of reconsideration is to determine if there is any reason that a positive test result could have resulted from some cause other than substance abuse. The HR Manager will determine whether an offered explanation merits further investigation or reconsideration. The decision of the HR Manager is final and not subject to further appeal.
- (b) An individual whose drug or alcohol screening is reported positive may be offered the opportunity to:
- (1) Obtain an independent retest, at the individual's expense., the remaining portion of the test specimen that yielded the positive results, if a sufficient amount of the specimen exists; or
 - (2) Obtain the written test results and submit them to an independent medical review at the individual's expense.

CHAPTER 5 ~ VIOLATIONS OF THIS POLICY

5.1 Violations & Discipline

The following are violations of this policy:

(a) False Statements, Fraud

No person shall knowingly make any false statement(s), certificate(s), mark(s), rating(s), or report(s) with regard to any examination, certification or appointment within the provisions of this Policy, or in any manner knowingly commit or attempt to commit any fraud which might prevent the impartial execution and intent of this Policy, rules or regulations. A violation will subject the offending employee to disciplinary action under the Human Resources Policy, Section 8.6.;

(b) Testing Positive

No person covered under this policy shall test positive for the presence of alcohol in a BAC amount of .04 or higher, or the presence of a prohibited substance while on duty or acting under official duties for the Walker River Paiute Tribe.

(1) A first offense of this provision will result in a suspension without pay from all employment for thirty (30) calendar days from the date of the positive test. During the suspension, the employee must seek treatment from an approved substance abuse treatment and counseling program, and must obtain an evaluation from such program. Prior to the end of the suspension period and prior to returning to work, the employee must (i) obtain from the approved substance abuse treatment and counseling program a recommendation or opinion that the employee is able to return to work at the end of the suspension and/or is in compliance with the requirements of the program including the ability to return to work, and (ii) the employee must test negative for alcohol and prohibited substances prior to returning to work. After returning to work, the employee must continue with any drug treatment program recommended by the counselor/program. If the employee does not return to work at the end of the suspension, his/her employment shall be terminated.

- a. The employee will not be allowed to use vacation or sick leave during the suspension.
- b. The employee will be required to pay for the second drug test prior to returning to work. The second drug test must be conducted by a testing company approved by the Tribe.

- (2) A second offense of this provision will result in immediate termination from employment under HR Policy 8.6.
- (3) Refusal to participate in and satisfactorily complete an approved substance abuse treatment and counseling program within six (6) months of the first offense will result in immediate termination from employment under HR Policy 8.6.

(c) Possession or Use of Alcohol or Non-Prescribed Drugs in the Workplace or While on Official Duty

No person covered under this policy shall possess, use or consume any alcohol or non-prescribed drug or medicine in the workplace or while anywhere on official duty. Violation by an employee will result in disciplinary action under HR Policy 8.6.

(d) Confidentiality

Any employee who violates the provisions of confidentiality of records, information, testing, testing results, arrest, or conviction of a drug or alcohol related accident or crime shall be subject to disciplinary action as provided under HR Policy 8.6.

(e) Refusal to Submit for Testing

Any person refusing to take or submit to a substance abuse screening when required to do so under this Policy shall be deemed to have tested positive as a second offense and shall be disciplined accordingly; Substance Abuse Policy 5.1 (b) (2).

(f) AWOL

Any person who fails to return to work within one (1) week of satisfactory completion of a substance abuse treatment or counseling program shall be deemed to have abandoned their employment under HR Policy 8.6 (19).

(g) Effect of Termination

Any employee terminated under this Policy shall be ineligible for rehire for a period of two (2) years, during which he/she must have satisfactorily completed a Substance Abuse Treatment and Counseling Program and must test negative in a pre-employment testing. In addition, they will be subject to random testing and testing under Section 4.5 (h) of this Policy.

(h) Other Violations

Any individual who violates any other provision of this Substance Abuse Policy shall be disciplined under HR Policy 8.6.

5.2 Counseling and Treatment

- (a) The Walker River Paiute Tribe recognizes that individuals are not perfect and may, from time-to-time, engage in conduct which violates good sense and provisions of Tribal Policies. For this reason, it provides that individuals who are first offenders of this Substance Abuse Policy may be referred for mandatory Substance Abuse Treatment and Counseling at an approved program. It is the expressed direction of the Tribal Council that all employees will automatically be placed under the Employee Assistance Program for such Substance Abuse Treatment and Counseling.
- (b) Failure on the part of any individual to immediately participate in and satisfactorily complete the required Substance Abuse Treatment and Counseling shall be grounds for immediate termination of employment.
- (c) Upon satisfactory completion of a program approved under the Employee Assistance Program, the individual will be required to take a mandatory drug and alcohol screening in accordance with provisions of this Policy, Section 4.5 (h).
- (d) An employee who participates in treatment and counseling under this Section may use accrued vacation and/or sick leave to attend such treatment (after the initial suspension period).
- (e) If the individual attends treatment and counseling, the individual may choose at his/or own expense to use another licensed and approved treatment and counseling program.

CHAPTER 6 ~ MISCELLANEOUS PROVISIONS

6.1 Admissibility

No information, including results of screening tests taken in accordance with this policy, is admissible in a criminal proceeding against the person tested.

6.2 Records

- (a) All records produced or maintained as a result of this policy must be securely filed by the Human Resources Office in a locked filing cabinet separate from other personnel files.
- (b) Records must not be disclosed to anyone else except for the following:
 - (1) Upon written consent of the individual being tested
 - (2) As required in writing by the medical or substance abuse personnel for use in the diagnosis and/or treatment of the person tested, if that person is physically unable to authorize in writing his/her consent to the disclosure
 - (3) As a response to a properly issued and presented subpoena through the Tribal Court
 - (4) When relevant in a formal dispute between the Human Resources Manager and the person tested
 - (5) As the requirement for the administration of a plan of benefits for employees

6.3 Right for Additional Testing

The Walker River Paiute Tribe reserves the right to require additional mandatory drug or alcohol screening tests of their employees at any time.

6.4 Enforcement of Policy

- (a) The Human Resources Office shall be responsible for the coordination, implementation, application and strict enforcement of this Policy. All questions about enforcement or implementation should be directed to the HR Manager.
- (b) This Policy shall be enforced uniformly and no favoritism shall be shown to any employee or applicant. The Tribal Chairman, Human Resources Manager, Department Heads, Program managers and Supervisors shall be held accountable for enforcement of this Policy.

6.5 Drug and Alcohol-Free Awareness Program

The Human Resources Office will provide a drug and alcohol-free awareness program to assist employees and Tribal officials in understanding and

avoiding the risks of alcoholism, and abuse of drugs and other prohibited substances.

6.6 Assistance in Overcoming Illegal Drug Use or Controlled Substance or Alcohol Abuse

Early recognition and treatment of illegal drug use, or controlled substance or alcohol abuse, is important for successful rehabilitation, return to productive work, and reduced family, personal and social disruption. The Tribe encourages the earliest possible diagnosis and treatment.

An individual with substance abuse problems may request assistance from the HR Manager. Assistance will be arranged on a confidential basis and each individual will be referred to the appropriate treatment and counseling services. Such a request for assistance made at any time 72 hours or more prior to any testing implemented under this Policy shall not result in disciplinary action.

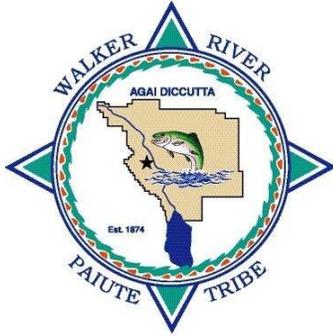
6.7 Training

The Walker River Paiute Tribe shall provide annual training to supervisors and appropriate personnel regarding:

- (a) The connection between job performance deficiencies and impairment through substance abuse.
- (b) The importance of documentation of job performance deficiencies and impairment.
- (c) Observation techniques in the detection of job performance deficiencies and impairment which may indicate the presence or influence of alcohol or drugs.
- (d) How to refer individuals for evaluation, testing and treatment.
- (e) Confidentiality

SUBSTANCE ABUSE POLICY AND PROCEDURES

APPENDIX



WALKER RIVER PAIUTE TRIBE

Substance Abuse Form "A"

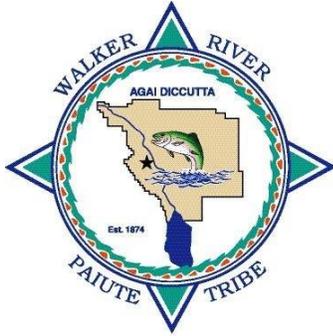
ACKNOWLEDGEMENT

I, _____, hereby acknowledge that I have received, read and understand the Walker River Paiute Tribe's Substance Abuse Policy and Procedures. I agree to comply with its terms and conditions for employment. I understand and acknowledge that my employment is contingent upon full and complete compliance with this Policy.

Date

Signature

Witness



WALKER RIVER PAIUTE TRIBE
Substance Abuse Form "B"
AGREEMENT TO SUBMIT TO
SUBSTANCE ABUSE TESTING

I hereby acknowledge that I have been required to submit to drug and/or alcohol testing.

I understand that testing is voluntary on my part, that I may refuse to submit and/or participate, and that such refusal or non-participation is a violation of the conditions for my continued employment under the Human Resources Policy of the Walker River Paiute Tribe or my continued service as an official of the Tribe.

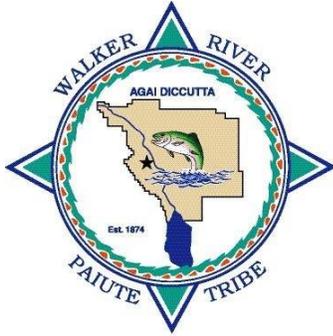
I further understand, without waiving any rights I may have to challenge the test(s) or the results thereof, that the results may be released to the authorized person(s) representing the Walker River Paiute Tribe in accordance with its Substance Abuse Policy and Procedures.

With full knowledge and understanding of these contents, I herewith agree to submit to the drug and/or alcohol screening test(s) by the Tribe's designated laboratory(s).

Date

Signature

Witness



WALKER RIVER PAIUTE TRIBE
Substance Abuse Form "C"
AUTHORIZATION FOR RELEASE
OF MEDICAL INFORMATION

I hereby acknowledge that I have been asked by the Walker River Paiute Tribe to submit to drug and/or alcohol testing which will be administered by a certified laboratory designated and selected by the Tribe, whose purpose and function is to administer the tests in accordance with the Tribe's Substance Abuse Policy and Procedures, determine scientifically the results of the test(s) and to accurately report to the Tribe the results of said test(s).

I hereby authorize the designated laboratory(s) to disclose all pertinent medical information and laboratory results obtained from the test(s) to the authorized representative of the Walker River Paiute Tribe. The laboratory(s) is only authorized to release this information and results for a period not to exceed 120 calendar days from the date of my signature below.

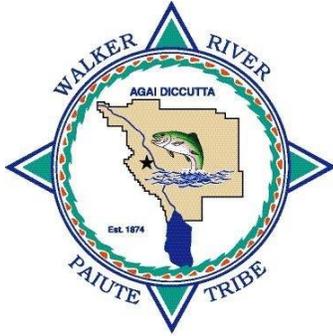
The information permitted for release shall include: laboratory, scientific and pertinent reports and results of tests; analyses of my condition and substances and/or chemicals which are casual factors for my condition; and diagnosis and prognosis related to these substance abuse screening tests.

I acknowledge that executing this authorization is voluntary and that I have the right to receive a copy of this authorization if I request one.

Date

Signature

Witness



WALKER RIVER PAIUTE TRIBE
Substance Abuse Form "D"
REFUSAL TO SUBMIT TO
SUBSTANCE ABUSE TESTING

I hereby acknowledge that I have been requested to submit to drug and/or alcohol testing in accordance with the Human Resources Policy and Procedures, and the Substance Abuse Policy and Procedures of the Walker River Paiute Tribe.

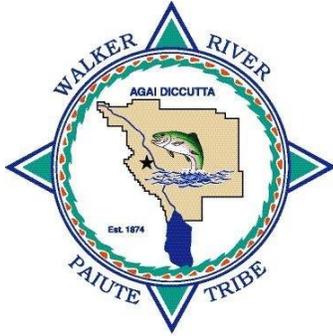
I further acknowledge and comprehend that the Substance Abuse Screening Test(s) are voluntary on my part, that I may refuse to submit or take part, and that such refusal is a violation of the conditions for my continued employment with the Walker River Paiute Tribe and may result in my termination from employment or relief from all official Tribal duties as provided in the Human Resources Policy and Substance Abuse Policy and Procedures.

With full knowledge and understanding of the provisions of this document, I hereby *refuse to submit to the requested participation in substance abuse screening tests.*

Date

Signature

Witness



WALKER RIVER PAIUTE TRIBE
Substance Abuse Form "E"
PRE-EMPLOYMENT
SUBSTANCE ABUSE SCREENING

The Walker River Paiute Tribe requires applicants for all positions filled by the Tribe to be free from alcohol, illegal or unauthorized drugs and similar substances. Each and every offer of employment is conditioned upon the applicant's submission to, and satisfactory completion of, drug and alcohol testing. An applicant who refuses to be tested, or who tests positive for the presence of alcohol or illegal or non-authorized drugs, will not be eligible for employment. The term "illegal drug" includes all drugs listed in the Walker River Tribe Human Resources Policy, Section 4.2 and/or controlled substances and/or drugs listed on Schedule I and II of the Federal Controlled Substances Act.

A successful applicant, who for whatever reason(s), does not begin employment within seven (7) calendar days after the date of initial substance abuse screening may be required to submit to a second substance abuse screening test(s) as a condition of employment.

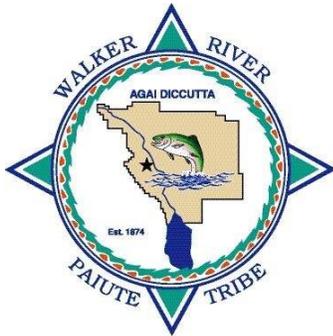
I hereby authorize the Tribe's designated laboratory to disclose all pertinent medical information and all laboratory results to the authorized representatives of the Walker River Paiute Tribe. The designated laboratory is only authorized to release such information and results for a period not to exceed 120 calendar days from the date of my signature.

"Information" shall include laboratory, scientific and other reports and/or test analyses of my condition/diagnosis and prognosis as related to the substance abuse screening tests.

Date

Signature

Witness



**WALKER RIVER PAIUTE TRIBE
Substance Abuse Form "F"**

Employee Assistance Program

Substance Abuse Treatment and Counseling

I have reviewed this with the Human Resources Manager and agree as follows:

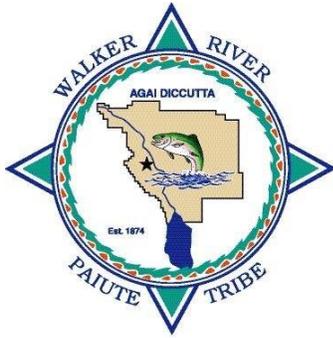
1. I acknowledge a positive drug or alcohol test.
2. I agree to be assessed by a drug or alcohol counselor identified or agreed upon by the Tribe.
3. I agree to authorize my counselor and/or any staff at the treatment facilities to discuss findings and recommendations and treatment progress including any records with the Tribe's Human Resources Manager.
4. I agree to participate in all treatment recommended by the counselor, which I understand may include referral to an out-patient rehabilitation facility, and I agree to all follow up treatment recommendations, such as ongoing counseling or a support group.
5. I agree that all costs of treatment are my financial responsibility.
6. I agree to abstain from alcohol and drugs.
7. I acknowledge that this EAP is a "last chance," and another positive test result will result in immediate termination.
8. I agree to un-announced, un-scheduled testing for up to 24 months following my return to work.

Printed Employee Name

Employee Signature

Date

Signature of HR Manager: _____ Date: _____



WALKER RIVER PAIUTE TRIBE

Substance Abuse Form "G"

Reasonable Suspicion Report

Date: _____

Employee Suspected of being Under the Influence of Alcohol or Drugs:

_____.

Specific Observed Behavior or Other Evidence to Reasonable Suspected Alcohol or Drug Use:

Details of Accident (if applicable):

Witness(es) (Full Name-Printed) (attach any witness statements):

Signature of Department or Manager: _____

Print Name and Title: _____