Republic of the Philippines
CIVIL SERVICE COMMISSION
Para sa taumBAYAN

MC No. 13, s. 2017

MEMORANDUM CIRCULAR

TO : **HEADS OF CONSTITUTIONAL BODIES; DEPARTMENTS, BUREAUS AND AGENCIES OF THE NATIONAL GOVERNMENT; LOCAL GOVERNMENT UNITS; GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS; AND STATE UNIVERSITIES AND COLLEGES**

SUBJECT : **Guidelines in the Mandatory Random Drug Test For Public Officials and Employees and for Other Purposes**

Pursuant to the mandates of the 1987 Constitution and the Administrative Code of 1987 to ensure that morale, efficiency, integrity, responsiveness, progressiveness, and courtesy shall be widely observed in the civil service and to ensure that government service shall be drug-free as provided by the Comprehensive Dangerous Drugs Act of 2002, the Commission has promulgated CSC Resolution No. 1700653 dated March 15, 2017 to prescribe the guidelines in the mandatory random drug test for public officials and employees, as follows:

I. OBJECTIVE

These guidelines aim to ensure that government agencies remain drug-free by subjecting public officials and employees to a random mandatory drug test, as a condition for continuous employment. To this end, the government and the public will be ensured of effective and efficient service free from the hazards of drug use in the work place.

II. SCOPE AND COVERAGE

These guidelines shall cover all public officials and employees in all constitutional bodies, departments, bureaus and agencies of the national government, local government units, government-owned and controlled corporations, and state and local universities and colleges regardless of rank, status and salary.

These guidelines shall not cover contract of service or job order employees. However, the agencies shall reflect a drug use policy clause in their contract.

Officers and members of the military, police and other law enforcement agencies who are required to undergo annual mandatory drug test, pursuant to R.A. No. 9165, are excluded from the coverage of these guidelines.

III. DEFINITION OF TERMS

Challenge Test – A drug test conducted as a result of a challenge filed by a public official or employee who tested positive for drug use in a confirmatory test.

Chronic User / Drug Dependent – a person identified for using drugs / other substances (mind-altering or not) without medical need, in an amount large enough or over a period long enough to threaten the quality of life or health and safety of the user or others.

Confirmatory Test[1] – An analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test.

Contract of Service/Job Order - refers to employment covered by a contract pertaining to lump sum work or services such as janitorial, security, or consultancy services where no employer-employee relationship exists; piece work or intermittent job of short duration not exceeding six months on a daily basis; all of which are not covered by Civil Service law, rules and regulations, but covered by COA rules; and the public officials and employees involved do not enjoy the benefits received by government employees, including but not limited to, personal economic relief allowance, cost of living allowance, and representation and travel allowance.[2]

Dangerous Drugs - Include those identified and listed in R.A. No. 9165 and its annexes, subject to any reclassification, addition or removal of any drug from said list by the Dangerous Drugs Board, in accordance with Section 93 of R.A. No. 9165.

Drug Dependency Examination – refers to the examination conducted by an accredited physician to evaluate the extent of drug abuse of a person and to determine whether he/she is a drug dependent or not, which includes history taking, intake interview, determination of the criteria for drug dependency, mental and physical status, and the detection of dangerous drugs in body specimens through laboratory procedures.

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[1] As defined under R.A. No. 9165
[2] Rule XI, CSC Memorandum Circular No. 40, s. 1998 (as amended by CSC Memorandum Circular No. 15, 2. 1999)

Drug Test – the process undertaken to determine the presence of dangerous drugs in a person's system, to include both screening test and confirmatory test.

Experimenter – a person whose drug use began through exploration with limited exposure and no development of regular use or any related harm.

Government Agency – refers to any and all branches, subdivisions, instrumentalities, and agencies of the national and local government, including government-owned and controlled corporations with original charters, and state and local universities and colleges.

Occasional User – a person who indulges in drug use to create or enhance experience in any social setting.

Public Officials and Employees – include any person holding or performing a public function in the legislative, executive, administrative or judicial office in the government, regardless of status of employment or engagement.

Random Testing – a method of drug testing where the selection process results in equal probability that any employee from a group of employees will be tested, and without any prior notice of the date and venue.

Rehabilitation – a dynamic process including aftercare and follow-up treatment directed towards the physical, emotional/psychological, vocational, social and spiritual change of a drug dependent to enable him/her to live without dangerous drugs, enjoy the fullest life compatible to his/her capabilities and potentials, and become a law abiding and productive member of the community[3]

Screening Test[4] - a rapid test performed to establish potential/presumptive positive result.

IV. PRE-EMPLOYMENT DRUG TESTING

Drug testing shall remain a requirement for initial entry to government service for appointive public officials and employees. Any applicant found positive for drug use shall be denied entry to government service.

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[3] As defined under DDB Regulation No. 2, s. 2004.
[4] *Ibid.*

V. INITIAL AND SUBSEQUENT DRUG TESTING OF PUBLIC OFFICIALS AND EMPLOYEES

Within six (6) months from the effectivity of these guidelines, all constitutional bodies, departments, bureaus and agencies of the national government, local government units, government-owned or controlled corporations, and state and local universities and colleges shall conduct a mandatory, random and suspicionless drug testing of their incumbent public officials and employees as a condition for retention in government service.

The frequency of subsequent random drug tests shall be prescribed by the concerned agencies taking into consideration, among others, the number of public officials and employees, nature of work being discharged, funding, and other logistics. Subsequent random testing shall be periodically conducted in an interval not to exceed two (2) years.

The agencies shall conduct the drug tests in accordance with the procedures set forth by the Dangerous Drugs Board, which shall be disseminated to their personnel, to include but not limited to the following:

a. The drug test shall only be conducted by a government drug testing laboratory or by a drug testing laboratory duly authorized and accredited by the DOH.

b. The randomly selected public officials and employees will fill up and sign a chain of custody form issued to them.

c. The specimen bottles must be properly labelled and taking of specimen samples for screening test must be done in an area where manipulation (e.g. adding of water) is not possible.

d. Specimen samples found positive in the screening test shall be submitted for confirmatory testing within the same day.

A positive drug test result from the confirmatory test shall immediately be made known to the Head of the office/agency, or to the person designated by the Head of the office/agency, who shall then notify the concerned public official or employee. Said public official or employee shall have fifteen (15) days from receipt of notice to challenge the result of the confirmatory test. The challenge test shall be conducted, using the same specimen, by a government drug testing laboratory or by a drug testing laboratory duly authorized and accredited by the DOH. Failure to file a challenge within the prescribed period shall make the positive drug test result from the confirmatory test final and the office/agency shall then take the appropriate action as provided in the succeeding section.

A positive drug test result from the challenge test is deemed final and the public official or employee shall be immediately subjected to the provisions in the succeeding section.

The drug test result shall be attached to the 201 file of the public official or employee. All drug test results and records must strictly be held confidential as provided for under the pertinent provisions of R.A. No. 9165.

VI. INTERVENTIONS

1. Public officials and employees who are found positive of dangerous drugs at the first instance after the challenge test, or after positive drug test result from a confirmatory test should the concerned public official or employee fail to challenge said result, shall undergo a Drug Dependency Examination conducted by the DOH or by any medical practitioner accredited by the DOH to conduct said examination and shall be subjected to following treatment and rehabilitation program:

    a. Experimenter – Outpatient, guidance counselling for six (6) months

    b. Occasional User – Outpatient, guidance counselling and regular monthly drug testing for six (6) months which shall be at the personal expense of public official or employee concerned.

    c. Chronic User/Drug Dependent – Mandatory continuous treatment and rehabilitation for a minimum period of six (6) months in a government rehabilitation center, a DOH-accredited private rehabilitation center, or through a community rehabilitation program sanctioned under the rules of the Dangerous Drugs Board.

2. A public official or employee found to be an Experimenter shall shoulder the expenses of his/her guidance counselling. The same rule shall also apply to a public official or employee found to be an Occasional User, who shall undergo the guidance counselling and regular monthly drug testing. Time spent for counselling and regular monthly drug testing, if done during office hour, shall be charged against public official or employee's leave credits. For this purpose, the public official or employee's leave credits shall be utilized and when exhausted, vacation leave credits may be utilized for the purpose. If all leave credits are used, absence shall be on leave without pay.

As proof of successful completion of the intervention program, a public official or employee assessed as an Experimenter or Occasional User shall secure a certification of completion issued by his/her attending guidance counsellor.

3. Any public official or employee found to be a Chronic User/Drug Dependent, based on the results of the Drug Dependency Examination, and who will undergo a mandatory rehabilitation program for a minimum period of six months shall be considered on sick leave for the entire period of his/her rehabilitation. When the concerned public official or employee's sick leave is exhausted, his/her vacation leave credits may be utilized for the purpose. If all leave credits are used, his/her absence shall be on leave without pay.

   The public official or employee shall undertake the processing of his admission to a rehabilitation center in accordance with the provisions of R.A. No. 9165 and existing rules of the Dangerous Drugs Board.

   The public official or employee concerned shall shoulder the expenses of his/her rehabilitation, which shall commence within fifteen (15) days from receipt of Drug Dependency Examination results, to give way to the processing of the necessary clearances.

   The public official or employee concerned shall secure a certificate of completion of his/her rehabilitation program and clearance from his/her attending physician that he/she has been successfully rehabilitated and is now fit to return to work. Said public official or employee shall not be allowed to report back to work without first submitting said certification and clearance to his/her agency.

VII. ADMINISTRATIVE LIABILITY

1. Public officials and employees found to have used dangerous drugs during the prescribed period of their intervention or rehabilitation shall be charged with the administrative offense of Grave Misconduct.

2. Public officials and employees who are not issued a certificate of completion (in the case of experimenter and occasional user) or a certificate of completion with clearance (in the case of a chronic user/drug dependent), shall be charged with the administrative offense of Grave Misconduct.

3. Any public official or employee who, after being tested positive of drug use, shall refuse to undergo treatment or rehabilitation, or fails to complete his/her treatment or rehabilitation program, shall be charged with the administrative offense of Grave Misconduct.

The charge of Grave Misconduct shall be grounded on the fact that said public official or employee was tested positive of drug use and not on his/her refusal to undergo or failure to complete his/her treatment.

4. Any public official or employee who refuses, without any valid reason, to submit himself/herself for drug testing, shall be charged with the administrative offense of Gross Insubordination.

5. Public officials and employees who for the second time have tested positive in a random drug test after completion of his/her treatment and/or rehabilitation program or shall be found to have used dangerous drugs during the prescribed period of intervention or rehabilitation, shall be charged with the administrative offense of Grave Misconduct[5].

6. Any public official or employee found to have tampered the result of a drug test or interfered in the conduct of the drug test or in the release of drug test results shall be charged with the administrative offense of Grave Misconduct.

7. Officials and employees caught using or peddling drugs shall be charged with the administrative offense of Grave Misconduct, without prejudice to the filing of appropriate criminal charge/s under R.A. No. 9165 and other pertinent laws.

VIII. RESPONSIBILITIES OF AGENCIES

1. All constitutional bodies, departments, bureaus and agencies of the national government, local government units, government-owned and/or controlled corporations, and state and local universities and colleges are required to submit a regular report to the DDB on the conduct of drug tests and number of officials and employees who tested positive for drug use.

2. The DOH shall conduct the necessary trainings for physicians in the government agencies on administering the Drug Dependency Examination.

3. Internal rules may be issued by government agencies pertaining to: restrictions in reporting to work while undergoing treatment or intervention, and enforcement of a no work no pay policy for public officials and employees who do not earn leave credits. *Provided,* that said rules should be without prejudice to the provisions on offenses and penalties provided in these guidelines.

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[5] Bughaw Jr. vs. Treasure Island Industrial Corp., GR No. 143151, March 28, 2008 / Jose, Jr. vs. Michealmar Phils., Inc., GR No. 169606, November 27, 2009.

IX. FUNDS

The concerned government offices/agencies shall bear the expenses for the conduct of the screening and confirmatory drug test of its employees, subject to existing budgeting, accounting and auditing rules and regulations. Funds for the conduct of the screening and confirmatory drug test may be sourced from the concerned government offices/agencies' budget for employee health and wellness. The agencies shall include the funds for the conduct of subsequent drug tests in their annual budget proposal for employee health and wellness.

However, drug test conducted as a result of a challenge to a positive drug test result from the confirmatory test shall be charged to the personal expense of the concerned public official or employee.

X. REPEALING CLAUSE

All memoranda, orders, instructions, and circulars inconsistent with these guidelines shall be deemed accordingly repealed.

XI. EFFECTIVITY

These guidelines shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.

ALICIA dela ROSA-BALA
Chairperson

19 APR 2017

NOTE: *CSC Resolution No. 1700653 dated March 15 2017 was published in The Philippine Star on April 3, 2017 and will take effect on April 18, 2017.*