



**To:** Indiana's Workforce System

**From:** Indiana Department of Workforce Development

**Date:** June 13, 2018

**Subject:** DWD Policy 2017-17  
Participant Drug Screening

---

## Purpose

The purpose of this policy is to provide guidance to local Workforce Development Boards (WDBs) and their WorkOne center operators regarding drug screening for training-level participants.

## Rescission

DWD Policy 181-P1

## References

Workforce Innovation and Opportunity Act, Section 181(f)

## Content

### *Background*

Section 181 (f) of Title I of the Workforce Innovation and Opportunity Act (WIOA) provides States the authority to screen and sanction WIOA participants for the use of controlled substances prior to enrollment in training-level services. The Indiana Department of Workforce Development (DWD) allows the local WDBs to determine which WIOA participants should be screened based on regional needs, within the parameters set forth in this policy.

### *Drug Screening Contract*

DWD has established a contract with an approved vendor to provide, review, and certify the results of the drug screens of those participants that the local WDB determines require a drug screen. DWD will be responsible for all costs of the drug screens covered by this policy, with no charges being passed on to participants or local WorkOne center operators.

### *Substances Screened*

The following controlled substances will be screened:

- Marijuana
- Cocaine
- Opiates

- Amphetamines/Methamphetamines
- Phencyclidine

### **Results**

There are five (5) possible drug screen results:

- Negative
- Negative and dilute
- Positive (drug will be listed in report)
- Refusal to test
- Cancelled (vendor error)

The drug screening vendor will notify the participant of his/her results via mail.

### **Referral**

Case managers shall make a case notation in Indiana Career Connect (ICC) that the participant has been referred for drug screening and the date the referral was made.

### **Results**

When case managers are made aware of the participant's drug screen results, either through the participant or vendor, he/she should make a case note containing the results and next steps. For example, "The participant has received a negative result and may proceed for enrollment in training" or "The participant has received a positive drug screen result and cannot proceed with the training plan. Participant was provided information about sanctions and substance abuse counseling resources and is eligible for reinstatement on MM/DD/YY date."

Any supporting documentation available should also be scanned into the participant's file in ICC (i.e. - the results certificate). The controlled substance listed on the results certificate citing the cause for the drug screen failure must be completely marked out before WorkOne staff places results certificate in the participant's file.

### ***Local Drug Screening Policy***

If a local WDB chooses to require drug screening for the allowable participants, the WDB must develop a drug screening policy that includes at a minimum:

- Workforce participants to be screened;
- Sanctions, that align with WIOA Sec. 181(f)
- Expeditious appeal rights statement (see below); and
- Privacy protections statement (see below).

### **Program Participants Covered by Drug Screening Policy**

A WDB may require training-level participants funded by any of the following programs to successfully pass a drug screen prior to enrollment in training:

- WIOA Title I Adult, Dislocated Worker, or Out of School Youth
- WIOA Title I Rapid Response Training
- National Emergency Grants (NEG)

### **Training-Level Services**

The term "training-level services" consists of participants who receive training through one of the following:

- Individual Training Accounts (ITAs);
- Contracts for Services;
- On-the-Job Training (OJT), defined in WIOA Section 3- Definitions (44); or
- Work-Based learning experiences.

The WDB has the flexibility to either drug screen all participants in the above programs prior to enrollment in training-level services, or may narrow further based on the type of training-level service or the occupation/industry the participant seeks to enter upon completion of training. Regardless of which option the WDB chooses, the local policy must provide justification for the option selected.

For example, A WDB may elect to only drug screen participants in the above programs entering training for manufacturing because this is an industry where job applicants are commonly drug screened as a condition of employment.

The WDB may also elect to not screen any participants in the above programs. In this case, the WDB does not need to have a local drug screen policy, but should ensure this decision is stated in the WDB's local plan.

### **Sanctions**

WDBs may determine sanctions that comply with WIOA Sec. 181(f). The following sanctions, pursuant to WIOA Sec, 181(f), may be imposed upon participants who test positive for controlled substances:

- Upon the first positive drug screen, the participant may be sanctioned from receiving any funded training level services for a period not to exceed three (3) months from the date of the positive drug screen.
- Upon the second positive drug screen, the participant may be sanctioned from receiving any funded training level services for a period not to exceed six (6) months from the date of the positive drug screen.

For example, participants who test positive for controlled substances could be sanctioned, or suspended, from receiving training-level services for a period of: 1) sixty (60) calendar days following the first positive drug screen; or 2) one hundred and twenty (120) days following the second positive drug screen.

WDBs may share local resources for treatment such as 211 or locations of local drug treatment facilities to individuals who test positive for controlled substances. If WDBs wish to do so, the resources should be identified in the local drug screen policy.

**NOTE:** The participant shall be reinstated following the period of sanctioning if he/she passes another drug screen at that time and otherwise qualifies for training-level services.

### **Expeditious Appeal Rights**

All participants have the right to appeal the results of a drug screen.

#### **Appeal Letter**

Any participant that wishes to appeal the results of a drug screen must do so in writing within thirty (30) calendar days from the date on the drug screen results certificate, by submitting a signed and dated appeal letter to the DWD Drug Screening Department via mail or fax:

The Department of Workforce Development  
Attn: UI Appeals Division  
100 N. Senate Avenue, Suite N800  
Indianapolis, IN 46204-2277

OR

(317) 233-6888

Participants should include the following documents and information within the appeal letter:

- Date and Location of Drug Screen
- Copy of Drug Screen Results Certificate
- Reason for appeal
- Any other supporting documentation

### **Appeal Procedure**

Upon receipt of the appeal letter, an Administrative Law Judge will hold an administrative hearing. The hearing will include an opportunity for the petitioner and the respondent to submit written and oral information to the presiding ALJ. Following the hearing, the ALJ will issue a decision no later than sixty (60) calendar days of receipt of the appeal letter.

### **Privacy Protections**

The drug screening results are confidential, except as set forth in the Local Disclosure Form (Attachment A). The drug screening vendor will send the results directly to the participant. Participants taking legally-prescribed medications should be prepared to discuss any medications with the vendor. The vendor will contact participants who test positive to determine if the result may have been caused by a legally-prescribed medication. Any discussions between the vendor and the participant will remain confidential, except as set forth in the Local Disclosure Form (Attachment A). Participants should not discuss medications with WorkOne staff.

### ***Local Disclosure Form***

Local WDBs shall modify the highlighted areas of the Local Disclosure Form (Attachment A) to be consistent with local policy. Each participant who undergoes drug screening should be made aware of the contents of the local disclosure form, including the appeal rights and procedures, and must sign and be provided a copy of the form before being administered a drug screen. The disclosure form shall be scanned into ICC and stored in the participant's file.

### **Effective Date**

July 1, 2018

### **Ending Date**

Upon rescission.

### **Contact for Questions**

[policy@dwd.in.gov](mailto:policy@dwd.in.gov)

### **Action**

Local WDBs who choose to drug screen applicable participants shall adhere to the guidelines set forth in this policy. Each WDB should send [policy@dwd.in.gov](mailto:policy@dwd.in.gov) a copy of its local drug screen policy, if applicable.

## **Attachments**

**A** – Local Disclosure Form



## **ATTACHMENT A**

### **Local Disclosure Form - WorkOne Drug Testing**

I, the undersigned, understand that I must be drug-free to receive training-level services to support my third party training program. To that end, I understand that I am required to submit to a five-panel drug screen at a testing site specified by the WorkOne Office.

I also understand that I must present a government issued photo ID at the time of testing.

I also understand I will not receive any training until I return to the WorkOne office with the results of the drug screen in the form of a certificate sent to me by the Indiana Department of Workforce Development (DWD)'s drug screening vendor.

I hereby authorize DWD and WorkOne staff to utilize my testing results to determine programmatic eligibility. I understand that this authorization constitutes a waiver of my right to confidentiality for my testing result information to be released as described above.

#### **Sanctions for Testing Positive for Controlled Substances**

I understand that if I test positive for any controlled substances, I will be sanctioned from receiving training-level services funded training through the WorkOne system for the following periods:

- Upon the first positive drug screen, I understand I will be sanctioned from receiving any funded training-level services for a period of [Insert Local Sanction] from the date of the positive drug screen.
- Upon the second positive drug screen, I understand I will be sanctioned from receiving any funded training-level services for a period of [Insert Local Sanction] from the date of the positive drug screen.
- I understand I am eligible for reinstatement to training-level services following the period of sanctioning, and may complete another drug screen at that time.

#### **Appeal Rights**

All participants have the right to appeal the results of a drug screen.

#### **Appeal Letter**

Any participant that wishes to appeal the results of a drug screen must do so in writing within thirty (30) calendar days from the date on the drug screen results certificate, by submitting a signed and dated appeal letter to the DWD Drug Screening Department via mail or fax:

The Department of Workforce Development  
Attn: UI Appeals Division  
100 N. Senate Avenue, Suite N800  
Indianapolis, IN 46204-2277

OR  
(317) 233-6888

Participants should include the following documents and information within the appeal letter:

- Date and Location of Drug Screen
- Copy of Drug Screen Results Certificate
- Reason for appeal

- Any other supporting documentation

**Appeal Procedure**

Upon receipt of the appeal letter, an Administrative Law Judge will hold an administrative hearing. The hearing will include an opportunity for the petitioner and the respondent to submit written and oral information to the presiding ALJ. Following the hearing, the ALJ will issue a decision no later than sixty (60) calendar days of receipt of the appeal letter.

Participant Printed Name

Participant Signature

Date

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Witness Printed Name (WorkOne Staff)

Witness Signature (WorkOne Staff)

Date

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

