

Kansas Administrative Regulations

Department of Administration

Article 6.—Recruiting and Staffing

1-6-32. Candidate drug screening test for safety-sensitive positions.

(a) A drug test shall be administered to each candidate for a safety-sensitive position upon a conditional offer of employment for such a position.

(1) "Safety-sensitive position" shall be defined as provided in K.S.A. 75-4362(g), and amendments thereto.

(2) "Conditional offer of employment," for purposes of this regulation, means an offer that is contingent upon participating in the drug screening program established under K.S.A. 75-4362, and amendments thereto.

(b) If a candidate fails to participate in the required drug screening test or receives a confirmed positive result based upon a test sample obtained from the candidate, the following requirements shall apply:

(1) The conditional offer of employment shall be null and void.

(2) The candidate shall be disqualified from certification for safety-sensitive positions in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 for a period of one year from the effective date of the disqualification action.

(c) Each candidate who has been given a conditional offer of employment shall be informed of the provisions of subsection (b) in writing and shall sign a statement agreeing to participate in the test before the test is administered. Failure to accept this condition shall make the conditional offer of employment null and void.

(d) Each candidate required to submit to a drug screen shall be advised of all of the following aspects of the drug screening program:

(1) The methods of drug screening that may be used;

(2) the substances that may be identified;

(3) the consequences of a refusal to submit to a drug screening test or of a confirmed positive result; and

(4) the reasonable efforts to maintain the confidentiality of results and any medical information that are to be provided in accordance with subsection (j).

(e) Drug screening tests may screen for any substances listed in the Kansas controlled substances act.

(f) Any candidate who has reason to believe that technical standards were not followed in deriving a confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

(g) A retest by the original or a different laboratory on the same or a new specimen may be authorized only by the director, if the director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or if there is other appropriate cause to warrant a retest.

(h) If a candidate intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies test results, the conditional offer of employment shall be withdrawn. Any of these actions by a candidate shall be grounds for disqualification for all positions in state service in accordance with K.S.A. 75-2940, and amendments thereto.

(i) If the result of a drug screening test warrants disqualification action, a candidate shall be afforded due process in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 before any final action is taken.

(j)(1) Individual test results and medical information shall be considered confidential and shall not be disclosed publicly in accordance with K.S.A. 75-4362, and amendments thereto. Each candidate shall be granted access to the candidate's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each appointing authority shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the agency's personnel officer or a designee, persons in the supervisory chain of command, the agency's legal counsel, the agency's appointing authority, the

secretary of administration or a designee, the department of administration's legal counsel, and the director or a designee. Further access to these records shall not be authorized without the express consent of the director.

(k) This regulation shall be effective on and after June 5, 2005.

(Authorized by K.S.A. 2004 Supp. 75-3747 and 75-4362; implementing K.S.A. 75-2940 and K.S.A. 2004 Supp. 75-4362; effective, T-1-10-28-88, Oct. 28, 1988; effective Dec. 19, 1988; amended Feb. 19, 1990; amended April 13, 1992; amended Dec. 17, 1995; amended October 1, 1999; amended June 5, 2005.)

***** Authenticated Kansas Administrative Regulation *****