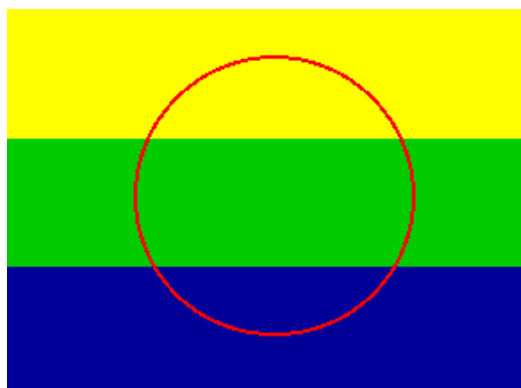


Peguis First Nation



Employee Drug Testing Policy

Revision 1 – August 4, 2009

Definition of a Drug

A drug can be a psychoactive substance which has the potential to change or adversely affect the way a person thinks, feels, or acts. For the purposes of this policy, the drugs of concern are illegal/illicit drugs that inhibit an employee's ability to perform their job safely and productively.

The primary drug groups and their characteristics are as follows:

1. Depressants

These drugs slow down the central nervous system and affect a person's ability to think clearly and make decisions.

Depressants include barbituates, sedatives and tranquilizers.

Examples are Valium, Seconal, and Thomasine.

2. Stimulants

These drugs stimulate the central nervous system and increase a person's activity and level of alertness.

These include 'cocaine' and 'amphetamines'. Some other examples are 'Crack' and 'Speed'.

3. Hallucinogens

These drugs cause a person to hallucinate which alters their mood, behavior and perception of reality.

Some examples of these drugs are Acid, LSD and Ecstasy.

4. Cannabis

This is another type of hallucinogen that includes drugs such as Marijuana, and Hashish.

5. Narcotics

These drugs are used to relieve pain and induce sleep. Some examples of these drugs are Heroin, Morphine, Demerol and Codeine.

WHAT IS AN ILLEGAL DRUG

An illegal drug is a drug that is prohibited or controlled under the *Controlled Drugs and Substances Act*, S.C. 1996, C.19.

The misuse of illegal drugs can affect an Employee's job performance and may cause the Employee to be less productive, less reliable, and more prone to accidents and have a higher rate of absenteeism. This can result in increased risks and costs to Peguis First Nation. Misuse of illegal drugs may also have a devastating impact on lives, businesses and on the community in general.

Peguis First Nation Illegal Drug Policy

The Use of Illegal Drugs has had and continues to have a devastating impact on the lives of the people on Peguis First Nation. The support from outside resources has been non-existent and disappointing. The Chief and Council are directed by membership to begin dealing with the illegal drug use problem.

Peguis First Nation has the right to control undesirable activity happening on its lands. As a first step, the Chief and Council will no longer employ or do business with any persons who use, sell or manufacture illegal drugs.

Peguis First Nation is committed to the safety and productivity of all Band entities and organizations and Employees. The Band Council recognizes that illegal drug use can limit the ability of our Employees to properly perform their jobs. The Band Council recognizes that illegal drug use can have a serious and negative impact on the health and safety of our Employees and members of the community.

Peguis First Nation will not tolerate Employees being unfit for any assigned duties due to the use or after-effects caused by the use of illegal drugs. The implementation of this Policy works to minimize the risks caused by impairment due to the use of illegal drugs and to ensure a safe, healthy and productive workplace

EXCEPTIONS

An employee will not be in violation of this Policy where illegal drugs are possessed, used or intended to be used solely for medical purposes upon prescription by a medical doctor in accordance with the *Controlled Drugs and Substances Act*, S.C. 1996, C.19 and the *Marijuana Medical Access Regulations*, S.O.R. 2001/227.

Employees who are permitted to possess and use illegal drugs under the guidance of a medical doctor must report such use to their supervisor if such use could have a negative impact on the performance of their employment duties or the safety of themselves or others.

PREVENTION

Employees are encouraged to seek assistance should they suspect they might have a substance abuse problem before it becomes a concern in the workplace and/or before the individual contravenes the terms of this policy or of By-Law No. 01 - 08.

Peguis First Nation or responsible Band Entity will attempt to accommodate and modify duties where reasonably possible if employees choose to access such assistance.

All employees who suspect that they might have a problem are encouraged to seek help utilizing the Drug Prevention Coordinator and/or NADAP to assist employees. In addition other appropriate resources may be utilized.

WHO DOES THIS POLICY APPLY TO

This policy applies to all current employees, including full-time, part-time, temporary and casual employees who are employed by Peguis First Nation and related Band entities whether or not they are carrying out their employment duties on or off of the Reserve. It also applies to any person doing business with Peguis First Nation and to all appointed or elected Board Members of Band entities (collectively referred herein as “Employee”).

WHAT ARE SAFETY SENSITIVE POSITIONS AND WHO DO THEY APPLY TO

Safety sensitive positions have greater risks involved in their performance. Employees who work in safety sensitive positions are required to perform work where impaired performance could result in a significant safety risk to themselves, co-workers, Reserve land, property, the community or the public in general and the environment. Due to the significant risk associated with these positions Employees will be expected to meet additional requirements with respect to illegal drugs under this Policy:

Certain occupational groups have been identified as safety sensitive, they include:

- School bus drivers;
- Medical service drivers;
- Health Care workers;
- Daycare workers;
- Head Start Program Workers
- Teachers and Educational Assistants
- Child and Family Services workers;
- Heavy Equipment Operators/Truck & Transportation Mechanics;

Employees in safety sensitive positions will be subject to more frequent drug testing and positive drug tests will result in such disciplinary action as determined appropriate by the Director, immediate Supervisor, Human Resources and the Drug Prevention Coordinator in consultation with Chief & Council.

Please note that Safety Sensitive employees who are in direct control over other people’s safety/life will be subjected to more frequent testing. Examples are Bus Drivers, Medical Drivers, etc.

WHAT ARE THE RESPONSIBILITIES OF THE EMPLOYEES

All employees of Peguis First Nation and Band related entities must do the following:

1. Report fit for any and all duty. For the purposes of this Policy, fit means being able to safely and acceptably perform all duties without limitations due to the use or after-effects caused by the use of illegal drugs.
2. Seek advice and follow appropriate treatment if the employee suspects he/she has or is beginning to have a problem with illegal drug use.

All employees of the Peguis First Nation and of Band related entities, including those who are not employed in safety sensitive positions, are further required to do the following:

1. Be subjected to a drug test in certain situations at the discretion of Director/Supervisor, Human Resource and/or responsible Band Entity in consultation with the Drug Prevention Coordinator, in consultation with Chief and Council if required;
2. Report the use of any medications that could have a negative effect on performance or safety to his/her supervisor; and
3. Report to their supervisor immediately any criminal charge and/or conviction involving or related to illegal drugs.

If any employee tests positive for an illegal drug they are required to follow any recommended monitoring or aftercare program after receiving primary treatment for an illegal drug use related problem. The employee may be required to participate in a modified work program if recommended by Drug Prevention Coordinator in consultation with the employees immediate Director and/or Supervisor. Ultimately, if an Employee who has tested positive refuses help or continues to use illegal drugs, disciplinary action including termination from employment will occur.

WHAT DOES PEGUIS FIRST NATION PROHIBIT

The Peguis First Nation prohibits an employee being unfit for any and all assigned duties due to the use or after effects caused by the use of illegal drugs. For the purposes of this policy, anyone in a safety sensitive position is prohibited from reporting for duty or remaining on duty if they have been using illegal drugs within 24 hours of performing a safety sensitive position.

ILLEGAL DRUGS

Peguis First Nation prohibits employees from engaging in the following while carrying out their employment duties:

1. The use, possession, distribution, offering or sale of illegal drugs or illegal drug paraphernalia;
2. The distribution, offering or sale of prescription medication; and
3. The presence in the body of illegal drugs

MEDICATIONS

Peguis First Nation prohibits the intentional misuse of medications, whether prescribed or over the counter. The onus is on the employee to determine if a medication will negatively affect their performance and to discuss this with their supervisor. Employees in safety sensitive positions are required to report any medications that may negatively affect their performance to their supervisor. If the Band Council or responsible Band Entity determines there is a possibility the employee's performance may raise safety concerns, the Band Council or responsible Band Entity in consultation with the Drug Prevention Coordinator may temporarily reassign the individual or modify work where reasonably possible

WHEN WILL DRUG TESTS BE REQUIRED

The following situations may require an employee to undergo a drug test.

1. Post Accident: A drug test must be conducted as soon as possible after an accident, and/or incident involving loss of human life, and/or an injury that requires immediate medical treatment, and/or where there is disabling damage to a vehicle and a citation is received for a moving traffic violation.
2. Reasonable Suspicion: A drug test may be required if a Director, Program Manager or Supervisor has reasonable cause to suspect that an employee is under the influence of an illegal drug.
3. Return-to-duty and Follow-up: A drug test will be required upon the employee's return to work after a positive test result for illegal drugs and receiving treatment, and as part of the follow-up or monitoring program recommended. A drug test will also be required upon return to work after a leave of absence.
4. Any other time as determined by the employer in consultation with the Drug Prevention Coordinator.

HOW WILL DRUG TESTS BE CONDUCTED

Testing for illegal drugs will be conducted by using either a Urine Drug Screen and/or Hair Drug Screen and/or Oral Fluid Collection which will detect five (5) different substances:

1. Opiates;
2. Phencyclidine-PCP;
3. Cocaine;
4. Cannabinoids; and
5. Amphetamines and Ecstasy.

The test to be utilized will be at the discretion of the Drug Prevention Coordinator and/or Chief and Council or responsible Band Entity.

The collection of specimens will follow a strict medical – legal process to ensure that the results are those of the appropriate donor and the test results will follow strict confidential protocols.

Hair Collection Procedures:

- 1) Prepare for the test by gathering a pen, scissors and a hair clip if desired
- 2) Ask the donor for a picture I.D., then fill out the top of the custody and control form with the donor and client information. Mark the Picture ID verified box.
- 3) Mark the Test to be performed and the Reason for the test.
- 4) Open a collection envelope and write the donor's Employee ID (i.e. SSN) and collection site on the envelope. Remove the foil, seal and alcohol pad. Fold the foil into a trough shape.
- 5) Prepare the scissors and clip by cleaning them with the alcohol pad included in the collection envelope. Have the donor observe this cleaning.
- 6) Lift the hair on the back of the head and hold in place with a hair clip (if desired).
- 7) Collect the hair samples from 2 or 3 sites on the back of the head below the crown until a minimum of 100 mg of hair is collected or approximately 120 strands of hair.
- 8) If the hair is in a pony tail, weave or corn row, ask the donor to undo one row. If this cannot be done, collect the sample above or below the rows or at the nape of the neck.
- 9) Body hair may be used if sufficient head hair is not available. Body hair samples are collected from the axilla (arm pits) or chest until a minimum of 100mg (approximately 120 strands) of hair is collected.
- 10) Clearly mark the sample source on the collection envelope to indicate whether head or body hair was collected.
- 11) The scalp ends must be aligned evenly. If body hair or short curly hair is used, alignment is not necessary. The hair is placed on the foil with the scalp ends placed at the tapered end of the foil.
- 12) Fold around the hair sample snugly so that it will stay in place during shipment. Wrap any length of hair beyond the hair sample beyond the foil around the outside of the foil.
- 13) Place the foil in the collection envelope; make sure that no hair strands extend out of the envelope.
- 14) Seal the envelope with the tamper evident seal and place an ID number from the chain of custody on the hair envelope to tie the two together. If the hair sample donor identity cannot be matched with the custody and control form, the sample may be rejected.
- 15) The donor initials the envelope, then the collector signs and dates the envelope and initials and dates the seal.
- 16) The collector completes the chain of custody form

- 17) Place the sealed envelope and custody and control form in the plastic shipping bag and seal the bag. Store in a secure place until it is ready to be shipped to the laboratory.

Urine Collection Procedures:

- 1) Secure restroom. This means doing the following before hand:
 - A. Secure water sources – Shut off or tape faucets and toilet tank for non-witnessed collections.
 - B. Use a bluing agent in the toilet bowl and tank
 - C. Provide an area to wash hands externally from the collection area (Hand towelettes are suitable)
 - D. Secure or remove items that could facilitate adulteration such as garbage cans, cleaning agents, and hand soap
 - E. Control access to testing supplies
- 2) Ensure that the donor is identified with a unique number that corresponds to a photo to avoid any confusion between similarly named donors
- 3) Ask the donor for a picture I.D., then fill out the top of the custody and control form with the donor and client information. Mark the Picture ID verified box.
- 4) Mark the Test to be performed and the Reason for the test as well as collection site.
- 5) Once all relevant information is filled out on the chain of custody and control form instruct donor to select a collection kit.
- 6) Collector opens kit and advises donor of the amount of urine required (30 ml)
- 7) Donor takes cup to collection room and provides specimen.
- 8) Upon receipt of specimen collector checks volume, temperature, and for evidence of tampering. The temperature will register on the temp strip on the side of the collection container. The containers are graduated to indicate volume levels.
- 9) Indicate temperature information on the chain of custody and control form, and document any remarks on the chain of custody form.
- 10) Collector pours urine into transportation vial and affixes a Specimen Vial Seal over the cap of the transport vial. Discard remaining urine. The Specimen Vial Seal will tie the specimen and chain of custody and control form together. If the urine sample cannot be matched with the custody and control form, the sample may be rejected.
- 11) The donor initials the seal, then the collector signs and dates the seal and initials and dates the seal.
- 12) The collector completes the chain of custody form
- 13) Place the sealed vial and custody and control form in the plastic shipping bag and seal the bag. Store in a secure place until it is ready to be shipped to the laboratory.

Oral Fluid Collection Procedures

- 1) The collector may only proceed with the collection after first verifying the donor's ID. Valid ID is a photo id. i.e. driver's license or employee identification card.

- 2) Complete Chain of Custody (COC) form, mark drug test(s) to be performed and reason for test on Chain of Custody form.
- 3) The collection site name, address, phone and fax numbers are written. The collector also prints and signs his/her name and dates this section.
- 4) The collector now performs the collection of specimen

Sample Collection

- prepare for collection (collector always wears gloves during the collection)
- the entire collection must be done under direct observation
- explain the test procedure
- confirm that the donor has not had anything in his/her mouth for 10 minutes prior to collection otherwise wait 10 minutes prior to beginning Note: do not permit the donor to put anything in their mouth during the 10 minute wait period
- check the expiration date on the collection device
- open the outer packaging containing the collection pad and the specimen vial
- place the specimen vial on a clean, flat surface in view of the donor
- ask the **donor** to grasp the handle and remove the collection device
- the donor places the collection pad between the lower cheek and gums. The blue flag on the handle must be pointing upwards during insertion and remain in that position during the time the device is in the donor's mouth. This helps the collector and donor to ensure that the device is not chewed, manipulated or swirled around in the mouth during oral fluid collection.
- the donor gently rubs the pad back and forth along the gum line until the pad is moist (usually a 10 – 20 second process)
- ONCE MOIST THE COLLECTION PAD MUST BE LEFT BETWEEN THE CHEEK AND GUMS FOR A FULL FIVE (5) MINUTES (unless the employer policy dictates otherwise).
- Within this five minute interval the collector may complete further paperwork but always have the donor in observation. Towards the end of the five minutes, the collector should open the specimen vial in preparation for device insertion. The cap is not a twist-off; it is akin to a cork in a bottle. Hold the vial in an upright position and gently work the cap off of the vial by rocking the cap back and forth in your grasp to avoid spilling the contents.
- After the five minute time period, instruct the **donor** to hand the collection device to the **collector**
- Reminder: Everything is done within full view of the donor.
- The collector inserts the collection device pad-first into the vial, and snaps the collection wand against the side of the vial
- Now with the swab inside the vial the collector then places the cap onto the vial until sealed completely.



The handle is notched so that snapping the handle should be easy.

THE FOLLOWING COLLECTION ACTIONS OCCUR IN CONJUNCTION WITH COC COMPLETION

- After the donor initials and dates the tamper evident seal from the COC (this is **STEP 3** below), the collector places the seal across the top of the vial (as marked on the seal) and down the sides.
- Please note: use only the seal on the COC. Do not complete the signature label on the



vial.

- The vial can now be placed inside the small plastic tube provided by Maxxam as a secondary shipping container (for damage prevention during shipping). Do not label or sign the container.
- The collector places the shipping container along with the completed and signed chain of custody (refer to **STEP 4**) into the specimen bag and sends the sample to the lab for analysis

The collection of specimens will be performed by an individual(s) who has received the appropriate training on the collection process and protocols. The specimens will then be forwarded to a laboratory for analysis where the results will be reviewed by a Medical Review Officer (MRO) (licensed physician) who is knowledgeable about substance disorders and has the appropriate medical training to interpret and evaluate the individual's test results. Upon review of the results the MRO will release the results to the Drug Prevention Coordinator, or designate, with an explanation of the test results. The Drug Prevention Coordinator would then contact Peguis First Nation Band Council to report a positive test result and initiate corrective measures.

In the event of a positive test result, the MRO will attempt to contact the individual to discuss the test results and to identify what factors may have contributed to a positive test result. The MRO will attempt to contact the individual three (3) times and if unable to establish contact the results will then be forwarded to the Drug Prevention Coordinator.

WHAT HAPPENS IF AN EMPLOYEE TEST POSITIVE

In the event of a confirmed positive drug test, the employee will be required to meet with the Drug Prevention Coordinator, or designate, within one week of being informed of their positive test results.

Failure of any employees to meet with the Drug Prevention Coordinator within the ONE week period will result in disciplinary action. The following steps will be taken when an employee fails to meet with the Drug Prevention Coordinator within the specified time period following a confirmed positive drug test to initiate corrective measures.

1. Immediate two week suspension without pay. The suspension letter will be issued by program Director/Supervisor.
2. Failure to arrange a meeting with the Drug Prevention Coordinator during the two week suspension period will result in termination of employment. The letter of termination will be issued by the program Director/Supervisor.

All Peguis First Nation employees, and related entities, in receipt of a confirmed positive drug test will be required to attend and satisfactorily complete a residential treatment program. If the treatment program is out of the Province, the employee may receive out of province travel if determined necessary by the Drug Prevention Coordinator, in consultation with Chief & Council.

If the employee refuses to attend a residential treatment program or does not complete the residential treatment program, he/she will be terminated from employment.

The following steps will be taken to assist and to accommodate the employee:

1. The Drug Prevention Coordinator will:
 - a) Notify the employee's Director (Chief and Council & Board of Directors if appropriate) and the employee of the confirmed positive drug test; (If employee has not been notified by MRO)
 - b) Conduct an initial meeting with the employee within a one week period of receiving a confirmed positive test result;
 - c) In consultation with Employee, NADAP and/or other appropriate resources a referral will be made to a residential treatment program;
2. The Drug Prevention Coordinator, Director/Supervisor (Chief and Council and/or Board of Directors if appropriate) and employee will meet to discuss the positive drug test results;

3. The Drug Prevention Coordinator will conduct on-going monitoring to ensure and verify that employee is following his/her treatment plan. The employee will be subject to follow up drug testing. A monitoring program will be mandatory for all test positive employees. Such employees are required to meet with the Drug Prevention Coordinator and/or Addictions Counselor (NADAP) at intervals of 1, 3, 6, 9, 12, 15, 18 and 24 months for ongoing assessment or as otherwise determined by the Drug Prevention Coordinator in consultation with program Supervisor/director.

The monitoring program will include certain minimum requirements. These may include, but are not limited to, unannounced follow up drug testing, attendance at an alcohol/drug dependency program such as Narcotics Anonymous and/or other additional requirements as may be identified in writing at the time the employee returns to work.

Note: Safety Sensitive employees who are in direct control over other people's safety/life will be immediately suspended until such time as a 'NEGATIVE' drug test is submitted. Examples are Bus Drivers, Medical Drivers, etc.

Second Positive Drug Test

If an employee re-tests positive for drug use on a follow up drug test the employee will be required to attend and satisfactorily complete a residential treatment program. If the treatment program is out of the Province, the employee may receive out of province travel if determined necessary by the Drug Prevention Coordinator, in consultation with Chief & Council. If the employee refuses or does not complete the residential treatment program, he/she may be terminated from employment. The letter of termination will be issued by the program Director/Supervisor.

Third Positive Drug Test

All employees will be given the required support and assistance, however, there will be limitations as to the number of times an employee can test positive. Termination from employment will also result if an employee tests positive a third time.

WHAT HAPPENS IF AN EMPLOYEE REFUSES TO TAKE A DRUG TEST

Refusal to take a drug test or to sign a consent to release information form will be treated as a positive test result. Such Employees will receive an immediate two week suspension without pay.

During the two week suspension, the Employee is required to contact the Drug Prevention Coordinator to take a drug test. Failure to meet or arrange to take a drug test with the Drug Prevention Coordinator during the two week suspension period will result in termination from employment.

The Drug Prevention Coordinator shall have the discretion to use the hair sample drug test when an employee initially refuses to take a drug test.

EMPLOYEES WHO FAIL TO SHOW UP FOR THEIR SCHEDULED DRUG TEST:

Employees who do not attend to their initial scheduled drug test with the Drug Prevention Coordinator must reschedule their appointment within 24 hours with the Drug Prevention Coordinator. Such employees will be given the hair sample drug test.

Failure to schedule or attend to the second scheduled drug test will be treated as a positive drug test and such employees will be subject to the appropriate steps/action depending on the specific employee circumstances.

If the Drug Prevention Coordinator in his or her discretion, or if this policy, directs that a hair sample drug test be used, refusal by the employee of the hair sample test on the basis of “traditional grounds/beliefs” is not acceptable and appropriate steps/action will be taken depending on the specific employee circumstances.

WHAT ARE THE CONSEQUENCES FOR BREACHING THE POLICY

If an Employee violates the provisions of this Policy, or fails to meet the satisfactory standards or work performance as a result of illegal drug use, reasonable efforts will be made to accommodate the employee.

However, notwithstanding any provision/step set out in this Policy, the Band Council or responsible Band entity may (in consultation with the Drug Prevention Coordinator) use discretion in determining the appropriate corrective action (including termination from employment) depending on the nature of the circumstances and the seriousness of the violation.

The consequence of tampering with a test may include but is not limited to termination from employment.

Please be advised that the Peguis First Nation Employee Drug Testing Policy will be reviewed and any amendments will be made periodically.

QUESTIONS OR CONCERNS

To assist employees to better understand the obligations and requirements placed upon them with respect to this policy or to answer any questions regarding the policy or the drug testing program employed by the Peguis First Nation, employees are encouraged to contact:

**Drug Prevention Coordinator
PEGUIS FIRST NATION
BOX 10
Peguis, Manitoba
R0C 3J0
Telephone: (204) 645-2359**