GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Corrections

Office of the Director

January 9, 2019

The Honorable David Grosso
Councilmember, At-Large
Council of the District of Columbia
1350 Pennsylvania Ave. NW. Suite 402
Washington, DC 20004

Dear Councilmember Grosso:

Thank you for your letter dated November 29, 2018 regarding the D.C. Department of Corrections' (DOC) policy and practices for drug and alcohol testing of employees.

DOC is charged with maintaining the safety, security, and order of all its facilities and the inmates, staff, and visitors within those facilities. Therefore, it is the policy of DOC to provide a drug- and alcohol-free workplace. This means that DOC employees are prohibited from using or being under the influence of alcohol or marijuana while on duty and possessing or using any drug that is unlawful to use or possess without a prescription.

In order to enforce this policy, DOC applies a mandatory drug and alcohol testing program to all applicants for employment (DOC PP 3040.6H, *Personnel Security and Suitability Investigations*), random testing for employees who are High Potential Risk (HPR) employees, testing of post-accident employees, and reasonable suspicion testing for employees where circumstances exist that suggest reasonable suspicion of alcohol or drug use (SOP 6050.4B-17, *Mandatory Employee Drug and Alcohol Testing Program (MEDAT)*). A positive urinalysis for marijuana is considered a positive test resulting in corrective or adverse action.

Testing of DOC employees for drug and alcohol use is required by law under D.C. Official Code §§ 24-211.21-24 of applicants, reasonable suspicion referrals, post-accident employees, and "HPR" employees. An HPR employee (High Potential Risk) is any Department employee who has inmate care and custody responsibilities or who works within a correctional institution, including any employee and manager who is carried in a law enforcement retirement status. Enhanced suitability is also required because DOC staff engage in safety sensitive duties as described in the District Personnel Manual (DPM) § 410.2, including engaging in duties directly related to public safety, including, but not limited to, responding or coordinating responses to emergency events or carrying a firearm.

Furthermore, under DPM § 412.2, enhanced suitability is required, including reasonable suspicion and post-accident or incident drug and alcohol testing for security sensitive duties and responsibilities, which includes but is not limited to individuals who have routine access to the personal identifying information of others; have routine access to master building keys or controls; have the ability to create, delete, or alter any form of credentials; have involvement in or access to homeland security and emergency management plans, after action reports, analytical products, hazard analyses, and/or risk assessments that relate to preparedness, response, mitigation, protection of critical infrastructure and key assets, or the protection of data related to persons and/or property before, during, and after an act of terrorism, manmade or natural disaster, or emergency event; have access to networks, files, or drives that include classified, law enforcement sensitive; are in the Executive Service; and are in the Excepted Service. Moreover, enhanced suitability is required pursuant to DPM § 412.3 for positions located in secure facilities that are deemed security sensitive. Mandatory drug testing of DOC employees is authorized for each of these categories.

DOC follows DPM § 4-34, as it instructs that Initiative 71 has no impact on the District government's current enforcement and application of employment related drug testing requirements. This is because the provisions contained in D.C. Law 20-153 expressly permit employers, including DOC, to continue to enforce and establish policies that restrict marijuana use amongst employees. Specifically, the plain language of the legislation permits District government agencies to maintain and develop policies that prohibit any marijuana use by employees. The legislation also, among other things, expressly permits District government agencies to bar the possession, consumption, use, or transportation of marijuana on District government property. Accordingly, Initiative 71 has no legal impact on the Department's drug and alcohol testing programs.

If you are in need of further information regarding DC DOC's drug testing policy, please do not hesitate to contact me.

Sincerely yours,

Quincy L. Booth
Director