

## MEMORANDUM OF AGREEMENT (MOA)

ON

Air Force Instruction (AFI) 90-508, "Air Force Civilian Drug Demand Reduction Program"

Dated 28 August 2014

*(Supersedes the MOA dated 27 June 2011 on AFI 44-107,  
"Air Force Drug Demand Reduction Program," dated 7 April 2010.)*

1. The American Federation of Government Employees (AFGE) Council 214 and the Air Force Materiel Command (AFMC), hereafter referred to as the Union and Management, hereby enter into this Memorandum of Agreement regarding subject instruction as it applies to bargaining unit employees covered by the Master Labor Agreement (MLA) between the parties.
2. AFI 90-508 outlines procedures and policies the Air Force has adopted for deterring the use of illicit drugs by members of the workforce through a drug testing program. The method of drug testing is urinalysis. The types of testing include: tentative selectee testing, random testing for employees in positions identified as Testing Designated Positions (TDP), reasonable suspicion testing to include testing based upon circumstances of an accident or safety mishap, rehabilitation follow-up testing, consent testing and voluntary tests. All specimens will be tested for evidence of consumption of drugs approved for testing, by the Department of Health and Human Services (HHS). When conducting reasonable suspicion, post-accident, or unsafe practice testing, Management may have urine specimen tested for any drug listed in Schedule I or II of the Controlled Substance Act. The new AFI realigns the previous AFI 44-107 from the 44 (Medical) series to the 90 (Special Management) series. It reassigns program management from the medical community to the Air Base Wing (ABW) Commander resulting in the realignment of Drug Demand Reduction Program personnel to the ABWs. It also refines the guidance for identifying security based TDPs. This MOA implements AFI 90-508, subject to the provisions below.
3. This agreement will not prejudice either Management or the Union in any subsequent administrative or judicial proceeding which challenges the Air Force's drug testing program or the designation of TDPs.
4. TDP's will be identified in accordance with AFI 90-508, dated 28 August 2014. The addition of any new TDPs not listed in the AFI will be subject to bargaining in accordance with MLA Article 33. Full time union representatives, as identified in MLA Section 4.13, when serving as representatives of the union, are not subject to random testing.
5. Management will adhere to scientific and technical guidelines for drug testing programs outlined by the HHS consistent with the authority granted by EO 12564, *Drug-Free Federal Workplace*, and the requirements of the Anti-Drug Abuse Act of 1988. The drug testing program will be administered in a fair, equitable, and consistent manner.

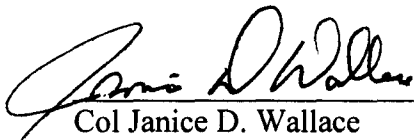
6. Thirty (30) days prior to the implementation of random drug testing of an employee newly designated to the TDP random drug testing program, Management shall notify the employee that testing for use of illegal drugs is to be conducted, that he or she has been identified as occupying a TDP, and the reasons why his or her position has been designated a TDP. The notice will also inform the TDP employee that they may seek counseling and rehabilitation and inform them of the procedures for obtaining such assistance through the Employee Assistance Program (EAP). The notice will also include the HHS approved list of drugs for which he or she may be tested. Said list may be subject to change based on HHS guidance. In the event of such a change, employee notification will occur after bargaining obligations have been met. Employees who have an appropriate notification on file for the position they occupy will not be provided an additional notice upon implementation of AFI 90-508, since the 30-day advance notice period requirement has already been satisfied. Random testing may continue without interruption.
7. Management will provide education and training IAW provisions of AFI 90-508. Additionally, Management will make training and education materials available to employees online. Management will also distribute written educational materials and provide other educational activities, such as videos and lectures, as deemed necessary to provide the widest dissemination of training information, ensuring the employees are well educated and have the ability to receive the help they need.
8. Upon request, the Union shall be granted the opportunity to review the computerized process used by Management to randomly select bargaining unit employees for drug testing. This review can be completed either thru a briefing or a requested report, and will confirm that (1) the selection algorithms are "flat" random; (2) no one can influence the selection process towards a particular individual or group and (3) the system is auditable. Changes to the testing rate or the computerized process that impose any undue hardship to employees and/or impact to working conditions shall be subject to bargaining.
9. A bargaining unit employee who believes he/she may have a drug problem, and who self identifies as such, and agrees to the provisions of the civilian drug testing program, as described in the AFI 90-508, will not be subject to disciplinary action for past use. Management and the Union both recognize the importance of a drug free workplace for safety and health reasons. Employees who voluntarily seek assistance with substance abuse issues may not be subject to disciplinary action if they meet all the conditions of the "Safe Haven Provisions" of AFI 90-508. Employees who seek and meet the "Safe Haven Provision" shall not relinquish any rights to appeal regarding future charges.
10. A bargaining unit employee considering whether to self-identify during the 30-day notice period is entitled to discuss this issue with his/her union representative prior to making such a decision. The union representative and the employee will be entitled to a reasonable amount of official time during their discussions, and in any discussions with Management relative to this issue during the 30-day notice period.

11. In accordance with AFI 90-508, rehabilitation shall be offered to all bargaining unit employees identified as having a drug problem (e.g. Medical Review Officer (MRO) verified drug positive test result, and/or self-identified with a drug problem) regardless of other administrative actions that may be pending or taken. The goal of rehabilitation is to eliminate substance abuse and restore the employee to a productive status within his/her work area. As such, a one-time mandatory assessment and referral appointment can be completed at no-cost to the employee, through the EAP or Alcohol Drug Abuse Prevention & Treatment (ADAPT) Program; with a maximum of three hours of duty time allotted for employee use during this phase of treatment. Any follow-on counseling services are at employee expense. Employees may also use approved sick or annual leave for any additional time required for such visits subject to existing laws and regulatory guidance. In accordance with AFMC & AFGE C214 MOA on Civilian Physical Fitness and Wellness Activities, any available Wellness/Fitness hours may be used for prescribed EAP visits.
12. Normally, management will retain employees either in a duty or approved leave status while undergoing initial treatment. If placed in a non-duty status, the employee will normally be returned to duty after successful completion of initial treatment. At the discretion of the activity commander, an employee may return to duty in a TDP, including the TDP formerly occupied by the employee, if the employee's return would not endanger public health, safety or national security.
13. Management will provide bargaining unit employees who are required to undergo a "reasonable suspicion" drug test with a written notice to report for "reasonable suspicion" drug testing. Upon written request, the employee will be provided all information (excluding any information protected by the Privacy Act, confidentiality and/or that is privileged communication) regarding the basis for Management's requirement that the employee submit to a "reasonable suspicion" drug test.
14. Supervisors will defer drug testing for bargaining unit employees on approved leave, TDY, or non-duty day on the day of testing. Employees engaged in a mission critical task (as determined by management) will also be deferred for testing. The employee will not be notified of his/her selection for urine specimen collection. An employee whose random drug test is deferred will be subject to urine specimen collection on the next selection day.
15. If the collection site is more than two (2) hours travel time from the bargaining unit employee's duty station or if inclement weather or road conditions are a factor in travel time, the bargaining unit employee will not be held to the 2 hour limit rule when he/she has provided advance notice to the collection site of his/her late arrival and circumstances impacting the same. The employee will make every effort to report to the collection site in a reasonably timely manner.
16. All time for drug testing, and travel to and from the test site for selected bargaining unit employees will be paid duty time.

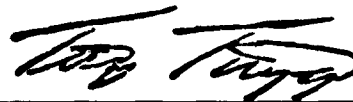
17. A bargaining unit employee called in to cover the shift of a bargaining unit employee who is selected for random testing, will be chosen and paid in accordance with the current negotiated agreements on call-back procedures.
18. Employees will receive information regarding the opportunity to submit medical documentation that may support legitimate use of a specific drug.
19. An employee who is the subject of a drug test will, upon written request, have access to any records relating to such drug test results. This will include records documenting the MRO's rationale for determining that there is no medical justification for the positive test result. Once received by the employee, he/she may provide the same to anyone of their choosing.
20. The Union will be provided a copy of the AFMC data submitted in support of the annual AF Drug Free Workplace Report upon its completion.
21. All remedies available under the MLA or 5 U.S.C. 71 will remain available to the parties if concerns cannot be cooperatively resolved.

For Management / Date

For the Union / Date

 17 Mar 15

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HQ AFMC/SG2



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AFGE Council 214



Gina Martinelli  
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 18 Mar 15

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