

**LANE COUNTY ADULT
TREATMENT COURT (LCATC)
POLICY AND PROCEDURES MANUAL**



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I. MISSION STATEMENT, PROGRAM DESCRIPTION AND GOALS

MISSION STATEMENT

Lane County Adult Treatment Court (LCATC) aims to promote public safety by providing a court-supervised collaborative response to criminal behavior designed to rehabilitate Participants and reintegrate them as productive, tax-paying and law-abiding citizens.

In 1994, Lane County Circuit Court became the second court in the State of Oregon and the 13th Court in the Nation to create an Adult Treatment Court. LCATC has a specially designed court docket, the purpose of which is to achieve a reduction in recidivism and substance use among nonviolent substance abusing offenders and to increase the offender's likelihood of successful habitation. Interventions include early, continuous, and intense judicially-supervised treatment, mandatory periodic drug testing, community supervision, and use of appropriate sanctions, incentives, and rehabilitation services. Each Candidate is medically and psychologically assessed prior to admission. Each Participant is given a treatment plan which may include individual and group counseling, family therapy, drug and alcohol testing, mental and physical health treatment, and regular attendance at recovery support/self-help meetings. Referrals for vocational training, education and/or job placement, housing, transportation and other ancillary services are provided. The minimum length of the Program is 12 months. Ongoing aftercare services are available to all Participants who successfully complete the Program.

LCATC partners with the Lane County Circuit Court, Lane County District Attorney, Lane County Public Defender Services (PDS), Lane County Parole and Probation (LCPP), Lane County Community Corrections, Emergence Treatment Program and other community partners. LCATC is grounded in a non-adversarial courtroom atmosphere, creating an environment with clear and certain rules where each Participant's compliance is understood to be her own responsibility.

PROGRAM GOALS

1. Increase public safety by assisting Participants in overcoming substance use disorder, treating co-occurring mental health issues if applicable, and reducing contacts with the criminal justice system;
2. Reduce costs associated with criminal case processing and re-arrests;
3. Assist Participants in reclaiming and building a stable, responsible, and productive life free from substance use.

OPERATION OBJECTIVES

1. Ensure that all Participants receive evidenced-based and data-driven services, based on nationally-recognized Best Practice Standards;
2. Provide ancillary services that reduce recidivism and achieve long-term recovery;
3. Provide Participants with sufficient (court and probationary) supervision necessary for the Participant to comply with all Program requirements;
4. Track performance through an automated data system and measure performance by specifically-identified desired outcomes;
5. Ensure that the Program operates in a manner consistent with principles of justice, protects public safety and preserves the constitutional rights of all Participants;
6. Identify and assess Participants for risk and need.

II. STANDARDS, BEST PRACTICES, AND 10 KEY COMPONENTS

LCATC adopts the **Ten Key Components** and the Best Practice Standards recognized by the National Association of Drug Court Professionals (NADCP). The Ten Key Components are almost universally recognized as standards for drug courts across the country. The Oregon Criminal Justice Commission (OCJC) has further adopted a set of **Specialty Court Standards**¹ (which are based on, and expand upon the Ten Key Components of Drug Courts and with the Adult Drug Court Best Practice Standards, Volume I² & II³).

Ten Key Components

1. Integrate alcohol and other drug treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting Participants' due process rights.
3. Eligible Participants are identified early and promptly placed into the treatment court Program.
4. Provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs responses to Participant compliance.
7. Ongoing judicial interaction with each LCATC Participant is essential.

¹ See online at

<http://www.oregon.gov/cjc/specialtycourts/Documents/AdultDrug/OregonAdultDrugCourtStandards.pdf>

² See Volume I online at

<http://www.nadcp.org/sites/default/files/nadcp/AdultDrugCourtBestPracticeStandards.pdf>

³ See Volume II online at

https://www.nadcp.org/sites/default/files/2014/Best%20Practice%20Standards%20Vol.%20II._0.pdf.

8. Monitoring and evaluation measure the achievement of Program goals and gauge effectiveness
9. Continuing interdisciplinary education promotes effective planning, implementation and operations.
10. Forging partnerships among treatment courts, public agencies and community-based organizations generates local support and enhances Program effectiveness.

In addition to the ten key components, LCATC adopts the following best practice standards:

1. Predicate all decisions and decision-making criteria on empirical evidence. Use evidence-based assessment tools and procedures to evaluate Candidates for admission into LCATC. Once admitted, use standardized, evidence-based tools and procedures to determine each Participants treatment needs, and to determine appropriate court responses.
2. Ensure that Participants are not discriminated against (in respect to treatment opportunities and services) due to immutable traits (such as race, gender, sexual orientation, physical or mental disability) religion, or socioeconomic status.
3. Assure that the LCATC Judge stays abreast of current law and research on best practices in LCATCs, participates regularly in Team meetings, interacts frequently and respectfully with Participants, and gives due consideration to the input of other Team members.
4. Assure that Participants receive substance use disorder and/or mental health treatment based on a standardized assessment of their treatment needs. Treatment is not provided to reward desired behaviors, punish infractions, or serve other nonclinical indicated goals. Providers are trained and supervised to deliver a continuum of evidence-based interventions that are documented in treatment manuals.

III. GENERAL TREATMENT SERVICES

Policy Statement: LCATC connects Participants to relevant treatment and support services that are best practices, recovery-based, individualized, co-occurring capable, culturally sensitive, and trauma-informed for Participants. LCATC strives to enable Participants to access a continuum of care, including (but not necessarily limited to) detoxification, residential

treatment, sober living, day treatment, intensive outpatient, and outpatient services. *OCJC Specialty Court Standard 4-9.*⁴

Emergence is the Program's primary Treatment Provider, and provides drug and alcohol treatment, individual counseling, and group therapy. If the Participant is also receiving treatment through another mental health or medical provider, Emergence works to coordinate that care. Emergence also provides case management services that coordinate other ancillary services such as recovery housing, education support, and vocational training. Additionally, the LCATC Coordinator oversees and coordinates with community partners. *OCJC Specialty Court Standards 4-1, 4-2.*

Procedure: Treatment services are provided according to "level of care" criteria and other needs identified from the most recent assessment. Treatment services include, but are not limited to: treatment planning, discharge planning, individual therapy, group counseling and education, case management services, and other services for which the Participant is eligible, utilizing evidence-based practices. The dosage of treatment for Participants is based on the individual's risk and needs as determined from validated standardized assessments. *OCJC Specialty Court Standards 4-4.*

LCATC contracts with a primary treatment provider who provides, oversees and coordinates the treatment provided from other agencies. *OCJC Specialty Court Standard 4-2.* The Treatment Provider works with each Participant to create an individualized treatment plan to address problems or circumstances identified from the assessment. The individualized treatment plan is based on the results of the initial ASAM dimensional criteria and other validated assessment tools.⁵ The Treatment Provider reassesses Participants as necessary to appropriately treat the Participant and modifies treatment based on assessment results. *OCJC Specialty Court Standard 4-12.*

The overall goal of treatment services is to address substance use disorder and mental health issues, as well as other objectives like traumatic brain injury, PTSD, and peer and family relationships. The plan may be reviewed and modified with input from the LCATC Team as the Participant progresses through the Program. Progress or barriers to Participants' treatment goals are shared as needed in weekly Team staffing meetings. Participants are reassessed every 6 months and as needed and treatment plans are modified or adjusted based on results

⁴ The practice by treatment courts, of offering a continuum of care for substance use disorders (including residential treatment and recovery housing) in addition to outpatient treatment is correlated with significantly higher graduation rates, and significantly lower recidivism rates. (Carey, Mackin, and Finigan, 2012) (Koob, Brocato, & Kleinpeter, 2011).

⁵ Programming and criteria includes Addiction Severity Index (ASI), ASAM Criteria, Moral Reconciliation Therapy (MRT), Seeking Safety, and Reasoning and Rehabilitation 2 (R&R2). *OCJC Specialty Court Standard 4-6.*

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of the most recent assessment. Participants are apprised of their progress and given clear case plans and directives so that they know their treatment obligations and understand how to advance through the Program. *OCJC Specialty Court Standards 4-9, 4-10.*

All treatment is based on standardized evidence-based treatment programming, implemented with fidelity. These include Moral Reconciliation Therapy (MRT), Dialectical Behavioral Therapy (DBT), Motivational Interviewing, Seeking Safety, Strengthening Families, Recovery training and self-help, Twelve Step Facilitation Therapy, Contingency Management, Matrix Model, and Texas Christian University (TCU). *OCJC Specialty Court Standards 4-6.* All treatment plans include a focus on relapse prevention and aftercare services. *OCJC Specialty Court Standard 4-15.*

The Treatment Program focuses on a comprehensive range of treatment services of core alcohol and drug and mental health treatment services. The treatment Program has adopted guidelines directing the frequency of each service that a Participant receives based on assessed need. These services include but are not limited to:

- Group counseling
- Individual counseling
- Family counseling
- Gender-specific counseling
- Domestic violence counseling
- Anger Management
- Health screening
- Drug testing
- Assessment and counseling for mental health issues
- Trauma-informed care
- Residential treatment

OCJC Specialty Court Standards 4-7.

Ancillary services should be made available to meet the needs of Participants. These services may include but are not limited to:

- Employment counseling and assistance
- Parenting education & child care
- Educational component
- Medical and dental care
- Transportation
- Housing
- Mentoring and alumni groups
- One on One Peer Support

OCJC Specialty Court Standards 4-8.

Primary Care Coordinator: The Treatment Provider will also offer the services of a primary care coordinator, who assists Participants in the following ways:

- Acts as a community resource specialist.
- Communicates with Participant in residential care and coordinates with residential care facility to maximize Participant benefit and to coordinate discharge plan.
- Coordinates and assists in identifying recovery housing and other housing resources.
- Makes appropriate referrals to outside service providers, including residential care, based on Participant's demonstrated level of care.
- Works with Participants to identify and enter residential care facilities when that level of care is required.

III.I. INPATIENT/RESIDENTIAL TREATMENT

Certain Participants (typically those who suffer from especially acute substance use disorders) may require a higher level of care than general outpatient treatment can provide. In such cases, inpatient or residential treatment may be an appropriate treatment choice. If, at any time, a Participant is assessed as needing a higher level of care the Provider immediately initiates placement by screening the Participant for admission at multiple facilities. If there are no options available at the time of needed placement, the Treatment Provider and the LCATC Team follow ASAM placement guidelines until such time as the placement can be facilitated. Interim services are offered until the Participant either is accepted into inpatient or residential treatment, or is no longer in need of this intensive level of care. Program Participants will not be placed in a higher level of care unless he or she currently meets the specified ASAM or other validated assessment instrument criteria for the placement. *OCJC Specialty Court Standards 4-3, 4-6.*

The regularly assigned Treatment Provider is responsible for maintaining ongoing communication with the Participant's inpatient/residential provider during their stay, and makes progress reports to the LCATC Team via written Progress Report, and discusses the case as needed during the Team staff meetings and at pre-court reviews. The progress report is submitted the week of the Participant's regularly scheduled court appearance where they appear by phone.. *OCJC Specialty Court Standards 1-5.*

LCATC has quality assurance processes to ensure the accountability of the Treatment Provider to incorporate services and training consistent with the LCATC model and treatment best practices (such as using evidence-based practices, culturally appropriate approaches, cognitive behavioral therapy, manualized treatment, and trained/licensed professionals; maintaining fidelity to their treatment models, and appropriately matching individuals to services based on assessed

needs). These processes includes annual review of the Treatment Provider's policy and procedures operation manual, the review of staff qualifications and training, yearly Participant feedback surveys, and monthly fidelity meetings with the Program Director to discuss adherence to Best Practices. The Treatment Provider has also agreed to provide the Team with a copy of their third party evaluations. *CJC Specialty Court Standards 4-13.*

III.II. MEDICATION-ASSISTED TREATMENT (M.A.T)

Medication Assisted Treatment (M.A.T.) involves combining conventional forms of treatment (e.g. counseling, group therapy, and behavioral therapy) with the use of medications that physiologically modify the user's brain chemistry in various ways that help lessen addiction symptoms. The majority of these medications are designed to treat opioid addiction. Examples of such medications include opioid antagonists such as naltrexone and extended release naltrexone (commonly known as Vivitrol®), opioid agonists such as methadone, and partial agonists such as buprenorphine. Many controlled studies indicate that addicted offenders who received M.A.T. tend to achieve significantly better outcomes.⁶ Specifically, the National Association of Drug Court Professionals has found that when opiate-addicted inmates receive buprenorphine or methadone prior to and immediately after release from jail, those offenders tend to show increased engagement in treatment, and reduction in opiate use, rearrests, mortality, and Hepatitis C infections.⁷

For all of the above reasons, LCATC encourages Participants to engage in MAT in addition to the general treatment services. Accordingly, a valid prescription for an MAT-related medication will not disqualify a Candidate from entering LCATC.⁸ LCATC will also seek the guidance of physicians with experience in addiction psychiatry or addiction medicine to determine whether M.A.T. is appropriate for a Participant.⁹

⁶ For more information, see Chandler, Fletcher & Volkow, *Treating Drug Abuse and Addiction in the Criminal Justice System*, 2009, See also the NDCI Drug Court Practitioner Fact Sheet on M.A.T., available online at https://www.ndci.org/wp-content/uploads/2009/04/mat_fact_sheet.pdf.

⁷ National Association of Drug Court Professionals, 2013

⁸ Please also refer to the later section in this manual entitled "Prescription Medication Policy," for more information.

⁹ For more information about best practices surrounding M.A.T., please review *Medication Assisted Treatment in Drug Courts: Recommended Strategies*. <http://lac.org/wp-content/uploads/2016/04/MATinDrugCourts.pdf>, a guide provided by the Center for Court Innovation, the State of New York Unified Court System, and the Legal Action Center.

IV. SUBSTANCE TESTING AND MONITORING

Policy Statement

Substance testing and monitoring are mandatory requirements of LCATC Program and are utilized as tools to support Participant recovery and engagement in treatment. Testing is the means by which the Program objectively establishes a framework for Participant accountability and helps to gauge individual progress in recovery.¹⁰ Drug and alcohol testing complies with all applicable state and federal laws. All Participants are required to participate in the testing Program.

Urine Testing Protocol

All LCATC Participants are tested for illicit substances as well as prescription drugs during all phases in the Program. Additionally, alcohol monitoring may be required to supplement EtG testing. At minimum, each Participant is subjected to random testing two times per week. *OCJC Specialty Court Standard 5-1*. In addition to random testing, a Participant may be tested at the Court's direction, the request of a Probation Officer, or at the request of a treatment counselor or case manager. The random testing protocol is in writing and is available to the LCATC Team. *OCJC Specialty Court Standard 5-1*. Urinalysis is the primary method of drug testing; a variety of alternative methods may be used to supplement urinalysis, including breath, hair, and saliva testing, patch and electronic monitoring. *OCJC Specialty Court Standard 5-2*.

Random UA Testing: The Treatment Provider manages a randomized UA testing operation. Testing occurs on weekdays, weekends and holidays. Participants are assigned a number for testing, and instructed to call a "UA Hotline," which lists the numbers that are assigned to provide UA's for that given day. Participants must either call the Hotline or physically visit the testing place every day of the week, to see if their number is listed. If a Participant's number is listed for that day, the Participant is responsible for timely reporting to the testing place, during specified hours, to provide a UA. All drug-testing sample collection is directly observed by a trained and authorized person of the same sex as the Participant. *OCJC Specialty Court Standard 5-3*. The written protocol for obtaining the urine sample, establishing the chain of custody, providing it to the laboratory and the laboratory testing and reporting protocol are followed. As treatment dosage and supervision is reduced, drug testing is maintained. *OCJC Specialty Court Standard 5-1*.

Results of drug testing are provided to the Team within 48 hours, or as close to 48 hours as possible. In the event the Participant provides a diluted, altered or positive sample, or fails to submit a sample, this information is communicated with the LCATC Team immediately.

¹⁰ For more information, please refer to the NDCI Fact Sheet on Urinalysis, available online at https://www.ndci.org/wp-content/uploads/Urine_Drug_Concentrations.pdf.

Participants who test positive, fail to submit a sample, or provide dilutes will be directed to return to court no later than one week from the date at issue. *OCJC Specialty Court Standard 5-4.*

The LCATC Team will review a positive test in the context of the Participant's overall performance in the Program when considering the response. Frequent and ongoing positive or abnormal tests may result in increased or alternative treatment.

It is the responsibility of each Participant to limit exposure to certain products that contain prohibited substances. Participants are instructed to read product labels and know what is contained in products that are used or consumed prior to use. Participants with positive test results are held accountable for having prohibited substances in their bodies regardless of the source. For example, a positive test for opiates that the Participant claims is due to poppy seeds re-sets the person's time in the court level just as would be the case for the active injection of heroin. Additional sanctions may also be imposed based on consideration of all relevant factors relating to the Participant's progress and performance in the Program.

Participants are educated that drinking excessive amounts of fluids can result in a dilute urine sample. All urine samples will be tested to ensure the sample has not been diluted. A dilute urine sample will be considered a positive test, and will be reported to the LCATC Team. If a Participant refuses to submit a urine sample it will be reported as a "refusal to test." If a Participant is late or misses a test it will be reported to the LCATC Team and a sanction may be imposed. The test results of all positive specimens are documented and placed in the Participant's file.

Alcohol Monitoring Devices

SCRAM: A Secure Continuous Remote Alcohol Monitor (SCRAM) may be ordered for Participants with a history of alcohol abuse and/or with current positive urine alcohol testing results. The SCRAM is an ankle-worn device that detects ingested alcohol via insensible perspiration. The cost of this device and daily monitoring charge is paid for by the Participant.

Interlock Device: Participants who have demonstrated that they present a risk of driving while under the influence may be prohibited from driving or may be prohibited from driving unless the vehicle has a properly operating interlock device.

Suspension of Driving Privileges: A Participant who repeatedly tests positive for drug or alcohol use and there is reliable information that he/she has driven while under the influence may be ordered by the court to refrain from driving until sobriety is demonstrated and/or may have his/her license formally suspended.

ETG Testing, Incidental Alcohol and Other Exposure: Each Participant is responsible for limiting her exposure to certain products that contain ethyl alcohol. Participants are instructed to read product labels and know what is contained in products that are used or consumed prior to use. Use of certain products, as detailed in the Urine Abstinence Testing and Incidental Alcohol Exposure Contract (see Appendix A), which is reviewed at Orientation, should be avoided, as they may be detected in urine. Use of the products that are listed in the contract will NOT be allowed as an excuse for a positive alcohol test result. No medications should be taken without notification to the Treatment Provider, Case Manager, or Probation Officer. Non-alcohol cough and cold medications should be used. Topical products and lotions should not be used if they contain any amount of alcohol. Topical medications that contain alcohol as an ingredient (including hormone, anesthetic or analgesic gels or creams) should be avoided. Non-alcoholic beer and wine do contain a residual amount of alcohol that may result in a positive test result if consumed, and so should be avoided. There are numerous edible products that contain ethyl alcohol, including flavoring extracts and foods cooked with wine that should be avoided. Many mouthwashes and breath strips contain some amounts of alcohol and should not be used. Non-alcohol mouthwashes are readily available and acceptable. Hand sanitizers and antiseptic gels may contain up to 70% alcohol. Hand washing with soap and water is recommended instead. Certain hygiene products, such as aftershaves, colognes, perfumes and hair sprays, contain alcohol. While it is unlikely that limited use of these products would result in a positive test for alcohol, excessive or repeated use may affect results. Participants are instructed to use such products sparingly to avoid reaching detection levels. Certain solvents, lacquers, and home repair products contain alcohol. Chronic exposure to such products may potentially cause a positive test. Participants are required to educate themselves as to the ingredients in all products they use. A positive test will not be excused because of using these products. If a Participant is employed and must work with these products, that issue should be discussed with the Coordinator and supervision officer. Herbal products are not recommended and should not be used without first speaking with a physician and should not be taken without prior approval from the Coordinator. Bug sprays and insecticides containing alcohol should be avoided.

Participants also agree to refrain from using or possessing any controlled substances, including any controlled substances that may legally be prescribed by a physician, unless the Participant has valid prescription and taking the medication in accordance with that prescription. Participants further agree to refrain from consuming legal mind-altering substances including alcohol, marijuana, Kratom, Spice or any other substance that is likely to interfere with accurate urinalysis testing (such as poppy seeds or supplements that contain steroids).

Tampering With UAs

A Participant found to have intentionally tampered with a UA will be sanctioned up to and including termination from the Program. The degree of sanction will depend on the totality of the circumstances with more egregious infractions receiving more serious sanctions.

V. PRESCRIPTION MEDICATION POLICY

Prescription Use Policy Statement: LCATC aims to provide Participants with the skills necessary to allow them to live a life free from addiction to alcohol or any other mind altering or controlled substance. LCATC recognizes that there are a variety of physical and mental disorders and conditions that are treated through the use of psychotropic or addictive medicines. LCATC does not exclude Participants from entering the Program because the person is following a prescription for use of such drugs. However, Participants must agree to work with LCATC Treatment Provider in conjunction with both the Participant's prescribing physician ¹¹ to determine if a different course of treatment (that does not utilize or reduces the use of psychotropic or addictive medicine) might be appropriate.

Prescription Use Due To Pre-Existing Chronic Condition Protocol: A person who enters LCATC and who is taking a psychotropic, addictive, or controlled medication pursuant to a valid prescription must immediately notify LCATC Treatment Provider of that prescription. The Participant must also sign all releases necessary to allow the Treatment Provider to contact the prescriber to determine if, given the Participant's treatment assessment, there is another course of treatment that is appropriate.

If the prescriber, after learning of the information regarding the Treatment Provider's assessment and the circumstances of the Participant's engagement in LCATC, opines that no other treatment will adequately treat the Participant's condition, the Provider may then refer the Participant to a medical doctor who specializes in addiction medicine. The Program Participant is required to cooperate with this referral. If the addiction specialist concurs with the prescriber, positive UAs that are consistent with appropriate use of the prescribed medication will have no negative consequence on the Participant's progress in the Program. If the addiction specialist prescribes a different protocol, then, the Participant is required to follow that protocol under the direction of the addiction specialist. A Participant who fails to follow the recommendations of the addiction specialist may be terminated from the Program.

Prescription and Over-the Counter Medications Protocol: When going to a medical, dental or mental health provider, Participants are required to bring the Medical/Dental/Mental Health Medications form (see Appendix B) for the physician to sign. The Participant should request non-narcotic and non-alcoholic medications only. The approved over-the-counter medications, as indicated on the Approved OTC Medication List (see Appendix C), are included in the Participant Handbook and reviewed at Orientation; therefore, Participants are expected to be familiar with the policy and its contents. Over-the-counter medications that are approved for Participant use, only according to label, include: Acetaminophen 500 mg, Ibuprofen 200-800

¹¹ In some cases, the Treatment Provider may also request that the Participant also work in conjunction with an addiction specialist regarding prescription medication use.

mg, Aspirin, Excedrin Migraine, Mylanta, Milk of Magnesia, Pepto Bismol, Theraflu, Alka-Seltzer, Zantac, Pepcid, Prilosec, Tums, Roloids, Delsym (non-alcoholic formula), Mucinex (cannot be D or DM formula), Claritin (cannot be D or DM formula), Allegra (cannot be D or DM formula), Benadryl, Ben Gay (cream and thermal patches), Icy Hot (cream and thermal patches), Multivitamins, and Prenatal vitamins (no sports supplements or additives).

The Participant shall neither fill nor take a prescribed medication until that Participant has informed the LCATC Team and Treatment Provider about that medication – except for in emergency situations (i.e. situations when it is not reasonably possible to consult with the court or treatment Team first). If the Treatment Provider is concerned that the medication is addictive or psychotropic, the Treatment Provider may request that the Participant consult with the prescriber to determine if there is an appropriate alternative.

The court will not directly sanction Participants for taking medication as prescribed. However, a Participant must be free from all drugs and alcohol by verified UAs for at least 120 days to graduate from the Program. This includes prescribed medications unless it is determined that the Participant has a chronic condition, has followed the protocol for persons with chronic conditions and the addiction specialist has concluded that continued use of the prescribed addictive or psychotropic medication is appropriate. In that case, the use positive UAs that are consistent with appropriate use of the prescribed medication will not prevent the Participant from graduating from the Program.

VI. LCATC ADMINISTRATIVE OVERVIEW

Oversight: Lane County Circuit Court operates LCATC. The Lane County Sheriff's Department is the grant administrator.

LCATC Team: The LCATC Team shall include the following: (1) a LCATC Judge, (2) the Treatment Court Coordinator and Assistant Coordinator; (3) a District Attorney; (4) a Defense Attorney (employed by Public Defender Services of Lane County), (5) a Liaison from the contracted Treatment Provider, (6) at least one Probation Officer, law enforcement officer and Department of Human Services Liaison, and (7) a Case Manager. *OCJC Specialty Court Standard 1-1.*

Policy Committee: The policy committee is comprised of the Judge, the LCATC Coordinator, representatives from the District Attorney and Public Defender Services of Lane County, law enforcement representative, probation representative and Director of the Treatment Program. The committee oversees the operations of LCATC and establishes and maintains a written plan that addresses sustainability of the court's operations, resources, information management, and

evaluation needs. The Committee meets at least quarterly. *OCJC Specialty Court Standards 10-1, 10-2.*

Advisory Board: LCATC has established an Advisory Board that provides consultation in connection with the development and operation of LCATC, including developing and revising policies and procedures. The Advisory Board meets quarterly to review and evaluate the Program and to advise LCATC on any outstanding issues. The Board periodically reviews operation standards, the Policy and Procedural Manual, forms and other standardized documents. The Advisory Board provides recommendations regarding the adoption of or changes to LCATC operations. *OCJC Specialty Court Standard 10-3.*

VII. LCATC COURT TEAM ROLES AND DUTIES

All Team Members

- Collaboratively develop, review, and agree upon all aspects of LCATC operations (mission, goals, eligibility criteria, operating procedures, performance measures, orientation, drug testing, and Program structure guidelines). Create a policy manual and review it yearly for content updates. Plan and improve the policies and procedures for LCATC on a regular basis. *OCJC Specialty Court Standard 1-2.*
- Develop a written agreement (See Appendix D for Memorandum of Understanding) between all participating agencies, which details the roles and responsibilities of all parties involved, and review it annually. *OCJC Specialty Court Standard 1-3.*
- Collaborate in the development of all documents relating to LCATC operation including the Participant Handbook and related forms. Review all documents annually and update them as needed.
- Attend and participate at each scheduled pre-court staff meeting and status hearing.¹² At a minimum, pre-court staff meetings shall occur at the same frequency and in advance of scheduled status hearings. *OCJC Specialty Court Standard 1-4.*
- Ensure that the Program does not treat Participants differently because of immutable traits (race, ethnicity, gender, sexual orientation, etc.), religion, or socioeconomic background. *OCJC Specialty Court Standard 1-6.*
- Develop and agree to Participant eligibility requirements/criteria (verified through objective legal and clinical screening) and include those criteria in writing as part of the Program's policies and procedures. *OCJC Specialty Court Standard 3-1.*

¹² Having all Team members consistently attend staffing meetings correlates with a significant (as much as 50 percent) reduction in recidivism, as well as significant increases in program cost-effectiveness. (Carey, Mackin & Finigan, 2012).

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- Recommend Court responses after reviewing Participant's treatment and supervision reports. *OCJC Specialty Court Standard 6-9.*
- Encourage and support each Participant throughout the Program.
- Create a sense of stability, cooperation and collaboration in pursuit of the Program's goals. *OCJC Specialty Court Standards 1-2, 2-2.*
- Abide by all LCATC Operational Standards.
- Respect Participant confidentiality and strictly observe Participant rights to confidentiality in accordance with applicable state and federal laws.

Judge

- Acts as the overall leader of LCATC. Oversees and participates in all aspects of Program operations.
- Understands (through training and education) current Constitutional and other legal issues related to LCATCs, judicial ethics, evidence-based substance use disorder and mental health treatment, behavior modification and community supervision, treatment methods, drug screen and other related issues. *OCJC Specialty Court Standard 7-2.*
- Presides over LCATC on a volunteer basis, for a term of greater than two years, with the goal being for longer terms. *OCJC Specialty Court Standards 7-1, 7-10.*¹³
- Regularly participates in pre-court Team meetings that occur prior to each court review, during which the Team reviews each Participant's progress and discussed potential Court responses. Encourages Team discussion and consensus in decisions regarding the imposition of sanctions, incentives, and other actions. Makes the final decision regarding those issues when the Team is not unanimous. *OCJC Specialty Court Standard 7-4.*
- Conducts an in-court status hearing with each individual Participant on a regular basis, consistent with the minimum required by Participant's Track and level.¹⁴ Assures that the length of in-court interaction with each Participant is at least three minutes¹⁵ and longer if necessary to productively review the Participant's progress. *OCJC Specialty Court Standards 7-5, 7-7, 7-8, 7-9.*

¹³ Research shows that having Judges preside over drug courts for at least two years correlates with significant cost savings and significantly lower recidivism. (Carey, Pukstas, Waller, Mackin, & Finigan, 2008) (Carey, Mackin, & Finigan, 2012).

¹⁴ This includes a minimum of one hearing per month during the last level of the Program.

¹⁵ Having the Judge spent at least three minutes on each Participant is correlated with significant reduction in recidivism – up to 153 percent. (Carey, Mackin, & Finigan, 2012).

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- Demonstrates respect and support of Participants and the Program; stresses the importance of Participant commitment to treatment and other Program requirements; and expresses optimism about Participants' ability to improve their situations.
- Allows Participants reasonable opportunity to express their perspectives concerning factual controversies and imposition of sanctions, incentives and therapeutic adjustments.
- Works to develop support for LCATC in the community, within the criminal justice system, and within the judiciary.

Back-up Judge

- A back-up Judge will cover status hearings and pre-court staffing during the absence of the primary Judge. To the extent possible, the back-up Judge will be trained in LCATC philosophy and will serve for a period of at least two years. *OCJC Specialty Court Standard - 7-3.*

LCATC Coordinator

- Collaborates with Lane Council of Governments and Lane County Sheriff's Office grant writers, and LCATC contract Manager and grant manger in submitting grant applications and solicits state and federal funding for Program management and development.
- Submits information within deadlines for funding applications and other contract requirements of OCJC and other funders and grantors.
- Maintains oversight of current Participant records, and oversees case management information system. *OCJC Specialty Court Standard 8-5, 8-7.*
- Manages the daily operations of the Program. Engages in direct contact with Participants on a regular basis.
- Coordinates public relations and educational activities with local and state news agencies and the community.
- Collaborates with all Team members and participating agencies in assuring that LCATC operates in accordance with the best evidence-based standards. Obtains data to maintain consistent and accurate statistical Program information. Collects and analyzes information from entry and exit polls to improve the overall quality of the Program. Coordinates statistical data collection and outcomes management information. *OCJC Specialty Court Standards 8-2, 8-7, 8-8.*

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- Assures that periodic Program evaluations take place. *OCJC Specialty Court Standard 8-3.*
- Provides information regarding treatment agency performance and other data based reports requested by funding or evaluative agencies.
- Facilitates the orientation for incoming Participants, including distribution and explanation of the Participant Handbook and its contents.
- Coordinates with Treatment Providers and supervision regarding Participants' progress in the Program, as well as additional treatment or supportive needs.
- Advocates for incentives and sanctions for Program Participants based on reports from treatment and supervision.

Case Manager

- Monitor participant compliance; create case management plans and short and long term goals through required monthly meetings, along with tracking progress through the court levels.
- Break down barriers to service access (i.e transportation, treatment, GED, schooling and employment) and assist participants in achieving the goals in their case management plans.
- Refers participants to resources in the community for temporary and permanent employment.
- Coordinates and assists in identifying recovery housing and other housing resources.
- Facilitates outreach to build and enhance relationships with community resource agencies.
- Identifies and networks with local agencies providing employment-related resources.
- Maintains tracking of GED classes and testing results of program participants.
 - Links participants to literacy classes and reading tutors as needed.
- Makes appropriate referrals and networks with local colleges, vocational schools, and other educational and vocational programs in the community.
- Attends LCATC pre-court staffing and attends all other Team meetings. *OCJC Specialty Court Standard 1-4.*

District Attorney

- Participates in the design, implementation and enforcement of the Program's screening, eligibility and case-processing policies and procedures. *OCJC Specialty Court Standard 2-1.*

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- Reviews cases and determines whether a Candidate is legally eligible for the specialty court Program; determines if the offender meets statutory criteria under ORS 475.245 for entry as a conditional discharge in LCATC Program and approves or rejects admission. *OCJC Specialty Court Standard 2-1, 2-4.*
- Files all required legal documents.
- Agrees that a positive drug test or open court admission of substance use will not result in the filing of additional charges based on that admission.
- Participates in the design, implementation and enforcement of the Program's screening, eligibility and case-processing policies and procedures. *OCJC Specialty Court Standard 2-1.*
- Attends all Team meetings (pre-court staff meetings, status hearings and monthly Team meetings). *OCJC Specialty Court Standards 1-4, 2-3.*
- Collaborates with the Team to decide on a Team response to Participant behavior, including incentives, sanctions, and when or whether termination from the Program is warranted. *OCJC Specialty Court Standards 2-4, 2-6.* Advocates for court responses to Program Participants, based on reports from treatment and supervision.
- Apprises the Team of any new charges the Participants may incur while in the Program.
- Promotes a dynamic of stability, cooperation and collaboration in pursuit of the Program's goals, including pursuing justice and protecting public safety as well as preserving the constitutional rights of specialty court Participants. *OCJC Specialty Court Standard 2-2.*
- Educates law enforcement to recognize potential Candidates for LCATC; educates the public, including victims, as to the benefits of LCATC Program.

Defense Attorney

- Participates in the design, implementation and enforcement of the Program's screening, eligibility and case-processing policies and procedures. *OCJC Specialty Court Standard 2-1.*
- Reviews the arrest warrant, affidavits, charging document, all Program documents and other relevant information for each new Candidate; advises the Candidate as to the nature and purpose of LCATC, the Program rules and conditions, the consequences of failing to abide by those Program rules, and how participation or non-participation will affect his/her interests. ¹⁶ *OCJC Specialty Court Standard 2-5.* Ensures that each Participant fully

¹⁶ Among other things, this involves educating each Candidate as to the following: all rights that the Candidate will temporarily or permanently relinquish as a condition of participation in LCATC; all alternative options to entering the Program; that the prosecution has agreed that admission to drug use in open court will not lead to additional charges; that the Participant will be expected to take an active role in

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understands her rights and responsibilities as a Participant of LCATC, the full scope of any other probationary conditions, and the possible consequences for violation of any term of probation.

- Files all required legal documents.
- Performs responsibility as part of the eligibility process as swiftly as possible, including working with stakeholders in the legal system to shorten the time between arrest, arraignment and entry into the specialty court. *OCJC Specialty Court Standard 2-6.*
- Attends all Team meetings (pre-court staff meetings, status hearings and monthly Team meetings). *OCJC Specialty Court Standards, 1-4, 2-3.* In pre-court staffing, helps evaluate the Participant's progress and gives voice to client's position regarding sanctions or incentives. Collaborates with the Team to decide on responses to Participant behavior, including when or whether termination from the Program is warranted. *OCJC Specialty Court Standard 2-5.*
- Promotes a sense of stability, cooperation and collaboration in pursuit of the Program's goals, including pursuing justice and protecting public safety as well as protecting the Participant's Constitutional and other legal rights. *OCJC Specialty Court Standard 2-2.*
- Consults with each Participant relating to the imposition of sanctions and represents the Participant when the Participant objects to the imposition of the proposed sanction, assures that Participant understands his/her rights to a hearing and provides counsel in the event that the Participant seeks a hearing regarding sanctions or termination from the Program.
- Educates the defense bar and general public regarding the benefits of LCATC Program and with respect to the entry criteria and process.

Probation Officer

- Supervises only Program Participants.¹⁷
- Participates in the design, implementation and enforcement of the Program's screening, eligibility and case-processing policies and procedures. *OCJC Specialty Court Standard 2-1.*

status hearings, including speaking directly to the Judge as opposed to doing so through an attorney; and that at pre-court staffing, the Team discusses Participant progress and appropriate responses, and that by participating in the Program, the Participant waives the right to be present at those discussions. *OCJC Specialty Court Standard 2-5.*

¹⁷ Research shows that Probation Officer supervision caseloads should not exceed 50 active Participants per Probation Officer. Probations Officers on 50:1 caseloads or under received significantly more probation office sessions, field visits, employer contacts, telephone check-ins, and substance abuse and mental health treatments – all of which leads to significantly better outcomes, including fewer positive drug tests, and fewer technical violations. (Jalbert & Rhodes, 2012).

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- Collaborates with the Team to decide on Team responses to Participant behavior including incentives, sanctions and when or whether termination from the Program is warranted.
- Provides community supervision of Participants thus reinforcing the rules and policies of LCATC. Supervision occurs on a regular basis through home visits, office, telephone and court contact. Requires Participants to submit to drug and alcohol tests, verifies employment, approves residence and associations of Participants and provides all other aspects of community supervision.
- Attends LCATC pre-court staffing and court reviews on the day the Participants on their caseload appear and attends all other Team meetings. *OCJC Specialty Court Standard 1-4.*
- Provides the LCATC Team with field contacts and information and apprises Team of other relevant information regarding Participant. Notifies the Court of any violations and accomplishments by the Participants and recommends appropriate sanctions and incentives.
- Provides risk and need assessment (LS/CMI) within two weeks of Participants entering the program

DHS/Child Welfare Liaison

- Facilitates communication between LCATC and DHS/Child Welfare regarding open child welfare cases involving Participant's children.
- Facilitates communication between Participant with open child welfare case and DHS/Child Welfare.
- Provides LCATC with information regarding ongoing case plan for child of Participant involved in DHS/Child Welfare and of Participant's behavior and compliance regarding Child Welfare requirements and Dependency Court Directives and Orders.
- Educates DHS/Child Welfare staff on LCATC Policy and Procedures.

Treatment Provider Liaison

- Works collaboratively with the Team to decide on Team responses to Participant behavior including incentives, sanctions and when or whether termination from the Program is warranted.
- Assures that ancillary services are made available to meet the needs of Participants. These services may include but are not limited to:
 - Employment counseling and assistance
 - Parenting education & child care

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- Employment
- Educational component
- Medical and dental care
- Transportation
- Housing
- Mentoring and alumni groups.

OCJC Specialty Court Standards 4-8.

- Communicates in advance of status hearings and via email between status hearings with the Team and reports on Participant progress and/or concerns in treatment. *OCJC Specialty Court Standards 1-5.*
- Coordinates in court with each new Participant to assure that all assessment paperwork is completed and sets placement/assessment appointment.
- Addresses barriers to Participants attending treatment. This includes providing Participant with assistance in coordinating treatment obligations with travel, work and school schedules, medical issues, and housing difficulties.
- Collaborates with Participant, Treatment Providers and the Team in developing appropriate LCATC case plan.
- Coordinates ongoing communication with services and supports and conducts ongoing evaluation of Participant's progress by attending clinical staffing meetings at treatment.
- Coordinates communication between Treatment Providers and Team including communication regarding the needs of Participants.
- Assures that treatment reports are timely provided to the Team prior to court status reviews.

VIII. LCATC COMMUNITY SUPPORT TEAM ROLES AND DUTIES

In addition to the Court Team, LCATC is supported by the following agencies, entities, and nonprofits, who play the following roles in LCATC's operations:

Lane County Sheriff's Office -Adult Corrections

Roles: The Lane County Jail will serve as a sanction for Treatment Court participants.

Responsibilities: Provide transportation to and from court for participants in custody. Best practices recommend that treatment courts include the possibility that a jail sanction is readily available. Jail beds and alternative programs will be available as a sanction for active participants in the program. Treatment Court jail beds shall also be used to hold participants in custody when arrested on a Treatment Court warrant. They shall be held until the next available Treatment Court docket.

Lane Council of Governments

Roles: Administer data entry payroll, convene Advisory Board meetings.

Responsibilities: Assist in analyzing data and other project data collected to the Drug Court Team. Complete other administrative tasks for this project as requested. Conduct process and outcome evaluation for specific purpose of fidelity monitoring.

Sponsors, Inc.

Roles: Transitional Housing.

Responsibilities: Provide transitional housing and ancillary services to homeless, indigent Treatment Court participants. Sponsors will work cooperatively with Emergence, Lane County Parole and Probation and Treatment Court to ensure that specific criminogenic risk factors are identified through assessment and addressed while residing at Sponsors. Participants will receive case management, regular drug and alcohol screens and assistance with employment and long term, sustainable housing.

Relief Nursery, Inc.

Roles: Peer Support and Respite Services

Responsibilities: Provide recovery support services to participants in Treatment Court. Peer Support staff will work one on one with participants in the home, at court, and in the community to assist in defining goals and overcoming barriers that may inhibit their progress in the program. Peer Support will collaborate with the treatment court team and meet with the Treatment Court Coordinator monthly to staff each participant. Respite services are available at the Courthouse for court appearances, UA's P&P appointments and treatment obligations. Respite is also offered for participants searching for work or need self-care.

IX. TRAINING AND EDUCATION

LCATC is committed to educating and training all Team members, as consistent with the OCJC Standards, as well as national standards and Best Practices endorsed by the National Association of Drug Court Professionals (NADCP) and the National Drug Court Institute (NDCI). *OCJC Specialty Court Standard 9-1.*

LCATC Team members are educated across disciplines for professional development, cultural responsiveness, and Team building. Among other things, training topics include: the treatment court model; substance use disorder and mental health treatment; managing co-occurring disorders; sanctions and incentives; drug testing standards and protocols; confidentiality and ethics; recognizing and correcting for implicit cultural biases; correcting disparate impact for members of historically-disadvantaged groups; and how Participants' race, culture, ethnicity,

gender and sexual orientation, and trauma may inform their recovery processes. *OCJC Specialty Court Standard 9-2.*

LCATC is committed, to the extent possible, to assuring that members attend comprehensive training yearly or every other year,¹⁸ as provided by the Office of the State Court Administrator or the National Association of Drug Court Professionals.

The individual agencies comprising LCATC commit to assuring, to the extent possible, that Team member assignments occur within such a time frame so as to align with annual trainings. This means that, as much as practicable, that Team members attending an annual training will remain on the Team at least until the next annual training, and that new Team members begin shortly before the next upcoming annual training opportunities. This commitment ensures that Team members are adequately trained, and that LCATC garners the benefit from the time and expense required to send team members to these annual trainings. *OCJC Specialty Court Standard 9-3.*

New Team members attend formal orientation and training administered LCATC Team representatives, offered on a quarterly or semi-annual basis. *OCJC Specialty Court Standard 9-4.*¹⁹

At the initial orientation with the LCATC Judge and Coordinator, new Team members are provided with:

- The Judicial Bench Book issued by the NADCP.
- The LCATC policy and procedure manual.
- Applicable Memos of Understanding between the various LCATC component agencies.
- The OCJC Specialty Court Standards.
- The NADCP Best Practice Standards Volume 1 &2.
- Quality Improvements for Drug Courts: Evidence Based Practices.
- A laminated card “Responding to Participant Behavior Using Risk/Needs Analysis”.
- The most recent evaluation of the LCATC and Treatment Provider.

New Team members are responsible for engaging in independent study and learning the following:

¹⁸ A multisite study involving more than 60 drug courts concluded that participation in annual training conferences was the single greatest predictor of program effectiveness. (Shaffer, *Reconsidering Drug Court Effectiveness: A meta-analytic review*, 2006) (Shaffer, 2010).

¹⁹ On average, drug courts that have new hires complete a formal training or orientation program reduce recidivism by about 54 percent more than drug courts that do not do so. (Carey, Mackin, & Finigan, 2012).

1. The LCATC Model.
2. The OCJC Specialty Court Standards and the NADCP Best Practice Standards.
3. The primary research and principles of Substance Use Disorder and Dependency and treatment.
4. The principles of distal and proximal goals relating to behavior modification as applied to the imposition of incentives and sanctions in response to Participant behavior.
5. Specific information relating to the Team member's particular role that will assure the new member has the foundation necessary to meaningfully participate on the Team.

X. PROGRAM ELIGIBILITY / INELIGIBILITY, AND ASSESSMENT

Program eligibility and assessment is dependent on an initial Participant screening and assessment based on validated screening and testing instruments including the Public Safety Check List, the LSCMI, and treatment assessment tools including the ASAM.

OCJC Specialty Court Standards 3-1, 3-4. To be eligible to participate in LCATC, the Participant must:

- Have committed a crime fueled by or related to substance dependency.
- Either (A) have pled guilty to a crime committed in Lane County (or been found guilty via a stipulated facts trial) and been referred to LCATC by the District Attorney's Office on a conditional discharge; (B) have pled guilty to a crime committed in Lane County and have been referred to LCATC by a circuit court Judge or supervising Probation Officer as a condition of probation, or (C) have committed a crime in another county and be an accepted transfer from that county. *OCJC Specialty Court Standard 3-2.*
- Be placed on supervised probation for (at least) the period they are in LCATC. Participants whose crime would otherwise result in bench probation may, at the successful completion of LCATC, file a motion seeking the conversion of any remainder of supervised probation to bench probation. Participants who successfully complete LCATC under a conditional discharge will have their subject charges dismissed, and their probation will accordingly terminate. Participants with felony or misdemeanor convictions and who are in LCATC as a condition of probation will, upon successful completion of the Program, continue on probation unless a Judge grants a motion to terminate probation early.
- Reside in Lane County within a distance of Eugene that allows for attendance of all treatment and court obligations.

- Participants with non-drug charges and different levels of criminal charges (felony or misdemeanor) may participate and individuals charged with drug dealing or have violent histories are not automatically rejected from Program participation. The Program only disqualifies individuals based on current or prior offense if empirical evidence and available treatment services suggest that those individuals cannot be safely and/or effectively managed in the specialty court Program. *OCJC Specialty Court Standard 2-7.*
- If adequate services are available, LCATC accepts individuals with serious mental health disorders/co-occurring disorders and medical conditions. Participants with mental health disorders, co-occurring disorders and medical conditions are eligible to participate in LCATC providing that the medical/psychological information provided by the Participant along with other relevant information indicates that the Participant's condition does not prohibit his/her meaningful participation in the Program.
- Participants with valid prescriptions for substances, including psychotropic or addictive medication, that are otherwise prohibited by the Program are not automatically disqualified from Program entry. The Treatment Provider will work with the prescribing provider, and if appropriate, an addiction specialist to determine if other medications that are not prohibited by the Program could be appropriately substituted for the prohibited prescription. In making decisions regarding acceptance of an individual with serious physical or mental health issues, LCATC gathers information from trained medical professionals. *OCJC Specialty Court Standard 3-10.*

Program Ineligibility: No person has a right to participate in LCATC. Admission decisions are based on the individual circumstances of the Participant as well as Program considerations including the current population of Participants, their needs, group dynamics and available resources. A person is not eligible to participate in LCATC under the following circumstances:

- The person has a mental health issue that is so severe that LCATC Treatment Provider or treatment partners cannot provide effective treatment.
- The person has a criminal history, mental health or other circumstance that presents a significant danger to other LCATC Participants or to other persons supporting LCATC.
- The person is assessed as having a low risk and needs that would make him/her inappropriate for participation with Participants with higher risk or needs and a low risk/low need Program is not a viable option given resources available to the Program and considering the Program's ability to efficiently and effectively serve that population.

Placement Priority: LCATC is designed to serve up to 125 Participants at one time.²⁰ Priority is given to those Participants who are assessed by validated assessment tools as having a moderate to high risk for criminal recidivism or failure in a less intensive rehabilitative disposition and have moderate to high criminogenic needs. These individuals are placed in the Primary Track.²¹ *OCJC Specialty Court Standards 3-3, 3-11.*

Screening and Assessment responsibilities

The Treatment Provider conducts the initial treatment evaluation of each Candidate, and creates a treatment plan. The Treatment Provider submits its evaluation reports to the Team in a timely manner so that Participants can begin the treatment process as soon as practicable (to the extent possible, within 50 days of the incident resulting in eligibility for LCATC). *OCJC Specialty Court Standard 3-8.* The Treatment Provider reassesses Participants on an as needed basis and at least every six months. To the extent possible, LCATC ensures that tools used are validated for members of disadvantaged groups, if any, that the Participant belongs to. *OCJC Specialty Court Standard 3-9.* All assessments are conducted by appropriately trained and qualified professionals, using standardized assessment tools. *OCJC Specialty Court Standard 3-9.*

Lane County Parole and Probation (LCP) complete the LSCMI and other validated assessment tools. LCP re-assesses each Participant actively engaged in the Program once per year. Participants who have graduated from the Program are re-assessed no sooner than 6 months from the date of graduation.

The Treatment Provider (Emergence) administers relevant, validated screening instruments including the ASAM Criteria to determine the level of care required to address the Participant's substance use disorder and/or mental health issues. The Participant's substance abuse problems are measured using MAST, DAST and TCU Drug Screen-5, and their criminogenic risk/needs and responsivity factors are measured using LS/CMI, SOCRATES and URICA. Participants are also screened for disordered gambling using the South Oaks Gambling Screen, and their mental health status is evaluated using GAD-7 and PHQ-9. *OCJC Specialty Court Standard 3-6.*

²⁰ Programs with fewer than 125 Participants at one time tend to have statistically significant reductions in recidivism. (Carey, Mackin, & Finigan, 2012).

²¹ For a more detailed explanation of Program Tracks, see Section XI ("Court Tracks and Level Requirements").

XI. ENTRY INTO THE PROGRAM

LCATC strives to assure that Participants begin the Program within 50 days of arrest (or, if no arrest, within 50 days of arraignment). *OCJC Specialty Court Standard 3-8*. Candidates can enter the Program via (1) a **conditional discharge plan** or (2) as a **condition of probation**.²²

Conditional Discharge: The conditional discharge plan is structured pursuant to **ORS 475.245**, Oregon’s conditional discharge statute. Under a conditional discharge plan, and pursuant to an offer from the District Attorney, the Candidate either pleads guilty or is found guilty in a stipulated facts trial – however, the Court does *not* enter a judgment of guilt. Prior to entering the Program on a conditional discharge, the Participant must sign a petition waiving rights to a jury trial, and acknowledging an understanding of the benefits and consequences of participation in LCATC. If the Candidate is deemed eligible for the Program, and ultimately successfully completes the Program, the Court discharges and dismisses the conviction. However, if the Participant ultimately fails to complete the Program, the Court will terminate her enrollment in LCATC, and sentence the Participant based on the Participant’s prior finding of guilt or prior guilty plea.

Condition of Probation: Either a Judge or a Probation Officer can order a probationer to participate in LCATC as a condition of probation, pursuant to **ORS 137.533**. Under this arrangement, the probationer does not get her charges dismissed upon successful graduation from the Program, but may have her probation terminated. Under this arrangement, if the Court terminates the Participant from the Program, the Participant may (and likely will) be charged with a probation violation offense. All Participants entering LCATC as a condition of probation must sign a legal document agreeing to participate in the Program and acknowledging the Program’s terms. *OCJC Specialty Court Standards 3-6, 3-7, 3-8*.

Typical timeline of entry for the “conditional discharge” cases

1. The Candidate’s criminal defense lawyer (who will likely not be the same lawyer as the Defense Attorney who sits on the treatment Team) negotiates with the District Attorney,

²² There can be many variations and combinations of these two plans. For example, a Participant may have two active cases, and enter LCATC to obtain a conditional charge in one case, and as a condition of probation in another case. Additionally, a Candidate may enter LCATC on a conditional discharge, be terminated and sentenced, be placed on probation as part of that sentence, and then be re-referred back to LCATC as a condition of probation.

and the District Attorney makes an offer to allow the Candidate to seek entrance into the Program. The Candidate is scheduled to appear for the treatment court docket.

2. The Candidate attends an **orientation at Public Defender Services of Lane County's office**, where the LCATC Defense Attorney meets the new Candidate, and advises the new Candidate about the Program – including the requirements, scope and potential benefits and effects on their case. *OCJC Specialty Court Standards 3-7.*²³
3. The Candidate reviews the petition to enter treatment court (which contains waivers, stipulations, and agreements) with her lawyer.
4. The Candidate attends an **initial appearance** on the treatment court docket. At the initial appearance, the Candidate formally submits the petition to enter treatment court, which the District Attorney reviews and (if approving) signs. The Candidate is set out for two court dates: a **check-in** (usually one week out) and an **opt-in** (usually two weeks out). The Candidate is also set out for two non-court-date obligations, both of which must take place between the initial appearance and the opt-in date: an **assessment** with the Treatment Provider (Emergence), and a **court orientation** with either the Case Manager or the Coordinator.
5. At the **assessment**, the Treatment Provider administers relevant, validated screening instruments including the the ASAM Criteria to determine the level of care required to address the Participant's substance use disorder and/or mental health issues. The Participant's substance abuse problems are measured using MAST, DAST and TCU Drug Screen-5, and their criminogenic risk/needs and responsivity factors are measured using LS/CMI, SOCRATES and URICA. Participants are also screened for disordered gambling using the South Oaks Gambling Screen, and their mental health status is evaluated using GAD-7 and PHQ-9.
6. The Treatment Provider (Emergence) administers relevant, validated screening instruments including
7. The Candidate completes the **court orientation**. At the court orientation, the Treatment Court Coordinator and/or case manager educate the Candidate on the general rules and obligations of treatment court, and provide the Candidate a copy of the treatment court handbook.²⁴ (See section X.I., entitled "Orientation," for a more thorough account of what is covered at the orientation.)

²³ Sometimes, due to scheduling issues, the Candidate will attend the initial appearance *before* attending the orientation at the public defender's office, though the Team generally tries to schedule it so that that does not happen.

²⁴ Depending on scheduling issues, sometimes the Candidate attends the court orientation before the assessment.

8. Once the Candidate has been assessed, the Candidate is assigned treatment groups to attend. The Treatment Provider runs these groups. The Candidate also begins calling the UA hotline, which the Treatment Provider also manages, and begins taking randomized UAs.
9. If, by the opt-in date, the Candidate has (1) completed the assessment, (2) completed the court orientation, (3) taken at least two UAs, (4) successfully completed every assigned obligation (including every assigned UA and every assigned group), and (5) the team agrees the participant is a good fit for the program, then the Candidate formally opts into LCATC, on the record, during his/her appearance on the Treatment Court Docket.²⁵ The LCATC Judge reviews those waivers, assures that the Participant understands his/her Constitutional rights and that he/she has been apprised of the effects of entry into the Program as well as alternatives to entry. The Candidate (now an official Participant), is given new treatment obligations, and is set out for a future court date. The Participant is also placed on supervised probation, which will run for the entire time that the Participant is enrolled in the Program, and which will also terminate upon the successful completion of the Program, when the underlying charge is discharged and dismissed.

Typical Timeline for Entry for Condition of Probation Cases: In cases where the Candidate is referred to LCATC by a Probation Officer, the Probation Officer will complete the assessment and send a referral form to the LCATC Coordinator. The Coordinator will conduct an interview and have the Candidate fill out an OTCMS form and any other required paperwork. Within one week of the referral, the LCATC Team will make its decision regarding the Candidate's eligibility to enter the Program. If the Team decides to allow the Candidate to go forward with entering the Program, the Candidate will be directed to appear on the drug Court docket for an initial appearance, similar to step (4) on the above list. From that point, the Candidate will progress through the same steps (5) through (8) above – the notable exception being that the Candidate will not be placed on supervised probation upon formally opting into the Program (since all Candidates entering in this manner are already on supervised probation).

Cases where the Candidate is referred to LCATC by a Judge follow the same general timeline, except that the Candidate, upon formally opting into the Program, *will* be placed on supervised probation if not already on supervised probation.

²⁵ Depending on the initial negotiations with the State, sometimes the Candidate will plead guilty *before* attempting the two-week opt-in period, and sometimes the Candidate will attempt the two week opt-in period first, and if successful will then undergo a stipulated facts trial, be found guilty, and welcomed into treatment court.

XI.I. ORIENTATION

All Participants of LCATC are informed of the details and possible consequences regarding the choice to accept or decline participation in LCATC through a structured Orientation process. *OCJC Specialty Court Standard 3-7*. For “conditional discharge” cases, this involves two orientations – one conducted by Public Defender Services of Lane County, and one conducted by either the Case Manager or court coordinator.

Public Defender Orientation

Participants who are considering entry into LCATC on an offer of conditional discharge receive an orientation through Public Defender Services of Lane County. The Orientation process typically occurs prior to the plea. Participants who enter LCATC as a condition of probation receive an orientation within one week of their first appearance.

The general aim for the public defender orientation is to apprise the Candidates of the obligations that participation in LCATC entails - including the rights that Candidates waive, and the commitments they will have to take on in order to successfully complete the Program. In other words, the orientation aims to ensure that any time a Candidate decides to opt into the Program, that decision is fully informed and well considered.

Court Orientation

The LCATC Coordinator is responsible for assuring that all Participants have been informed of the details of LCATC Program. At minimum, this involves distribution of the Participant Handbook and explanation of rules of the Program. *OCJC Specialty Court Standard 2-8*. Upon completion of the Orientation, the Participant signs the Handbook Acknowledgment Receipt (see Appendix E), by which the Candidate acknowledges receipt of this orientation information. A copy of this document is kept in the Participant’s confidential LCATC file. *OCJC Specialty Court Standard 2-8*.

The Participant Handbook includes, but is not limited to, the following information:			
<ul style="list-style-type: none"> • Program History and Purpose • Eligibility • Failure to Appear • Termination • Levels 	<ul style="list-style-type: none"> • Treatment • Supervision • Progress Reporting • Incentives and Sanctions • Participant Rules and Expectations 	<ul style="list-style-type: none"> • Participant Rights and Grievance Process • Drug and Alcohol Testing • Community Support Meetings • Graduation 	<ul style="list-style-type: none"> • Give Back Project requirements • Contacts • Handbook Acknowledgment Receipt • Prescription medication restrictions

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<ul style="list-style-type: none"> • Approved over-the-counter medication 	<ul style="list-style-type: none"> • Confidentiality • Program Fees • Performance and Responsibility contracts 	<ul style="list-style-type: none"> • Educational and employment programs • Volunteer service requirements 	
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In addition, all Participants who enter LCATC Program are required to:

- Sign a handbook acknowledgement receipt
- Sign a drug and alcohol testing contract
- Sign a release of information allowing LCATC and all treatment providers to exchange and share information.
- Sign a consent to multi-party case staffing and open court hearings.
- Participate in required screenings and assessments.

XII. COURT TRACK AND LEVEL REQUIREMENTS

LCATC offers two Tracks: (1) The “Primary Track,” for Participants assessed as having moderate-to-high risk, and (2) the “Secondary Track,” or “Low Risk Track,” for Participants assessed as having low risk. Primary Track Participants and Second Track Participants are not mixed.

Determination of Court Track

Court Tracks are assigned based on the various assessments completed by treatment and the probation office. Participants assigned to one Track may be transferred to another Track if it is determined that circumstances have changed, that the assessment was in error, or if there is a new assessment that changes the Track assignment decision.

Primary Track

Primary Track requires the Participant to successfully complete a minimum of 12 months of active treatment. A Participant who flawlessly progresses through both the treatment phases and the court levels could commence from the Program in 12 months. However, it is expected that most Participants will take longer than 12 months to successfully complete the Program. To successfully complete each Level, treatment attendance is required and is provided according to each Participant’s individual treatment needs. Treatment needs are continually assessed and an individual case plan is developed and continually revised based on the current needs and successes of the Participant. *OCJC Specialty Court Standard 4-4.*

A Participant may not successfully complete the Program if the Participant has not successfully met all treatment phases/obligations. Similarly, a Participant who has successfully completed all treatment phases/obligations may not graduate if the Participant has not successfully progressed through all court levels.

Each level requires compliance with the Court, Parole & Probation Case Management, and treatment and recovery goals, with therapeutic interventions and rehabilitative directives to be completed in order to advance to the next level (see Appendix F for Level Up Paperwork). The levels are outlined below:

Level One | Engagement
Minimum of 4 weeks

During this level, the primary objective is stabilization, comprehensive assessment, connection with parole and probation, and engagement in a treatment plan.

Level Two | Intensive Treatment
Minimum of 12 weeks

During this level, the primary objective is to assist the Participant in learning structure, complete the treatment plan provided, and identify and plan the Program completion requirements that she will need to achieve.

Level Three | Reclaiming Self
Minimum of 24 weeks

During this level, the primary objective is to dig into the reasons and circumstances that brought the Participant into the Program in the first place. During this level, the Participant will begin the process of achieving long-term goals as well as start the process of satisfying Program completion requirements.

Level Four | -After Care
Minimum of 12 weeks

During this level, the primary objective is to continue assisting the Participant in moving from the structure/support of treatment and LCATC Program to community based self-help support systems that will last beyond your time in the Program. By the end of this level, the Participant will have achieved the Program completion goals.

After successfully completing the After Care level (4) of the Program, the Participant will be scheduled for the next graduation. Graduations happen every 12 weeks and are a way to

celebrate all the hard work and progress throughout the Program. Family, friends and community members are invited to join and see all the hard work and accomplishments.

Primary Track Level Overview

Level Overview	Weeks in Level	Minimum Court Review	Requirements to Advance
Level One: Engagement	4 weeks minimum	Every week	<ul style="list-style-type: none"> *Submit essay questions *7 days without a sanction *On the 100% list at time of advancement
Level Two: Intensive Treatment	12weeks minimum	Every 2 weeks	<ul style="list-style-type: none"> *30 days sanction-free *30 days in a row of documented clean time *Submit level up questions, wellness proposal and budget to Case Manager *On the 100% list at time of advancement *Submit GED Action Plan for, if applicable
Level Three: Reclaiming Self	24 weeks minimum	Every 3 weeks	<ul style="list-style-type: none"> *Complete all treatment work *Complete batterers intervention Program, if applicable *30 days sanction-free *30 days in a row of documented clean time *Obtain GED or provide copy of diploma or submit another GED Action Plan form *Verified 30 days of full-time employment through paystubs or enrolled full-time for 30 days post-secondary education *If on SSI, volunteering for 12 hours per week for 30 days prior to advancement *Submit level up questions, wellness answers and give back proposal(agency contract signed) *On the 100% list at time of advancement *At least one \$40 payment made to probation

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<p>Level Four: After Care/Transition</p>	<p>12 weeks minimum</p>	<p>Every 4 weeks</p>	<p>*Complete Give Back project and presented in court 30 days prior to graduation *120 days (in a row) documented clean time *30 days sanction-free * Maintain Treatment compliance * On the 100% board 30 days prior to graduation *Complete exit interview 30 days prior to graduation * Restitution paid in full <u>GRADUATION</u></p>
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Low Risk Track

As already mentioned, Participants in this Track are assessed as having a low risk and low needs score on the LSCMI. A Low Risk Participant may complete the Program within a minimum of 24 weeks. Low Risk Participants are expected to be able to complete the Program with little difficulty, are not subject to close court or probation supervision, and must pay the cost of treatment through insurance or other source – no grant funds are used on Low Risk Participants. LCATC provides no subsidy and does not oversee the referred Treatment Provider.

Court reviews for Low Risk Participants are held a minimum of once every two months. A Low Risk Participant who fails to transition from Level One to Level Two within 4 weeks will no longer be eligible for the Low Risk Track participation; accordingly, such a Participant will be either reassessed and placed into the Primary Track, or terminated from the Program if ineligible for Primary Track participation. If reassessed and placed into the Primary Track, the Participant must (at minimum) “begin” again at Level One.

Low Risk Participants must sign a release of information allowing Team members to contact the Provider to assure that the Participant is complying with all treatment requirements and must bring proof of treatment progress at each court review.

Participants are required to submit to UA’s, as requested by the court, Treatment Provider or Probation Officer. If they do not have insurance, they are required to pay the cost of the urine analysis.

Level Advancement: In order to advance to the next Level in LCATC, Low Risk Participants hold the primary responsibility of completing all Level Requirements and requesting permission to advance up in collaboration with treatment and supervision. Level Advancement and Program Commencement require successful completion of Level Requirements. Low Risk Participants

are required to provide proof of completion of all treatment requirements outlined in the Provider treatment plan and of all other level requirements.

Procedure: Participants seeking to transition from Level One to Level Two must make a written application (see Appendix F) to the LCATC Coordinator who will then staff the request with the LCATC Team. The Participant will be notified of the outcome of the application at the Participant's next court hearing. Participant requirements for each level are outlined in the Level Responsibilities Contracts, which are explained during LCATC Program Orientation and are outlined below:

Level	Weeks in Level	Minimum Court Review
Level One: Assessment	2 weeks minimum	Every week
Level Two: Completion	22 weeks.	Every four weeks

Level One | Assessment **Minimum of two weeks**

In this level the Participant is assessed and oriented toward the Secondary Track. During this period, the Participant is referred to a treatment provider (or providers) and a case plan is set out for the Participant to follow. The minimum requirements for successful completion of this level are:

Assessment to Secondary Track: The Participant is assessed and the LCATC Team concludes that the Participant is appropriate for Secondary Track. This assessment takes into account the scores of the parole and probation assessment instruments including the LSCMI and the Treatment Provider assessments. If a person scores low on the LSCMI and if there are other circumstances, such as nature of the crime (for instance crimes of domestic violence) or known or suspected serious mental health issues, further assessments may be required before the decision to place in Secondary Track is made.

Identification of Treatment Plan and Provider Referral: Once a Participant is identified for Secondary Track, the Participant will be given an initial treatment plan and referred to a provider or providers for treatment. The Participant must arrange for payment to the provider, either through insurance or other source. To successfully transition from level one, the Participant must make contact with the new treatment provider(s), obtain a treatment plan from the provider(s) and begin treatment in accordance with that plan. The treatment plan and a statement from the treatment provider indicating that treatment has begun must be provided to the Court.

Court Requirements: The Participant must attend court status reviews a minimum of once each week. The Participant must maintain compliance with Court Orders.

Advancement to Level Two: To be eligible for Level Two advancement a Participant must have:

- Met all the Level One requirements;
- Be a minimum of one consecutive week sanction-free;
- Two consecutive weeks free from alcohol or non-prescribed drug use measured from the first drug and alcohol free sobriety test (UA or other) with no dilutes.
- Comply with the level advancement request protocol; and
- Be approved to advance by the LCATC Team.

Level Two Minimum of 22 weeks

Treatment Requirements: The Participant attends all required treatment requirements identified in the treatment plan. Proof of compliance with treatment requirements must be provided on each court review.

Court Requirements: The Participant must attend court status reviews a minimum of once every four weeks. The Participant must maintain compliance with Court Orders.

Graduation from Secondary Track:

To be eligible to graduate from LCATC Secondary Track, a Participant must have:

- successfully completed all requirements and
- Be a minimum of 90 days sanction-free;
- 120 consecutive days free from alcohol or non-prescribed drug use measured from the first drug and alcohol free sobriety test (UA or other) with no dilutes. Comply with the commencement request protocol; and
- Be approved to graduate by the LCATC Team.

XIII. STAFFINGS AND COURT APPEARANCES

The Treatment Provider tracks Participant progress with treatment obligations (e.g.: Is the Participant attending all required groups? Is the Participant actively engaging in groups? Did the Participant miss any UAs?). The afternoon before a Participant's scheduled in-court status hearing, the Treatment Provider will compile a "court report" for that Participant, and circulate that report to the rest of the LCATC Team. Each Team member should review all of the court reports the day before the scheduled status hearings.

Additionally, when any LCATC Team member receives information regarding a Participant's case, that Team member will update the rest of the Team. Information regarding incidents of Participant noncompliance should be immediately (meaning within one week or sooner) communicated to all members of the LCATC Team to coordinate an appropriate response to the noncompliance incident.²⁶

The morning of the status hearing, the LCATC Team meets for a pre-court Staffing, to discuss each of the progress and compliance of each Participant that is set on the docket for that day, as well as any other relevant updates on each Participant since that Participant's last court appearance. If a Participant has failed to comply with any Program requirement, the Team must discuss the matter, and work to come to a mutual agreement as to what court response is appropriate. The Team strives to coordinate an appropriate response to a Participant's noncompliance based on the Participants' resources and ability to meet the obligation (proximal and distal considerations²⁷). In all instances, the Judge is responsible for making the final decision regarding sanctions. *OCJC Specialty Court Standards 6-2, 6-9.*

Court reviews are set at a minimum frequency corresponding to the Participant's current Program Level. More frequent court reviews are set as necessary and in a manner consistent with Best Practices. Participants who have new use, fail to provide a UA, fail to comply with a court sanction or directive, or have unexcused missed obligations are returned to court for a review within one week of the incident. During Court sessions, Participants are expected to follow appropriate court room attire (see Appendix G), and to behave appropriately and respectfully in court.

Participants sign a return to court slip indicating the date they are to return to court and also stating any directives ordered by the Judge as a result of the court review. Failure to appear in court at the time and date set in the signed return to court slip may result in the issuance of a warrant and the Participant may be held in custody until appearance at the next court session.

XIV. RESPONSES: INCENTIVES AND SANCTIONS

LCATC employs a formal system of responses to Participant behavior, including incentives, deterrents, and therapeutic responses. These responses are updated and reviewed during the annual review of this policy manual. *OCJC Specialty Court Standard 6-1.* Prior to entering the Program and throughout their engagement in the Program, LCATC informs Participants about the

²⁶ Responses to noncompliance come as close in time as possible to the targeted behavior, but at most within one week. *OCJC Specialty Court Standards 6-9, 6-10.*

²⁷ For additional information, please see <http://www.ndcrc.org/sites/default/files/sibehmodtalk4.ppt>

types of incentives and sanctions used in the Program and the types of behaviors that result in incentives, sanctions, or therapeutic responses.

Generally, the range of incentives/rewards, deterrents and therapeutic responses are organized on a gradually escalating scale and are applied in a consistent, and proportionate manner matching the individual Participants' conduct and level of compliance. *OCJC Specialty Court Standard 6-7*. LCATC strives to assure that responses are certain, fair and proportional to the behavior. All responses focus on specific behaviors and are administered with a clear direction for the desired behavior change. *OCJC Specialty Court Standard 6-11*. LCATC recognizes that no single set of responses (incentives sanctions, therapeutic responses) is effective for everyone, and aims to tailor responses to the individual Participant and situation. The Team also aims to apply sanctions in a manner consistent with behavioral modification theory,²⁸ utilizing principles of distal and proximal goals. *OCJC Specialty Court Standard 6-8, 6-15*.

When ordering a sanction, the LCATC Team works ensure that the Participant understands the consequence of noncompliance with Program rules, and does not view the sanction as simply punitive. The Team further works to ensure that the Participant understands what behavior earned the sanction, what behavior is expected, and how the expected behavior can be achieved. Sanctions are delivered without expressing anger, ridicule, foul or abusive language, or shaming. *OCJC Specialty Court Standard 6-14*.

Prior to the imposition of any sanction, Participants have an opportunity to confer with the Defense Attorney, to contest the sanction, to provide additional information, and to argue for a different sanction. LCATC strives to use jail sanctions sparingly and for non-punitive purposes. Jail sanctions longer than 6 consecutive days are outside of best practices and imposed only in extraordinary circumstances. *OCJC Specialty Court Standards 6-5, 6-18*.

Proportionality of Sanctions

LCATC strives to respond proportionately to Participant's good and bad behavior. Best practices suggest that responding too lightly can precipitate what is called "**habituation**" – meaning that the sanction falls below the threshold of effectiveness, and accordingly the Participant does not react to the sanction as a deterrent. When a Participant becomes habituated, that can result in a feedback loop where the Court sanctions the Participant more and more frequently because the Participant has not changed his behavior in response to past sanctions. This, in turn, can cause a Participant to become desensitized to being sanctioned, which decreases the deterrent utility of all sanctions for that Participant. Additionally, when Participant's become desensitized to sanctions, they may become more likely to push boundaries and limits, which can increase the risk of behaviors that carry more severe consequences (such as new crimes or drug overdoses).

²⁸ For more information, please refer to the NDCI Practitioner Fact Sheet on Incentives and Sanctions, available online at <https://www.ndci.org/wp-content/uploads/BehaviorModification101forDrugCourts.pdf>.

Conversely, employing sanctions that are too harsh can create what is called a “**ceiling effect**” – which occurs when a Court deploys its most high-magnitude sanctions (such as jail time) prematurely. When this happens, the Court will reach a point where further escalation of sanctions is impracticable, and the Court has no other tool for dealing with more severe offenses. Additionally, the overuse of high-magnitude sanctions can impair the therapeutic relationship between the Participant and the Team, and also bring about problematic behaviors. For example, participants might become more likely to attempt to deceive the court (by lying, or attempting to fake UA results), or to abscond from the Program so as to avoid high-magnitude sanctions.²⁹

Other factors in calculating proportionality, including: the severity of the offense, the frequency of the offense (for example, if a Participant repeatedly commits the same low- severity offense, the court should increase the magnitude of its responses over time, to avoid habituating the Participant); and any aggravating or mitigating situational factors (however, since Participants watch each other’s court appearances, the Court must strive to avoid creating the impression that some Participants are treated more leniently than others for substantially similar offenses).

Low-magnitude Incentives:

- **Verbal Praise/Kudos/Applause.** The court may verbally praise Participants for routine accomplishments, even if in the person does not have a “100% report.” The court may applaud a Participant doing an exceptional job, hitting a milestone (e.g. 30, 60, 90, 120 days of clean time), or completing a treatment curriculum.
- **Support Rewards.** These rewards are there to assist Participants in their recovery when they have made small milestones early on in the Program. Common examples include: day planners; AA/NA books; inspiration books; and alarm clocks.
- **Name on the “100% board.”** If a Participant’s court report indicates that he or she has been in total compliance with *all* Program requirements between her last scheduled court appearance and current court appearance, Court staff will write the Participant’s name on the a white board in court for everyone to see. The Judge then reads all of the names on the board and the Team applauds them for their accomplishments.

²⁹ For more information, see the NDCI’s “Drug Court Judicial Benchbook,” pp. 145-46.

Medium-Magnitude Incentives:

- **Being Called Early on the Docket.** Participants who have a "100% report" are called first, in order of their level in the Program. If someone is in a lower level, but has a perfect report and has an appointment, the Judge will call them early and let them leave to meet their other obligation.
- **Change of court dates.** If Participants are doing well and meeting all of their obligations and have a conflict with their court date, the Judge may allow them to walk into court and sign for a different day that is more convenient with their schedule.
- **Incentive drawing.** If a Participant's name is on the 100% list, their name is also entered into a drawing. 50% of the names on the list are drawn, and those Participants receive an incentive worth approximately \$10.00. Typically, the incentive will be a gift card (to places like Starbucks, Subway, Panera, Fred Meyer, Goodwill, St. Vincent De Paul or online vendors like iTunes or Amazon) and gas cards. The Participant may choose from available incentives.
- **Life-Skills Services.** These services help Participants who are in the last levels of treatment (or aftercare) who are excelling and living productive lives, but need added support to accomplish certain goals. Examples include: GED assistance; meal prep classes; public speaking pointers; resume assistance; and access to Sponsors RRC Program.

High-Magnitude Incentives

- **Decision coins.** Each Team member has "decision coins" to give to Participants they feel are making good decisions while in the Program. A Participant may exchange 3 earned coins for an incentive item (typically worth up to \$25.00 value).
- **Travel Privileges.** The Judge or supervising probation officer may allow Participants who are in high levels of the Program and doing well to travel out of state for a weekend or long-weekend.
- **Community Role.** Almost-graduated Participants are privileged to facilitate support group meetings and may be given a leadership role in treatment and court. E.g. helping prepare for groups, addressing lower-phase groups; Facilitating/coordinating support group meetings.
- **Graduation Ceremony.** Graduation happens one time each quarter to recognize the progress and hard work the Participants have accomplished while in LCATC. Food and drinks are provided, and graduating Participants can invite their family and friends. The ceremonial elements of the graduation ceremony may include the following: a certificate memorializing successful completion of the Program; letters from the Mayor or other

community members, speeches from the Judge and counselor, about the Participant's personal story and accomplishments; and pictures taken with the Team and Judge.

- **Legal Incentive.** Depending on the initial agreement between the Participant and the state, upon successful completion of the Program, LCATC may confer legal benefits, common examples: dismissal of charges; reduction of the charge from a felony to a misdemeanor; avoid jail or prison sentence; information and forms for expungement of the arrest or conviction record. *[Note: keep in mind that, in “conditional discharge” cases, the Court cannot order a legal benefit that the District Attorney did not agree to in the negotiations that led to the Participant’s entry into the Program. Similarly, in “condition of probation” cases, the Court cannot confer any legal benefit on a Participant beyond holding that the Participant has completed that condition of probation, which (depending on the underlying circumstances of the participant’s probation) may or may not result in the Participant being released from probation.]*

Low-Magnitude Sanctions

- **Verbal admonishments.** Without attempting to “shame” the Participant, the Judge explains why the noncompliant behavior is problematic.
- **Letter of Apology.** Verbal apologies may be used in lieu of written assignments for Participants who struggle with writing. A verbal report back to the court will also be required if a letter is not possible.
- **Written Reflection.** The Participant writes a written reflection (usually about a page long) on a topic of the Judge’s choosing. Some examples of reflection topics include: strategies to organize schedule to meet obligations; the important of honesty; future goals, and plans for meeting them.
- **Daily activity log.** The Participant takes additional steps, such as the following: document her daily schedule; report her progress to the court; write down the UA numbers that are called every day, even if your number is not called; or call the Case Manager daily to report schedule and obligations. This sanction should be individually tailored (for example, if a Participant is chronically missing UAs, the Judge may order her to write down UA numbers).
- **Journaling.** The Participant may be asked to reflect on her thoughts, feelings, and attitudes connecting them to their substance use and consequences that stem from it.
- **Life Skills Assignments.** Examples include: documenting her job search history; enrolling in GED classes; opening a bank account; and creating a budget.

- **Court Sit Sanction.** The Participant observes court on a day that she would not ordinarily be scheduled to appear, sits in the jury box, and watches the entire docket. While doing so, she writes down her reflections and observations, and presents to the court at the docket's end.

Medium-Magnitude Sanctions

- **Increased probation contact.**
- **More frequent court appearances.**
- **Community Service.** The Participant reports to the Sherman Center and is assigned a community service location for a designated amount of hours (imposed by the Judge) Examples include: as the Eugene Mission, Community Gardens or Food For Lane County).

High-magnitude Sanctions.

- **Jail sit-in.** The Participant reports to the Sherman Center and "sits in" from 8-5 p.m.
- **Road Crew.** The Participant reports to the Sherman Center at 7:30 a.m. and goes out with a crew, supervised by deputies, until about 3:30 PM. When assigned Road Crew, the Participant must report to the Sherman Center (typically on the day that the Court assigns the road crew) to schedule the road crew.
- **Electronic Surveillance.** SCRAM device to help with alcohol monitoring and Anklet monitor for additional supervision.
- **Jail report for overnight custody.** May be served over the weekend or a pre-planned time. This may be an appropriate alternative to being taken directly into court in situations where taking the Participant into custody immediately from court is impracticable. Lane County Correctional Facilities holds the Participant in a specially-designated treatment court bed.
- **Jail taken into custody from court.** Usually a 1-3 day sanction, served immediately. The Court will generally not order more than 6 days in custody at one time, except for in extraordinary circumstances. Lane County Correctional Facilities holds the Participant in a specially-designated treatment court bed.

XV. PARTICIPANT RIGHTS AND GRIEVANCE POLICY

All Participants in LCATC Program have the right to file a grievance. Participants are advised upon orientation (and in writing, via the Participant Handbook) that they have that right, and are also instructed how to exercise that right.

Participants should file a grievance within five days of the incident that gives rise to the grievance. To file a grievance, Participants are instructed to write the complaint on a Participant Grievance Form (see Appendix H), which may be obtained from the Case Manager or from the LCATC Coordinator. The Participant should also include proposed solution to the problem. The Grievance form must be signed by the Participant and returned to the LCATC Coordinator.

Within 10 days of receiving the grievance, the Coordinator will attempt to contact the Participant and resolve the problem. A written response will be sent via US mail within 10 days from that date. Upon resolution of the grievance, the LCATC Coordinator documents the date of resolution and signs the Grievance Form.

If the problem is not satisfactorily resolved; a hearing will be set before the LCATC Judge. At that hearing the Participant will be given the opportunity to provide information directly to the Court and the Court will make a decision regarding the grievance. The LCATC Team, or assigned committee, will review all Participant Grievance Reporting forms and their outcomes annually as part of the Performance Improvement Process, and determine if there are any distinctive trends and/or additional actions to be taken or policies to be reviewed.

XVI. PROGRAM DISCHARGE

Graduation

A Participant will be discharged from LCATC upon graduating from the Program in accordance with the applicable graduation requirements for Primary or Secondary Track.

Decline

At any point before formally opting into the Program, a Participant may voluntarily decline from LCATC by notifying the court of her desire to do via their lawyer, and by signing a voluntary decline form. Upon declination, the case will be set for disposition if the Participant was attempting to enter on a conditional discharge. If the Participant was referred as a condition of probation, the District Attorney may choose to file a show cause ordering the Participant to appear at a probation violation hearing. The case will then be set on the probation violation docket.

Revocation of entrance offer during the opt-in period

Typically, a Candidate will attend an initial court appearance and be set out for two subsequent court dates – a check-in date and an opt-in date – with out-of-court obligations (such as attending assessments, groups, UAs) scheduled in between. These obligations will typically occur over a two week “opt-in period,” during which time the Candidate must comply with Program obligations, but has not formally become a Participant. If, during that span of time, the Participant does not fulfil their obligations and fails to demonstrate that he or she is able or willing to comply with the Program, the District Attorney may revoke the conditional discharge offer. For example, in some cases a Candidate will attend the initial appearance, and then abscond without attending any follow-up obligations, and fail to appear at the “check-in” court date. At that point, the District Attorney may ask that for the court to order an arrest warrant, revoke any outstanding release agreements (including the agreement to allow the Participant to seek entrance into LCATC), and order the Candidate to be placed back on the conventional criminal sentencing docket once he or she is arrested.

Termination

Once the Participant has formally opted into the Program, the Court may terminate that Participant from the Program for substantial noncompliance. Causes for termination include but are not limited to:

- Committing a serious Program violation. This includes but is not limited to delivering a controlled substances or alcohol to another Participant, posing a threat to the health and safety of treatment staff, other Participants or committing an act that seriously undermines the integrity of the Program, such as falsifying a drug test;
- Engaging in behavior that poses a serious threat to the public safety or to a member of the public. This includes violation of restraining orders, engaging in acts of violence or intimidation and driving while under the influence of intoxicants.
- Failing to engage in the Program, absconding from the Program or demonstrating a persistent inability to comply with Program requirements;
- Committing a new crime;
- Revocation of the probation placing the Participant in LCATC;
- A determination by LCATC that the Participant has been given all the services and support reasonably available and the Participant continues to use controlled substances;

- It has been determined by LCATC that the Participant has been given all the services and support reasonably available and that it is unlikely that the Participant will be able to successfully complete the Program.

LCATC does not terminate Participants to punish them. Rather, the underlying policy for termination is that the LCATC has limited resources, and should not expend those resources on Participants who are unlikely to succeed in the Program.

Process for Termination

If the Participant is not on “abscond” status, then the Participant will be scheduled for a “termination hearing” when in Court, and will sign a “return to court” form to appear at her Termination Hearing. If the Participant asks for a hearing, a hearing will be set.

If the Participant is on “abscond” status, before a Participant is involuntarily terminated, a notice is mailed to the last known address requiring the Participant to appear and explain why they shall not be terminated from LCATC. The LCATC Judge will issue this notice after consulting with the LCATC Team. Letters are mailed to Participants who have absconded from the Program after 60 days and a hearing is set at the 90 day abscond status. A Participant who fails to appear at the hearing will be terminated from the Program.

A Participant who appears at the hearing will be given the right to object to termination. If the Participant appears but does not request a hearing, LCATC will decide whether termination is appropriate based on the totality of the circumstances, including any explanations or statements offered by the Participant.

At the conclusion of that hearing, LCATC will terminate the Participant from the Program if the LCATC Judge determines, by a preponderance of the evidence, that the Participant has not complied with the Program requirements or other terms of probation, and that there is good and valid reason for termination, including: (1) the Participant has not complied with the terms and conditions of participation in LCATC; (2) the Participant is unable to succeed in LCATC; or (3) there are no more available resources that would be necessary for the Participant to succeed.

XVII. CONSTITUTIONAL ISSUES

This section details some issues of Constitutional law that pertain to LCATC operations. This section is not meant to be an exhaustive or all-inclusive summary of every Constitutional law issue that may affect LCATC operations or proceedings.

Deity-based support groups

As part of treatment, Participants are regularly required to attend support groups. However, several of the most popular support groups available, such as Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) employ deity-based content. Accordingly, the First Amendment (which applies to States via the 14th Amendment) prohibits drug courts from compelling Participants to attend AA, NA, or any other deity-based group. As such, if LCATC sees fit to require a Participant to attend support groups, it must ensure that non-deity-based alternatives are available.

The right to a public trial

Under the First and Sixth Amendments, Participants have the right to public trial. Accordingly, all LCATC status hearings will be open to the public, with the exception that the Court may, for good cause shown, exclude from the courtroom other witnesses in a case when those witnesses are not testifying, and may, in actions involving scandal or immorality, exclude all minors from the courtroom unless the minor is a party or witness.

If a party seeks to close a hearing, that party must advance an overriding interest that is likely to be prejudiced, the closure must be no broader than necessary to protect that interest, the trial court must consider reasonable alternatives to closing the proceeding, and it must make findings adequate to support the closure. *People v. Vaughn*, 2012. However, the Washington Supreme Court has found that pre-court staffings are not required to be held open to the public. *State v. Sykes*, 182 Wash. 2d 168 (2014).

Home visits

All LCATC Participants are placed on supervised probation for the entire time they are in the LCATC Program. Home visits as a condition of probation, even in the absence of reasonable suspicion, are justified. *United States v. Reyes*, 283 F.3d 446, 462 (2nd Cir., 2002). Accordingly, the LCATC Probation Officer is authorized to conduct Participant home visits as he or she sees fit.

Equal Protection Clause Issues

While most states (including Oregon) have not addressed this issue, courts in other states have held that there is no fundamental right to access to drug treatment court, and “people with substance abuse disorders” does not constitute a suspect class for purposes of equal protection analysis. See e.g. *State v. Little*, 116 Wash. App. 346 (2003).

Due process issues inherent in the drug-court plea bargaining process

Generally, the Constitution prohibits the state from coercing private citizens to plead guilty to criminal charges. Plea-bargains are unconstitutional if made under conditions of coercion. *Waley v. Johnston*, 316 U.S. 101 (1964). As a general test, a plea bargain may be coercive if a reasonable, factually innocent person in the same situation as the Candidate would be induced to (falsely) admit guilt. *Pennington v. Smith*, 35 Wash. 2d 267 (1949). Arguably, pleas allowing

Candidates to enter drug court are more likely to induce false admissions from reasonable people than conventional plea bargains, if the Candidate is not educated as to how demanding drug court actually is. Whereas conventional plea bargains often involve reduced sentences, with treatment court, Candidates are given a chance to avoid conviction and sentencing altogether. In other words, if a Candidate is informed that by completing treatment court, he or she can avoid a conviction and sentence and obtain a dismissal, but does not understand how much work it actually takes to complete the treatment court Program, a Candidate may (quite incorrectly) conclude that treatment court is an “easy” way to avoid a conviction and sentence, plead guilty based on that incorrect conclusion, enter treatment court, discover that its actually much more demanding than he or she realized, and ultimately end up failing to complete the treatment court Program. Of course, at that point it is too late to take back the guilty plea. Accordingly, this means that before allowing a Candidate to plead guilty so as to opt in to drug court, the LCATC Team must ensure that the Candidate fully understands the magnitude of the obligation.³⁰

Due process issues in termination hearings

LCATC is committed to ensuring that Participant’s due process rights are fully protected. For a summary of LCATC’s termination hearing processes and protocol, please refer to the proceeding section of this manual (entitled “Program Discharge”).

XVIII. PARTICIPANT FILES / DOCUMENTATION

LCATC maintains files on each Participant that are accessible to the Team members and stored separately from treatment and public records. Participant files contain the following information:

- Participant contact information
- Plea date
- Current level
- Treatment provider, including any residential/inpatient treatment, and diagnosis
- Current case number
- Current level of care
- Criminal History record
- Signed acknowledgment of receipt of Participant handbook
- Copies of signed Drug Testing and Incidental Alcohol and Other Substance Exposure Contract
- Assessment reports (ASAM and LS/CMI)

³⁰ For a more detailed discussion of this issue, see Trent Oram and Kara Clerkler, *An Analysis of the Constitutional Issues Implicated in Drug Courts*, 42 Idaho L. Rev. 471 (2006)

- Consents for release of confidential information
- Requests to travel, as ordered by the Court
- Documentation signed by Participant, at time of sanctioning, identifying violation and requirements of completing sanction, including date sanction is to be completed
- Substance testing records, which contain substances tested for, method of testing, results, signature of person administering test, and Participant signature and date
- Documentation of level-ups

Public court records are stored separately from treatment documentation and LCATC Participant file. Participant files are shredded and disposed after program completion (graduation or termination).

XIX. PROGRAM CONFIDENTIALITY

LCATC's duties regarding confidentiality are governed by the following laws, although the following is not necessarily an exhaustive list:

- Title 42 of the United States Code, Section 290dd-2, is the federal law that protects the confidentiality of the identity, diagnosis, prognosis, or treatment of any patient records that are maintained in connection with the performance of any federally-assisted Program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research. 42 CFR, Part 2, contains the regulations implementing the alcohol and substance abuse confidentiality law.³¹ A drug court's performance of, or request for, an assessment of chemical dependency of a drug court Participant, or a referral to treatment, places the drug court within the parameters of 42 CFR, Part 2, section 2.11.
- The Health Insurance Portability and Accountability Act (HIPAA) is a federal law that protects confidentiality and the security of protected health information. While it does not directly apply to drug treatment courts, HIPAA does apply to the treatment agencies partnering with drug treatment courts, so drug courts must also comply with HIPAA.³²
- Confidential treatment court information and records may not be used to initiate or to substantiate any criminal charges against a Participant or to conduct any investigation of a Participant. (42 CFR, Section 2.35(d)).

³¹ Full text of the law is available [here](#).

³² Full text of the HIPAA privacy law is available [here](#).

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- State law may neither authorize nor compel any disclosure prohibited by the federal regulations, but where state law prohibits disclosure that would be permissible under the federal regulations, the stricter standard applies. (42 CFR, Section 2.20).
- Treatment courts may receive or release information or records of or about Participants only with specific, knowing, voluntary, and written consent of the Participant, with very few limited exceptions. (42 CFR, Sections 2.22 and 2.31(a)). Under 42 CFR 2.31, such written consent must generally include the following:
 - The specific name or general designation of the Program or person permitted to make the disclosure.
 - The name of the Participant permitting disclosure.
 - The name of the title of the individual(s) or organization(s) to which the disclosure is to be made.
 - The purpose of the disclosure.
 - How much and what kind of information is to be disclosed.
 - The Participant's signature.
 - The date on which the consent is signed.
 - A statement that the consent is subject to revocation at any time, except to the extent that the Program or person authorized by the consent to make the disclosure has already acted in reliance on the consent.
 - The date, event, or condition upon which the consent will expire. That date, event, or condition must ensure that the consent will last no longer than is reasonably necessary to serve the purpose for which it is given.
- The extent of any such disclosures must be limited to only the information necessary to carry out the purpose of the disclosure. 42 CFR 2.13(a).
- The Participant *must* be advised, orally and in writing, that federal law protects the confidentiality of treatment records. The notice must cite Section 290dd-2 and the implementing regulations (42 CFR §§ 2.1 through 2.67), and must state the following:
 - Treatment information is ordinarily kept confidential;
 - It is a crime to violate the confidentiality requirement, and the Participant may report that crime, if it occurs, to appropriate authorities;

- Notwithstanding the confidentiality requirement, covered information may be released under specified circumstances (which should be listed for the Participant); and
 - Federal law does not protect information related to crimes committed on the premises of the Program, crimes against Program personnel, or the abuse or neglect of a child.
-
- Any documented treatment information distributed on the basis of a Participant's consent should be accompanied by a Notice of Prohibition Against Redisclosure. 42 CFR 2.32.
 - Treatment courts may not disclose protected health information (PHI) in response to a subpoena or a search warrant, or any other form of requests, *even if signed by a Judge*, unless the Participant signs a consent form authorizing such disclosure, or a court of competent jurisdiction enters an authorizing order under the standards set forth in the Federal regulations. 42 CFR 2.61.
 - All members of the LCATC Team should employ adequate procedures to ensure that access to confidential records is limited to authorized individuals. 42 CFR 2.16.

Confidentiality of Pre-Court Staffings

A major benefit of staffing a Participant's case before court and off the record (as opposed to in open court and on the record) is that it allows the Team to resolve intra-Team controversies and resolve substantive issues (such as what court response is appropriate for a Participant's progress or lack thereof), while still being projecting a non-adversarial dynamic and atmosphere when in court, consistent with Key Component 2. To preserve this benefit, all conversations that occur during pre-court staffings must be kept confidential.

Accordingly, as part of a Participant's initial petition to enter treatment court, LCATC has the Participant agree in writing to waive any right to learn what is said about that Participant during staffing, except for (1) Team's ultimate consensus on any issue affecting that Participant; (2) the rationale used to reach that consensus and (3) any documents that the Defense Attorney filed on the Participant's behalf, and the substance of what the Defense Attorney said or did on behalf of the Participant.

XX. DATA REPORTING AND EVALUATION

Policy Statement: LCATC participates in data reporting and outcomes evaluation processes and consistently strives to improve Program efficiency and effectiveness through a Performance Improvement component.

Procedure: LCATC uses the preferred statewide case management Program, OTCMS, in the interest of the formal and systematic collection of Program performance data. *OCJC Specialty Court Standard 8-7.*

LCATC internally monitors Participant progress, success, and satisfaction on a regular basis (including at Program entry and, via an exit survey, at graduation or termination) through the use of surveys. Monitoring includes a comparison of historically disadvantaged groups to the other Participants, to identify—and work to address—any areas of inequity. *OCJC Specialty Court Standard 8-1.*

LCATC monitors and analyzes Participant data on a regular basis to determine the effectiveness of the Program. Monitoring includes comparing historically disadvantaged groups to the other Participants, to identify—and work to address—any areas of inequity in Program access, treatment, responses to behavior, and dispositions. *OCJC Specialty Court Standard 8-3.*

A process and outcome evaluation is conducted by an independent evaluator at regular intervals as necessary, appropriate, and/or feasible with a goal of no less than every three years. *Specialty Court Standards 8-4.* Feedback from Participant surveys, review of Participant data, and findings from evaluations are be used to make modifications to Program operations, procedures and practices. The formal review, along with a plan for appropriate modifications to the Program based on the survey occurs no less than once per year. *OCJC Specialty Court Standard 8-5.*

LCATC maintains the data needed for Program monitoring and management in electronic data systems, which are easily accessible and maintained in useful formats for regular review by the LCATC Team and evaluators. *OCJC Specialty Court Standard 8-6.* The LCATC Team coordinates data collection through community corrections, OCJC and other appropriate agencies to obtain recidivism data. *OCJC Specialty Court Standard 8-8.*

LCATC works collaboratively with OCJC to conduct a cost-benefit analysis of the Program. *OCJC Specialty Court Standard 8-9.*

LCATC participates in the OCJC peer review process once every 3 years or more frequently if determined necessary by OCJC. Participation in the OCJC Peer Review is included as an appropriate process evaluation. *OCJC Specialty Court Standard 8-10.*

An annual written Performance Improvement Plan is developed in collaboration with the LCATC Team and includes, at minimum, the following:

- Program Efficiency Measures
- Program Effectiveness Measures

- Review of Program and Services Needs and Availability
- Identification of Program Strengths and Needs
- A review of Policies and Procedures and updates of all LCATC Program materials
- Identification of Team Training Needs

LCATC will make the Performance Improvement Plan available to stakeholders upon request.

XXI. FEES AND FISCAL MANAGEMENT

As mentioned in Section 6 above, the Lane County Sheriff's Department administers the grant, and also performs the following duties:

- Acts as fiscal intermediary, contract Manager and grant Manager for LCATC.
- Collaborates with the LCATC Judge and LCATC in selecting Treatment Provider(s) and other contracted agencies.
- Monitors contractor performance, collects data from partners and prepares and submits fiscal reports as required by funding agencies. Collaborates on efforts to secure grant funding for Program-related services. Prepares regular reports on the financial status of LCATC.

Participant's Fee Requirements: The Participant is expected to maintain current payments on fees. The Participant should be making an effort to pay the following fees:

- \$10 per week treatment fee, if the Participant does not have insurance.
- \$40 per month to parole and probation.
- Restitution Payments as set by the Probation Officer.