

# ARTICLE 8

## Substance Abuse Policy and Procedures

### Section 801 Purpose and Scope of Policy

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This policy describes practices and procedures to ensure that the work environment is free from the presence of illegal drugs and alcohol, and that employees are capable of performing their tasks safely and efficiently without the influence of any legal or illegal drugs, or alcohol.

It is the policy of the County that employees may not possess, use, or distribute illegal drugs or alcohol or be under the influence of drugs or alcohol on the County's premises, while doing County business, or while operating County vehicles or personal vehicles for County use. This policy also applies to employees who visit or work off-site and/or operate non-County vehicles while doing County business.

The County reserves the right to require drug and/or alcohol screening for the purpose of enforcement of this policy.

### Section 802 Definitions

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- A. **Illegal Drugs** - Any drug that is illegal under Federal, State, or local law. Any legal drug which has been illegally obtained or for which a valid prescription is required and lacking. Any drug which has been purchased legally in another jurisdiction but is illegal in the state where it is possessed or used.
- B. **Under the Influence** - Behavior, demeanor, or appearance which indicates or suggests that one's job performance, mobility, safety, speech, or functioning has been affected by use of alcohol or drug use.

## **Section 803 Pre-employment Testing**

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Persons who have received a conditional offer of employment with the County will be required to undergo a drug test. Any offeree with a confirmed positive result will be disqualified from employment with the County. However, an offeree with a confirmed positive result may request a second test using the original sample at his/her expense. If the second test is negative, the results of the initial positive test will not be used to deny employment. If the second test is again positive, the offer of employment with the County will be withdrawn.

Individuals who have been offered positions subject to the substance abuse regulations of the U.S. Department of Transportation (“DOT”) will be required to undergo testing in accordance with DOT regulations. These positions are generally positions that require a Commercial Driver’s License (“CDL”) or “safety-sensitive” work in connection with the same (such as a vehicle mechanic).

## **Section 804 Testing of Employees**

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The County reserves the right to require that employees periodically submit to drug or alcohol testing. These tests are intended to ensure that the County's work environment is free from the presence of substances that could impair performance and safety. The procedures listed below will be applied to drug or alcohol screening tests administered to County employees:

## **Section 805 Procedures**

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- A. **Applicability** - This substance abuse policy applies to all individuals offered employment with the County, to temporary and regular employees of the County, and to temporary and regular employees of any contractors of the County whose employees are present on County property.
- B. **Drug Testing** - All individuals who receive a conditional offer of employment with the County (“offerees”) will be required to successfully complete a test for illegal drugs before they will be allowed to start work. This applies to any individual who may be required to drive on any occasion for work-related duties. Current employees of the County may be subject to drug tests on a random basis, and to drug or alcohol tests for reasonable cause, and/or post-accident, as specified below.

- C. **Random Testing** - Employees in safety-sensitive job classifications will be subject to random drug testing. Employees whose jobs are subject to the requirements of the U.S. Department of Transportation (“DOT”) will be subject to substance abuse testing as required by DOT regulations.
- D. **Reasonable Cause** - Any employee who appears to be under the influence of drugs or alcohol may be required to submit to drug or alcohol screening. Employees who are involved in an accident will also be required to submit to drug or alcohol screening if the County Director of Human Resources, in consultation with the employee’s Department Manager and relevant safety management, determines that there is reason to believe that the employee’s acts or omissions may have contributed to the accident. Some of the objective criteria that will trigger a post-accident test include: fatalities; injuries that require anyone to be removed from the scene for medical care; damage to vehicles or property above a specified monetary amount (the respective deductible). The post-accident test must be conducted within twelve hours of the accident.
- E. **Alcohol Testing** – Except as required by applicable DOT regulations, offerees will not be tested for alcohol. Current employees will not be required to undergo alcohol testing unless there is reasonable cause, or post-accident.
- F. **Search** - Employees may be required to empty the contents of their apparel, purses, or other personal belongings when the County has reason to suspect the presence, sale, use, and/or possession of illegal drugs or alcohol.
- G. **Positive Test Results** – If an offeree tests positive for illegal drugs, his or her offer of employment will be withdrawn. An employee who has a confirmed positive drug or alcohol test result for the first time will be ordered to get treatment from an Employee Assistance Program (“EAP”) or other appropriate rehabilitation program, and sign a “Last Chance Agreement” in which he or she agrees to undergo rehabilitation and comply with the treatment regimen, agrees to undergo follow-up testing, and acknowledges that any subsequent positive test result will result in immediate discharge. In addition, the employee may be disciplined or suspended without pay, depending on the circumstances. Any employee who has a second or subsequent confirmed positive drug or alcohol screening test result will be terminated.
- H. **Right of Retest** - Any offeree or employee with a confirmed positive drug test result may request a retest before the County takes adverse action. The retest must be of the original sample, it must be done by an approved laboratory, and the offeree or employee must pay for the retest. If a retest requested by an offeree is negative, the County will not withdraw the offer of employment. If a retest requested by a current employee is negative, the County will reimburse the cost of the test to the employee and will not take action against the employee. If the retest is positive, the County will act according to Subsection G, above.

- I. **Refusal to Test** – Any unjustified refusal to undergo substance abuse testing as requested by the County is considered dishonesty or insubordination, and will result in immediate withdrawal of an offer of employment (if the individual is an offeree) or immediate discharge (if the individual is a current employee), without the opportunity to attempt rehabilitation. An adulteration includes, but is not limited to, substitution of another person’s urine or blood for that of the individual being tested, excessive “diluteness” of a urine sample without a proper medical excuse, or any other deliberate action that could have the effect of preventing an accurate test. A “refusal to test” includes adulteration as well as simply failing to appear for the scheduled testing, unduly delaying the testing, or failing to provide a urine or blood sample, without a legitimate excuse.
  
- J. **Failure to Cooperate** - An employee's refusal to allow a drug search, to permit confiscation of suspected material, to submit to a drug screening test, to participate in a counseling or rehabilitation program when referred by the County, or to cooperate fully with the enforcement of this policy will constitute cause for termination of employment.
  
- K. **Sale, Distribution or Possession** - Employees who are found in the possession of illegal drugs or alcohol while on County premises will be subject to disciplinary action up to and including termination. Employees who sell or distribute illegal drugs while on County premises will be subject to immediate termination.
  
- L. **Legal Drugs** – If an employee is taking legal medications (either prescription or over-the-counter) that may affect his or her ability to perform the job safely, the employee must disclose this information to the Director of Human Resources, so that the County can determine what action to take. Appropriate actions may include reasonable accommodation, temporary transfer to another position (if available and appropriate), permanent transfer to another position (if available and appropriate, and if the employee expects to be on the medication indefinitely), or sick/medical leave until the employee is no longer taking the medication. The Director of Human Resources may require documentation of the prescription or over-the-counter purchase, information about the effects of the drug, and information from the employee’s health care provider about the effect of the medication on the individual employee and possible job-related accommodations. Failure to disclose a legal medication that may affect safe performance of the job can result in disciplinary action, up to and including termination of employment.
  
- M. **Confidentiality** - All information involving medical examination, drug or alcohol test results, or rehabilitation and treatment of an individual employee or offeree, shall be treated as confidential medical information and maintained in a separate medical file. No data concerning this information or participation in any rehabilitation program will be made part of the employee's personnel file. Such information concerning the employee may be disclosed only to

those with a legitimate need to know the information. It will not be provided to any other party without the written consent of the employee except pursuant to legal procedure or process.

- N. **Voluntary rehabilitation** - Employees who need help with alcohol or drug use are welcome to voluntarily use the County's EAP, or to participate in organizations such as Alcoholics' Anonymous or Narcotics Anonymous. No adverse action will be taken against an employee who discloses in good faith that he or she is voluntarily participating in substance abuse rehabilitation. However, the employee must (1) disclose participation in the program to the County Director of Human Resources before being notified of selection for substance abuse testing, (2) fully comply with the treatment regimen prescribed by the rehabilitation program, and (3) accept and fully comply with any requirement that the employee be reassigned or take a leave of absence as needed to address the County's legitimate safety concerns or applicable licensing requirements.

## **Section 806 Convictions of Criminal Drug Statute**

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If an employee is convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, the employee must notify his or her Department Head of the conviction within five days after such conviction. NOTE: This is a requirement of the Drug-Free Workplace Act. Failure to comply with this requirement will result in termination.

**No part of this substance abuse policy is intended to affect the County's right to manage its workplace, to discipline its employees, to modify the terms or conditions of employment or to otherwise alter the at-will status of its employees.**