

## **SECTION 8 DRUG AND ALCOHOL POLICY**

### **A. Purpose**

This policy provides Jefferson County employees with guidelines pertaining to drug and alcohol abuse during the normal course of employment. Jefferson County provides a safe and productive work environment for all employees. It is the policy of the County that employees shall not be involved with the unlawful use, possession, sale, or transfer of drugs or narcotics in any manner that may impair their ability to perform assigned duties or otherwise adversely affect the County's goals. Further, employees shall not possess alcoholic beverages in the workplace or consume alcoholic beverages in association with the workplace or during work time. The specific purpose of this procedure is to outline the methods for maintaining a work environment free from the effects of alcohol/drug abuse or other substances that adversely affect the mind or body. If we are to continue to fulfill our responsibility to provide reliable and safe service to the public and a safe work environment for our employees, employees must be physically and mentally fit to perform their duties safely and efficiently. In order to further this objective, the following rules regarding alcohol and illegal drugs in the workplace have been established for all Jefferson County employees:

1. Alcoholism and other drug addiction are recognized as diseases responsive to proper treatment, and this will be an option as long as the employee cooperates. The employee Assistance Program (EAP) will be made available to assist employees.
2. The manufacture, distribution, dispensing, possession, sale, purchase, or use of a controlled substance on County property is prohibited.
3. Being under the influence of alcohol or illegal drugs or possessing alcohol or drugs on County property is prohibited. The unauthorized use or possession of prescription drugs on County property is also prohibited.
4. Employees who violate this policy are subject to appropriate disciplinary action up to and including termination.
5. This policy applies to all employees of the County regardless of rank or position and includes temporary and part-time employees.

### **B. Definitions**

1. County Premises – All County property including buildings, vehicles, lockers, desks, and parking lots.
2. County Property – All County owned or leased property used by employees such as vehicles, lockers, desks, closets, etc.

3. Controlled Substance – Any substance listed in Schedules I-V of Section 202 of the Controlled Substance Act (21 U.S.C.S. 812), as amended.
4. Drug – A drug is any chemical substance that produces physical, mental, emotional or behavioral changes in the user.
5. Drug Paraphernalia – Equipment, product, or material that is used or intended for use in concealing an illegal drug or for use in injecting, ingesting, inhaling, or otherwise introducing into the human body an illegal drug or controlled substance.
6. Fitness for Duty – To work in a manner suitable for the job. To determine “fitness,” a medical evaluation may include drug and/or alcohol testing.
7. Illegal Drug – An illegal drug is any drug or derivative thereof which the use, possession, sale, transfer, attempted sale or transfer, manufacture or storage of is illegal or regulated under federal, state, or local law or regulation and any other drug, including, (but not limited to) a prescription drug, used for any reason other than a legitimate medical reason, and inhalants used illegally. Included is marijuana or cannabis in all forms.
8. Negative Test Results – Are results that indicate no alcohol or drugs in the employee’s system other than properly used prescription medication.
9. Reasonable Cause/Reasonable Suspicion – An articulable belief that a policy violation has occurred, based upon specific facts or incidents and reasonable conclusions drawn from those facts or incidents.
10. Testing – Is generally defined as a urine, blood or breath test to determine chemical or drug content. Testing will occur in the following instances:
  - Pre-employment/post-offer process;
  - Reasonable cause to suspect use;
  - When an employee has lost time or seeks medical attention for an injury.

Testing may occur in the following instances:

- Routine physical examination as required by the County;
- Inquiring involving employee(s) causing or contributing to injury;
- On-the-job accident.

**Testing will remain confidential and will be released only on a need-to-know-basis.**

11. Under the influence – A state of having a blood alcohol concentration of .08 or more, where “alcohol concentration” has the meaning assigned to it in Chapter 49 of the Penal Code; or the state of not having the normal use of mental or physical faculties resulting from the voluntary introduction into the body of an alcoholic beverage and/or a controlled substance.

### **C. General Policy Provisions**

Any of the following actions constitutes a violation of the Policy and may subject an employee to disciplinary action including termination.

1. Using, selling, purchasing, transferring, possessing, manufacturing, or storing an illegal drug or drug paraphernalia, or attempting or assisting another to do so, while in the course of employment or engaged in a County sponsored activity, on County premises, in County owned, leased or rented vehicles, or on County business.
2. Working or reporting to work, conducting County business, or being on County premises or in a County-owned, leased or rented vehicle, while under the influence of alcohol or a controlled substance.
3. Switching, adulterating or attempting to tamper with any sample submitted for medical testing, or otherwise interfering or attempting to interfere with the testing process.

### **D. Preventive Acts**

1. Employees taking drugs prescribed by an attending physician must advise their direct supervisor in writing of the probable adverse effects, if known, of such medication regarding their job performance and physical/mental capabilities. (For example: if taking medication that makes one drowsy, it should be reported to the supervisor.) This written information must be kept confidential and communicated to the direct supervisor prior to the employee commencing work. All medical information will be kept confidential.
2. Any employee involved in a work-related accident where alcohol or drugs are believed to be a contributing factor may be referred to an employee assistance counselor in addition to any other accident investigation or disciplinary activities.

### **E. Corrective Act**

Except for those employees required to have CDL licenses, employees will not be subjected to random fitness for duty examinations as a result of this Policy. However, any employee may be subject to testing for the reasons specified under Definitions - item 10 "Testing."

### **F. Searches**

The County reserves the right to conduct searches or inspections of an employee's person or personal effects including (without limitation) purses, briefcases and motor vehicles located on County property, based on reasonable cause, as well as County property used by an employee, including (without limitation) lockers, desks, and offices whether secured, unsecured or secured by a lock or locking device provided by the employee, based on

reasonable suspicion. Searches of the person shall include the emptying of pockets and the production of other items concealed in clothing. Any further searches will be conducted by law enforcement personnel. The County may, with the aid of trained drug detection dogs, conduct random unannounced searches of County property and of employee personal property located on County premises, to include (but not limited to) lockers, desks, personal vehicles, purses, and briefcases.

Any item found during a search believed to be an illegal drug or drug paraphernalia will be confiscated by County security. The individual from whom the item or substance has been confiscated will be given a written receipt listing the items or substance seized.

In the administration of these search provisions, personal privacy will be considered to the maximum extent practicable.

## **G. Applicant Testing**

Refusal to give written consent for a drug screening test will disqualify the candidate for consideration for employment.

### 1. Objectives

To maintain the high professional standards of the County's workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are placed on the County payroll. This procedure will have a positive effect by reducing instances of illegal drug use by employees working within the County, and will provide for a safer work environment. For these reasons, drug testing shall be required of all applicants.

### 2. Application For Employment

Each applicant will be notified via the Application for Employment that employment is contingent upon the successful completion of a conditional post-employment examination including a drug screen.

### 3. Consequences

The County will rescind the conditional offer of employment to any applicant with a verified positive test result, and such applicant will not be considered for employment by the County for a period of one year. The Human Resources person working on the file shall be directed to object to the applicant on the basis of failure to pass the physical, a lack of personal characteristics necessary to relate to public employment, or failure to support the goals of the County. The County shall inform such applicant that a confirmed presence of an illegal drug in the applicant's urine precludes the County from hiring the applicant.

## **H. Employee Testing**

Refusal by an employee to submit to drug screen testing will be considered cause for discharge.

### 1. Objective

The County's objective is to provide a safe, drug-free environment for employees and to provide rehabilitative assistance for employees who have substance abuse problems.

### 2. When

- a. Testing may be required during routine physical examinations such as annual physicals or return to work physicals.
- b. Any employee suspected of having caused or contributed to an on-the-job accident or injury may be tested (see Definition on page 2, item 10 – "Testing").
- c. Individual testing shall be required when there is reasonable suspicion that drugs or alcohol is affecting job performance and conduct in the workplace.
- d. If an on-the-job injury results in medical treatment or lost time, the employee will be subject to drug/alcohol screening.

### 3. Immediate Fitness Examination

When, as determined by the immediate supervisor and the next higher level of management, reasonable grounds exist to believe that an employee is impaired or an employee's unsatisfactory behavior or job performance reasonably suggests to management that substance abuse may be a contributing factor, the County reserves the right to require an immediate fitness for duty examination such as a medical evaluation, which may include drug and/or alcohol testing. Refusal to participate in such an evaluation shall be considered a positive result and shall result in immediate dismissal.

### 4. Consequences

- a. A positive test shall mean either the presence of a drug and/or alcohol. Sample testing procedures shall conform to scientifically accepted analytical methods and procedures and shall include confirmation of any positive test result by gas chromatography, mass spectroscopy, or other comparable reliable analytical method, before the results of any test may be used as a basis for any action. Both screening and confirmatory urine testing will follow the guidelines adopted by the United States Department of Human Services.

- (1) If there is evidence of drug or alcohol use on the job, the employee may be disciplined, suspended or discharged at the Department Head/Elected Official's discretion. His/her eligibility for re-hire would be conditional, e.g., the person must be free from alcohol or drugs for at least one year, successfully completed a drug/alcohol rehabilitation program and currently participating in a recognized alcohol/drug rehabilitation program.
  - (2) If an employee is suspended, prior to reinstatement, the employee must have a signed release from a medical doctor stating that he/she is fit to work. The employee must submit to another screen test and have a negative result within six weeks from the date he/she was suspended, otherwise the employee will be discharged. The County will decide when the test should be administered. Before the employee returns to work, he/she will be required to sign a reinstatement agreement that states under what conditions the employee will be reinstated and that random drug testing may be conducted for one year.
- b. An employee who has been suspended for a positive drug or alcohol test and allowed to return to work will be discharged for a positive test result on any confirmatory drug test conducted in the future.

## 5. Policy Parameters

- a. For confidentiality, only County supervisors who have a need-to-know will be informed of positive results of fitness for duty examinations. The employee's privacy will be protected and the County, without exception, will punish any breach of the worker's privacy and confidentiality.
- b. The County will use only laboratories that are certified under appropriate federal and/or state regulations. The laboratories should follow the guidelines adopted by the United States Department of Health and Human Services for workplace urinalysis.
- c. Only conclusive results are to be reported to the County. A positive urinalysis test will be confirmed by a second test using gas chromatography or mass spectroscopy. Both tests must be positive or the results are considered inconclusive, thereby causing a negative presence of substances to be reported to the County.

### **I. Supervisory and Employee Training**

Supervisors will receive training regarding the Drug and Alcohol Policy and the use of the Employee Assistance Program. All employees will receive copies of the Drug and Alcohol Policy and information about the Employee Assistance Program.

## **J. Disciplinary Action**

Any employee suspected of violating this Policy may be immediately suspended without pay pending the completion of an investigation. During the course of the investigation the suspended employee shall have an opportunity to provide an explanation. In the event that a determination is made by the County that the employee violated this Policy, the employee will be subject to disciplinary action up to and including termination. Should the determination be made that no violation occurred, the employee will be reinstated without penalty and will be paid any lost wages.

Any employee charged with violating a criminal drug statute in this workplace may be subject to disciplinary action up to and including termination. If convicted, the employee must inform the County of such conviction (including pleas of guilty or nolo contendere) within five days of the conviction occurring. Failure to so inform the County subjects the employee to disciplinary action, up to and including termination for the first offense.

## **K. Employee Assistance Program**

The County will provide full-time employees and their families with confidential, professional assessment and referral for assistance in resolving or accessing treatment for addiction to, dependence on, or problems with alcohol or drugs adversely affecting their job performance. (See Section 14 for more specific details on the Employee Assistance Program.) Employees other than those who are full-time must seek the appropriate treatment at their own expense.

## **L. Coordination with Law Enforcement Agencies**

The sale, use, purchase, transfer or possession of an illegal drug or drug paraphernalia is a violation of the law. The County will report information concerning possession, distribution, or use of any illegal drugs to law enforcement officials and will turn over to the custody of law enforcement officials any such substances found during a search of an individual or property. Searches will only be conducted of individuals based on reasonable cause; and only of their vehicles, lockers, desks, and closets when based on reasonable suspicion. The County will cooperate fully in the prosecution and/or conviction of any violation of the law.

**Note:** This policy will be administered in conjunction with the County's Alcohol and Drug Testing Policy for Employees subject to the Department of Transportation Regulations.

**M. Reservation of Rights**

The County reserves the right to interpret, change, suspend, cancel or dispute, with or without notice, all or any part of this Policy, or procedures or benefits herein. Employees will be notified before the implementation of any change. This policy and all future revisions will be effective thirty days after adoption by Commissioners' Court.

Although the adherence to this Policy is considered a condition of employment, nothing in this Policy alters an employee's status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any reason, without notice, and the County retains the right to terminate any employee at any time, for any reason or no reason, without notice.

**N. Other Laws and Regulations**

The provisions of this Policy shall apply in addition to, and shall be subordinated to, any requirements imposed by applicable federal, state, or local laws, regulations or judicial decisions. Unenforceable provisions of this policy shall be deemed to be deleted.