

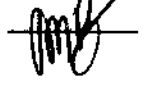
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**DOUGLAS COUNTY ADMINISTRATIVE  
POLICIES AND PROCEDURES**

**NUMBER:** 100.14  
**EFFECTIVE:** 07/01/93  
**REVISED:** 01/20/00, 09/21/00,  
12/19/02, 06/05/03, 04/05/07  
08/07/08

**AUTHORITY:**  
**COUNTY MANAGER:**  
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**SUBJECT: DRUG AND ALCOHOL FREE WORKPLACE**

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**I. PURPOSE:** To establish a policy for maintaining a drug and alcohol-free workplace and procedures for conducting screenings of job applicants and County employees for illegal drugs, improper use of prescription or nonprescription drugs and alcohol.

**II. POLICY:**

**A. DRUG AND ALCOHOL REGULATIONS:**

1. All employees of the County will be governed by the principles of a drug and alcohol free workforce, and, except for activities required through the course of duty:
  - Will not be under the influence and/or have present in the body cutoff levels of alcohol, illegal drugs or other drugs which could impair the employee's ability to perform the job, to drive motor vehicles, use equipment, or, for peace officers, use deadly or improper escalation of force during working hours, or while "on-call" for duty.
  - Will not manufacture, use, distribute, sell or possess illegal drugs or misuse or abuse other drugs.
  - Will not use alcohol, illegal drugs or abuse other drugs during working hours, during breaks or meal periods, when scheduled to return to work or when subject to being called to work.
  - Will not possess, store or transport alcohol or illegal drugs while on County premises, at County work locations or in County vehicles or equipment.
  - Will not sell, distribute, dispense or transfer alcohol, illegal drugs or other drugs to any other employee or to any person while on duty or acting in an official County capacity.
  - Will not possess or distribute drug paraphernalia while on duty or on County property.
2. As a condition of employment, each employee must:
  - Adhere to all County policies and procedures to maintain a drug and alcohol free workplace.
  - Comply with all applicable laws regulating the manufacture, distribution, dispensation, use or possession of illegal drugs, alcohol, or other drugs.

- Submit immediately to a drug or alcohol test when requested by his/her supervisor or the Human Resources Division in accordance with this policy.
  - Notify his/her Department Head/Elected Official or the Human Resources Manager of any criminal drug statute conviction for a violation of Federal or State law relating to drug or alcohol use, or possession no later than five days after such conviction.
  - Inform his/ her supervisor or management representative of conduct by any other employee, including the supervisor, who he believes, is in violation of this policy.
  - Inform his/her supervisor if the employee is taking any other drug that could impair the employee's ability to perform the job, to drive motor vehicles, use equipment, or, for peace officers, use deadly or proper escalation of force.
  - In the case of an on-duty or on-call peace officer using the services of a peer counselor or seeking treatment for a drug or alcohol use, not be under the influence and/or have present in the body cutoff levels of an illegal drug or alcohol.
3. All employees are governed by these requirements. Violations will result in disciplinary action up to and including termination of employment.
  4. This policy is intended to be applied in a common sense manner; it is not intended to affect every day situations (e.g., normal use of over-the-counter or prescription drugs in the prescribed or appropriate manner and/or possession or transportation of gifts of beverages containing alcohol).

B. DEFINITIONS: (For purposes of this policy):

1. "Reportable accident" means an occurrence involving a motor vehicle which results in a fatality, bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, the driver is cited for a moving violation, or there is an intended legal intervention with a motor vehicle.
2. "Alcohol" includes, but is not limited to, any distilled spirits, malt beverages, wine or other intoxicating liquors.
3. "Alcohol test" means a test for the presence of alcohol in the body as determined through the use of a Breath Alcohol Test, evidential Breathalyzer test or blood screening.
4. "Conviction" means a finding of guilt or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.
5. "Cutoff level" means 1) for a holder of a commercial drivers license a cutoff level for a drug as specified in 49 C.F.R. 40.29 or a breath alcohol level of .02 or higher and 2) for other employees a cutoff level for a drug as specified in

- 49 C.F.R. 40.29 or a breath alcohol level or a blood alcohol level of .05 or higher.
6. "Illegal drug" is any non-prescribed or prescribed controlled substance or other illegal substance that the employee is not authorized to possess or consume by law.
  7. "Drug test" and "drug screening" means a test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of drugs or drug metabolites in the urine or blood of an employee. This provision includes pre-employment testing, random testing, reasonable suspicion testing, reportable accident testing, or testing when a peace officer has used deadly force or taken an action that results in a serious injury or death.
  8. "Medical Review Officer" (MRO) is a licensed physician with specific training in the area of substance abuse. The MRO not only has knowledge of substance abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. A MRO verifies a positive drug test result by reviewing a laboratory report and an employee's medical history to determine whether the result was caused by the use of prohibited drugs.
  9. "Other drug" is a prescribed controlled substance or an over-the-counter substance that the employee is authorized to possess or consume by law that could impair the employee's ability to perform the job, to drive motor vehicles, use equipment, or, for peace officers, use deadly or proper escalation of force.
  10. "Positive test result" means a drug or alcohol test at or above the cutoff level.
  11. "Negative test result" means a drug or alcohol test result that is below the cutoff level.
  12. "Safety sensitive / critical positions" means positions so designated will be positions that, if an employee in such position was in any manner impaired by controlled substances and/or alcoholic beverages, and/or have present in their bodies during working hours detectable levels of illegal drugs or alcohol, the employee's ability to safely and/or substantially perform the duties of the position could be compromised. Such positions may include any position wherein the primary duties of the job include: carrying a weapon; enforcement of criminal drug laws; providing at-home patient care for elderly citizens; operating hazardous equipment or working in high-risk situations where the momentary lapse of attention, judgment, or dexterity could result in serious injury or death; driving a County motor vehicle on a continuous or exclusive basis. Determination as to which positions are safety-sensitive/critical will be as required by US Department of Transportation guidelines, or as identified by the Human Resources Manager and District Attorney's office.
  13. Peer Counselor means a Sheriff's department employee currently designated as a peer counselor for co-workers within that department.

**C. CONFIDENTIALITY:**

1. Information provided to any supervisor, managerial personnel, peer counselor, or other administrative personnel, of any problem or potential problem, related to the consumption, use or abuse of alcoholic beverages or controlled substances, or related to any other medical problem (including prescribed medications, alcoholism or drug addiction) of an employee is considered a part of the employee's medical record, and will be strictly CONFIDENTIAL.
2. Except as may be required by law, or on a "need to know basis", no supervisor, manager, or other administrator, may discuss or otherwise divulge any information concerning such matters. A "need to know" will be carefully observed so that only those persons with the need to know the information to assure correct medical treatment, a safe working environment, or proper implementation of the County's policy, will be informed of such matters. Records related to such matters will be kept in a separate locked medical records file in the Human Resources' Division, with access to the file limited to the aforementioned "need to know" persons.

**D. DRUG-FREE AWARENESS PROGRAM FOR EMPLOYEES:**

1. Every employee will be given notice of the County's policies with regard to substance abuse as follows:
  - New employee orientation will include a brief explanation of the County's Drug and Alcohol Free Workplace policy.
  - Each employee will be provided with a copy of the County's policy.
  - The policy will be included in policy and procedure manuals, outlined in employee handbooks and similar publications.
2. The Human Resources Manager will maintain information on community resources and employee benefits available to employees and/or dependents for assistance in problems related to substance abuse. The Employee Assistance Program is also available for such resource/information referral.
3. Informational programs addressing the physical, mental and emotional dangers of alcohol and other substance abuse as well as the rehabilitation options available to affected individuals will be available to employees at least once a year.
4. Supervisory training will be provided on a periodic basis including such topics as: a review of the Drug and Alcohol Free Workplace policy, detailed explanation of the Employee Assistance Program, drug awareness and symptoms of substance abuse; methods for dealing with substance abusers; supervisory responsibilities in implementing this policy; and confrontational/referral techniques for supervisors. Training topics will comply with federal regulations.

E. EMPLOYEE ASSISTANCE PROGRAM:

1. The County's Employee Assistance Program (EAP) is available as a counseling and referral resource for employees and their families. Employees with drug or alcohol dependency problems are urged to voluntarily seek confidential help through the EAP.
2. Employees, who voluntarily seek assistance with a substance abuse problem (prior to a request to be tested) and successfully complete a rehabilitation program, will not be disciplined for such voluntary admission. Voluntary participation in such programs is encouraged, however, violations of the rules set forth in the County's Drug and Alcohol Free Workplace policy during participation in a voluntary program do not preclude discipline.
3. In order for an employee's request for assistance with a substance abuse problem to be considered voluntary, the employee must make the request prior to being requested to submit to a substance abuse test, which subsequently results in a confirmed positive test result, and prior to a refusal to be tested.

F. DRUG AND ALCOHOL TESTING:

1. Because of the County's concern for its obligation to provide a safe, alcohol and drug-free workplace, applicants and employees in safety-sensitive/critical positions will be tested under the following limited circumstances:
  - Post-Offer / Pre-Employment: Applicants to whom an offer of employment has been, or will be extended shall, as a precondition to their acceptance, be tested for illegal drugs prior to performing a safety-sensitive function. The offer of employment will be revoked for any applicant who tests positive for alcohol or illegal drugs. Employees transferring or reassigned from a noncovered position to a covered position also have to take such tests.
  - Random Testing: A percentage equal to 50 percent of covered employees will be tested annually for substance abuse; the number of alcohol tests shall equal 10% of the number of covered positions. The random testing will be spread throughout the year and employees will have no advance notification of random tests. Each employee who works in a covered position will be in a pool from which random selection is made, will have an equal chance of selection, and will remain in the pool, even after the employee has been tested. An on-duty employee is required to report to the designated medical facility upon being notified of their selection, immediately but no longer than one hour of being notified, or, if the employee's immediate duties preclude reporting upon being notified as soon as possible thereafter. Documentation for the reasons for the delay must be provided by the employee's supervisor. Each employee must report to the designated medical facility with a signed chain of custody report. If the employee is on leave or is not on-duty, Human Resources will notify the employee upon the employee's return from leave or return to duty.

An employee agrees to report or is directed to report for a test while on leave or not on-duty will be paid for time spent taking the test.

- **Return to work:** An employee must submit to a return to duty alcohol test before resuming the performance of safety sensitive functions following disciplinary action and treatment. The return to duty alcohol test for a holder of a commercial drivers license must indicate an alcohol concentration of less than .02. A test result of .02 - .039 will result in a minimum 5-day suspension without pay. A return to duty test result of .04 or greater will be considered as the second positive alcohol test within a 10 year period and will result in termination. For other employees, a return to duty test result of .05 or greater will be considered as the second positive alcohol test within a 10 year period and will result in termination.
  - **Post Accident Testing:** All covered employees involved in, or contributing to a reportable accident on duty and/or in a County vehicle, or who cannot be completely discounted as being contributing factors to an accident, shall be tested as soon as possible, but, in the case of a holder of a commercial driver's licenses, within a maximum of 32 hours of the incident. A driver involved in a reportable accident must submit to a drug and/or alcohol test if any of the following occurs: there is a fatality resulting from the accident, there is bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, the driver is cited for a moving violation of the accident, or there is an intended legal intervention with a motor vehicle.
  - **Reasonable Suspicion:** An employee will be required to undergo immediate drug and/or alcohol testing in accordance with the procedures below if there is reasonable suspicion that the employee is under the influence of a drug and/or alcohol. Reasonable suspicion that an employee is under the influence of a drug and/or alcohol will be based on specific facts, and/or reasonable inferences derived from those facts. The observations shall be promptly documented, and the supervisor will consult with the HR Manager and/or District Attorney's office prior to directing an employee to undergo testing.
  - **Follow-up:** Employees who are returned to duty after completion of a substance abuse rehabilitation program are subject to follow-up random testing. For holders of a commercial drivers license, the follow-up tests will last at least one year and may last up to five years. For other employees, the follow-up tests will last at least one year. A trained substance abuse professional shall recommend to the County when follow-up tests should occur.
2. For all employees, a reasonable suspicion or post accident alcohol test shall be administered no later than eight hours following the determination of reasonable suspicion or the accident. If the test is not administered within two hours, the supervisor must document the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight

hours following the determination of reasonable suspicion or the accident, the supervisor will cease attempts to administer the test and document the reasons for not administering the test. In the event an alcohol test is not conducted within this time frame, the following should occur:

- The employee will not be allowed to remain on duty until an alcohol test is administered and the employee's alcohol concentration measures less than .02.
  - Twenty-four hours have elapsed following the determination of reasonable suspicion or the employee is no longer under the influence of alcohol and returns for the next scheduled shift.
3. For holders of a commercial drivers license, a post accident drug test must be administered within 32 hours following the accident. If the drug test is not administered within 32 hours, the supervisor will cease attempts to administer the test, document the reasons for not administering the test and forward the documentation to Human Resources. Other employees will be tested immediately or as soon as possible after the accident.
  4. An employee who refuses to submit to, or fails to follow through with, a drug or alcohol test when testing is required per this policy, or refuses to provide the necessary authorization for obtaining hospitalization and other related documents will be terminated.
  5. For holders of a commercial drivers license, the Department of Transportation (CFR 49 Part 40) defines refusal to test, and therefore grounds for immediate termination, as;
    - a) An employee who fails to cooperate with any part of the testing process (e.g. refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process or fails to wash hands after being directed to do so by the collector).
    - b) For an observed collection, the employee fails to follow the observer's instruction to raise clothing above the waist, lower clothing and underpants and to turn around to permit the observer to determine if the individual has any type of prosthetic or other device that could be used to interfere with the collection process.
    - c) The employee possess or wears a prosthetic or other device that could be used to interfere with the collection process.
    - d) The employee admits to the collector or MRO that he or she has adulterated or substituted the sample.
  6. While the County reserves the right to establish the procedures under which employees will be tested for alcohol and drugs, to the extent circumstances permit, the County will observe the following:
    - Every effort will be made to respect the privacy and dignity of employees in the test sample collection process.
    - The collection of test samples from applicants and employees will be conducted by health care professionals in a private setting.
    - Proper chain of custody procedures will be adhered to.

- Test samples will be tested by an independent certified medical laboratory. The name and address of the laboratory will be available to employees upon request.
- The Medical Review Officer will review the findings of a drug test with the employee before a final determination is made that the employee did not pass the drug test. The purpose of this review is to ensure that the findings of a "positive" test are not based on factors other than the use of the drug for which the positive result is found.
- The Human Resources Manager will receive all drug and alcohol test results.

### **III. PROCEDURES:**

#### **A. TESTING PROCEDURES:**

1. The employee will be contacted by the Human Resources Division or his/her supervisor, or directed by management, to report for a drug and/or alcohol test during normal work hours. The procedures of 49 C.F.R. 40.1-40.111, as amended from time to time, are to be followed in the conduct of drug and alcohol testing and are incorporated into this policy.
2. The employee will be taken or will report to the medical facility contracted by the County to be tested within one hour after notification from Human Resources or his/her supervisor, or directed by management. The sample will be tested and chain of custody maintained by a certified Substance Abuse and Mental Health Services Agency facility.
3. The drug test results will be reviewed by the Medical Review Officer to determine and verify whether there is any indication of a controlled substance. If there is any evidence of a positive result the MRO will give the person tested an opportunity to discuss the results and provide documentation of legally prescribed medication.
4. All final results will be verified in writing by the MRO, who will then forward those results to the County's HR Manager, who will maintain them in a secure location.
5. Alcohol test results will be provided on forms established under the federal regulations.

#### **B. DISCIPLINE FOR POLICY VIOLATIONS:**

1. The unlawful manufacture, distribution, dispensation, possession, purchase, or use of illegal drugs by County employees is prohibited and constitutes grounds for immediate termination.
2. The manufacture, distribution, dispensation, possession, storage, purchase, or use of alcohol by County employees while on duty or at the workplace is prohibited and constitutes grounds for immediate termination.



3. When there is reasonable suspicion that an employee on duty has an illegal drug in his/her system, the employee will be tested for drug use. If the result is a positive test result, the employee will be terminated.
4. If an employee tests positive for alcohol, and management concludes that alcohol consumption occurred on the job and is not duty required, the employee will be terminated. If the employee tests positive and management concludes that the alcohol consumption occurred while not on the job, the employee shall receive appropriate discipline as outlined in this policy.
5. An employee who tests positive for alcohol and is not terminated will receive a minimum 5-day suspension without pay, six-month performance probationary period, and a mandatory referral to a Substance Abuse Professional. The employee will be evaluated by the SAP and follow any treatment and rehabilitation program prescribed. The employee will authorize the County to receive all information from the SAP regarding his/her treatment, cooperation, and progression. The employee will then be subject to all other return to work provisions as outlined in this policy. Refusal or failure to fully comply with the treatment plan and rehabilitation program prescribed by the SAP will result in immediate termination of employment. A second such occurrence of a positive alcohol test within 10 years of the first occurrence will result in termination of employment.
6. Intentionally tampering with, causing another person to tamper with, substituting for, or causing another person to substitute for a urine and/or blood specimen, whether the employee's own specimen or another employee's specimen will constitute cause for termination of the employee who engages in such activity.
7. The conviction of an employee for any felony involving the illegal possession, sale, use or distribution of an illegal drug, or an on duty DUI conviction, will constitute cause for disciplinary action, up to and including termination, whether or not such felony occurred during "on-duty" hours. In deciding appropriate action, the County will consider the nature of the charges, the sentence, the employee's job assignment, the employee's record with the County, any adverse impact of the employee's conviction on the public's trust in the ability of the County to carry out its responsibility and any other relevant factors.
8. An employee who refuses to submit to, or fails to follow through with, a drug or alcohol test when testing is required per this policy, or refuses to provide the necessary authorization for obtaining hospitalization and other related documents will be terminated.
9. Any employee who violates or fails to comply with any other aspect of this policy will be subject to disciplinary action.
10. The County reserves the right, based upon the severity of the incident or infraction, to discipline an employee outside of the discipline outlined in this

policy. The Human Resources Manager and District Attorney's office must be consulted prior to any discipline being imposed.

11. This policy does not constitute a waiver of disciplinary appeal procedures provided for in a collective bargaining agreement.

**IV. RESPONSIBILITY FOR REVIEW:** The Human Resources Manager will review this policy as needed or at least once every 5 years.

08/07/08