

X. SUBSTANCE ABUSE/DRUG-FREE WORKPLACE POLICY

GENERAL POLICY

It is the policy of Scott County to provide safe, dependable and efficient services to the public which it serves. Scott County is committed to maintaining a workplace that is free from the effects of drug and alcohol abuse in accordance with the federal Drug-Free Workplace Act of 1988. Scott County desires to make its employees aware of the dangers of drug and alcohol abuse. We encourage employees to voluntarily seek help with drug and alcohol problems.

SCOPE

All sections of the policy are applicable to the following:

Any employee required to have a Commercial Drivers License (CDL) that has the potential to drive a vehicle requiring a CDL.

All sections of this policy, with the exception of Testing Circumstances /Consequences, Section D., are applicable to the following:

All employees responsible to the Scott County Board of Supervisors;

All employees responsible to a County elected office holder including the elected office holder and Deputies;

All employees not directly responsible to either the Board of Supervisors or an elected office holder and whose governing body and the Board of Supervisors have certified its applicability.

All applicants for County employment;

All visitors, vendors and contractors while on County premises;

When the provisions of this policy are in conflict with federal, state, local laws, regulations or a collective bargaining agreement, the provisions of the law, regulation or collectively-bargained agreement will prevail.

PURPOSE

It is the purpose of this policy to assure worker fitness for duty and to protect our employees and the public from the risks posed by drug and alcohol abuse. This policy is intended to comply with The U.S. Department of Transportation (DOT) or Federal Highway Administration published guidelines 49 CFR Parts 40 & 382, governing drug and alcohol testing. In addition, this policy incorporates the Drug-Free Workplace Act of 1988 which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the employer.

POLICY PROVISIONS

1. Scott County recognizes the following:
 - a. The use, misuse or abuse of controlled substances or alcohol can create a serious threat to the workplace safety of the County's employees and the public and therefore has established this policy to help maintain a safe, healthy and injury-free work environment. Abuse of alcohol, legal or illegal drugs will not be tolerated. Regardless of the cause, an employee whose faculties appear to be impaired during work hours will not be allowed to work.
 - b. The use, sale, offering for sale, storing, distribution or possession of illegal drugs, including controlled substances, imitation controlled substances, counterfeit control substances on the job, County property or in County vehicles is prohibited.
 - c. Any improper use of "legal" physician-prescribed drugs or over-the-counter medications on the job, on County property or in County vehicles is prohibited.
 - d. The use, sale, offering for sale, storing, distribution or possession of beer, wine, liquor, other alcoholic

beverages or medicines containing alcohol on the job, on County property or in County vehicles is prohibited.

- e. Being under the influence of alcohol, illegal drugs including controlled substances or improperly used prescription drugs or over-the-counter medications or substances on the job, on County property or in County vehicles is prohibited.
2. Employees are expected and required to report to work on time and in appropriate mental and physical condition for work. It is Scott County's intent and obligation to provide a drug-free work environment.
3. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences. No part of this policy or any of the procedures within is intended to limit the County's right to manage its workplace or discipline its employees; nor is it a guarantee of employment, continued employment or of terms or conditions of employment.
4. In order to comply with the Drug-Free Workplace Act of 1988, all employees are required to report any conviction under a criminal drug statute for violations occurring on the employer's premises or off the employer's premises while conducting County business. A report of a conviction must be made to the employee's Department Head and the Human Resources Department within five (5) days after the conviction.
5. Participation in Scott County's mandated testing as required in the Department of Transportation or Federal Highway Administration guidelines as set forth in Title 49, Code of Federal Regulations, Parts 40 & 382, is a condition of employment for all employees required to possess a CDL. Compliance with the terms and reporting requirements of this policy is required as a condition of employment for all employees.
6. This policy prohibits the use and ingestion of illegal drugs at all times.

7. This policy prohibits employees required to possess a CDL from having a blood alcohol level of .04 or greater while on duty. In addition, these employees may not consume alcohol either while on duty or within four (4) hours of starting duty.
8. This policy prohibits employees from reporting for duty or remaining on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform their duties.

TESTING CIRCUMSTANCES/CONSEQUENCES

A. Pre-Employment Testing

Applicants and current employees transferring to positions in certain designated County positions shall undergo pre-employment drug testing within two working days of receiving a conditional offer of employment. Each applicant shall be required to sign an authorization/release form prior to undergoing the pre-employment drug test. Failure to sign the authorization/release form shall prevent further consideration of the applicant for County employment.

If the applicant refuses to submit to drug testing or the Medical Review Officer (MRO) verifies a drug test result as "positive" for a controlled substance the applicant will be disqualified from further consideration for the position. Results of a negative drug test are required prior to employment or transfer and before the employee can perform any safety sensitive functions.

B. Reasonable Suspicion or "For Cause" Testing

Any employee may be subject to a fitness for duty evaluation, and urine and/or breath test when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the short-term effects of substance abuse or misuse.

The reasonable suspicion determination shall be based on specific, simultaneous observations concerning the appearance, behavior, speech, or body odors of the covered employee. Reasonable suspicion referrals must be made by a supervisor or person who is trained to detect the signs and symptoms of drug and alcohol use. Furthermore, the supervisor must also reasonably conclude:

- a) that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or misuse;
- b) that the employee is in a position where such impairment presents a danger to the safety of the public, or the property of the County;
- c) that impairment, due to the effects of alcohol/drugs is a violation of a known work rule of the County.

C. Post-Accident Testing

Scott County will require post-accident testing when there is a reasonable suspicion drug and alcohol use. Circumstances that may result in reasonable suspicion testing include but are not limited to the following:

- An employee is involved in an accident while at work or while driving a County vehicle that resulted in a fatality.
- An employee receives a citation under State or local law for a moving traffic violation arising from the accident;
- An employee is involved in an accident which results in injuries to any involved parties that require transportation to a medical treatment facility.

Following an accident meeting the above criteria a supervisor or Risk Manager will be called to the scene to determine if testing is appropriate. The employee will be tested as soon as possible, but not to exceed eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing. An employee subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Employees that are required to possess and maintain a CDL for employment purposes are prohibited from consuming alcohol within 8 hours

after an accident or until the employee undergoes a post-accident test, whichever occurs first.

Nothing in this section precludes testing for reasonable suspicion.

D. Random Testing

Employees required to possess and maintain a CDL will be subjected to random, unannounced testing. The selection of employees for random alcohol and drug testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year.

E. Return-To-Duty Testing

Any employee who previously tested positive on a drug test; previously had an alcohol result 0.04 or greater; previously refused to submit to a test; or engaged in any other activity that violates the regulations; must test negative (for drugs and alcohol) and be evaluated and released to duty by the Substance Abuse Professional (SAP) before returning to work.

F. Follow-Up Testing

Once returned to duty, employees may be required to undergo unannounced follow-up testing. The frequency and duration of the follow-up testing will be recommended by the SAP, as long as a minimum of six (6) tests are performed during the first twelve (12) months after the employee has returned to duty, but not more than sixty (60) months in duration.

Follow-up testing shall be conducted when the employee is performing job functions, just before the employee is to perform job functions, or just after the employee has ceased to perform job functions.

Follow-up testing is separate from and in addition to the regular random testing program.

G. Refusal to Submit to a Required Test

Any employee who refuses to comply with a request for testing shall be removed from duty and their employment terminated. Any employee suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verifications of these actions will result in the employee's removal from duty and their employment terminated. Any employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated.

Refusal can include (but is not limited to) an inability to provide sufficient urine specimen or breath sample without a valid medical explanation, a verbal declaration, obstructive behavior, or physical absence resulting from the inability to conduct the test, as well as the refusal to sign required forms.

TEST RESULTS

A. NEGATIVE TEST RESULTS

Employees who test negative under this policy will not suffer any loss as a result of the test.

B. POSITIVE TEST RESULTS

First Time Positive Test Result:

Employees who fail to pass a drug or alcohol test shall be removed from duty, without pay and referred for an evaluation by a Substance Abuse Professional.

Second Time Positive Test Result:

Employees who fail to pass a drug or alcohol test a second time shall be terminated.

TREATMENT/REHABILITATION PROGRAMS

If an employee is referred for treatment, the employee will sign a consent form to allow the SAP to release appropriate information regarding need for treatment, duration, and expected return-to-work date. Failure to comply with this requirement will result in discipline up to and including termination. If an employee is allowed to return to duty, he/she must properly follow the rehabilitation program prescribed by the SAP, the employee must have negative return-to-duty drug and alcohol tests, and may be subject to unannounced follow-up tests for period of one (1) to five (5) years. The cost of any treatment or rehabilitation services will be paid by the employee or their insurance provider. Employees will be allowed to take accumulated paid leave to participate in the prescribed rehabilitation program.

Nothing in this section shall prohibit an employee from seeking assistance on his/her own through the Employee Assistance program prior to any detected violation.

RE-ENTRY CONTRACTS

Employees who re-enter the workforce must agree to a re-entry contract. That contract will include:

1. A release to work statement from the SAP.
2. A negative return-to-duty test for drugs and/or alcohol.
3. May include an agreement to follow-up testing as determined by the SAP.
4. A statement of expected work rules.
5. An agreement to follow specified after-care requirements with the understanding that violation of the re-entry contract is grounds for termination.

TESTING PARAMETERS

Employees who have a confirmed breath alcohol test of .02 but below .04, will be disqualified from returning to work for a minimum of 24 hours. The employee will be required to resubmit to a test before their next assigned

shift and will be allowed to work only with a negative test result. Employees who have a confirmed breath alcohol test of .04 or greater will be disqualified from returning to work and will be referred to a SAP for evaluation.

The MRO shall notify each employee who has a confirmed drug urine positive test that the employee has seventy-two (72) hours in which to request a test of the split specimen. The employee is not authorized to request a reanalysis of the primary specimen as provided. The expense of the split specimen will be borne by the employee unless the results are negative.

An employee shall be accorded a reasonable opportunity to rebut or explain the results of a positive drug test.

Any employee covered by this policy, who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40 and 382, as amended, will be referred for evaluation by a SAP. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Assessment by a SAP or participation in the County's Employee Assistance Program does not shield an employee from disciplinary action or guarantee employment or reinstatement.

DEFINITIONS:

An Evidential Breath Test (EBT) is an evidential breath testing device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath for alcohol measurement.

A Medical Review Officer (MRO) is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

A Substance Abuse Professional (SAP) is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

ADMINISTRATIVE PROCEDURES AND MANAGEMENT RESPONSIBILITIES

1. The Human Resources Department is responsible to ensure that all employees receive a copy of the Substance Abuse/Drug-Free Workplace Policy and sign the accompanying "Acknowledgement" statement. All completed Acknowledgement statements are to be retained in employees' personnel files.
2. Human Resources will provide all newly hired employees with a copy of the policy and secure a signed "Acknowledgement" statement from them.
3. Supervisors of employees required to hold a CDL shall receive two (2) hours of training annually related to the Drug-Testing policy and the effects of drug and alcohol use and abuse.
4. Managers and supervisors are responsible for enforcement of this policy. Any supervisor who knowingly permits a violation of this policy by employees under his or her supervision shall be subject to disciplinary action up to and including termination of employment.
5. Employees affected by the policy will receive information communicating the policy and how it affects them.
6. Continuing education will be provided to employees and supervisors on an annual basis. Responsibility for such training shall be vested jointly with the Human Resources Department and Department Heads.