

SECTION 6.11: DRUG-FREE WORKPLACE POLICY

All employees must receive a copy of this Policy and sign a statement upon receipt acknowledging that it is a condition of employment.

The following policy is established by the Hamilton County Board of County Commissioners in accordance with the Drug-Free Workplace Act of 1988 (PL 100-690, 102 Stat. 4181, Section 5151-5160). This policy is intended to establish a drug-free workplace, and will be considered as a condition of employment.

- A. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance by any employee which takes place in whole or in part in the employers' workplace is strictly prohibited. The term "controlled substance" means a controlled substance in Schedule I - V of Section 202 of the Controlled Substance Act (21 U.S.C. 812).
- B. Any employee convicted of any Federal, State or Local criminal drug statute within the workplace, must notify the employer in writing of that fact within five (5) calendar days of the conviction.
- C. Any employer receiving Federal funds, who is notified by an employee of a workplace-related drug conviction, must report it to the Contracting Agency within ten (10) calendar days of learning of such conviction. Any conviction not reported may result in loss of Federal funds.
- D. The employer must, within thirty (30) days after receiving notice of a conviction from an employee:
 - 1. take appropriate personnel action against such employee up to and including termination, OR
 - 2. require such employee to satisfactorily participate in a drug rehabilitation program.
- E. Any employee who fails to report a workplace-related drug conviction:
 - 1. will be terminated from employment, and
 - 2. may be held civilly liable for any loss of Federal funds resulting from the failure to report the conviction.
- F. Any employee who is referred to a drug rehabilitation program (see D.2 above) and fails to satisfactorily participate in the program will be terminated from employment.

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G. DRUG SCREENING

1. Pre-Employment Testing

- a. All applicants for employment for certain specified positions shall be required to submit to a screen for certain controlled substances within 72 hours of receiving a job offer. Said job offer shall be contingent upon the applicant's passing the screen. Human Resources shall review the job content of each position under the Board of County Commissioners to determine the necessity of requiring pre-employment drug testing. The decision to require pre-employment drug testing will be based on the County's interest in insuring the safety of its employees and the general public. All candidates for employment in these designated positions will be informed of the necessity for pre-employment drug testing at the time of application or interview.
- b. The test shall take place at a site determined by the employer, and the analysis shall be performed by a laboratory selected by the employer. The laboratory shall be certified by the Department of Health & Human Services Substance Abuse and Mental Health Services Administration. The cost of the screen shall be borne by the County, although transportation to and from the screening site shall be the responsibility of the applicant.
- c. All positive screens shall be reviewed by a Medical Review Officer (MRO) who shall be a licensed physician. All decisions of the Medical Review Officer shall be final. Failure to successfully pass the drug screen shall render the applicant "not eligible for employment."
- d. Individuals who refuse to consent to the drug screening procedure, or fail to appear for the testing within the prescribed time requirement, will be ineligible for employment.

2. "Reasonable Suspicion" Testing

A supervisor or Department Head may require an employee to undergo testing for alcohol or certain controlled substances based upon specific, objective facts and reasonable inferences drawn from these facts. The supervisor or Department Head should consult with another member of management or personnel staff to corroborate and document observations before ordering the test. Such facts and inferences may be based on, but are not limited to, any of the following:

- a. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution during or immediately preceding work time; or the physical symptoms of being under the influence of drugs or alcohol, such as, but not limited to, slurred speech, dilated pupils, odor of alcohol or marijuana, disorientation, dynamic mood swings, etc.;
- b. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance (e.g., frequent absenteeism, excessive tardiness, recurrent accidents, etc.) which appears to be related to substance abuse or alcohol and does not appear to be attributable to other factors;
- c. The identification of an employee as the focus of a criminal investigation into unauthorized drug possession, use, or trafficking;
- d. A report of alcohol or other drug misuse or abuse during or immediately preceding work time provided by a reliable and credible source;
- e. Repeated or flagrant violations of the Employer's safety or work rules which pose a substantial risk of physical injury or property damage and which appear to be related to substance abuse or substance use and do not appear attributable to other factors.
- f. All employees are prohibited from engaging in the following:
 - 1.) Reporting to duty or remaining on duty while having a breath alcohol concentration of .04 or greater. Note that this is consistent with C.D.L. requirements contained in Section 6.12 of this Manual.
 - 2.) Reporting to duty or remaining on duty while using a controlled substance (including prescription drugs that impair the employee's ability to perform the assigned duties or jeopardize the safety of others;
 - 3.) Testing positive for controlled substances. (All positive screens shall be reviewed by a Medical Review Officer (MRO) who shall be a licensed physician. All decisions of the Medical Review Officer shall be final.);
 - 4.) Using or possessing alcohol or illegal and/or non-prescribed

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controlled substances while on duty;

5.) Refusing to submit to a controlled substance or alcohol test when ordered to do so.

g. If an employee violates any of the prohibitions listed in Paragraph f. above, the employee is subject to the following consequences:

1.) The employee may be disciplined up to and including dismissal.

2.) The employee may be reassigned.

3.) The employee will be referred to the Employee Assistance Program.

4.) The employee will be subject to reevaluation, return to duty testing, and unannounced follow-up testing.

5.) The employee may be denied workers' compensation benefits.

H. The Human Resources Department shall establish, maintain and communicate standard operating procedures (SOPs) for effectively administering this policy in accordance with applicable laws and regulations and in cooperation with affected departments and agencies.

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