
CHAPTER 17

DRUGS AND ALCOHOL

17.1 Purpose

The County of Spotsylvania recognizes that alcohol and drug abuse have become serious problems across America. It is, therefore, the goal of the County to establish and maintain a safe and healthy workplace for its employees, free from drug and alcohol abuse, and to protect the safety of the public by providing the highest quality of service.

The use of alcohol, illegal drugs, or the misuse of prescription drugs is not acceptable in the County workplace. Such behavior seriously affects job performance and can create danger to the public and co-workers. In addition, the use of illegal drugs is not acceptable at any time or place. The policy and regulations pertaining to a drug-free workplace must be followed by all employees in the County.

17.2 Policy and Regulations

All County work sites shall be maintained as drug-free workplaces. All County employees shall be provided a copy of this policy in compliance with the Drug-Free Workplace Act.

No employee shall unlawfully manufacture, distribute, dispense, possess, or use on or in the workplace any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance, as defined in Schedule I through V of Section 202 of the Controlled Substances Act (21 U.S.C. §812) and as further defined by federal regulation in 21 CFR §§1300.11 through 1300.15.

"Workplace" is defined to mean any site for the performance of work by an employee, including but not limited to any County building or premise; any County-owned vehicle; any building or premise used by the County for County business; and any non-County property during any County-sponsored or County-approved activity, event, or function. "Workplace" also includes all County-owned property such as, but not limited to, offices, desks, lockers, safes, file cabinets, and toolboxes.

As a condition of employment, each employee shall notify his or her supervisor of his or her conviction of any criminal drug law no later than 5 days after such conviction.

As a condition of employment, each employee shall abide by the terms of this County policy and regulations respecting a drug-free workplace.

All County work sites and all County-owned property are subject to drug detection inspection at the discretion of the County Administrator.

The possession and/or consumption of illegal drugs or alcoholic beverages in the workplace are prohibited.

Violation of this policy and regulations will result in appropriate disciplinary action up to and including termination.

17.3 Drug and Alcohol Testing

Drug and/or alcohol tests will be required in the following cases:

1. Where an applicant for a County position critical to the safety and security of employees or the public has been given a conditional offer of employment, subject to passage of a drug test.
2. Where an employee is in a County position critical to the safety and security of employees or the public has been selected for a random drug test. The percent of employees to be randomly tested may be determined by the Director of Human Resources.
3. Where there is reasonable suspicion that a County employee, regardless of position, is under the influence of illegal drugs or alcohol.
4. Following an accident and/or injury while working that requires medical attention and/or investigation.
5. Where a County employee, regardless of position, has been authorized to return to work at the recommendation of the County's Medical Review Officer and the Director of Human Resources after testing positive for drug or alcohol use and after referral to the Employee Assistance Program. Medical Review Officer means a licensed physician (medical doctor or doctor of osteopathy) 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. Testing may occur on an unannounced basis for 12 months if the employee returns to work.
6. As required by the Omnibus Transportation Employee Testing Act of 1991 and implementing regulations of the Department of Transportation (49 CFR, Parts 40 and 382, et. al.) (the "Federal Regulations"). All employees and applicants who hold or are offered a position that requires a Commercial Driver's License (CDL) as a condition of employment and continued employment be tested for drugs and alcohol under any of the following conditions:
 - a. Pre-employment (except alcohol)

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- b. Random
 - c. Post-accident — The employee receives a citation and a fatality or injury treated away from the scene has occurred, and one vehicle is towed. The employee must be tested within 2 hours if alcohol is involved
 - d. Reasonable suspicion
 - e. Return to work after testing positive and follow-up

In all cases, a refusal to submit immediately to a drug or alcohol test when requested, including failure to appear for testing without prior notice acceptable to the County or a verified positive test finding of alcohol or illegal drug use will subject the employee to the full range of disciplinary action up to and including dismissal; or in the case of an applicant, the withdrawal of a conditional offer of employment. The County positions determined to be critical to the safety and security of employees or the public for purposes of this policy are listed in Section 17.6.

- 7. The guidelines related to drug and alcohol testing set forth in the Standard Operating Procedures for Fire Rescue and Emergency Management and the Sheriff's Office will supersede the guidelines in this policy for field personnel acting in the capacity of a firefighter, medic and/or sworn officer.

17.4 Testing Procedures in General

The County's drug and alcohol testing program will be administered in accordance with the Federal Regulations. The Federal Regulations apply only to positions requiring a CDL, but this policy applies to all County employees as specified in Section 17.6. Detailed provisions are listed in the Federal Regulations regarding collection, labeling, and transporting the sample. Specific requirements regarding confidentiality are also included. An evidential breath-testing device operated by a trained breath alcohol technician will be used to test for the presence of alcohol. Urinalysis will be used for the detection of controlled substances. All employees tested will be required to sign an authorization and consent form releasing the information to the employer. The testing of the sample will be performed by a laboratory approved by the National Institute on Drug Abuse (NIDA), including a NIDA panel screening with gas chromatography/mass spectrometry (GC/MS) confirmation on all positive tests. The panel includes screening for amphetamines, marijuana, cocaine, opium, and phencyclidine (PCP). The cutoff level for each substance tested for, both drugs and alcohol, will be consistent with those specified by the Federal Regulations. The cost for all drug tests ordered will be borne by the County.

Any employee subject to testing under this policy and regulations will be permitted to provide urine specimens in a manner such that the employee is not observed while actually providing the

specimen. If the County Administrator determines there is reason to believe that the employee has altered or substituted the urine specimen provided, then a second sample will be obtained under the direct observation of a same gender collection site person. Refusal to submit to testing, as defined by DOT/FHWA regulations, including failure to appear for testing without prior notice acceptable to the County, will subject the employee to the full range of disciplinary action, up to and including dismissal; or in the case of an applicant, the withdrawal of a conditional offer of employment.

When a confirmed positive test result for drugs has been returned by the laboratory, the tested employee will be given an opportunity to provide to the Medical Review Officer appropriate and corroborated information to demonstrate the confirmed positive test result is from a legally prescribed medication or other ingestion. Evidence to justify a positive test result may include, but is not limited to:

1. A valid prescription
2. A written statement from the individual's physician verifying a valid prescription

If the Medical Review Officer determines there is no legitimate reason for the positive result, the result will then be considered a verified positive test result. The Medical Review Officer will timely and confidentially notify the Director of Human Resources in writing of the verified positive test result. If the test result is positive, the employee (other than probationary employees and those listed under the Sheriff's Office or the Department of Fire, Rescue and Emergency Services in Section 17.6) must be evaluated by a Substance Abuse Professional unless the positive test result is the employee's second positive; then the test will be grounds for termination. Substance Abuse Professional means a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist or counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders. A return-to-duty test must be conducted prior to returning to the job. The employee will be subject to a minimum of 6 unannounced follow-up drug tests in the first 12 months. The employee may submit a written request for a retest of the original specimen within 72 hours of being notified by the Medical Review Officer. The retest will be at the employee's expense, unless it is negative in which case the cost will be borne by the County. If the employee is employed by the Sheriff's Office or the Department of Fire, Rescue and Emergency Services as listed in Section 17.6, a positive test result shall be grounds for termination. Any probationary employee testing positive shall be discharged.

The laboratory may disclose laboratory test results only to the Medical Review Officer. Any positive result which the Medical Review Officer justifies by acceptable and appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of drugs will be treated as a negative test result and may not be released for purposes of identifying drug use or misuse.

If the results of an employee's alcohol test indicate an alcohol concentration of 0.02 or greater, but less than 0.04, the employee shall be suspended without pay and shall not be permitted to perform the duties of a position that requires a CDL for at least 24 hours and until a retest indicates an alcohol level of less than 0.02. If the concentration is greater than 0.04, the test is considered a positive result and the employee must be evaluated by a Substance Abuse Professional. Return-to-duty tests must be conducted prior to returning to the job. The employee will be subject to a minimum of 6 unannounced follow-up alcohol tests in the first 12 months. All positive tests will be confirmed by a second test. The results of these tests will be reported immediately to the Director of Human Resources.

All drug testing information specifically relating to employees and applicants is confidential and should be treated as such by anyone authorized to review such information. The Director of Human Resources shall maintain all applicable records in accordance with Federal Regulations.

All records and information of any personnel actions involving an employee with verified positive test results shall be maintained in confidential and secured files in the Human Resources Department and disseminated only to authorized individuals on a confirmed "Need to Know" basis as determined by the Director of Human Resources in accordance with applicable Federal Regulations.

17.5 Guidelines for Reasonable Suspicion Testing

An employee shall be required to submit to drug or alcohol tests when there is reasonable suspicion to believe the employee has used and is under the influence of drugs or alcohol. A supervisor will make this decision based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, and/or body odors of the employee." When a supervisor, in his or her judgment, has reason to believe that an employee has used and is under the influence of drugs or alcohol, the supervisor should ask his or her supervisor to corroborate the observations. The following examples, alone or in combination, may comprise reasonable suspicion. This list is intended to be illustrative, not all inclusive:

1. Unexplained inability to perform normal job functions
2. Slurred speech
3. Smell of alcohol or drugs on breath
4. Any unusual lack of physical coordination or loss of equilibrium
5. Unexplained hyperactivity or depression and withdrawal
6. Unexplained inability to think or reason at the employee's normal level
7. Unusual or bizarre behavior

During normal working hours if reasonable suspicion is determined, the supervisor shall contact the Director of Human Resources, or his or her designee, to discuss the observations and to determine the appropriate course of action. If the employee is to be tested, arrangements will be made with the County's designated collection center for the necessary drug or alcohol tests. The employee will be transported to the testing site. If reasonable suspicion is confirmed outside of normal working hours, then the supervisor shall arrange to have the employee transported to the approved collection site. A written report of the observations leading to the reasonable suspicion test, signed by the supervisor who made the observation, is to be done within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier. All records should immediately be sent to the Director of Human Resources.

If the employee refuses to be tested, the employee shall be immediately suspended from duty and transported home. Further, such refusal shall be the basis for discipline, up to and including dismissal.

For purposes of maintaining a workplace free of drugs and alcohol, the County reserves the right to search all County workplaces, including but not limited to offices, desks, lockers, safes, file cabinets, and toolboxes.

17.6 Positions Subject to the County’s Drug and Alcohol Testing Program

Classification Title	Applicant Testing		Random Testing		Suspicion or “For Cause” Testing		Post-Accident	
	Drug Testing	Alcohol Testing	Drug Testing	Alcohol Testing	Drug Testing	Alcohol Testing	Drug Testing	Alcohol Testing
All County Employees					✓	✓		
Employees required to have a Commercial Driver’s License	✓		✓	✓	✓	✓	✓	✓
*All Uniformed Fire, Rescue and Emergency Management Employees	✓		✓		✓	✓		
*All Sworn Sheriff Office Employees	✓		✓		✓	✓		

**Department standard operating procedures superseded this section of policy for all uniformed Fire, Rescue and Emergency Management employees and all sworn Sheriff’s Office employees.*