

**SANDUSKY COUNTY
PERSONNEL POLICY AND PROCEDURE MANUAL**

DRUG FREE WORKPLACE POLICY

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Sandusky County is concerned with the effects that alcohol and drug abuse can have on employees, their families, and employees' abilities to perform their work safely and efficiently. The employer believes that it is important, as a public entity, to serve as a leader in the community in the war against drugs by establishing a policy prohibiting the manufacture, distribution, dispersal, possession, or use of controlled substances in the workplace. The following policy is designed to meet the above objectives and comply with the provisions of the Federal Drug-Free Workplace Act of 1988.

Nothing in this statement of policy is to be interpreted as constituting a waiver of the employer's responsibility to maintain discipline or the right to take disciplinary measures in the case of poor job performance or misconduct that may result from alcoholism or drug dependency.

Acknowledgement and Notice: All prospective employees will be required to acknowledge they are aware of the employer's Drug-Free Workplace Policy, and they understand it is a condition of employment.

Prior to hiring, all successful applicants will receive a copy of the employer's Drug Free Workplace Statement and policy. They also will be required to sign an Acknowledgment of Receipt Form, which will become a permanent part of the employee's personnel file.

Drug Testing Policy: The employer may require current employees to undergo testing for alcohol or drug use, when there is reasonable suspicion to believe the employee is under the influence of alcohol or drugs while at work. Employees under consideration for safety sensitive positions may be required to undergo pre-employment testing after a conditional offer of employment has been extended.

A. Definitions:

1. Controlled Substance: Means any controlled substance contained in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. § 812) or as defined in the Ohio Revised Code.
2. Conviction: Means any finding of guilty, including a plea of nolo contendere (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
3. Criminal Drug Statute: Means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.
4. Employee: Means any person (i.e., management, supervisory, or non-supervisory), who is paid in whole or in part by the County.
5. Safety Sensitive: Means positions whose personnel discharge duties fraught with such risks of injury to others that even a momentary lapse of attention can have disastrous consequences.

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6. Employer Premises: Used in the broadest sense and includes all land, property, buildings, structures, installations, parking lots, and means of transportation owned by or leased to the employer or otherwise being utilized for County business. Private vehicles parked on the employer's premises are included within this definition.

7. Substance Abuse Defined: The employer will not tolerate substance abuse by its employees. For purposes of this policy, "substance abuse" includes:
 - a. Use of Illegal Substances or Drugs: Use of illegal substances or drugs would include those controlled substances listed in R.C. 2925.01 and R.C. 3719.01, including but not limited to, items listed in R.C. 3719.41, Schedules I, II, III, IV, and V, and all harmful intoxicants. "Use of" includes consumption while at work or reporting to work while under the influence, as that term is used in R.C. 4511.19 or legal conviction for the use of illegal substances or drugs while not at work.

 - b. Misuse of Lawfully Obtained Drugs: Misuse of lawfully obtained drugs can encompass either prescription or over-the-counter preparations whenever dosages are exceeded, or where safety warnings are ignored and the employee drives or operates machinery or performs safety sensitive work duties while under the influence.

 - c. Misuse of Alcohol: This includes both the consumption of alcohol while on duty; as well as the act of reporting to duty or working after having consumed sufficient alcohol to constitute a "positive" result of .04 BAC or higher. Legal conviction for public intoxication, driving while under the influence, or other serious alcohol-related convictions shall also be considered "substance abuse."

 - d. Sale, Purchase, Manufacture, Transfer, Use, or Possession of Any Illegal Substances or unlawfully obtained prescription drugs.

 - e. The Arrival at Work, or Return to Work: Execution of work or being on work time, while under the influence of drugs or alcohol; or under circumstances where the laws of Ohio or this policy would presume that the worker was "under the influence" due to a positive test result.

 - f. Possession of Alcohol or Drugs: The possession of alcoholic beverages or illegal drugs while on employer premises, in an employer vehicle, or at a county worksite, except as approved in advance by the employer and required for the performance of work duties (e.g., law enforcement).

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- g. Prescription Drugs: No prescription drug will be brought on employer premises or to an employer worksite by any person other than the one for whom it is prescribed, or a member of the employee's immediate family. Such drugs shall be used only in the manner, combination, and quantity prescribed.
 - h. Notification of Drug-Related Work Restrictions: Any person using a prescribed drug or medication which is known or advertised as possibly affecting or impairing judgment or coordination; causing dizziness or drowsiness; or which may adversely affect the employee's ability to perform work in a safe and productive manner; shall notify his/her immediate supervisor of such restrictions.
 - i. Alcoholic Beverage: For the purpose of this policy, an "alcoholic beverage" is any beverage that may be legally sold and consumed and has an alcoholic content in excess of 3% by volume.
 - j. "Drug": "Drug" means any substance other than alcohol capable of altering an individual's mood, perception, pain level, or judgment. A "prescription drug" is any substance prescribed for individual consumption and treatment, by a licensed medical practitioner.
- B. Prohibited Activity: The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee, which takes place in whole or in part in the workplace is strictly prohibited and will result in criminal prosecution and discipline of the employee. The discipline may include termination from employment.
- C. Prescription and Over-the-Counter Medications: An employee may continue to work, even though under the influence of a prescription or over-the-counter medication if the employee does not pose a threat to his/her own safety or the safety of co-workers and if the employee's job performance is not significantly affected by the medication. Otherwise, the employee may be required to take a leave of absence or comply with other appropriate action determined by the Appointing Authority or designee.

Each employee is required to notify his/her supervisor about the use of any medication prescribed by a physician when that physician has advised the employee that the drug's use may prevent the employee from performing his/her job safely.
- D. Medical Marijuana: Employees who are using medical marijuana as authorized by Ohio law are NOT exempt from this policy in any way. The use of marijuana in any form for any purpose, authorized for medicinal purposes or unauthorized, will be treated the same as the use of all other Schedule 1 controlled substances, illegal drugs, or the abuse of legal drugs. Employees using Schedule 1 controlled substances or illegal drugs, including medical marijuana authorized by and in accordance with Ohio law, are still subject to all provisions of this policy and may be subject to discipline up to and including termination.

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E. Policy:

1. For the purposes of this policy, an alcohol or drug abuse problem exists when an employee tests positive while on duty, when an employee's alcohol consumption or drug abuse interferes with the employee's job performance, the reputation of the County is damaged, and/or when, as the result of such alcohol consumption or drug abuse, the employee presents a threat to the safety of persons or property.
2. Implementation: This policy does not require, nor will it result in any special regulations, privileges, or exemptions from the standard administrative practices applicable to job performance requirements. The County may take disciplinary action for any violations of work rules, regardless of the effect of alcohol or drug abuse. Nothing in this policy shall be construed to condone or exonerate employees from their misconduct or poor performance resulting from a drug or alcohol problem.

This policy is intended to assure that no employee with a drinking or drug problem will have his/her job security, or promotional opportunities jeopardized by a request for treatment. On the other hand, this policy does not excuse employees from discipline or corrective action initiated by the county for unsatisfactory performance, or work-related misconduct. Rather, this policy is intended to help employees who themselves initiate requests for assistance. The individual's rights to confidentiality and privacy are recognized. The pertinent information and records of employees with drinking or drug problems will be preserved in the same manner as all other medical records.

3. Conviction: Any employee convicted of any Federal or State criminal drug statute must notify the employer of the fact within five (5) calendar days of the conviction.
4. Failure to Report: Any employee convicted of a drug or alcohol offense, who fails to timely report the conviction may be:
 - a. Disciplined, up to and including termination.
 - b. Forever barred from future employment with the county.
 - c. Held civilly liable for any loss of federal funds resulting from the failure to report the conviction.
5. Impairment on Duty: Any employee who reports for duty in an altered or impaired condition which is the result of the illegal use of controlled substances and/or alcohol will be subject to disciplinary action up to and including removal. Any decision to take disciplinary action may be held in abeyance pending the completion by the employee of a drug rehabilitation program.

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6. Employee Responsibility: It is the responsibility of the employee to comply with the referral for diagnosis and to cooperate with the prescribed treatment. Employees participating in a rehabilitation program will be expected to meet existing job performance standards and established work rules. Refusal to accept diagnosis or treatment or failure to respond to treatment will be handled in the same manner as for all other illnesses when job performance continues to be adversely affected. Those employees who have participated in a rehabilitation program may be subject to random urine and/or blood testing for one (1) year after returning to work.
7. An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to;
 - a. Direct observation.
 - b. Evidence obtained from a workplace-related arrest or criminal conviction.
 - c. A verified positive test result.
 - d. An employee's voluntary admission.

If an employee has a confirmed positive alcohol or other drug test resulting from reasonable suspicion testing, and the employee is not terminated, they shall be required to enroll in and successfully complete a substance abuse program certified by the Ohio Department of Alcohol and Drug Addiction services.

F. Drug/Alcohol Testing

1. In order to maintain a safe and healthful work environment, the County reserves the right to set standards for employment and to require employees to submit to physical examinations including blood or urine tests for alcohol, illegal drugs, or the misuse of legal drugs where there is reasonable suspicion that an employee's work performance is, or could be, affected by the condition.
2. Reasonable Suspicion: Reasonable suspicion that an employee has used or is using a controlled substance or alcohol in an unlawful or abusive manner may be based on but not limited to:
 - a. Observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol.
 - b. A pattern of abnormal conduct or erratic behavior, including abnormal leave patterns.

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- c. Arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug or alcohol possession, use or trafficking.
 - d. Information provided either by reliable and credible sources or independently corroborated.
 - e. Evidence that an employee has tampered with a previous drug test.
 - f. Facts or circumstances developed in the course of an authorized investigation of an accident or unsafe working practice.
3. Reasonable Suspicion Testing: In the case where the employer has reasonable suspicion to believe that the employee has violated the alcohol or controlled substances prohibitions stated in this policy, the following procedure will be followed:
- a. A trained supervisor shall be required to document the employee's conduct by completing the Observed Behavior — Reasonable Cause Recording Form located in forms section of this manual. If possible, witnesses shall also complete a signed statement documenting the employee's conduct. The written record detailing the observations leading to a reasonable suspicion test shall be completed as soon as possible.
 - b. Reasonable suspicion tests must be performed within eight (8) hours of the observation.
 - c. Any employee who has been ordered to undergo a drug and alcohol test shall be accompanied to the testing site by their supervisor or designee.
 - d. Testing shall be done by a laboratory approved by NIDA and certified by the State of Ohio as a medical and forensic laboratory that complies with the scientific and technical guidelines for federal drug testing programs.
 - e. A refusal to comply with the drug and alcohol testing will constitute insubordination and a presumption of impairment, and may result in discharge.
 - f. The Appointing Authority or designee shall inform the employee that he/she is immediately relieved of duty with pay, pending the results of the drug and alcohol test. The supervisor shall accompany the employee home or ensure that a family member or friend accompanies the employee home.

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- g. The Appointing Authority or designee is required to notify the employee if the controlled substance test results were positive and which substances actually tested positive.

If the test results are positive, the employee may request that a confirming test be conducted according to the laboratory's established procedures and his/her own expense.

- h. A positive test may result in discharge. Refer to Grounds for Disciplinary Action and Penalties in Section 6.03 of this manual for information on the discipline process.

4. Reasonable Suspicion Searches: Employer equipment such as desks, filing cabinets, files, and other property remain the property of the County. If the Appointing Authority has reason to believe that employer property is being used for alcohol or illegal drug use, sale, distribution, possession, or manufacture such property may be subject to employer-initiated searches at any time and without notice. See Section 5.22 No Employee Expectation of Privacy Policy, of this manual.

If the employer has reason to believe that an employee is involved in the use, sale, distribution, possession, or manufacture of alcohol or illegal drugs or if the employee was involved in an on-the-job accident or injury, the Appointing Authority may contact the Sandusky County Sheriff who will conduct a search of the employee and his/her possessions including the employee's vehicle as appropriate.

5. Post Accident Testing: As soon as practicable following:

- a. An accident in which a fatality has occurred; or
- b. When the employer has reasonable suspicion to believe that the employee has violated the alcohol or controlled substances prohibitions stated in this policy. In such case, the procedures outlined in this section shall be followed.

The Employer shall cease attempts to collect a sample from the employee for the test after eight (8) hours following the accident for alcohol and after 32 hours for controlled substances.

6. Employees who are required to hold a commercial driver's license (CDL) will be required to participate in the County's drug and alcohol testing program as required by federal law which includes pre-employment testing, post-accident testing, random testing reasonable suspicion testing and return-to-work testing. Policies and procedures for these programs will be consistent with federal law and

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will be made available to employees required to hold CDL's and their supervisors.

- G. Discipline: The County may discipline an employee, up to and including discharge, for any violation of this policy. Nothing herein shall be construed as a guarantee that the County will offer an opportunity for rehabilitation. Failure to successfully complete or participate in a prescribed rehabilitation program, if offered, shall result in the employee's discharge (including a refusal to test or a positive test result on a return to duty or follow-up test).

No employee shall be provided more than one opportunity at rehabilitation. The County's decision whether to discharge an employee shall be made on the basis of the circumstances surrounding the employee's positive drug or alcohol test and considerations such as any other misconduct resulting from the employee's substance abuse (e.g. injury, property damage, etc.) the employee's work record, and other factors traditionally considered when determining whether to retain an employee.

- H. Refusal to Test: Employees who refuse to submit to the required testing shall be subject to disciplinary action up to and including discharge. A refusal to test for purposes of this policy shall include:
1. Failure to provide a sufficient sample provided there does not exist a valid medical explanation as to why the employee was unable to do so;
 2. Any conduct that attempts to obstruct the testing process such as unavailability, leaving the scene of an accident without proper authorization, or a delay in providing a sample; and
 3. Failure to execute or release forms required as part of the testing process.