

Board of County Commissioners

Escambia County, Florida

Title: Substance Abuse Policy – Section II, Part C.12
Date Adopted: December 16, 1997
Effective Date: August 1, 2016, as amended
Policy Amended: July 1, 2012, July 28, 1998; June 22, 1999; October 7, 1999, November 20, 2008, July 26, 2012

A. PURPOSE

Escambia County recognizes that employees are its most important resource and that the efficient functioning of the organization is directly related to the individual performance of each and every employee.

The use of drugs and alcohol is an increasing problem affecting many areas of our society and ranks as one of the major health problems in our country. Escambia County is no exception to this trend.

The County recognizes that employee alcohol and drug abuse can seriously impact the effective delivery of County services, the image of County employees, and the health, safety, and welfare of employees and the public. The pervasive presence of alcohol and substance abuse in our society, the resultant impact upon the workplace, and the County's obligation to its employees require the establishment of a drug-free workplace. The purpose of this policy is to establish a procedure for ensuring that a drug-free environment is maintained in the workplace, including all buildings, facilities, grounds, vehicles and any other property under the cognizance of the Board of County Commissioners and further to ensure that all employees are aware of this policy. The goal of the County is to provide a healthy, safe, and secure work environment for all employees. In return, employees must, as a condition of employment, abide by the terms of this policy.

B. SCOPE

This policy shall apply to all Escambia County employees under the Board of County Commissioners. Individuals working through a volunteer or temporary agency must adhere to the policy of that respective agency. Applicants and employees will adhere, when applicable, to 49 CFR Part 40 and the Omnibus Transportation Employee Testing Act of 1991, as amended and Florida Statutes, Chapter 112.440.

1. Definitions

The following definitions are used in this policy in accordance with the Florida Statutes, Chapter 440.102:

- a. Mandatory-testing – a job assignment that requires the employee to carry a firearm, work closely with an employee who carries a firearm, perform life-threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, or a job assignment that requires an employee security background check, pursuant to s. 110.1127, or a job assignment in which a momentary lapse in attention could result in injury or death to another person.
- b. Special Risk position – a position that is required to be filled by a person who is certified under Chapter 633 or Chapter 943 of the Florida Statutes.

2. Notice to Employees and Job Applicants

- a. One time only, prior to testing, the County shall give all employees and job applicants for employment a written policy statement with information which contains the following:
 - (1) A general statement of the County’s policy on drug use,
 - (2) A statement advising the employee or job applicant of the existence of this section of the policy,
 - (3) A general statement concerning confidentiality,
 - (4) Procedures for employees and job applicants to confidentially report to the Medical Review Officer (MRO) the use of prescription or nonprescription medications both before and after being tested,
 - (5) A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test,
 - (6) The consequences of refusing to submit to a drug test,
 - (7) A representative sampling of names, addresses, and telephone number of employee assistance programs and local drug rehabilitation programs,
 - (8) A statement that an employee or job applicant who receives a possible confirmed test result may contest or explain the result to the MRO within 5 working days after receiving written notification of the test result,
 - (9) A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section,
 - (10) A list of all drugs for which the County will test, described by brand name or common name, as applicable, as well as by chemical name,
 - (11) A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission (PERC) or applicable court,
 - (12) A statement notifying employees and job applicants of their right to consult with a MRO for technical information regarding prescription or nonprescription medication, and

- (13) The County shall include notice of drug testing on vacancy announcement for positions for which drug testing is required.

C. GENERAL POLICY

Escambia County Policy strictly prohibits employees from:

1. Using, possessing, selling, distributing, dispensing, or manufacturing any controlled substance, alcohol, or illegal drugs on Escambia County property, in County vehicles or while off County premises performing work for the County;
2. Reporting for work or performing work under the influence of alcohol, a controlled substance, or illegal drug; or having evidence of usage detected by appropriate testing or;
3. Using County property or one's position to facilitate the manufacture, distribution, sale, dispensation, possession, or use of a controlled substance or illegal drug.

D. TYPES OF TESTING

1. Pre-Employment Testing
 - a. An applicant selected for initial employment by Escambia County in a mandatory-testing position, a special risk position or a position which requires testing by a federal, state or local regulatory agency must successfully pass a drug screen urinalysis prior to beginning work.
 - b. An applicant's failure to submit to the required pre-employment drug test shall be considered as a request for withdrawal from consideration for the position for which he or she applied.
 - c. If the applicant fails to pass the pre-employment drug screening, he or she will be disqualified from consideration for employment for a period of 12 months from the date of the confirmed positive result.
2. Annual or Bi-Annual Physical Examinations
 - a. Employees in job classifications, which require an annual or bi-annual physical examination, will be required to submit to a drug screening as part of the physical examination.
 - b. A listing of job classifications which require an annual or bi-annual physical examination shall be maintained in the Human Resources Department.
3. Reasonable Suspicion
 - a. If the County has reason to suspect that an employee is violating this policy or when there is reasonable suspicion that the employee is under the influence of or is impaired by alcohol and/or an illegal controlled substance, the County will require the employee to submit immediately to medical tests administered for drug and/or alcohol testing which include the chemical analysis of breath, urine, and/or blood.

- b. An employee's time involved in testing shall be considered time worked and the County shall pay the cost of such tests. The County is responsible for transporting the employee to the laboratory and getting the employee home. The employee will be placed on paid administrative leave pending the results of the laboratory test.
- c. "Reasonable suspicion" is defined as a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts, such as:
 - (1) Observable phenomena while at work, such as direct observation of drug use or of the physical or manifestations of being under the influence of a drug;
 - (2) Abnormal conduct or erratic behavior while at work or a significant, deterioration in work performance;
 - (3) A report of drug use, provided by a reliable and credible source. No action shall be taken on anonymous complaints;
 - (4) Evidence that an individual has tampered with a drug test during his or her employment with the County,
 - (5) Information that an employee has caused, contributed to, or been involved in an accident while at work, and
 - (6) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working for the County or while on the County premises or while operating the County's vehicle, machinery, or equipment.
- d. Common signs which may indicate a drug or alcohol problem or circumstances which together shall create reasonable suspicion, include, but are not limited to the following:
 - (1) Observed drug or alcohol use during working hours.
 - (2) Signs of alcohol use: slurred speech, impaired coordination, red eyes, relaxation, smell of alcohol, unsteady walk, slowed reflexes, drowsiness, relaxed inhibitions.
 - (3) Signs of drug use:
 - a) Immediate
Odor of marijuana, drowsiness, irritability or anxiety, reduced concentration, mood elevation, feeling of well-being, followed by depression, violent behavior, hyperactivity, lack of focus on detail, confused behavior, panic.
 - b) Long term
Weight loss, memory loss, argumentative, frequent absenteeism or tardiness, depression, withdrawal, frequent unexplained disappearances.
 - (4) Drug paraphernalia
Rolling papers, roach clips, pipes, including glass, glass vials, dried plant material, white crystalline powder.

e. Management actions where reasonable suspicion exists:

- (1) The requirement that an employee submit to alcohol and/or drug screening in accordance with this policy shall be approved or ratified by the Department Director and the County Administrator or designee.
- (2) Management must promptly document in writing the facts constituting reasonable suspicion or violation of this policy.
- (3) Appropriate management personnel shall accompany the subject employee to the testing facility and shall remain at the facility with the employee until testing is completed.
- (4) Once the alcohol/drug testing collection process has been completed, the subject employee shall be relieved of duty and placed on paid administrative leave pending the results of such test(s). A confirmed positive test result will end the paid administrative leave and will result in the employee's termination.
- (5) The subject employee shall not be permitted to operate a motor vehicle. Management shall arrange for the tested employee to be escorted home.
- (6) A supervisor is not required to transport an employee exhibiting violent or threatening behavior. In such cases, the supervisor shall immediately contact the appropriate law enforcement agency.

4. Post-Accident Testing

a. Post-accident testing will be required for all work-related accidents which result in:

- (1) Personal injury requiring medical attention which exceeds first aid;
- (2) Property damage to County or private property that is estimated to be in excess of \$1,000 where the initial assessment determines the employee was at fault or contributed to the accident. This assessment shall be made by the employee's supervisor or Risk Management; or,
- (3) Any accident involving a County vehicle/equipment.

b. State law provides for the denial of workers' compensation benefits for employees who are injured while working and subsequently have a positive, confirmed drug test (Florida Statute 440.102(12)).

c. Nothing in this section shall interfere with or prevent post-accident testing required under any regulatory agency.

5. Random Testing

a. Random drug or alcohol testing shall be conducted for employees in job classifications which are classified as mandatory-testing or which fall under the jurisdiction of any Federal, State or Local regulatory agency which requires random drug or alcohol testing. A listing of these job classifications shall be maintained in the Human Resources Department.

- b. Unless otherwise specified by a regulatory agency, a random sample of employees chosen for drug testing (which includes alcohol by definition) may not constitute more than 10 percent of the total employee population. Pool selection to be quarterly.
 - c. To assure that the selection process is in fact random, all employees in a job classification for which random testing is required shall remain in the selections pool for each subsequent selection period, regardless of whether or not they have been selected for testing in the past.
 - d. A computerized, random number generating system operated by an independent agency shall be utilized to generate the list of employees to be tested.
 - e. All employees will be tested during their scheduled working hours. Advance notice of testing will not be given.
6. Post-Rehabilitative Testing
- a. If an employee in the course of employment enters an Employee Assistance Program (voluntarily or involuntarily) for alcohol or drug-related problems, or an alcohol/drug rehabilitation program, the County shall require the employee to submit to drug tests as a follow-up to such program. This follow-up testing shall be conducted at least once a year but no more than quarterly for a 2-year period after completion of the program. Advance notice of a follow-up testing date shall not be given to the employee to be tested.
 - b. Employees not complying with these conditions of employment, and employees testing positive at any time during or following rehabilitation shall be subject to termination in accordance with this policy.

E. TESTING METHODOLOGY

- 1. Every reasonable effort will be made to obtain the most accurate drug and/or alcohol test results. Substance Abuse and Mental Health Services Administration (SAMHSA) laboratories shall be used.
- 2. Drug testing procedures will include a two-tiered testing program to ensure maximum accuracy in the test results, controlled specimen collection, and chain of custody documentation.
- 3. A two-tiered procedure means that an initial positive test will be confirmed by use of a gas chromatography test with mass spectrometry (GC/MS) or an equivalent scientifically accepted method which provides quantitative data about the detected drug. A portion of the initial sample shall be used for confirmation testing.
- 4. Alcohol testing shall consist of a standard blood-alcohol procedure or use of a breath analyzer.
- 5. All test results shall be reviewed by a Medical Review Officer (MRO). An MRO is a licensed physician knowledgeable in the medical use of prescription drugs and in the pharmacology and toxicology of illicit drugs. The MRO shall interpret and evaluate all positive and negative test results together with an individual's medical history and other relevant bio-medical information. An applicant/employee may confidentially report the use of any medication to the MRO.

6. Drugs which may be tested for, listed by chemical name and brand or common name, include; but are not limited to the following:
 - a. Alcohol (booze, drink)
 - b. Amphetamines (bithetaine, desoxyn, dexedrine)
 - c. Cannabionoids (marijuana, hashish, hash, hash oil, pot, joint, roach, grass, weed, reefer)
 - d. Cocaine (coke, blow, nose candy, snow, flake, crack)
 - e. Phencyclidine (PCP, angel dust, hog)
 - f. Methaqualone (Quaaludes, ludes)
 - g. Opiates (opium, Dover's power, paregoric, parepectolin)
 - h. Barbiturates (Phenobarbital, tuinal, amytal)
 - i. Benzodiazepines (ativan, azene, clonopin, dalmene, diazepam, halcion, Librium, poxipam, restoril, serax, tranxene, valium, veratrin, xanax)
 - j. Methadone (dolophine, methadone)
 - k. Propoxyphene (darvocet, darvon N, dolene)

7. The following cutoff levels shall be used for the initial screening of specimens to determine whether they are positive or negative. All levels equal to or exceeding the following shall be reported as positive:

a. Alcohol	0.02 % B.A.C.
b. Amphetamines	1000 ng/ml
c. Cannabinoids	50 ng/ml
d. Cocaine	300 ng/ml
e. Phencyclidine	25 ng/ml
f. Methaqualone	300 ng/ml
g. Opiates	2000 ng/ml
h. Barbiturates	300 ng/ml
i. Benzodiazepines	300 ng/ml
j. Synthetic Narcotics: Methadone, Propoxyphene	300 ng/ml

8. All specimens identified as positive on the initial screening shall be confirmed by a second test. The following confirmation cutoff levels shall be used when analyzing specimens to determine whether they are positive or negative. All levels equal to or exceeding the following shall be reported as positive:

a. Alcohol	0.02 % B.A.C.
b. Amphetamines	500 ng/ml
c. Cannabinoids	15 ng/ml
d. Cocaine	150 ng/ml
e. Phencyclidine	25 ng/ml
f. Methaqualone	150 ng/ml
g. Opiates	2000 ng/ml
h. Barbiturates	150 ng/ml
i. Benzodiazepines	150 ng/ml
j. Synthetic Narcotics: Methadone, Propoxyphene	150 ng/ml

9. If a test for alcohol and/or drugs is not collectable because of possible tampering or adulteration, a second test will be requested, and may be observed. If a test for alcohol and/or drugs is rejected because of purposeful adulteration, the employee will be terminated. Any employee terminated for this reason, will forfeit unemployment compensation in accordance with Florida law. For applicants who fail this process, the job offer will be rescinded.

F. CONFIDENTIALITY

1. The results of drug or alcohol tests shall not be included in an applicant's or an employee's file but shall be retained by the Human Resources Department in a separate file, confidential and exempt from public inspection.
2. Any conditions of employment which may be established as a result of a positive drug or alcohol test will become part of the employee's personnel file.
3. Test results shall be considered confidential by the County and may be disclosed to management personnel only on a need-to-know basis or to any person upon the written consent of the employee or applicant.
4. Laboratories, employee assistance programs, drug and alcohol rehabilitation programs, and their agents who receive or have access to information concerning drug/alcohol test results shall be required to keep all information confidential.

G. EMPLOYEE ASSISTANCE PROGRAM

1. The County recognizes that alcoholism and drug use can and does interfere with an employee's ability to perform on the job. The County also recognizes that these problems can be successfully treated, enabling the employee to return to a satisfactory job performance level.
2. Employees who are concerned about their alcohol and/or drug abuse are strongly encouraged to voluntarily seek assistance. Eligible employees and their dependents may seek assistance through the County's Employee Assistance Program (EAP). The EAP provides confidential assessment, referral, and short-term counseling to employees whose personal problems are interfering with their job performance.
3. Voluntary participation in the EAP, or another mental health or substance abuse counseling program will not affect the employee's future career advancement or employment, nor will it protect an employee from disciplinary action if substandard job performance continues.
4. The Human Resources Department shall maintain a listing of employee assistance programs and local alcohol and drug rehabilitation programs available to employees.
5. The County will not discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment for a drug or alcohol-related problem if the employee has not previously tested positive for drug or alcohol use.

H. EFFECT OF A POSITIVE DRUG/ALCOHOL TEST

1. When a confirmed positive drug or alcohol test result is received by the Human Resources Department, the Human Resources Director, or designee shall immediately notify the Department Director or Manager of the employee.
2. The Department Director or Manager shall immediately schedule the time and place for the employee, management and a representative from Human Resources to meet to inform the employee in writing of the confirmed positive result and the associated discipline.

3. A first incident of a reasonable suspicion or post-accident confirmed positive test shall result in termination of employment. A first incident of a random confirmed positive test shall result in the employee being placed in an unpaid leave status. This unpaid leave status will begin upon receipt of the confirmed positive result and will end upon the employee presenting a negative test result or the employee's termination if a negative sample is not provided as required under this paragraph. (If the employee has accrued annual or paid time off leave, they shall be permitted to use the leave. If the employee does not have accrued annual or paid time off leave, the employee shall be placed in a leave without pay status.) The employee shall have 30 calendar days from the date of the initial test sampling date to produce a negative test result in order to return to duty. If a negative test result is not received in the 30 day time period from the date of the initial test sampling date, the employee will be terminated. Any subsequent confirmed positive test whether from a reasonable suspicion, post accident or random test will result in the employee's termination.
 - a. The employee will be referred to the County's EAP. Employees not eligible for the EAP will be referred to meet with a Mental Health Counselor qualified in substance abuse evaluation. Any expenses incurred will be the responsibility of the employee. Employees shall be required to make an appointment with the EAP or a Mental Health Counselor and show proof of participating in counseling to the Human Resources Department within the first two (2) days of being placed on leave.
 - b. To return to work the employee shall obtain a drug test form from the Human Resources Department and report to the designated laboratory to be retested within one week prior to the last day of the leave status. The employee shall report to the designated laboratory within 24 hours of receiving the drug test form. The employee shall remain on leave status until a confirmed negative drug and/or alcohol test result has been received by the Human Resources Department. The date of receipt must be within 30 days of the date of the initial positive drug test.
4. The Human Resources Department will notify the employee and the supervisor when the employee has been cleared to return to work.
5. An employee who declines to participate in counseling, or who fails to complete drug/alcohol counseling, education, or rehabilitation as recommended by the counselor shall be terminated.
6. Upon returning to work after a positive test result, in addition to being subject to the random testing pool, the employee shall be subject to drug and/or alcohol testing for at least once a year but no more than quarterly for a 2-year period after completion of the program.
7. For a second positive confirmed test result, regardless of the time between tests or whether a negative result was obtained between tests, the employee will be terminated.

I. REFUSAL TO SUBMIT TO DRUG AND/OR ALCOHOL TEST

1. An employee who refuses to submit to a test for alcohol or drugs which may be required in accordance with this policy shall be terminated.
2. An employee who is injured in a work related accident and refuses to submit to a test for alcohol and/or drugs forfeits eligibility for all medical and indemnity benefits under Florida Workers' Compensation law and is subject to termination consistent with this policy.

3. Employees who believe that reasonable suspicion has not been sufficiently demonstrated to require a drug test shall, nevertheless, take the drug test and then may appeal the determination of reasonable suspicion, with the understanding that the drug test is null and void if it is found that reasonable suspicion has not been sufficiently demonstrated.

J. APPEAL PROCEDURE

1. Within five (5) working days after receiving notice of a positive, confirmed test result, an employee or job applicant may contest or explain the test results in writing to the Human Resources Department. Additionally, within (5) working days after receiving notice of a positive, confirmed test result, an employee must notify the laboratory conducting the test of any administrative or civil action regarding the test.
2. Within 72 hours of the MRO's notification, an employee may, at their option, have the same sample tested at a SAMHSA laboratory of their choice and at their cost.
3. The cost of drug testing not required by Escambia County is the responsibility of the employee or the applicant.
4. Employee appeals with respect to the determination of reasonable suspicion shall be considered by the County Administrator or his designee after meeting with the employee and the supervisory personnel supporting the test. Both parties shall be heard by the County Administrator or his designee and this decision shall be binding upon them. This paragraph shall not be deemed to limit the legal recourse of either the County or the employee with respect to the finding of reasonable suspicion, to bring an action in a court of appropriate jurisdiction to appeal the County Administrator's decision.

K. MANAGEMENT ACTIONS IN GENERAL

1. Management personnel (County Administrator, Department Directors, Managers and Supervisors) shall be responsible for the implementation and equitable enforcement of this policy.
2. An employee shall not be terminated for a positive test result until a positive, confirmed test result is communicated to the County. However, if the employee's conduct in connection with the drug/alcohol testing amounts to conduct for which the County may otherwise discipline the employee, the County may take action prior to receipt of a confirmed test result. Such action will not be considered disciplining twice for the same infraction.
3. Communication of a negative test result of a sample formerly reported positive and appealed by the employee, shall result in the employee being returned to work without any loss of pay or benefits.
4. Management personnel shall take disciplinary action in accordance with this policy, the Human Resources Policies and Procedures, and the Escambia County Board Policies.

L. OVER-THE-COUNTER OR PRESCRIPTION DRUGS

1. An employee who has been prescribed or issued a drug for any medical or other condition which might in any way impair his/her ability to perform the job must immediately notify their supervisor. The employee in consultation with appropriate medical authority (their physician or the County's Employee Clinic physician) shall determine whether the employee can work while taking the medication.

2. The employee shall be responsible for providing notification to the supervisor if any over-the-counter or prescription medication would jeopardize the health or safety of themselves or others.

M. DRUG-FREE WORKPLACE ACT – FEDERAL LAW REQUIREMENTS

1. As a condition of employment, an employee must notify their supervisor in writing no later than five (5) calendar days after being convicted under a criminal drug statute for activity occurring at the workplace or for activity outside of the workplace if the offense could be reasonably expected to affect the employee's job function. (A criminal drug statute is any law, federal, state, or local, which makes unlawful the manufacture, distribution, dispensation, use, or possession of any controlled substance or illegal drug).
2. The County Administrator, or designee, is responsible for complying with the requirements of the Drug-Free Awareness Act of 1988 concerning reports to appropriate federal agencies with respect to employees convicted for violation of this Act.
3. This policy extends to private companies that work for the County under the terms of a management contract. This policy will be specifically referenced in future agreements with such firms.
4. Employees involved in Federally subsidized programs may be required to submit to drug testing in accordance with applicable Federal regulations.

N. COMMUNICATION OF THIS POLICY

1. This policy will be made available to all employees via the County's internal website.
2. The Human Resources Department is responsible for communicating this policy to newly hired employees.