

COUNTY OF KING & QUEEN ADMINISTRATIVE / HUMAN RESOURCE POLICIES	POLICY NUMBER: 1.5
SUBJECT: Drug Free and Alcohol Free Workplace Policy	DATE APPROVED: August 9, 2021 SUPERCEDES: King and Queen Personnel Policy
AUTHORIZATION: Approved by the King and Queen Board of Supervisors on August 9, 2021	

1.5 Drug Free and Alcohol Free Workplace

General Provision

To help ensure a safe, healthy, and productive work environment for our employees and others, to protect County property, and to ensure efficient operations, King and Queen County has adopted a policy of maintaining a workplace free of drugs and alcohol. This policy applies to all employees and other individuals who perform work for the County. The County has zero tolerance for use of alcohol and drugs in the workplace.

The County Administrator is responsible for policy administration and enforcement.

I. Employee Assistance

King and Queen County maintains a policy of non-discrimination and will endeavor to make reasonable accommodations to assist and support employees who voluntarily seek help for drug or alcohol problems before becoming subject to discipline or termination under this or other County policies. We encourage employees to seek assistance before their substance abuse or alcohol misuse renders them unable to perform the essential functions of their jobs, or jeopardizes the health and safety of any County employee, including themselves.

Such employees will be allowed to use accrued paid time off, placed on leave of absence, referred to treatment providers and otherwise accommodated as required by law. Employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests, if they hold jobs that are safety-sensitive or require driving, or if they have violated this policy previously. Once a drug test has been initiated under this policy, unless otherwise required by the Family and Medical Leave Act or the Americans with Disabilities Act, the employee will have forfeited the opportunity to be granted a leave of absence for treatment, and will face possible discipline, up to and including termination.

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Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor.

1. Whenever employees are working, are operating any County vehicle, are present on County premises or are conducting county related work offsite, they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia).
 - b. Being under the influence of alcohol or an illegal drug as defined in this policy.
 - c. Possessing or consuming alcohol.
2. The presence of any detectable amount of any illegal drug, illegal controlled substance or alcohol in an employee's body system, while performing county business or while in a county facility, is prohibited.
3. King and Queen County will also not allow employees to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in a container labeled by a licensed pharmacist or be prepared to produce the container if asked.
4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

II. Evaluation

A. Pre-employment

Applicants being considered for hire in certain safety positions may be required to pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.

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B. Reasonable Suspicion

Employees are subject to evaluation based on (but not limited to) observations by at least two members of management of apparent workplace use, possession, or impairment. Human Resources should be consulted before sending an employee for testing. Management must use the Reasonable Suspicion Observation Checklist to document specific observations and behaviors that create a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol. Examples include:

- Odors (smell of alcohol, body odor or urine).
- Movements (unsteady, fidgety, dizzy).
- Eyes (dilated, constricted or watery eyes, or involuntary eye movements).
- Face (flushed, sweating, confused or blank look).
- Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).
- Emotions (argumentative, agitated, irritable, drowsy).
- Actions (yawning, twitching).
- Inactions (sleeping, unconscious, no reaction to questions).

When reasonable suspicion testing is warranted, both the Department Head and Human Resources or County Administrator will meet with the employee to explain the observations and the requirement to undergo a drug and/or alcohol test within two hours. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management or their designee must transport the employee and arrange for the employee to be transported home.

C. Post-accident

Employees are subject to testing when they cause or contribute to accidents that seriously damage a County vehicle, machinery, equipment or property or that result in an injury to themselves or another employee requiring offsite medical attention. A circumstance that constitutes probable belief will be presumed to arise in any instance involving a work-related accident or injury in which an employee

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who was operating a motorized vehicle is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment.

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management or their designee must transport the employee and arrange for the employee to be transported home.

III. Collection and Testing Procedures

Employees subject to alcohol testing will be transported to a County designated facility and directed to provide breath specimens. Breath specimens will be tested by trained technicians using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol concentration is .04 or more, a second breath specimen will be tested approximately 20 minutes later. The results of the second test will be determinative. Alcohol tests may, however, be a breath, blood or saliva test, at the County's discretion. For purposes of this policy, test results generated by law enforcement or medical providers may be considered by the County as violations.

Employees subject to drug testing will be transported to a County designated testing facility and directed to provide urine specimens. Employees may provide specimens in private unless they appear to be submitting altered, adulterated, or substitute specimens. Collected specimens will be sent to a federally certified laboratory and tested for evidence of marijuana, cocaine, opiates, amphetamines, PCP, benzodiazepines, methadone, methaqualone and propoxyphene use. (Where indicated, specimens may be tested for other illegal drugs.) The laboratory will screen all specimens and confirm all positive screens. There must be a chain of custody from the time specimens are collected through testing and storage.

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The laboratory will transmit all positive drug test results to the County, who will offer individuals with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask for the County to have their split specimen sent to another federally certified laboratory to be tested at the employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test.

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to retest in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be terminated. If the employee refuses to be tested, yet the County believes he or she is impaired, under no circumstances will the employee be allowed to drive himself or herself home.

Employees who test positive, or otherwise violate this policy, will be subject to discipline, up to and including termination. Depending on the circumstances, the employee's work history/record and any state law requirements, the County may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the County for a minimum of one year and/or the completion of a treatment program. If the employee either does not complete the treatment program or tests positive after completing the treatment program, the employee will be immediately discharged from employment.

Employees sent for tests will be paid for time spent getting a test and then suspended pending the outcome of the test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a Department Head and Human Resources. Should the results prove to be negative, the employee will receive back pay for period of suspension.

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IV. Confidentiality

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to Human Resources will be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed to Department Heads and Supervisors on a need-to-know basis and may also be disclosed when relevant to a grievance, charge, claim, or other legal proceeding initiated by or on behalf of an employee or applicant.

V. Inspections

King and Queen County reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband. All employees (full-time, part-time and temporary) and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol, or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including termination.

VI. Crimes Involving Drugs

King and Queen County prohibits all employees from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on the premises or while conducting County business. County employees are also prohibited from misusing legally prescribed or over-the-counter (OTC) drugs. Law enforcement personnel may be notified, as appropriate, when criminal activity is suspected.

The County does not desire to intrude into the private lives of its employees but recognizes that employees' off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the County reserves the right to take appropriate disciplinary action for drug use, sale or distribution while off County premises. All employees who are convicted of, plead guilty to or are

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sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to Human Resources or the County Administrator within five days. Failure to comply will result in automatic termination. Upon notice, the County may suspend the employee without pay to allow for a review of the nature of the charges and the employee’s past record with King and Queen County.

VII. Definitions

“County premises” includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by King and Queen County or any site on which the county is conducting business.

“Illegal drug” means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in *Schedules I-V of 21 C.F.R. Part 1308.*)

“Refuse to cooperate” means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

“Under the influence of alcohol” means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably lead a Department Head or County Official to conclude that an employee is impaired because of alcohol use.

“Under the influence of drugs” means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment

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(containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).