

Jefferson County

Employee Administrative Rules & Regulations



Drug and Alcohol Free Workplace

Rule Number: 5.4.2
Date Established: Administrative Order 91-6, 9/X/2010
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1.0 PURPOSE

In compliance with the Drug-Free Workplace Act of 1988, the Jefferson County Commission has a longstanding commitment to provide a safe, quality-oriented and productive work environment. Alcohol and drug abuse pose a threat to the health and safety of Jefferson County employees and to the security of the County's equipment and facilities. For these reasons, the County is committed to the elimination of drug and alcohol use and abuse in the workplace. This Rule outlines the practice and procedure designed to correct instances of identified alcohol and drug use in the workplace. This Rule applies to all employees, appointees and applicants for employment of Jefferson County Commission.

2.0 DEFINITIONS

Work "premises" includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by the Jefferson County Commission or on 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 termination.

"Under the influence of alcohol" means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor 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 Rule. In addition, it means the misuse of legal prescription drugs when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (Legally prescribed medications brought to the workplace must be kept in the issued prescription containers that includes the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).

“Reasonable suspicion” testing must be based on individualized suspicion of a particular employee, and members of management need to document objective facts that would suggest to a reasonable person that the individual is under the influence in violation of County Rule. Some examples may include: bloodshot eyes, slurred speech, unsteady walk, shake or tremors, unexplained sweating, inability to sit still, sleeping at work, unusual body or breath odor, and deterioration in grooming.

As used in this Rule, “random testing” means a method of selection of employees in safety-sensitive positions for testing, performed by an outside third party.

A “safety-sensitive” position is one in which job performance can affect the safety of the employee and others. Examples of these positions may include, but are not limited to medical employees, truck drivers, positions working with children under the age of 13 and positions working with toxic or hazardous chemicals or equipment.

“Zero tolerance” means anyone who violates the drug and alcohol Rule will be subject to immediate termination with no room for excuses, exceptions or a second chance and will not be eligible for future employment with the Jefferson County Commission.

3.0 SUBSTANCE ABUSE AWARENESS/EMPLOYEE ASSISTANCE

Illegal drug use and alcohol misuse have many serious adverse health and safety consequences. Information about those consequences and sources of help for drug or alcohol problems is available from the Benefits Unit and the Equity & Inclusion Division of the HR Department, which have been trained to make referrals and to assist employees in reaching out for help with drug or alcohol problems.

Jefferson County Commission will assist and support employees who voluntarily seek help for such problems before becoming subject to discipline or termination under this or other County policies. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Such employees may be required to provide evidence that they are successfully following prescribed treatment and to take and pass follow-up tests. Failure to follow prescribed treatment will result in termination.

Once a drug test has been scheduled, the employee will have forfeited the opportunity to be granted a leave of absence for treatment and termination will be enforced.

4.0 RULE

1. Whenever employees are working, are operating any County vehicle, are present on County premises or are conducting organizational 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 Rule.
 - c. Possessing or consuming alcohol.
2. The presence of any detectable amount of any illegal drug or illegal prescription drug in an employee's body system, while performing County business or while in a County facility, is prohibited.
3. Jefferson County Commission will also not allow employees to perform their duties while taking prescribed drugs that adversely affect their ability to safely and effectively perform

their job duties. Employees taking prescribed medication that adversely affect their ability to safely and effectively perform their duties must notify their immediate supervisor or HR and either carry it in the container labeled by a licensed pharmacist or be prepared to produce it 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.

5.0 REQUIRED TESTING

Pre-employment

Applicants in safety-sensitive positions must 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.

Reasonable suspicion

Employees are subject to testing based on (but not limited to) observations by the supervision of apparent workplace use, possession or impairment. Risk Management should be consulted before sending an employee for testing. Risk Management will notify the Equity & Inclusion Division immediately but no later than 24 hours of the referral.

Each supervisor at all levels of supervision making this decision to test for reasonable suspicion must use the Observation Checklist (Figure 1) to document specific observations and behaviors that create a reasonable suspicion that the person is under the influence of illegal drugs or alcohol. If the results of the Observation Checklist indicate further action is justified, the supervisor should confront the employee with the documentation along with another member of management. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management must escort the employee; the supervisor/manager will make arrangements for the employee to be transported home.*

Random testing

The County will randomly test employees in safety-sensitive positions for compliance with its drug and alcohol free workplace Rule. The selection will result in an equal probability that any employee from a group of employees will be tested. Furthermore, the County has no discretion to waive the selection of an employee in a safety-sensitive position selected by this random selection method.

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 result in an injury to themselves or another employee requiring medical attention. Risk Management should be consulted before sending an employee for testing. Risk Management will notify the Equity & Inclusion Division. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*

Follow-up

Jefferson County has zero tolerance for drug and alcohol use and abuse in the workplace. Employees who test positive, or otherwise violate this Rule, will be subject to immediate termination from employment.

Collection and Testing Procedures

Employees subject to alcohol testing should be driven to a designated facility and directed to provide breath specimens. Breath specimens should 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 should be tested approximately 20 minutes later. The results of the second test should be determinative. Alcohol tests may, however, be a breath, blood or saliva test, at the County's discretion. For purposes of this Rule, test results generated by law enforcement or medical providers may be considered as evidence by the County when determining whether or not there is a Rule violation.

Employees subject to drug testing will be driven to a designated medical facility and directed to provide one or more of the following specimens: urine, blood, saliva or hair at the County's discretion. 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.

The laboratory will transmit all positive drug test results to a medical review officer (MRO) retained by Jefferson County. The MRO will offer persons with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask the MRO 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 will be treated as passing the test. In no event will a positive test result be communicated to the County until such time that the MRO has confirmed the test to be positive.

6.0 CONSEQUENCES

Individuals who refuse to cooperate in a drug test or who test positive will not be hired and will not be eligible for future employment with the Jefferson County Commission.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this Rule will be terminated. *If the employee refuses to be tested, yet the County believes he or she is impaired, the refusal will be treated as a failed drug test.*

Employees will be paid for time spent participating in alcohol or drug testing and may be placed on administrative leave with pay pending the results of the drug or alcohol 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 member of management and HR.

7.0 CONFIDENTIALITY

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO 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 among managers and supervisors on a need-to-know basis and may also be disclosed when relevant to complaint, appeal or other legal proceeding initiated by or on behalf of an employee.

8.0 INSPECTIONS

The Jefferson County Commission reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband. All employees, contractors 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.

9.0 CRIMES INVOLVING DRUGS

The Jefferson County Commission prohibits all employees from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on work premises or while conducting County business. Employees are also prohibited from misusing legally prescribed drugs. Law enforcement personnel will 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 sentenced for a crime involving an illegal drug are required to report the charge, conviction, plea or sentence to HR within five calendar days. Failure to comply will result in automatic termination. Cooperation in complying may result in placement on administrative leave without pay to allow management to review the nature of the charges and the employee's past work record.

10.0 REASONABLE SUSPICION AND POST-ACCIDENT TESTING PROTOCOL

1. Risk Management should be consulted before sending an employee for testing. Risk Management will notify the Equity & Inclusion Division.
2. The employee will be advised that there is a reasonable suspicion that he or she is believed to be affected by illegal drugs or alcohol (or due to the nature of an accident, the Rule mandates this) and that this test is being offered to confirm or deny this suspicion.
3. The employee will be transported to one of the contracted testing facilities. One member of management or a designated attendant will accompany the employee. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*
4. Prior to leaving for the testing facility, supervision/management will contact the testing facility to inform it that a staff member from the Jefferson County Commission will be arriving and will need a drug or alcohol test completed.
5. The employee should be provided water to drink prior to leaving the County premises.
6. The employee should be given reasonable time—not to exceed 15 minutes—to secure photo ID in the company of a County representative.
7. The employee to be tested must present a photo ID (i.e., a driver's license or state ID card) to the testing facility staff before the specimen can be obtained.
8. The employee to be tested must sign a consent form provided by the testing facility. Refusal to sign is addressed under the "Consequences" section of this document.

9. A County representative must sign as a witness to the collection procedure, along with the tested employee.
10. After returning to the work facility or when leaving the testing facility, the supervisor/manager must make arrangements to transport the person home. *Under no circumstances will the tested employee be allowed to drive himself or herself home.*

11.0 ENFORCEMENT

The HR department is responsible for Rule interpretation, administration and enforcement.