



ALCOHOL & SUBSTANCE ABUSE POLICY

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Owner	Human Resources
Reviewer(s)	Human Resources
Approver(s)	County Manager
Applicable Policies	Leave Policy, Progressive Discipline Policy
Applicable Documents	Last Chance Agreement Document
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Review Cycle	Three Years

1. PURPOSE

Durham County is committed to maintaining a workplace that is free from alcohol and substance abuse in compliance with the Drug Free Workplace Act of 1988, the North Carolina Controlled Substances Act, the US Department of Transportation Regulations, and other applicable laws.

2. POLICY

This policy prohibits the unlawful manufacture, distribution, dispensation, possession, use or sale of a nonprescription controlled substance or alcohol in the workplace. Employees must not report to work under the influence of a nonprescription controlled substance or alcohol and must not use any nonprescription controlled substance or alcohol during work hours, while on-call or in any County vehicle. Also prohibited is the misuse of prescription or nonprescription medication which results in impaired behavior on the job.

This policy also prohibits the use of alcohol or use/possession of illegal drugs off County premises and while not on duty where the employee's conduct is deemed detrimental to the County.

3. APPLICABILITY

Any County employees covered by the Personnel Ordinance, and all those pursuant to a Memorandum of Understanding except the Sheriff.

Alcohol and substance abuse issues in the Sheriff's office are the responsibility of the Sheriff and should be referred to the Office of the Sheriff.

The Pre-Employment provisions of this policy are applicable to candidates for all County positions, except those in the Youth Home and the Office of the Sheriff.

4. DEFINITIONS

Alcohol - The involuntary separation of an employee.

Alcohol/Substance Abuse - A written proposal prepared by a department head in advance of a reduction-in-force and then adopted as a plan upon the certification of the Human Resources Director.



ALCOHOL & SUBSTANCE ABUSE POLICY

Alcohol Use - Area identified for reduction-in-force i.e. section, unit, division, department, jobs, or positions.

Authorized Personnel - A written proposal prepared by a department head in advance of a reduction-in-force and then adopted as a plan upon the certification of the Human Resources Director.

Chain of Custody - Area identified for reduction-in-force i.e. section, unit, division, department, jobs, or positions.

Controlled Substances - Area identified for reduction-in-force i.e. section, unit, division, department, jobs, or positions.

Authorized Personnel - A written proposal prepared by a department head in advance of a reduction-in-force and then adopted as a plan upon the certification of the Human Resources Director.

Chain of Custody - Area identified for reduction-in-force i.e. section, unit, division, department, jobs, or positions.

Drug-Free Workplace - Any site for the performance of work done in connection with Durham County.

Drug/Alcohol Test - The chemical analysis of urine, blood, or exhaled breath that detects prohibited drug use or alcohol use or abuse.

Grant - An award of financial assistance, including a cooperative agreement in the form of money and property in lieu of money by a Federal agency, State agency or private sector directly to a grantee.

Impaired Behavior - Observed performance and/or actions which indicate that the individual's ability to handle job/assignments safely and responsibly may be compromised or diminished.

Last Chance Agreement - Established when the employee has tested positive or admitted to alcohol and substance use and management has approved participation in a Last Chance Agreement Document.

Last Chance Agreement Document - Details conditions for continued employment following an employee's return to work after completion of substance abuse treatment.

Post-Accident Testing - A mandatory drug and alcohol test that is performed following a work- related vehicle, machinery, or equipment accident involving personal injury or property damage, in which the employee is determined to be at fault for causing the accident.

Pre-Employment Testing - A drug test that is required as a condition of initial employment.

Prospective Employee -An individual who has been recommended for hire.

Random Testing - A mandatory drug and/or alcohol test that is performed on an unscheduled periodic basis.



ALCOHOL & SUBSTANCE ABUSE POLICY

Reasonable Suspicion - A belief that an employee is using or has used substances which impair behavior drawn from specific, current, and articulable facts and reasonable inferences.

Revenue Service Vehicle - Any type of vehicle used in mass transit or to produce revenue, including but not limited to bus, van, ferry boat, and rail. The term "mass transit vehicle" is meant to be very broad and is used to distinguish vehicles used for transit purposes from those used by the general public.

Safety Sensitive Position - Positions that are considered critical to the health and safety of others.

Volunteer Drug Testing - A drug test that is required in certain instances as a condition for providing volunteer services for the county.

5. GENERAL GUIDELINES

A. Safety Sensitive

- Applicants for safety sensitive positions must pass a drug test prior to placement.
- Employees moving into a safety sensitive position from a non-safety sensitive position must take and pass a drug test before being promoted, transferred, or demoted into any of them.
- Applicable positions include the following:
 - Building and grounds maintenance positions
 - Positions that require the operation of a county or personal vehicle to perform the essential duties of their job.
 - Positions requiring a commercial driver's license (CDL)
 - Equipment Mechanics who repair or maintain equipment whose operations require an operator have special training, license or certification.
 - Emergency Communications Specialist, any level
 - Heavy Equipment Operator, any level
 - Employees involved in water treatment, wastewater treatment, operations and maintenance procedures.
 - Plant Mechanic, any level
 - Solid Waste Collections Processes
 - Public Health employees with access to **HIPAA** related information, providing health related services, dispensing medication, or biologicals.



ALCOHOL & SUBSTANCE ABUSE POLICY

- Office of Emergency Services
- Sworn Firefighter, any rank
- Employees working in positions with the responsibility of oversight for minors.

Note: This list is not exclusive and includes positions determined by HR to be subject to these provisions.

B. EDUCATION AND TRAINING

- All employees will receive education and training on the effects, consequences, signs, and symptoms of the use of controlled and non-controlled substances and alcohol on personal health, safety, and the work environment.
- Departments should ensure that employees in safety- sensitive positions receive training prior to the performance of safety-sensitive functions and on an annual basis thereafter.
- Employees will be given contact information for an employee assistance program (EAP) or service that will be able to help employees with treatment and rehabilitation.

C. MEDICATION

- The County recognizes that the use of prescription and/or non-prescription medication while at work may have an adverse effect on individual safety or job performance.
- Employees must inform their supervisor if they are taking or intending to take any prescribed or non- prescribed medications or other substances which could impair their ability to perform their job satisfactorily and safely.
- They need not give the supervisor specific medical information but only inform the supervisor of the impact on job performance to allow the supervisor to evaluate and determine the appropriate course of action.
- A physician's statement may be required to clarify the extent of the adverse effect.

D. REFERRAL FOR TESTING

- Referral for drug testing will occur prior to or during employment.
- An employee who refuses to submit to testing will be dismissed.
- Conduct that is considered refusal to submit to testing includes refusal to take the test, inability to provide sufficient quantities of breath or urine to be tested (unless the employee has a valid, verifiable medical explanation), tampering with or attempting to tamper with the specimen or collection procedure, not reporting to the collection site in the allotted time, leaving the scene of an accident before tests have been conducted or not reporting to the specimen collection site immediately after the accident if required to do so.



ALCOHOL & SUBSTANCE ABUSE POLICY

- An individual may be referred for drug testing based on the five (5) following conditions:
 - a. **Preemployment**
 - All applicants selected as the final candidate will be required to submit to a pre-employment drug screen.
 - Failure to submit to a test will result in an immediate revocation of the offer. No pre-employment drug testing waivers will be accepted.
 - Upon acceptance of the conditional offer, the candidate will have four (4) business days (standard business days; Monday - Friday) to obtain the conditional offer letter, sign the Initial Notice to Applicants form, and submit the sample specimen for testing.
 - Failure to obtain the screen within four (4) business days will result in the candidate's disqualification as a final candidate.
 - Emergency hires must obtain a drug screen within four (4) business days of initial employment.
 - A candidate who refuses to submit to the screening or who tests positive and is unable to provide documentation that satisfactorily explains a positive reading, will be disqualified from employment and the County recruitment process for a period of twelve (12) months.
 - b. **Post-Accident**
 - An employee who has a work-related vehicle, machinery, or equipment accident involving personal injury or property damage in which the employee is determined to be at fault for causing the accident will be immediately referred for testing.
 - This includes any accident that occurs during the work time, whether with County property or personal property.
 - Before sending an employee for screening, management must notify and seek approval from Human Resources.
 - An employee involved in a workplace accident resulting in personal or property damage must immediately notify the supervisor and if the employee is determined to be at fault, they as soon as practicable must undergo a drug screen and breath-alcohol test.
 - In the case of a fatality, any employee whose actions could have contributed to the accident will also be tested.
 - The employee will be removed from all duties and immediately referred to the designated medical screening facility for testing.
 - Until receipt of the test results the employee is not allowed to operate any County vehicle or drive a personal vehicle on behalf of the County.



ALCOHOL & SUBSTANCE ABUSE POLICY

- Management must consult with Human Resources as to what functions/duties are permissible during the waiting period.

c. **Reasonable Suspicion**

- An employee who reports to work and there is reasonable suspicion s/he is under the influence of a controlled substance or impaired by the use of prescription/non-prescription medication or alcohol must immediately be relieved of employment related duties and responsibilities and when practicable, the employee will also be referred for appropriate testing.
- Reasonable suspicion inferences may be drawn from observations concerning the appearance, behavior, speech or body odors of the employee, including but not limited to one or a combination of these documented facts
 - i. direct observation of drug use, drug possession or the physical symptoms of being under the influence of drugs or alcohol, e.g. glassy, bloodshot, and watery eyes; slurred speech, unsteady gait; odor of a drug or an alcoholic beverage.
 - ii. A marked decrease in job performance/productivity.
 - iii. A pattern of consistent abnormal conduct or erratic behavior.
 - iv. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.
 - v. Information provided by reliable and credible sources; and
 - vi. Newly discovered evidence that the employee has tampered with a previous drug test.
- In incidences of reasonable suspicion, if possible, the supervisor should confer with another supervisor to verify observed behavior or actions.
- They must consult with Human Resources prior to meeting with the employee or referring an employee to the County designated medical screening contractor.
- The supervisor must meet with the employee privately about the performance/behavioral issues, state suspicions and allow the employee to provide an explanation for their actions or condition.
- Failure to take action when the supervisor has reason to believe an employee is impaired while at work will result in disciplinary action being taken against the supervisor.



ALCOHOL & SUBSTANCE ABUSE POLICY

- If specimen collection must take place off site, management must drive the employee to the collection site to ensure the employee's safety, in addition, to note the employee's arrival time, confirm the employee's identity and authorize the test.
- The employee cannot drive to the collection site.
- If the employee insists on driving s/he will be subject to disciplinary action up to and including dismissal.
- Immediately after the employee has been tested, management must provide written documentation of the behaviors and/or conditions which support reasonable suspicion, including any prior related disciplinary action or other attempts to address the problem, and submit the documentation to Human Resources and the department director.
- Within 24 hours of referral for testing, a letter will be given to the employee explaining the reasons for the reasonable suspicion testing and advising the employee that is being placed on Investigatory Placement with Pay and will receive administrative leave until the results of drug and/or alcohol screen are received.
- If the employee tests positive, at that point the employee will no longer be able to utilize administrative leave.
- For any additional absences the employee will need to use their accrued leave.
- The employee must be advised of any disciplinary action that may be taken as outlined in the progressive disciplinary process.

d. Random

- Only employees whose positions have been identified as safety sensitive will be subject to random testing.
- Employees referred for random testing must report to the collection site immediately upon notification.
- Management must transport the employee to the collection site.
- In work situations that do not allow immediate reporting, the employee must be transported to the collection site no later than four (4) hours from the time of notification.
- If the employee refuses to report to the testing site and/or to be tested, the employee will be subject to disciplinary action up to and including dismissal.

e. Follow-up

- As a condition of a Last Chance Agreement that is given following a positive drug or alcohol test, the County requires follow-up testing before the employee can return to work and follow-up testing on an unscheduled basis for up to twelve (12) months after the employee's return.



ALCOHOL & SUBSTANCE ABUSE POLICY

- An employee in a Last Chance Agreement must be tested a minimum of six (6) times during the established testing period.
- To return to work, the employee must provide a negative test result from an authorized provider, and in the case of a mandatory referral, the employee must have completed the substance abuse treatment.
- During the absence the employee must use their accrued leave.
- Only employees who previously tested positive, received evaluation and completed treatment, and completed a Last Chance Agreement shall be subject to follow-up testing.

E. TESTING RESULTS

• Positive Test Results

- Testing for tetrahydrocannabinol (THC), a chemical found in marijuana but also in other cannabis-based products, has the potential to create an artificial and data uninformed barrier to employment.
- It may exclude qualified applicants who lawfully use cannabis-based products or exclude those individuals who pose no threat to their safety or the safety of others.
- As a result, the County will not report THC results for individuals applying to non-safety sensitive roles.
- However, all applicants and employees in safety-sensitive positions must pass a screening, including THC.
- All positive test results are retested and referred to the screening facility's Medical Review Officer (MRO) for analysis.
- In addition, an individual who questions the results of a required drug test may request that a second test be conducted on the remaining split sample of the original urine specimen.
- The individual's request must be made to the MRO via Human Resources within three (3) business days of Human Resources' attempt to notify the individual of a verified positive test result.
- Requests after three (3) business days shall be accepted only if the delay was due to documentable facts that were beyond the control of the employee.
- If an applicant completes testing and receives a positive result for the use of controlled Substances, Human Resources will issue the Post-Test Notice to Applicants to the individual.



ALCOHOL & SUBSTANCE ABUSE POLICY

- Employees may choose to have the original sample tested by another Department of Health and Human Services (DHHS) approved laboratory at their own expense immediately following the County's test.
- If no action has been initiated by the applicant within three (3) business days of the positive test result notification, Human Resources will rescind the conditional offer of employment and advise the hiring department to consider other candidates.
- Positive results for Youth Detention Counselor applicants will be reported to the North Carolina Criminal Justice Education and Training Standards Commission and may result in a denial of certification for a period of not less than five (5) years.
- If a regular status employee's test result confirms the presence of an illegal substance or alcohol, the employee may receive a mandatory referral to the EAP for the first violation and will be subject to the County's Last Chance Agreement and/or disciplinary action up to and including dismissal.
- A letter will be given to an employee who tests positive explaining the reasons for the testing and advising the employee that they are being placed on Investigatory Placement with Pay.
- The employee will receive administrative leave until the results of the drug and/or alcohol screen are received.
- Positive testing will result in a change of status from administrative leave to the employee's usage of available accrued leave.
- The employee shall be advised of any disciplinary action that may be taken as outlined in the progressive disciplinary process.

F. RETURN TO WORK

- All County employees and authorized personnel testing positive for a violation of this policy must be immediately removed from the workplace.
- The Human Resources Department may refer the employee to the EAP for assessment and/or treatment.
- If referred, the employee must report to the EAP for assessment or treatment and must follow an established treatment plan, or s/he will be dismissed from County employment.
- If in the opinion of the substance abuse professional the employee needs in-patient evaluation or treatment, the employee may be granted leave for up to 6 months.
- If the employee is eligible for Family Medical Leave, it will run concurrently with any accrued leave that is used during this period.



ALCOHOL & SUBSTANCE ABUSE POLICY

- To return to work, the employee must provide a negative test result from an authorized provider, and in the case of a mandatory referral, the employee must have completed the substance abuse treatment.
- Once an employee has returned to work from a Last Chance Agreement, any additional drug and/or alcohol related infractions will result in dismissal from employment.
- Prior to returning to active work status, the employee must agree, in writing, to continue any prescribed additional treatment program guidelines.
- An employee returning to work after treatment shall be subject to unscheduled follow-up drug testing for a minimum of twelve (12) months.
- The employee must take a minimum of six (6) tests during the year of follow-up testing.
- Refusal to participate in unscheduled follow-up testing will result in dismissal.
- **Negative Test Results**
 - If a candidate completes testing and receives a negative result (i.e. no drugs detected in her/his system), the candidate will receive a confirmed offer of employment and must start within forty- five (45) calendar days from the date the test result was received by Human Resources.
 - Candidates who do not begin employment within forty-five (45) calendar days must be re-tested.
 - If an employee's test result is negative, the employee can return to work immediately and resume all applicable position duties.

G. CONFIDENTIALITY OF TEST RESULTS AND RETENTION OF RECORDS

- All records and information are strictly confidential and will be maintained in accordance with the appropriate federal, state, and local privacy regulations and procedures.
- All alcohol and drug testing records will be maintained by Human Resources in a secure location with controlled access and separate from the Official Personnel file.
- Records shall be retained in accordance with the required records retention policy.
- Test results or testing information shall be released only under the following conditions:
 - i. written request of the employee tested,
 - ii. to a third party as directed in writing by the tested employee,
 - iii. to the decision- maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the tested employee,
 - iv. to the Federal Transit Administration or agency thereof upon request,



ALCOHOL & SUBSTANCE ABUSE POLICY

- v. to the National Transportation Safety Board (NTSB) for any post-accident test performed if the accident is under investigation by the NTSB,
 - vi. by court order.
- o Assistance with treatment and rehabilitation will be available for employees who notify their supervisor or the Human Resources Department of an abuse problem prior to being discovered.
- o However, involvement in these programs after the fact of a violation will not influence the disciplinary action taken.

6. RESPONSIBILITY

- It is the responsibility of Durham County supervisors and managers to administer, communicate, and ensure compliance, including completion of all appropriate documentation and forms.
- Failure to act when the supervisor has reason to believe an employee is impaired while at work will result in disciplinary action being taken against the supervisor. If in doubt about what action to take, the supervisor must consult with the Department Director or the Human Resources Department.
- It is also the supervisor's responsibility to protect the privacy, confidentiality, and dignity of the affected employee.
- Any policy violation or misuse or violation of the confidentiality of test results may result in disciplinary action up to and including dismissal.
- It is the responsibility of the Human Resources Department to interpret, monitor, and update the policy content.
- It is the responsibility of all employees to comply with policy guidelines, attend education and training; and become familiar with resources available for employee assistance.
- It is the responsibility of the Purchasing Manager to receive and maintain a completed Agency/Contractor Confirmation of Receipt of Policy form from all contractors.

REVISION HISTORY

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v.1.0-1996	08-26-1996	Human Resources	Adopted
v.2.0-2014	01-20-2014	Human Resources	Reformat, added wording
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v.3.0-2025	07-01-2025	Human Resources	Reformat, add wording