

GRAY COUNTY Substance Abuse Policy

I. PURPOSE

As part of its commitment to safeguard the health of its employees, to provide a safe place for its employees to work and to promote a drug-free community, Gray County (hereinafter "Company") has established this policy on the use or abuse of alcohol and illegal drugs by its employees. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided by the Company. The company has established this policy to detect users and remove abusers of alcohol and illegal drugs from the workplace. It is also the policy of the Company to prevent the use and/or presence of these substances in the workplace and to assist employees in overcoming any dependence on drugs and/or alcohol in accordance with the following guidelines.

The purpose of this policy is to communicate the Company's position on alcohol and drugs in the workplace and to provide guidance for implementing related programs within the Company.

Company policies, procedures, and/or employee assistance programs are not intended to create any implied or express contracts, written or verbal, between the Company and its employees, independent contractors, or job applicants. The company reserves the right to alter any of its policies, procedures, or programs at will and without notice to its employees, independent contractors, or job applicants. The Company creates no promises with any of its policies, procedures, and programs, and remains free to change wages and all other working conditions without having to consult employees or anyone else and without anyone's agreement. The company reserves the right to terminate an employee with or without good cause and to refuse to hire any job applicant, as is consistent with existing law.

This policy does not create any contractual rights in favor of employees to whom the Policy is applicable. Nor does the Policy in any way alter the at-will nature of employment or imply that discharge will occur only "for cause".

II. SCOPE

All company employees, including management, production, administrative and part-time and temporary employees, are covered by this policy. As a condition of employment, employees are required to abide by the terms of this policy. This substance abuse policy primarily governs actions in the areas of alcohol and drugs. Other Company policies may apply in these areas to the extent that they do not conflict with this policy.

Certain employees may be subject to additional requirements under state and/or federal regulations, i.e. the Gray County Public Works Department.

However, this policy does not apply to the elected officials unless they are operating machinery, or vehicles, owned or leased by the Company.

III. SUBSTANCE ABUSE POLICY DISSEMINATION

- A. All employees are to be informed of the Company's substance abuse policy. Employees shall be given a copy of the Company's substance abuse policy, and new employees shall be required to sign an Acknowledgement of Receipt and Understanding.
- B. All applicants shall be informed in writing of the Company's policy of pre-employment testing and shall be required to sign an Applicant Drug Testing Consent Agreement following an offer to hire and prior to referral for a physical examination or drug and/or alcohol test.

IV. DEFINITIONS

A. "ILLEGAL DRUGS"

"Illegal drugs" are drugs or controlled substances which are (1) not legally obtainable or (2) legally obtainable but not obtained or used in a lawful manner. Examples include, but are not limited to, cocaine and marijuana, as well as prescription drugs which are not lawfully obtained or properly utilized. The term "illegal drugs" also includes mind-altering and/or addictive substances that are not sold as drugs or medicines but are used for the mind-or behavior- altering effect.

B. LEGAL DRUGS

“Legal drugs” are those prescribed or over-the-counter drugs that are legally obtained by the employee and used for the purpose for which they were prescribed and sold.

C. SENSITIVE POSITION

A “sensitive position” is any position that requires the performance of physical or supervisory tasks directly affecting operations that, if performed improperly, could result in injury or death to employees or others or could result in significant property damage. A position may also be classified as sensitive if it requires responsibilities which a high degree of trust and confidence.

D. COMPANY PROPERTY

The term “Company Property” includes work sites; parking lots; vehicles; offices owned, rented, utilized or serviced by the Company or by any customer of the Company; employee-owned or employee-rented vehicles on the property of the Company or of any customer of the Company while on Company business; and locations where the employee represents the Company in any capacity.

E. ON DUTY

The term “On Duty” includes all working hours as well as meal periods and break periods, or is on call, or subject to emergency response, regardless of whether on premises, and all hours when the employee represents the Company in any capacity.

V. DRUG USE PROHIBITIONS

- A. The consumption, possession or being under the influence of alcohol on Company property or while on duty is prohibited and will result in disciplinary action, up to and including termination. There may be occasions, however, removed from the usual work setting, at which it is permissible to consume alcohol in moderation (e.g. Company picnics, receptions, civic activities, sporting events).

- B. Notwithstanding the exception mentioned above, it is against Company policy to report to work or to work under the influence of alcohol.
- C. Employees may be asked to submit to an alcohol test based on reasonable suspicion that their ability to perform work safely or effectively may be impaired. An alcohol test result of .04 or higher will be considered positive.
- D. Refusal to submit to, efforts to tamper with or failure to pass an alcohol test will result in a disciplinary action, up to and including termination and/or referral to the Company's Employee Assistance Program (EAP).
- E. If a supervisor believes that reasonable suspicion exists to believe that an employee is violating, or has violated, this policy, the supervisor should report his or her findings and observations to the County Clerk.

VII. TESTING

A. TESTING OF APPLICANTS

1. Applicants will be advised of the Company's pre-employment testing requirements in writing following an offer to hire and prior to referral for a physical and/or drug testing. Applicants will be asked to sign the Applicant Drug/Alcohol Testing Consent Agreement.
2. All applicants considered final candidates and who have received an 'offer to hire' for a position will be tested for the presence of illegal drugs as a part of the hiring process.
3. Any applicant who refuses to submit to, tampers with or fails to pass the pre-employment drug and/or alcohol test shall be ineligible for hire for a period of one year. DOT policy requires three years, if applicable to the employee in question.

B. REASONABLE SUSPICION TESTING

1. Employees may be asked to submit to a drug and/or alcohol test based on a reasonable suspicion that their ability to perform work safely or effectively may be impaired. Factors that individually or in combination could result in reasonable suspicion include, but are not limited to, the following:

- a. direct observation of an individual engaged in drug- and/or alcohol – related activity;
- b. a pattern of abnormal conduct;
- c. unusual, irrational or erratic behavior;
- d. unexplained, increased or excessive absenteeism or tardiness;
- e. sudden changes in work performance;
- f. repeated failure to follow instructions or operating procedures;
- g. violation of Company safety policies or failure to follow safety work practices;
- h. unexplained or excessive negligence or carelessness;
- i. discovery or presence of drugs in an employee's possession or near an employee's workplace;
- j. odor or residual odor peculiar to some drugs;
- k. arrest or conviction for a drug-related crime;
- l. information provided either by reliable and credible sources or independently corroborated; or
- m. evidence that an employee has tampered with a prior drug and/or alcohol test.

2. If a supervisor believes such reasonable suspicion exists, the supervisor should report his or her findings and observations to the County Clerk

C. POST-ACCIDENT TESTING

Employees or elected officials who are involved in an accident while operating machinery or vehicles owned or leased by the County, shall be tested for the presence of drugs and/or alcohol following an accident or other occurrence that

involves one or more of the following covered events; a fatality, an injury to an employee or other individual, or damage to vehicles and/or other property.

D. RANDOM TESTING

1. All employees will be required to submit to drug and/or alcohol testing on a random basis.
2. Selection of employees for random testing shall be conducted through the use of a computerized random number generator.

E. RETURN TO DUTY TESTING

An employee who fails a drug or alcohol test may not return to duty until the employee passes a drug or alcohol test, and the MRO/SAP have determined that the employee may return to duty. **This test would be the responsibility of the employee.**

F. FOLLOW-UP TESTING

Any employees who have participated in a substance abuse counseling or rehabilitation program and all supervisor referrals due to work performance problems will be subject to unannounced follow-up tests for a two-year period after returning to work or completion of any rehabilitation program, whichever is later.

The Gray County Public Works Department is subject to the terms of it's own policy as required by DOT.

Any employee who has committed a drug or alcohol violation, and participated in a substance counseling or rehabilitation program will be subject to a minimum of six unannounced follow-up tests in the first 12 months following a negative return to duty test.

G. ADDITIONAL TESTING

Additional testing may also be conducted as required by applicable state or federal laws, rules or regulations or as deemed necessary by the Company. Upon initial implementation of this Substance Abuse Policy, all current employees shall be subject to testing.

H. TESTING PROCEDURE

1. The Company will determine for which drug and/or alcohol testing will be performed.
2. If the employees refuses to consent to testing, fails to appear for testing, tampers with the test or fails to cooperate with the testing procedures, he or she may be disciplined.
3. Specimen samples will be analyzed by a SAMSHA certified laboratory. All urine samples will be tested according to the following sequence:
 - a. All urine samples will be subjected to an initial screening process to detect the presence of controlled substances;
 - b. Those samples having a negative screen (no illegal or illicitly used substance present) will be considered to have tested negative, and no further testing will be done on that sample; and
 - c. Those samples that test positive on the first screen will be tested more extensively by means of Gas Chromatography/Mass Spectrometry (GC/MS) to eliminate any false-positive tests and confirm the presence of illegal drugs.
 - d. Alcohol content shall be conducted by blood sample or by the Intoxilyzer 5000.
4. Employees who consent to testing will be informed of the results by the County Clerk or other appropriate Company official or the Company's designated Medical Review Officer (MRO). As set forth within, a positive test will result in disciplinary action.
5. Employees who test positive may appeal the test in accordance with the procedures list herein.

I. APPEAL OF CONFIRMED POSITIVE TEST

1. The testing laboratory will report the finding of a confirmed positive test result to the Company Medical Review Officer (MRO). The MRO will contact the employee to verify the positive result. Following the verification of a positive result by the MRO, the Company designee will be informed of the positive test result.

2. An employee may request and receive from the Company a copy of the test result report.
3. If an employee challenges the validity or accuracy of the verified positive result, he/she may appeal, in writing, to the MRO, within three working days of the employee having been notified of the positive result.
4. The MRO and drug screening coordinator should be notified of the appeal request so that arrangements for a second analysis process, gas chromatography/mass spectrometry (GC/MS), can be initiated on the split sample.
5. The employee may make a request to the MRO, that a retest be performed by a SAMSHA certified laboratory. The employee will be responsible for all costs associated with conducting this retest.

VIII. DISCIPLINARY ACTION

- A. In the case of a first time violation of the Company's substance abuse policy, including a verified positive drug or confirmed alcohol test result (without evidence of use, sale, possession, distribution, dispensation or purchase of drugs or alcohol on Company property or while on duty), the employee will be disciplined up to and including termination or the following will apply;
 1. The employee will be subject to discipline and referred to the EAP.
 2. The employee must contact the Company's EAP within 48 hours and participate in professional drug and/or alcohol evaluation, counseling, and/or rehabilitation as prescribed by the EAP. The employee must cooperate with the EAP staff in carrying out its responsibility to coordinate the evaluation, counseling, treatment and follow-up process.
 3. Employees who (1) do not cooperate with the EAP; (2) refuse to participate in or do not satisfactorily complete a drug or alcohol abuse assistance or rehabilitation program; or (3) subsequently violate this policy, will be subject to termination.
 4. The employee may require inpatient or outpatient treatment. If inpatient treatment is required, the employee may be placed on leave status without pay during his or her absence.

5. Any employee referred to the EAP for drug/and or alcohol use must sign a Last Chance Acknowledgement prior to returning to work and agree to submit to unannounced drug testing for a period of up to two years.
 6. After signing the Last Chance Acknowledgement and before returning to work, the employee must submit to a drug and/or alcohol test, and the results of the test must be negative.
- B. The Company may suspend employees with or without pay under this policy pending the results of a drug test or investigation.
 - C. Any employee engaging in the use, sale, purchase, possession or distribution of drugs or alcohol on duty or on Company property is subject to disciplinary action, up to and including termination without referral to the Company's EAP.

IX. EMPLOYEE ASSISTANCE PROGRAM

- A. The Company regards its employees as its most important asset. Accordingly, the Company maintains an EAP that provides help to employees who suffer from alcohol or drug abuse and/or other personal or emotional problems. No employee will be subject to discipline for voluntarily seeking EAP assistance. An employee will be subject to discipline for voluntarily seeking EAP assistance. An employee may not, however, avoid discipline for violating the substance abuse policy by seeking this assistance after the employee is referred for testing pursuant to this policy.
- B. Any performance, attendance or behavioral problems may result in discipline up to and including termination, even if an employee is voluntarily participating in the EAP.
- C. Employees referred to the EAP as a result of a violation of the Company's substance abuse policy may continue their employment with the approval of the Company, provided that;
 1. They contact the EAP and strictly adhere to all the terms of treatment and counseling prescribed by the EAP;
 2. Immediately cease any and all use of alcohol and/or drugs; and

3. Consent in writing to periodic unannounced testing for a period of up to two years after returning to work or completion of any rehabilitation program, whichever is later.
- D. In keeping with the Company's need for safety and security, the County Clerk will determine whether the Company should grant a leave of absence or reassign an employee following a verified positive test or during the period of evaluation, treating or counseling.
- E. Participating in any evaluation, treatment or counseling program will be at the employee's expense unless the employee is entitled to such benefits under the terms of the Company's group health plan or by other available benefits. Time lost from work for such a program may be without pay.

X. INVESTIGATION

- A. To ensure that illegal drugs and alcohol do not enter or affect the workplace, the Company reserves the right to search all vehicles, containers, lockers, or other items on Company property in furtherance of this policy. Individuals may be requested to display personal property for visual inspection upon Company request.
- B. Failure to consent to a search or to display personal property for visual inspection will be grounds for termination or denial of access to Company premises.
- C. The Company will turn over all confiscated drugs to the proper law enforcement authorities. Further, the Company will cooperate with and may enlist the services of the proper law enforcement authorities in the course of any investigation.

XI. ARREST OR CONVICTION FOR DRUG-RELATED CRIME

- A. If an employee is arrested or convicted of a drug-related crime, the Company may investigate the circumstances, and Company officials may use the drug-testing procedure.
- B. As a condition of employment, an employee shall notify the Company's County Clerk of any criminal drug statute conviction or for any plea of guilty, nolo contendere or suspended imposition of sentence that has been entered on a criminal drug statute charge. The employee must give

notice in writing to the Company within five (5) days of such conviction, plea or imposition.

XII. CONFIDENTIALITY

Results of an applicant's or employee's test for the use of illegal drugs or alcohol shall be remitted to the County Clerk. In order to effectively address the employees with drug or alcohol problems, it will be necessary for the County Clerk to consult with other persons in the process. However, such results may be disseminated only on a need-to-know basis.

XIII. DRUG-FREE AWARENESS PROGRAM **(OPTION)**

- A. The Company will conduct drug-free awareness programs on a regular basis. These programs will inform employees about the following:
 - 1. The dangers of drug and alcohol abuse in the workplace;
 - 2. The Company's policy of maintaining a drug- and alcohol – free workplace;
 - 3. Available drug and alcohol counseling, rehabilitation and employee assistance programs; and
 - 4. The sanctions that may be imposed for alcohol- and drug-abuse violations.
- B. Employees are encouraged to approach their supervisor or County Clerk at any time with any questions they have about the Company's substance abuse policy as stated herein.

APPROVED BY BOARD OF
COUNTY COMMISSIONERS OF
GRAY COUNTY, KANSAS

ATTEST

BONNIE SWARTZ
County Clerk