

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

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AUTHORITY: BOC
COUNTY MANAGER: AO

SUBJECT: Reasonable Alcohol & Drug Testing

I. Reasonable Suspicion Testing

- 1) When any supervisor has reasonable suspicion that an employee may be under the influence of alcohol or drugs, the supervisor will notify the department head or designee who shall in turn notify the HR Director, who will determine if the employee is required to submit to drug and/or alcohol testing.
- 2) The HR Director shall be responsible to determine if reasonable suspicion exists to warrant drug and/or alcohol testing and shall be required to ensure there is documentation, in writing, regarding specific facts, symptoms, or observations which form the basis for such reasonable suspicion.
- 3) The HR Director shall direct an employee to undergo drug and/or alcohol testing if there is reasonable suspicion that the employee is in violation of this policy. The employee will be placed on administrative leave with pay pending results of the test.
- 4) The employee who is required to submit to reasonable suspicion testing:
 - a) Must sign a consent form. By consenting to testing the employee acknowledges that s/he is waiving any expectation of privacy between the employer and employee in the information provided related to the drug/alcohol test.
 - b) Will be immediately provided transportation by the employer to the location of the test.
 - c) Will be advised to refrain from eating or drinking before being tested.
 - d) Will be provided transportation by the employer to his/her home after s/he submits to the test or refuses to be tested.
- 5) Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:
 - a) Information provided either by reliable and credible sources or independently corroborated.
 - b) The first line supervisor or another supervisor/manager receives information from a reliable and credible source as determined by the department head and HR Director that an employee is violating the employer's policy.
 - c) Direct observation of drug or alcohol use.
 - d) The first line supervisor or another supervisor/manager directly observes an employee using drugs or alcohol while an employee is on duty. Employee admits using drugs, prohibited substances, or alcohol prior to reporting to work or while at work.

- e) Drug, prohibited substance, or alcohol paraphernalia possibly used in connection with illicit drugs or alcohol found on the employee's person or at or near the employee's work area may trigger a request for testing.
 - f) Evidence that the employee has tampered with a previous test for drugs, prohibited substances, or alcohol.
- 5) The following behaviors will also contribute toward reasonable suspicion and, collectively or independently, on a case-by-case basis may provide a sufficient reason for requesting a test for drugs, prohibited substances, or alcohol:
- a. A pattern of abnormal or erratic behavior.

This includes, but is not limited to, a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.
 - b. Presence of physical symptoms of drug and/or alcohol use.

The supervisor observes physical symptoms that could include, but are not limited to, glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments such as colds, sinus problems, hay fever, and diabetes.
 - c. Violent or threatening behavior.

First Incident: If an employee engages in unprovoked, unexplained, aggressive, violent, and/or threatening behavior against any person, the department head may request that the employee submit to drug and/or alcohol testing.

Second Incident: Whether or not an employee has previously received formal counseling or disciplinary action for unprovoked, unexplained, aggressive, violent, or threatening behavior, upon a second or subsequent episode of similar behavior/conduct, the department head will request that the employee undergo drug and/or alcohol testing.
 - d. Absenteeism and/or tardiness.

If an employee has previously received disciplinary action for absenteeism and/or tardiness, a continued poor record that warrants a second or subsequent disciplinary action may, in combination with other relevant behaviors, result in drug and/or alcohol testing.

An employee who is required to submit to reasonable suspicion testing will be immediately provided transportation by the employer to the location of the test. The employee will be advised to refrain from eating or drinking before being tested. After the employee submits to the test or if the employee refuses to be tested, the employer will provide transportation for the employee to his/her home.

II Post-Accident Testing

Each employee involved in an accident will be tested for illegal drugs, prohibited substances and alcohol as soon as possible after the accident, but after any necessary emergency medical attention has been provided. Accidents that trigger testing are those that result in:

- a. Death;
- b. Medical treatment other than first-aid treatment;
- c. Loss of consciousness; or
- d. Property damage estimated to be valued at or in excess of \$1,500.00 or the vehicle becoming immobilized because of the event, unless determined otherwise by the HR Director, subject to concurrence of the County Manager.

An employee who is subject to a post-accident test must sign a consent form and remain readily available for testing. An employee who leaves the scene before the test is administered or who does not make him/herself readily available may be deemed to have refused to be tested, and such refusal may be treated as a positive test. The employee will be advised to refrain from eating or drinking before being tested. Further, the employee, subject to a post-accident test, must refrain from consuming alcohol for eight hours following the accident or until the employee submits to an alcohol test, whichever comes first.

An employee who is required to submit to post-accident training will be immediately provided transportation by the employer to the location of the test.

Upon completion of the test:

- a. If the employee caused or contributed to the accident, or the employer determines there is a risk to return him/her to work, the employee will be provided transportation to his/her home and placed on administrative leave with pay pending the results of this test.
- b. If the employer determines the employee did not cause or contribute to the accident, the employee will be transported back to the work site (if medically able) and will resume work.

If the test comes back positive and the employer needs to conduct further investigation, the employee will be placed on administrative leave with or without pay.

Note: NRS 616C states a positive test for illegal drugs, prohibited substances (including marijuana), or alcohol per limits set forth in NRS 484C can cause the denial of workers' compensation claims. The test for marijuana must be a blood test.

In the event an employee is so seriously injured that s/he cannot provide a blood, breath, or urine specimen at the time of the accident, the employee must provide necessary authorization, as soon as the employee's physical condition allows, to enable the employer to obtain hospital records or other documents that indicate the presence of drugs, prohibited substances, or alcohol in the employee's system when the accident occurred.

In the event federal, state, or local officials conducted drug and/or alcohol testing following an accident, the employee will be required to sign a release allowing the employer to obtain the test results from such officials.

III Department Safety-Sensitive Positions

1. Storey County may conduct pre-employment testing for drugs and random testing for drugs, prohibited substances, and/or alcohol for positions identified as department safety-sensitive by the HR Director. Successfully passing these tests is a condition of future or continued employment. (Also, see policy 206A Vehicle Operators Drug and Alcohol Policy)
2. Department safety-sensitive positions mean employment positions which may, in the normal course of business:
 - a. Require the employee to operate the employer's vehicles or heavy equipment or private vehicle on company business on a regular and recurring basis; and/or
 - b. Involve job duties which, if performed with inattentiveness, errors in judgment or diminished coordination, dexterity, or composure, may result in mistakes that could present a real and/or imminent threat to the personal health and safety of the employee, coworkers, and/or the public, including positions that require use of dangerous tools/equipment; performance of job duties at heights; use of dangerous chemicals; inspect and make final determinations on life-safety code compliance; or carrying firearms in the performance of job duties.
 - c. The HR Director shall maintain a list entitled "List of Positions Designated as Department Safety-Sensitive." The list shall be a public record.
 - d. The HR Director shall meet and consult with the recognized employee organization's representative, where affected employees are represented, before a position is included on this list. The final determination to place a position on the list shall be made by the County Manager. The HR Director will maintain a master list of safety-sensitive positions subject to random testing.

IV Random Testing - (see policy Vehicle Operators Drug and Alcohol Policy # 206A)

V Return-to-Work Testing/Follow-Up Testing

1. If the employer agrees to continue employment, an employee who violates this policy and undergoes rehabilitation for drugs or alcohol will, as a condition of returning to work, be required to undergo follow-up testing as established by the HR Director and department head. The extent and duration of the follow-up testing will depend upon the safety and security nature of the employee's position and the nature and extent of the employee's substance abuse problem. The HR Director and department head will review the conditions of continued employment with the employee prior to the employee's returning to work. Any such condition for continued employment shall be given to the employee in writing. The HR Director

and department head may consider the employee's rehabilitation program in determining an appropriate follow-up testing program.

2. Any employee subject to return-to-work testing that has a confirmed positive drug or alcohol test will be in violation of this policy and subject to termination.

VI Consequence of Refusal to Submit to Testing/Adulterated Specimen

1. An employee who refuses to submit to testing for drugs and/or alcohol, or who consents to a drug or alcohol test but fails to appear timely at the collection site, or who fails to give his/her sample after reasonable opportunity to do so, or engages in conduct which attempts to or does impact the validity of any such testing, will be treated as a refusal to submit to a drug or alcohol test. Such refusal shall be treated as a positive test and may result in disciplinary action up to and including termination.
2. Submission of an invalid, substituted, or adulterated specimen will be considered a refusal to test and such refusal shall be treated as a positive test and may result in disciplinary action, up to and including termination.
3. A diluted positive test result shall be treated as a positive test and may result in disciplinary action up to and including termination.

VII Testing Guidelines

1. The employer may test for alcohol and illegal substances including but not limited to:
 - Marijuana (THC)*
 - Cocaine, including crack
 - Opiates, including heroin, codeine and morphine
 - Amphetamines, including methamphetamines
 - Phencyclidine (PCP)
1. * NOTE: Tests for marijuana for workers' compensation purposes must be a blood test. In addition to testing for the above substances, CDL holders are subject to testing for the following substances:
 1. 6-Acetylmorphine
 2. MDMA (Ecstasy)

NOTE: (see policy Vehicle Operators Drug and Alcohol Policy # 206A)

2. Where applicable, the employer will follow federal testing procedures for drugs and alcohol set forth by the Federal Department of Transportation (DOT) 49 CFR Part 40 and the Federal Motor Carrier Safety Regulations (FMCSR). These regulations may be amended from time to time.

VIII Option for Drugs and Prohibited Substances Retest

In the event that an employee is required to submit to a screen test for drugs/prohibited substances within 30 days of employment, the employee shall have the right to submit an additional screening test, at his/her own expense, to rebut the results of the initial screening test. The **employer** shall accept and give appropriate consideration to the results of such a screening

test. This provision does not apply to the extent that it is inconsistent or otherwise conflicts with an applicable collective bargaining agreement or federal law, or to a position funded by a federal grant.

In all other cases:

- 1) No later than seventy-two (72) hours after receipt of a positive drug test, an employee who tests positive may request a confirmatory retest of the same sample at his/her expense at a certified laboratory of his/her choice.
- 2) Upon request, the medical review officer (laboratory primary point of contact) will authorize the laboratory holding the employee's sample to release to a second laboratory, approved by the State Department of Health and Human Services, a sufficient quantity of the sample to conduct a second testing analysis.
- 3) The employee will be required to authorize the laboratory to provide the employer with a copy of its test results. The accuracy of the test results will be verified by the laboratory conducting the analysis. The result of the confirmatory test is final.

IX Requirement for Drug Testing

An employee who tests negative dilute will be required to immediately retest. The employee will:

1. Be given the minimum possible advance notice of retest,
2. Will be accompanied by a supervisor to the collection site, and
3. Will not be allowed to eat or drink between the period of being noticed of the retest and the actual test.

The retest will not be under direct observation unless directed so by the Medical Review Officer. If the retest is also negative dilute, the test will be considered negative and the employer will not conduct a third test unless directed to do so by the Medical Review Officer.

X Confidentiality

All medical and rehabilitation records are confidential medical records and may not be disclosed without the prior written consent of the patient, authorizing court order, or otherwise as permitted by state and federal law. Positive test results may only be disclosed to the employee; the appropriate medical and substance abuse treatment providers; the employer's attorney; the HR Director; an employer representative necessary to respond to an alleged violation of this policy; individuals within the employer who have a need-to-know of drug and/or alcohol testing results; and a court of law or administrative tribunal in any adverse personnel action.

RESPONSIBILITY FOR REVIEW: The County HR Director will review this policy every 5 years or sooner as necessary.

