



Deschutes County Administrative Policy No. HR-8
Effective Date: February 17, 2009

DRUG-FREE WORKPLACE

STATEMENT OF POLICY

It is the policy of Deschutes County that there is zero tolerance for drug and alcohol use that in any way threatens the public welfare and the health, safety and productivity of County employees.

APPLICABILITY

This policy applies to any individual who conducts business for the County, is applying for a County position or is conducting business on the County's property. This policy also applies to, but is not limited to, all County employees, volunteers, elected officials, and interns.

This policy applies during all working hours, whenever conducting County business or representing the County, while on call, while on paid standby, while on or in County property and while working at County-sponsored events. This policy also applies during meal periods or other breaks if an individual is expected to return to work after the meal period or break. Testing limits in this policy are separate and apart from the Federal Department of Transportation Motor Carrier testing program, and if both policies apply, two separate tests will be conducted.

The alcohol restrictions in this policy are not intended to apply to social gatherings and community events on County property where employees are not working or are not expected to return to work.

POLICY AND PROCEDURES

In General

Deschutes County is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. We recognize that alcohol and drug abuse pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

The County does not intend to interfere with the private lives of its volunteers, elected officials, and County employees. However, the County expects its volunteers, elected officials, and employees to report to work in a condition to perform duties in a safe, effective and efficient manner.

This policy recognizes that employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.

As a condition of employment, the county requires that employees adhere to this policy regarding the use and possession of drugs and alcohol and notify the County of any criminal drug statute conviction. Deschutes County encourages employees to voluntarily seek help with drug and alcohol problems.

Notification of Convictions

An employee must provide written notification to his or her supervisor if he or she is found guilty of, pleads guilty or no contest to, or is sentenced for a violation of a criminal drug statute that occurred in the workplace. A criminal drug statute is a federal or state law, violation of which carries the possibility of incarceration and which involves the manufacture, distribution, dispensation, use or possession of any controlled substance. The notification must be within five (5) calendar days of the triggering event. The supervisor will immediately notify the Personnel Department. When appropriate, federal contracting agencies will be notified within ten (10) calendar days. In accordance with federal law, the County will take appropriate action within thirty (30) days of the notification.

Assistance

Deschutes County recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to use the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Offers all regular employees and elected officials, as well as their family members, assistance with alcohol and drug problems through the Employee Assistance Program.
- May allow the use of applicable accrued paid leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

Communication

Communicating the drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program all employees will receive a written copy of this policy and a copy of the signed certificate of receipt will be placed into their official personnel file.

Definitions

1. Controlled Substances - all forms of narcotics, depressants, stimulants, hallucinogens, and cannabis; the sale, purchase, transfer, use or possession of which is prohibited or restricted by law. This includes, but is not limited to, any drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, as modified by the Oregon Board of Pharmacy.
2. Drugs and Alcohol - the terms have their common meaning.
3. Illegal Drug/ Illegal Drug Use - any drug which is unlawful for the person to use, possess or distribute under Oregon or federal law. Illegal drug use means the actual or attempted possession, use, manufacture or delivery of an illegal drug, and the use of prescription or over the counter drugs in amounts which exceed standard dosage or that do not generally follow the prescription.
4. Reasonable Suspicion - having specific and articulable facts and inferences concerning work performance, appearance, behavior, and other circumstances that would lead a reasonable person to believe that the individual is or has been under the influence of drugs or alcohol while on duty.
5. Over-The-Counter Drugs - drugs which are generally available without a prescription from a medical doctor and are limited to those drugs which are capable of impairing the judgment or

functioning of an employee to safely perform his or her duties. It is the employee's responsibility to determine whether or not any particular over-the-counter drug is safe for use.

6. Substance Abuse Professional (SAP) - a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
7. Under the Influence - A person is under the influence if the person's mental or physical faculties are adversely affected to a noticeable or perceptible degree by the use of alcohol or illegal drugs. A person is deemed "under the influence" if the person tests positive for alcohol or illegal drugs under this policy.

Prohibited Conduct

The following conduct is strictly prohibited and may subject an employee to immediate discipline, up to and including termination:

No employee shall report for duty, attempt to report for duty, or remain on duty under the influence of any detectable level of alcohol, illegal drug, or prescribed or over-the-counter medication that is used unsafely. The Sheriff may grant an exemption to the restrictions of the on-duty use of alcohol for employees acting in an undercover capacity.

An employee is responsible for taking reasonable measures to ensure that his or her lawful drug or medication use does not affect his or her abilities to safely perform work duties. Reasonable measures include, but are not limited to, reading warning labels and consulting with nurses, physicians, pharmacists and other health care professionals. In the event that lawful drug or medication use could compromise the employee's ability to perform his or her duties safely, the employee shall notify his or her supervisor to avoid unsafe workplace practices.

No employee shall be on duty, operate a County-owned motor vehicle or a personal vehicle while on County business while the employee is in possession of alcohol, unless possessing the alcohol is part of the employee's official duties.

No employee shall refuse to submit to a drug or alcohol test under this policy.

No employee shall report to duty, attempt to report for duty or remain on duty after testing positive or having an adulterated or substituted test specimen for alcohol or illegal drugs.

Circumstances for Testing

Drug testing will be administered consistent with state and federal laws. The Sheriff's Office may provide more stringent standards than those listed below.

1. Pre-Employment Testing - applicants applying for position that fall under the drug testing program, excluding volunteers, shall undergo testing for illegal drugs following a conditional offer of employment for a position with the County. These generally include positions that are required to regularly drive on county business, work with sensitive populations, regularly have access to legally confidential information, and work in public safety.
2. Reasonable Suspicion Testing - an employee must submit to testing for alcohol and/or illegal drug use if his or her supervisor or other County representative has reasonable suspicion to believe that the employee has violated this policy. Reasonable suspicion must be based upon specific observations concerning work performance, appearance, behavior, and/or body odor of the employee. In the case of illegal drug use, the observations supporting a reasonable suspicion

finding may also include indications of chronic use and withdrawal effects of a drug.

3. **Post-Accident Testing** - individuals covered by this policy that are driving a motor vehicle involved in an accident while on county time, or while driving a county vehicle, shall be tested for alcohol and controlled substances if there is a determination of reasonable suspicion that the employee was under the influence; or the damage threshold consists of a fatality, serious physical injury or property damage in excess of \$10,000.

In these cases, the person shall report the accident to his or her supervisor as soon as practical. Any individual who is subject to post-accident testing shall remain readily available for such testing, provided that this requirement shall not be construed to require the delay of necessary medical attention for injured people following the accident, or to prohibit the individual from leaving the scene of an accident to obtain necessary emergency medical care. The results of a breath, saliva or urine test for the use of alcohol or controlled substances, conducted by federal, state or local officials having independent authority for the test(s), shall be considered to meet the requirements of this section, provided such tests conform to the requirements of this policy and further provided that the results of such tests can be obtained by the County.

4. **Return-to-Duty Testing** - before returning to duty, any employee who has violated this policy must undergo a return-to-duty test and have results that indicate no detectable level of alcohol or illegal drugs.
5. **Follow-up Testing** - following a determination by a substance abuse professional that an employee is in need of assistance, the employee shall, upon returning to work, be subject to unannounced follow-up alcohol and/or drug testing. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and shall consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered or require follow-up testing for up to 60 months from the employee's return to duty.

Method of Testing

Alcohol testing will be conducted by a license professional chosen by the County through a breath or saliva test. Drug testing will be conducted by a license professional chosen by the County through a urine test. Any attempt to alter the integrity of the sample shall be cause for immediate termination or withdrawal of the offer of employment. If testing reveals a positive result, the employee may request a second test at a second licensed laboratory at his or her expense. The employee must request the second test within two (2) business days after the receipt of the results from the first test. If the results of the second test refute the results of the first test, the results of the second test will be determinative.

Testing

Any individual who is subject to being tested for alcohol or illegal drug use must submit for testing immediately upon notification to do so by his or her supervisor or other designated County representative.

A refusal to be tested shall be treated as a positive test result. A refusal is any conduct that is inconsistent with complete cooperation to be tested or any attempt to alter or adulterate a sample. Specific examples of a refusal include, but are not limited to the following:

1. Failing to report to or leaving the County job site or test site, or failing to report to or leaving a specified on-site location for transport to the testing site if the testing site is other than a County facility, before the required testing and/or collection is completed.

2. Failing to remain readily available for post-accident testing, provided that this requirement shall not be construed to require the delay of necessary medical attention for injured people following an accident, or to prohibit the employee from leaving the scene of an accident to obtain necessary emergency medical care.
3. Failing to provide the adequate amount of breath necessary for alcohol testing without a valid medical explanation.
4. Failing to provide the adequate amount of urine necessary for testing without a valid medical explanation.

Consequences of Prohibitive Conduct, Failed Testing or Treatment/Follow-up Violations

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates this policy, the consequences are serious.

In the event of a test that reveals the presence of illegal drugs, there is a presumption that the drug use is illegal under this policy. The person shall have the burden of establishing that his or her drug use was lawful.

Any probationary, extra help employee or volunteer who violates this policy shall be terminated immediately. In the case of applicants, the bona fide offer of employment is contingent upon the successful passing of a post-job offer alcohol and drug screen. If the person tests positive for illegal drug use the offer of employment shall be withdrawn and the opportunity to reapply for any County job may be revoked.

Violation of any provision of this policy by any individual who is conducting business for the County, while under contract with the County, shall be cause for the County to terminate the contract, unless the contractor elects to take appropriate actions with the individual who violated this policy.

The following provisions apply to all other employees in regular positions who have completed their probationary period.

Any employee who violates any of the provisions in this policy will be removed from the job immediately or may be subject to termination following applicable due process procedures. Further, the County will also report positive test results, to any agency from which the employee holds a professional license or certificate related to the employee's essential job duties.

If an employee is not terminated, the employee will not be permitted to return to work until all applicable requirements are completed and the employee is evaluated by a substance abuse professional. The treatment or rehabilitation program used may not be the substance abuse professional's private practice or be provided by a person or organization from which the substance abuse professional receives remuneration or has a financial interest.

The substance abuse professional shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use. If determined necessary by a substance abuse professional, the employee must properly follow any treatment or rehabilitation program prescribed. Once the treatment and/or rehabilitation program is initiated, the employee may not switch agencies without prior approval of the substance abuse professional. The employee may only switch agencies once. The employee must be reevaluated by the substance abuse professional to determine that the employee has properly followed the prescribed treatment or rehabilitation program.

The employee must undergo a return-to-duty test with the result indicating no detectable level of alcohol or illegal drug.

Time off the job for any employee who violates any of the provisions in this policy shall be on unpaid leave for the remainder of the day that the violation(s) occurred and until a verified appointment with a substance abuse professional has been scheduled. After an appointment has been scheduled, the employee may use accrued leave. In addition, the County will, upon notice of a positive test result, begin disciplinary action.

If termination of employment does not result for the violation of any of the provisions in this policy, the employee shall be required to sign a "Last Chance Agreement" upon first notice of the eligibility to return to work and prior to any commencement of work. Those employees who are covered by a collective bargaining agreement shall have the right to confer with a Union steward prior to signing the agreement. The agreement shall include an expiration date of thirty-six (36) months after successful completion of the treatment plan. Failure to sign the last chance agreement will result in the employee's immediate termination. The agreement shall clearly state that any future positive alcohol or drug test will result in the employee's immediate termination.

Employee's Responsibility after Violation

Any employee, who is not terminated for any violation of the provisions of this policy, and is eligible for a drug/alcohol treatment program, is responsible for pursuing all requirements of contacting a substance abuse professional and following the prescribed treatment program in a manner which will allow his or her return to work as quickly as possible. The employee shall sign an agreement allowing the County Administrator, or his/her designee, to contact the substance abuse professional to assure continued progression in the prescribed treatment. Failure of the employee to make a verified appointment with a substance abuse professional within five (5) working days following the violation will be cause for the employee's employment with Deschutes County to be terminated. Failure to continue meaningful progress toward completing prescribed treatment as determined by the substance abuse professional may be cause for the employee's employment with Deschutes County to be terminated.

Payment of Program Costs and Drug and Alcohol Testing

The Personnel Department will pay all costs for pre-placement, reasonable suspicion and post-accident testing. The employee's time for reasonable suspicion and post-accident testing will be paid by the employee's department. The candidate's time for a pre-employment test will not be County-paid time.

Any employee who violates any of the provisions of this policy, or engages in prohibited conduct identified above will be responsible to make all arrangements and pay for the dependency evaluation, treatment, return-to-work testing, and follow-up testing, if any. An employee who has a test performed on a split sample following a positive drug test must make the arrangements and pay for the second test. The County will reimburse the employee for the testing cost if the retest result refutes the initial positive test.

Searches

Deschutes County reserves the right to search, without employee consent, all areas and property over which the County maintains joint or full control. All County-owned vehicles, equipment, offices, desks and lockers shall be subject to search. Refusal to submit to a search or refusal to cooperate in any investigation will subject the employee to disciplinary action, up to and including termination.

Make Whole Provision

An employee shall be made whole for any action taken by the County as a result of a false positive test including the reinstatement of any leave that the employee was required to use, any unused vacation or sick leave, reimbursement for any unpaid leave, retraction of discipline, and nullification of the last chance agreement.

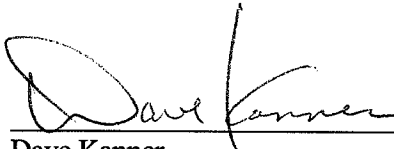
Confidentiality

All information received by the County through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Training

Supervisors will be trained to identify Alcohol and Controlled Substances Reasonable Suspicion.

Approved by the Deschutes County Board of Commissioners on February 17, 2009.

A handwritten signature in black ink that reads "Dave Kanner". The signature is written in a cursive style with a large, looping "D" and "K".

Dave Kanner
County Administrator