



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 1 of 18

1. OVERVIEW

For the protection of the general public, well-being of its employees and in compliance with applicable federal, state, and local laws, Cook County (“County”) maintains a strict drug and alcohol policy for its employees. Full compliance with this policy is required. Any violation of this policy may result in disciplinary action, up to and including disqualification or discharge, in accordance with the applicable collective bargaining agreements and/or the County’s Personnel Rules.

2. PURPOSE

This policy establishes guidelines to reduce the probability of accidents and incidents related to the use of drugs and alcohol by employees, and to maintain a drug and alcohol-free workplace in accordance with the Drug Free Workplace Act, 30 ILCS 580/1, *et seq.* and the Drug-Free Workplace Act of 1988, 41 USC § 8103.

3. INTENT

This policy is intended to be interpreted consistent with and subject to applicable law. It supersedes all previous policies and/or memoranda that may have been issued from time to time on subjects covered in this policy. This policy is not intended to supersede or limit the County from enforcing programs or provisions in any applicable collective bargaining agreement. Should any provision in this policy conflict with a specific provision in the Personnel Rules, the provision(s) in this policy shall take precedence.

4. SEVERABILITY

If any section or provision of this document should be held invalid by operation of law, none of the remainder shall be affected.

5. JURISDICTION

The Bureau of Human Resources (“BHR”) is authorized to develop and issue policies for the effective management of Cook County employees, pursuant to section 44-45 of the Cook County Code of Ordinances.

6. AREAS AFFECTED

This policy applies to all County employees in Departments in the Offices under the President and/or covered by the Cook County Employment Plan. This policy also applies to applicants seeking employment with the Departments in the Offices under the President and/or covered by the Employment Plan.



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 2 of 18

7. NONDISCRIMINATION

Cook County prohibits the discriminatory application, implementation, or enforcement of any provision of this policy on the basis of race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, housing status, or any other protected category established by law, statute, or ordinance.

8. EMPLOYEE AND MANAGEMENT RESPONSIBILITIES

Employees are responsible for ensuring adherence to this policy and will be held accountable for noncompliance.

Managers and supervisors will be held accountable for both the implementation of this policy and consistency of its enforcement.

The County's Bureau of Human Resources Personnel Services Manager (or designee) will monitor County practices to ensure compliance with, and answer questions concerning, the information presented in this policy.

9. DEFINITIONS

Alcohol means any beverage that contains ethyl alcohol (ethanol), including but not limited to beer, wine, and distilled spirits.

Applicant means prospective employee.

Cancelled test means that the drug and alcohol test did not yield either a positive or negative test result.

Cannabis means cannabis, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as *Cannabis indica*, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivatives, mixture, or preparation of the plant, its seeds, or resin including tetrahydrocannabinol ("THC") and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction, as defined in Cannabis Regulation and Tax Act § 1-10.

Cannabis Regulation and Tax Act ("CRTA") means the legislation codified at 410 ILCS 705/1- 1, *et seq.*

Commercial Driver's License ("CDL") means a license that allows a tested and approved driver to operate certain types of motor vehicles including, but not limited to, 18-wheeler trucks, tour buses, school buses, tanker vehicles and vehicles transporting hazardous materials.

Commercial Driver's License Drug and Alcohol Clearinghouse ("Clearinghouse") means a secure online database that gives employers, the Federal Motor Carrier Safety Administration ("FMCSA"), State Driver Licensing Agencies ("SDLAs"), and State law



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 3 of 18

enforcement personnel real-time information about CDL and Commercial Learner's Permit ("CLP") holders' drug and alcohol program violations. Employers and service agents are required to report information and to conduct queries regarding drivers who are subject to the FMCSA controlled substance and alcohol testing regulations.

Commercial Learner's Permit means a permit issued to an individual by a State or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383, which, when carried with a valid driver's license issued by the same State or jurisdiction, authorizes the individual to operate a class of a commercial motor vehicle when accompanied by a holder of a valid CDL for purposes of behind-the-wheel training. When issued to a CDL holder, a CLP serves as authorization for accompanied behind-the-wheel training in a CMV for which the holder's current CDL is not valid.

Compassionate Use of Medical Cannabis Program Act means the legislation codified at 410 ILCS 130/1, *et seq.*

Confirmation test means a drug and alcohol test performed after an initial non-negative test result.

Controlled substance means any drug whose use is legally prohibited in accordance with the Controlled Substances Act, 720 ILCS 570/100, *et seq.*

Department of Transportation ("DOT") means any or all USDOT agencies including, but not limited to, the United States Coast Guard ("USCG"), the Federal Aviation Administration ("FAA"), the Federal Railroad Administration ("FRA"), the Federal Motor Carrier Safety Administration ("FMCSA"), the Federal Transit Administration ("FTA"), the National Highway Traffic Safety Administration ("NHTSA"), the Pipeline and Hazardous Materials Safety Administration ("PHMSA"), and the Office of the Secretary ("OST").

Designated provider means a third-party vendor selected by Cook County to administer drug and alcohol tests.

Drug means prescription drug, over-the-counter medication, cannabis, or controlled substance.

Drug paraphernalia means any equipment, product or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, whose possession is prohibited in accordance with the Drug Paraphernalia Control Act, 720 ILCS 600/1, *et seq.* "Drug paraphernalia" includes cannabis paraphernalia.

Drug and alcohol test means the scientific analysis of urine, blood, breath, saliva, hair, tissue, and/or other specimens of the human body for the purpose of detecting drugs or alcohol.

Impaired means a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the job duties or tasks of the employee's job position due to the use of drugs or alcohol.



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 4 of 18

Independent laboratory means a laboratory responsible for conducting confirmation tests using gas-chromatography and mass spectrometry (“GCMS”).

Initial test means a drug or alcohol test performed by a designated provider to differentiate a negative specimen from one that requires further testing.

Licensed health care practitioner or **practitioner** means an individual (other than a physician) authorized to provide health care services by a state, as provided in 42 USC 11151.

Medical Review Officer (“MRO”) means a physician who is responsible for receiving and reviewing drug and alcohol test results and evaluating medical explanations in the event of confirmed positive test results.

Military discharge status means the fact of having been discharged from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia other than by a “dishonorable discharge”.

Negative test result means a drug and alcohol test result that is below the cutoff concentration for drugs or alcohol.

Non-negative test result means an initial test result that is at or above the cutoff concentration for drugs or alcohol.

On call means a specific time period when an employee is waiting to be called upon by their employer or supervisor to perform an employment related task. Under the CRTA, an “on call” employee must receive at least 24-hour advanced notice.

On duty means a work period beginning when the employee begins a shift and/or is required to be ready for work or to perform responsibilities related to work, and ending when the employee is relieved from the shift and all responsibility for performing work. “On duty” includes time allotted for meals and breaks.

Physician means a Doctor of Medicine, Osteopathy, Dental Surgery, or Medical Dentistry legally authorized licensed to practice by a State (or any individual who, without authority holds himself or herself out to be so authorized), as provided in 42 USC § 11151.

Positive test result means a confirmation test result that is at or above the cutoff concentration for drugs or alcohol.

Qualified Department of Transportation Substance Abuse Professional (“SAP”) means an individual who is credentialed as a physician, social worker, psychologist or certified employee assistance professional who is knowledgeable about disorders associated with substance abuse in relation to safety-sensitive duties regulated by the Department of Transportation (“DOT”). A DOT-qualified SAP initially evaluates drivers who have violated DOT drug and alcohol regulations and makes recommendations concerning education, treatment, follow-up testing, and aftercare. Once the education and/or treatment is successfully completed, the SAP reassesses the driver’s condition and, if satisfied with the driver’s compliance, completes a SAP report and prescribes a series of follow-up tests



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 5 of 18

covering a period of time. Any motor carrier employing this driver during the prescribed period must complete the follow-up testing as specified by the SAP.



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 6 of 18

Reasonable suspicion means contemporaneous and articulable observations by a supervisor/manager concerning an individual’s appearance, behavior, speech, body odors, or other reliable evidence or information that would lead a reasonable person to believe that an individual may be impaired or under the influence at the workplace or while on call.

Refusal to submit (*to a drug and alcohol test*) includes, but is not limited to, an individual who:

1) Fails to appear for any test within a reasonable time, as determined by the County, after being directed to do so by the County, and is unable to provide certification from a physician or practitioner that his or her failure to appear for the test was necessary;

2) Fails to go to, or remain at, the testing site until the testing process is complete, or leaves the testing site before the testing process commences and is unable to provide certification from a physician or practitioner that his or her failure to go to, or remain at, the testing site was necessary;

3) Fails to provide an adequate specimen within two (2) hours of reporting to the testing site, unless the employee provides certification from a physician or practitioner stating the employee is unable to provide the adequate sample;

4) Fails to cooperate in any manner, or engages in any conduct that obstructs the testing process for any test (e.g., refuses to sign any required consent form, refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, attempts to influence the sample during the collection process, etc.);

5) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the individual's provision of a specimen;

6) Fails or declines to take a second test, as directed by the County or its designated provider;

7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process; or,

8) Is reported by the MRO as having a verified adulterated, or substituted test result or admits that the specimen was substituted or adulterated.

Safety-sensitive Function for CDL License Holders means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

2) All time inspecting equipment as required by 49 CFR § 392.7 and 49 CFR § 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 7 of 18

3) All time spent at the driving controls of a commercial motor vehicle in operation;

4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR §393.76);

5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Safety-sensitive position means a position in which the employee, based on the detailed job description (including but not limited to driving, climbing, lifting, rebuilding, repairing, cleaning, disposing of, loading/unloading, plowing, patching, operating, destroying, transporting, inspecting, cutting, etc.), is responsible for his or her own and/or other people’s safety and refers to a job in which impairment due to drug or alcohol use could result in direct and significant risk of injury to the employee, others or the environment. “Safety-sensitive positions” are determined by the Chief of the Bureau of Human Resources.

Split specimen means a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Under the influence means any mental, emotional, or physical impairment due to the use of drugs or alcohol.

Workplace means Cook County premises, including any building, real property, and parking area under the control of Cook County or area used by an employee while on duty and/or engaged in County activities, and vehicles, whether leased, rented, or owned.

10. POLICY AND PROCEDURES

Cook County is a drug free workplace committed to maintaining a safe, healthy, and productive work environment. Cook County engages in drug testing in specific circumstances to ensure adherence to this policy. In the case of substance use disorders, Cook County gives the same consideration to persons with chemical dependencies as it does to employees having other diseases or illnesses; and, constructive measures will be used to motivate the employee to seek assistance.

Notwithstanding the above, managers/supervisors with personal knowledge that an employee used drugs or alcohol in violation of this policy shall not permit the employee to perform or continue to perform work duties for the County without prior authorization from the Personnel Services Manager (or designee).



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 8 of 18

A. PROHIBITED CONDUCT

- (1) The manufacture, distribution, dispensation, possession or use of drugs, alcohol, or drug paraphernalia at the workplace or while on call, except as permitted in this policy;
- (2) Being impaired or under the influence at the workplace or while on call;
- (3) Failing to submit to a drug and alcohol test conducted pursuant to this policy;
- (4) Having a positive test result after a drug and alcohol test conducted pursuant to this policy, unless a legitimate medical explanation for the positive result is provided to the MRO within five business days from obtaining a confirmed positive test result; and,
- (5) Reporting for duty or remaining on duty, without prior authorization from the Personnel Services Manager (or designee), if the employee has a positive test result, or has adulterated or substituted a test specimen.

B. USE OF PRESCRIPTION OR OVER-THE-COUNTER MEDICATION

The use of prescription or over-the-counter medication per the advice, or under the supervision, of a physician or practitioner is not prohibited, provided that the individual’s ability to perform job duties satisfactorily is not impaired by such use or the individual obtains a reasonable accommodation in accordance with Cook County’s Reasonable Accommodation Policy for Employees and Applicants with Disabilities, and the individual does not engage in Prohibited Conduct specified in Section 10(A).

Notwithstanding the above, employees should advise their physician or practitioner of the type of work they do before medication is prescribed. Prior to reporting to work, employees are required to report to the Personnel Services Manager (or designee) the use of prescription drugs or over-the-counter medication that may impair job performance.

This section is not intended to, and does not in fact, create a private cause of action for discipline or discharge of an individual who uses prescription or over-the-counter medication, either expressly or impliedly.

C. USE OF CANNABIS

Medical Cannabis. The use of medical cannabis consistent with the Compassionate Use of Medical Cannabis Program Act is not prohibited, provided that the individual’s ability to perform job duties satisfactorily is not impaired by such use or the individual obtains a reasonable accommodation



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 9 of 18

in accordance with Cook County's Reasonable Accommodation Policy for Employees and Applicants with Disabilities, the individual does not engage in Prohibited Conduct specified in Section 10(A), and the individual:

- (1) Is in possession of a valid "registry identification card";
- (2) Produces such registry identification card within five (5) business days of a request;
- (3) Is not in a safety-sensitive position;
- (4) Is not subject to regulation by the U.S. Department of Transportation (DOT) or the Federal Motor Carrier Safety Act (FMCSA) pursuant to the requirements of 49 CFR Part 40; and,
- (5) Is not directly engaged in the specific performance of work pursuant to the provisions of a license, grant, or contract with the Federal government.

Notwithstanding the above, employees should advise their physician or practitioner of the type of work they do before medical cannabis is prescribed. Prior to reporting to work, employees are required to report to the Personnel Services Manager (or designee) the use of medical cannabis.

Personal Use. The personal use of cannabis consistent with the CRTA is not prohibited, provided that the individual's ability to perform job duties satisfactorily is not impaired by such use, the individual does not engage in Prohibited Conduct specified in Section 10(A), and the individual:

- (1) Is not in a safety-sensitive position;
- (2) Is not subject to regulation by the U.S. Department of Transportation (DOT) or the Federal Motor Carrier Safety Act (FMCSA) pursuant to the requirements of 49 CFR Part 40; and,
- (3) Is not directly engaged in the specific performance of work pursuant to the provisions of a license, grant, or contract with the Federal government.

This section is not intended to, and does not in fact, create a private cause of action for discipline or discharge of an individual who uses cannabis, either expressly or impliedly.

D. REQUIRED DRUG AND ALCOHOL TESTING

- (1) ***Universal Testing.*** Individuals shall be subject to required drug and alcohol testing in the following circumstances:
 - a. Reasonable Suspicion Testing.

COOK COUNTY BUREAU OF HUMAN RESOURCES		
DRUG AND ALCOHOL POLICY		
Approved: April 30, 2018	Effective: May 3, 2018 and January 1, 2020 Revised Effective: January 5, 2021	Page 9 of 18

- (i) An individual may be required to undergo drug and alcohol testing if there is a reasonable suspicion that the individual:
1. used drugs or alcohol in the workplace or while on call; or,
 2. Is impaired or under the influence in the workplace or while on call.

Drug and alcohol testing based on reasonable suspicion will be administered as soon as possible, preferably within two (2) hours following observations triggering the request to test. If an alcohol test under this section is not administered within two (2) hours following observations triggering the request to test, then the manager/supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test under this section is not administered within eight (8) hours following observations triggering the request to test, then the County shall cease attempts to administer an alcohol test and shall state in the record the reason(s) for not administering the test.

- (ii) Circumstances that may constitute reasonable suspicion include, but are not limited to, any of the following, either alone or in combination:
1. Irregular, unusual, or slurred speech patterns;
 2. Impaired judgment, disorientation, or confusion;
 3. Alcohol or cannabis odor on breath;
 4. Unsteady standing;
 5. Uncoordinated walking or movement;
 6. Disruption of a production or manufacturing process;
 7. Negligence or carelessness in operating equipment or machinery;
 8. Disregard for the safety of the employee or others;

COOK COUNTY BUREAU OF HUMAN RESOURCES		
DRUG AND ALCOHOL POLICY		
Approved: April 30, 2018	Effective: May 3, 2018 and January 1, 2020 Revised Effective: January 5, 2021	Page 10 of 18

9. Carelessness that results in any injury to the employee or others;
10. Involvement in an accident that results in significant damage to equipment or property;
11. Involvement in a fight while in the workplace or while on call;
12. Possession of drugs, alcohol, or drug paraphernalia; or,
13. Observation of drug or alcohol use prior to reporting to work or while on duty.

(iii) Managers/supervisors shall document the circumstances that constituting reasonable suspicion, and shall include the names of any witness and any information provided by the witnesses.

b. Post-Accident Testing.

(i) An individual may be required to undergo drug and alcohol testing if the individual is involved in an accident which results in injury requiring medical attention or property damage while at work, on County property, or on County business. In this case, testing may be required without regard to whether the County has any reasonable suspicion of drug or use, or reasonable cause to believe that drug or alcohol use may have been a factor.

A post-accident drug and alcohol test will be administered as soon as possible, preferably within two hours following the accident. If an alcohol test under this section is not administered within two (2) hours following the accident, then the manager/supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test under this section is not administered within eight (8) hours following the accident, then the County shall cease attempts to administer an alcohol test and shall state in the record the reason(s) for not administering the test. If a drug test under this section is not administered within thirty-two (32) hours following the accident, then the County shall cease attempts to administer a drug test and shall state in the record the reason(s) for not administering



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 11 of 18

the test.

The individual is responsible for reporting the accident to his or her Manager/Supervisor immediately and for submitting to drug and alcohol testing as soon as possible after the accident. An employee who is seriously injured and is unable to submit to testing at the time of the accident, shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether the employee was under the influence at the time of the accident. An employee's failure or refusal to comply with post-accident drug and alcohol testing requirements may result in disciplinary action, up to and including disqualification or discharge, in accordance with the applicable collective bargaining agreements and/or the County's Personnel Rules.

c. Post-Rehabilitation/Follow-up Testing.

- (i) Any employee who successfully completes an approved rehabilitation program, as provided in this policy, must submit to drug and alcohol testing administered by Cook County's designated provider prior to returning to work.
- (ii) Upon returning to work, the employee will be subject to random drug and alcohol testing for a minimum of four (4) times during the one (1) year period after successful completion of the rehabilitation program.
- (iii) If the employee has a positive test result or refuses to submit to a drug and alcohol test at any time during the one (1) year period, the employee will be subject to disciplinary action, up to and including discharge, in accordance with the applicable collective bargaining agreements and/or the County's Personnel Rules.

(2) **Additional Testing for Safety-Sensitive Positions.** All individuals in safety-sensitive positions shall be additionally subject to required drug and alcohol testing in the following circumstances:

a. Testing Prior to Employment in a Safety-Sensitive Position.

- (i) Prospective employees, to whom a conditional offer of employment has been made, are required to submit to pre-employment drug and alcohol testing.
- (ii) A positive drug or alcohol test result or a refusal to



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 12 of 18

submit to a drug or alcohol test will result in automatic disqualification.

- (iii) If disqualified, an applicant must wait at least six (6) months before reapplying for employment, in a safety sensitive position, with Cook County.

b. Testing Prior to Transfer to a Safety-Sensitive Position.

- (i) Current employees being transferred to safety-sensitive positions are required to submit to drug and alcohol testing prior to such transfer.
- (ii) A positive drug or alcohol test or a refusal to submit to drug and alcohol testing or to comply with any part of the testing protocol will result in the employee's disqualification from the safety-sensitive position and may subject the employee to disciplinary action, up to and including discharge, in accordance with the applicable collective bargaining agreements and/or the County's Personnel Rules.

c. Random Testing.

- (i) Employees who are subject to regulation by the U. S. Department of Transportation ("DOT") and the Federal Motor Carrier Safety Act ("FMCSA"), pursuant to all requirements of 49 CFR Part 40, are subject to random drug and alcohol testing each year. These tests are unannounced and scheduled throughout the year. Every employee subject to this provision has an equal chance of being selected for random drug and alcohol testing.
- (ii) Employees are selected for testing by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with their employee identification number. Employees may be selected more than once a year.
- (iii) An employee selected for random drug and alcohol testing will be notified by their Manager/Supervisor, and required to submit to testing as directed.

d. Return-to-Work Testing.

The County may require drug and alcohol testing of an



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

**Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021**

Page 13 of 18

employee in a safety-sensitive position upon the employee's return to work after an absence of (30) consecutive days or more.

e. Substance Violation Return to-Duty Testing.

The County requires an employee, who test positive, refuse, or violated the controlled substance and/or alcohol use regulation, 49 CFR Part 40, to take a return-to-duty test after a SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

f. Follow-up Testing.

The County is required to carry out the SAP's follow-up testing requirements once employees have successfully complied with prescribed education and/or treatment. Employees will not be allowed to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP. The County may schedule follow-up tests on dates of its choosing, but will ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employees are given no advance notice. Random tests cannot serve as a substitute for the follow-up testing requirements.

The SAP will present the County with a written testing plan that recommends at a minimum six (6) unannounced directly observed tests in the first 12 months after the employee resumes his/her safety-sensitive functions. The SAP testing plan can be extended up to an additional four (4) years. The follow-up testing requirement is in addition to the County's random testing program.

g. Follow-Up Testing from Previous Employer.

The County will administer the follow-up testing recommended by the SAP for drivers resuming their safety-sensitive functions or applicants who did not complete their follow up testing from a previous employer, after completion of a substance abuse education or treatment.



DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 14 of 18

E. TESTING PROCEDURES

Cook County’s designated provider administers drug and alcohol tests in accordance with applicable law under approved conditions for the sole purpose of detecting drugs or alcohol.

(1) Drugs Tested

- a. Amphetamines/Methamphetamines
- b. Cocaine Metabolites;
- c. Cannabis Metabolites;
- d. Opiate/Opioid Metabolites; and,
- e. Phencyclidine (PCP).

(2) Reporting Test Results

a. On an initial test:

- (i) A result below the cutoff concentration shall be reported to the Personnel Services Division as a negative test result; and,
- (ii) A result at or above the cutoff concentration (“non-negative result”) shall be subjected to a confirmatory test.

b. On a confirmatory test:

- (i) A result below the cutoff concentration shall be reported to the Personnel Services Division as a negative test result; and,
- (ii) A result at or above the cutoff concentration shall be reported to the Personnel Services Division as a confirmed positive test result, in the absence of a split specimen test.

c. On a split specimen test:

- (i) A result at or above the cutoff concentration shall be reported as a reconfirmed positive test result; and,
- (ii) A result below the cutoff concentration will result in a cancelled test; the individual may be requested to produce a new specimen for drug and alcohol testing.

(3) Discussing Test Results

In the event of a confirmed positive test result:

- a. The Medical Review Officer (MRO) will attempt to contact the individual tested within five (5) business days from obtaining a confirmed positive test result to learn if there are any circumstances



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 15 of 18

that have contributed to the result, prior to reporting it to the Personnel Services Division.

- b. If the individual is an employee, then the MRO may offer, or the individual may request, a test of the split specimen within 72 hours from the time of notification, in accordance with DOT Rule 49 CFR Part 40 Section 40.171.

If the individual is an applicant or an employee with a CDL that is required to be tested by DOT, the MRO will report the test result to the Clearinghouse.

(4) Reporting Responsibilities to the Clearinghouse

a. County:

- (i) Pursuant to 49 CFR §382.705(b), the following information must be reported to the Clearinghouse by close of the third business day following the date on which it was obtained:

1. An alcohol confirmation test with a concentration of 0.04 or higher.
2. Refusal to test (alcohol) as specified in 49 CFR 40.261.
3. Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.
4. Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.
5. Negative return-to-duty test results (drug and alcohol testing, as applicable)
6. Completion of follow-up testing.

b. MRO:

- (i) Pursuant to 49 CFR 382.705(a), the MRO must report the following information to the Clearinghouse within 2 business days of making a determination or verification:

1. Verified positive, adulterated, or substituted drug test results.
2. Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191.

c. SAP:

- (i) Pursuant to 49 CFR §382.705(d), SAPs must report identification of the employee and date the initial assessment was initiated to the Clearinghouse by close of the business day following the date of the initial substance abuse assessment and



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021

Page 16 of 18

- (ii) Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing must also be reported to the Clearinghouse. SAPs must report that the employee has completed the return-to-duty process by close of the business day following the determination.

F. RESOURCES & REHABILITATION

General information concerning the effects of drugs and alcohol on an employee’s health, work, and personal life; signs and symptoms of substance use disorders; and available intervention methods may be obtained by contacting the County’s Employee Assistance Program (“EAP”) or respective Personal Support Program (“PSP”).

All employees testing positive for drugs or alcohol will be granted a one-time opportunity to successfully complete a rehabilitation program. The EAP/PSP, in consultation with the employee, may help the employee enroll in an appropriate rehabilitation program. The employee may also obtain assistance through their health care provider.

Treatment for substance abuse may be a serious health condition for purposes of FMLA if the applicable conditions defining a serious health condition set forth in Regulations, 29 CFR Part 825.114 are met. FMLA leave, however, may only be taken for treatment for substance use disorders that is provided by a health care provider or by a provider of health care services on referral by a health care provider, in accordance with 29 CFR Part 825.118.

The County offers health benefit plans to eligible employees that cover treatment for substance use disorders. Insurance may cover all or part of the cost of such a program. However, the financial burden of payment for such a program rests with the employee, regardless of third party reimbursement, insurance, or any lawsuit that may be pending.

Upon successful completion of an approved drug rehabilitation program, an employee may return to work with authorization from the program’s attending physician, the EAP/PSP, and the Personnel Services Division. In order to obtain authorization from the Personnel Services Division, the employee shall be required to submit to post-rehabilitation and follow-up testing.

Please note that contacting the EAP/PSP and/or participating in a rehabilitation program does not alleviate the employee’s responsibilities and/or duties under this policy. Moreover, treatment for substance abuse does not necessarily prevent Cook County from taking employment action against an employee. Under certain circumstances, including enrolling in a rehabilitation program, an employee may be subject to disciplinary action, up to and including discharge, in accordance with applicable collective bargaining agreement and/or the County’s Personnel Rules, whether or not the employee is presently taking FMLA leave.



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

Approved: April 30, 2018

**Effective: May 3, 2018 and January 1, 2020
Revised Effective: January 5, 2021**

Page 17 of 18

While EAP participation is confidential, notwithstanding any provision to the contrary, the employee shall be deemed to have waived the right to confidentiality in any case where the employee raises a claim against the County involving the quality of care or services rendered by the EAP.

G. PENALTIES

- (1) For prospective employees, engaging in prohibited conduct shall result in automatic disqualification.
- (2) For current employees, engaging in prohibited conduct may result in disciplinary action, up to and including discharge, in accordance with applicable collective bargaining agreement and/or the County’s Personnel Rules. An employee who is disciplined or terminated because they are under the influence of or impaired by cannabis will be afforded a reasonable opportunity to contest the basis of the determination.
- (3) Pursuant to 49 CFR §382.501, no employee shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the County has determined that the employee has violated 49 CFR part 382 or an alcohol or controlled substances rule of another DOT agency. Pursuant to 49 CFR § 382.217, an employee may not operate a commercial motor vehicle during any period in which the County determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:
 - a. The employee receives a positive, adulterated, or substituted drug test result conducted under 49 CFR 40.
 - b. The employee receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under 49 CFR 40.
 - c. The employee refused to submit to a test for drugs or alcohol required under 49 CFR 382.
 - d. The driver used alcohol prior to a post-accident alcohol test in violation of 49 CFR § 382.209.
 - e. An employer has actual knowledge, as defined at 49 CFR § 382.107, that an employee has:
 - (i) Used alcohol while performing safety-sensitive functions in violation of 49 CFR § 382.205;
 - (ii) Used alcohol within four hours of performing safety-sensitive functions in violation of 49 CFR § 382.207; or



COOK COUNTY BUREAU OF HUMAN RESOURCES

DRUG AND ALCOHOL POLICY

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Page 18 of 18

(iii) Used a controlled substance.

(4) The exception to Section (3) is where it is verified that:

- a. The employee or applicant has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of title 49; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP; or
- b. If the driver has not completed all follow-up tests as prescribed by the SAP in accordance with 49 CFR § 40.307 and specified in the SAP report required by 49 CFR § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of title 49 and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

H. CONFIDENTIALITY

Drug and alcohol test results are confidential. Records pertaining to an employee’s use of drugs and alcohol, including test results, shall be maintained by the Personnel Services Division in files separate from the employee’s medical files and personnel files. Employees are entitled to obtain copies of any records pertaining to their use of drugs and alcohol, including test results, upon submission of a request for release of information in such form and containing such information as required by the Personnel Services Division. Absent such a request for release of information, disclosure of test results shall be permitted only to authorized personnel in the Cook County Human Resources Personnel Services Division, or pursuant to a Court order or a valid subpoena.