

We aim that the entire process, from first observation of suspicious behavior through employee's arrival at test site, should be completed within two hours.

If the employee appears to possess an illegal substance, then the department should contact Public Safety immediately at 864-7890.

SUSPICIOUS BEHAVIOR OBSERVED

- ☐ Supervisor with Departmental Personnel Contact completes Reasonable Cause & Observation Checklist
- ☐ Department Head reviews checklist and makes request to HR Commissioner (cc Director of Admin – HR) to schedule drug & alcohol test
- ☐ Employee DISCREETLY moved to, or maintained in, private space and kept under observation until escorted to testing
- ☐ County HR reviews checklist & confirms request to schedule drug & alcohol test
- ☐ Department contacts:
 - Law, if necessary/desired
 - Public Safety (864-7890)
 - Employee's Union, if contract stipulates, and employee provides consent
- ☐ Department delivers written notice to employee from Department Head, directing employee to submit to testing
- ☐ Public Safety & Supervisor/Departmental Rep. escort employee to test site & remain for duration of testing.
- ☐ Public Safety escorts the employee home, or arranges appropriate transport. The employee is not to drive.
- ☐ County HR informs the Department Head of test results.
- ☐ Department informs employee & Union of test result and works with Law on any discipline required.

While the employee might have the right to consult with their Union Representative prior to testing, testing need not to be delayed for more than 90 minutes as a result.

Reasonable Suspicion Alcohol and Drug Testing Procedure

For the purpose of ensuring a safe and productive environment for employees and the constituents served by employees, Westchester County ("county") has a long-standing policy of maintaining a Drug-Free workplace, as codified in Executive Order #6-1998, which allows for drug and alcohol testing of employees when there is a Reasonable Suspicion of violation of the Drug-Free Workplace Policy.

PROCEDURE

If there is a reasonable, objective suspicion that an employee is under the influence of alcohol or drugs in the workplace, that employee may be directed to submit to a Reasonable Suspicion drug and alcohol test. In order for the testing to be effective, supervisors and respective departmental personnel must act expeditiously. The County aims for the employee to be at the test site within two hours of initial observation of suspicious behavior.

Supervisors and designated departmental personnel should use the Reasonable Cause and Observation Checklist and follow the procedure outlined in the chart below when confronted with a case of Reasonable Suspicion. Most generally, the process will flow from first-hand witnesses through the direct line of supervision to the Department Head/Appointing Authority, and will involve consultation with Human Resources and Law.

Important Notes:

- It is imperative that the employee be monitored throughout the process, but that the process also occur with as much *discretion and privacy* as possible for the employee, such that embarrassment is minimized for the employee and to minimize awareness by other employees that testing is being required or conducted.
- Should a supervisor witness the employee in possession of apparent drug paraphernalia or illegal substances, the supervisor should alert his/her own manager and/or personnel contact immediately and also contact Public Safety at 864-7890.
- The employee will be transported to testing and must not drive home after testing. At Public Safety's discretion, the employee will be released to a responsible adult post testing, or will be transported home.

If the incident occurs **after regular office hours**, follow your department's emergency contact procedures. As above, complete the checklist and direct the employee to have testing in writing. Call the County's third party vendor, Partners in Safety, at 1-800-227-7001 to arrange for after-hours testing. Our vendor should be able to come onsite in after-hours instances. Contact Public Safety at 864-7890 for assistance transporting the

employee home after testing. Make a good faith effort to contact the employee's union if the employee consents, but do not delay testing. The following workday, notify Human Resources and Law Department of the testing.

- Should the position fall under DOT or other state/federal regulation, then procedures mandated by such regulation should be followed.
- If an employee leaves the scene once the Reasonable Suspicion process has begun, contact Public Safety and provide your observations concerning reasonable suspicion, along with information concerning the employee's vehicle and likely direction of travel, if possible.

Testing is conducted under contract by the third party vendor in compliance with state and federal guidelines and in accordance with the county's collective bargaining agreements. The third party vendor is reimbursed by the employee's department for the Reasonable Suspicion test.

- An employee's refusal to submit to testing will be deemed a positive result.
- All time required by the employee to take the ordered test shall be considered time worked. Tested employees should typically be paid for their scheduled workday. Potentially, employees who are FLSA covered will accrue over-time pay if the testing procedure extends into after hours; however, it is not expected that tested employees be compensated over-time for time spent being transported home, or waiting for transport home. Time should generally be recorded in the Time and Leave System under the Health & Safety leave code (HLSAF).
- Policy set under an employee's collective bargaining agreement supersedes the procedure described herein. [Where there is difference in procedure between the process outlined below and the employee's bargaining agreement, then the bargaining agreement takes precedence.]

A sample memo to the employee is attached but it is **recommended that Law Department be consulted** in cases of Reasonable Suspicion.

If the employee tests positive, then Law is consulted as to next steps in a disciplinary process and potential return-to-work protocol, if appropriate, which may include referral to EAP/treatment program.

Should the employee test positive, the employee pays for any return-to-work assessments and subsequent random testing connected to their positive Reasonable Suspicion test result.

REASONABLE SUSPICION -- OBSERVATION CHECKLIST

Employee Name: _____

Employee Job Title: _____

Employee DOB: _____ Last four of Social Security: _____

Date and Time: _____ Union Affiliation: _____

Current Location of Employee (Building, Floor, Room) _____

Manager completing report: _____ Witness(es): _____

George Latimer
County Executive

Department of Human Resources

INDICATORS: The indicators listed below are **potential** "Warning Signs" of possible drug and/or alcohol abuse and may be observed by Managers/Supervisors.

Absenteeism:

- ◆ Acceleration of absenteeism and tardiness, especially before and after weekends or holidays
- ◆ Frequent unreported absences that later are explained as "emergencies"
- ◆ Unusually high incidence of colds, flu, upset stomach, headaches
- ◆ Frequent use of unscheduled leave time
- ◆ Leaving work area more than necessary (e.g., frequent trips to restroom)
- ◆ Unexplained disappearances from the job with difficulty in locating employee
- ◆ Requesting to leave work early for various reasons

Accidents:

- ◆ Taking needless risks
- ◆ Disregard for safety of others
- ◆ Higher than average accident rate (both on and off work)

Work Patterns:

- ◆ Difficulty in recalling instructions
- ◆ Difficulty in remembering own mistakes
- ◆ Slow to complete work/missing deadlines
- ◆ Increased difficulty in handling complex situations
- ◆ Inconsistency in quality of work
- ◆ High and low periods of productivity
- ◆ Poor judgment/general carelessness
- ◆ Lapses in concentration

Patterns of any of the above conduct or combinations of conduct may occur but must be accompanied by indicators or impairment in order to establish "reasonable suspicion". Please check all indicators listed below that are **currently** present:

- | | |
|--|---|
| <input type="checkbox"/> Constricted pupils | <input type="checkbox"/> Drowsiness/Sleeping at the Worksite |
| <input type="checkbox"/> Dilated pupils | <input type="checkbox"/> Odor of Alcohol |
| <input type="checkbox"/> Scratching | <input type="checkbox"/> Nasal secretions/sniffles |
| <input type="checkbox"/> Red, watering or glassy eyes | <input type="checkbox"/> Dizziness |
| <input type="checkbox"/> Involuntary eye movements | <input type="checkbox"/> Muscular in-coordination/awkward gait |
| <input type="checkbox"/> Disorientation | <input type="checkbox"/> Unconsciousness |
| <input type="checkbox"/> Excessively active | <input type="checkbox"/> Inability to verbalize |
| <input type="checkbox"/> Nausea or vomiting | <input type="checkbox"/> Irritable/Argumentative |
| <input type="checkbox"/> Flushed skin | <input type="checkbox"/> Disheveled |
| <input type="checkbox"/> Sweating | <input type="checkbox"/> Difficulty concentrating |
| <input type="checkbox"/> Yawning excessively/inappropriately | <input type="checkbox"/> Slurred speech |
| <input type="checkbox"/> Twitching | <input type="checkbox"/> Erratic behavior (please explain under Comments below) |
| <input type="checkbox"/> Violent behavior (call 9-1-1 if unsafe) | <input type="checkbox"/> Needle marks |
| <input type="checkbox"/> Hygiene issue | <input type="checkbox"/> Arrested for a drug-related offense, either on or off the worksite |
| <input type="checkbox"/> Possession of paraphernalia (such as syringe, bent spoon, metal bottle cap, medicine dropper, glassine bag, rolling papers, paint can, glue tube, nitrite bulb, or aerosol can) | |

(continued on next page)

☐ Possession of substance that appears to possibly be a drug or alcohol

☐ Other Observations/Comments (emails or docs may be attached):

DETERMINING REASONABLE SUSPICION

If you are able to document one or more of the indicators above, ask yourself these questions to establish reasonable suspicion:

Yes No

☐ ☐ Has some form of impairment been shown in appearance, actions or work performance of the employee in question?

☐ ☐ Does the impairment **appear** to be related to the use of drugs or alcohol?

☐ ☐ Are the facts reliable? Did you witness the situation personally, or are you sure that the witness(es) are reliable and have provided first hand information?

☐ ☐ Is the impairment current, today, now?

Do NOT proceed with the reasonable suspicion process unless ALL of the above questions are answered with a YES. If YES, then proceed to interview the employee with the following 6 questions.

1. Are you feeling ill? ☐ Yes ☐ No
If yes, what are your symptoms?

2. Can you explain why you appear to be having difficulty doing your job today?
Comments:

3. We have witnessed [*specify questionable behavior*]. Do you have an explanation for that behavior?
Comments:

4. *If applicable*: You were seen with [*name items, such as syringe, etc.*] Is there a reason why you would be in legal possession of such item(s)?
Comments:

5. Did you drink alcohol or an alcoholic beverage today? ☐ Yes ☐ No
Yesterday?
If yes, what did you drink? How much? When? Where? With whom?

6. Are you taking any type of drug today? ☐ Yes ☐ No
If yes, what kind of drug? How much? When? Where? With whom?

ACTION TAKEN

☐ Reasonable Suspicion Established ☐ Reasonable Suspicion NOT Established

If Reasonable Suspicion is established, this form and any other supporting materials should be forwarded to your department head immediately. Your departmental personnel staff should also contact County HR, Public Safety and Law Departments immediately, as well as the employee's union, if applicable.

Supervisor/Manager Signature: _____ Date: _____

Title: _____

Witness Signature: _____ Date: _____

Title: _____

**Memorandum
Department of NAME**

Date: xxx

To: Employee Name
Employee Title

From: Commissioner Name
Commissioner Dept.

Re: **Order to Submit to Reasonable Suspicion Drug & Alcohol Testing**

You are hereby directed to immediately submit to reasonable suspicion drug and alcohol testing to be conducted at Partners in Safety, located at 15 North Broadway, White Plains, New York.

Failure to comply with this directive may be the basis for disciplinary action.

A copy of this directive is being provided to your union representative, if you are in a union, unless you check and sign below that you do not wish the union be notified.

Before returning to work, you must contact [CONTACT PERSON DETERMINED BY DEPARTMENT] at 914-xxx-xxxx.

Employee Signature

Date & Time Received

☐ Employee does NOT wish to have his/her union notified.

Employee Signature

☐ Employee was provided memo but refused to sign.

Signature of manager who provided memo

cc: Law
HR
Departmental Personnel Contact(s)

WESTCHESTER COUNTY AFTER HOURS PROTOCOL

Reasonable Suspicion of Drug and/or Alcohol Use

When the condition is observed outside of normal office hours:

- Follow your dept's normal procedure for notification of an emergency
- Complete the Reasonable Suspicion Observation Checklist form
- Call Public Safety at 864-7890 (They will help transport employee home after testing, as our vendor will likely come to your work site to test)
- Notify the employee in writing that they are directed to drug and alcohol testing
- Contact Partners in Safety to set up drug & alcohol test (specify whether the employee is a CDL driver or not) **1-800-227-7001**. Make a good faith effort to notify the employee's union, but do not delay testing

Human Resources and Law should be informed at the start of the following workday.

Departmental Contact Info & Instructions

Person/title to call:

Number to call:

Shop Steward:

Other Directions: