

## **WESTCHESTER COUNTY DRUG-FREE WORKPLACE POLICY**

Westchester County is committed to safeguarding the wellbeing of its employees and the general public. As a result of that commitment the County has established a Drug-Free Workplace Policy in order to ensure a safe and productive work environment. All employees are expected to abide by the following criteria:

- I. No employee shall report for work impaired by any substance that is legal or illegal. An individual is impaired if they are under the influence of a substance that renders that person incapable of employing the physical and mental abilities to perform their job.
- II. No employee shall consume any substance, legal or illegal, while working which can cause impaired performance.
- III. When an employee is unable to perform the essential functions of their position for reason of using legally prescribed medication, the employee and/or the employee's supervisor should consult with their departmental personnel staff or ADA Compliance Officer regarding appropriate action for the situation and position [which might include, for instance, use of leave time or temporarily amending duties if practicable and advisable]. Employees should not be compelled to provide a medical diagnosis during this consultation.
- IV. Employees must notify their department head or personnel staff within five days of a criminal drug statute arrest or conviction. An employee arrested on a substance-related charge will not perform safety sensitive functions while charges are pending.

Violations of this policy are subject to disciplinary action up to and including termination.

Nothing in this policy and procedures should be interpreted as providing probationary or provisional employees with any additional rights or privileges other than those granted under current law.

### **PROCEDURE**

In conjunction with the procedures outlined below, employees should also consult their collective bargaining agreements, if applicable.

Testing will be performed at a location designated by the County. A refusal to test or follow the testing procedure, including inability to provide a sample, will be deemed a positive result. Once the testing procedure has begun the employee may not leave the testing site. If an employee provides an out-of-temperature specimen, a diluted specimen, or otherwise inconclusive specimen, they will be provided an opportunity to provide a second sample, following the County's medical vendor's recommended protocols, which might include providing a sample under direct supervision. A 48-hour notification will be given to the employee for retesting. Positive samples, however, cannot be "done over." Rather protocols set by the County's medical vendor for confirmation will be followed.

## **TYPES OF DRUG/ALCOHOL TESTING TO BE PERFORMED**

In some instances, it may be a condition of employment for employees to submit to drug testing under the following circumstances:

### **I. Pre-Appointment/Job Applicant Testing**

All applicants for safety sensitive positions who have been offered employment with the County, including current employees applying for a new position, may be required to undergo testing for potentially impairing substances as a condition of appointment. Any applicant with a confirmed positive test result may be denied employment or promotion. Current employees are subject to discipline up to termination and are at a minimum mandated to meeting with the County's doctor designated as a Substance Abuse Professional (SAP) and complying with whatever recovery process is ordered by the SAP.

An updated list of safety sensitive titles, along with current pre-appointment testing procedures, are maintained in the Department of Human Resources. Please see HR Shared Documents on the Intranet.

### **II. Reasonable Suspicion Testing**

Reasonable suspicion is based on an assessment that an employee is using or has used drugs or alcohol in violation of the County's policy and is based on specific, objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to the following:

- a. Observable phenomena while at work such as direct observation of physical symptoms or manifestations of being impaired due to drugs/alcohol;
- b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- c. A report of substance abuse provided by a first-hand source; or
- d. Involvement in an accident which results in an injury to another individual or property damage.

The County's Reasonable Suspicion procedures and forms can be found in the Department of Human Resources' shared documents on the Intranet. The County follows the federal regulation for its CDL drivers concerning drug testing and Reasonable Suspicion protocols, as well as procedures outlined in collective bargaining agreements.

### **III. Follow-up to a positive test**

An employee referred by the County to the County's designated Substance Abuse Professional will undergo the recommended treatment, and will be subject to a follow-up substance tests as determined by the SAP.<sup>1</sup> In this case, the employee pays the cost

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<sup>1</sup> An employee must be evaluated and procedures may vary according to their collective bargaining agreement.  
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of testing/evaluation. In addition, the employee may be referred to the Employee Assistance Program (EAP) for assistance and/or be subject to disciplinary action.

#### **Employee Assistance Program (EAP)**

The County encourages early diagnosis and treatment for substance abuse and supports sound treatment efforts such as the efforts of the Employee Assistance Program, which can be reached at (914) 995-6070. EAP was established by the County to assist employees and their immediate family members in obtaining treatment, counseling and referral services.

#### **Consequences of Violation of the Policy**

At a minimum, a first time violation by an employee of being under the influence as confirmed by a positive drug test will automatically result in the SAP assessment and the follow-up procedures described herein. If the SAP makes a referral for treatment, the employee shall participate. If the employee refuses treatment, then their Department Head will determine any disciplinary action. If the employee refuses to comply with the testing procedure, the County will infer a positive test result.

Any violation of the Drug-Free Workplace Policy may lead to disciplinary action. The severity of the action chosen will depend on the circumstances of each case. However, employees need to be aware that certain offenses including but not limited to the unlawful manufacture, sale, use, possession or distribution of controlled substances on County premises is prohibited, and can result in termination.

The County may, at its discretion, suspend a disciplinary proceeding while an employee is undergoing substance abuse treatment. The suspended disciplinary proceeding can remain pending during treatment.