

Hertford County Drug and Alcohol Policy

Purpose

The purpose of this policy is to promote and maintain an alcohol/drug free environment in the workplace and to protect County employees and the public by ensuring that employees are fit to perform their assigned duties.

Definitions:

Reasonable Suspicion means a belief based on specific objective facts and rational inferences drawn from those facts that an employee has consumed or is under the influence of alcohol or illegal drugs while at work. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to: observable occurrences, such as direct observation of alcohol/drug use and/or the physical symptoms of being under the influence of alcohol or a drug; a report of alcohol/drug use by an employee while at work, provided by a reliable and credible source; slurred speech, glossy eyes, flushed face, smell of alcohol, absences on Fridays and Mondays, a pattern of unexplained preventable accidents and/or information based on specific objective facts that an employee has caused, or contributed to, an accident at work while under the influence of alcohol/drugs; or evidence that an employee is involved in the unauthorized possession, sale, solicitation or transfer of drugs while working or while on the County's premises or operating or in possession of a County vehicle.

Approved Laboratory means a laboratory certified to perform drug screening or testing by the National Institute on Drug Abuse (NIDA), which also meets the requirements of N. C. General Statute Section 95-231(1).

A. Prohibited Conduct

The following conduct is prohibited under this policy:

1. The unauthorized use, consumption, possession or storage, manufacture, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on County premises or any County work area, in County vehicles, or while on County business.
2. Reporting to work or working while under the influence of illegal drugs, non-prescribed drugs or alcohol, on County premises or any County work area, in County vehicles, or while on County business.
3. The use or possession of alcohol or illegal drugs off County premises and while not on duty where such conduct could likely have a direct and material adverse impact on the County's interests, including public image.

4. Conviction of selling illegal drugs or of possession with intent to sell illegal drugs at any time or place. Conviction of any criminal drug or alcohol statute at any time or place for some positions.
5. Failure to notify the County of any arrest or conviction under any criminal, drug or alcohol statute by the next workday following the arrest or conviction.
6. Failure to notify the employee's Supervisor, before beginning to work, that the employee is taking prescription or over-the-counter drugs which may interfere with the safe and effective performance of duties.
7. Refusal to immediately submit to an alcohol and drug test when requested by a Supervisor and/or Department Head, in accordance with this policy.
8. Failure to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.
9. Tampering with or obstruction of a drug or alcohol test being administered by or for the County.

The foregoing is not intended to be an exhaustive list of conduct prohibited by this policy.

B. Drugs to be Tested

When drug screening is required under the provisions of this policy, a blood, urine, or breath test will be conducted to detect the presence of drugs, including but not limited to: amphetamines, alcohol, barbiturates, benzodiazepines, cocaine, methaqualone, opiates, phencyclidine (PCP), propoxyphene, THC (Marijuana), and any other controlled substance as defined in North Carolina General Statute Section 90-87(5), as amended.

For purposes of this drug testing policy, alcohol is considered a drug. Any employee found to have abused prescription drugs would be subject to the terms and conditions of this policy.

C. Prescription Medication Use

Employees using medications prescribed by a physician that have stated side effects with the potential to significantly affect or impair work performance shall be responsible for notifying their Supervisor of such potential. An employee need not give the Supervisor specific medical information, but the employee should inform their Supervisor of the potential impact of any medication on job performance to allow the Supervisor to evaluate and determine the appropriate course of action.

Supervisors shall be encouraged to monitor employee behavior and assess possible warning signs indicating that the employee's work performance while under the influence of prescribed medication is impaired or is causing an unsafe work environment for the employee, his or her coworkers, or the public. If there is cause for serious concern with regard to the employee's behavior or performance, the employee shall be advised to take a

leave of absence using accrued sick, annual, or compensatory leave, if applicable or leave without pay if all paid leave has been exhausted pursuant to any applicable County policy for all time away from work, until such time the employee can safely return to work.

D. New Hire Drug Testing

All new hires are subject to the testing provisions of this program. All new hires will be provided with written notification of this drug testing policy, and a drug test will be conducted. New Hires will be formally notified in their offer letter that their continued employment with Hertford County will be contingent upon negative test results.

Applicants scheduled for a drug test will be asked to sign a consent form authorizing a drug test and permitting release of the test results to County officials with a need to know. An employee who refuses to consent to a drug test will be recommended for, and is subject to, immediate dismissal.

The County shall also require drug testing in cases of temporary employment or part-time employment as well as a Commercial Driver's License (CDL) to perform the duties as an employee of the County and persons performing transit related safety sensitive functions using federally funded vehicles.

E. Current Employee Testing

Department Heads who have reasonable suspicion (as defined herein) that an employee in his/her department is using or under the influence of drugs, is authorized to schedule a drug test and require the employee to cooperate fully with testing personnel.

An employee must submit to a drug test following an on-the-job accident or other occurrence that involves one (1) or more of the following events: a fatality, a serious injury to an employee or other individual, damage to vehicles or other property, or if the employee receives a citation under state or local law for a moving traffic violation arising from the accident.

An employee may also be tested after a series of minor on-the-job accidents or injuries as determined by the Department Head.

Before a drug test is administered, the Department Head shall ask the employee to sign a consent form authorizing the test and permitting release of test results to County officials with a need to know.

The consent form shall also set forth the following information:

1. The procedure for confirming an initial positive test result;
2. The consequences of a positive test result;
3. The right of an employee to explain a positive drug test result and the appeal procedures available; and
4. The consequences of refusing to undergo a drug test.

An employee who refuses to consent to a drug test, when reasonable suspicion of drug use has been identified and documented, will be recommended for, and is subject to, dismissal.

F. The Test

Normally a urine, breath, and/or blood test will be used to determine the presence of drugs. All personnel involved with the sample collection, transporting and testing, will maintain a strict chain of custody. Tests will be made in accordance with Article 20 of Chapter 95 of the North Carolina General Statutes and other applicable laws.

A certified toxicologist of the approved laboratory will determine the content level of each substance needed to determine whether an employee has consumed or is under the influence of a drug.

G. Consequence of a Positive Test Result

If a test result is positive and after informing the County Manager, the Human Resources Director or Department Head will notify the employee in writing. The letter of notification shall identify the particular substance found. Such an employee shall have the right to request a retest as provided by N. C. General Statute Section 95-232(f), as amended.

An employee, who has a positive drug test result, following the Department Head informing the County Manager, may be subject to disciplinary measures up to and including immediate termination.

H. Use of Results in Criminal Action

No test results of the County's drug testing program may be used as evidence in a criminal action against the employee or job applicant *except* by order of a court of competent jurisdiction or otherwise as required by law.

I. Notification of Conviction

Each employee shall notify his or her Supervisor of any charge or conviction for being in violation of any criminal drug statute no later than two (2) days after being charged or convicted with a drug violation.

The County Manager and the respective Department Head may place an employee who has been charged with violating a crime involving drugs on Investigation with Pay until such time as pertinent details have been researched. It is not recommended that management place an employee on long periods of Investigation with Pay pending criminal court action. Department Heads are encouraged to research the circumstances and make a decision based upon available facts.

J. Additional Standards

All applicants for and all employees in positions subject to the provisions of the North Carolina Criminal Justice Training and Standards Council will be subject to the drug testing policies and procedures of the Council under the Sheriff's Office policies.

Various federal laws require drug testing of certain safety sensitive employees who must meet CDL requirements or who operate or maintain transit vehicles purchased with federal funding. Such tests will be conducted in accordance to federal guidelines and will include the following:

1. Pre-employment testing for controlled substances.
2. Testing upon reasonable suspicion of alcohol or drug use;
3. Post-accident testing within two (2) hours of an accident that involves:
 - a. a fatality; or
 - b. the County driver receiving a citation and/or contributing to the cause of the accident and/or the accident results in any personal injury and/or a vehicle is required to be towed from the scene.

K. Inspections and Searches

When there is reasonable suspicion, the County reserves the right to search employer-owned items used by employees (e.g., desks, lockers, vehicles, equipment, etc.), and employees should not expect privacy in these containers. The employee's Supervisor or Department Head and a witness may conduct search efforts.

L. Enforcement

Department Heads are responsible for the proper application of the procedures in their departments and for holding Supervisors accountable for the daily implementation of this policy.

Department Heads and Supervisors shall be responsible for identifying abuse-related behavioral and performance problems, following the proper referral for testing, and taking appropriate disciplinary measures.

Failure to take action when the Supervisor has reasonable cause to believe an employee is impaired while at work will result in disciplinary action being taken against the Supervisor. If in doubt about what action to take, the Supervisor should consult with the Department Head or the County Manager.

Supervisors shall make every effort to protect the privacy, confidentiality, and dignity of employees by minimizing the number of employees who learn of suspicions involving a co-worker's possible substance abuse or actions taken against that employee.

Alcohol and drug free workplace issues in the Sheriff's Office will be the responsibility of the Sheriff. The Sheriff will be responsible for reporting tests results as required to the North Carolina Sheriffs Education and Training Standards Commission on employees holding certification from that Commission. (Refer to Sheriff's Office policies)