



CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

Department: Human Resources
Subject: Alcohol and Substance Abuse Policy

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I. PART I — GENERAL POLICY

A. Introduction

The abuse of drugs or alcohol in the county workplace jeopardizes the productivity of employees, poses a safety and health threat to employees and the public, and erodes public trust and confidence in county government. The federal Drug Free Workplace Act requires the county to provide all employees with a drug and alcohol-free work environment. All employees are responsible for ensuring that the county's work environment is drug and alcohol-free.

No employee shall do any of the following while on county premises or while conducting county business: (1) use, sell, dispense, possess, or manufacture alcohol or illegal drugs, (2) be under the influence of alcohol, illegal drugs, or (3) have alcohol or illegal drugs present in their bodies, as described in Part III. In addition, no employee shall commit an alcohol or drug related crime, whether the crime was committed on county premises or while conducting county business. All county employees are hereby notified that the county is committed to providing its employees with a drug and alcohol-free work environment. As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. The acknowledgment of this policy by employees represents their "last chance" to engage in behavior that violates this policy. Any violation will result in disciplinary action. Employees who refuse to be tested or who do not cooperate with a test, will be disciplined as if they had taken the test and failed it and are subject to additional disciplinary action for insubordination. All new county employees will be required to sign a statement recognizing that their last chance to violate this policy has ended. For purposes of this policy, the term "illegal drugs" shall include all controlled substances set forth in the Virginia Drug Control Act, Section 54.1-3400, *Code of Virginia*, 1950, as amended, except when such controlled substance is used or possessed pursuant to a valid medical prescription.

Separate procedures for employees covered by the Omnibus Transportation Employee Testing Act of 1991 are outlined in Administrative Procedure 6-27, Commercial Motor Vehicle Operators' Alcohol and Substance Abuse Policy.

B. Disciplinary Action for Violation of Policy

1. Any probationary employee or any employee who has worked for the county for less than twelve months who violates any provision of this policy shall be terminated.
2. Any employee who commits or is convicted of a drug or alcohol related felony shall be terminated, irrespective of whether the offense took place while the employee was on county premises or conducting county business.
3. Any employee who commits or is convicted of a drug or alcohol related misdemeanor shall be terminated if the offense took place while the employee was on county premises or conducting county business or if the offense is reasonably related to the employee's fitness to perform the employee's job responsibilities.
4. Any employee who violates any other provision of this policy shall be disciplined in the following fashion:

- a. Discipline may include termination or any of the other options contained in Section 4-3 of the Personnel Policies. Discipline shall not be limited to verbal counseling or written reprimand. At a minimum, the employee shall be referred to the Employee Assistance Program (EAP) and, if the employee tested positive on a drug or alcohol test, the employee shall be suspended for one workweek without pay and the employee will receive a mandatory referral to the EAP program. The employee will also be required to comply with recommendations of the EAP. Failure to comply with any EAP requirement will result in termination. The HR Drug & Alcohol Testing Coordinator shall be authorized to discuss the employee's compliance with EAP recommendations with EAP personnel. The Drug & Alcohol Testing Coordinator may share pertinent information with the employee's supervisor. In all other circumstances, the employee's EAP records are confidential.
 - b. For any second violation of whatever magnitude by an employee of the Police Department, Fire and EMS Department, Sheriff's Office, Juvenile Detention Home, Adolescent Reporting Program or Emergency Communication Center, the employee shall be terminated.
 - c. For any second violation of whatever magnitude by any other employee, there will be a presumption that the employee will be terminated. The employee may overcome the presumption by establishing that the pattern of violations does not reasonably relate to the employee's fitness to perform his or her job responsibilities. If the employee is not terminated, the employee shall be disciplined in accordance with county Personnel Policies Section 4-3.
 - d. The Director of Human Resources shall review all disciplinary decisions made by managers and supervisors pursuant to this policy to ensure that they are consistent with the county's goal of a drug and alcohol-free workplace.
 - e. In determining the appropriate disciplinary action to be taken against an employee under this policy, supervisors shall apply the standards set forth in the Personnel Policies of the county for situationally appropriate discipline (Section 4-2) and shall ensure that the employee Code of Ethics (Section 1-4) is maintained. In addition, supervisors shall consider the nature of the employee's job responsibilities, the legality or illegality of the act constituting the violation and the level of drugs or alcohol involved in the violation in determining the appropriate disciplinary action. The employee's performance and disciplinary history should be evaluated prior to making a decision.
5. Any employee who violates this policy while operating a county vehicle shall be prohibited from operating any county vehicle until the employee is released from treatment by the EAP, in addition to any other disciplinary action taken against the employee.

C. Employee Assistance Program

1. The EAP provides all county employees with the opportunity to seek counseling, rehabilitation and other assistance for drug and alcohol abuse problems. Employees who have or believe that they may have drug or alcohol abuse problems may voluntarily seek assistance through the EAP. All EAP information is treated confidentially when the employee voluntarily seeks EAP assistance, except as provided in section C.2 below.
2. The EAP shall notify the Police and Fire and EMS Departments, Emergency Communications, and the Sheriff's Office respectively when sworn employees of the Police Department and Sheriff's Office and uniformed employees of the Fire and EMS

Department and Emergency Communications voluntarily seek services of the EAP and are found: (1) to be using, or (2) to have abused, illegal drugs, alcohol or prescription drugs in a manner that could affect current or future job performance. The notification will only take place after the employee has signed the release form and the counselor has completed an assessment of the problem and developed a treatment plan. Once notified, the department will take appropriate action pursuant to county policies.

3. Employees who are not in violation of this policy are not subject to disciplinary action as a result of voluntarily seeking EAP assistance for drug or alcohol abuse problems, except as noted in section C.2 above. However, employees who violate this policy will be disciplined in accordance with the policy irrespective of whether they have received or are receiving voluntary assistance for drug or alcohol abuse problems through the EAP. Additionally, voluntary involvement in the EAP shall not be considered a mitigating factor in determining the appropriate disciplinary action to be taken for a violation of this policy.

- D. Policy Exceptions** – Employees may be placed in social settings outside of normal working hours, when they are conducting county business or representing the county in a situation where alcoholic beverages are served. Discrete use of a moderate amount of alcohol under the circumstances described in this section is not a violation of this policy; provided that employees minimize their consumption of alcoholic beverages to the greatest extent possible and do not, at any time, operate a county motor vehicle after having consumed alcohol. Off-duty employees are never restricted from participating in county events or county-affiliated events where alcohol is present. Employees shall follow all laws of the Commonwealth related to alcohol consumption in public places licensed for on-premise alcohol consumption. Employees shall also be aware that engaging in on-duty or off-duty conduct which harms the reputation or integrity of the county in the community is a violation of the county’s Code of Ethics Policy 1-4, which may result in disciplinary action, up to and including termination.

II. PART II—TESTING PROCEDURES FOR SAFETY SENSITIVE POSITIONS NOT REQUIRING THE USE OF A COMMERCIAL DRIVERS LICENSE

Submission to Testing—All employees and applicants shall submit to testing for the presence of drugs and alcohol in the following situations and under the following circumstances:

A. Applicant Testing

1. All full-time, part-time, temporary, and seasonal applicants will be informed of pre-employment testing for illegal drugs as early in the recruitment process as possible and no later than during the interview phase. Pre-employment drug tests must not be taken earlier than 40 calendar days (excluding public safety employees) from the applicant’s start date. Exceptions may be granted for out-of-town applicants. Exceptions will be reviewed on a case-by-case basis. The hiring department shall inform the selected applicant of the approved test collection sites and time frames for testing. Pre-employment drug testing of applicants must be completed no later than the Monday before the orientation date to ensure results are received prior to the applicant’s orientation/start date. Failure to complete the drug test by the Monday before orientation will affect the applicant’s scheduled start date. Drug testing will be conducted on minors (under 18), however, parental consent is required. An Alcohol and Drug Testing Authorization Form for Minors is required to be signed by the minor’s legal guardian.
2. Employees whose job status changes as outlined in Appendix B below shall also submit to drug testing. These employees must register at the collection site and complete all required drug testing no later than the Monday prior to the status change effective date. Employees being promoted to a department director position shall submit to promotional drug testing regardless of their status in a random testing pool.

B. Employee Testing

1. Testing for Drug and/or Alcohol Based on Reasonable Suspicion

Employees shall submit to drug and alcohol testing when, in the opinion of the employee's supervisor, there is a reasonable suspicion that the employee is using, is under the influence of, or has present in the employee's body, illegal drugs or alcohol. Reasonable suspicion is a suspicion based on objective facts that an employee is using, or under the influence of, alcohol or illegal drugs.

By way of example, and without limitation, any of the following conditions or circumstances, alone or in combination, may create a reasonable suspicion:

- a. Unexplained inability to perform normal job functions.
- b. Slurred speech.
- c. The smell of alcohol or drugs on the breath or body.
- d. Any unusual lack of physical coordination or loss of equilibrium.
- e. Unexplained hyperactivity, depression or withdrawal.
- f. Unexplained inability to think or reason at normal levels.
- g. Bizarre behavior or thinking.
- h. Information that an employee is using alcohol or illegal drugs in violation of county policy, when obtained from a reliable person with personal knowledge of facts that support the allegation.
- i. Involvement in an avoidable accident that caused, or had the potential to cause, personal injury or property damage.
- j. Unexplained change in affect or mood.
- k. Unexplained shortness of temper.
- l. Violent or unexplained response to daily problems.

If reasonable suspicion testing is being considered, the Drug and Alcohol Testing Coordinator shall be notified as soon as possible by calling 748-1551 or 804-201-5107.

2. Random Testing

Employees in safety-sensitive positions shall submit to unannounced random drug and alcohol testing. A description of positions that are included in the Safety Sensitive category can be found in Attachment I. The county's Drug and Alcohol Testing Coordinator will notify the employee's supervisor or designee when the employee's name is randomly selected for testing. To accommodate scheduling needs, the supervisor may wait up to 10 calendar days to notify the selected employee that a drug and alcohol test is required.

When the supervisor notifies the employee that they have been selected for random drug testing, the employee must immediately proceed to the collection site.

Employees subject to random testing will be randomly selected by a computer-generated program using a random sampling method.

3. Testing After Motor Vehicle Accidents – Employees shall be tested for drugs and alcohol immediately after a motor vehicle accident that occurred while they were operating a county vehicle, if:

- a. A person was killed in the accident and the employee was engaged in a safety-sensitive job activity.

- b. The employee received a moving vehicle traffic citation for the accident and a vehicle was towed from the scene because of property damage sustained in the accident.
- c. The employee received a moving vehicle traffic citation for the accident and a person was transported from the accident scene to receive medical treatment.
- d. In the opinion of the employee's supervisor or the risk manager, there is a reasonable suspicion that the employee was using, was under the influence of or has present in the employee's body, illegal drugs or alcohol based on objective facts as listed in Section II.B.I (Reasonable Suspicion) of this policy.

4. **Return-to-Duty Testing**

Before returning to a safety-sensitive job function after receiving a positive drug or alcohol test, employees must receive a written release from their substance abuse professional documenting that they are able to return to full duty and must also complete a negative drug and alcohol test under direct observation.

If the return-to-duty test is deemed positive and is not ruled as a residual positive by the Medical Review Officer, Chesterfield County must treat the results as a failure to comply with the Substance Abuse Professional's (SAP) instructions and a second positive. The employee will be disciplined in accordance with section I. B. of this policy to include a referral to an SAP for additional evaluation. The employee will not be returned to regular safety-sensitive duties until a negative return-to-duty test is reported by the Medical Review Officer.

5. **Periodic Follow-Up Testing**

All employees who have previously tested positive for drugs or alcohol and have completed a negative Return-to-Duty test must submit to unannounced periodic testing for drugs and alcohol. At least six follow-up tests must be conducted over the next twelve-month period for employees who have failed a test. The dates and times of such periodic testing will be determined by the county. Follow-up testing must be done under direct observation.

C. Consent for Testing – As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. Employees who refuse to be tested, or who do not cooperate with a test shall be disciplined as if they failed the test and are subject to additional disciplinary action for insubordination.

D. Legitimate use of Drugs Affecting Test Results – No employee shall report for duty or remain on duty when the employee uses any controlled substances, except when the use is pursuant to the prescription of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely perform the employee's assigned duties including the job-related operation of any vehicle or equipment. Any employee who conclusively establishes by competent medical evidence that a positive drug test result was caused by the presence of a prescription drug which the employee was taking in accordance with a valid prescription shall not be deemed to have violated this policy because of failing a test for that drug. This applies to employees who possess a valid written certification from a practitioner for cannabis oil or other forms of cannabis extracts, if prescribed by a registered practitioner. A valid written certification/prescription must have been issued prior to the drug screen being conducted, in order to be in compliance with this policy.

E. Confidentiality of Test Results – The result of any drug or alcohol test that is performed pursuant to this policy shall be confidential and shall be made known only to those county employees who are directly involved in any disciplinary decision made as a result of such test

results or in any grievance arising out of such disciplinary decision. The result of any drug or alcohol test that is performed pursuant to this policy shall not be used in any criminal proceeding against the tested employee; however, in appropriate circumstances, any other information obtained by the county regarding an employee's violation of this policy may be used in a criminal proceeding against the employee.

- F. Employment Eligibility** – Any applicant that fails a pre-employment drug test or refuses to submit to such a test will be denied employment and any employee that is terminated for violating this policy will be ineligible for hire by any county department for a minimum of five years. After five years, the applicant may make a written request that their ability to apply for county positions be restored. The Director of HR may grant approval of the request.

III. PART III—PROCEDURES FOR DRUG AND ALCOHOL TESTING

A. Standards for Testing

All drug tests will take place at a facility certified for drug testing by the National Institute for Drug Abuse (NIDA) in accordance with drug testing standards promulgated by NIDA that ensure accurate testing and minimum intrusion into the privacy of employees. A copy of the most recent NIDA standards shall be kept by the Director of HR or their designee at all times and shall be available for inspection and copying by all county employees. All alcohol tests shall be administered in accordance with normal standards for alcohol breath analysis.

When the Drug and Alcohol Testing Coordinator or designee receives notification from the MRO or a collection site indicating that the employee's specimen was unsuitable for testing or rejected for testing, the employee will be directed to immediately provide a new specimen under direct observation. The collector will note on the chain of custody the same reason for collection as the original sample.

B. What Constitutes a Positive Test

Employees who are tested for controlled substances will receive an Immunoassay Test, or "drug screen" of their urine. Federal law has declared the use of marijuana illegal. Current federal drug laws are codified in the Controlled Substances Act (CSA). The CSA classifies and regulates illegal drugs and identifies illegal drugs on a schedule according to their medical value and potential for abuse. Under the CSA, marijuana is a Schedule 1 controlled substance. This designation is reserved for drugs that have a high potential for abuse. The county reserves the right to test for any of the following substances: amphetamines, barbiturates, cocaine, cannabinoids, methaqualone, opioids (natural and synthetic), phencyclidine (PCP), or benzodiazepines. If the "drug screen" detects the presence of any of these substances in the employee's urine, a gas chromatography/mass spectrometry "confirmation test" will be conducted on the same urine sample. If the confirmation test verifies the presence of any of the above listed substances in the employee's urine, the employee shall be deemed to have tested positive for drugs and to have drugs present in their body, subject to the split specimen test described in this policy.

Employees who are tested for alcohol will receive an alcohol breath analysis test. If the alcohol breath test indicates an alcohol concentration of 0.02 or greater, a confirmation test must be conducted. If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result.

If the breath analysis test determines that the employee's blood alcohol content is at a level of .04 or higher, the employee shall be deemed to have tested positive for alcohol and to have alcohol present in their body. If an employee tests positive, refer to Section I. B., Disciplinary Action for Violation of Policy.

An employee whose alcohol test results are 0.02 or greater but less than 0.04 is not considered "positive;" however, the employee cannot perform safety-sensitive functions as defined by the

department director within 24 hours after the test. Thus, if the department has a non-safety-sensitive job available for the employee to perform, the employee may remain at the workplace; otherwise, the employee must leave the workplace and their pay shall be docked for hours not worked.

If an employee's alcohol results are 0.02 or greater but less than 0.04, the employee will be required to take a breath alcohol test in which the result is .000 before he is able to return to work and perform safety sensitive duties. This test is to be performed at least 24 hours after the initial test.

If the alcohol confirmation test result is lower than 0.02, the test is considered negative and the employee can return to regular duties, unless the employee is a sworn officer in the Police Department or a sworn deputy in the Sheriff's Office. Police Officers and Sheriff Deputies will be considered unfit for duty if a breath alcohol test reveals a blood alcohol level of any amount.

C. Split Specimen

All drug testing shall be conducted under split-sample collection procedures.

The county shall contract with a Medical Review Officer (MRO), who is responsible for analyzing results of drug tests and contacting the employee if results are positive.

Employees may, within 72 hours after they are notified of a positive test, request in writing to the MRO or Drug and Alcohol Testing Coordinator, a test of the split specimen. The MRO will provide a list of certified laboratories to the employee, who will select from the list the laboratory to test the split specimen. If an employee does not request a split specimen test or designate a certified laboratory to test the split specimen within the 72-hour period, the employee shall have waived the opportunity for a split specimen test and the employee shall be deemed to have tested positive for drugs. The employee may not request a reanalysis of the primary sample. Law enforcement officers will be governed by section 9.1-501 of the Code of Virginia, as amended.

If the analysis of the split specimen does not reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the employee shall be deemed not to have tested positive for drugs, irrespective of the outcome of the original test.

The employee shall pay the cost of testing the split specimen. The county will reimburse the employee for the cost if the analysis of the split specimen does not reconfirm the presence of drugs, irrespective of the outcome of the original test.

D. Refusal to Test

Refusal to submit to an alcohol or controlled substance test means an employee, after he or she has received notice of the requirement for alcohol or controlled substance testing: (1) fails to provide adequate breath for testing without a valid medical explanation, (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation, (3) engages in conduct that clearly obstructs the testing process, (4) refuses to submit to federal required testing, (5) fails to drink fluids as directed by the collector following a failure to provide a sufficient amount of urine, (6) fails to undergo an additional medical examination as part of a "shy bladder" procedure, (7) if specimen is found to have been adulterated or substituted, or (8) if the employee leaves the collection site before the collection process is completed. Refusal to test will be considered the same as a positive test result.

If an employee makes an attempt to complete a breath alcohol test and is unable to provide a sufficient amount of breath, the employee will be required, within five days, to have an evaluation from the county's physician at the Employee Medical Center. The county's physician will evaluate the medical condition and provide a signed statement, based on their

medical judgement, whether the medical condition precluded the employee from providing a sufficient amount of breath. This determination will be the basis for whether a test is considered cancelled or constitutes a refusal to test. Only non-safety sensitive work may be performed while waiting for the evaluation.

IV. PART IV—DRUG AND ALCOHOL TESTING FOR VOLUNTEERS

- A.** Volunteers in the titles of Auxiliary Police Officer, Police Mail Courier, Police Motorist Assistance, Police Chaplain, Volunteer Firefighter, and Volunteer Rescue Squad Member will be subject to drug and alcohol testing. All volunteers in these positions must successfully pass drug testing before volunteering. The sponsoring department shall inform the volunteer of the approved test collection sites and time frames for testing. Volunteers must register with the collection site and complete all required drug testing.
- B.** Volunteers in the designated titles will be placed in a volunteer random pool by the county's Drug and Alcohol Testing Coordinator. These volunteers shall submit to unannounced random drug and alcohol testing. The volunteer's supervisor shall arrange for the volunteer to proceed to the collection site. Volunteers subject to random testing will be selected for testing by a computer-generated program using a random sampling method.
- C.** Volunteers are also subject to reasonable suspicion testing as outlined in section II.B.
Any volunteer (except as listed in IV. D.) who fails a drug or alcohol test or refuses to submit to such a test will be denied the opportunity to volunteer.
- D.** Disciplinary Action for Public Safety Employees who have access to the county's Employee Assistance Program (EAP).
 - 1. Any public safety volunteer who has worked for the county for less than twelve months who violates any provision of this policy shall be terminated from their volunteer position.
 - 2. Any public safety volunteer who commits or is convicted of a drug or alcohol related felony shall be terminated, irrespective of whether the offense took place while the volunteer was on county premises or conducting county business.
 - 3. Any public safety volunteer who commits or is convicted of a drug or alcohol related misdemeanor shall be terminated from volunteerism if the offense took place while the employee was on county premises or conducting county business or if the offense is reasonably related to the volunteer's fitness to perform the volunteer's responsibilities.
 - 4. Any public safety volunteer who violates any other provision of this policy shall be disciplined in the following fashion:
 - a. Discipline may include termination of the opportunity to volunteer. Discipline shall not be limited to verbal counseling or a written reprimand. At a minimum, the volunteer shall be denied the opportunity to volunteer for one week for a positive drug or alcohol test and shall be referred to the Employee Assistance Program (EAP). This will be a mandatory referral. The volunteer will also be required to comply with recommendations of the EAP. Failure to comply with any EAP requirement will result in termination of the volunteer opportunity. The HR Drug & Alcohol Testing Coordinator shall be authorized to discuss the volunteer's compliance with EAP recommendations with EAP personnel. The Drug & Alcohol Testing Coordinator may share pertinent information with the volunteer's supervisor. In all other circumstances, the volunteer's EAP records are confidential.

- b. For any second violation of whatever magnitude the volunteer shall be terminated from their volunteer position.
- c. The Director of Human Resources shall review all disciplinary decisions made by managers and supervisors pursuant to this policy to ensure that they are consistent with the county's goal of a drug and alcohol-free workplace.
- d. In determining the appropriate action to be taken against a volunteer, supervisors shall consider the nature of the volunteer's work responsibilities, the legality or illegality of the act constituting the violation and the level of drugs or alcohol involved in the violation in determining the appropriate action. The volunteer's performance and volunteer history should be evaluated prior to making a decision.
- e. Any volunteer that is terminated from their volunteer position for violating the provisions of this policy will be denied the opportunity to volunteer with Chesterfield County and will be ineligible for hire by any county department for a minimum of five years. After five years, the volunteer may make a written request that their ability to volunteer and/or apply for county positions be restored. The Director of HR may grant approval of the request.

**Appendix A
Chesterfield County
Definition of Covered Positions**

Safety Sensitive Category

- Sworn employees of the Police Department and Sheriff's Department.
- Uniformed employees of Fire and EMS and the Emergency Communications Center.
- Employees of the Juvenile Detention Home and Adolescent Day Reporting Center.
- Non-uniformed/non-sworn employees of the above departments who have access to confidential law enforcement records or public safety information.
- Employees who handle or dispense prescription medications or other controlled substances.
- Employees who operate heavy equipment or machinery.
- Employees who regularly work with or test chemicals or other substances under circumstances that have a significant potential to cause harm to employees, the public, county property or private property.
- MHSS Van Drivers who provide Medicaid funded transportation services.

Appendix B
Drug Testing Requirements

Personnel Action	Drug and/or Alcohol Test Requirement
New Hire	Yes
Reinstatement	Yes
Promotion – New Department	<i>Yes, unless already in random pool and new position is in random pool</i>
Promotion – Same Department	<i>Yes, unless already in random pool and new position is in random pool</i>
Transfer – New Department	<i>Yes, unless already in random pool and new position is in random pool</i>
Transfer – Same Department	No
Demotion – New Department	Yes
Demotion – Same Department	No
Volunteer	Refer to Section IV above
Contract Worker	No
Part-Time to Full-Time – New Department	<i>Yes, unless already in random pool and new position is in random pool</i>
Part-Time to Full-Time – Same Department	<i>Yes, unless already in random pool and new position is in random pool</i>
Full-Time to Part-Time – New Department	Yes
Full-Time to Part-Time – Same Department	No
Second County Job – New Department	<i>Yes, unless already in random pool and new position is in random pool</i>
Temporary/Seasonal – County Employee	Yes
Temporary – Agency Hire	No
HR Floaters	Yes