

HARPER COUNTY
ANTHONY, KANSAS

Anti-Drug and Alcohol Misuse Prevention Policy
[Non-regulated]

Policy Date: May 2011
Revised Date: February 2019

Harper County

Substance Abuse and Testing Policy

I. PURPOSE

As a part of its commitment to safeguard the health of its employees and provide a safe place for its employees to work Harper County (hereinafter “Company”) has established this policy regarding the use of controlled substances and the misuse of alcohol by its employees. Substance abuse, while at work or otherwise, seriously endangers the safety of employees and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided by the Company. The Company has established this policy to detect users and remove abusers of alcohol and illegal drugs from the workplace. It is also the policy of the Company to prevent the use and/or presence of these substances in the workplace in accordance with the following guidelines.

Employment with the Company is at-will. Company policies, procedures, and/or employee assistance programs are not intended to create any implied or express contracts, written or verbal, between the Company and its employees, independent contractors, or job applicants. The Company reserves the right to alter any policy, procedure, or program at its discretion and without notice to its employees, independent contractors, or job applicants. The Company creates no promises with any of its policies, procedures, and programs, and remains free to change wages and all other working conditions without having to consult employees or anyone else and without anyone’s agreement. The Company reserves the right to terminate an employee with or without cause and to refuse to hire any job applicant, as is consistent with existing law.

II. SCOPE

As a condition of employment, employees are required to abide by the terms of this policy. This anti-drug and alcohol misuse prevention policy primarily governs actions in the areas of alcohol and drugs. Other Company policies may apply in these areas to the extent that they do not conflict with this policy.

[Certain employees may be subject to additional requirements under state and/or federal regulations.]

III. DEFINITIONS

A. “ILLEGAL DRUGS”

“Illegal drugs” are drugs or controlled substances that are (1) not legally obtainable or (2) legally obtainable but not obtained or used in a lawful or prescribed manner. Examples include, but are not limited to, cocaine, marijuana, opiates, amphetamines, and phencyclidine (PCP) as well as prescription drugs that are not lawfully obtained and/or not properly utilized. The term “illegal drugs” also includes mind-altering and/or addictive substances that are not sold as drugs or medicines but are used for the mind- or behavior-altering effect (e.g. glue, peyote).

Medical Marijuana or Recreational Use is prohibited under this policy. The Federal Government and the Department of Transportation do not recognize Medical Marijuana Prescriptions or Recreational Use. Federal Law always supersedes State law(s). This Company shall follow all Federal Government regulations and guidelines regarding Medical Marijuana or Recreational Use and will not allow its employees, individuals, drivers, operators and/or contractors to be employed or perform work at any of their locations, terminals or operations while on Medical Marijuana or Recreational Use.

CBD OIL. The claimed use of CBD oil shall not be considered a medical excuse for a positive marijuana Test.

B. LEGAL DRUGS

“Legal drugs” are those prescribed or over-the-counter drugs that are legally obtained by the employee and used for the purpose for which they were prescribed and sold.

C. PRESCRIPTION DRUGS

A legally prescribed drug means that the employee has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken and the period of authorization. The misuse or abuse of legal drugs while performing safety-sensitive functions is prohibited.

D. COMPANY PROPERTY

The term “Company Property” includes work sites; parking lots; vehicles; offices owned, rented, utilized or serviced by the Company or by any customer of the Company; employee-owned or employee-rented vehicles on the property of the Company or of any customer of the Company while on Company business; and locations where the employee represents the Company in any capacity.

E. ON DUTY

The term “On Duty” includes all working hours as well as meal periods and break periods, regardless of whether on premises, and all hours when the employee represents the Company in any capacity.

F. COVERED EMPLOYEES

The term “Covered Employees” applies to any employee who is considered safety sensitive.

IV. DRUG USE PROHIBITIONS

- A. The use, sale, purchase, possession, manufacture, distribution or dispensing of illegal drugs on Company property or while on duty is against Company policy and is cause for immediate termination.
- B. It is also against Company policy for any employee to report to work or to work with the presence of illegal drugs in the employee’s body. Employees who violate this policy are subject to disciplinary action, up to and including termination.
- C. The use of legal drugs can also affect the safety of the employee, fellow employees or members of the public. Therefore, any employee who is taking any legal drug that might impair safety, performance or any motor function [must advise his or her supervisor before reporting to work under such medication. A failure to do so may result in disciplinary

action. Improper use of “legal drugs” is prohibited and may result in disciplinary action up to and including termination].

- D. Refusal to submit to, efforts to tamper with, or failure to pass a drug test will result in disciplinary action, up to and including termination, and/or referral to the Company’s EAP.

V. ALCOHOL USE PROHIBITIONS

- A. The consumption, possession or being under the influence of alcohol on Company property or while on duty is prohibited and will result in disciplinary action, up to and including termination. There may be occasions, however, removed from the usual work setting, at which it is permissible to consume alcohol in moderation (e.g., Company picnics, receptions, civic activities, sporting events).
- B. Notwithstanding the exception mentioned above, it is always against Company policy to report to work or to work under the influence of alcohol and such action will result in disciplinary action, up to and including termination.
- C. Employees asked to submit to an alcohol test and the test result is .04 or higher will be considered positive.
- D. Refusal to submit to, efforts to tamper with or failure to pass an alcohol test will result in a disciplinary action, up to and including termination.

VI. TESTING EVENTS

A. PRE-EMPLOYMENT TESTING

- 1. Applicants will be advised of the Company’s pre-employment testing requirements in writing following an offer to hire and prior to referral for a physical and/or drug and/or alcohol testing. Applicants will be asked to sign the Applicant Drug/Alcohol Testing Consent Agreement.
- 2. All applicants considered final candidates and who have received an offer for a position will be tested for the presence of illegal drugs and/or alcohol and must receive negative test results as a part of the hiring process.

B. RANDOM TESTING

- 1. All covered employees are subject to random, unannounced drug and/or alcohol testing.
- 2. Selection of employees for random testing shall be conducted through the use of a computerized random number generator.
- 3. Random testing will be unannounced and unpredictable; and spread reasonably throughout the calendar year.
- 4. Employees are required to proceed immediately to the collection site upon notification of testing.
- 5. Drug and alcohol testing will be conducted anytime an employee is on duty.
- 6. The list of employees selected will be retained by the DER in a secure location.

C. POST-ACCIDENT TESTING

Employees who are involved in an accident will be tested for the presence of drugs and/or alcohol following an accident or other occurrence that involves one or more of the following covered events: a fatality, an injury to an employee or other individual, or damage to vehicles and/or other property.

D. REASONABLE SUSPICION TESTING

Employees will be required to submit to a drug and/or alcohol testing if reasonable suspicion exists that an employee is violating or has violated this policy. Any supervisor or employee who believes another employee is violating this policy should report his or her belief to the Designated Employer Representative (DER).

E. FOLLOW-UP TESTING

Any covered employees who have participated in a substance abuse counseling or rehabilitation program and all supervisor referrals due to work performance problems will be subject to unannounced follow-up testing as determined by the Substance Abuse Professional or at the discretion of the Company for a twelve-month period following completion of the program.

F. ADDITIONAL TESTING

Additional testing may also be conducted as required by applicable state or federal laws, rules or regulations, or as deemed necessary by the Company. Upon initial implementation of this substance abuse policy, all current employees will be subject to testing.

VII. TESTING PROCEDURES

1. The Company will determine for which drugs and/or alcohol testing will be performed.
2. Specimen samples will be analyzed by an appropriately licensed or certified laboratory.
3. Employees will be informed of the results by the Designated Employee Representative (DER) or other appropriate Company official.
4. The testing laboratory will report the finding of a confirmed positive test result to a designated Medical Review Officer (MRO). The MRO will contact the employee to verify the positive result. Following the verification of a positive result by the MRO, the Designated Employee Representative (DER) will be informed of the positive test result.
5. An employee may request and receive from the Company a copy of the test result report.
6. If an employee challenges the validity or accuracy of the verified positive result, he/she may appeal, in writing, to the MRO, within three (3) working days of the employee having been notified of the positive result.
7. The employee will be responsible for all costs associated with conducting any requested retest.

VIII. DISCIPLINARY ACTION

- A. Any violation of the Company's substance abuse policy, including a verified positive drug or confirmed alcohol test, will result in discipline up to and including termination.
- B. Any employee engaging in the use, sale, purchase, possession or distribution of drugs or alcohol on duty or on Company property is subject to disciplinary action, up to and including termination.

IX. INVESTIGATION

- A. To ensure that illegal drugs and alcohol do not enter or affect the workplace, the Company reserves the right to search all vehicles, containers, lockers or other items on Company property in furtherance of this policy. Individuals may be requested to display personal property for visual inspection upon Company request.
- B. Failure to consent to a search or to display personal property for visual inspection will be grounds for termination or denial of access to Company premises.
- C. The Company will turn over all confiscated drugs to the proper law enforcement authorities. Further, the Company will cooperate with and may enlist the services of the proper law enforcement authorities in the course of any investigation.

X. ARREST OR CONVICTION FOR DRUG-RELATED CRIME

- A. If an employee is arrested or convicted of a drug-related crime, the Company may investigate the circumstances and Company officials may require a drug test.
- B. As a condition of employment, an employee shall notify the Company's Designated Employee Representative (DER) of any criminal drug statute conviction or for any plea of guilty, nolo contendere or suspended imposition of sentence that has been entered on a criminal drug statute charge. The employee must give notice in writing to the Company within five (5) days of such conviction, plea or imposition.

XI. CONFIDENTIALITY

Results of an applicant's or employee's test for the use of illegal drugs or alcohol shall be remitted to the Designated Employee Representative (DER). In order to effectively address the employees with drug or alcohol problems, it will be necessary for the Designated Employee Representative (DER) to consult with other persons in the process. However, such results may be disseminated only on a need-to-know basis.

Employees are encouraged to approach their supervisor or Designated Employee Representative (DER) at any time with any questions they have about the Company's substance abuse policy as stated herein.