

County of Cumberland Board of Chosen Freeholders	Policy Number: 4.19	Pages: 1 of 10
Chapter: General Procedures		Effective Date: March 12, 1998
Subject: Controlled Substances and Alcohol Testing		

I. POLICY:

Cumberland County Government shall provide a controlled substances and alcohol testing program that will assist in the appointment of the best qualified applicants and shall provide for reasonable suspicion testing of employees to promote the safe and effective delivery of public services.

II. DEFINITIONS:

A. Split Specimen

A urine specimen collected and then split to be tested in the event the original specimen tests positive.

B. Substance Abuse Professional (SAP)

A licensed physician or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug related disorders.

C. Medical Review Officer (MRO)

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his/her medical history and any other relevant biomedical information.

D. Certified Laboratory

A laboratory certified by the Department of Health and Human Services.

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III. PROCEDURE:

A. Controlled Substances Testing:

Drug testing shall be done by urine sample screening for marijuana, cocaine, amphetamines, opiates (including heroin) and phencyclidine (PCP). All testing will be done by a certified laboratory.

1. Controlled Substances Possession and Use:

- a. No employee shall report for or remain on duty under the influence of a controlled substance. If an employee is required to take a prescription medication pursuant to the instruction of a licensed physician, he/she shall provide documentation of same which states that the medication will not adversely affect the employee's ability to safely perform his/her job duties.
- b. No supervisor having knowledge that an employee has used a controlled substance shall permit same to perform or continue to perform his/her job duties.

2. Pre-Employment/Pre-Duty Testing:

- a. An applicant, once offered employment shall be informed by the Department Head that said employment is contingent upon successful completion of a test for controlled substances use.
- b. The potential employee shall present himself/herself to the County collection site for a controlled substance urine test.
- c. Those applicants who test positive for controlled substances in violation of this policy shall not be hired.

3. Reasonable Suspicion Controlled Substances Testing:

- a. All persons who supervise employees shall undergo a minimum of one hour of training. The training shall minimally include detecting and recognizing the physical, behavioral, speech and performance indicators of probable controlled substance use.

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b. When a trained supervisor has reasonable suspicion that an employee may be under the influence of a controlled substance he/she shall:

- (1) Complete the "Supervisor's Report of Reasonable Suspicion".
- (2) Immediately contact the department and/or division head to report the matter. The supervisor shall be given instructions as to what action to take.
- (3) The department/division head shall contact the County Human Resources Department within 24 hours of the occurrence.

c. Controlled substance testing must be performed within thirty-two hours after the observation by the supervisor. If the testing is not performed within the time period a report shall be prepared by the department head indicating the reason(s) for failing to comply. Said report shall be forwarded to the Human Resources Department.

4. Return to Duty:

Prior to returning to duty, any employee who had a verified positive test result for controlled substance(s) shall be required to undergo a return to duty controlled substance test with a verified negative result.

5. Follow-up Controlled Substance Testing:

- a. Any employee who has required referral, evaluation and/or treatment by the SAP for controlled substance use may be subject to unannounced follow-up testing as directed by the SAP.
- b. Testing shall occur no less than six (6) times in the first twelve months following the employee's return to duty nor shall testing extend more than five (5) years from the time he/she returns to duty.
- c. The SAP may terminate the testing requirement at any time after the first six tests have been administered, if it is determined that testing is no longer needed.

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- d. The SAP shall verify that the employee has properly followed any prescribed rehabilitation program.
- e. A second positive test within twelve months will result in termination of the employee's services.

B. Alcohol Testing:

1. Alcohol Possession and Use:

- a. No employee shall report for or remain on duty while having an alcohol concentration of 0.02 or greater. No supervisor having knowledge that an employee has an alcohol concentration of 0.02 or greater, shall permit that employee to remain on duty.
- b. No employee shall use alcohol while on duty. No supervisor having knowledge that an employee is using alcohol while on duty shall permit him/her to remain on duty.
- c. No employee shall use alcohol within four (4) hours preceding his/her reporting time for duty. No supervisor having knowledge that an employee has used alcohol within the four (4) hours preceding his/her duty shall permit that employee to remain on duty.
- d. No employee shall refuse to submit to any alcohol test required by this policy. Penalties for refusal are outlined in Section C.

2. Reasonable Suspicion Alcohol Testing:

- a. All persons who supervise employees shall undergo a minimum of one hour of classroom training. The training shall minimally include detecting and recognizing the physical, behavioral, speech and performance indicators of probable alcohol use; particularly those associated with lower concentrations of alcohol.
- b. When a trained supervisor or other trained County official has reasonable suspicion that an employee may be under the influence of alcohol he/she shall:

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- (1) Complete the “Supervisor’s Report of Reasonable Suspicion”.
 - (2) Immediately contact the department/division head to report the occurrence. The supervisor shall be given instructions as to what action to take.
 - (3) The department/division head shall notify the Personnel Director.
- c. Alcohol testing is authorized by this section only if the required observations are made while the employee is on duty.
- (1) Alcohol testing shall be conducted no more than two (2) hours after the reasonable suspicion determination has been made by the supervisor.
 - (2) If testing is **not** performed within the two hour period, a report shall be prepared by the department head indicating the reason(s) for not administering the test. The report shall be forwarded to the Personnel Director.

C. Violation of Policy:

1. Alcohol Possession, Use and Testing

- a. Any employee found to be in possession of alcohol shall immediately be removed without pay until the next scheduled work period providing 24 hours have elapsed.
 - (1) Other appropriate disciplinary action may be taken consistent with other Cumberland County policies.
 - (2) Possession shall constitute grounds for reasonable suspicion.
- b. Any supervisor with actual knowledge of alcohol possession shall immediately report the occurrence. Failure to do so will result in disciplinary action which may include termination.
- c. Alcohol testing shall include a two tiered system of discipline for violations of this policy.

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- (1) If an employee's breath test indicates an alcohol concentration of 0.02 or greater but less than 0.04, the employee shall not be permitted to work until the next scheduled work period providing 24 hours have elapsed or a re-test indicates the alcohol concentration is below 0.02.
- (2) If an employee's breath test reveals an alcohol concentration of 0.04 or greater, said employee shall be suspended without pay until evaluated, treated (if required by the SAP) and re-tested with a result below the 0.02 concentration level.
- (3) Refusal to submit to alcohol testing will be treated as if the test result was greater than 0.04. The employee will be suspended without pay, evaluated, treated if required by the SAP and re-tested with a result below 0.02 concentration level. A second refusal for testing will result in termination of the employee's services.

2. Controlled Substances Possession, Use and Testing

- a. Any employee found to be in possession of a controlled substance or product containing a controlled substance in violation of Federal or State law shall be immediately removed without pay. Possession shall constitute immediate grounds for reasonable suspicion.
- b. Any supervisor with actual knowledge of controlled substance possession shall immediately report the occurrence. Failure to do so will result in disciplinary action which may include termination.
- c. Testing shall consist of the providing of a urine sample by the employee which shall be split into two (2) separate units and analyzed by an independent certified laboratory. If a positive result is received he/she shall be removed without pay and have an opportunity for a second sample to be tested (at employee's expense) by a second laboratory chosen by the employee.
- d. If the second sample tests positive the employee shall be required to undergo evaluation, treatment if required by the SAP and a return to duty test with a negative result.

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- e. An employee who refused to submit to a controlled substance test shall be removed without pay and treated as if tested positive and must submit to a return to duty test with a negative result.

D. Confidentiality:

1. All records shall be maintained in a secure location with limited access to prevent disclosure to unauthorized persons.
2. Upon written request the employee may obtain records relating to his/her tests.
3. Records may be released to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee.

E. Medical Review Officer (MRO):

Only a Board Certified Physician may serve as the MRO.

1. The MRO shall ensure that the County Human Resource Office receives copies of all verified results whether positive or negative.
 - a. A positive result of a controlled substance test shall include the identity of the substance.
 - b. Upon notification by the laboratory that the initial sample is positive the MRO shall contact the affected employee as soon as possible; but within eight (8) hours and advise the employee of his/her option for testing the split sample.
2. The MRO shall comply with all Federal and State statutes.

F. Employee Notifications:

The County of Cumberland shall notify an employee of the results of reasonable suspicion tests for controlled substances and alcohol conducted under this policy if the tests results are verified positive. The employee shall be informed of the identified substance(s).

G. Testing Procedures:

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1. Controlled Substances Testing Procedures:

Upon notification to report to the collection site for controlled substances test the employee shall:

- a. Provide a positive identification of his/her identity such as a County identification card, photo identification or a valid photo driver's license.
- b. At the direction of the collection site staff, complete the controlled substance use consent/authorization form.
- c. At the direction of the collection site staff, complete the required sections of the urine testing, custody and control form provided by the certified laboratory.
- d. At the direction of the collection site staff, the selected employee shall provide a minimum of forty-five (45) milliliters of urine in an approved container.
- e. In the event the employee cannot provide the required amount of urine for the test, he/she shall be instructed to drink no more than forty (40) ounces of fluid and after a period of up to three (3) hours, again attempt to provide a complete sample.
- f. If the employee is still unable to provide the required amount, attempts at testing shall be discontinued and he/she shall be referred to a medical doctor. If there is not medical reason for the inability to provide the required specimen, the employee shall be deemed to have refused the test and disciplined accordingly.
- g. If a prospective employee is unable to provide sufficient urine for testing, he/she shall bear the cost of a medical referral.
- h. The collector shall, with the selected employee witnessing, split the sample into two (2) separate units consisting of thirty (30) milliliters in one and fifteen (15) milliliters in the other.

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- i. The collector shall provide chain of custody specimen collection and meet storage requirements.
- j. The testing of the thirty (30) milliliter specimen shall be performed by a certified laboratory and the fifteen (15) milliliter sample stored.
- k. In the event that the first sample tests positive for controlled substance use, the results will be transmitted to the MRO. The MRO will contact the Human Resources Office and the employee within eight (8) hours of test results and advise him/her of the results. Employee may request in writing a test of the split sample. The MRO shall transmit the request for a second analysis to a certified laboratory. The laboratory will then forward the split sample to a second facility for analysis. The employee shall not return to duty until:
 - (1) The test of the split sample indicated a verified negative controlled substances test result or,
 - (2) The employee is referred, evaluated and treated if necessary, in the event the split sample verifies a positive test result.

2. Breath Alcohol Testing Procedure:

Upon receiving notification for a breath alcohol test, the employee shall:

- a. Provide positive identification at the testing site. (i.e. County ID, photo ID or valid photo driver's license)
- b. At the direction of the County or it's authorized agent complete the appropriate sections of the Breath Alcohol Testing Form.
- c. The collector shall perform the calibration of the breath testing unit and the breath alcohol test in accordance with the Breathalyzer Operational checklist from the manufacturer.
- d. In the event of a test result of 0.02 or greater and less than 0.04, the employee will be given a second test within fifteen (15) minutes and no longer than thirty (30) minutes.

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- e. In all cases of breathalyzer testing, if an employee is unable to provide enough breath for a complete test, he/she shall be referred to a medical doctor for evaluation. If that evaluation fails to detect any medical reason for the inability to provide sufficient breath, the employee shall be deemed to have refused testing and treated as outlined in section C:(c)(3).

H. Referral to a Substance Abuse Professional (SAP):

If referral to the SAP is required as a result of a positive test result, the employee shall be required to abide by the SAP's recommendation for return to duty.