

County of Kings  
**Substance Abuse Policy**

Adopted: January, 1996

**I. INTRODUCTION**

Kings County and its employees recognize that behavior resulting from the misuse of alcohol and/or other drugs may detrimentally affect work performance, safety, and public confidence in the County's work force, and may present a risk to County employees and to the health and welfare of the citizens of Kings County.

In recognition of the public service responsibilities entrusted to the employees of the County, and because drug and alcohol usage can hinder a person's ability to perform duties safely, efficiently and effectively, the Kings County Board of Supervisors adopts the following policy.

**II. PURPOSE**

This policy sets forth the general terms and conditions of the Kings County Substance Abuse Policy which applies to all County employees. In addition to the provisions of the general County policy, certain employees in specially funded programs or specific classifications are also covered by the following legislated requirements as outlined in this policy.

- Federal Drug-Free Workplace Act of 1988
- California Drug-Free Workplace Act of 1990
- US Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991

If any provisions of this policy conflict with the above referenced laws, the legislated requirements will take precedence.

**III. POLICY**

Kings County is committed to providing a safe and healthy work environment for all employees, and is dedicated to ensuring dependable and efficient services to the community. To this end, it is the policy of the Kings County to:

1. Provide a workplace free from the adverse effects of drug and alcohol abuse or misuse;
2. Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace; and
4. Encourage employees to seek professional assistance if drug and/or alcohol abuse or dependency adversely affect their ability to perform assigned duties.

**A. Use of Medically Prescribed or Other Medications and Drugs**

Use of legal, medically prescribed medications and drugs is not per se a violation of this policy. However, an employee taking medication which could interfere with the safe and effective performance of duties or the operation of County vehicles or equipment must inform his/her supervisor of the use of such medication before beginning work. It is the employee's responsibility to know of the impairing effects of a prescribed medication. Failure to inform the supervisor of a known impairment may result in discipline, up to and including dismissal. If there is a question about an employee's ability to safely and effectively perform duties while using prescribed medications, the County may require that the employee provide a statement from the prescribing physician regarding the possible side effects and any work restrictions which may apply. Employees found to be using medications or drugs not prescribed for them specifically which affect their ability to perform the functions of their position may face disciplinary action, up to and including dismissal.

**B. Use of Non-Prescription, Over-The-Counter Drugs or Medications**

An employee using non-prescription, over-the-counter drugs or medications, such as allergy, cold or pain relief medications, must inform his/her supervisor if the employee experiences symptoms from the drugs which could interfere with the safe and effective performance of duties or the safe operation of County vehicles or equipment. It is the employee's responsibility to know of the impairing effects of an over-the-counter drug. Failure to inform the supervisor of a known impairment may result in discipline, up to and including dismissal.

**C. Right To Search County Worksites and Property**

The County reserves the right to search, without employee consent, all areas and property in which the County maintains full control or joint control with the employee for the purpose of detecting the suspected presence of alcohol or illegal drugs. (All searches applying to sworn personnel shall be consistent with Government Code Section 3309 - Police Officer's Bill of Rights.) The County may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not fully or jointly controlled by the County. Areas in which the County maintains full control include, but are not limited to, all County owned properties, buildings, and County owned vehicles and equipment. Areas jointly controlled by the County and the employee include, but are not limited to, desks, lockers, file cabinets, office cabinets, and bookshelves.

**D. Drug Testing of Applicants and/or Employees**

The County may require pre-employment drug testing of certain classifications. Employees suspected of being under the influence of drugs or alcohol may be required to submit to "reasonable suspicion" testing. Refer to Sections IV and VI of this policy for additional information about pre-employment and reasonable suspicion drug testing.

**E. Consequences of Violation of the Policy**

Violations of this policy may be grounds for disciplinary action, up to and including dismissal. Refusal to submit immediately to an alcohol and/or drug test when requested by County management or law enforcement personnel, failure to cooperate during testing, or any acts taken by the employee to negate testing procedures may constitute insubordination and may be grounds for disciplinary action, up to and including termination of employment.

**F. Employee Assistance Program**

Employees are strongly encouraged to seek professional assistance if they have a drug or alcohol problem. Kings County provides all employees with the services of an Employee Assistance Program (EAP). The EAP is a voluntary, confidential, limited counseling service which can help employees acquire counseling and/or treatment for substance abuse problems. Employees can contact the Personnel Department or their department representative for a brochure describing the EAP and how to access the counseling services.

**G. Accommodation**

The County will endeavor to provide reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under applicable law or when employees voluntarily recognize that they have a drug/alcohol problem and seek treatment. However, any employee found to be in violation of this policy may still be subject to disciplinary action, up to and including dismissal, regardless of the employee's leave status or participation in a treatment or rehabilitation program.

**H. Training for Supervisors and Managers**

The County will provide training for supervisors and managers who have the authority to institute reasonable suspicion actions to recognize the signs and symptoms of the misuse of alcohol or drugs.

**IV. APPLICATION**

This policy applies to all employees of Kings County. However, employees in certain bargaining units may have additional written agreements regarding drug and/or alcohol testing which apply to members of their units. Copies of applicable agreements are available from the Personnel Department.

**A. Drug-Free Workplace Acts**

All departments of the County receiving federal and/or state grants are specifically required to comply with the Drug-Free Workplace Acts, provisions of which are incorporated herein. The Drug-Free Workplace Acts define a "drug-free workplace" as any site for the performance of work done in connection with a specific grant at which employees of the grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance. It is the responsibility of affected department heads to notify their employees if they are covered by the requirements of the Drug-Free Workplace Acts. [See Attachment A - Drug-Free Workplace Act.]

**B. US DOT Omnibus Transportation Employee Testing Act of 1991**

Employees in certain "safety-sensitive" classifications who are required to possess a commercial driver's license (Class A or Class B) are covered under the federal Omnibus Transportation Employee Testing Act of 1991. These employees must submit to pre-employment, random, reasonable suspicion, post-accident and return-to-work drug and/or alcohol testing as a condition of employment. [A separate County policy will be distributed to employees covered by the provisions of this law.]

**C. Pre-Employment Drug Testing of Non-DOT Classifications**

The County may require pre-employment drug testing of certain other non-DOT classifications before an offer of employment can be confirmed. Applicants for these positions will be given advance notice in recruitment notices of the drug testing requirement. Applicants who refuse to submit to testing or who do not have a verified negative test are not entitled to a second test or re-test of the specimen.

At the discretion of the Personnel Director, applicants who refuse to submit to testing or who do not have a verified negative test will:

- (1) be removed from the eligibility list, and
- (2) may be reconsidered for appointment after 90 days have elapsed since the original test was ordered or conducted.

Testing or re-testing will be required if a new conditional offer of employment is made.

Employees who request to transfer from classifications which do not require pre-employment drug testing to classifications which do require such testing will be required to submit to pre-duty drug testing before a conditional offer of employment can be confirmed.

**V. EMPLOYEE RESPONSIBILITIES**

Employees shall:

- A. Not report to work or be subject to duty while his/her ability to perform job duties are impaired due to on or off duty alcohol or drug use.
- B. Not possess, use, or be under the influence of alcohol or drugs (illegal drugs and legal drugs without a prescription) during working hours, while on standby, during meal periods or breaks, while operating County equipment, while driving a County vehicle or using a personal vehicle on County authorized business, or at anytime while on County property. (This does not include sworn law enforcement personnel who may, while in the necessary performance of their duties, be in possession of legal or illegal drugs.)
- C. Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or on standby.
- D. Submit immediately to an alcohol and/or drug test when under reasonable suspicion by a trained department supervisor, management representative or law enforcement representative.
- E. Notify his/her supervisor, before beginning work or when contacted for call-back, when taking any medications or drugs, prescription or non-prescription, or alcohol, which may interfere with the safe and effective performance of duties or operation of County vehicles or equipment.

**VI. MANAGEMENT RESPONSIBILITIES AND GUIDELINES**

The County of Kings affirms the need to protect individual dignity, privacy and confidentiality throughout the administration of this policy. The County shall assure fair and equitable application of this policy. Therefore, supervisors and managers are required to administer all aspects of this policy in an unbiased and impartial manner. Any employee who believes he/she has been unfairly treated in the administration of this policy may use the County's grievance procedure (Personnel Rules, Chapter 10, Section 10200).

**A. Guidelines For Reasonable Suspicion Drug Testing**

Managers and supervisors may require that an employee submit to a drug or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is under the influence of drugs or alcohol while on the job or on standby.

"Reasonable suspicion" is a belief based on objective facts to lead a supervisor to suspect that an employee is under the influence of drugs or alcohol to such an extent that the employee's ability to perform the functions of the job is impaired or the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, without other reasonable explanation may create reasonable suspicion:

1. Noticeably slurred or incoherent speech.
2. The odor of an alcoholic beverage on the breath.
3. Unsteady walking and movement.
4. An accident involving a County vehicle or property.
5. Unusual or disheveled appearance (i.e. glassy or bloodshot eyes; torn or dirty clothing).
6. Unusual or irrational behavior, especially if directed at another employee or the public.
7. Possession of alcohol or drugs.
8. Information received from a reliable person, such as another employee or private citizen, who directly witnesses an act in violation of this policy.

Any manager or supervisor requesting an employee to submit to a drug or alcohol test will document in writing the facts which caused reasonable suspicion that the employee in question was intoxicated or under the influence of drugs.

Following the notification to an employee that he/she is under reasonable suspicion of drug and/or alcohol use in violation of this policy, the employee will be immediately relieved from duty and directed to submit to testing. Refusal to submit to reasonable suspicion testing may result in disciplinary action, up to and including dismissal. The employee should be transported to the testing site at the earliest possible time by a supervisor or manager. In no case should an employee be allowed to leave the premises or drive themselves to the test site. If all attempts to provide transportation fail, the manager or supervisor should seek assistance from the appropriate law enforcement personnel.

**B. Consequences of a Positive Test Result Following Reasonable Suspicion Testing**

A confirmed positive test result from a drug and/or alcohol test will result in appropriate personnel action which may include disciplinary action, up to and including dismissal.

If a drug test is positive, the employee must provide, within 24 hours of request, proof of a current prescription for the drug identified in the drug screen, if the employee is taking the identified drug under the orders of a physician. The prescription must be in the employee's name. If the employee does not provide acceptable proof of a prescription, or if the prescription is not in the employee's name, or if the employee has not previously told his or her supervisor of potential impairment due to use of medication, the employee will be subject to disciplinary action, up to and including dismissal.

If an alcohol or drug test is confirmed positive, the Personnel Director, or designee, shall conduct an investigation to gather all available, pertinent information. Any disciplinary action will be carried out according to applicable County rules regarding disciplinary action (Personnel Rules, Chapter 10). Any Personnel Department investigation or action will be separate and distinct from and shall not interfere with any concurrent law enforcement criminal investigation of the employee which may be taking place.

**VII. CONFIDENTIALITY**

Laboratory reports or test results shall not be included in an employee's official personnel file. The Personnel Director will maintain this information in a separate, confidential file. However, reports of any disciplinary action taken as a result of drug and/or alcohol testing will be included in the employee's personnel file. The Personnel Director may disclose reports of test results to affected department management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without employee consent, may also occur when:

- (1) judicial or administrative process compels by law the release of the information;
- (2) a formal dispute between the employer and the employee places the information at issue;
- (3) the information is to be used in administering an employee benefit plan; or
- (4) medical personnel need the information for the diagnosis or treatment of a patient who is unable to authorize disclosure.

## County of Kings

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**ATTACHMENT A****DRUG-FREE WORKPLACE ACT**

The Board of Supervisors has adopted a Drug-Free Awareness Program in accordance with the provisions of the federal and state Drug-Free Workplace Acts.

The Acts require that all state and federal grant recipients make good faith efforts to ensure a drug-free workplace and require that grantees and contractors adopt a drug-free workplace awareness program.

In addition to the provisions of the Kings County Substance Abuse Policy, all County employees whose positions are funded by state and/or federal grants must abide by the provisions of the County's Drug-Free Workplace Policy as stated below:

**Kings County Drug-Free Workplace Awareness Policy**

- I. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance by County employees on premises owned, occupied, controlled or used by County employees as a workplace is hereby prohibited.
- II. Violations of this and other County policies regarding the prohibited use of controlled substances in the workplace may result in disciplinary action, up to and including termination of employment.
- III. Employees are strongly encouraged to seek professional assistance if they have a drug or alcohol problem. Kings County provides all employees with the services of an Employee Assistance Program (EAP). The EAP is a voluntary, confidential limited counseling service which can help employees acquire counseling and/or treatment for substance abuse problems. Contact the Personnel Department or a department representative for a brochure describing the EAP and how to access the counseling services.
- IV. Employees covered by the Drug-Free Workplace Acts must inform their supervisors within five days of any conviction for violating a criminal drug statute while in the workplace. The County is required to impose sanctions on convicted employees within 30 days of receiving notice of their conviction, or, alternatively, require participation in a drug abuse assistance or rehabilitation program. Sanctions may include disciplinary action, up to and including termination of employment.
- V. The County must inform the granting agency or agencies within 10 days after receiving notice of a workplace drug conviction, whether the notice is received from the convicted employee or otherwise.