



PERSONNEL RULES

EMPLOYEE STANDARDS DRUG & ALCOHOL FREE WORKPLACE / TESTING

§1306

Overview: Tehama County prohibits the use or possession of drugs or alcohol on the job, and reporting to work or the work site under the influence.

Applicable to: All employees

Definitions: Drugs - For the purpose of this policy, "drugs" shall mean any controlled substance not legally obtainable under State or Federal law – including without limitation: the amphetamine group, cocaine, opioids, phencyclidine, and psychoactive cannabis metabolite – or a prescription medication obtained or used without a valid prescription from a licensed physician

Impaired – Affected by alcohol or drugs to the extent of not functioning normally or safely

Intoxicant - Any agent or substance capable of causing intoxication or poisoning.

Negative Dilute - A negative dilute specimen is a urine specimen which has more water than urine

Medical Review Officer or (MRO) - A licensed physician who receives and reviews laboratory results, and evaluates medical explanations for drug test results before they are reported to the employer

Prescription Medication - Any substance lawfully obtained or possessed pursuant to a valid prescription from a licensed physician, nurse practitioner, or physician's assistant

Reasonable Suspicion - When two observers, who are trained in detection of drug use, articulate and substantiate in writing specific behavioral, performance, or contemporaneous physical indicators of being under the influence of drugs and / or alcohol on the job

Trained Observer - An employee who has successfully completed the County facilitated training for reasonable suspicion, or works as a law enforcement officer

Under the Influence - A positive test for drugs and / or alcohol in accordance with the testing procedures determined by the laboratory

Guidelines: Tehama County is committed to enhancing the safety, health, and well-being of employees and the people they serve. This rule is in support and compliance with Tehama County Resolution (#95-1991) which declares Tehama County to be a drug-free workplace.

Employees who are commercial drivers for Tehama County are subject to Department of Transportation standards and should consult the County of Tehama Drug and Alcohol Testing Policy for Positions Requiring a Commercial Driver's License for more information.

Departments may adopt a policy with higher standards regarding drugs, alcohol, and / or other intoxicants, based on lawful and appropriate job-related justification and after consultation with employee organizations.

Performance Standards

Tehama County employees shall not:

- Be under the influence or impaired during the course or performance of their assigned duties due to on or off-duty use of drugs, prescription medications, alcohol, or other intoxicants
- Report to the work site under the influence or impaired, due to on or off-duty use of drugs, alcohol, or other intoxicants
- Use any drugs or alcohol while assigned to on-call duties
- Purchase, possess, use, sell, manufacture, or furnish any drug or alcohol while in the course or performance of their assigned duties, during breaks, or on lunch period
- Directly or through a third party illegally provide or sell drugs or alcohol to any person, including any fellow employees, while in the performance of their assigned duties or subject to being called to duty (Exception: Law Enforcement under the authority of the County and in the official capacity of their duties.)
- Take any prescription or over the counter medications or drugs, which may interfere with the safe and effective performance of their assigned duties or during the operation of Tehama County equipment
- Refuse to provide a bona fide verification of a current valid prescription for any potentially impairing drug or medication when requested

Prescription and Over-the-Counter Medications

The illegal or unauthorized use of prescription medications is prohibited by law and is a violation of this policy. Prescription drugs are not prohibited when taken according to a physician's prescription. Employees taking prescribed medications will be responsible for consulting the prescribing physician to ascertain whether the medication may interfere with the safe performance of his / her job duties.

Over-the-counter medications are not prohibited when taken in standard dosage. Employees taking over-the-counter medications will be responsible for consulting a pharmacist to ascertain whether the medication may interfere with the safe performance of his / her job duties.

Employee Responsibility to Disclose

As a matter of privacy, an employer may not ask an employee what medications they are taking. However, if an employee is prescribed medications or taking over-the-counter medications which carry a warning label indicating mental function, motor skills, or judgement may be adversely affected, it is the employee's responsibility to notify a supervisor before beginning work.

When notified of an employee's use of prescription or over-the-counter medications, the supervisor should assess whether there is a risk to the individual's safety or the safety of others, and/or whether there is an impact on cognitive ability or judgement. Because of the diverse duties of County employees, the supervisor must make a determination on a case-by-case basis as to whether the employee has the ability to perform the job safely and effectively. Should the supervisor determine the employee should not work while on the medication, he/she may dismiss the employee for the day. The employee may use sick leave or any other leave available to them in this circumstance. If the employee is expected to be on the medication for several days or a long-term basis, an interactive meeting may be scheduled or a more thorough assessment will be performed.

Should an employee be unexpectedly contacted by a supervisor to report to work, and they have consumed alcohol or drugs, they should inform their supervisor that they may be impaired and are not available for work.

Workplace Searches

The County reserves the right for Department Heads or their designees to search, without employee consent, all areas and property in which the County maintains control or joint control with the employee, except the lockers of peace officers, or other space for storage which may be assigned to peace officers. No peace officer shall have his/her locker, or other space for storage which may be assigned searched except in the peace officer's presence, or with consent, or unless a valid search warrant has been obtained or where the peace officer has been notified a search will be conducted. This section shall apply only to lockers or other space for storage owned or leased by the County.

Except as otherwise lawfully permitted (e.g. search required for entering a secured facility), no persons shall physically search an employee, or shall they search the personal possessions of employees without the freely given consent of, and in the presence of, the employee.

If there is reasonable basis to conclude drug possession, the County may notify the appropriate law enforcement agency an employee may have drugs in his or her possession or in an area not jointly or fully controlled by the County.

Reasonable Suspicion

The process for observing an employee for being under the influence is initiated when a supervisor obtains information from a reliable person or directly observes the behavior.

To determine reasonable suspicion, two trained observers monitor the condition and behavior of an employee suspected of being under the influence and determine if enough supporting evidence exists to perform drug and alcohol testing.

The following conditions or behaviors may constitute reasonable suspicion, but are not limited to:

- Incoherent, slurred speech or rapid, excessive talking
- Odor of alcohol on the breath or odor of marijuana on a person
- Staggering or unsteady gait, disorientation, or loss of balance
- Red and watery eyes
- Dilated or constricted pupils
- Involvement in a physical or verbal altercation
- Possession of alcohol or illegal drugs
- Paranoid, abnormal, erratic, or unexplained behavior, or drastic change in behavior
- Drowsiness or sleeping on the job
- Any observable, objective phenomena (i.e., physical symptoms such as passing out)
- Unsafe operation of county vehicles or equipment

Upon conclusion of observation, the trained observers shall immediately notify the Department Head or their designee of their findings. The trained observers will be required to complete an Incident Report Form documenting their observations.

Tehama County will periodically provide reasonable suspicion training for Department Heads, managers, supervisors or their designees to ensure an adequate number of trained observers exist countywide.

Testing Procedures

Based on the information received from the observers, the Department Head or their designee may order the employee to submit to drug and alcohol testing. Employees believed to be impaired shall be prevented from engaging in further work. If working off-site, the employee may be transported back to the department or office by a supervisor or their designee.

The Department Head or their designee shall notify the employee of their right to have a Union representative present for the testing procedures. The drug and alcohol test shall not be delayed more than 15 minutes if the Union representative is not immediately available. If the employee declines Union representation, this information shall be documented on the Incident Report Form.

The supervisor shall arrange all transportation for the employee. If an employee refuses transportation and indicates he or she will drive a vehicle, the supervisor shall notify the employee law enforcement will be contacted and be prepared to follow through.

Any refusal to submit or consent to testing, tampering with testing procedures, or departure before testing, will be considered insubordination and a violation of this policy and could result in discipline up to and including termination.

Testing shall be conducted at an authorized facility. Employees will be asked to sign a consent form authorizing the laboratory to obtain the specimen. The consent form shall provide space for an employee to indicate current or recent use of prescription drugs and over-the-counter medications. Testing during normal business hours will occur at the contracted vendor. After hours testing will occur at St. Elizabeth Hospital.

Testing results will be released to the Personnel Director and the applicable Department Head. Information from an employee's drug and alcohol testing will be considered confidential for purposes other than determining whether violation of this policy has occurred and any resulting proceedings.

Test Results

For a drug test, the specimen sample will be split into two samples and a standard five (5) panel drug test will be performed. Cutoff concentration amounts will be in accordance with State and Federal guidelines. If the initial screening test results in a positive test, a second or confirmation test may be conducted on the second specimen sample. Upon receiving notification of a positive drug test, the Union and / or employee shall have seventy-two (72 hours) to request further action be taken with respect to the second specimen sample.

For a breath-alcohol test, a screening test is conducted first. Any result less than .02 alcohol concentration is considered a "negative" test. If the alcohol concentration is .02 or greater, a second or confirmation test must be conducted.

Positive test results will include specific quantities.

If the laboratory concludes the reasonable suspicion test resulted in a negative dilute, the County will immediately conduct one additional retest. The result of the second test will be considered the test of record.

A Medical Review Officer (MRO) will review and interpret all confirmed positive test results obtained through the County testing program. An employee who tests positive

will be contacted by the MRO and will be given the opportunity to provide the MRO any reasons he or she may have which would explain the positive drug and / or alcohol test, other than the presence of alcohol or the illegal use of drugs. If the employee provides a legitimate medical explanation for the presence of alcohol and / or drugs in his or her system, the positive test result will be disregarded and reported to the County as negative. Otherwise the MRO will report the results of the test as positive.

Due to safety concerns, a Department Head or their designee may place employees who are found to be under the influence on administrative leave pending test results.

Violations

The employee and the Union shall be presented with a copy of the laboratory report before any discipline is imposed.

If the results of the test determine the employee was under the influence of drugs or alcohol while on duty, appropriate disciplinary action may be imposed, up to and including termination.

All disputes concerning the interpretation or application of this drug and alcohol abuse and drug testing policy will be subject to the applicable grievance procedure of the collective bargaining agreement, if any.

Reasonable Accommodation

Tehama County is committed to providing reasonable accommodation to those employees whose drug or alcohol problem qualifies as a disability under federal and/or state law.

Procedure: Responsibilities for implementation, application, and enforcement of this rule are listed below.

Employee It is the responsibility of Tehama County employees to ensure compliance with this policy. Upon appointment, each employee is required to sign an *Acknowledgement of Receipt, Review, and Understanding of Policy* form.

Department Head All Department Heads, managers, and supervisors have a duty to ensure all employees receive a copy of this rule upon appointment, and sign the *Acknowledgement of Receipt, Review, and Understanding of Policy* form. Department Heads will work with the Personnel Office to ensure an adequate number of supervisors, managers, or designees have received reasonable suspicion training.

Personnel Office The Personnel Office may assist Department Heads, managers, and supervisors with determining if a violation of policy has occurred, and what actions, if any, are necessary thereafter. In addition, the Personnel Office is responsible for arranging reasonable suspicion training to ensure an adequate number of trained observers exist countywide.

Required Forms: Incident Report (Reasonable Suspicion) Form; Rule Acknowledgment

References: Drug-Free Workplace Act of 1988; California Drug-free Work Place Act of 1990 Government Code §8350 - §8357; Government Code 3300: Public Safety Procedural Bill of Rights Act; County of Tehama Drug and Alcohol Testing Policy for Positions Requiring a Commercial Driver's License; Tehama County Resolution #95-1991; TCPR §1301: Code of Conduct; Tehama County Vehicle Use Policy

Effective Date: June 23, 2020

This Personnel Rule deletes and replaces Tehama County Policy/Procedure #309: Drug and Alcohol Abuse and Drug Testing Policy, adopted by the Tehama County Board of Supervisors April 21, 2015.

Revised Date:

The provisions of this Code shall not supersede any state law, federal Law or current collective bargaining agreement between an employee organization and Tehama County. The provisions of these Codes shall not preclude specific County departments from developing operational policies and procedures.