

SECTION 13

CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY

13.1 PURPOSE. Douglas County has a long standing commitment to maintain high standards for employee safety and health. The use of controlled substances and the misuse of alcohol is contrary to these standards. This policy is intended to meet the criteria established by the Federal Highway Administration and Department of Transportation ("DOT") regarding controlled substances and alcohol use and testing for employees operating commercial motor vehicles AND to provide controlled substances and alcohol use testing for all Douglas County positions.

13.2 COVERED POSITIONS

A. SAFETY SENSITIVE POSITIONS. Certain provisions of this policy will only apply to "safety-sensitive" positions and where applicable that will be noted. The FTA has determined that "safety-sensitive" functions are performed by those who (49 CFR, part 655.4):

1. Operate revenue service vehicles including when not in revenue service.
2. Operate non-revenue service vehicles that required drivers to hold CDL's.
3. Dispatch or control revenue service vehicles.
4. Maintain (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service, unless the recipient receives funding under 49 U.S.C. 5309, is in an area less than 50,000 in population and contracts out such services, or funding under 49 U.S.C. 5311 and contracts out such services.

5. These categories include supervisors who perform these functions. Supervisors of employees in these categories who do not themselves perform these functions are excluded.

Douglas County positions covered by this policy, hereinafter referred to as “safety-sensitive positions” include, but may not be limited to, the following:

Equipment Operator/Maintenance Workers I, II, and III
Grounds Maintenance Workers I, II and III
Road & Bridge Superintendent
Fleet Maintenance Superintendent
Fleet Maintenance Worker
Fleet Mechanic
Assistant Fleet Mechanic
Vegetation Control Superintendent
Vegetation Control Workers I and II
Operations Division Manager
Buildings & Grounds Workers I II, and III
Director, Buildings & Grounds

B. PUBLIC SAFETY POSITIONS. Douglas County positions covered by this policy, hereinafter referred to as “public safety positions” include, but may not be limited to, the following:

Youth Services: Corrections Officers I, II, III, & IV Training Officer, Corrections Officer Supervisors, Detention Operations Manager, Assistant Director, Director

Sheriff’s Office: All Commissioned Officers, Corrections Officers I, II, III & IV

Emergency Communications: Communications Officers, Communications Supervisors, Training Officer

C. OTHER POSITIONS. The Assistant County Administrator shall have the authority to designate additional positions to be covered by this policy.

13.3 PROHIBITED CONDUCT. Employees must not manufacture, distribute, dispense, possess, or use controlled substances or use or possess alcohol while on Douglas County property or during the work day. Employees are prohibited from:

- Having consumed enough alcohol to have a blood alcohol concentration of 0.04 or greater.
- Possessing or using alcohol during the work day or while on Douglas County property.
- Consuming alcohol within four (4) hours of reporting to work.
- Using, possessing, manufacturing or distributing controlled substances (except when prescribed by a physician, in which case the supervisor will

be informed and will determine whether or not the employee can safely perform the duties of his/her position).

- Having a positive test for controlled substances or alcohol.
- Refusing to submit to any required drug or alcohol testing.

13.4 PROGRAM DESIGN.

A. PRE-EMPLOYMENT DRUG SCREENING APPLIES TO ALL NEW EMPLOYEES IN SAFETY SENSITIVE POSITIONS. Final candidates for Safety Sensitive positions will be given a conditional offer and will be required to submit to a drug screening test. To be eligible for employment, the candidate's test results must be negative (DOT results must be verified by our Medical Review Officer). If an applicant fails a drug screening test or refuses to take a test, the applicant will not be considered for hire for a period of two years.

B. PRE-EMPLOYMENT DRUG SCREENING APPLIES TO ALL NEW EMPLOYEES IN PUBLIC SAFETY POSITIONS. Final candidates for Public Safety positions will be given a conditional offer and will be required to submit to a drug screening test. To be eligible for employment, the candidate's test results must be negative. If an applicant fails a drug screening test or refuses to take a test, the applicant will not be considered for hire for a period of two years.

C. POST-ACCIDENT TESTING, ALL EMPLOYEES (NOT LIMITED TO SAFETY SENSITIVE OR PUBLIC SAFETY EMPLOYEES).

1. DOT Drivers. Following a motor vehicle accident (as defined by Kansas statutes) involving a Douglas County vehicle or equipment within the boundaries of Douglas County, the driver will immediately be tested for both alcohol and controlled substances. Motor vehicle accidents in a Douglas County vehicle occurring outside of Douglas County must be reported immediately to the employee's department head, who will have the discretion to request post-accident testing.

2. All Other Employees (not limited to Safety Sensitive or Public Safety Employees). Following a motor vehicle accident (as defined by Kansas statutes) involving a Douglas County vehicle or equipment within the boundaries of

Douglas County which results in an injury to anyone, or in all instances where an accident resulted in more than minor property or equipment damage, or if the employee was the driver of a vehicle and received a citation for a moving traffic violation, the driver will be immediately tested for both alcohol and controlled substances.

D. RANDOM TESTING.

1. Safety Sensitive Employees. Each calendar year, at least fifty percent (50%) of the employees in safety-sensitive positions will be tested for controlled substances and ten percent (10%) of the employees DOT covered positions will be tested for alcohol. These employees will be selected randomly throughout the calendar year. This testing will be unannounced and will be coordinated by the Assistant County Administrator. The employee must report to the testing site immediately upon notification. Testing will be conducted while the employee is on duty; alcohol testing will only be conducted immediately before, while or just after an employee performs a safety sensitive function.

2. Public Safety Employees. Public Safety employees are subject to unannounced random testing for controlled substances. Such testing will be coordinated by the Assistant County Administrator. The employee must report to the testing site immediately upon notification.

E. REASONABLE SUSPICION TESTING, ALL EMPLOYEES. The County will require an employee in any position to submit to an alcohol test and/or a controlled substance test when the County has reasonable suspicion to believe that the employee has violated the County and/or federal regulations regarding use of alcohol and/or controlled substances during, just preceding, or just after performing work duties or just before the employee is to perform safety-sensitive functions. Reasonable suspicion criteria include, but are not limited to, "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors" of the employee.

F. RETURN TO DUTY TESTING, ALL EMPLOYEES. If an employee has been off duty due to conduct prohibited in this policy, the employee must test negative to an alcohol and/or controlled substance test, whichever is applicable, prior to returning to duty.

G. FOLLOW-UP TESTING. Any employee (not limited to Safety Sensitive and Public Safety employees) who has failed a drug screen test and/or alcohol test will be subject to future unannounced follow-up alcohol and/or controlled substance testing.

13.5 CONTACT PERSON FOR DOT INFORMATION AND MATERIALS. Each department having DOT safety-sensitive positions will have a contact person from whom employees may obtain materials and information about the federal regulations and Douglas County policy. These contacts are listed below:

Public Works Department: Operations Division Manager

Maintenance Department: Director, Buildings & Grounds

13.6 WORK DAY DEFINED. For purposes of this policy, these regulations apply whenever an employee is actually performing, ready to perform, or immediately available to perform any work-related duties, including safety-sensitive functions. Thus, the work day under this policy will be considered to be any time the employee is performing the functions of his/her position, which includes the regular work day, overtime hours, and/or snow removal or other emergency duty.

13.7 TESTING PROCEDURES. All tests will be performed at the medical facility designated by Douglas County. The professionals performing the testing for safety sensitive positions will be trained with respect to DOT regulations and the test results will be reviewed by a Medical Review Officer, who will be responsible for communicating results to the employee and to the Assistant County Administrator. All drug and alcohol testing will be conducted in compliance with the federal DOT procedure listed in 49 CFR 40 & 655.

A. ALCOHOL: A breath screening device will be used for alcohol testing and shall comply with 49 CFR 40.

B. CONTROLLED SUBSTANCE: A urine sample will be requested under the direct observation of a trained professional. The sample will be sealed and initialed in the presence of the employee.

C. POSITIVE RESULTS. If the result of the initial drug screen test is positive, a further confirmation test will be performed on the same sample. The second test will be a gas chromatography/mass spectrometry test. If the result of the initial alcohol test is 0.04 or greater, a second breath test will be performed with a printout of the results.

13.8 REFUSING TO SUBMIT TO TESTING. Compliance with this testing policy is a condition of employment for all Douglas County employees (regardless of position). Any employee refusing to submit to a post-accident test, a random test, a reasonable suspicion test, return to duty test, or a follow-up test for either alcohol or controlled substances will not be permitted to return to work and will be considered suspended without pay. Such refusal will constitute insubordination under the Douglas County Personnel Policy and may result in disciplinary action up to and including termination.

Behavior that constitutes refusal to test:

- Refusing to provide specimen. This includes an insufficient volume of urine without a valid medical explanation.
- Tampering with, adulterating, or substituting a specimen.
- Failing to appear for testing within sixty (60) minutes of being notified.
- Leaving the scene of an accident without just cause prior to submitting to a test.
- Leaving collection facility prior to test completion.
- Failing to permit an observed or monitored collection when required.
- Failing to take a second test when required.
- Failing to undergo a medical examination when required.
- Failing to cooperate with any part of the testing process.
- Failing to sign the alcohol test form.
- Once test is underway, failing to remain at site and provide a specimen.

13.9 CONSEQUENCES FOR VIOLATIONS OF SECTION 13. Violations of this Section 13 are considered a serious offense and will result in disciplinary action. Employees who have an alcohol concentration of 0.04 or greater and/or employees who have a positive

drug screening result will be subject to disciplinary action up to and including termination. Additionally, when termination does not occur, employees will be required to use the Douglas County Employee Assistance Program. The Assistant County Administrator will make the initial appointment for the employee at DCCCA, and the employee will be required to sign a release allowing DCCCA to confirm the employee's attendance at the appointment to the Assistant County Administrator. The employee will be expected to follow the rehabilitation program established by the substance abuse professional, including, but not limited to, providing verification of participation in such program. Repeated violations of this section by an employee may result in termination.

Before an employee may return to work after a violation of this policy, the employee will undergo a return-to-duty alcohol and/or drug screening test, and must have a result of less than 0.02 blood alcohol concentration and/or a negative drug screen result.

13.10 EMPLOYEE ASSISTANCE PROGRAM. The Douglas County Employee Assistance Program is jointly sponsored by DCCCA and the Bert Nash Mental Health Center. See Section 13 of the Douglas County Personnel Policy for specific details on the use of this program.

13.11 SUPERVISORY TRAINING. All Douglas County employees who perform supervisory functions over safety-sensitive positions will be required to receive at least sixty (60) minutes of training on alcohol misuse and an additional sixty (60) minutes of training on controlled substance use during each calendar year. The training will include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Supervisors will be expected to immediately report concerns about potential alcohol misuse and/or controlled substance use to the Contact Person in their department. Failure to do so could result in disciplinary action. The Contact Person must notify the Assistant County Administrator of these concerns immediately.

13.12 SAFETY SENSITIVE POSITION TRAINING. All Douglas County employees in safety sensitive positions will be required to receive at least 60 minutes of training on the effects and consequences of prohibited drug use and misuse of alcohol on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.