



## Drug and Alcohol Free Workplace Policy

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### 1.0 Policy

Lee County Government is committed to providing an alcohol and drug free workplace for its employees and those who conduct business with the County. This commitment is based on the belief that the County has a responsibility to ensure the safety of County employees and the general public. This document establishes County policy and procedures for staff that are responsible for insuring that the letter and spirit of this commitment are communicated and implemented in Lee County Government.

### 2.0 Applicability

This policy applies to all safety sensitive and non-safety sensitive employees, employees classified in high risk safety sensitive positions, paid part-time employees, contract employees, and contractors when they are on Lee County Government property or when performing any Lee County or transit-related safety sensitive or non-safety sensitive business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contract employees are governed by this policy while on Lee County property and will not be permitted to conduct business if found to be in violation of this policy. **The Lee County Transit System Employees in safety sensitive and non-safety sensitive positions adhere to the Drug and Alcohol Free Workplace Policy in Addendum A.**

### 3.0 Procedure/Rules

The following actions are prohibited on County premises and in County workplaces and while conducting any County business:

- a. The unlawful manufacture, solicitation, distribution, dispensation, sale, possession or use of controlled substances. The unlawful manufacture, possession, sale, distribution or delivery of drug paraphernalia.
- b. Use of alcoholic beverages.
- c. Misuse of legally prescribed drugs, and the use of illegally obtained prescription drugs.
- d. Any use of legally prescribed drugs and nonprescription medications which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected must be reported to the supervisor.

Any violation of **a** through **d** above shall be considered unacceptable personal conduct and shall be grounds for disciplinary action up to and including dismissal.

Impaired behavior and/or diminished performance on the job resulting from the use of alcohol or any controlled substance shall be considered unacceptable personal conduct and shall be grounds for disciplinary action up to and including dismissal.

The County will report violations of criminal drug statutes occurring in the workplace to the appropriate law enforcement officials.

All employees have a responsibility to report observed and suspected violations of this policy to their supervisor or department director.

Disciplinary action, up to and including dismissal, shall be taken when an employee:

- Refuses to sign a consent form and participate in a required drug or alcohol test after being advised of the reasons for the request.
- Intentionally tampers, or attempts to tamper, with a drug or alcohol sample or testing process.
- Produces a confirmed positive test result.

1. Substances that may be tested for under this policy include:

- a. Marijuana/cannabinoids (THC)
- b. Cocaine metabolites
- c. Opiates
- d. Phencyclidine (PCP)
- e. Amphetamines/methamphetamines
- f. Alcohol
- g. Barbiturates (e.g., amobarbital, butobarbital, phenobarbital, secobarbital)
- h. Methaqualine (e.g., quaalude)

2. An employee who receives a positive test result may request that the same or split specimen be tested by another certified laboratory with the cost of such testing to be at the employee's expense.

3. When management has reasonable cause to believe an employee is using or is under the influence of alcohol or a controlled substance, or is misusing prescription drugs, the employee may be required to submit to an immediate drug and/or alcohol test. The test shall be administered by qualified personnel and shall involve proper procedures of specimen collection and testing.

### **Reasonable Cause/Suspicion**

Reasonable Cause/Suspicion means an expressible belief based on specific objective facts, and rational inferences drawn from those facts, that an employee has consumed or is under the influence of alcohol or drugs while in the course of their work. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- a. Observable occurrences, such as direct observation of alcohol or drug use and/or the physical symptoms of being under the influence of alcohol or drugs.
- b. A report of alcohol or drug use, by an employee while in the course of their work, provided by a reliable and credible source.
- c. A pattern of unexplained, preventable accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident while in the course of employee's work or is conducting County business while under the influence of alcohol or drugs.
- d. Evidence that an employee is involved in the unauthorized manufacture, solicitation, distribution, dispensation, possession, sale or use, of alcohol or drugs while working or while on the County's premises or in possession of or operating a County vehicle, machinery or equipment.
- e. Combative, abusive, violent or disruptive behavior (verbal or physical).
- f. Erratic behavior/mood swings.
- g. Relevant body or breathe odors.
- h. The focus of investigation, arrest or conviction for drug related offense.
- i. Evidence of substance abuse or drug test tampering.
- j. A pattern of excessive absenteeism, tardiness or deterioration in work performance in combination with an observable occurrence as described above.

The following procedures apply when a supervisor has reasonable cause to believe an employee is in violation of the County's Alcohol and Drug Free Workplace Policy.

1. The Supervisor shall review the circumstances and actions which are the basis for the reasonable cause/suspicion with the department director or designee.
2. The employee may be suspended for investigatory purposes in accordance with established policy.

3. In cases which involve possible manufacture, solicitation, distribution, dispensing, selling or possession of controlled substances in the work place, the department director or designee shall contact the local law enforcement agency and State Bureau of Investigation for assistance.
4. The Supervisor shall document the facts in writing as fully as possible and instruct witnesses to reduce their observations to writing to the extent possible. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances existing at the time. Once reasonable cause has been established by the Human Resources Director or the County Manager, the employee shall be advised (in the presence of a witness) that as a condition of continued employment, management has the right to require him/her to submit to a drug or alcohol test. The employee shall then be advised of:
  - a. The basis for the reasonable cause and the requirement that the employee sign a test consent form
  - b. The methods of testing which may be used
  - c. The substances which may be identified
  - d. The importance of cooperating with the collection site personnel
  - e. The confidentiality of individual test results
  - f. The consequences of; refusing to sign consent form, failing to submit to immediate testing, failing to report for a specimen collection, or the receipt of a positive test result.
5. Immediately after reviewing a through f above with the employee, the employee shall be advised of the location where the test will be administered and shall sign a consent form.
6. County personnel shall transport the employee to the test site immediately after the consent form is signed.
7. If the employee refuses to sign the consent form or to undergo testing immediately as scheduled, the department director shall take appropriate disciplinary action.
8. If a negative test result occurs, the employee shall be notified immediately by the department director or designee.

9. If the employee has been placed on investigatory suspension he/she shall be reinstated in accordance with policy requirements. All records surrounding the incident shall be removed from the employee's personnel file. If the test is positive, the Human Resources Director, within 5 days of receiving positive test confirmation, shall inform the employee, in writing, of the results and the proposed action to be taken.
10. Disciplinary actions will result from a confirmed positive test, refusal to participate in a test or of altering or attempting to alter test results.
11. Drug testing will be carried out by a laboratory certified by the U.S. DHHS and testing will be conducted via urine specimens.
12. Alcohol testing will meet industry standards or applicable U.S. DHHS guidelines and will be conducted via a saliva, blood or breath specimen.
13. All specimens will be collected under chain of custody procedures which include photo identification of the donor and protocols to assure specimen integrity.
14. A positive drug (controlled substance) test will undergo confirmatory testing.
15. A positive alcohol test will undergo confirmatory testing by either blood or breath.
16. All test results will be maintained in a secure and confidential manner in the County Human Resources Department and will not be released without written consent of the employee unless as a result of action initiated by or on behalf of the employee, they are required to be produced.

### **Pre-Employment Substance Abuse Screening**

All job finalists are required to undergo drug/alcohol testing within twenty-four (24) hours (excluding Saturdays, Sundays, and holidays) of receiving and accepting an offer of employment contingent upon a negative drug/alcohol test result. Finalists who fail to undergo such testing within twenty-four (24) hours will not be considered for employment.

1. The Human Resources Department will make arrangements for finalists to be sent to a designated medical facility for testing.
2. Finalists will submit a Lee County approved, signed substance abuse testing consent form to the qualified, approved laboratory provider, assenting to the testing procedure.
3. Finalist testing will be performed on urine specimens using a secure chain of custody procedure to reduce the likelihood of possible errors in the testing procedures. Gas Chromatograph/Mass Spectrometry (GC/MS) or other appropriate, accepted medical testing procedures will be used to confirm all positive test results.

4. Upon completion of the tests, results will be sent to the employee/finalist, if requested, and the appropriate staff member in the Human Resources Department.
5. Completion of offers of employment shall not occur until negative test results have been verified by the Human Resources Department.

### **Effect of Positive Result**

A finalist with a confirmed positive test **will not** be considered for employment.

1. The Human Resources Director will notify the department director or designee of the test result.
2. Positive test results will be held in strict confidence with only the department director or designee, and Human Resources Director having access with no release of results.
3. Employment decisions based on drug test results are final.
4. All finalists for employment as criminal justice officers and all veteran law enforcement officers who apply for transfer from another law enforcement agency or who apply for reinstatement must submit to drug/alcohol testing according to the drug testing rules adopted by the Sheriff's Standards Division of the State of North Carolina.

Each County employee is subject to post-accident and reasonable suspicion testing. Employees classified in high risk or safety sensitive positions are subject to all sections of the above policy and to the following policy.

### **High Risk or Safety sensitive Categories**

- A safety sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee who holds a Commercial Driver's License. Safety sensitive Positions covered under this category include:
  - a. Dispatcher/Scheduler
  - b. Transportation Administrative Support Assistant
  - c. Transit Vehicle Drivers
  - d. Lead Transit Vehicle Drivers
  - e. Transportation Coordinator
  - f. Heavy equipment operators (Landfill)
  - g. Mechanics
  - h. Sanitation Truck Drivers
  - i. Armed law enforcement officers

- Positions requiring the operations of vehicles, machinery, equipment or the handling of hazardous materials, the mishandling of anything which may place the employee, fellow employees or the general public at risk of serious injury or the nature of which would create a security risk in the workplace.
- Positions where the incumbent's mental fitness is necessary to minimize or prevent the risks described above. Safety sensitive positions covered under these categories include:
  - a. Emergency Service Workers
  - b. General Services – Maintenance Workers
  - c. General Services – Maintenance Mechanics
  - d. General Services – Housekeeping Assistants
  - e. General Services – Supervisors
  - f. General Services – Director
  - g. General Services – Horticulturist
  - h. Others as identified in Appendix A

### **Prohibited Substances**

“Prohibited Substances” addressed by this policy include the following:

- Illegally Used Controlled Substances or Drugs
- Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the W.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.
- Prescription/Over the Counter Drugs are the appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected, must be reported to the Human Resources Director. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription. A legally prescribed drug means that an individual 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 any type of transit business is prohibited.

- The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body while performing transit business is prohibited. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breathe as measured by an evidential breath-testing device.

### **Prohibited Conduct**

- Manufacture, trafficking, possession, and use of a controlled substance.
- Lee County employees working in high risk safety sensitive positions are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substance on Lee County Government property, in transit or other Lee County vehicles, in uniform or while on transit system or on any other County business.
- Any safety sensitive or non-safety sensitive employee who is reasonably suspected of Being intoxicated, impaired, under the influence of a prohibited substance, or not fit for Duty shall be suspended from job duties pending an investigation and verification of Condition.
- Employees found to be under the influence of a prohibited substance or who fail to pass a drug or alcohol test shall be removed from duty and their employment eliminated. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- No safety sensitive or non-safety sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety sensitive or non-safety sensitive employee shall use alcohol while on duty, in uniform, while performing safety sensitive functions, or just before or just after performing a safety sensitive function. No safety sensitive or non-safety sensitive employee shall use alcohol within four hours of reporting for duty or during the hours that they are on call.

Employees who violate the provision above will be discharged. Law enforcement shall be notified as appropriate, where criminal activity is suspected.

### **Compliance and Testing Requirements**

All safety sensitive and non-safety sensitive employees will be subject to urine drug testing and/or breathe alcohol testing as a condition of employment. Any safety sensitive or non-safety sensitive employee who refuses to comply with a request for testing shall be removed from duty and their employment terminated. Any safety sensitive or non-safety sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and their employment terminated.

Refusal can include an inability to provide a sufficient urine specimen or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

### **Treatment Requirements**

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use policies. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Lee County requirements for treatment, after care or return to duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services is at the employee's expense. Employees may use accumulated leave as outlined in the Lee County Personnel Policy to participate in the prescribed rehabilitation program.

### **Notification of Criminal Drug Conviction**

All employees are required to notify the Lee County Human Resources Director and Department Director of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision may result in termination.

### **Proper Application of the Policy**

Lee County Government is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any Director/Supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates shall be subject to disciplinary action up to and including dismissal.

### **Testing Procedure**

Analytical urine drug testing and breathe testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. All safety sensitive and non-safety sensitive employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident. Those employees who perform safety sensitive functions as defined in this policy shall also be subject to testing on a random, unannounced basis.

If an employee is being tested for return to duty or a follow-up test, the collection of the sample will be under direct observation.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen will be conducted on each urine specimen.

For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40 as amended.

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, Lee County Government reserves the right to test for additional drugs under Lee County's own authority using standard laboratory testing protocols.

Test for breathe alcohol concentrations will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed using a NHTSA-approved evidential breathe-testing device (EBT) operated by a trained breath alcohol technician (BAT).

A safety sensitive or non-safety sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02.

The inability to perform safety sensitive duties due to an alcohol test result of greater than 0.02 but less than 0.04 will be considered an unexcused absence subject to Lee County disciplinary procedures. An alcohol test concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 665 for safety sensitive employees.

Any safety sensitive or non-safety sensitive employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. A positive drug/alcohol test will also result in termination. Lee County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

### **Employee Requested Testing**

Any safety sensitive or non-safety sensitive employee who questions the results of a required drug may request that the split sample be tested. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample.

All cost for such testing is paid by the employee unless the result of the split sample test invalidates the result of the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. As amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

### **Pre-Employment Testing**

All safety sensitive and non-safety sensitive position applicants shall undergo urine drug testing immediately following the offer of and acceptance of employment or transfer into a safety sensitive or non-safety sensitive position.

### **Receipt of a negative drug test result is required prior to employment.**

Failure of a pre-employment drug test will disqualify an applicant for employment. Evidence of the absence of drug dependency from a Substance Abuse Professional that meets with the approval of the Human Resources Director and a negative pre-employment drug test will be required prior to further consideration for employment.

### **Reasonable Suspicion Testing**

All safety sensitive and non-safety sensitive employees may be subject to a fitness for duty evaluation, and urine and/or breathe testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the short-term effects of substance abuse or alcohol misuse. Examples of reasonable suspicion include, but are not limited to the following:

- Observable occurrences, such as direct observation of alcohol or drug use and/or the physical symptoms of being under the influence of alcohol or drugs.
- A report of an employee's use of alcohol or drugs, while in the course of their work, provided by a reliable and credible source.
- A pattern of unexplained, preventable or potentially serious accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident while in the course of employee's work or is conducting County business while under the influence of alcohol or drugs.
- Evidence that an employee is involved in the unauthorized manufacture, solicitation, distribution, dispensation, possession, sale or use, of alcohol or drugs while working or while on the County's premises or in possession of or operating a County vehicle, machinery or equipment.
- Combative, abusive, violent or disruptive behavior (verbal or physical); fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.
- Erratic behavior/mood swings.
- Relevant body or breathe odors.
- The focus of investigation, arrest or conviction for drug related offense.

- Evidence of substance abuse or drug test tampering.
- A pattern of excessive absenteeism, tardiness or deterioration in work performance in combination with an observable occurrence as described above.

### **Procedures**

The following procedures apply when a supervisor has reasonable cause to believe a employee is in violation of the County's Drug and Alcohol Free Workplace Policy.

- The Supervisor shall review the circumstances and actions which are the basis for the reasonable cause/suspicion with the department director or designee.
- The employee may be suspended for investigatory purposes in accordance with established policy.
- In cases which involve possible manufacture, solicitation, distribution, dispensing, selling or possession of controlled substances in the work place, the department director or designee shall contact the local law enforcement agency and State Bureau of Investigation for assistance.
- The Supervisor or Department Director shall document the facts in writing as fully as possible and instruct witnesses to reduce their observations to writing to the extent possible. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances existing at the time.
- Reasonable suspicion referrals must be made to the Human Resources Director by a Supervisor/Department Director who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse.

### **Post-Accident Testing**

All safety sensitive and non-safety sensitive employees will be required to undergo urine and breathe testing if they are involved in an accident, or any vehicle owned, leased, or otherwise operated under the authority of Lee County Government, (regardless of whether or not the vehicle is in revenue service), that results in a fatality. This includes all surviving safety sensitive and non-safety sensitive employees whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage; unless the employee can be completely discounted as a contributing factor to the accident.

Following an accident, the safety sensitive and/or non- safety sensitive employee(s) will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing.

Any safety sensitive or non-safety sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any safety sensitive or non-safety sensitive employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. Employees tested under this provision will include not only the operations personnel, but also any other covered employee whose performance could have contributed to the accident.

### **Random Testing**

Employees in safety sensitive positions will be subjected to random, unannounced testing. The selection of safety sensitive employees for random alcohol testing will be made using a scientifically valid method that ensures that each covered employee will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year.

### **Employment Assessment**

Any safety sensitive and non-safety sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49CFR Part 40, as amended, will be referred for evaluation by a Substance Abuse Professional through the Employee Assistance Program. Assessment by a Substance Abuse Professional or participation in the County's Employee Assistance Program does not shield an employee from disciplinary action or guarantee employment or reinstatement with Lee County. Lee County Human Resources Department should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

If a safety sensitive or non-safety sensitive employee is allowed to return to duty, he/she must properly follow the rehabilitation program prescribed by the Substance Abuse Professional. The employee must have negative return-to-duty drug and alcohol tests, and be subject to unannounced follow-up testing for a period of one to five years. The cost of any treatment or rehabilitation services are the responsibility of the employee. Employees will be allowed to take accumulated leave in accordance with the Lee County Personnel Policy to participate in the prescribed rehabilitation program.

### **Rehabilitation**

Lee County Government will support the employee in his/her efforts to rehabilitate himself/herself when treatment is initiated by the employee. An employee maybe given extended leave to receive inpatient care. Upon release to duty by a qualified professional the employee will be required to sign a written agreement that may include (but is not limited to):

- A release to work statement from the evaluating Substance Abuse Professional.
- A negative test for drugs and/or alcohol requirement for future going forward.
- An agreement to unannounced frequent follow-up testing for a period of one to five years with a least six tests performed the first year. Follow-up testing beyond one year will be at the recommendation of the evaluating SAP.

- A statement of work related behaviors.
- An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.

## **5.0 Training**

### **Supervisor and Employee Training**

This training will include an explanation of the dangers of substance abuse, the prohibited conduct of all employees, the testing requirements, the rights of management and employees, steps to take following an accident and the disciplinary consequences of substance abuse.

## APPENDIX A

All County employees are subject to post-accident and reasonable suspicion testing. The following positions are designated as High Risk or Safety sensitive Categories and are subject to random and pre-placement testing in addition to post-accident and reasonable suspicion testing:

<u>Department</u>	<u>Position Title</u>
Administration	County Manager Administrative/Risk Management Specialist County Attorney Deputy County Attorney
Finance	Director
Tax	Tax Administrator Appraisal Manager Real Property Appraisers
Elections	Director
Register of Deeds	Register of Deeds
Information Technology	Director
Youth Services	Shelter Coordinator Residential Child Care Workers
Client Services Program	Client Services Program Coordinator
Senior Services	Director
Library	All Employees
Soil Conservation	Conservation Technician
Recreation	Director Athletic Supervisor Outdoor Education Specialist Parks Operations Supervisor Recreation Programmer Fitness Gym Supervisor

## APPENDIX A (cont)

### Department

### Position Title

Health Department

Director  
Environmental Health Specialist  
Environmental Health Specialist Sup  
Public Health Nurse I  
Public Health Nurse II  
Public Health Nurse III  
Public Health Nurse Supervisor  
Animal Control Officer I  
Animal Control Officer II  
Animal Control Supervisor I  
Lab Technician II  
Physician Extender

Social Services

Director  
Social Worker IV  
Social Worker III  
Social Worker II  
Community Social Services Asst.  
Social Work Program Manager  
Social Worker I  
Social Work Supervisor II  
Social Work Supervisor III

## **Addendum A     Lee County Transit System Drug and Alcohol Free Workplace Policy**

The County of Lee Transit System will be subject to the Lee County Drug and Alcohol Free Workplace Policy and to the following Substance Abuse Policy that is Transit specific.

### **1.0 Substance Abuse Policy**

Lee County Government is dedicated to providing safe, dependable, and cost efficient transportation services to our transit system passengers.

### **2.0 Purpose**

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol, misuse of prescription drugs, and the use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S Department of Transportation, has published 49 CFR Part 655 as amended, that mandate drug testing and breathe alcohol testing for safety sensitive positions and prohibits performance of safety sensitive functions when there is a positive test results. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988" which requires the establishment of drug-free workplace policies and the reporting of certain drug related offenses to the FTA. This policy incorporates those requirements for safety sensitive employees and others when so noted.

### **3.0 Applicability**

This policy applies to all safety sensitive and non- safety sensitive transit system employees, paid part-time employees, contract employees, and contractors when they are on Lee County Government property or when performing and County or transit related safety- sensitive or non-safety sensitive business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to return to work. Visitors, vendors and contract employees are governed by this policy while on Lee County property and will not be permitted to conduct transit business if found to be in violation of this policy.

A safety sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of revenue service vehicle or equipment used in revenue service, , and any other employee who holds a Driver's License. A list of safety sensitive positions is attached. The County Of Lee Transit System does not allow the operation of Transit vehicles by volunteers.

Safety Sensitive positions covered under this policy include: Scheduler, Transportation Administrative Support Assistant, Transportation Coordinator, Lead Driver and Transportation Drivers.

## 4.0 Prohibited Substances

“Prohibited substances” addressed by this policy include the following:

- **Illegally Used Controlled Substances or Drugs**

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C 812), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, and ecstasy, as well as any drug not approved for medical use by the N.C. Drug Enforcement Administration or the U.S. Food and Drug Administration. (Note: Employees may be tested for the five specified drugs listed above at any time while on duty.) Illegal use includes use of any illegal drugs, misuse of legally prescribed drugs and use of illegally obtained prescription drugs.

- **Prescription / Over the Counter Drugs**

The appropriate use of legally prescribed drugs and nonprescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates that mental functioning motor skills or judgment may be adversely affected, must be reported to the Lee County Transit Transportation Coordinator and Senior Services Director. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription. A legally prescribed drug means that an individual 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 any type of transit business is prohibited.

- **Alcohol**

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body while performing transit business is prohibited. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breathe-testing device.

## 5.0 Prohibited Conduct

- **Manufacturing, Trafficking, Possession, and Use**

Lee County Employees working in the County Of Lee Transit System program are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substance on Lee County Government property, in transit or in other Lee County vehicles, in uniform or while in transit on any other County business. Employees who violate this provision will be discharged. Law enforcement shall be notified as appropriate, where criminal activity is suspected.

- **Intoxication / Under the Influence**

Any safety sensitive or non-safety employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Employees found to be under the influence of a prohibited substance or who fail to pass a drug or alcohol test shall be removed from duty and their employment terminated. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

- **Alcohol Use**

No safety sensitive or no-safety sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety sensitive functions are adversely affected by alcohol or when his/her breathe alcohol concentration is 0.04 or greater. No safety sensitive or non-safety sensitive employee shall use alcohol while on duty, in uniform, while performing safety sensitive functions, or just before or just after performing a safety sensitive function. No safety sensitive or no-safety sensitive employee shall use alcohol within four hours of reporting for duty or during the hours that they are on call. Violations of these provisions are prohibited and those employees found in violation of these provisions will be terminated.

## **6.0 Compliance with testing Requirements**

All safety sensitive and non-safety sensitive employees will be subject to urine drug testing and breathe alcohol testing as a condition of employment. Any safety sensitive or non-safety sensitive employee who refuses to comply with a request for testing shall be removed from duty and their employment terminated. Any safety sensitive or no-safety sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and their employment terminated. Refusal can include an inability to provide a sufficient urine specimen or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test. If the test is canceled, the employee must retake and pass the test before being hired.

## **7.0 Treatment Requirements**

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use policies. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Lee County requirements for treatment, after care or return to duty shall be subject to disciplinary action, up to and including termination.

The cost of any treatment or rehabilitation services is at the employee's expense. Employees may use accumulated leave as outlined in the Lee County Personnel Ordinance to participate in the prescribed rehabilitation program.

## **8.0 Notifying the Transit System of Criminal Drug Conviction**

All employees are required to notify the Lee County Transit System Coordinator and Human Resource Director of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision may result in termination.

## **9.0 Testing Procedures**

Analytical urine drug testing and breathe testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. All safety sensitive and non-safety sensitive employees shall be subject to testing prior to employment for reasonable suspicion, and following an accident as defined in Section 6.2, 6.3, and 6.4 of this policy. Those employees who perform safety sensitive functions as defined in the attachment to this policy shall also be subject to testing on a random, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S Department of Health and Human service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part40, as amended.

The drugs that will be tested for include marijuana, cocaine, opiate, amphetamines, and phencyclidine. An initial drug screen will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40 as amended. In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, Lee County Government reserves the right to test for additional drugs under Lee County's own authority using standard laboratory testing protocols.

Test for breath alcohol concentrations will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) – approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed using a NHTSA-approved evidential breath-testing device (EBT) operated by a trained breath alcohol technician (BAT). A safety sensitive or non -safety sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02. The inability to perform safety sensitive duties due to an alcohol test result of greater than 0.02 but less than 0.04 will be considered an unexcused absence subject to Lee County disciplinary procedures. An alcohol test concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 665 for safety –sensitive employee.

Any safety sensitive or non-safety sensitive employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. A positive drug/alcohol test will also result in termination.

Lee County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

- **Employee Requested Testing**

Any safety sensitive or non- safety sensitive employees who questions the results of a required drug may request that the split sample be tested. This test must be conducted at a different DHHS- certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. All cost for such testing is paid by the employee unless the result of the split sample test invalidates the results of the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40 as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

- **Pre-Employment Testing**

All applicants of the County Of Lee Transit System will be required to undergo an extensive background check before officially hired and will be asked about previous violations if any. NC DOT drug and alcohol policy violations will be examined for the last 2 years. Former NC DOT employers will be contacted to confirm compliance of applicant. If any safety sensitive employee has not performed a safety sensitive duty in 90 consecutive days or more and has not been in the County Of Lee Transit System random selection pool, the employee will be required to submit to a drug test with a verified negative result before returning to a safety sensitive duty. Alcohol testing is not required for pre-employment, but a prospective employee can be asked to submit to an alcohol breath analysis test at any time.

All safety sensitive and non- safety sensitive position applicants shall undergo urine drug testing immediately following the offer of and acceptance of employment or transfer into a safety sensitive or non- safety sensitive position. Receipt by the transit system of a negative drug test result is required prior to employment. Failure of a pre-employment drug test will disqualify an applicant for employment. Evidence of the absence of drug dependency from a Substance Abuse Professional that meets with the approval of the Transit System Coordinator and Human Resources Director and a negative pre-employment drug test will be required prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual.

Applicants are required (even if ultimately not hired) to provide their consent to the County of Lee Transit System to request FTA drug and alcohol records from all previous DOT-covered employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. The County of Lee

Transit System is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer the applicant must provide the County of Lee Transit System proof of having successfully completed a referral evaluation and treatment plan as described in section 655.62 of subpart G.

- **Reasonable Suspicion Testing**

All safety sensitive and non -safety sensitive employees may be subject to a fitness for duty evaluation and urine and /or breath testing when there are reasons to believe that drug and alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the short-term effects of substance abuse or alcohol misuse. Examples of reasonable suspicion include but are not limited to, the following:

- a. Observable occurrences, such as direct observation of alcohol or drug use and/or the physical symptoms of being under the influence of alcohol or drugs.
- b. A report of an employee's use of alcohol or drugs, while in the course of their work, provided by a reliable and credible source.
- c. A pattern of unexplained, preventable or potentially serious accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident while in the course of employee's work or is conducting county business while under the influence of alcohol or drugs.
- d. Evidence that an employee is involved in the unauthorized manufacture, solicitation, distribution, dispensation, possession, sale or use, of alcohol or drugs while working or while on the County's premises or in possession of operating a County vehicle, machinery or equipment.
- e. Combative, abusive, violent or disruptive behavior (verbal or physical); fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operation procedures.
- f. Erratic behavior/mood swings;
- g. Relevant body or breathe odors;
- h. The focus of investigation, arrest or conviction for drug related offense;
- i. Evidence of substance abuse or drug test tampering.
- j. A pattern of excessive absenteeism, tardiness or deterioration in work performance in combination with an observable occurrence as described above.

**Procedures for Reasonable Suspicion Testing**

The following procedures apply when a supervisor has reasonable cause to believe a transit system employee is in violation of the County's Alcohol and Drug Free Workplace Policy:

1. The Supervisor shall review the circumstances and actions which are the basis for the reasonable cause/suspicion with the department head or designee.
2. The employee may be suspended for investigatory purposes in accordance with established policy.
3. In cases which involve possible manufacture, solicitation, distribution, dispensing, selling or possession of controlled substances in the work place, the department head or designee shall contact the local law enforcement agency and State Bureau of Investigation for assistance.
4. The Supervisor or department head shall document the facts in writing as fully as possible and instruct witnesses to reduce their observations to writing to the extent possible. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances existing at all time.

Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse.

#### **1. Post-Accident Testing**

All safety sensitive and non -safety sensitive employees will be required to undergo urine and breath testing if they are involved in an accident with a County of Lee Transit System vehicle, or any vehicle owned, leased, or otherwise operated under the authority of Lee County Government, (regardless of whether or not the vehicle is in revenue service), that results in a fatality. This includes all surviving safety sensitive and non- safety sensitive employees whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage; unless the employee can be completely discounted as a contributing factor to the accident.

Following an accident, the safety sensitive and/or non- safety sensitive employee(s) will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. All effort must be made to conduct testing within 2 hours of the accident. If an alcohol sample is not obtained within 2 hours, a report will have to be issued explaining why. This is a DOT requirement. Continued efforts to obtain a specimen must be made. Any safety sensitive or non- safety sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any safety sensitive or non -safety sensitive employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. Employees tested under this

provision will include not only the operations personnel, but also any other covered employee whose performance could have contributed to the accident.

## **2. Random Testing**

Employees in safety sensitive positions will be subjected to random, unannounced testing. The selected employee must proceed to the collection site in a timely manner. The selection of safety sensitive employees for random alcohol testing will be made using a scientifically valid method that ensures that each covered employee will have an equal chance of being selected each time selections are made. The random test will be unannounced and spread throughout the year. All urine specimens will be subject to a specimen validity test under the authority of NCDOT.

No employee will have access to their split specimen following an invalid result. If an employee's specimen is found to be a diluted negative result, a second test will be required under non-observed conditions. In the event that the test has a third diluted negative result, no additional test will be performed. Refusal to take a urine or alcohol test is automatic grounds for termination or refusal to hire. Any unnecessary delay will also result in automatic termination of employment. The following are examples of refusals to take a drug and alcohol test:

1. Failure to appear in a reasonable time except for pre-employment test.
2. Failure to remain until the testing process is complete.
3. Failure to provide a specimen.
4. Failure to provide a sufficient specimen with no medical explanation.
5. Failure to undergo a medical evaluation as required by a MRO.
6. Failure to cooperate with any part of the testing process.
7. Failure to permit monitoring or direct observation.
8. Failure to take a 2<sup>nd</sup> test as directed by the collector or employer.
9. Have an adulterated or substituted test result verified by an MRO.
10. Failure to follow the collectors observed collection procedures.
11. Possess or wear a prosthetic or other device that could interfere.
12. Admit adulteration or substitution to a MRO or collector.
13. Refusal to sign the certification of Step 2 of the ATF.
14. Failure to follow the observer's instructions.
15. Possessing or wearing a prosthetic or other device used to interfere with the collection process.

## **Employment Assessment**

Any safety sensitive and non- safety sensitive employee who test positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be referred for evaluation by a substance abuse Professional (SAP). A SAP is licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor, state-licensed marriage counselor, and family therapist with knowledge, of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Assessment by a SAP or participation in the County's Employee Assistance Program does not shield an employee from disciplinary action or guarantee employment or reinstatement with Lee County or the County of Lee Transit System. Lee County Human Resources Department should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

If a safety sensitive or non- safety sensitive employee is allowed to return to duty, he or she must properly follow the rehabilitation program prescribed by the SAP. The employee must have negative return-to-duty and alcohol tests, and be subject to unannounced follow-up testing for a period of one to five years. The cost of any treatment or rehabilitation services is the responsibility of the employee. Employees will be allowed to take an accumulated leave in accordance with the Lee County Personnel Ordinance to participate in the prescribed rehabilitation program.

### **Rehabilitation**

Lee County Government will support the employee in his or her effort to rehabilitate themselves when treatment is initiated by the employee. An employee may be given extended leave to receive inpatient care. Upon release to duty by a qualified professional the employee will be required to sign a written agreement upon being rehired with the County of Lee Transit System Program – a contract that may include (but is not limited to):

1. A release to return to work statement from the evaluating Substance Abuse Professional.
2. A negative test for drugs and/or alcohol
3. An agreement to unannounced frequent follow-up testing for a period of one to five years with a least six tests performed the first year. Follow-up testing beyond one year will be at the recommendation of the evaluating SAP.
4. A statement of work related behaviors.
5. An agreement to follow specified after care requirements with the understanding That the violation of the re-entry contract is grounds for termination.

### **Proper Application of the Policy**

Lee County Government is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors / managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor / manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates shall be subject to disciplinary action up to and including dismissal.

You may contact the Lee County Human Resources Director should you have questions about this policy.