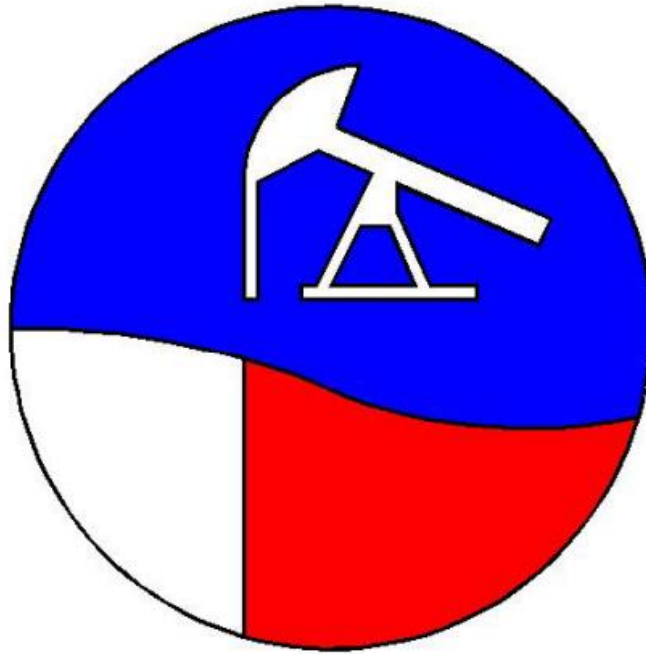


# **ECTOR COUNTY, TEXAS**



## **SUBSTANCE ABUSE POLICY**

**Revised and Adopted by  
Ector County Commissioners Court  
April 20, 2023**

# ECTOR COUNTY SUBSTANCE ABUSE POLICY

## I. INTRODUCTION

The **ECTOR COUNTY** Commissioners' Court has a responsibility to provide the highest level of safety attainable by the County. All the employees of **ECTOR COUNTY** share in this responsibility. The Commissioners' Court recognizes that the status of an employee's health affects his or her job performance and safety. The Commissioners' Court also recognizes that drug and alcohol abuse ranks as one of the major health problems in our society today. The Commissioners' Court further finds that the use of illegal drugs, alcohol and the abuse of controlled substances in the workplace results in the lack of overall performance, creates a safety hazard, is totally unacceptable, and conflicts with all aspects of maintaining an efficient, proper, and honest county government.

Therefore, the Commissioners' Court finds it necessary to provide a **Drug-Free Workplace** for its employees.

## II. SCOPE

### EFFECTIVE DATE AND EMPLOYEES COVERED

This Policy becomes effective on March 14, 2023 and will be incorporated into the ECTOR COUNTY Human Resources policies as of that date. This Policy applies to all employees of **ECTOR COUNTY**, regardless of rank or position and shall include temporary and part-time employees. The only exception to this Policy shall be the possession of controlled substances by law enforcement personnel as part of their law enforcement duties.

## III. POLICY

In order to maintain a Drug-Free Workplace, the Commissioners' Court has implemented the following policies:

1. The use, unauthorized possession, manufacture, distribution or sale of illegal drugs, illegal inhalants, drug paraphernalia or controlled substances by any employee while on duty, while on County premises or work sites or conducting County business, or while operating or occupying any County vehicle/equipment at any time, is prohibited. The unauthorized possession or use of prescription or over-the-counter drugs, while on County property or on duty for the County, in a manner other than that intended by the manufacturer or prescribed by a physician, is prohibited. The County, at its sole discretion, may take into custody any illegal, unauthorized or prohibited items and may turn them over to the proper law enforcement agencies. The only exception shall be for prescription drugs prescribed by a licensed physician as medication for use by the person possessing such substance.

2. The presence of a detectable level of any illegal drug, illegal inhalant, alcohol or unauthorized controlled substance or any metabolite of any such substance in the body at any time is prohibited.
3. Reporting to work under the influence of intoxicating beverages, illegal drugs, illegal inhalants or narcotics, other than the medically authorized use of prescribed medication or of controlled substances as part of a prescribed medical treatment program, is prohibited.
4. The unauthorized storage in any locker, desk, County vehicle or other repository on County premises or work sites of any illegal drugs, illegal inhalants, drug paraphernalia, unauthorized controlled substances or alcohol is prohibited.
5. In order to accomplish the purpose of this Policy, the County reserves the right to carry out reasonable searches of all County property and County vehicles/equipment. Searches by the County may be initiated without prior notice or consent, and conducted at times and locations as deemed appropriate by the County. The refusal to consent to inspection of any desk, locker or other County property under an employee's control, when requested by a supervisor, is prohibited.
6. Employees have a right to refuse to submit to a drug/alcohol test; however, that refusal to submit a specimen for testing when required under this Policy may result in disciplinary action, up to and including, termination.
7. The tampering or adulterating of any urine sample submitted for testing is prohibited.
8. The conviction, or the failure to report a conviction to a supervisor, by any employee for any drug- or alcohol-related crime is a violation of this Policy.
9. Employment with **ECTOR COUNTY** will be dependent on passing any and all drug/alcohol tests administered under this Policy. Failing a drug/alcohol test will be grounds for disciplinary action, up to or including immediate termination. Employees or applicants who fail a drug/alcohol test may be denied eligibility for re-hire. There will be a 45-day minimum waiting period for applicants who wish to re-apply.

#### **IV. DEFINITIONS UNDER THIS POLICY**

##### **1. ILLEGAL DRUG:**

"Illegal Drug" shall include any drug or derivative thereof which the use, possession, sale, transfer, attempted sale or transfer, manufacture, or

storage of is illegal or regulated under any federal, state, or local law or regulation and any other drug, including (but not limited to) a prescription drug, used for any other than a legitimate medical reason, and inhalants used illegally. Included is marijuana or cannabis in all forms.

2. **CONTROLLED SUBSTANCE:**

"Controlled Substance" shall include any substance listed in Schedules I-V of Section 202 of the Controlled Substance Act (21 U.S.C. § 812), as amended. (A copy of this information is available for review in the Human Resource Department.) A controlled substance is "unauthorized" if the employee does not have a valid prescription for that substance at the time of its use or possession.

3. **DRUG PARAPHERNALIA**

"Drug paraphernalia" shall include equipment, a product, or material that is used or intended for use in concealing an illegal drug or for use in injecting, ingesting, inhaling, or otherwise introducing into the human body, an illegal drug or controlled substance.

4. **COUNTY PREMISES OR WORK SITES**

"County premises or work sites" include all owned, rented or leased real property such as buildings, structures, land, parking lots, job sites (where an employee is working), etc., and means of transportation owned, leased, or otherwise used for County business, including motor vehicles, equipment, or machinery, and County property used by employees such as vehicles, lockers, desks, closets, storage areas, and etc.

5. **FAILING A DRUG TEST**

"Failing a drug test" is defined as a confirmation of an initial test result which shows a detectable level of an illegal drug, unauthorized controlled substance, drug metabolite or alcohol in the body.

6. **DETECTABLE LEVEL**

"Detectable level" is defined as a quantity of a drug, drug metabolite or alcohol equal to or greater than the detection limit for that substance as established by the testing laboratory, with the Commissioners' Court approval. A quantity of 0.02 or more is the detection level for alcohol.

7. **DRUG SCREEN**

"Drug screen" is defined as a urine specimen and/or blood specimen submitted for the purpose of analysis to determine the presence of an illegal

drug, illegal inhalant, alcohol or unauthorized controlled substance in the body.

## **V. DISCIPLINARY ACTION FOR VIOLATIONS OF THIS POLICY**

1. **The following violations of this Policy shall be grounds for termination:**
  - A. Failing a drug/alcohol test.
  - B. Unauthorized possession, use, manufacture, distribution or sale of any illegal drug, illegal inhalant, drug paraphernalia or controlled substance at any time, OR
  - C. Possession or use, without authorization, of alcohol while on County premises, work sites or while operating or occupying any County vehicle/equipment or while on duty at any time.
  - D. The refusal to consent to a lawfully permitted drug/alcohol test and/or submit a specimen for testing when required under this Policy.
  - E. Any employee who violates any other provisions of this Policy may be disciplined up to and including termination.

Any disciplinary action taken with employees for violations of, or refusal to follow, Ector County's Substance Abuse Policy will require written documentation.

## **VI. APPEAL PROCESS**

Any individual who has been subject to disciplinary action as a result of this Policy may appear before the Commissioners' Court in executive session to appeal such disciplinary action. A written request to appear before the Commissioners' Court for a review of the decision should be submitted to the office of the County Judge within 10 days of the disciplinary action. Such review by the Commissioners' Court will take place in executive session, or in open session at the employee's request, at their next regularly scheduled meeting.

If a disciplined employee wishes to have his/her sample retested, such test will be conducted from the original sample collected and will be at the expense of the County. The laboratory used by the employee must meet the same criteria as the laboratory used by the County (The laboratory is to be certified under appropriate federal and/or state regulations and should follow the guidelines adopted by the U.S. Department of Health and Human Services for workplace urinalysis).

## **VII. DRUG AND ALCOHOL TESTING**

Drug and Alcohol Testing will be conducted by a qualified laboratory approved by the Commissioners' Court. Chain-of-Custody procedures will be followed to account

for the integrity of each urine sample by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

Only those specimens confirmed positive by GC/MS will be reported as positive specimens. Those results will only be reported by the laboratory to the Human Resources Director (or the Risk Management Director or their designee) who shall act as the Alcohol and Drug Program Administrator for Ector County. The results will then be reported to those Department heads that may need to know the results. Results will be kept confidential and secured at all times.

**Alcohol and Drug Testing under this Policy will include:**

**Pre-Employment:** All applicants for employment will be tested prior to beginning employment with Ector County. The Human Resources Department will provide the information regarding where and when to report for testing. Applicants will sign a Pre-Employment Drug and Alcohol Testing Consent form. All offers of employment are conditional upon passing a drug test. No one will be hired who refuses to be tested.

**Post-Accident Testing:** Any employee involved in any motor vehicle accident involving County property, an accident involving bodily injury or property damage of \$500 or more and/or one-half of the value of the property will submit to a drug and alcohol test (This includes single vehicle/equipment accidents). Other employees in the immediate vicinity of the accident or incident may also be required to submit to a drug and alcohol test if a supervisor believes that the employee may have caused or contributed to the accident or incident. The decision to order such testing shall be made by the highest ranking supervisor present at the scene of the accident or incident. Consequently, employees involved in accidents must immediately notify their supervisors, who will contact the Human Resources Department to receive instructions concerning the test. The test shall be performed as soon as possible at the order of the supervisor, but no later than within 3 hours. If the accident is after hours or out-of-town, the testing laboratory shall be contacted by the supervisor for direct assistance.

**Reasonable Suspicion:** If an employee is having a work performance problem or displaying behavior that may be alcohol- or drug-related, or is otherwise demonstrating conduct that may be in violation of this Substance Abuse Policy where immediate management action is necessary, a supervisor, with notification to the Alcohol and Drug Program Administrator or the Administrator's designee, will require that employee to submit to a breath test and/or urinalysis. The following conditions may be signs of possible alcohol or drug use (this list is not all-inclusive):

- Abnormally dilated or constricted pupils
- Glazed stare – redness of eyes (sclera)
- Flushed face
- Change of speech (i.e. faster, slower, slurred)
- Constant sniffing

- Increased or unexplained absences
- Redness under the nose
- Sudden weight loss
- Needle marks
- Change in personality (i.e. paranoia, anger, hostility)
- Increased appetite for sweets
- Forgetfulness – performance altering – poor concentration
- Borrowing money from co-workers or seeking an advance of pay or other unusual display of need for more money
- Constant fatigue
- Hyperactivity
- Smell of alcohol/cannabis
- Difficulty walking or standing
- Dulled mental processes
- Slowed reaction rate

Elected Officials, Appointed Officials, Department Heads or Supervisors should take immediate action if they have reason to believe that substance or alcohol abuse is affecting the employee's job performance or endangering the public. A supervisor observing such conditions will take the following actions immediately:

- a. Confront the employee involved, and keep him/her under direct supervision until the situation is resolved. Inform the employee of the problems with job performance and the specific violations of the policy.
- b. Contact the Human Resources Department and inform them of the situation and the employee under suspicion.
- c. After discussing the circumstances with the official or supervisor, the Alcohol and Drug Program Administrator may observe the employee or will proceed to testing the employee under the reasonable suspicion policy.
- d. The Alcohol and Drug Program Administrator will request that the employee be immediately required to submit to a breath test and/or urinalysis. If the employee refuses to submit to the testing for any reason, the employee may be informed that they are being immediately terminated.
- e. The official or supervisor shall provide to the Alcohol and Drug Program Administrator documentation of the particular facts related to the behavior or performance problems within 24 hours of sending the employee for reasonable suspicion drug or alcohol testing.
- f. Under no circumstances will an employee be allowed to operate a vehicle or machinery while conducting County business until a confirmed negative test result is received.

## **VIII. TESTING PROCEDURES**

Any official or supervisor who requests that an employee be tested must contact the Alcohol and Drug Program Administrator or the Administrator's designee for authorization of the test. They must provide the appropriate documentation to the Alcohol and Drug Program Administrator.



- a. The employee will be escorted and driven to the designated testing facility for a specimen collection.
- b. Tests that may be required include breathalyzer, urinalysis and/or blood tests.
- c. In the case of urinalysis, an unobserved specimen will be collected in a drug testing facility that has been properly secured to meet drug testing requirements (urinalysis collection guidelines established by SAMSHA). The specimen will be collected and sealed in an appropriate container which will then be laboratory tested.
- d. The employee will sign the Chain-of-Custody that is provided by the drug testing facility.
- e. The employee will be suspended with pay until the test results are known. Arrangements will be made to safely return the employee to his/her residence.
- f. Unless required by law or as deemed necessary by the Alcohol and Drug Program Administrator to comply with state and federal regulations, the results of the alcohol or drug test will not be released to anyone other than the Alcohol and Drug Program Administrator and/or the Administrator's designee and the official or supervisor without written consent of the employee.

#### **IX. PRESCRIPTION DRUGS**

Employees taking prescription medications shall be required to immediately notify their supervisor of any possible effects the medication might have regarding their job performance and physical/mental capacity. Prescription medications used at work are to be kept in their original container.

Any information concerning prescription medications being used by an employee, and any other medical information of which the supervisor becomes aware, shall be treated as confidential information.

#### **X. TREATMENT**

Employees having problems with drugs or alcohol are encouraged to seek treatment from qualified professionals. Information on benefits provided for treatment of alcohol and drug problems through the County's Health Benefits Plan is available in the employee's health benefits plan document or from the Insurance Department.

#### **XI. SUPERVISORY AND EMPLOYEE TRAINING**

Supervisors will receive training regarding the Substance Abuse Policy. All employees will receive copies of the Substance Abuse Policy and it will be posted on Ector County's website.

#### **XII. RESERVATION OF RIGHTS**

The County reserves the right to interpret, change, suspend, cancel or dispute, with or without notice, all or any part of this Policy, or procedures or benefits discussed



herein. Employees will be notified before implementation of any change.

Although adherence to this Policy is considered a condition of continued employment, nothing in this Policy alters an employee's at-will status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any or no reason, without notice, and the County retains the right to terminate any employee at any time, for any or no reason, without notice.

### **XIII. OTHER LAWS AND REGULATIONS**

The provisions of this Policy shall apply in addition to, and shall be subordinated to, any requirements imposed by applicable federal, state or local laws, regulations or judicial decisions. Unenforceable provisions of this Policy shall be deemed to be deleted. Interaction between the Ector County Substance Abuse Policy and Drug and Alcohol Testing Procedures required by the Department of Transportation (DOT) shall be as follows:

1. All Ector County employees subject to DOT drug and alcohol tests shall remain subject to the Ector County Substance Abuse Policy at all times.
2. In the event that a drug and alcohol test is not required under DOT rules, but is required under Ector County Substance Abuse Policy, the employee shall be tested in accordance with the Ector County rules.
3. In the event that a drug and alcohol test is required under DOT rules, the driver shall be tested in accordance with those rules which shall supersede Ector County Substance Abuse Policy drug and alcohol testing rules.
4. In the event DOT rules are not applicable or do not cover a specific situation, the Ector County Substance Abuse Policy shall be used to settle interpretation questions.
5. Employees/drivers shall be informed before any test whether the test is required under DOT or Ector County rules.
6. Employees in safety sensitive positions are subject to random testing per DOT rules, whereas employees in non-safety sensitive positions are not subject to random testing. All drivers who test positive for drugs or alcohol shall be immediately removed from safety sensitive duties.
7. All disciplinary action taken against an employee for drug and alcohol violations shall be taken pursuant to Ector County rules.