



# WASHOE COUNTY

## Drug-Free Workplace Policy

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## I. POLICY

Washoe County is committed to a drug-free workplace to ensure that County services are performed safely, efficiently and cost-effectively<sup>1</sup>. Washoe County is committed to maintaining a safe and efficient environment for all of its employees and the public as well as protecting County property, equipment and operations. Alcohol and drug use that affect the workplace will not be tolerated.

Employees who are under the influence of alcohol or drugs, including *prescription or over-the-counter medications*, on the job can be extremely disruptive and pose serious safety risks to themselves, co-workers and the public. The unlawful or inappropriate possession, use or sale of drugs or alcohol may pose unacceptable risks for safe and efficient operations.

As an employee, you can protect yourself, your coworkers and our organization by supporting an alcohol and drug-free environment. You should report to work free of drugs and their effects, seeking help for alcohol or drug abuse and ensuring that others around you do the same.

### A. Coverage

This policy applies to all employees of Washoe County when they are on duty, on County premises or on County business.

1. *Employees* – In this policy, the term “employee” or “employees” covers all full-time and part-time employees as well as temporary, seasonal and intermittent employees, and volunteers. Washoe County employees who are licensed to, and operate, certain commercial vehicles as part of their job are also subject to drug and alcohol testing pursuant to the *Washoe County Motor Carrier Part 382 Controlled Substances and Alcohol Use and Testing* which can be found on the Human Resources website under the Governance page.

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<sup>1</sup>This policy is not meant to be an exhaustive statement of the County or its employees’ rights and duties under applicable law. The County reserves the right to administer this policy and interpret, change or rescind the policy in whole or in part, with or without notice or consideration. In addition, changes to applicable state and federal laws or regulations may require the County to modify or supplement the policy.

2. *Job Applicants* – This policy covers job applicants. Applicants are not entitled to employee assistance benefits or any other services made available to employees in this policy unless stipulated by applicable state or federal law.

#### **B. Education and Training**

Washoe County will provide policy training as determined by the County.

#### **C. Employee Assistance Program and Medical Insurance**

Washoe County maintains an Employee Assistance Program (EAP) that is available to all employees and their families for the purpose of dealing with alcohol or drug issues. Medical insurance also offers options for treatment. Employees are responsible for all costs, co-pays and deductibles associated with substance abuse counseling, treatment or rehabilitation.

## **II. PROHIBITED CONDUCT**

#### **A. It is Prohibited for Employees to:**

1. Appear under the influence of alcohol or drugs while on duty, on County premises or on County business;
  - a. Use prescription drugs or over-the-counter medications while on duty, on County premises or on County business;
  - b. Use marijuana (whether medically or recreationally), in a manner that causes one to appear under the influence while on duty, on County premises or on County business;
2. Be under test in excess of a BAC of 0.02 or higher as demonstrated by an alcohol test while on duty, on County premises or on County business;
3. Fail to notify a supervisor or Department HR Representative (HR Rep) if the employee believes that he or she is under the influence of drugs or alcohol while on duty, on County premises or on County business;
4. Bring drugs, alcohol or drug paraphernalia to work and/or to store any such items on County property;

5. Possess, use, manufacture, distribute or attempt to distribute or sell any illegal legal drugs from County property;
6. Fail to notify a supervisor of an arrest for a drug or alcohol related offense within 24 hours of arrest, unless to do so is not possible. In that case, notification must occur at the earliest opportunity and no later than the employee's first scheduled shift;
7. Fail to notify Washoe County Human Resources in writing upon conviction of a criminal drug or alcohol conviction, whether by guilty plea or adjudication.

**B. Employees and Supervisors: How to Report and Deal with a Concern of Problematic Use of Drugs or Alcohol**

1. *Employees:* If your use of drugs or alcohol is affecting your ability to do your job or your workplace, please seek help immediately. EAP and medical insurance provide confidential treatment options.
2. *Employees:* If you are taking a prescription or over-the-counter drug that affects your ability to perform your job, you should let your supervisor or Human Resources know. You may need an accommodation that will allow you to continue treatment and perform your job duties. The information you provide is confidential and will be used only to ensure safety and provide accommodations.
3. *Co-Workers:* When you think an employee may be misusing drugs or alcohol, please do not ignore the problem or cover up the person's negative behavior. You should let your supervisor or Human Resources know. Do not worry about jeopardizing the person's job. Washoe County wants employees to seek treatment and/or accommodations. Any needed action will be considered on a case-by-case basis.
4. *Co-Workers who witness present impairment:* When you witness and/or suspect that another employee has used or is under the influence of drugs or alcohol, you should act immediately. Employees should:
  - a. Observe physical and mental signs of behavior;

- b. Immediately inform your supervisor or HR Rep. If not available, please contact Human Resources directly.
5. *Supervisors/HR Reps:* Supervisors/HR Reps who witness or are told about an employee's suspected use/impairment should:
- a. Evaluate the information received and make casual contact with the employee to make initial observations.
    - i. If you cannot confirm any issues, no further action is necessary.
    - ii. If you are unsure, seek assistance from another supervisor/HR Rep. Use your discretion in the information you share. You might want to tell the supervisor only that you are concerned with the employee's behavior and not mention drugs/alcohol so as not to influence the other person.
  - b. If appropriate, immediately relieve the employee from duty and quietly remove the employee to a private area away from the work area (like your office or a conference room).
  - c. Attempt to determine if there is a possibility of a medical crisis. When in doubt, call 911 and request an ambulance.
  - d. If there does not appear to be a medical emergency, advise your next in the chain of command. They will determine if more notification is required (i.e., Department or Division Head).
  - e. Once everyone is notified, selected employees will jointly meet with the employee. *This meeting should not be one-one-one.* The purpose of the meeting is to ask for an explanation regarding the observations about the performance and behavior or fitness for duty of the employee.
    - i. *Example Question:* "Joe, I noticed the following things in your performance or behavior today at work. You are slurring your words and seem sleepy. Can you explain why?"
    - ii. Document the employee's response. Please be aware that medication reactions and physical illnesses may mimic signs of impairment and intoxication.

- f. Based on the response, you may ask the following types of questions:
  - i. *Example Question: "Have you been drinking alcohol or using any drugs today?"*
  - ii. *Example Question: "Do you have a medical condition or are you taking any medication that would explain what I am seeing in your performance, behavior or fitness for duty?"* If the employee volunteers this information you can take action upon the disclosure and ask for a medical release allowing them to return to work – even with conditions.
  - iii. *Do not ask about the identity or type of medication the employee is taking but focus on impairment.* Regardless of any disclosure, if you witness impairment, explain your observations and inform the employee that they must obtain a written release from their health care provider that the medical condition or medication being taken will not affect their ability to perform their job safely. They may not continue to work or be scheduled to work again until the employee provides this release to Human Resources.
  - iv. Don't accuse the employee of using alcohol or drugs or being under the influence, impaired or high. Only a drug and alcohol test can provide objective proof of alcohol or drug use. Keep your discussion focused on safety and ability to do the job (fitness for duty).
  - v. *If the employee admits to alcohol or drug use on the job, relieve the employee of duties and arrange for transportation home. Inform the employee that he or she is to report to the Department Head (or appropriate staff) prior to beginning his/her next scheduled work day.*
  - g. *If the employee provides no explanation and you feel he or she is unfit to work, state: "Based on my observations of your behavior or performance today at work I feel you are unfit for duty."* Inform the employee that they are relieved of duty and are expected to report to the Department Head (or appropriate staff) prior to beginning his/her next scheduled work day.
  - h. Arrange transportation (i.e., taxi) home for the employee.

- i. If the employee refuses transportation, attempt to persuade the employee to change his/her mind.
  - ii. Do not detain or physically restrain the employee. In cases where the employee refuses transportation and the employee's condition suggests that the employee presents a potential or actual safety risk to themselves or other drivers, tell the employee you will notify the police by calling 911. Seek corroborating witnesses to verify the employee's refusal of transportation.
  - iii. When calling 911, state: "I am calling because I am concerned about an employee by the name of...Based on my observations of his/her behavior and performance today at work, I am concerned about his/her ability to operate a motor vehicle." Relay your observations but do not voice an opinion about alcohol or drug use or imply that the employee has an alcohol or drug problem. Your explanation should indicate that the employee has been relieved of duty.
- i. *Complete a report.* Any person involved with the employee incident will complete a report documenting the events, making a detailed record of all actions, observations, statements and other pertinent facts. The HR Rep shall maintain those documents.
  - j. The Department Head (or designated staff) should consult with Human Resources to determine a course of action upon employee's return to work.

### **C. Consequences for Policy Violations**

Employees who violate any of the conditions of this policy may be subject to discipline up to and including termination at Washoe County's sole discretion. Policy violations such as the use of alcohol (including possession of an open container) or any illegal drug activities (including the possession, sale or use of illegal drugs) while on duty, on County premises or on County business may result in immediate termination. Impairment as a result of use may also be a basis of discipline. Individuals who refuse to cooperate with the County's policy, including investigation, in any way may be subject to immediate termination.

### III. ADMINISTRATION OF POLICY

#### A. Responsibility

Human Resources is responsible for the administration of this policy. If you have any questions regarding this policy or questions about the process for suspected use by employees, please contact Human Resources directly.

#### B. Documentation and Confidentiality Process

The Department will document all actions in relation to this policy and any employee's suspected use and actions taken. Information, reports, statements and medical records related to this process will be maintained as confidential. No such information will be released without the written consent of the employee unless the release is on a need-to-know basis, is relevant to a legal claim asserted by the employee or is otherwise required by law. Personnel actions, such as discipline, will be placed in personnel files according to any applicable County policies and collective bargaining agreement provisions.

#### C. Non-Discrimination

Washoe County does not discriminate against any qualified individuals with a disability. *(See Washoe County's ADA Policy - Disability Accommodations and Anti-Discrimination which can be found on the Human Resources website under the Policies, Procedures and Forms page.)*

1. *Alcohol* – The disease of alcoholism meets the definition of a disability. Washoe County may make reasonable accommodations after engaging in an interactive dialogue. Reasonable accommodations are determined on a case-by-case basis.
2. *Drugs* – A drug addict is protected as having a disability only if he or she is receiving recovery treatment and is not a current user. Reasonable accommodations may be made after engaging in the interactive process on a case-by-case basis.
3. *Performance Standards to be Maintained* – Washoe County may hold all employees to the same standards of performance and conduct, even those with a disability. An employee who cannot meet those standards because of

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drug or alcohol use may be disciplined and ultimately terminated, even if the employee is an alcoholic or drug addict.

4. A current disability of any kind does not entitle an employee and/or job applicant to violate any provisions of this policy.