

RESOLUTION AMENDING RESOLUTION NO. 2024-13 REGARDING THE BEREAVEMENT POLICY (12.5), LEADERSHIP TRAINING POLICY (7.3) AND DRUG FREE SAFETY PROGRAM POLICY (8.3) OF THE ASHTABULA COUNTY PERSONNEL MANUAL

WHEREAS, the Ashtabula County Personnel Manual was adopted on January 4, 2024 by Resolution 2024-13; and,

WHEREAS, Jessica Brundage, H. R. Director has presented amendments to said policy and Resolution No. 2024-13, to wit:

AMEND LEADERSHIP TRAINING Section 7.3 to read the following:

Ashtabula County Leadership Training Section 7.3

The Ashtabula county Commissioners encourage and fully support continuing education for All County employees and strongly recommend leadership training for their management personnel.

The following policy will be followed in the selection of candidates and the administration of the leadership training:

The program attendance is available only to management personnel who have one (1) year or more of service with the County.

No more than two (2) managers will be given permission to attend the program each year.

No more than one manager from a department will be allowed to attend the program each year.

Ashtabula County will pay the full cost of Leadership Ashtabula Training. It is expected that personnel approved for leadership training will attend all leadership sessions and successfully complete the course.

Personnel approved for the leadership-training course are required to remain employed by the County for at least one (1) year after completing the course. In the event an employee must terminate his/her employment with the County before completing a full year after completing the leadership program, the employee will refund to the County the amount paid to leadership training on behalf of the employee.

AMEND SECTION DRUG-FREE Safety Program 8.3 to read the following:

I. STATEMENT OF POLICY

Ashtabula County believes that it is very important to provide a safe workplace for all of its employees. Ashtabula County is taking steps to address the problem of substance use that negatively affects every workplace, including ours. We are concerned with the health and well-being of all employees. Behaviors related to substance use can endanger all employees, not just substance users. We cannot condone and will not tolerate behaviors on the part of employees that relate to substance use, such as:

1. Use or misuse of illegal drugs to include all drugs under federal, state or local law regardless of when or where the use occurs;
2. Misuse of alcohol;
3. Sale, purchase, transfer, trafficking, use of possession of any illegal drugs;
4. Arrival or return to work under the influence of any drug (legal or illegal) or alcohol; to the extent that job performance is affected.

Management is fully committed to our Drug-Free Safety Program which establishes clear guidelines for acceptable and unacceptable employee behavior for everyone in the workplace. We will not tolerate substance use in violation of this Policy and will to hold everyone reasonably responsible for supporting this Policy.

This policy describes our County's Drug-Free Safety Program, and every employee is expected to read and understand it. The Policy applies to every employee including management, and also applies to contractors and subcontractors we may use. The consequences stated in this Drug-Free Policy will apply to anyone who violates the Policy.

Our Policy covers four key parts of the County's program. The four parts are:

- A written policy that clearly spells out the program rules and how everyone benefits.
- Annual substance awareness education for all employees.
- Training for supervisors regarding their responsibilities.
- Drug and alcohol testing, the most effective way to change harmful behaviors related to substance use.

Employees will have the opportunity to receive information about how substance use is a problem affecting the workplace. You will learn the signs and symptoms, dangers of use, and how and where to get help for yourselves and your families. Jamie Arcaro, Works Comp. & Risk Specialist, will be the Drug-Free Safety Program Administrator so everyone knows who to go to for information or help. The Administrator will be responsible for arranging drug and alcohol testing, as needed, and will have a list of places that employees can turn to for help for themselves and/or their families. The Administrator will also arrange knowledgeable presenters to educate our employees about substance use.

Protection for Employees

This program is designed to protect employees from the behaviors of substance use. Some of the protections built into the program are:

- Employee records such as testing results and referrals for help will be kept confidential. Information will be on a need-to-know basis. Any violation of confidentiality rights is subject to disciplinary action up to and including termination of employment.
- We're committed to employees who have a substance problem getting help. Each situation will be reviewed individually. A list of resources is available through our Drug-Free Administrator. We want you to come forward if you have a substance problem so you may get the help you need.
- All supervisors will be trained in their duties related to testing.
- Collection of urine specimens and breath testing will be done at a local clinic, and urine drug test specimens will be analyzed by a laboratory certified by the federal government. These labs use the highest level of care in ensuring that results are precise and reflect accuracy in detecting the substances that the County is concerned about. If these substances are present in sufficient quantity, it could lead to behaviors that may hurt the person or other employees. The lab will work closely with our local clinic to ensure fairness and accuracy of every test, and we also have a Medical Review Officer (called an MRO), a trained physician, responsible for checking whether there's a valid reason for the presence of the substance in the employee's system. The MRO is an expert in drugs and alcohol. When the MRO receives positive test results, the MRO will contact the employee and any appropriate health care provider to determine whether there is a valid reason for the presence of the drug in the person's system.
- The testing program consists of an initial screening test. If the initial results are positive, then a second test is used. Cut-off levels for each drug and for alcohol are established for what will be considered a positive test. These levels show that the employee ingested the substance themselves and it was enough to affect workplace safety and the ability to do the job. These cut-off levels come from federal guidelines and are fair for all employees.

Supervisor Training

Supervisors will be trained to recognize substance problems that may endanger the employee and others as well as violate this Policy. This training is in addition to the employee education session. Supervisors will be trained about testing responsibilities, how to recognize behaviors that demonstrate an alcohol/drug problem and how to make referrals for help. The County will provide supervisors with mandatory skill building training in support of your written DFSP policy. The County will provide two hours of initial skill-building training within four months of the initial program year and one-hour refresher skill-building training annually thereafter.

Drug and Alcohol Testing

Testing will be used to detect problems as well as to encourage employees to refrain from the use of substances in a way that violate our Policy. This will allow the County to take appropriate action to correct the situation and provide a safe working environment for all employees. In addition to alcohol, the drugs that we are testing for include:

Amphetamines/Methamphetamines	Opiates	Propoxyphene
MDMA	6-Acetylmorphine	Creatinine, urinary
Barbiturates	Phencyclidine	Nitrites
Benzodiazepines	Marijuana (THC) Metabolite	Urine pH
Cocaine Metabolite	Methadone	Alcohol

The County also reserves the right to add or delete substances on the list mentioned without warning or notification, especially if mandated by changes in existing Federal, State or local regulations or law.

II. WHEN WILL A TEST OCCUR?

Employees will be tested for the presence of drugs in the urine and/or alcohol on the breath under any and/or all of the conditions outlined below:

A. Post-Offer, Pre-Employment Drug Testing

As part of the County’s employment procedures, all new applicants and current employees transferring to a new position, department or agency within the County will be required to undergo a post-offer/pre-employment drug screen conducted by a contractor designated by the County prior to the first day of employment.

B. Reasonable Suspicion Testing

Reasonable suspicion testing will occur when management has reason to suspect that an employee may be in violation of this Policy. The suspicion will be documented in writing prior to the release of the test findings. Reasonable suspicion testing will only occur when deemed necessary for the continued safety or each employee. A reasonable suspicion test may occur based on:

1. Observed behavior, such as direct observation of drug/alcohol use or possession and/or physical symptoms of drug and/or alcohol use;
2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for drug-related offense, or identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notification of the County, within five (5) working days, of any drug-related conviction;
4. Information provided either by reliable and credible sources or independently corroborated regarding an employee’s substance use; or
5. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

Reasonable suspicion testing does not require certainty but mere “hunches” are not sufficient to justify testing. To prevent this, all managers/supervisors will be trained to recognized drug and alcohol-related signs and symptoms. Testing may be for drugs or alcohol or both.

C. Post-Accident Testing

Post-accident testing will be conducted when an accident occurs, regardless of whether there’s an injury. We consider an accident an unplanned, unexpected or unintended event that occurs on our property, during the conduct of our business, during working hours, which involves one of our motor vehicles or motor vehicles that are used in conducting County business, or is within the scope of employment, and which results in any of the following:

1. A fatality of anyone involved in the accident;
2. Bodily injury to the employee and/or another person that requires off-site urgent care medical attention away from the County’s place of employment;
3. Any and all vehicular accidents.

When such an accident results in one of the situations below, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

Drug and/or Alcohol Testing after an Accident

Urine specimen collection (for drugs) or breath/saliva (for alcohol) is to occur as quickly as possible after a need to test has been determined. At no time will a post-accident drug screen be collected after 32 hours from the time of an employment-related incident. Breath or saliva alcohol testing will be performed as quickly as possible, but no later than eight hours after the incident. If these time frames are not adhered to, documentation stipulating the reason must be completed. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee grants the County the right to request that attending medical personnel obtain appropriate specimens (breath, urine and/or blood) for the purpose of conducting alcohol and/or drug testing. Further, all employees grant the County access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the work-related accident including a full medical report from the examining physician(s) or other health care providers. A signed consent to testing form is considered a condition of employment. Management reserves the right to determine who may have caused or contributed to a work-related accident and may choose not to test after minor accidents if there is no violation of a safety or work rule.

III. SUBSTANCES TO BE TESTED FOR AND METHODS OF TESTING

The procedure that we're relying on is called systems presence testing. This is how qualified testing professionals identify the presence of one or more of prohibited controlled substances or alcohol that may be present in the employee. There is an initial screening test. If it is negative, then a negative test is declared. If the initial test is positive (comes in at or higher than the cut-off level), a second test called a "confirmatory" test is done. This is a different test and is considered accurate by industry experts as well as admissible in court. Cut-off levels are standards that have been established for each of the tested drugs after years of research. These levels will be used to interpret all drug screens, whether for a pre-employment examination, random test, reasonable suspicion test, post-accident test or follow up test.

Breath alcohol testing will be conducted by a clinic that uses only certified equipment and personnel. Breath alcohol concentrations exceeding .04 will be considered a verified positive result. In the event of an accident where "whole blood" alcohol drawn at a medical treatment facility, a result equal to or greater than .04 shall be considered to be a verified positive result. An Evidentiary Breath Test (EBT) will typically be used to confirm any initial positive test result.

An employee who adulterates, attempts to adulterate or substitutes a specimen or otherwise manipulates the testing process will be terminated. A refusal to produce/provide a specimen is considered a positive test unless there's a verifiable medical reason that the specimen could not be produced.

IV. SPECIMEN COLLECTION PROCEDURE

Urine specimens and breath testing will be conducted by trained collection personnel who meet standards for urine collection and breath alcohol testing. Confidentiality is required from our collection sites and labs. Employees are permitted to provide urine specimens in private, but subject to strict scrutiny by collection personnel so as to avoid any alteration or substitution of the specimen.

Breath alcohol testing will likewise be done in an area that affords the individual privacy. In all cases there will only be one individual tested at a time. Failure to appear for testing when scheduled shall be considered refusal to participate in testing, and will subject employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. A monitored urine collection will only occur if there are grounds for suspecting manipulation of the testing process.

V. REVIEW OF TEST RESULTS

To ensure that every employee who is tested is treated fairly, a Medical Review Officer ("MRO") will be utilized to verify positive results. The MRO is a doctor with a specialized knowledge of substance abuse disorders and will be able to determine whether there are any valid reasons for the presence in the employee's system of the substance that was tested positive.

MARIJUANA

The legalization of Medical Marijuana in Ohio (or the legalization of medical or recreational marijuana use in any other state) does not change the intent and enforcement of this County policy. Marijuana use, whether for medical use or recreational, is not permitted per County policy and will be subject to all consequences set forth in this policy up to and including possible discharge from employment.

VI. EMPLOYEES' RIGHTS WHEN THERE'S A POSITIVE TEST RESULT

An employee who tests positive under this Policy will be given an opportunity to explain the findings to the MRO prior to the issuance of a positive test result to the County. Upon receipt of a confirmed positive finding, the MRO will attempt to contact the employee by telephone or in person. If contact is made by your MRO, the employee will be informed of the positive findings and given an opportunity to deny or explain the findings. The MRO can request information on recent medical history and on medications taken within the last thirty days by the employee. If the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position (for example, the names of treating physicians, pharmacies where prescriptions have been filled, etc.). A failure on the part of the employee to provide such documentary evidence will result in the issuance of a positive report by the MRO with no attendant medical explanation.

VII. REPORT OF RESULTS

All test results will be reported to the MRO prior to the results being issued to the County. The MRO will receive a detailed report of the findings of the analysis from the testing laboratory. Each substance tested for will be listed along with the results of the testing. The County will receive a summary report, and this report will indicate that the employee passed or failed the test. All of these procedures are intended to be consistent with the most current guidelines for Medical Review Officers, published by the Federal Department of Health and Human Services.

VIII. STORAGE OF TEST RESULTS AND RIGHT TO REVIEW TEST RESULTS

All records of drug/alcohol testing will be stored separately and apart from the employee's general personnel documents. These records shall be maintained under lock and key at all times. Access is limited to designated County officials. The information contained in these files shall be utilized only to properly administer this Policy and to provide to certifying agencies for review as required by law. Designated employees that shall have access to these records are charged with the responsibility of maintaining the confidentiality of these records. Any breach of confidentiality with regard to these records may be an offense resulting in termination of employment. Any employees tested under this Policy have the right to review and/or receive a copy of their own test results. Any employee may request, by means of a written request signed by the employee, a copy of the test results. The County will use its best efforts to promptly comply with this request and will issue to the employee a copy of the results personally or by U.S. Certified Mail, Return Receipt Requested.

IX. POSITIVE TEST RESULTS

- 1. Post-Offer, Pre-employment
 - a. Employment opportunity will be relinquished and applicant will not be reconsidered for employment for at least 1 year and must have approval of senior management.
- 2. First Positive Result
 - a. First Positive result
 - A. Must have a Substance Abuse Professional conduct a substance abuse assessment at the cost of the County scheduled within 7 business days of notified results.
 - B. Employee must compete a last chance agreement
 - C. Must follow all recommendations provided by the substance abuse assessment.
 - D. Subject to drug and/or alcohol testing for up to 2 years. In addition to testing at the discretion of the County, the individual will also remain in the random testing pool.
 - E. Conditions for returning to work.

1. Completion of rehabilitation program or return to work as recommended by the Substance Abuse Professional/Employee Assistance Professional.
2. Must pass a return-to-work drug and/or alcohol screen.

X. TERMINATION NOTICES

In those cases where substance testing results in the termination of employment, all termination notices will list "misconduct" as the reason. Termination shall be deemed "for cause".

XI. DISCIPLINARY ACTIONS

1. Any employee determined by The County to have engaged in the creation, manufacture, distribution, dispensing, possession, or is determined to be under the influence of drugs and/or alcohol while on the County's premises or while conducting County business will be subject to corrective action up to and including termination.

Any employee who refuses to sign a consent form at a testing facility shall be subject to termination.

2. Any applicant for hire testing positive will not be considered for employment for a period of 1 year.

XII. EMPLOYEE RESOURCES

Employees needing help with Drug and/or Alcohol dependencies can utilize the list of resources below. This is not a comprehensive list.

Community Counseling Center
2801 C Court
Ashtabula, OH 44004
440-998-4210

Glenbeigh
2863 State Route 45
Rock Creek, OH 44084
800-234-1001

Lake Area Recovery Center
2801 C Court
Ashtabula, OH 44004
440-998-0722

Signature Health
4726 Main Ave.
Ashtabula, OH 44004
440-992-8552

BrightView
2210 South Ridge Road East
Ashtabula, OH 44004
833-510-4357

EAP
877-327-4456
Guidanceresources.com
Wed ID: EAPCEB

XIII. EXEMPTIONS AND REASONABLE ACCOMMODATIONS

The County recognizes that many prescriptions and over-the-counter medications may fall within the above prohibitions. It is the responsibility of the employee to report to his or her Manager or Human Resource Director or designated representative the current use of any prescription or over-the-counter drug that may impair his or her performance, for his or her own safety and the safety of others.

Information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided to the MRO shall be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed where relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

XIV. DEFINITIONS

1. Drug- for the purpose of this policy, the definition of a “drug” includes alcoholic beverages, legal and illegal controlled substances, narcotics, hallucinogens, depressants, stimulants, inhalants and other substances capable of creating or maintaining effects on one’s physical, emotional, or mental state. Any such drugs may be included in the testing program.
2. Drug paraphernalia- for the purpose of this policy, is any material or equipment used or designed for use in testing, packaging, storing, injecting, ingesting, inhaling, or otherwise introducing into the human body any illegal or authorized drugs covered by this policy.
3. Controlled Substances- for the purpose of this policy, chemical substances and drugs controlled under the laws of the United States of America or by appropriate state law.
4. County Property/Premises- for the purpose of this policy, includes all property facilities, land, offices, buildings, structures, fixtures, installations, equipment, automobiles, trucks, vehicles, and parking area’s whether they are owned leased, used, or under the control of the County.
5. Detectable levels/identifiable trace quantities- for the purpose of this policy, is the measurable presence of an illegal or prohibited rug or substance found in the body fluids at levels of detection above the lowest cutoff levels, as established by the analytical methods used by the testing laboratory.
6. “Working under the influence”- for the purpose of this policy, the use of drugs or alcohol on or off duty which results in a positive test after a test is administered based upon one of the testing circumstances described above.

XI. MANAGEMENT RIGHTS

Management retains the right to amend the provisions of this policy when applicable Federal, State, or Municipal Law so indicates. Such right to amend under this circumstance is not limited to the necessity as required by the applicable statute.

XII. Drivers with CDLs and the FMCSA Drug and Alcohol Clearinghouse

Ashtabula County is committed to complying with the Federal Motor Carrier Safety Administration’s (FMCSA) Drug and Alcohol Clearinghouse. The County will report failed and refused drug and alcohol tests by CDL drivers.

Additionally, the County will conduct the required queries of the FMCSA Clearinghouse annually and during the pre-employment process in order to ensure driver eligibility to perform safety-sensitive functions, including driving a commercial vehicle. In order for the County to conduct the necessary queries, employees and applicants are required to complete the required written consent.

Consistent with the FMCSA Clearinghouse requirements, the County shall conduct a full query of the Clearinghouse of each pre-employment driver during the background investigation process.

The County will conduct limited queries, at least annually, for all employers required to possess and maintain a CDL.

The County will report all drug and alcohol program violations to the FMSCA Clearinghouse, including negative return-to-duty test results, as well as, the date of the successful completion of a follow-up testing plan for any driver with unresolved drug and alcohol program violations.

The County will report the following to the FMSCA Clearinghouse:

- Alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- A negative return to duty test result;
- A refusal to submit to a drug or an alcohol test;
- A refusal to test determination made in accordance with 49 CFR 40.191;
- A report that the driver has successfully completed all follow-up tests;
- Verified positive, adulterated, or substituted drug test result;
- Pre-duty or on-duty alcohol use;
- Drug use as defined in the regulations;
- The County's report of completion of follow-up testing;
- Other results required by law.

The County will not report drug and alcohol testing results outside of DOT required tests.

In the event a driver refuses consent during the pre-employment screening process, the County shall not hire the driver. In the event a current employee refuses to give consent, the employee may be disciplined, up to and including termination. Further, a current employee refusing consent may be found to be incapable of performing their essential job duties as they will not be permitted to drive. A driver cannot drive until the query is conducted. If a query of a current employee returns notice that a drug or alcohol violation exists, a full query will be conducted upon the receipt of specific consent by the employee.

CDL drivers may petition to correct FMCSA Clearinghouse records.

ADD SECTION 12.5, as follows:

Ashtabula County Bereavement Policy

Employees shall be granted up to three (3) days of paid leave due to the death of a spouse, domestic partner, parent, brother, sister, child, grandchild, niece, nephew, mother and father in-law and brother and sister in-law, grandparents, step-children, step parents and step siblings. This leave shall not count against an employee's sick, vacation, personal or compensatory leave balance. Employee

If any Appointing Authority desires to develop an alternative policy or schedule, it must be sent in writing to the attention of the Board of Commissioners so they may officially accept and file the policy and/or schedule. A copy of any alternative schedule must also be provided to the County Auditor for payroll system adjustments.

WHEREAS, the changes are more fully outlined in the attached exhibits; and

WHEREAS, this Board of Commissioners has reviewed the proposed changes and agree with the amendments to Resolution No. 2024-13; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio, that Resolution No. 2024-13 regarding the Ashtabula County Personnel Policy is hereby amended as outlined above and further in the attachments.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2024-115

February 20, 2024

**RESOLUTION AMENDING RESOLUTION NO. 2024-13 REGARDING THE
BEREAVEMENT POLICY (12.5), LEADERSHIP TRAINING POLICY (7.3) AND DRUG
FREE SAFETY PROGRAM POLICY (8.3) OF THE ASHTABULA COUNTY
PERSONNEL MANUAL**

Upon the motion of Casey R. Kozlowski, seconded by J.P. Ducro IV.

VOTE:

**Kathryn L. Whittington
J.P. Ducro IV
Casey R. Kozlowski**

**Aye
Aye
Aye**

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio