

A. PURPOSE:

The Substance Abuse Program is established to assist in maintaining a safe, healthy and productive work environment for all employees and further provides guidelines for the detection and deterrence of alcohol and drug abuse. The Superior Court will work to eliminate any substance abuse (alcohol, illegal drugs, misuse and/or abuse of prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular position in which employed) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or tends to undermine public confidence in the administration of justice. All persons covered by this Rule should be aware that violations of this Rule may result in discipline for existing employees, up to and including dismissal, or for applicants, in not being hired.

B. EMPLOYEE RESPONSIBILITIES:

An employee must:

1. Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to alcohol or drug use, on or off duty;
2. Not possess, manufacture or use, or have the odor of alcohol or drugs on his/her breath during working hours, on breaks, during meal periods, while on Court property in an official capacity or while operating any Court vehicle. Exceptions to this Rule may exist in certain public safety assignments;
3. Not directly or through a third party dispense or distribute drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or "on-call";
4. Submit immediately to reasonable requests for alcohol and/or drug analysis when requested by a Division Head or other supervisory personnel;
5. Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of assigned equipment;
6. Provide, within twenty-four (24) hours of request, a current valid prescription for any drug or medication identified when a drug screen/analysis is positive. The prescription must be in the employee's name;
7. Notify his/her immediate supervisor in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction.

C. MANAGEMENT RESPONSIBILITIES AND GUIDELINES:

1. Division Heads and supervisors are responsible for consistent enforcement of this Rule. Any supervisor who knowingly permits a violation of this Rule by employees under his/her direct supervision shall be subject to disciplinary action.
2. Division Heads and supervisors may request that an employee submit to a drug and/or alcohol analysis when a Division Head or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. "Reasonable suspicion" is a belief based on objective and articulated facts sufficient to lead a reasonable prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.
3. Any of the following, alone or in combination, may constitute reasonable suspicion:
 - a. Slurred speech, dilated pupils, and/or other physical signs;
 - b. Alcohol on breath;
 - c. Inability to walk a straight line;
 - d. An accident involving Court property;
 - e. Physical altercation;
 - f. Verbal altercation;
 - g. Behavior which is so unusual that it warrants summoning a supervisor or anyone else with authority;
 - h. Possession of alcohol or drugs;
 - i. Information obtained from a reliable person with personal knowledge.
4. Any Division Head or supervisor requesting an employee to submit to a drug and/or alcohol analysis should immediately notify the Court Administrator or his/her designee(s) to meet him/her to observe the employee's behavior. Should the Court Administrator or his/her designee(s) concur that there may be a reasonable suspicion, the following procedure shall immediately be applied:

- a. The Division Head or supervisor shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
 - b. Any Division Head or supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the designated medical services provider where a drug and/ or alcohol test shall be required.
 - c. Any Division Head or supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and consequences of this Rule. Any employee refusing to submit to a drug and/or alcohol test shall not be forced to submit to such testing. The Division Head or supervisor should ask the employee to wait a reasonable time until an authorized Court representative can transport the employee home.
 - d. Division Heads and supervisors shall not physically search employees.
 - e. Division Heads and supervisors shall notify the Presiding Judge or if not immediately available, the County Sheriff's Department when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the Court.
 - f. Division Heads and supervisors shall not confiscate, without written consent, prescription drugs or medications from an employee who has a prescription.
- 5 Results of Drug and/or Alcohol Analysis for Employees:
- a. Upon a negative result, the employee shall return to work and job performance shall continue to be monitored.
 - b. If the test is positive, the following shall apply:
 - 1) An employee, may, at his/her own expense, obtain another set of test results, using the same sample or a duplicate sample obtained at the same time, from an independent lab, and if these results differ from the ones obtained in the tests conducted at the Court's request, the Court may require further testing.
 - 2) If, from test results, an employee in a public safety position is determined to be abusing drugs or alcohol, such employee may be immediately dismissed.

- 3) If, from test results or other information, an employee is determined to be abusing drugs or alcohol and job performance is affected, the Court shall require that the employee undergo an evaluation and join a recognized treatment program (if deemed appropriate by the evaluation). The Court and the employee may enter into an Agreement detailing the conditions of the employee's return to work. Said Agreements shall include additional testing for up to two years. During treatment, periodic reports shall be submitted to the Court on the employee's progress. Such employee will be granted PTO leave or allowable EIB credits to attend any required meetings. The Court will cover the cost of the testing but will not provide for the cost of the program other than that provided under the health insurance program. Failure to submit to rehabilitation testing when required, or complete any treatment program as prescribed, may be grounds for dismissal or other disciplinary action.
- 4) The Court reserves the right to require an employee to take a leave of absence from employment pending evaluation and treatment at any time when the employee's ability to perform his/her job appears to be affected by a drug or alcohol abuse program. Prior to an employee's return to work after such an absence, the Court and the employee may enter into an Agreement detailing the conditions of the employee's return to work. Said Agreement shall include additional testing at any time for up to two (2) years.
- 5) The above policy (Rule 507(C)(5)(b)(1-4)) applies only to classified employees who have completed the original probationary period. Probationary employees can be terminated at any time they are suspected to be abusing drugs or alcohol, as demonstrated through impaired job performance or are found to be using drugs (other than those prescribed by a physician and being legally used) or alcohol on duty. Under such circumstances, testing may be required, at the discretion of the Court, of probationary employees suspected of substance abuse.

D. PHYSICAL EXAMINATION AND PROCEDURE FOR APPLICANTS:

1. Pre-placement physical examinations are required for all initial appointments and any subsequent appointment by an employee to another position which requires a greater degree of physical activity than the employee's current position. As part of these examinations, a drug screening shall be given.
2. The drug analysis may test for any substance which could impair an employee's

ability to effectively and safely perform the functions of his/her job, including, but not limited to prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, methaqualone, marijuana and other cannabinoids. The analysis shall be conducted in accordance with established clinical procedures.

3. After the drug analysis is completed, the sample shall be processed in accordance with established clinical procedures.
4. A confirmatory analysis after an initial positive result shall be conducted in accordance with established clinical procedures.

E. RESULTS OF DRUG ANALYSIS FOR APPLICANTS:

1. Pre-placement physicals:
 - a. A positive result from a drug analysis may result in the applicant not being hired.
 - b. If an analysis is positive for drugs, the Presiding Judge shall decide whether the applicant may be hired after considering all relevant information (discussion with the designated physician, medical history, position applied for).
2. Promotional physicals:
 - a. A positive result from a drug analysis shall result in the individual not receiving the promotional position sought and may result in counsel and/or disciplinary action, up to and including dismissal. Employees employed in positions involving public safety may be dismissed with the first offense. Prior to any disciplinary action being taken, the Division Head shall consult with the Presiding Judge and the decision to discipline or discharge shall be carried out in conformance with the Court's disciplinary procedures.
 - b. If a drug analysis is positive, the Division Head shall conduct an investigation to gather all facts. Division Heads may seek the assistance of the Court Administrator in conducting an investigation. At the conclusion of the investigation, the Division Head shall prepare a report detailing the results of the investigation and provide the Court Administrator with a copy of the report for filing of record in the master personnel file.
 - c. The provisions of Rule 507(C)(5) above, shall also be applicable if a positive result occurs during the promotional physical.

F. CONFIDENTIALITY:

1. Laboratory reports or test results shall appear in an employee's confidential medical file. The reports or test results may be disclosed to Court management staff on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by laws or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; and (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
2. All exceptions to this Rule must be approved by the Presiding Judge.

G. SEVERABILITY:

The provisions of this Rule are severable; and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provision.

H. AWARENESS INFORMATION:

Periodically, the Court Administrator shall provide information to Judicial service personnel regarding drugs and alcohol and their effects. In compliance with the Drug-Free Workplace Act of 1988, a drug/alcohol awareness program will be ongoing. All personnel are expected to participate in the program.