

YAKIMA COUNTY
ALCOHOL AND DRUG FREE WORKPLACE POLICY
POLICY NO. HR-016

I. PURPOSE

It is the policy of Yakima County to maintain a safe, healthful, and productive work environment for all employees. This policy provides guidelines for the detection and deterrence of alcohol and drug abuse in Yakima County in accordance with WAC 296-800-11025, the Drug-Free Workplace Act, and other applicable laws. It also outlines the responsibilities of managers and employees. The County will act to eliminate any substance use or abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or damage to the County's reputation or property.

The objectives of this policy include:

- 1) Increasing employee awareness of the aid available through the Employee Assistance Program (EAP) and the dangers of alcohol and drug use
- 2) Recognizing the changes or problems in employee work, safety, attendance, performance, and/or other behavior which may identify potentially affected employees
- 3) Properly addressing incidents of employee alcohol and drug use/abuse by any or all of the following:
 - Encouraging affected employees to seek appropriate assistance;
 - Establishing corrective action plans, when necessary, which require affected employees to participate in and successfully complete approved rehabilitation programs;
 - Developing and implementing return-to-work agreements with affected employees which may require periodic random drug and/or alcohol testing; and/or
 - Administering appropriate discipline, up to and including discharge, for violations of this policy.

Misuse of alcohol and drugs will not be tolerated by Yakima County. This policy is intended to be administered in conjunction with procedures outlined in Yakima County Personnel Rules and Regulations and/or Collective Bargaining Agreements.

In recognition of the serious duty entrusted to the employees of the County, with knowledge that alcohol and drugs do hinder a person's ability to perform duties safely and effectively, the following policy against alcohol and drug abuse is hereby adopted.

This policy supersedes any previous Alcohol and Drug Free Workplace policies of Yakima County including Policy Regulation No. 27-J. Provisions of negotiated collective bargaining agreements (labor contracts) which conflict with this policy take precedence over this policy to the extent applicable.

II. APPLICATION

This policy applies to all applicants for positions and employees (budgeted, extra help, volunteer) of Yakima County. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of their

job. Yakima County expects the full support of this policy by all employees and all persons doing business with the County. This policy applies:

- During all working hours;
- Whenever conducting business or representing the organization;
- While an employee is on call or on stand-by duty;
- While an employee is on company property, including County buildings, facilities, open spaces, vehicles, and equipment; or
- At company-sponsored events

Yakima County receives federal funding and must continue to maintain a drug-free workplace. Federal law considers marijuana a banned substance, and as such, all sections of this policy are applicable to marijuana possession and use. Additionally, employees who are required to have a commercial driver's licenses (CDL) must comply with drug testing regulations under federal law. Yakima County reserves the right to drug-test and discipline employees, up to and including termination, if they are found with any detectable amount of THC in their system.

Yakima County is required to conduct pre-employment queries for drug and alcohol related violations in the Federal Clearinghouse for current or prospective employees prior to hiring them into any position requiring a CDL, and to conduct annual queries for all employees currently employed in positions requiring CDLs. If consent is not obtained from each driver prior to running a query on their records, they will be removed from safety sensitive functions until consent is received.

III. POLICY

This policy relates to alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of their particular job. It is Yakima County's expectation that employees shall not:

- Report to work with alcohol or drugs in their system;
- Possess, while on duty or subject to being called;
- Utilize such substances while they are subject to duty;
- Sell or provide alcohol or drugs to anyone while such employees is on duty; or
- Have their ability to work impaired as a result of the use of alcohol or drugs.

While use of legally prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which may interfere with the safe and effective performance of duties or operation of equipment, can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, written clearance from a physician will be required.

The County reserves the right to search, without employee consent, all areas and property belonging to Yakima County including, but not limited to, lockers, desks, work stations, vehicles and equipment. In the event an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the County, the County shall notify law enforcement, as a warrant may be required to conduct a search.

Employees reasonably believed to have alcohol or drugs in their system shall be prevented from engaging in further work and shall be required to remain onsite for the duration of their shift or for a reasonable time until the employee can be safely transported from the work site.

Following a violation of the drug-free workplace policy, an employee may be offered an opportunity to participate in rehabilitation program. In such cases, the employee must sign and abide by the terms set forth in a Return-to-Work Agreement as a condition of continued employment.

IV. RESPONSIBILITIES

EMPLOYEE RESPONSIBILITIES: All employees shall:

1. Not report to work or be subject to duty while their ability to safely and effectively perform job duties could be impaired due to alcohol and/or drug use, on or off duty;
2. Not possess or use, alcohol and/or drugs (illegal drugs or inappropriate use of prescription medications) during working hours;
3. Not sell or provide alcohol and/or drugs to any person or to any other employee while either employee or both employees are on duty or on County property;
4. 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 County equipment; and
5. Notify the employer in writing within five calendar days of any criminal drug statute conviction for a violation occurring in the workplace.

SUPERVISOR RESPONSIBILITIES: In addition to the employee responsibilities list above, Supervisors also have the following additional responsibilities:

1. Inform employees of the drug-free workplace policy;
2. Refer employees to the Employee Assistance Program;
3. Clearly communicate consequences of policy violations; and
4. Notify Human Resources of policy violations and concerns

HUMAN RESOURCES RESPONSIBILITIES: Human Resources shall:

1. Provide new employees with a current copy of this policy and inform them that penalties may be imposed for violations of the policy;
2. Maintain an updated copy of this policy on the County Intranet, allowing access for County departments, offices, and current employees;
3. Act as a resource for County departments in administering the requirements of this policy;
4. When needed, assist departments with coordinating investigations of dangerous practices; and
5. Provide employees with information pertaining to the County Employee Assistance Program and ADA requirements.

V. PROCEDURES

In addition to providing employees with the County policy at time of hire, information and educational materials will be provided to familiarize all employees with the dangers of alcohol and/or drug abuse on an ongoing basis.

If an employee reports for work or performs work while in possession of, or with alcohol, drugs, or other substances in their system, which in any way affects safe physical performance and/or their mental judgment, they will be relieved from duty and will be subject to disciplinary action up to and including discharge.

Employees found to be manufacturing, selling or providing alcohol and/or other drug substances to anyone either on county premises or during work time are subject to immediate termination.

Refer to the County's Drug Testing Policy for procedures regarding drug testing employees, and an explanation of Safety Sensitive Positions, etc.

VI. NOTIFICATION REQUIREMENTS

Yakima County receives grants from U.S. Federal agencies and must comply with the provisions of the Drug-Free Workplace Act of 1988. These provisions include the following requirements:

If an employee is convicted for an offense that occurred in the workplace, the employee must notify the employer in writing within five days of the conviction. This notification requirement does not apply to drug offenses occurring *outside* the workplace, and employees are not required to report drug related *arrests*, only convictions.

Upon receiving notice of an employee's conviction of a criminal drug related offense which occurred in the workplace, Yakima County must provide written notice to the person or office in the Federal Agency from which a grant or contract is received. This notification will occur within ten (10) days after receiving notification of a conviction or otherwise receiving actual notice of such conviction (i.e. co-worker, newspaper, etc.);

Yakima County will take one of the following actions within thirty (30) calendar days of receiving notice, with respect to any employee who is convicted:

- (a) Take appropriate personnel action against such employee, up to and including termination.
- (b) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or Local health, Law enforcement or other appropriate agency.

In addition to the requirements under the Drug-Free Workplace Act, Yakima County has the following notification requirements:

If an employee is cited, arrested, or convicted for an offense occurring outside the workplace where the consequences of such action pertain to the qualifications of his/her position with the County, the employee must notify their supervisor within 5 calendar days of the conviction. (i.e. if an employee drives a County vehicle or equipment and has their license suspended or revoked due to a driving infraction outside of work.)

Yakima County or its Third Party Administrator will report the following information about CDL drivers to the Federal Motor Carrier Safety Administration Clearinghouse:

- 1) A verified positive, adulterated, or substituted controlled substance test result;
- 2) An alcohol confirmation test with a concentration of 0.04 or higher;
- 3) A refusal to submit a test;

- 4) An employer's report of actual knowledge of on duty alcohol use, pre-duty alcohol use, post-accident alcohol use, and controlled substance use;
- 5) A Substance Abuse Professional (SAP) report of the successful completion of the return-to-duty process;
- 6) A negative return to duty test; and
- 7) An employer's report of completion of follow-up testing.

VII. EMPLOYEE ASSISTANCE PROGRAM

Rehabilitation of individual employees from alcohol or drug abuse is of significant importance to Yakima County. The County's Employee Assistance Program (EAP) is available to assist those employees who voluntarily seek help for alcohol or drug problems. However, the County also reserves the right to refer employees with known problems to the program for mandated counseling or other treatment. Employees should contact Human Resources for information.

VIII. AMERICANS WITH DISABILITIES ACT (ADA)

Yakima County abides by ADA requirements applicable to alcohol and drug addiction and will not discriminate against a person who has a history of alcohol or drug addiction but who is not currently using alcohol or drugs and who has been rehabilitated. However, reasonable accommodations do not include lowering performance standards, excusing misconduct, or tolerating absenteeism or tardiness related to alcohol or drug use/abuse.

“Qualified individuals” under the ADA include those individuals:

- Who have been successfully rehabilitated and who are no longer engaged in the illegal use of drugs;
- Who are currently participating in a rehabilitation program and are no longer using illegal drugs or alcohol and;
- Who are regarded, erroneously, as illegally using drugs.

The ADA provides that any employee or job applicant who is “currently engaging” in the illegal use of drugs is not a “qualified individual with a disability.” Therefore, an employee who illegally uses drugs, whether the employee is a casual user or an addict, is not protected by the ADA if the employer acts on the basis of the illegal drug use.

Alcoholics are also protected by the ADA and may be entitled to reasonable accommodations such as leave to attend treatment programs, but are still held to the same job performance standards as other employees.

DIRECT THREAT: The ADA defines a Direct Threat as “a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.” Yakima County is required to prevent employees from posing a direct threat to the health or safety of other individuals in their workplace. The determination that an individual with a disability poses a direct threat must be based on an individualized assessment of the employee’s present ability to safely perform the essential functions of the job.

Adopted Copy Available at
Yakima County Human Resources
128 N. 2nd Street, Room B27
Yakima, WA 98901