

# **KENOSHA COUNTY**

## **DRUG-FREE WORKPLACE**

### **POLICY & PROCEDURES**

*January 2021*

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# **POLICY**

# POLICY PARAMETERS

## Purpose

Kenosha County (or “the County”) is committed to providing a safe, healthy, and productive work environment. Therefore, to meet this objective, as well as our obligations under applicable federal and state laws, Kenosha County has a Drug-free Workplace Policy and Program that provides Kenosha County with reasonable measures to ensure that an employee drug or alcohol problem does not jeopardize the successful operation of our business, or otherwise negatively affect Kenosha County, our employees, or the general public.

While it is not Kenosha County’s intention to intrude into the private lives of its employees, Kenosha County does expect employees to report to work in fit condition to perform their duties. We recognize that having a Drug-free Workplace Policy will benefit all employees.

*Note: Implementation of the Drug-Free Workplace Policy is subject to restrictions and/or requirements contained in federal, state and local laws, as well as specific collective bargaining agreements.*

## Who is Covered

The Drug-Free Workplace policy covers all temporary employees, probationary employees, part-time employees, and full-time employees, including independent contractors, subcontractors, seasonal employees, interns and union employees of Kenosha County. When used throughout this policy, the term “employee” refers collectively to independent contractors, subcontractors, seasonal employees, interns and union employees, as well as temporary, probationary, part-time, and full-time employees, unless specified otherwise.

Employees who are covered under the Department of Transportation/Federal Motor Carrier Safety Administration (DOT/FMCSA) regulations must comply with the DOT regulated rules, as well as Kenosha County’s policy and may contact Human Resources for a copy of the DOT/FMCSA Rules.

## When the Policy Applies

The Drug-Free Workplace Policy applies to any employee while he/she is on or using County property and/or conducting County business. For purposes of this policy, the following are definitions for County property, County business and County work (at work).

**County Business.** County business is any activity performed by an employee on behalf of the County. County business is an activity that may be conducted at, but not limited to: project sites, client properties and buildings, warehouses, manufacturing facilities, plants, designated County offices, etc. County business also includes but is not limited to: maintaining business relationships and transactions on behalf of Kenosha County while: selling, entertaining, traveling or driving and conducting business in a County owned, leased or rented vehicle or a personal vehicle being used for County business related activities.

**County Property.** County property includes but is not limited to: work product, buildings, offices, warehouses, plants, facilities, land, equipment, project sites, vehicles which are owned, leased, rented or used for County business, and parking lots owned, utilized, or leased by Kenosha County or any customer or supplier of Kenosha County. It also includes any other site at which County business is transacted, whether on or away from County-owned or County-leased property.

**County Work.** An employee is “at work” when the employee is: on Kenosha County premises; operating a County owned, rented or leased vehicle or personal vehicles being used for County business; traveling to or from a work-related meeting or job; a designated County office and/or directly engaged in work-related activities or traveling to or from such an activity.

### **Availability of Treatment**

All eligible employees and their family members have access to the Employee Assistance Program (EAP) at no charge.

Should there be a need for treatment, coverage is based on the parameters set forth in the employee’s medical benefits plan. Employees who participate in another provider’s plan should refer to that plan to determine what coverage is available. Employees are responsible for all costs of treatment that are not covered by their applicable medical benefits plan.

### **Information and Training**

Kenosha County assists employees in understanding the problems associated with drug and alcohol use and, in an ongoing effort to prevent and eliminate prohibited drug and alcohol use in the workplace, by providing information and referral resources for its employees regarding substance abuse and the drug-free workplace program. In addition, managers receive training regarding their role in the drug-free workplace program.

# HELP & INTERVENTION

## Support for Voluntarily Seeking Help

Kenosha County encourages early diagnosis and sound treatment for drug- and alcohol-related problems and encourages employees to voluntarily and confidentially seek help before such problems affect their activities on behalf of the County.

In an effort to support employees in obtaining treatment, Kenosha County offers the services of an Employee Assistance Program (EAP). This service provides assessment, counseling, and referral services for employees with drug- and alcohol-related problems and other personal problems. This service should be accessed directly and is available 24 hours a day, 365 days a year. The EAP provides experienced counselors to help with personal problems, including those related to drugs or alcohol. Anonymity and confidentiality are assured to the extent possible.

In some circumstances, Kenosha County believes that employees with drug- or alcohol-related problems can be treated while continuing in their positions. In situations when an employee requests a leave for treatment, Kenosha County will do its best to accommodate such requests and will make every effort, as required by state and federal laws. Kenosha County will make every effort to place the employee in the same or in a comparable position upon return to duty.

Those employees who undergo voluntary counseling or treatment and who continue to work are subject to the same job performance and behavior standards as other employees. As with all employees at Kenosha County, those employees seeking voluntary counseling or treatment who fail to meet performance standards are subject to disciplinary action up to and including termination. Although Kenosha County strongly encourages employees who have drug- or alcohol-related problems to voluntarily seek counseling or treatment, employees who seek counseling or treatment only after violating this policy are still subject to disciplinary action up to and including termination for such violations.

## Intervention When Not Voluntarily Seeking Help

Due to the fact that substance abuse often involves denial of the problem, many abusers do not voluntarily seek treatment. In such cases, Kenosha County reserves the right to intervene.

*Intervention by a Manager:* Whenever a manager believes an employee or manager's behavior and/or action(s) may be related to the use of drugs or alcohol, the manager will take appropriate action, which may include a drug and alcohol test, as described in the Referral Procedures Section of this Policy. A manager failing to take action when he/she believes an employee or manager's behavior and/or action(s) may be related to the use of drugs or alcohol may lead to disciplinary action up to and including termination.

*Intervention by an Employee:* Whenever an employee has reason to believe, as defined in the Appendix, that the questionable behavior and/or action(s) of a fellow employee or manager may be related to the use of drugs or alcohol, the employee is to contact a Division/Department Head or a member of Human Resources. The information provided to any member of management and, in turn, a member of Human Resources is confidential to the extent possible.

## PROHIBITED CONDUCT

To facilitate a safe, healthy, and productive work environment, Kenosha County has determined that the following employee conduct is prohibited on County property, on County business, and in County-supplied vehicles or personal vehicles being used for County business or during working hours, inclusive of meals and breaks. Engaging in any of the following prohibited conduct is considered a violation of the policy.

- Being under the influence of a controlled substance, illegally used drug, or alcohol
  - Being under the influence of alcohol is defined as a positive alcohol test result yielding a breath alcohol concentration (BrAC) of .04 or higher (BrAC of .02 or higher for all Kenosha County Sheriff's Department personnel), unless otherwise specified in the Permitted Conduct section of this policy
  - Being under the influence of a controlled substance or illegally used drug is defined as having a confirmed positive drug test result
- Use, possession, manufacturing, distribution, attempted distribution, dispensation, attempted dispensation, sale, attempted sale, purchasing, attempted purchasing, cultivation, or storage (including in a desk, locker, automobile, or other repository) of a controlled substance, illegally used drug, or drug paraphernalia

*In accordance with Federal law, Kenosha County prohibits any employee from being under the influence of marijuana while on County property or engaging in County business regardless of whether the employee has a medical marijuana card or recommendation for medical marijuana use.*

*Kenosha County does not allow any employee to use, possess, cultivate, manufacture, distribute, dispense, sell, or store marijuana while on County property or engaging in County business under any circumstance.*

*In accordance with State and/or Federal law, Kenosha County does not allow any employee to use, possess, manufacture, distribute, attempt to distribute, dispense, attempt to dispense, sell, attempt to sell, purchase, attempt to purchase, store (including in a desk, locker, automobile, or other repository) or be under the influence of any synthetic products simulating the effects of cannabinoid, cocaine, amphetamine products or other illegal drugs.*

- Consumption, possession, manufacture, distribution, dispensation, sale, or storage (including in a desk, locker, automobile, or other repository) of alcohol, unless otherwise specified in the Permitted Conduct section of this policy

*In addition, Kenosha County prohibits employees who leave County property during work hours to consume alcohol if they will be returning to work (e.g. meals, breaks, between sales or service calls), unless otherwise specified in the Permitted Conduct Section of this Policy.*

- Refusing to consent to testing or refusing to submit to a breath, blood, saliva, or urine sample for testing or conduct that clearly obstructs the testing process. *See Glossary for the detailed definition of what constitutes a Refusal.*
- Disclosure of any information to individuals, other than those who need to know, related to the following (other than in accordance with this policy, or as required by law):
  - Drug or alcohol testing referrals
  - The results of such testing
  - Treatment referrals
- Refusing to submit to an inspection when required, as outlined in this Policy in the Inspections and Confiscation Sections



- Conviction or arrest under any criminal drug or alcohol statute related to the following:
  - Conviction based on conduct occurring in the workplace or occurring while conducting County business or while driving a County owned, rented or leased vehicle or a personal vehicle being used for County business
  - Conviction that may adversely affect Kenosha County, the work performance or safety of Kenosha County’s employees, or the safety of others at work or the general public
  - Failure to notify his/her manager and, in turn, a member of Human Resources of any conviction or arrest under any criminal drug or alcohol statute within 24 hours or the next working day from the time of the conviction or arrest for a violation occurring in the workplace or occurring while conducting County business or while driving a County owned, rented, or leased vehicle or a personal vehicle being used for County business, or which is directly related to the employee’s job or creates an unreasonable risk of harm to property or to the welfare of employees or customers of the County or the general public.
- Not reporting any change in driver’s license status (e.g. restrictions, invalid, expired, suspended or revoked) to his/her manager immediately or no later than within 24 hours or the next working day, if his/her job function may include driving a vehicle for County business.
- For those employees in safety-sensitive positions, as identified in the Appendix, failure to inform one’s manager of the use of a prescribed controlled substance that may alter the employee’s physical or mental ability to perform his/her safety-sensitive functions or which is known to negatively impact performance and which does negatively impact the employee’s performance or safety may be proper cause for disciplinary action up to and including termination. *See the Appendix for a list of safety-sensitive positions.*

*In addition, the employee who reports the use of a prescription drug that may alter the employee’s physical or mental ability to perform his/her safety-sensitive function, must provide a note, based on the employee’s job description, from the prescribing licensed physician that the employee is able to continue to perform his/her safety-sensitive job functions, including the term of the prescription and any specified restrictions. The note is to be on the licensed physician’s letterhead and signed by the attending physician. The type of drug being taken and the purpose for taking the drug may not need to be reported, but may be required in specific circumstances.*

*Furthermore, the prescription is to be written in the employee’s own name only. In addition, prescriptions provided to an employee from a physician not licensed to practice medicine in the United States and/or otherwise not verifiable in compliance with the County’s legal obligations are not acceptable.*

*Further, employees must follow all physician instructions regarding use and dosage of such drugs, if provided, or (in the absence of physician instructions) and/or all manufacturer, or package insert directions when taking a prescription or over-the-counter drug. An employee’s use of the prescription drug(s) will be permissible if, in addition to the conditions for such use, such drug(s) are taken during the term for which it was prescribed and not taking another individual’s prescription. All prescription and over-the-counter drugs are to be kept in their original containers.*

*Kenosha County may temporarily place an employee in a non-safety-sensitive position, if available, during the course of the employee’s treatment. The employee’s manager and a member of Human Resources will determine whether the employee’s job assignment should be temporarily changed while the prescription is being administered. Accommodation is based on availability of a non-safety sensitive position and the employee’s skills and/or ability to perform it. If a reasonable accommodation is not available, the employee will be placed on leave until the prescription is no longer needed. Leave will be in accordance with the County’s Leave Policies and all applicable federal and state laws.*

*The County reserves the right to contact the prescribing licensed physician or the pharmacist directly for guidance as to the employee's ability to continue performing his/her safety-sensitive job function. The employee shall be present during the contact with the physician or the pharmacist whenever possible.*

*If not already aware, the Director of Human Resources should be notified immediately of any temporary change in job assignments due to an employee's prescription drug use.*

- For those employees referred for assessment or treatment by Kenosha County, failing to adhere to any of the requirements of the Rehabilitation Agreement (see Appendix)
- Refusing, when required under Kenosha County's policy, to sign the following:
  - Drug-free Workplace Policy Acknowledgment & Consent Form
  - Rehabilitation Agreement
- For employees who are contacted to report for duty outside of the employee's normal work schedule (*has not been previously scheduled*), failure to notify his/her designated manager that they are not available for work and that he/she may be under the influence of drugs and/or alcohol, as defined in the Appendix. If the manager believes the employee may be under the influence of drugs and/or alcohol or if the employee discloses that they may be under the influence of drugs and/or alcohol, there will be no discipline for being unable to report for duty, under these circumstances.

*Note: Employees who are continuously unavailable for on-call duty are subject to discipline up to and including termination.*

- For employees engaging in the following conduct, either off County premises or during off-duty hours, the following is prohibited and will constitute a violation of the drug-free workplace policy:
  - Possession, use, manufacturing, distribution, dispensation, cultivation or sale of controlled substances, illegally used drugs, or alcohol off County premises that may adversely affect the County, the employee's work performance, or the employee's safety or others' safety at work or the general public
  - Illegal use of legal substances off County premises or during off-duty hours that may adversely affect the County, the employee's work performance, the employee's safety or others' safety at work or the general public

## PERMITTED CONDUCT

Kenosha County never encourages the consumption, possession and storage of alcohol. However, Kenosha County permits the consumption, possession and storage of alcohol under the following exceptions. *Even though there are exceptions, as outlined below, to consumption and storage of alcohol, the following are NOT permitted:*

- Being under the influence of alcohol, which is a BrAC of .04 or higher while on County Business, County Property, conducting County Work or attending a County Sponsored Event;
- Consumption of alcohol at any time by underage persons;

In addition, all employees who are covered under the DOT/FMCSA regulations are to comply with the DOT/FMCSA regulated rules pertaining to the consumption and storage of alcohol.

### *GUIDELINES:*

*For purposes of this policy, one drink equals 1.5-ounces of 80-proof alcohol, a 5-ounce glass of wine, or a 12-ounce beer. As a guideline, an individual weighing 180 pounds who consumes two (2) drinks in one hour will have an approximate alcohol level of .04 BrAC. A 120-pound individual consuming two (2) drinks in one hour will have an approximate alcohol level of .06 BrAC. Consuming the same number of drinks containing higher proof liquor or higher gravity beers can cause a greater under-the-influence level.*

*It is important for employees to note reaching the under-influence level, as defined in this Policy, will vary individual by individual. It is related to a number of factors, such as the person's age, gender, amount of food in the stomach, prior experience with drinking, level of tolerance and the individual's weight.*

In accordance with the conditions above, consumption of alcohol will be seen as a violation of the policy unless expressly permitted below.

- Consumption of alcohol is permitted while attending a mandatory or non-mandatory County-sponsored function, if consumption is authorized in advance by the Director of Human Resources.

*At any mandatory or non-mandatory County-sponsored function, no alcohol is to be served unless it is served by a professional, licensed bartender, unless otherwise authorized in advance by the Director of Human Resources.*

- Consumption of alcohol is permitted while attending professional events, including professional association meetings. However, consumption is not permitted during the normal working hours of 7:00 a.m. to 5:00 p.m. or until the official meeting and/or training sessions have concluded.
- Consumption of alcohol is permitted while conducting business-related entertainment with non-County personnel or while traveling on business. However, consumption is not permitted during the normal working hours of 7:00 a.m. to 5:00 p.m., unless there will be no return to work.

*NOTE: While traveling overnight on Kenosha County business, the employee is to follow the appropriate conducts established in this policy from the time the employee begins travel until he/she returns from the travel, including after business sessions have concluded.*

Based on the exceptions above, if a situation occurs where an employee believes that he/she may be “under the influence” of alcohol, or when a manager believes an employee may be “under the influence” of alcohol, the employee is not permitted to drive a vehicle. If an employee drives a vehicle against the direction of management, it will be considered a violation of the policy. When it is necessary for the employee, while conducting County business, to take a taxicab or Uber or Lyft or to stay in a local hotel, the reasonable costs shall be reimbursed by Kenosha County.

Possession and storage of alcohol containers will be seen as a violation of the policy unless expressly permitted below.

- Storage of unopened, sealed alcohol containers which are not visible and are locked in an employee’s vehicle, while the vehicle is on County property, being used for County business, or during working hours is permitted. Storage of unsealed containers of alcohol will be seen as a violation of the policy.
- Kenosha County will provide a storage facility to employees who need to store unopened, sealed containers or opened, unsealed containers of alcohol for County events during working hours. Arrangements for designated storage areas can be made with the Director of Human Resources.
- Possessing, providing and selling of unopened, sealed and/or opened, unsealed containers of alcoholic beverages is permitted when possessed, provided or sold within the scope of the employee’s duties and within the course of Kenosha County’s business operations.
- Possession and storage of alcohol, controlled substances, illegally used drugs, or drug paraphernalia is permitted by law enforcement when within the scope of law enforcement’s job responsibilities and within the course of Kenosha County’s business operations

*NOTE: For the storage exceptions above, this does not apply to those County-owned vehicles. No containers of alcohol, including those that are unopened and sealed, are to be placed or stored in Company owned vehicles, unless otherwise authorized in advance by the Director of Human Resources or for purposes of the transport of alcohol for County business operations or events.*

*NOTE: In addition, at no time is alcohol permitted to be transported in a DOT/FMCSA regulated vehicle (over 26,001 pounds or more).*

# DRUG & ALCOHOL TESTING

The goal of Kenosha County's Drug-Free Workplace Program is to encourage our employees to seek help before drugs and alcohol become a problem at work to ensure that our workplace operates safely and efficiently.

Testing is the only way to know with certainty whether someone has used drugs or alcohol in violation of the policy. Based on these considerations, testing for drugs and/or alcohol under certain circumstances is part of Kenosha County's Drug-free Workplace Program. The methods used to determine the presence of alcohol or drugs in the system under this policy include urine, saliva, blood, and/or breath tests. All positive test results will be confirmed by a certified laboratory.

## IMPORTANT NOTE

**Independent contractors and subcontractors are not subject to drug and alcohol testing, except where the testing provisions set forth below specifically provide otherwise.**

## Kinds of Tests

For the safety of our employees, Kenosha County may test for drugs and/or alcohol in the following circumstances:

**Pre-Employment Drug Testing.** Applicants shall be advised in connection with their application for employment that, once offered a position, they will be required to submit to a drug test. Failure to consent to such a test or not having the test conducted within forty-eight (48) hours of the offer, unless otherwise authorized by a member of Human Resources, or a verified positive drug test result will disqualify an applicant from consideration.

*Once having tested positive for drugs or alcohol, applicants or former employees having a positive test result may reapply for a position after six (6) months and will need to provide written proof of having received and completed assessment, counseling and/or treatment from a licensed substance abuse treatment facility and have a driver's license in good standing in the state in which he/she may be assigned, if a license is required for his/her job function. In addition, the individual reapplying for a safety-sensitive position will be required to submit to unannounced drug and/or alcohol testing for the first twelve (12) months of employment.*

**Reasonable Suspicion Drug and Alcohol Testing.** Kenosha County shall test its employees for drugs and alcohol when a manager has reasonable suspicion of drug and/or alcohol use, as defined in the Appendix. Reasonable suspicion will be documented and will not be based on rumor, speculation, or unsubstantiated information of third parties. Referrals for reasonable-suspicion testing shall be made according to the procedures set forth in the Procedures Section of this document. *See the Glossary for the detailed definition of what constitutes Reasonable Suspicion.*

**Post-Accident Drug and Alcohol Testing.** All employees in who may have caused or contributed to an accident, as defined below, will be subject to a drug and alcohol test as soon as possible following the accident. *See the Glossary for the detailed definition of what constitutes an Accident.*

*Independent contractors and subcontractors are subject to post-accident testing.*

**Government-Required (Federally Mandated) Drug and/or Alcohol Testing.** Kenosha County shall comply and institute drug and/or alcohol tests when required by regulations of government entities, e.g., the Department of Transportation (DOT) for the Federal Motor Carrier Safety Administration (FMCSA). (*See the County's DOT/FMCSA Policy*)

**Random Testing.** As outlined in a collective bargaining agreement.

**Follow-Up Drug and/or Alcohol Testing.** Employees, offered by Kenosha County the option of treatment, will be required to sign a Rehabilitation Agreement and may be subject to follow-up drug and alcohol testing.

- **For drugs.** Individuals who have completed a Kenosha County approved substance abuse program referred for a drug problem will be subject to unannounced testing for the illegal use of drugs. Follow-up drug testing applies during the two (2) year period following referral and upon return to work.
- **For alcohol.** Individuals in a safety-sensitive position, as defined in the Appendix, who have completed a Kenosha County approved substance abuse program for an alcohol-related problem will be subject to unannounced testing for alcohol use. Follow-up alcohol testing will begin following referral and upon return to work and will continue until Kenosha County determines that the individual's alcohol use does not pose a direct threat to the safety of the individual or others in the workplace. However, follow-up alcohol testing will not exceed a two (2) year period.

### **Cost of Testing**

The County will pay for any drug and/or alcohol test that it requests or requires, in accordance with this policy. Should an employee request a retest, the cost is to be assumed by the employee unless otherwise required by state and/or federal law or if the cost is voluntarily assumed by the County.

### **Right to a Retest**

An employee who tests positive on a confirmatory drug test required by the County may consult with the Medical Review Officer (MRO) to identify possible legitimate, biomedical explanations for the positive result.

In addition, the employee may request in writing a retest of the original specimen at his/her expense within five (5) working days after the employee has been informed of the confirmed positive test result. The retest is to be conducted at Kenosha County's NIDA (National Institute of Drug Abuse) Certified Laboratory or another NIDA Certified Laboratory. An employee who tests positive for alcohol by breath is automatically given a retest, at the time of the original collection, as a confirmation. If a retest is requested by the employee, no final disciplinary action will be taken until the results of the re-analysis have been made available.

# RIGHTS

## Inspections

The privacy of employees shall be respected, except in cases where Kenosha County has reasonable suspicion to believe that an employee may be in possession of alcohol, drugs, or drug paraphernalia on County property or on County time in violation of this policy. Kenosha County reserves the option to inspect all County property (including individual offices, desks, and lockers), as well as County owned or leased vehicles or personal vehicles being used for County business that are on County property or County time.

In addition, Kenosha County may request that the employee reveal the contents of his/her personal effects (such as lunch boxes, handbags, briefcases, backpacks, packages, or outer clothing) as well as those effects in a County owned or leased vehicle or a personal vehicle on County property or on County time.

The inspection is to be requested by the manager and authorized and performed by the manager with the Director of Human Resources and if he/she is not available, then the Assistant Human Resources Director.

If the Director of Human Resources or the Assistant Human Resources Director are not available on site for authorization, he/she is to be contacted by telephone or cell phone. He/she will come on site to serve as a witness or will designate an individual to serve as witness. Whenever reasonably possible, the employee involved will be present during the inspection.

*For procedures for a confiscation, refer to the Confiscation Procedures in the Reasonable Suspicion Testing Referral Procedures in the Appendix of this policy.*

## Consequences for Policy Violations

Kenosha County has established the Drug-free Workplace Policy in order to protect our employees, our customers, and our County from the negative effects of drug and alcohol use.

A violation of the policy, even a first offense, will serve as the basis for discipline, up to and including termination. The degree of the discipline administered will depend on the circumstances of each case. However, employees need to be aware that certain offenses, including but not limited to possession, sale, or use of controlled substances or illegally used drugs on Kenosha County premises, on County time or on County business will normally result in immediate termination and referral for criminal prosecution as applicable by law.

### Consequences for a Positive Drug or Alcohol Test

Employees should also be aware of the following consequences of a positive drug or alcohol test.

- A positive pre-employment drug test will result in a no hire determination.
- A refusal to submit to or tampering with or a failure to report for a test will result in a 'no hire' determination and/or immediate termination.

### **Consequences for Providing Adulterated, Substituted, Diluted, or Inadequate Specimens**

Employees who attempt to frustrate the testing process by switching, substituting, adulterating, or diluting a urine sample collected for drug testing or committing any other prohibited conduct aimed at undermining the integrity of Kenosha County's drug testing program represents a serious threat to the safety of our workplace. Kenosha County detects such misconduct by requiring specimen validity testing on all urine samples collected with tests including but not limited to those for nitrite concentration, creatinine concentration, specific gravity, and pH. Employees who attempt to frustrate the testing process will be subject to the following consequences:

**Adulterated/Substituted Urine Specimen.** At the time a specimen is provided, the collection site personnel will immediately check the specimen for signs of contamination, tampering, or adulteration. If there are any signs of such activity, the collection site personnel will require the employee to provide a second specimen under direct observation. Both specimens will be sent to the lab for testing. Providing an adulterated or substituted urine sample for drug testing constitutes a refusal to submit to testing and will result in termination or a no-hire determination.

**Diluted Urine Specimen.** If Kenosha County receives a test result indicating that an employee provided a specimen that was negative but diluted, Kenosha County will take action to obtain an undiluted specimen for testing. Kenosha County will immediately escort, whenever possible, the employee to the collection site to provide a new urine sample. If the employee has a second negative dilute drug test result, the test result will be considered negative. Failures and/or refusals to cooperate with this requirement will normally result in termination or a no-hire determination. For test results indicating a positive diluted specimen, see policy provisions on consequences for a positive drug test, above.

**Inadequate Urine Specimen Volume (Shy Bladder).** If an employee cannot produce sufficient specimen volume for testing (45 ml), the specimen will be thrown out and the employee will be given up to 40 ounces of fluid over a three-hour period until the employee can produce a specimen of 45 ml. The employee is not permitted to leave the collection site during the three-hour period or until the employee can produce the specimen, whichever occurs first. Refusing to remain at the collection site, drink fluids, or provide a new specimen constitutes a refusal to submit to testing and will result in termination or a no-hire determination.

If after three (3) hours, the employee still has not produced an adequate specimen, the collection will end, and, if not already, the employee will be placed on leave and Kenosha County will refer the employee to a licensed physician for a medical evaluation to determine whether there is a medical explanation for the employee's inability to produce an adequate specimen. Only a properly documented and verifiable medical explanation will be accepted. Nervousness, shyness or situational anxiety will not be an accepted explanation. If no medical explanation is determined, the employee's failure to produce an adequate specimen will constitute a refusal to submit to testing and will result in termination for an employee and withdrawal of the offer for an applicant.

### **Additional Consequences**

In addition to any disciplinary action for a violation of the policy, or while such actions are held in abeyance, Kenosha County may, in its sole discretion, offer the option to the employee for assessment, counseling, and/or a treatment program, as applicable. However, Kenosha County reserves the right to make the final decision relative to discipline.



Employees who are referred for a reasonable suspicion drug and alcohol test will be placed on leave from work until Kenosha County receives the confirmed test results. An employee who has a negative test result on a reasonable-suspicion drug or alcohol test will be compensated for any regularly scheduled hours he/she would have worked during that leave period. An employee who has a positive test result on a reasonable suspicion drug or alcohol test may not be compensated for any regularly scheduled hours he/she would have worked during that leave period, if deemed part of disciplinary action.

Employees who are referred for a post-accident drug and alcohol test will be returned to work at the discretion of Kenosha County. If an employee is placed on leave and has a negative test result on a post-accident drug or alcohol test, he/she will be compensated for any regularly scheduled hours he/she would have worked during the leave period. An employee who has a positive result on a post-accident drug or alcohol test may not be compensated for any regularly scheduled hours he/she would have worked during the leave period.

Employees referred for assessment or treatment will be required to sign a Rehabilitation Agreement (see Appendix). Employees undergoing counseling, treatment, or rehabilitation for substance abuse who continue to work must meet all established standards of conduct and job performance.

For the purposes of Worker's Compensation, should an employee produce a positive drug or alcohol test result or refuse to submit to a drug or alcohol test as required under this policy, his/her eligibility for compensation and benefits may be affected.

For purposes of Unemployment Compensation, a valid positive test result may be sufficient to show misconduct when the employer has reasonable work rules that prohibit both on-duty and off-duty use. In order to be a reasonable work rule, the employee must be aware of the rule and the consequences of a positive test result. The test result must be confirmed by GC/MS, or an equivalent method, and performed according to appropriate guidelines. In addition, the violation of a last chance agreement, in which the employee agrees to abstain from drug use may constitute misconduct.

## **Confidentiality**

All information, interviews, reports, statements, memoranda, and drug or alcohol test results, written or otherwise, are confidential to the extent possible. Any written agreements, reports, statements, memoranda, and drug or alcohol test results shall be maintained in secure files.

Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws. This includes occasions when various managers within Kenosha County will have a "need to know" and this will not be considered a breach of confidentiality.

Kenosha County, the laboratory, the Medical Review Officer, EAP, treatment providers, and their agents who receive or have access to information concerning test results shall keep all information confidential and may not release any of the information without the written consent of the employee unless the release is required by law, is in accordance with this policy, or is relevant to a legal claim asserted by or against the employee or Kenosha County.

## **Reservation of Rights**

The drug-free workplace policy does not create a binding employment contract. Kenosha County reserves the right to amend, correct, edit, modify, rescind and/or revise the policy in whole or in part, with or without advance notice, subject to any state and federal laws and relevant collective bargaining agreements. In addition, changes to applicable federal or state laws or regulations may require Kenosha County to modify or supplement this policy. Such changes will be made in accordance with any obligation pursuant to an existing collective bargaining agreement.

Severability: Unenforceability or invalidity of one or more clauses in this Policy shall not have an effect on any other clause in this Policy. If it is possible, any unenforceable or invalid clause in this Policy shall be modified to show the original intention of the parties.

# **PROCEDURES**

# REFERRAL PROCEDURES FOR REASONABLE SUSPICION TESTING

*for*  
*Kenosha County*

Kenosha County's managers are responsible for being alert to declining job performance, erratic behavior, and other symptoms of possible drug and alcohol use. Whenever such conduct and/or performance is recognized, the manager shall take the following steps in order to establish reasonable suspicion of drug and/or alcohol use, as defined in the glossary portion of this Appendix, and refer the employee for a drug and alcohol test.

## **Step 1: Observe & Document**

Sometimes, a reasonable suspicion test referral may occur based on a single event or a pattern over time. Safety shall always be the first consideration. If an event occurs by which the employee's actions or behavior causes a potential threat of harm to himself/herself or others, the employee will be promptly removed from the immediate work site.

When there is reasonable suspicion to believe that drugs or alcohol may be involved in the event, the manager will refer the employee for drug and alcohol testing, as outlined below. However, immediate medical attention should never be delayed due to testing.

Depending on the specific circumstances of the event, documentation (based on the definition of Reasonable Suspicion in the Glossary) may occur before or after the referral for testing. However, documentation should occur when reasonably possible.

Most often, a reasonable suspicion test will occur after a period of observation and documentation. The documentation will include appropriate dates and times of questionable conduct or behavior, declining job performance, reliable and credible sources of information, and rationale leading to referral for testing and the action(s) taken.

Once a manager's written documentation suggests possible drug and/or alcohol use in violation of this policy, he/she will follow these procedures.

## **Step 2: Make a Referral**

To assist you in deciding if your documentation supports reasonable suspicion:

Confer with a member of Human Resources Management or a Human Resources Business Partner to discuss the situation and to determine whether reasonable suspicion exists and to receive authorization for a referral.

If a member of Human Resources is not available on site, contact him/her by telephone or cell phone to discuss the situation and to determine whether reasonable suspicion exists and to receive authorization for a referral.

Until such authorization is received, no referral for testing can take place.

### **Step 3: Notify the Employee**

Once a determination has been made that reasonable suspicion exists, the following shall take place:

The manager shall notify the employee that the decision has been made to refer him or her for a drug and alcohol test.

From this time on, the manager and/or witness must maintain visual contact with the employee at all times until the employee reaches the collection site or enters the manager approved designated transportation to the collection site.

The individual who was contacted in Step 2 above shall serve as witness to the discussion.

If he/she is not on site, he/she will come on site or designate an individual to serve as witness.

The manager and witness shall discuss the situation with the employee in a private location.

*NOTE: A represented employee may have a union representative present to observe the discussion, if the union representative is available within ninety (90) minutes.*

No accusation of substance abuse will be made. Instead, the manager will inform the employee that the circumstances of the significant event or the documented instances of questionable behavior resulted in the referral.

The manager shall document the conversation, including noting the employee's responses.

### **Step 4: Off Site Specimen Collection**

To prepare the employee for specimen collection, the manager and/or witness shall:

Fill out the Drug and Alcohol Testing Information Referral Form for the employee to take to the collection site.

Notify the collection facility that the employee is being sent for testing.

Verify that the employee has valid photo identification to present at the collection site.

Document the time of departure from County property.

Inform the employee that he/she is on leave from work pending receipt by Kenosha County of the test results. Explain that a 'negative' test result will make it paid leave, but a 'positive' test result may make it unpaid leave.

Escort the employee to the collection site for the drug and alcohol test and make arrangements for the employee's transportation home.

If unescorted by a designated County representative, when a reasonable amount of time has passed (generally one to two hours, depending on the distance to the collection facility), call the collection facility to determine whether the collection procedures were completed.

**IMPORTANT**

**For the safety of the employee, other employees, and the general public, all possible steps shall be taken to ensure the employee in question does not drive a vehicle. If the employee refuses assistance with transportation, it will be considered a violation of this policy and the employee will be subject to discipline up to and including termination.**

Contact the Director of Human Resources immediately if he/she has not yet been contacted about the drug and alcohol testing referral.

Place the employee on administrative leave pending receipt by the County of the test results.

**Step 5:  
Confiscate when Necessary**

Whenever a manager discovers an employee is in possession of what appears to be a controlled substance or illegally used drug, the manager shall perform the following steps:

Secure the area and contact law enforcement and follow their instructions.

If it is determined that management must confiscate without guidance of law enforcement, take the following steps:

At no time should the manager put himself/herself or others at risk of personal safety to accomplish any of the following steps. Contact law enforcement should this be a concern.

Ask or arrange for another manager to be present to witness and document what takes place. If possible, this should be done without alerting the employee that suspicion exists.

Ensure that the employee is not left unobserved by a manager at any time once the suspicion has been established, especially if the employee has been alerted to the suspicion. The employee should be given no opportunity to dispose of the suspected item or substance.

Immediately confiscate the substance and all equipment or paraphernalia directly related to the substance in the presence of a designated witness.

If possible, the manager is to take a photograph of the substance and any/all equipment or paraphernalia identified at the time of the confiscation.

If at all possible secure the area to ensure nothing is disturbed.

Provide the employee a receipt for the item(s) confiscated.

Wrap the substance and related equipment or paraphernalia, in the presence of the designated witness, in any available clean material—e.g., paper towel, copier paper, or handkerchief—and keep the package with the manager or where the manager can be sure it cannot be tampered with.

**NOTE**

**If the employee refuses to cooperate, call  
local law enforcement officials.**

The manager shall put the still-wrapped materials into a large envelope, seal the envelope completely, and write his/her initials over the seal of the envelope in several places.

Write the employee's name, the manager's name, and the date at the top of the envelope, and turn it over as soon as possible to a member of Kenosha County Law Enforcement. The law enforcement officer who receives it shall also sign for it.

As needed, if there is time between the item (s) being confiscated to the time it is turned over to law enforcement, the confiscated item(s) are to be maintained in a secure storage area.

The above parties shall witness the signing and dating of the envelope by the person to whom he/she turns it over, including the law enforcement official who receives it.

Following the incident, the manager must complete a detailed report of all relevant facts including the employee's first and last name, when and where observations were made, what was observed, what ensued during the confrontation, a physical description of what was confiscated/found, names of any other witnesses, etc.

*Note: Following the confiscation, if it is determined that the property confiscated was not in violation of the policy or any other County policy, the property shall be returned and a receipt obtained.*

# REFERRAL PROCEDURES FOR POST-ACCIDENT TESTING

for  
*Kenosha County*

## IMPORTANT

**Post-accident testing will never delay any necessary, immediate medical treatment. However, testing should be performed as soon as possible following the accident.**

Kenosha County's managers are responsible for coordinating post-accident drug and alcohol tests. A drug and alcohol test should occur after every accident that fits the policy definition and the *Post-accident Testing Documentation Form* in the Appendix once it has been completed. The goal of these referral procedures is to ensure that the medical needs of each employee are met and then that the employees proceed to the collection site as soon as possible.

Employees are required to immediately notify his/her manager of any accident.

An accident is defined as an unplanned, unexpected, unintended, or intentional event that occurs on County property, on County business, or during working hours, or which involves County-supplied motor vehicles or motor vehicles being used for County purposes and the employee caused or contributed to the accident and that results in at least one of the following:

- A fatality of any party
- Bodily injury of any party requiring immediate medical treatment away from the accident scene
- Damage to a motor vehicle in excess of \$1,000
- Non-vehicular property damage in excess of \$1,000
- An occurrence which causes or has the potential to cause a major financial loss to Kenosha County or subject Kenosha County to liability for any property damage or personal injury
- An occurrence which causes or potentially causes harm or death to a patient or resident
- A significant medication error

*Employees who may have caused or contributed to an accident, as defined above, will be subject to a drug and alcohol test as soon as possible following the accident.*

*In cases of an accident, the Post-Accident Testing Documentation Form located in the Appendix of this Policy must be filled out and the procedures included in the supplied Referral Procedures for Post-Accident Testing in the Appendix must be followed.*

*Due to time constraints, formal estimates and/or assessments as to the amount of damage are not required. A manager's estimate and/or assessment is acceptable for the purposes of determining the need for a drug and alcohol test based on the definition above.*

Unless medical attention is needed, an employee must remain available for testing. An employee who does not make himself or herself readily available for testing may be deemed to have refused to be tested. If the employee must leave the scene of the accident, the employee must make every effort to be tested or to contact his/her manager or Kenosha County and to inform the manager of his/her whereabouts.



**NOTE: Employees who may be exempt from post-accident testing, may still qualify for reasonable-suspicion testing. If an employee who causes or contributes to an accident is exempt from post-accident testing refer to the definition of “reasonable suspicion” in the Appendix to determine if reasonable suspicion testing is applicable.**

### **Timing of Post-Accident Tests**

A post-accident alcohol test must occur immediately or no later than 8 hours following the accident. A post-accident drug test must occur immediately or no later than 32 hours following the accident. If the test is not administered within this timeframe, the manager must perform these three steps:

- Cease attempts to test;
- Call a member of Human Resources; and
- Document why the test did not occur

### **Leaving the Scene of an Accident**

An employee is responsible for remaining available for testing. However, an employee may leave the scene of an accident for the period necessary to obtain assistance in responding to the accident, materials to secure the accident site, or necessary emergency medical care.

The manager should make every effort under the circumstances to ensure that the employee, even one who has been permitted to leave—or who had to leave—the accident site, is available for a post-accident drug and alcohol test.

### ***Step 1:*** **Determine Whether the Emergency is Over**

Following Kenosha County’s safety and/or emergency procedures, immediately:

- Determine whether any safety hazard continues.
- Take all necessary precautions to stabilize the situation.
- Ensure that all employees involved in the accident safely cease performing their jobs.
- Call the proper authorities at the County and at the local community level.
- Report the accident to the appropriate Kenosha County manager(s).

**Step 2:  
Determine Who Needs Immediate Medical Attention  
& Who May Have Caused or Contributed to the Accident**

Determine who, if anyone, needs medical attention. Call the proper local authorities.

Confer with a member of Human Resources Management or a Human Resources Business Partner to discuss the situation and to determine who may have caused or contributed to the accident and to receive authorization for a referral.

If a member of Human Resources is not available on site, contact him/her by telephone or cell phone to discuss the situation and to determine who may have caused or contributed to the accident and to receive authorization for a referral.

Until such authorization is received, no referral for testing can take place.

**Step 3:  
Notify the Employee of the Pending Test**

Once a determination has been made that the employee may have caused or contributed to the accident:

The manager shall notify the employee(s) that the decision has been made to refer him or her for a drug and alcohol test.

An employee subject to post-accident testing must remain available for testing following the accident or the employee will be considered to have refused to submit to testing.

No accusation of substance abuse will be made. Instead, the manager will inform the employee that the circumstances of the event or the documented instances of questionable behavior resulted in the referral.

*NOTE: A represented employee may have a union representative present to observe the discussion, if the union representative is available within ninety (90) minutes.*

**Step 4: Off Site Specimen Collection  
Prepare the Employee for the Drug and Alcohol Collection Process**

To prepare the employee for specimen collection off site, the manager and/or witness shall:

Fill out the Drug and Alcohol Testing Information Referral Form for the employee to take to the collection site.

Notify the collection facility that the employee is being sent for testing.

From this time on, the manager must maintain visual contact with the employee at all times until the employee reaches the collection site or enters County approved transportation to the collection site.

Verify that the employee has valid photo identification to present at the collection site.

Document the time of departure from County property.

Escort or arrange transportation for the employee to the collection site for the drug and alcohol test and for the employee's transportation from the collection site to home.

If unescorted by a designated County representative, when a reasonable amount of time has passed (generally one to two hours, depending on the distance to the collection facility), call the collection facility to determine whether the collection procedures were completed.

**IMPORTANT**

**For the safety of the employee, other employees, and the general public, all possible steps shall be taken to ensure the employee in question does not drive a vehicle. If the employee refuses assistance with transportation, it will be considered a violation of this policy and the employee will be subject to discipline up to and including termination.**

Contact the Director of Human Resources immediately if he/she has not yet been contacted about the drug and alcohol testing referral.

The employee may return to work pending receipt by Kenosha County of the test results, unless there is also reasonable suspicion.

# **APPENDIX**

# GLOSSARY

## *for* *Kenosha County*

For the purposes of this policy, the following definitions shall apply:

**Accident.** An unplanned, unexpected, unintended, or intentional event which occurs on County property, on County business, or during working hours, or which involves County-supplied motor vehicles or motor vehicles being used for County purposes and which results in at least one of the following:

- A fatality of any party
- Bodily injury of any party requiring immediate medical treatment away from the accident scene
- Damage to a motor vehicle in excess of \$1,000
- Non-vehicular property damage in excess of \$1,000
- An occurrence which causes or has the potential to cause a major financial loss to Kenosha County or subject Kenosha County to liability for any property damage or personal injury
- An occurrence which causes or potentially causes harm or death to a patient or resident
- A significant medication error

*Employees who may have caused or contributed to an accident, as defined above, will be subject to a drug and alcohol test as soon as possible following the accident.*

*Due to time constraints, formal estimates and/or assessments as to the amount of damage are not required. A manager's estimate and/or assessment is acceptable for the purposes of determining the need for a drug and alcohol test based on the definition above.*

*In cases of an accident, the Post-accident Testing Documentation Form located in the Appendix of this Policy must be filled out and the procedures included in the supplied Referral Procedures for Post-accident Testing in the Appendix must be followed.*

**Adulterated Specimen.** A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine. It is a substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites or affects the reagents in either the initial or confirmatory drug test.

**Alcohol.** Ethyl alcohol, a colorless, volatile and flammable liquid that is the intoxicating agent in fermented and distilled liquors. It includes but is not limited to beer, wine, and liquor. It does not include ethyl alcohol containing methanol used in chemical processing, cleaning, or testing.

**Alcohol Misuse.** Alcohol use in a manner that is prohibited by this policy.

**Alcohol Test.** An alcohol test is defined as any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of alcohol.

**Aliquot.** A portion of a specimen or sample used for testing.

**Assay.** To subject a drug to analysis for the determination of its potency.

**Assessment.** See Treatment.

**Blood Alcohol Test.** A method of testing for the presence of alcohol by analyzing a blood sample.

**Breath Alcohol Concentration (BrAC).** The amount of alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test.

**Breath Alcohol Technician (BAT).** A certified individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing (EBT) device.

**Breath Alcohol Test.** A method of testing for the presence of alcohol in an individual's system by using an Evidential Breath Testing (EBT) device to analyze a sample of the individual's breath.

**Business.** See County Business.

**Cancelled Test.** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which otherwise, per regulations, needs to be cancelled. A cancelled test is neither a positive nor a negative test result.

**Chain-of-custody.** The procedure and subsequent documentation by which the specimens are handled from collection through testing and includes the date, purpose of each time a specimen or aliquot is handled or transferred and identification of each individual in the link. If the Chain-of-Custody is broken, the test is declared to be invalid.

**Collection Site.** The location that is designated by management to conduct the specimen collection for testing.

**Collection Site Personnel (Collector).** The individuals who administer the specimen collection for drug and/or alcohol testing.

**County Business.** County business is any activity performed by an employee on behalf of the County. County business is an activity that may be conducted at, but not limited to: project sites; client properties; warehouses; manufacturing facilities; plants, designated home offices; etc. County business also includes but is not limited to: maintaining business relationships and transactions on behalf of Kenosha County while: selling, entertaining, traveling; or driving and conducting business in a County owned, leased or rented vehicle or a personal vehicle being used for County business related activities.

**County Property.** County property includes but is not limited to: work product; buildings; offices; warehouses; plants; facilities; land; equipment; project sites; vehicles which are owned, leased, rented or used for County business; and parking lots owned, utilized, or leased by Kenosha County or any customer or supplier of Kenosha County. It also includes any other site at which County business is transacted, whether on or away from County-owned or County-leased property.

**County Work.** An employee is "at work" when the employee is: on Kenosha County premises; operating a County owned, rented or leased vehicle or personal vehicles being used for County business; traveling to or from a work-related meeting or other job site; a designated home office and/or directly engaged in work related activities or traveling to or from such an activity.

**Concentration.** The amount of drug present in a unit volume of biological fluid, expressed as weight/volume.

**Confirmation Alcohol Test.** A second test using an evidential breath test (EBT) device, following a screening test result which indicates a BrAC of .02 or higher.

**Confirmation Drug Test.** A second analytical procedure, which identifies the presence of specific drugs or metabolites, is independent of the screening test, and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy, generally a Gas Chromatography/Mass Spectrometry (GS/MS).

**Controlled Substance.** Any drug included in Schedules I through V, as defined by Section 802(6) of Title 21 of the United States Code [21 USC 802(6)], e.g., cocaine, marijuana, and morphine, the possession of which is unlawful under Chapter 13 of that title. The term does not include the use of prescribed drugs that have been legally obtained and are being used in the manner and for the purpose for which they were prescribed.

**Designer Drug.** A manmade drug or combination of drugs similar in basic scientific properties to a controlled substance and produced in a clandestine laboratory.

**DHHS Department of Health and Human Services.** The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

**Dilute Specimen.** A specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Direct Observation.** Observation or monitoring of the provision of a urine specimen, which includes: following the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine whether there is any prosthetic or other device that could be used to interfere with the collection process. Direct observation is conducted as required by law.

**DOT/FMCSA.** Department of Transportation/Federal Motor Carrier Safety Administration.

**Drug Paraphernalia.** Any item that is primarily intended or designed for use in the administering, transferring, manufacturing, or storing of a controlled substance or illegally used drug.

**Drug Test.** Any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites. A confirmation test must be used to establish a positive test result.

**EMIT Immunoassay.** Highly automated and computerized procedure used in the initial specimen screening. Complies with the National Institute of Drug Abuse (NIDA) and DOT test requirements.

**Employee Assistance Program (EAP).** This service provides assessment, counseling, and referral services for employees with drug- and alcohol-related problems and other personal problems. This service should be accessed directly and is available 24 hours a day, 365 days a year. The EAP provides experienced counselors to help with personal problems, including those related to drugs or alcohol. Anonymity and confidentiality are assured to the extent possible.

**Evidentiary Breath Testing Device (EBT).** A device that uses a sample of an individual's breath to detect the level of alcohol present in the individual's system. An EBT is a device approved by the National Highway Traffic Safety Administration (NHTSA) and other federal agencies, such as the Department of Transportation (DOT), for both alcohol screening and confirmation testing.

**FDA.** Food and Drug Administration

**GC/MS Gas Chromatography/Mass Spectrometry.** The only confirmation method authorized by the National Institute of Drug Abuse (NIDA) and is the combination of the two identifies compounds on the basis of molecular structure.

**Illegal Drug.** Any of the substances specified in Schedule I or Schedule II of the Federal Controlled Substances Act.

**Illegally Used Drug.** Any prescribed drug which is legally obtainable but has not been legally obtained or is not being used in the manner or for the purpose for which it was prescribed. All designer drugs and any other over-the-counter or non-drug substances, such as airplane glue, used for other than their intended purpose or in a manner that is not consistent with package inserts or the manufacturer's instructions. This includes over-the-counter drugs purchased in a foreign country that require a prescription in the United States.

**Independent Contractor.** An individual (who is not an employee of Kenosha County), an entity, or an employee of an entity hired by Kenosha County to perform a certain task for a specific period of time for the benefit of Kenosha County.

**Initial Drug Test** (also known as a screening drug test). Used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

**Intern.** Individuals who are employees of Kenosha County but are hired by Kenosha County to complete a specific project for a specific period of time.

**Invalid Drug Test.** The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

**Laboratory.** Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS Mandatory Guidelines.

**Layoff.** A work slowdown or lack of demand; this does not include a leave of absence for any reason, including disability or other medical leave.

**Licensed Medical Practitioner.** A person who is licensed, certified, and/or registered in accordance with applicable Federal, State, local or foreign laws and regulations, to diagnose health problems and prescribe controlled substances and other drugs.

**Medical Review Officer (MRO).** An independent, certified, licensed physician responsible for receiving laboratory drug testing results. The MRO has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate a positive test as it relates to the individual donor's medical history and other biomedical information. The following is a list of primary MRO responsibilities:

- receive test results from the laboratory,
- verify laboratory results on all positives,
- review and interpret each confirmed positive test result,
- notify the employee or applicant of a confirmed positive test result,
- provide an opportunity for employee or applicant to discuss a positive test result,
- review employee's or applicant's medical history/records as appropriate,
- notify employer of verified negative or positive test, and
- process employee request for secondary sample test, if requested. The employee has five (5) working days to request reanalysis after receiving notice of a positive test result.

**Metabolite.** A compound produced from chemical changes of a drug in the body.

**Nanogram.** One billionth of a gram.

**Negative.** Test result indicating drug/metabolite is not present above the designated threshold of the test.

**NIDA.** National Institute of Drug Abuse

**Non-contact Positive Drug Test Result.** A confirmed positive test result which is reported as positive to Kenosha County despite the fact that the MRO was unable to contact the donor to conduct an interview and determine if there is an alternative medical explanation for the positive result. If the MRO cannot reach the donor within five (5) days after receiving a positive result, Kenosha County is given the lab result from the MRO. Kenosha County may choose to take action with this result. The MRO will advise Kenosha County that the donor may still contact the MRO for an interview, at which point the MRO may reopen the investigation.



**Non-negative Alcohol Test Result.** Test result obtained from the initial screen indicating the presence of alcohol. All non-negative alcohol test results will be confirmed by breathalyzer to determine if the confirmed result is negative or positive.

**Non-negative Drug Test Result.** Test result obtained from the initial screen indicating the presence of a legal or illegal substance in excess of the established cut-off levels established by DOT. All non-negative drug test results will be confirmed by a NIDA/SAMHSA certified laboratory and then sent to the MRO, who will make the determination if the result is negative or positive.

**Oral Fluid Testing.** A method of screening for the presence of drugs of abuse or alcohol by analyzing a sample of an individual's oral fluid.

**Polydrug Abuse.** The ingestion of more than one drug. Users do not take just one drug, but rather consume any combination of illegal drugs, illegally used drugs or alcohol.

**Positive.** Test result indicating drug/metabolite or alcohol level is present above the designated threshold of the test.

**Presumptive Positive.** A specimen which has been screened as positive, but not confirmed by an alternate chemical method.

**Qualitative Test.** Chemical analysis used to identify the components of a mixture.

**Quantitative Test.** Chemical analysis used to identify the proportional amounts of a mixture.

**Reasonable Suspicion of Drug and Alcohol Use.** Suspicion that an employee is using or has used drugs or alcohol in violation of Kenosha County's Drug-free Workplace Policy based upon specific, objective, articulable, documented facts and reasonable inferences drawn from those facts in light of experience. Such facts and inferences may be based upon any of the following:

1. Observable phenomena, such as direct observation of drug or alcohol use, possession, or distribution and/or the physical symptoms of being under the influence of drugs and/or alcohol
2. A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance, including but not limited to frequent absenteeism, excessive tardiness, and recurrent accidents, which appears to be related to drug and alcohol use and do not appear to be attributable to other factors
3. Indications that an employee has tampered with a drug or alcohol test
4. Repeated or flagrant violations of Kenosha County's safety or work rules, which are determined by a manager to pose a substantial risk of physical injury or property damage and which appear to be related to drug and alcohol use and do not appear to be attributable to other factors
5. Reckless or risky behavior on the part of an employee which, in the opinion of a manager, could have resulted in an accident, as defined in this policy
6. A report of substance abuse provided by a reliable and credible source
7. Indications that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on County property or operating the County's vehicle, machinery, or equipment
8. Conviction of any drug- or alcohol-related offense, or an arrest of which either occurred in the workplace or while conducting County business when coupled with other conduct indicative of potential drug or alcohol use, such as the items listed within this definition
9. Involvement in an accident when the employee may have caused or contributed to the accident

10. A report of missing medications in a nursing, assisted living or detention facility

*The above examples of reasonable suspicion of drug or alcohol use are not all-inclusive but are intended to be illustrative. The symptoms of being affected by drugs or alcohol are confined neither to those consistent with misbehavior nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. Reasonable suspicion does not require certainty, but suspicion based upon mere rumor, speculation, or unsubstantiated information of third parties shall not be sufficient to meet the standard of reasonable suspicion. Further, reasonable suspicion will be based only on documented facts and inferences.*

**Refusal To Be Tested.** Refusing to consent to testing or refusing to submit to a breath, blood, saliva, or urine sample for testing. The following conduct will be treated as a refusal to submit to testing. It consists of engaging in conduct that clearly obstructs the testing process, including but not limited to:

1. Failing to remain readily available for a post-accident test
2. Failing to cooperate with transportation assistance to and from the collection site
3. Failing to report to the collection site in a timely manner or time allocated
4. Failing to provide accurate information to the collection site
5. Failing to cooperate with collection site personnel, including failure to remain at the collection site when requested to do so
6. Failing to sign the chain-of-custody form or other required documents
7. Failing to provide an adequate sample for testing without a valid medical explanation
8. Failing to take a second test as directed by the employer or collector
9. Failing to permit or participate or follow observed instructions in a required observed collection
10. Failing to undergo a medical examination or evaluation as directed by the MRO
11. Admitting to the collector that he/she adulterated or substituted their specimen
12. Switching, adulterating, or committing any other misconduct pertaining to any breath, blood, saliva or urine sample collected for drug or alcohol testing
13. Possessing or wearing a prosthetic or another device that could be used to interfere with the collection process

**Rehabilitation Program.** See Treatment.

**Rejected Specimen.** A report by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

**Safety-Sensitive Position.** Any job position determined by Kenosha County which by the nature of the work involved is accompanied by such risk, that even a momentary lapse of attention could have serious consequences to the safety of the employee, coworkers, customers, the County, or the general public. Employees in safety-sensitive positions need to report a prescription drug that may affect their ability to do their job function.

**Saliva Test (See Oral Fluid Drug Testing).**

**Screening Test.** In alcohol testing, an analytical procedure to determine whether an individual may have a prohibited concentration of alcohol in his/her system. An alcohol-screening test may be conducted using either a breath or saliva test. In drug testing, an immunoassay screen used to eliminate “negative” urine specimens from further consideration.

**Screening Test Technician (STT).** A trained individual who instructs and assists individuals in the alcohol-testing process and operates an alcohol-screening device.

**Seasonal Employee.** Individuals who are employees of Kenosha County but are hired by Kenosha County to complete a specific project for a specific period of time.

**Shy Bladder.** A verifiable medical condition which interferes with a donor’s ability to produce 45 ml of urine for urinalysis during testing. During testing, if a donor cannot produce an adequate urine specimen, the donor will be given up to 40 ounces of fluid over a three-hour period. If this is unsuccessful, then the test will end, and the donor may be referred to a physician for examination.

**Shy Lung.** A verifiable medical condition based on a physician’s examination of the donor, which interferes with a donor’s ability to produce sufficient volume of breath during the alcohol testing collection process.

**Specimens Tested.** The methods used to determine the presence of alcohol or drugs in the system under this policy include the collection of urine, saliva, blood, and/or breath test. Kenosha County reserves the option to determine the specimens of choice to be utilized.

**Split Sample.** Lab specimen that is divided and submitted to the analysis, unknown to him/her, as two different specimens with different identifications.

**Subcontractor.** An individual (who is not an employee of Kenosha County), an entity, or an employee of an entity hired by Kenosha County to perform a certain task for a specific period of time for the benefit of Kenosha County.

**Substance Abuse Professional (SAP).** A person who evaluates employees who have violated the County’s Drug-free Workplace Policy and makes recommendations concerning education, treatment, counseling, follow-up testing and aftercare. The Substance Abuse Professional (SAP) must have one of the following credentials:

- licensed physician (Doctor of Medicine or Osteopathy)
- licensed or certified social worker
- licensed or certified psychologist
- licensed or certified employee assistance professional
- a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC)

**Substituted Specimen.** A specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

**Synthetic Drug.** A man-made drug which simulates the effects of cannabinoid, cocaine or amphetamine or other illegal drugs.

**Temporary Employee.** Individuals who are employees of Kenosha County and are hired directly by Kenosha County to complete a specific project for a specific period of time.

**Testing.** For the forms and definitions of each form of testing to be conducted by Kenosha County, please refer to the “Drug and Alcohol Testing” Section in this Policy

**Third Party Administrator (TPA).** A service agent who provides or coordinates the provisions of a variety of drug and alcohol testing services to employers. They typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs.

**Threshold.** Defined concentration of a drug in the specimen which determines presence or absence of drug/metabolite.

**Treatment, Rehabilitation, or Assessment.** An established program capable of providing expert identification, assessment, and resolution of employee drug or alcohol abuse in a confidential manner. The services shall be delivered by persons licensed or appropriately certified as health professionals to provide drug or alcohol rehabilitative services.

**Underage Person:** Underage person or a minor is a person under a certain age, which legally demarcates childhood from adulthood. Generally, an underage person is an individual under the age of 18, but may vary based on federal or state law.

**Under the Influence of a Controlled Substance, Illegally Used Drug, or Alcohol.** Being under the influence of a controlled substance or illegally used drug is defined as having a confirmed positive drug test result at levels specified by the Department of Health and Human Services (DHHS). Being under the influence of alcohol is the presence of a measurable amount of alcohol which is .04 BrAC or higher and .02 BrAC or higher for all Kenosha County Sheriff's Department personnel, (unless otherwise specified in the Permitted Conduct section of this policy) expressed in terms of grams of alcohol per two hundred ten liters of breath or its equivalent.

**Urinalysis Test.** A method of testing for the presence of a drug or its metabolites by analyzing a sample of the individual's urine.

**Verified Drug Test Result.** The final determination by a Medical Review Officer (MRO) of the results of the drug test.

**Work.** See County Work (At Work).

**Workplace.** See County Property.

**Work-related Meeting.** When an employee is meeting with co-workers, managers, customers, vendors, and/or suppliers and for any other business purposes.

**Work related Activities.** When an employee is delivering a product or a service or making a work-related presentation.

# LIST OF SAFETY-SENSITIVE POSITIONS

*for  
Kenosha County*

The following positions are currently designated as safety-sensitive. Kenosha County reserves the right to identify additional positions as safety-sensitive at any time. For purposes of this policy, the following are the designated safety-sensitive positions:

- All personnel driving County owned, rented or leased vehicles
- All personnel driving personal vehicles being used for County business
- All law enforcement personnel
- All Detentions personnel
- All personnel who care for residents at Brookside/Willowbrook
- All Facilities/maintenance personnel
- All dietary/kitchen personnel
- All clinic/nursing personnel
- All Parks/Golf personnel

*The purpose of identifying these safety-sensitive positions is that it is employees in these positions who need to report a prescription drug that may affect their ability to do their job function.*

# DRUG-FREE WORKPLACE POLICY ACKNOWLEDGMENT AND CONSENT FORM

for  
*Kenosha County*

I have received the summary of the Drug-Free Workplace Policy of Kenosha County. In addition, I have been provided the opportunity to read the Drug-Free Workplace Policy in its entirety. I understand that I am required to follow the policy. I also understand that failure to comply with this policy is the basis for disciplinary action, up to and including termination.

I understand the Drug-Free Workplace Policy of Kenosha County establishes conditions under which I may be required to provide a breath, blood, saliva, or urine sample for drug and/or alcohol testing. If this occurs, I hereby consent to such testing. I authorize the testing laboratory to release my test results to the Medical Review Officer (MRO) and/or to designated County managers on a need-to-know basis.

If there is a positive test result, I understand that the MRO may ask me to provide, and I agree to provide, information about any legal nonprescription drugs and other drugs for which I have a prescription that I take routinely or have taken within the last thirty days.

I understand that any communication I may have with the collection site personnel, testing laboratories, or MRO does not create or imply a doctor/patient relationship.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Applicant/Employee's Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Applicant/Employee's Name (Printed)*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Parent or Guardian's Signature (Required for Minor Employees)*

***Note: A determination of the definition of a minor is to be ascertained on a state-by-state basis.***

# POST-ACCIDENT TESTING DOCUMENTATION FORM

For

*Kenosha County*

An accident is defined as an unplanned, unexpected, unintended, or intentional event that occurs on County property, County business, or during working hours, or involves a County-supplied motor vehicle or motor vehicle being used for County purposes. Complete this form when sending an employee for post-accident drug and alcohol testing and maintain it as part of the employee's records. *(Please Print)*

**Time and Date of Accident:** \_\_\_\_\_

**Location of Accident:** \_\_\_\_\_

**Name of Referring Manager(s):** \_\_\_\_\_

**Name of Individual(s) Being Referred:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**The employees who MAY HAVE CAUSED OR CONTRIBUTED TO THE ACCIDENT and one or more of the following must have occurred. Check the one(s) that pertain:**

\_\_\_ A fatality of any party

\_\_\_ Bodily injury of any party requiring immediate medical treatment away from the accident scene

\_\_\_ Any damage to a motor vehicle in excess of \$1,000

\_\_\_ Non-vehicular property damage in excess of \$1,000

\_\_\_ An occurrence which causes or has the potential to cause a major financial loss to Kenosha County or subject Kenosha County to liability for any property damage or personal injury.

\_\_\_ An occurrence which causes or potentially causes harm or death to a patient or resident

\_\_\_ A significant medication error

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Check if the collection was conducted in the appropriate time frames:**

Alcohol within 8 hours: Yes \_\_\_ No \_\_\_      Drugs within 32 hours: Yes \_\_\_ No \_\_\_

If not, state why: \_\_\_\_\_

\_\_\_\_\_

# DRUG/ALCOHOL TESTING INFORMATION REFERRAL FORM

For

*Kenosha County*

**Referring manager:** Complete this form when sending an applicant/employee for drug and/or alcohol testing. Have the applicant/employee deliver the form to the collection site personnel. Please print all information.

**Applicant/employee:** Present this form, the laboratory's chain-of-custody form and/or the drug testing collection kit, as applicable, and valid picture identification to collection site personnel at the time of your arrival at the designated collection site.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Name of Individual to be Tested*

\_\_\_\_\_  
*Time*

\_\_\_\_\_  
*Individual's Home Telephone Number*

\_\_\_\_\_  
*Individual's Work Telephone Number*

\_\_\_\_\_  
*Individual's Cell Number*

\_\_\_\_\_  
*Name of Referring Manager*

\_\_\_\_\_  
*Referring Manager Work Telephone Number*

## TYPE OF TEST REQUESTED

- |                                               |                                                                       |
|-----------------------------------------------|-----------------------------------------------------------------------|
| <input type="checkbox"/> Pre-Employment       | <input type="checkbox"/> Drug                                         |
| <input type="checkbox"/> Reasonable Suspicion | <input type="checkbox"/> Drug and Alcohol                             |
| <input type="checkbox"/> Post-Accident        | <input type="checkbox"/> Drug and Alcohol                             |
| <input type="checkbox"/> Follow-up            | <input type="checkbox"/> Drug and/or <input type="checkbox"/> Alcohol |



# REHABILITATION AGREEMENT

For  
*Kenosha County*

Name (Print): \_\_\_\_\_

On this day, \_\_\_\_\_, Kenosha County (Kenosha County), in lieu of or in addition to discipline and as a condition of my continued employment, agreed that I seek an assessment and/or rehabilitation for alcohol and/or drug abuse, as required by my treatment provider. The following conditions apply to my Rehabilitation Agreement:

1. I authorize my treatment provider to submit on a scheduled basis proof of enrollment in a rehabilitation program and proof of attendance to a member of the Kenosha County's Human Resources Department. I understand that my attendance will be monitored closely and that Kenosha County may institute disciplinary procedures if I do not regularly attend all sessions.
2. I must adhere to all of the requirements of the drug or alcohol treatment program in which I am enrolled.
3. If I am absent from work during the rehabilitation period, Kenosha County will review the reasons for the absence(s) and may require documentation, as appropriate.
4. I will be responsible for all costs of rehabilitation not covered under Kenosha County's medical benefits plan.
5. Upon completion of the rehabilitation program, I understand that I will be required to supply Kenosha County with a statement from my certified treatment provider that I have completed the rehabilitation program in a satisfactory manner.
6. During the treatment period and the two (2) year period following completion of the assessment or rehabilitation program, I agree to submit to unannounced testing for the illegal use of drugs. I agree to submit to alcohol testing until Kenosha County determines that my alcohol use does not pose a direct threat to my safety or others in the workplace.
7. I must meet all established standards of conduct and job performance. Kenosha County may terminate me if my on-the-job conduct or job performance is unsatisfactory.
8. I agree that Kenosha County has grounds, based on my unsatisfactory performance or behavior related to my drug and/or alcohol use, to discipline me or terminate me from my position. I am being held to the same job performance and behavior standards as other employees.
9. I understand that failure to comply with the above conditions will most likely result in my immediate discharge.

I hereby agree to all of the above conditions. This agreement does not alter my at-will employment status or create a binding employment contract or modify any existing contract.

\_\_\_\_\_  
*Employee's Name*

\_\_\_\_\_  
*Manager's Name*

\_\_\_\_\_  
*Employee's Signature*

\_\_\_\_\_  
*Manager's Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

*IMPORTANT: Assessment, counseling and/or rehabilitation for alcohol and/or drug abuse is to be provided by a state or nationally certified substance abuse professional, and the certified substance abuse professional is to ensure that: all the above provisions above have been fulfilled; provide a written letter stating their credentials; and that the above employee has completed the rehabilitation program in a satisfactory manner.*