

	<p align="center">Drug Testing and Substance Abuse</p> <p align="right"><i>Adopted on: 03/22/1995</i></p>
<p align="center">Last Revision Date: 12/04/2024</p>	<p align="center">Policy No. 4.310</p>
<p align="center">Last Enabling Resolution: 253-2024/924-2024</p>	<p align="center">Developer/Reviewer: Human Resources</p>

1. Purpose

Sedgwick County is committed to maintaining a drug and alcohol free workplace. The public has a right to expect County employees to be free from the effects of drugs and alcohol as they serve the community. Further, County employees have a reasonable right to work in an environment safe from the potential dangers posed by drug and alcohol misuse. Sedgwick County is also obliged to comply with federally mandated (Omnibus Transportation Employees Act of 1991) alcohol and testing rules for individuals operating vehicles that require a commercial driver’s license. This Policy establishes drug and alcohol testing procedures for employees of Sedgwick County in support of organizational values and legal requirements.

2. Scope

This Policy applies to all individuals seeking employment and all employees of Sedgwick County. For employees, this Policy is effective while the employee is being compensated by or is acting in an official capacity for Sedgwick County. It does not intend to supersede or conflict with binding State or Federal Laws, Statutes or Regulations. Where a conflict occurs, State and Federal mandates take precedence.

3. Definitions:

- A. **Alcohol** – Alcohol is a central nervous system depressant. It is the major intoxicating ingredient in wine, beer and distilled liquor. It is the product of distillation of any fermented liquid whether rectified or diluted. It includes synthetic ethyl alcohol.

- B. **Drug** – Any chemical substance which produces physical, emotional and behavioral changes in the user including controlled substances and/or illegal drugs. For the purposes of testing, drugs mean marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines.

- C. **Controlled Substance** – Any of those substances listed under the Uniform Control Substance Act of the State of Kansas, as well as those substances listed on schedules I through V, 21 U.S.C. § 812, as they may be revised from time to time.

- D. **Illegal Drugs** – Drugs for which the sale, possession, use or distribution is unlawful in the State of Kansas. For the purpose of this Policy, illegal drugs include drugs which are not legally obtainable and drugs which are legally obtainable but have been illegally obtained.
- E. **Employee Assistance Program (EAP)** – A County sponsored program which offers assessment, short term counseling and referral services to employees for a wide range of drug, alcohol and mental health problems. The program monitors the progress of employees while in treatment.
- F. **Medical Review Officer (MRO)** – A licensed physician with knowledge of substance abuse disorders and appropriate training to interpret drug/alcohol test results together with an individual's medical history and other relevant biomedical information. The MRO receives and evaluates laboratory tests generated pursuant to the County's drug and alcohol testing policy.
- G. **Material Participant** – Any person who has an active, on-site role in directing or participating in an activity that resulted in a fatal accident.
- H. **Substance Abuse Professional (SAP)** – A licensed physician, licensed psychologist, social worker, employee assistance professional or addiction counselor designated with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug disorders. The SAP is designated by the County to diagnose and, when appropriate, refer for treatment/treat employees with substance abuse problems.
- I. **Protective Services Personnel** – Those uniformed personnel charged with protecting the public safety of Sedgwick County. This generally refers to and includes Sheriff, Fire and Emergency Medical Service personnel.

4. Procedures

- A. Pre-Employment Testing:
 - 1. Applicants who have received an offer of employment must successfully complete a drug detection test. Pre-employment screening for alcohol may be conducted at the County's option. A positive finding of alcohol or illegal drugs will result in a denial of employment. Applicants testing positive will be ineligible for employment with Sedgwick County for six (6) months unless they provide certified documentation of successful completion of a substance abuse rehabilitation program. A positive drug/alcohol test administered by Sedgwick County may be considered in future hiring decisions.
 - 2. Applicants will be required to sign an informed consent form. A refusal to consent, failure to appear at the designated collection site on the appointed date and time, or failure to provide a viable sample for testing will terminate the hiring process. This will also be treated the same as a failed drug screen resulting in applicants being ineligible for employment with Sedgwick County for six (6) months unless they provide certified documentation of successful completion of a substance abuse rehabilitation program.

3. Screenings for drugs will include a urinalysis, but may include blood sample testing, at the discretion of the County. Samples will be split and sent to the lab for processing. Normally, alcohol screening will be accomplished by using an approved Evidential Breath Testing device (EBT). However, other recognized breath testing devices or blood sample testing may be used at the County's option. All samples will be collected, screened and documented in accordance with contractual requirements; drug test results will be sent to the Medical Review Officer for review and interpretation as needed.
4. For alcohol screening, an alcohol concentration of .02 or higher will constitute a positive test. A positive test will be immediately (within 20 minutes) confirmed by a second screening. If the second test results in a concentration level of .02 or higher, the outcome will be deemed a valid positive. A second test resulting in a concentration of less than .02 will result in an overall negative screening outcome. Test results will be forwarded to Human Resources for action and stored confidentially.
5. Drug screening will test for marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines/methamphetamines. If a sample tests positive for an aforementioned controlled substance, a confirmation test will be conducted by the Medical Review Officer.
6. Drug/alcohol test results will be reported to Human Resources and the applicant or employee by the testing facility. The applicant or employee will be notified of positive test results. As part of the notification process, the applicant will be provided an opportunity to explain positive results and provide medical documentation as needed.
7. Prescribed use of legally obtained controlled substances under the auspices of a properly licensed health care professional does not deny the applicant an opportunity for employment unless the treatment adversely affects job performance. Prescriptions must be substantiated by a verifiable medical report.
8. Applicants who attempt to tamper with tests will be denied employment.

B. Procedure for Pre-Employment Testing and Screening

1. When the hiring authority has made a selection decision, the prospective employee will be offered employment contingent on passing a drug/alcohol screening test. The hiring authority will also inform Human Resources of the contingent employment offer. Time and most convenient location of a County designated testing facility will be coordinated with the prospect. Testing should be completed the same day Human Resources instructs the applicant that testing is required. An appointment is not required and applicants may walk in prior to closing time of the screening facility. Human Resources will maintain a list of approved testing facilities.
2. The testing facility will inform Human Resources and the applicant of test results. If the test results are negative Human Resources will notify the hiring authority and process necessary paperwork. A prospective employee will not begin employment until a negative testing outcome is established.

3. If test results are positive (drug/alcohol thresholds are exceeded), Human Resources will record the information and notify the hiring authority and applicant. The hiring authority will be informed that the test was positive but will not be provided further details regarding results. The hiring authority will take appropriate steps to fill the position with another candidate.
- C. Current Employees in Driving Positions (non CDL) Charged with, or Convicted of, Driving Under the Influence of Drugs or Alcohol (DUI)
1. Per policy 4.501 Progressive Discipline, Sedgwick County employees are expected to abide by all municipal, county, state, and federal laws. In the event an employee is arrested or charged with a DUI offense, they must notify their supervisor within two business days. Failure to do so may result in termination. The Division/Department Director or Elected/Appointed Official must notify the Division of Human Resources the same business day. 2. For employees in Driving Positions as defined in Policy 4.302, when an employee's driver's license is suspended or revoked for receiving a citation for, or in association with, driving under the influence of drugs or alcohol, the employee will be placed on leave. Sedgwick County will hold their position for a maximum of thirty-one (31) calendar days. No job reassignment or removal of job duties will be allowed. During the leave, the employee will use accrued vacation leave or comp time. Once vacation leave and comp time are exhausted, the employee will enter hours without pay. If the driver's license suspension exceeds thirty-one (31) calendar days, the employee will be subject to termination. Exceptions will be made at the discretion of the Division Director and the Chief Human Resources Officer.
 2. Employees serving in their initial probationary period holding a driving position who are convicted of DUI, or enter a diversion program for driving under the influence of drugs or alcohol, will be subject to termination. 4. Non-probationary employees holding driving positions who are convicted of a misdemeanor DUI, or enter diversion program for driving under the influence of drugs or alcohol, will receive a minimum of a written reprimand and may be subject to termination. 5. Employees may not be convicted of driving under the influence of drugs or alcohol two (2) or more times within the last five years. The time period will be calculated from the date of conviction.
 3. Employees convicted of a felony DUI will be terminated.
 4. The Division/Department Director or Elected/Appointed Official shall advise the Chief Human Resources Officer of the DUI conviction. After informing the CHRO, the process outlined in 4.501 Progressive Discipline should be followed. All disciplinary action should be sent to personnel@sedgwick.gov for inclusion in the official personnel file.
- D. Use of Ignition Interlock Devices for current employees
1. Employees subject to the use of an ignition interlock device shall be allowed to drive their personal vehicles as designated in their job descriptions.

2. Employees required to use an ignition interlock device on their personal vehicles will not be prohibited from driving Sedgwick County owned vehicles or equipment as required to perform the essential functions of their positions.

E. Reasonable Suspicion Testing for Substance Abuse:

1. Elected/Appointed Officials, the County Manager, Deputy County Manager, Assistant County Managers, Division/Department Directors (or designee) may initiate/authorize drug or alcohol testing if a reasonable suspicion of employee substance abuse exists.
2. Supervisors at all levels are responsible to recognize and evaluate circumstances and behavior that may warrant reasonable suspicion drug/alcohol testing. Supervisors who have reasonable suspicion that an employee is under the influence of alcohol or illegal drugs will document the specific facts, symptoms or observations that form the basis of such reasonable suspicion in detail. Additional witness testimony should be sought if possible. The documentation will be delivered to the first individual in the supervisory chain of command empowered to authorize testing for action. If there is concurrence that reasonable suspicion of substance abuse exists, the employee will be tested.
3. Supervisors are required to attend annual alcohol and substance use training, and this training must be approved by Human Resources. The training covers the physical and behavioral manifestations of probable misuse of alcohol or controlled substances. Refresher training will be provided on an as needed basis. Training will be documented and maintained in the individual's personnel file.
4. Employees to be tested for reasonable suspicion shall be removed from duty, with pay, pending test completion and receipt of result.
5. Employees will be escorted to the testing site by two supervisors or a supervisor and coworker/employee when two supervisors are not available. Supervisors may request the testing center come to their location, however, transporting the employee to the testing facility will be the most expeditious way to complete testing.
6. Circumstances which may constitute reasonable suspicion may include, but are not limited to:
 - a. Abnormal and/or erratic behavior--this may be a single dramatic event or an unusual pattern of behavior.
 - b. Direct observation of drug use or possession; alcohol consumption or possession in the workplace or observation of physical symptoms of drug or alcohol use.
 - c. Information regarding alcohol misuse or erratic behavior from a reliable and credible source--such as confirmed reports from law enforcement officers, citizens, employees or other credible sources.
 - d. Persistent absenteeism or tardiness combined with other manifestations of substance abuse.
 - e. Any articulable facts which lead supervisors to believe an employee is in possession of drugs or alcohol or is under the influence of drugs or alcohol.
 - f. Evidence that an employee has tampered with a recent drug or alcohol test.

- g. An incident involving on-the-job injury or property damage where at least one of the preceding indicators of reasonable suspicion is present.
- 7. Drug and alcohol testing procedures and thresholds are the same as set forth in section 4, subsection A. parts 3, 4, 5, and 6.
 - a. An employee whose alcohol concentration is .02 or greater but less than .04 will be removed from duty, without pay, for twenty (24) hours from administration of the test.
 - b. An employee with an alcohol concentration less than .04 need not undergo further treatment nor be required to take additional tests to return to duty.
 - c. Tests yielding alcohol concentrations greater than .04 will result in removal from duty without pay (use form 4.501E) until return to duty provisions are satisfied. See section 4, subsection H.
 - d. A positive test result (.02 or greater) will subject the employee to disciplinary action.
- 8. Refusal to test, or attempting to tamper with the testing process, are grounds for discipline up to and including termination.

E. Post-Accident Testing for Employees **without** a CDL

Employees involved in an injury or damaging accident must be tested unless it can be reasonably and immediately presumed that the operator is not responsible for the accident. If responsibility is unclear, the employee must be tested.

The appropriate Elected/Appointed Official, County Manager, Deputy County Manager, Assistant County Manager, Division/Department Directors (or designee) will evaluate the circumstances surrounding the accident and, using their best judgement, direct testing if warranted. Failure of a medically competent employee to immediately report a vehicle accident to a supervisor may result in disciplinary action.

Supervisors will rely on the judgement of investigating law enforcement agencies to render a drug/alcohol test for those vehicular/non-vehicular accident(s) which they investigate.

If law enforcement is not present and it is not reasonably and immediately presumed that the operator is not responsible for the accident, supervisors will require drug/alcohol testing under the following circumstances:

- 1. Any accident resulting in damage or injury while operating a Sedgwick County owned vehicle or piece of equipment.
- 2. Any accident resulting in damage or injury when transporting a client or co-worker in a personally owned vehicle while on official Sedgwick County business.
- 3. Substantive damage to County or private property as a result of a non-vehicular accident.
- 4. Any job related accident that results in a non-protective services related fatality.
 - a. Protective Services personnel in high-risk duty related activities will not be automatically subject to material participant testing as a consequence of a fatal accident. A decision to test or not to test in those instances rests with supervisors.

- b. A decision not to test will be forwarded in writing within two (2) work days from the employee's supervisor to the Division/Department Director for review.
5. Employees involved in an injury or damage accident should be tested unless it can be reasonably and immediately presumed that the operator is not responsible for the accident. If responsibility is unclear, the employee should be tested. The appropriate Elected/Appointed Official, County Manager, Deputy County Manager, Assistant County Manager, Division/Department Directors (or designee) will evaluate the circumstances surrounding the accident and, using their best judgment, direct testing if warranted. Failure of a medically competent employee to immediately report a vehicle accident to a supervisor may result in disciplinary action.
6. Accidents involving Sheriff, Fire or EMS personnel may be assessed using broader supervisory discretion due to the inherently higher accident risk they face in executing their duties.
7. Following an accident, all reasonable steps to obtain a testing sample from an employee should be implemented (prudent medical treatment for injuries remains first priority). For vehicle accidents in which the employee is medically incapacitated and law enforcement is present, the County will rely on investigating law enforcement agencies to direct testing.
8. For non-vehicular accidents resulting in the employee being incapacitated and investigating law enforcement is not present, the employee's supervisor shall initiate post-accident drug/alcohol testing.
If testing is warranted, the supervisor should inform the appropriate medical facility of the requirement to obtain samples for drug/alcohol testing. Samples should not be tested until the employee is able to give consent. If the employee refuses to consent, the sample will be discarded and the incident will be treated as a refusal to test. Competence to consent for hospitalized employees must be verified by the treating physician.
9. Post-accident testing should be accomplished as soon as possible after an accident. As a guideline, testing for alcohol should be conducted within two (2) hours and testing for drugs within thirty-two (32) hours. Testing for alcohol may not be administered more than eight (8) hours following an accident.
10. Reasons for failure to test for alcohol within two (2) hours and for drugs within thirty two (32) hours will be recorded by the Division/Department and filed in the employee's official personnel file in Human Resources.
11. Employees must report out of area, on duty, accidents that result in the employee being tested for drugs/alcohol by a legally empowered testing agency. The employee must notify her/his supervisor of the incident as soon as possible after occurrence.
12. No affected employee will be permitted to take leave until required testing is complete.
13. Employees sent for drug and alcohol testing after an accident shall remain off duty with pay for the remainder of his/her shift and may return the following scheduled shift. The exception shall be when reasonable suspicion exists.

14. Testing procedures/criteria are the same as set forth in section 4, subsection A, parts 3, 4, 5, and 6. Return to duty procedures are outlined in section 4, subsection H.
 - a. An employee who refuses to test, tampers with or fails a drug or alcohol test, will be subject to disciplinary action up to and including termination.
 - b. For alcohol, a negative test is one in which the alcohol concentration is less than .02. For drugs, minimum thresholds set forth by the U.S. Department of Health & Human Services and Department of Transportation must not be exceeded.

G. Tests by Other Jurisdictions

Results of a drug or alcohol test conducted by legally authorized Federal, State or Local officials shall be considered to meet the requirements of this Policy if testing conforms to applicable Federal, State or Local requirements. A legal demand for testing must be made while the employee is on duty for the test to be accepted under the provisions of this Policy.

H. Consequences and Criteria for Return to Duty after a Positive Drug/Alcohol Test:

1. An employee may be terminated for testing positive for drugs or alcohol while at work.
2. Any positive test that does not result in termination should be documented as discipline for a policy violation, minimum of Written Reprimand, and submitted to HR for inclusion in the employee's official personnel file.
3. In some circumstances, an employee will be given a mandatory referral to Sedgwick County's employee assistance program provider (EAP).

A representative from the EAP will work with the employee to coordinate a drug and alcohol assessment and, if applicable, identify appropriate treatment options.

 - a. The employee will be asked to sign a release of information so that the EAP may communicate with the treatment provider to verify the employee is participating in the selected program. The EAP will serve as liaison between the provider and Sedgwick County regarding compliance and completion of return to work requirements.
 - b. When an employee requires time away from work to attend a rehabilitation program, and meets eligibility requirements for Family Medical Leave, the employee should apply for FML at the earliest opportunity.
4. Any employee who is returned to work after a positive drug or alcohol screen will be tested prior to returning to work. The test result must indicate an alcohol concentration of less than .02 or a verified negative result on a controlled substance test.
5. A second positive drug or alcohol test within five (5) years is cause for termination.
6. Employees who fail to successfully complete treatment will be terminated.

5. Responsibilities

- A. Human Resources is responsible for:
 1. Administration and broad oversight of the County's Drug and Alcohol Testing Program.

2. Oversight of contracted services, supervisory training, notification processes, record keeping and the appropriate protection of sensitive information.
- B. Elected/Appointed Officials, County Manager, Deputy County Manager, Assistant County Managers, Division and Department Directors are responsible for:
1. Maintaining a drug and alcohol free workplace.
 2. Knowing and complying with the provisions of this policy.
 3. Notifying affected employees that they are subject to testing.
 4. Authorizing/directing testing of employees.
 5. Ensuring prompt employee notification when directed to test.
 6. Ensuring testing correspondence/results are kept confidential.
 7. Ensuring that all supervisors are trained in drug/alcohol misuse recognition.
 8. Implementing appropriate action for failure to comply with this Policy.
- C. Supervisors at all levels are responsible for:
1. Maintaining a drug and alcohol free workplace.
 2. Reporting and documenting behavior that suggests reasonable suspicion exists to warrant drug/alcohol testing.
 3. Knowing and complying with the provisions of this policy.
- D. All employees are responsible for:
1. Maintaining a drug and alcohol free workplace.
 2. Knowing and complying with this Policy.
 3. Advising supervisors when taking substances that may impair performance or safe execution of their duties.

6. Drug-Free Workplace Act of 1988

- A. All Sedgwick County employees are expected and required to report to work on time and in appropriate mental and physical condition, free from the effects of drugs and alcohol.
- B. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance on County premises is absolutely prohibited. Violations of this Policy will result in disciplinary action, including termination, and may result in criminal prosecution.
- C. Sedgwick County recognizes drug dependency as an illness and a major health, safety and security problem. Employees needing help with substance abuse problems are encouraged to use Sedgwick County's Employee Assistance Program and health insurance plans, as may be appropriate.
- D. Sedgwick County employees must, as a condition of employment, abide by the terms of the Policies and Procedures concerning drug and alcohol abuse. Employees are required to report to their supervisor within two business days an arrest, charge or conviction under a criminal drug statute. The supervisor is to notify the Chief Human Resources Officer the same day that he/she is notified.

7. Special Provisions for Certain Aging Department Employees and Other Employees Servicing Certain Aging Department Vehicles

In addition to the requirements of this section, employees of the Department on Aging who perform transportation program driver and dispatcher duties which are funded by grants from the Kansas Department of Transportation (KDOT) and/or the Federal Transit Administration (FTA) shall be governed by the Sedgwick County Department on Aging's Anti-Drug and Alcohol Misuse Prevention Policy (ADAMPP). The provisions of the ADAMPP are hereby incorporated by reference as if set out in full. Also, the Director of the Fleet Management Department shall designate certain positions within that department to be responsible for servicing and maintaining Aging Department's vehicles used for programs funded by KDOT or FTA grants. Those designated Fleet Management positions shall also be governed by the ADAMPP in addition to the requirements of this section. Where a discrepancy exists between items or subjects covered in both this personnel Policies and Procedures Manual and ADAMPP, the ADAMPP shall be the higher authority and will control for the employees to whom it applies.

This Policy is intended to be a unilateral expression of the general policies, procedures and guidelines concerning the Omnibus Transportation Employee Testing Act. It is not intended to create a contractual right of employment, either express or implied, between the County and its employees. In addition to the general policies and procedures listed above, County employees will continue to be covered by the policies and procedures as listed in the County Substance Abuse Policy. The County reserves the right to change the provisions of the Personnel Program and this Policy at any time.