

FRANKLIN COUNTY SUBSTANCE ABUSE PREVENTION PLAN Policy # 2.11
Pursuant to Department of Transportation ("DOT")
and Federal Highway Administration ("FHWA") Regulations

SECTION I. INTRODUCTION

A. SUBSTANCE ABUSE PREVENTION PLAN (SAPP)

1. Franklin County ("the County") has a long standing commitment to maintain the highest standards for employee safety and health and to help prevent accidents/injuries resulting from substance abuse, including alcohol and controlled substances, by employees who perform covered functions.
2. In addition, the County must comply with all DOT and FHWA regulations and other regulations which require affirmative actions to eliminate the effects of alcohol misuse and drug abuse from the workplace. The purpose of this plan is to reduce accidents that result from alcohol misuse and drug abuse, thereby reducing fatalities, injuries, and property damage.
3. The County has implemented the FHWA Drug and Alcohol Regulations and the DOT Procedures for Transportation Workplace Drug and Alcohol Testing Programs. Provisions of this plan adopted pursuant to the County's independent authority appear in bold and italicized text.

B. DEFINITIONS

1. Accident - means an occurrence involving a commercial motor vehicle operating on a public road which results in:
 - a. A fatality;
 - b. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - c. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
 - d. The County further defines "accident" to include any on-duty occurrence caused or not reasonably prevented by a covered employee and resulting in:
 - (1) Damage to County, citizen, or contractor property or equipment; or
 - (2) Employee, citizen, or contractor injury.

2. Alcohol - the intoxicating agent in beverage, ethyl or other low molecular weight alcohols including methyl or isopropyl alcohol.
3. Alcohol Concentration - the 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 conducted under the federal regulations.
4. Alcohol Use - the consumption of any beverage, mixture, preparation, or medication containing alcohol.
5. Breath Alcohol Technician (BAT) - an individual who instructs and assists employees in the alcohol testing process and operates an EBT.
6. Collection Site - a designated clinic/facility where covered employees may provide a urine specimen to be analyzed for the presence of drugs.
7. Collection Site Person - individual who instructs and assists covered employees in the specimen collection process.
8. Commercial Motor Vehicle - a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 - a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 - b. Is designed to transport 16 or more passengers, including the driver; or
 - c. Is used in the transportation of hazardous materials in the quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act.
9. Confirmation Test - a second test following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration, or a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.
10. Covered Employee - means a commercial motor vehicle driver. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the County or who operate a commercial motor vehicle at the direction of or with the consent of the County.

For the purposes of pre-employment/pre-duty testing only, the term includes a person applying to an employer to drive a commercial motor vehicle. Covered employee and "individual" or "individual to be tested" have the same meaning for the purposes of this plan.

11. **Covered Function (safety-sensitive function)** - means "on duty time," including:
 - a. All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty;
 - b. All time inspecting equipment, servicing, or conditioning any commercial motor vehicle at any time;
 - c. All driving time;
 - d. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
 - e. All time loading or unloading a vehicle, supervising, or assisting in the loading, or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
 - f. All time spent performing the driver requirements relating to accidents; and
 - g. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
12. **EBT** - an evidential breath testing device approved by the National Highway Traffic Safety Administration (NHTSA) and placed on NHTSA's "Conforming Products List" (CPL).
13. **Fail a Drug Test or Test Positive** - the confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in the covered employee's system.
14. **Operator, Employer or County** - Franklin County.
15. **Pass a Drug Test or Test Negative** - the initial or confirmation test does not evidence any presence of a prohibited drug in the covered employee's system.
16. **Performing a Covered Function** - any period in which a covered employee is actually performing, ready to perform, or immediately available to perform such functions.

17. **Prohibited Drug** - marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines are the controlled substances that drug tests seek.
18. **Refusal to Submit** - failure to provide a urine sample or adequate breath for testing without a valid medical explanation or other conduct that obstructs the testing process, including, but not limited to, submission of an adulterated specimen for testing.
19. **Screening test (or initial test)** - means an analytic procedure to determine whether a covered employee has a detectable presence of drugs in his/her urine or a prohibited concentration of alcohol in his/her breath.
20. **Substance Abuse Professional (SAP)** - means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of substance abuse.

C. **DESIGNATED MANAGEMENT OFFICIAL (DMO)**. The DMO is responsible for: providing oversight and evaluation on the plan; providing guidance and counseling; reviewing all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for drug and alcohol tests; maintaining a locked file system on all test results; and overseeing the referral of covered employees for evaluation and treatment. The County will ensure that all covered employees are aware of the provisions and coverage of the County's SAPP. Any questions concerning this program should be directed to the DMO.

D. **PROCEDURE FOR NOTIFYING COVERED EMPLOYEES**. All covered employees are being provided with a copy of this plan.

E. **INDEPENDENT CONTRACTORS AND TEMPORARY AGENCY EMPLOYEES**. Employees of independent contractors and temporary agency employees who violate this plan will not be allowed on County premises or otherwise permitted to perform services on behalf of the County.

F. **COUNTY INSPECTIONS**. The County reserves the right to carry out reasonable inspections of County premises (including vehicles, offices and lockers) and individuals, their personal effects, and vehicles when entering County premises, while on County premises and when leaving County premises. The objective of these inspections is to deter the use, possession, distribution, sale or transportation of illegal drugs and alcohol in order to provide a safe work environment. Such inspections may be initiated by the County without prior announcement and will be conducted at such times and locations as deemed appropriate.

SECTION II. DRUG AND/OR ALCOHOL TESTS REQUIRED

- A. **PRE-EMPLOYMENT DRUG TESTING.** Prior to the first time a driver performs safety-sensitive functions for the County, he/she shall undergo drug testing.
- B. **POST-ACCIDENT DRUG AND ALCOHOL TESTING.** The County will promptly test (within 32 hours) a covered employee for drugs and alcohol if the covered employee contributed to or cannot be completely discounted as a contributing factor to the accident or if the covered employee receives a citation under State or local law for a moving traffic violation arising from the accident. Covered employees must remain available for testing. The covered employee will not be allowed to proceed alone to or from the collection site for safety concerns and will not ingest anything enroute that could affect the outcome of the test. After returning from the collection site, the covered employee will not perform any covered functions pending the results of the tests.
- C. **RANDOM DRUG AND ALCOHOL TESTING**
 - 1. **Purposes.** The primary purposes of random testing are to deter prohibited drug and alcohol use and to ensure a safe workplace. DOT regulations require that covered employees be subject to drug and alcohol testing on an unannounced and random basis. The County will conduct random selection and testing.
 - a. **Random Alcohol Testing Rate.** The minimum annual rate will be 10 percent of the average number of covered employee positions.
 - b. **Random Drug Testing Rate.** The minimum annual rate will be 50 percent of the average number of covered employee positions.
 - 2. **The random selection process.** Covered employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing. Covered employees will be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with a covered employee's social security or ID number. The process will be unannounced. Covered employees will be notified that they have been selected after reporting for duty on the day of collection. Tests will be conducted on different days of the week throughout the annual cycle to prevent covered employees from matching substance abuse patterns to the random testing schedule. Covered employees will be notified of their selection after they have reported for duty and thereafter will report immediately to the collection site.
- D. **REASONABLE SUSPICION DRUG AND ALCOHOL TESTING.** Reasonable suspicion testing provides management with a tool to identify drug or alcohol-affected covered employees who may pose a danger to themselves and others in their job performance.
 - 1. **Supervisor Reasonable Suspicion Determinations.** The County's reasonable suspicion will be based on specific, contemporaneous, articulable observations

concerning the appearance, behavior, speech, or body odors of the covered employee made during, just preceding, or just after the period of the work day that the covered employee is required to be in compliance with this SAPP. The required observations for a reasonable suspicion drug and/or alcohol test will be made by a supervisor who has received at least 120 minutes of training in detecting the symptoms of drug and alcohol abuse. The factors to be considered include, but are not limited to, the following:

- a. Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in a covered employee's prior pattern of work performance, especially where there is some evidence of drug or alcohol-related behavior on or off the work site.
- b. Physical symptoms consistent with substance abuse.
- c. Evidence of prohibited drug or alcohol use, possession, sale, or delivery while on duty.
- d. Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.

2. **The Employee Shall Not Drive or Perform Functions.** The potentially affected covered employee will not be allowed to drive or to proceed alone to or from the collection site due to safety concerns and to limit his/her opportunity en-route to ingest anything that could affect the test result. After returning from the collection site, the covered employee will not be allowed to return to performing any covered functions pending the test result(s). The covered employee must make arrangements to be transported home and will be instructed not to drive any motor vehicle due to the reasonable suspicion that he/she may be under the influence of drugs or alcohol. If the covered employee insists on driving, the proper local enforcement authority may be notified.
3. **Reporting or Remaining on Duty in Absence of Test.** Notwithstanding the absence of a test under this section, the County will not permit a covered employee to report or remain on duty requiring the performance of covered functions while under the influence of drugs or alcohol, as shown by behavioral, speech, or performance indicators of substance abuse, nor will the covered employee be permitted to perform covered functions unless the covered employee satisfies the requirements of paragraph E, below.

E. RETURN-TO-DUTY DRUG AND ALCOHOL TESTING

1. Alcohol. Before returning to duty to perform covered functions, a covered employee who has engaged in prohibited conduct involving alcohol will undergo a return-to-duty alcohol test at his/her expense with a result indicating an alcohol concentration of less than 0.02.
2. Drugs. Before returning to duty to perform covered functions, a covered employee who has engaged in prohibited conduct involving drugs will undergo a return-to-duty drug test at his/her expense with a negative result.
3. Also, if the SAP makes a determination that some form of evaluation and/or treatment is required, then the covered employee must comply with any such requirement(s) in order to be considered eligible to return to duty.

F. FOLLOW-UP DRUG AND ALCOHOL TESTING

1. Following the determination that a covered employee is in need of assistance regarding substance abuse, the covered employee will be subject to unannounced follow-up drug and/or alcohol testing as directed by a SAP for up to 60 months after his/her return to duty.
2. The covered employee will be subject to at least six unannounced follow-up drug and/or alcohol tests during the first 12-months following his/her return to duty. The SAP may terminate the requirement for follow-up testing at any time after the initial six tests have been completed, if the SAP determines that such testing is no longer warranted.
3. Even if the covered employee has not tested positive for drugs, the County may require a covered employee to submit to a program of follow-up drug testing when the SAP has reason to suspect drug involvement.

G. PROVISIONS GOVERNING ALCOHOL RETESTING OF COVERED EMPLOYEE

A covered employee tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 will not perform covered functions until:

1. The start of the covered employee's next regularly scheduled duty period, but not less than twenty-four hours following the alcohol test; and
2. The covered employee's alcohol concentration measures less than 0.02 in a subsequent alcohol test.

SECTION III. PROHIBITED CONDUCT

A. PROHIBITED ALCOHOL-RELATED CONDUCT

1. **Alcohol Concentration.** A covered employee shall not report or remain on duty requiring the performance of covered functions with an alcohol concentration of 0.02 or greater. If the County has actual knowledge that a covered employee has an alcohol concentration of 0.02 or greater, the covered employee will not be permitted to perform covered functions.
2. **Pre-Duty Use.** A covered employee shall not use alcohol within four hours prior to performing covered functions and a covered employee shall not use alcohol within the time period after being notified to report for emergency duty. If the County has actual knowledge that a covered employee has used alcohol within four hours prior to performing covered functions or within the time period after the covered employee has been notified to report for emergency duty, the covered employee shall not be permitted to perform covered functions.
3. **On-Duty Use.** A covered employee shall not use alcohol while performing covered functions. If a County representative has actual knowledge that a covered employee is or has been using alcohol while performing covered functions, the covered employee will not be permitted to continue to perform covered functions.
4. **Alcohol Possession.** A covered employee shall not be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. The County will not permit a covered employee to drive a commercial motor vehicle if it has knowledge that the covered employee possesses un-manifested alcohol.
5. **Post-Accident Use.** A covered employee, who has actual knowledge of an accident in which his/her performance has not been discounted by the operator as a contributing factor to the accident, is prohibited from using alcohol for eight hours following the accident unless he/she has been given a post-accident test.

B. PROHIBITED DRUG-RELATED CONDUCT

1. **Failure of Drug Test.** Covered employees shall not report to work with a detectable presence of prohibited drugs in their systems or with prohibited drugs in their possession. Thus, a covered employee who tests positive for prohibited drugs shall not be permitted to perform covered functions. Such a driver shall be disqualified by issuance of a letter of disqualification for a period of 1 year for a positive test when the driver has been involved in a fatal accident.

2. **Drug Use.** If the County has actual knowledge that a covered employee has used a controlled substance, the covered employee shall not be permitted to perform a covered function.
3. **Illegal Possession of Drugs.** A covered employee shall not be on duty or operate a commercial motor vehicle while illegally possessing drugs.

C. **PROHIBITED OFF-DUTY CONDUCT.** Off duty drug or alcohol-related conduct that either interferes with a covered employee's performance or adversely affects the County's interests, as determined by the County in its sole discretion, is prohibited and constitutes grounds for discipline up to and including discharge.

D. **PRESCRIPTIONS AND OVER-THE-COUNTER DRUGS**

1. Covered employees taking prescription drugs issued by a licensed physician or over-the-counter drugs are responsible for being aware of any effects such drugs may have on the performance of their duties. A covered employee may continue to work, even though taking a legal drug, if the covered employee does not pose a threat to his or her own safety or the safety of co-workers and the covered employee's job performance is not significantly affected by the legal drug. Otherwise, the covered employee may be required to comply with other appropriate action.
2. Where a covered employee does not comply with these requirements, a physician's prescription will not be an acceptable excuse for violation of this plan, and the covered employee may be subject to disciplinary action.
3. Medications prescribed for another individual or relative of the covered employee will be considered to be used improperly and will subject the covered employee to discipline for violation of the above provision.

6. **SECTION IV. CONSEQUENCES OF EMPLOYEE REFUSAL OF DRUG OR ALCOHOL TEST**

A. **GENERAL.** Refusal to submit to a drug or alcohol test required by this plan will result in immediate termination from the County.

B. **DISQUALIFICATION FOR REFUSAL TO TAKE DRUG TEST.** A covered employee will be disqualified by issuance of a letter of disqualification for a period of 1 year following a refusal to give a urine specimen when the driver has been involved in a fatal accident.

SECTION V. DISCIPLINARY ACTIONS

A. **REQUIRED REFERRALS AND EVALUATIONS.** No covered employee who has violated the rules on substance abuse in this plan will be permitted to perform any covered function unless and until that covered employee has:

1. Been evaluated by the SAP to determine whether the covered employee is in need of assistance in resolving problems related to drug or alcohol abuse.
2. Completed any treatment recommended by the SAP, at the covered employee's expense.
3. Been evaluated by the SAP to ensure that the covered employee has properly followed the treatment program.
4. Undergone a return-to-duty alcohol test with a result of less than 0.02 and a return-to-duty drug test with a negative result.

B. **LEVELS OF DISCIPLINARY ACTIONS**

1. The County may terminate any covered employee who tests positive for drugs for the first time or in its sole discretion may require such covered employee to report for an assessment evaluation, and/or referral for treatment with a substance abuse professional.
2. The County will terminate any covered employee who refuses to report for assessment evaluation, and/or referral for treatment with a substance abuse professional.
3. The County will terminate any covered employee who is referred for rehabilitation but refuses to enter or successfully complete such a rehabilitation assessment program.
4. The County will terminate any covered employee who tests positive for a prohibited drug after having previously tested positive for a prohibited drug.
5. The County may terminate any covered employee having an alcohol concentration of 0.02 or greater or in its sole discretion may require such covered employee to report for an assessment evaluation, and/or referral for treatment with a substance abuse professional.
6. The County will terminate any covered employee who refuses to provide a urine specimen or an adequate-breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirement to be tested in accordance with the requirements of the SAPP, or who engages in conduct that obstructs the testing procedure.

7. The County will terminate a covered employee who submits an adulterated urine specimen or who otherwise interferes with the orderly collection or analysis of breath or urine specimens.
8. Use, possession, sale, distribution, or manufacture of drugs or alcohol on County time or on County premises will result in termination from the County.
9. Off-duty drug or alcohol related conduct will be grounds for disciplinary action, up to and including termination, depending on the severity of the offense and/or the degree to which the conduct or its repercussions interferes with or threatens to interfere with the covered employee's performance or adversely affects the County's interests, as determined by the County in its sole discretion.

SECTION VI. RECORD KEEPING PROCEDURES AND DISCLOSURE OF DRUG AND ALCOHOL INFORMATION/RECORDS

A. GENERAL

1. The County will maintain all drug and alcohol-related testing information, including all test results and other appropriate records relating to this SAPP, in a secure manner to prevent its disclosure to unauthorized personnel.
2. The DMO will maintain a locked file system which contains the testing information and records. Covered employee files will be handled on a strict "need to know" basis.

B. DISCLOSURE PROVISIONS

1. The County will not release covered employee testing information except as required or authorized by law.
2. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the covered employee's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or drug tests. The County will promptly provide the requested records. Access to a covered employee's records will not be contingent upon payment for records other than those specifically requested.
3. When requested by the National Transportation Safety Board as part of an accident investigation, the County will disclose information related to its administration of any post-accident tests administered following the accident under investigation.
4. The County will make records available to a subsequent employer upon receipt of the written request from the covered employee.

5. The County may disclose information pertaining to a covered employee to the covered employee or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of test(s) administered as required by the SAPP or from the County's determination that the covered employee engaged in prohibited conduct including, but not limited to, a workers' compensation, unemployment compensation, or other proceeding relating to a benefit sought by the covered employee.

SECTION VII. RELEASE OF ALCOHOL AND CONTROLLED SUBSTANCES TEST INFORMATION BY PREVIOUS EMPLOYERS

- A. The County will obtain, pursuant to the consent of all applicants for covered employment, information on the applicant's alcohol tests with a concentration result of 0.04 or greater, positive drug test results, and refusals to be tested, within the preceding two years.
- B. The information in paragraph A will be reviewed by the County no later than 14 calendar days after the first time a covered employee performs covered functions for the County, if it is not feasible to obtain such information prior to the covered employee performing such functions. The County will not permit a covered employee to perform covered functions after 14 days without obtaining the information.
- C. If the County learns that the covered employee failed a drug test or tested at an alcohol level of 0.04 or greater, the County will not use the covered employee without obtaining information on a subsequent SAP evaluation and negative return-to-duty test.

SECTION VIII. EMPLOYEE ASSISTANCE PROGRAM (EAP)

- A. **SCOPE OF PROGRAM.** The EAP will provide education and training on substance abuse to all covered employees. The education will include:
 1. Informational material displayed on bulletin boards, covered employee break rooms, locker rooms, etc., and distributed to covered employees;
 2. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to covered employees, and
 3. Distribution of the County's SAPP to all covered employees. The plan will be displayed in prominent places throughout the County.
- B. **SUPERVISOR TRAINING.** Supervisory personnel responsible for covered employees will receive at least 60 minutes of training on the specific, contemporaneous physical, behavioral, speech, and performance indicators of probable alcohol misuse and a similar 60 minute training session for such indicators of probable drug abuse.

SECTION IX. DRUG AND ALCOHOL TESTING PROCEDURES

The County's EBT and urine specimen testing procedures will comply with procedures specified in 49 C.F.R. Part 40, which are designed to ensure reliable and accurate results.

SECTION X. CHANGES TO PLAN AND TESTING PROCEDURES

These guidelines are intended as advice concerning general County practices and procedures. The contents of this SAPP should not be viewed as binding or contractual in nature, but rather as general guidelines only. The County reserves all rights to respond to all situations in the best interest of the County and to review and amend these guidelines at any time in its sole discretion.

RECEIPT FOR FRANKLIN COUNTY'S
SUBSTANCE ABUSE PREVENTION PLAN

I hereby acknowledge receipt of a copy of Franklin County's Substance Abuse Prevention Plan and acknowledge that as a condition of my employment. *Sign off is located in the Orientation Packet.* I will abide by the terms and conditions of such policy and will notify my employer of any criminal drug statute conviction within five calendar days of the conviction.

The County's policy prohibits the hiring of any applicant who uses illegal and/or unauthorized drugs. As part of the pre-employment process, Franklin County will conduct drug tests of prospective employees at its expense. Prospective employees who refuse to submit to a drug screening test or who fail such a test, excluding certifiable medical situations, will not be employed by the County.

I hereby consent to tests and/or searches to determine the presence or use of illegal and/or unauthorized drugs and/or alcohol. Further, I consent to the release of the test results and other relevant medical information to the County for appropriate review. I understand that positive test results or refusal to consent to these tests may disqualify me from employment. I agree to hold Franklin County, its directors, officers, managers, supervisors, employees and agents harmless from any and all liability in connection with the testing and results of the tests mentioned above.

Furthermore, I hereby consent to a search of any packages, handbags, briefcases, lunchboxes, vehicles or any other personal effects I have on County premises. I also understand and agree that the County also reserves the right to search my office, desk, files, lockers, or any other area or article of mine on County premises. In this connection, I understand that all offices, desks, files, lockers, computers, etc. are the property of the County, and are issued for my use only during my employment. I agree that such inspections may be initiated by the County without prior announcement and may be conducted at such times and locations as deemed appropriate at the sole discretion of the County. I understand that if I refuse to cooperate in an inspection or questioning, or if after questioning or inspection I am believed to be in possession of illegal or unauthorized drugs or alcohol, I may be subject to disciplinary action up to and including discharge.

Furthermore, I understand that my consent to this policy does not in any way alter my at-will employment status, and as a result the County may terminate my employment and I may quit for any reason at any time.

Sign off is located in the Orientation Packet.

Reviewed 2/24/2010 and 9/3/2010- Noted that Sign Off was in Orientation Packet – Includes both policies