

San Juan County

Ordinance # 2021-__10_____

AN ORDINANCE AMENDING THE SAN JUAN COUNTY PERSONNEL POLICY APPENDIX A, DRUG FREE WORK PLACE POLICY. BY THE ENTITLED BOARD OF SAN JUAN COUNTY COMMISSIONERS.

The Board of San Juan County Commissioners ordains as follows:

Section I the amendments made herein are designated by making the new/substituted words red. Words being deleted are designated by interlineation

Section II. Appendix A, Drug Free Work Place Policy is amended to read as follows:

APPENDIX A

DRUG--FREE WORK-PLACE POLICY

A. Policy Statements

1. It is the policy of San Juan County to provide and foster a drug and alcohol free workplace. A drug and ~~alcohol-free~~alcohol-free workplace protects the safety of the public as well as the county's workforce. San Juan County believes that the abuse of drugs and/or alcohol creates a variety of workplace problems including increased injuries on the job, increased absenteeism, increased financial burden on the health and benefit programs, decreased employee morale, decreased productivity, and decline in the quality of services rendered by the county.
2. All employees are prohibited from using, consuming, buying, possessing or selling ~~illegal-controlled-substances~~drugs or alcoholic beverages in the workplace as specified by this policy, and are prohibited from reporting to work or being subject to work (specifically while on-call or on break) with ~~illegal-controlled substances~~drugs active in their systems or while under the influence of alcohol. San Juan County also discourages the detrimental or illegal use of alcohol and/or ~~controlled-substances~~drugs by its employees when off duty.
3. It shall be a condition of employment and continued employment that all employees, and prospective employees comply with the provisions of this policy and all other relevant State and Federal statutes. It shall be a condition of authorization as a volunteer that all volunteers and prospective volunteers comply with the provisions of this policy and all other relevant State and Federal statutes. While the county will be supportive of those who seek help voluntarily with a drug or alcohol addiction, the county will be equally firm in identifying and

disciplining those who continue to violate this policy and/or do not seek rehabilitative assistance.

4. This policy is intended to conform with the requirements set forth in the Local Government Entity Drug-Free Workplace Policies Act, Utah Code Annotated, Title 34, Chapter 41, and all other relevant State and Federal statutes including the Americans with Disabilities Act (ADA). The provisions of any applicable law, statute, regulation, or ordinance (i.e. The Omnibus Transportation and Employee Testing Act of 1991 and the Federal Highway Administration and Department of Transportation rules of February 1994) shall prevail in the event of any conflict with the provisions of this policy.

B. Definitions

Alcoholic Beverage - A drink containing ethanol or alcohol.

Alcohol Testing - The scientific analysis of a sample for the presence of alcohol.

Applicant - Any person who has made a written or oral application to become an employee or authorized volunteer of San Juan County.

~~Controlled Substance Drug~~ - means any drug or other substance recognized as a drug, or immediate precursor, included in schedule I, II, III, IV or V of part B of Title 21 in the United States Code (USC) Controlled Substances Act, 21 U.S.C. 802 (21 CFR 1308) Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or any substance recognized as a drug by other drug compendia, including those included in the Utah Controlled Substances Act, Title 58, Chapter 37, Utah Code Annotated, (1953, as amended) or supplement to any of those compendia.

~~Controlled substances Drugs~~ may include, but are not limited to:

1. Marijuana (THC)
2. Cocaine
3. Phencyclidine (PCP)
4. Opiates
5. Amphetamines (including methamphetamine)
6. Barbiturates
7. Benzodiazepines
8. Methadone
9. Propoxyphene

Drug Testing - The scientific analysis of a sample for the presence of drugs or their metabolites in the human body.

Employee - Any person or officer in the service of San Juan County receiving compensation; this definition also includes officers of the county, but excludes elected officials including volunteers.

Medical Review Officer (MRO) - A licensed physician with knowledge of drug abuse disorders that is employed or contracted to conduct reviews of drug test results.

Positive Alcohol / Drug Test - Any test result showing a blood alcohol content of 0.02 or greater or the presence of any controlled-substancedrug in the test subject.

Prescription Drugs - Those medications (containing drugs or other controlled substances) that are prescribed to an individual by an authorized physician, carried in its original container that is labeled by a licensed pharmacist, and taken as directed.

Random Testing - The unannounced drug and/or alcohol testing of safety sensitive employees or volunteers who have been selected for testing by using a method uninfluenced by any personal characteristic other than job category ~~-will occur throughout the year.~~

Refusal to Submit to Testing - Failure to provide an adequate breath or urine sample without a valid and verified medical explanation, after the employee has received notice that he/she is being tested and a breath or urine sample is required, or engages in conduct that clearly obstructs the testing process.

Reasonable Suspicion for Testing - An articulated belief based on recorded, specific facts and reasonable inferences drawn from those facts that an employee or volunteer has the presence of drugs and/or alcohol in his/her system, or has used controlled-substancesdrugs or alcohol on County paid time.

Safety Sensitive Position - Any San Juan County position involving duties which directly affects the safety of San Juan County employees, volunteers or the general public. As defined in the Local Government Entity Drug-Free Workplace Policies, Section 34-41- 101(10), UCA (1953, as amended). This definition would include all positions assigned essential functions involving:

1. Emergency dispatch, fire-fightingfirefighting, sworn law enforcement activities, and other jail services requiring daily contact with inmates including janitorial services;
2. The use of heavy and/or dangerous equipment in facility construction, maintenance, engineering, grounds and roads services;
3. Maintenance and repair of heavy equipment;
4. Electrical work;
5. Operation of a motor vehicle to transport passengers;

6. Operation of equipment requiring the driver to hold a CDL; and
7. Operation of equipment in kitchen facilities to mass produce meals.

Sample - Urine, blood, breath, saliva, perspiration, or hair sample gathered for the purpose of a drug or alcohol test.

Use - To consume, sell, purchase, manufacture, distribute, be under the influence of, report to work under the influence of, or be in possession of drugs or alcohol. The term "use" shall also include the presence of drugs or alcohol in the body of the individual being tested, including the presence of metabolite, and the use of prescription drug without a current valid prescription from a licensed physician or using a prescription drug beyond the prescribed therapeutic dosage.

- C. **Drug and Alcohol Testing**: It is the policy of San Juan County that the unlawful manufacture, distribution, dispensation, possession or use of ~~a-controlled substances~~drugs and/or alcoholic beverages in the workplace is expressly prohibited. In order to achieve a drug free ~~work-place~~workplace, employees shall be required to participate in drug and alcohol ~~and-controlled-substances~~ testing. **This policy includes all employees who occupy and all applicants who may apply for safety sensitive positions with San Juan County.**

1. **Such testing may occur:**

- a. ~~Before~~When an applicant is offered a position with the county;
 - i. San Juan County may require an applicant for a position with the county to undergo an alcohol and drug screen test to detect the presence of alcohol or ~~illegal~~ drugs in the body. Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for ~~controlled substances~~drugs or whose test detects a Blood Alcohol Content of .04 or higher may be denied employment with the County.
- b. When there is a reasonable suspicion to believe that the employee is in an impaired state;
 - i. If a trained supervisor makes a determination that there is reasonable suspicion to believe that an employee is using, is under the influence of, or is in possession of alcohol or ~~controlled-substances~~drugs, the employee shall be subject to drug/alcohol testing.
 - ii. Upon testing due to reasonable suspicion, the employee tested shall not engage in the operation of any county equipment or engage in any employment related duties, which the Human Resource Director deems dangerous to the employee or to others, until the results of the tests are received by the Medical Review Officer and the employee is cleared to

resume normal job duties by the department head and the HR Department.

c. Upon request from a department head that his/her entire department submit to testing ("unit sweep").

d. When the employee has been involved in an on-duty accident or unsafe work practice;

e-e. On a random basis;

~~2. Such testing shall occur:~~

a.f. When the employee has been involved in an on-duty accident or unsafe work practice;

b. On a random basis;

i. **Employees assigned to, or performing, safety sensitive duties are subject to random drug/alcohol tests.**

ii. By the end of the calendar year, at least 50% of employees occupying safety sensitive positions must have been tested for drugs and at least 25% of employees occupying safety sensitive positions must have been tested for alcohol.

iii. Selection will be made by a computer-based random number generator and other methods using the employee number.

iv. Selection will be unannounced and will be performed at on site or location designated by the County.

v. Departments heads or supervisors of the selected employees will be notified and those employees will proceed, accompanied by their supervisor, immediately to a designated facility.

vi. A refusal to submit to a drug and alcohol test shall be considered the same as a positive test for a-controlled-substancedrugs.

vii. An employee determined to have tampered with, adulterated, or substituted his / her sample will also be considered to have the same as a positive test result for a-controlled-substancedrugs.

3-2. Confidentiality: Medical reports, lab reports, test results, and observation / incident reports shall not be filed in an employee's official personnel file. Information of this nature will be contained in a separate confidential medical record that will be securely kept under the control of Human Resources. San

Juan County will not release such medical information to anyone without the express written authorization of the tested employee unless ordered by means of proper legal procedure and appropriate legal authority, such as a court ordered subpoena or in connection with a disciplinary proceeding.

4.3. If any drug / alcohol test result shows a blood alcohol content of 0.02 or greater, or a positive screen for ~~a-controlled-substances~~drugs, the safety sensitive position employee shall immediately be removed from his/her duties and may be terminated upon further investigation.

D. Other Provisions

1. Employees shall not use, be under the influence of (.02 blood alcohol content), or be in possession of alcoholic beverage(s) while on duty, on county premises, or while in county vehicles. County premises includes county buildings, parking lots, grounds or vehicles owned by the county or personal vehicles being used for county business.
2. Employees shall not use, be under the influence of, be in possession of, or be in such condition to test positive for ~~illegal-controlled-substances~~drugs while on duty, on county premises, or while in county vehicles. County premises includes county buildings, parking lots, grounds or vehicles owned by the county or personal vehicles being used for county business.
3. Employees using, possessing or being at the ~~work-place~~workplace under the influence of alcohol or ~~illegal-or-illegally-obtained-substances~~drugs shall be subject to ~~questioning~~investigation and disciplinary action.
4. Any employee violating this policy may be subject to immediate termination.
5. San Juan County maintains the right to assemble an investigative team and conduct unannounced searches and inspections of county owned property, work stations, equipment, desks, cabinets, vehicles, etc.
6. San Juan County maintains the right to utilize detection methods necessary for the enforcement of this policy including blood, urine, or other tests and the use of electronic detection equipment and trained animals.
 - a. Failure to co-operate with these detection methods or inspections is grounds for disciplinary action up to and including termination of employment.
 - b. Drug testing conducted at National Institute of Drug Abuse (NIDA) certified labs.
- 7.** No prescription drug will be brought on county premises by a person other than the one for whom it is prescribed. Such drugs will be used only in the manner, combination, and quantity prescribed.

7-8. Any employee using prescription drugs that may impair their ability to perform safety sensitive essential functions must notify their supervisor, department head or Human Resources to determine if modifications or accommodations are necessary to protect other employees and the general public. This requirement does not require the employee to notify the County of the medical condition for which the prescription drug is being taken.

8-9. Any employee whose off-duty abuse of drugs, alcohol or illegal use of prescription drugs results in excessive absenteeism or tardiness, ~~or~~ is the cause ~~of or contributes a workplace~~ accident or poor work performance may be subject to discipline, including termination.

9-10. Any employee who is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensing, possession or use of a controlled substance for a violation occurring in the workplace is to notify his/her department head of the conviction no later than five (5) calendar days after the conviction. Upon said notification, the department head shall immediately notify the Human Resource Director.

a. The Human Resource Director will notify the San Juan County Board of Commissioners and maintain documentation of the incident.

10-11. Discipline procedures for substance abuse may include probation contingent upon successful rehabilitation or immediate termination.

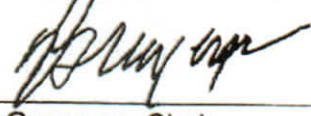
E. **Policy Exceptions:** The Board of County Commissioners may approve special exceptions to the provisions of policy when it is not contrary to the Federal Drug-Free Workplace Act and State law, and when justified by compelling individual and County circumstances.

Employees may direct any questions regarding this policy to the San Juan County Human Resource Department, San Juan County Courthouse, 117 South Main, Monticello, Utah 84535


ATTEST:


Clerk/Auditor

BOARD OF SAN JUAN COUNTY COMMISSIONERS


Willie Grayeyes, Chair

APPROVED AS TO FORM:


Kendall Laws
San Juan County Attorney