

SECTION 24.0

ALCOHOL AND DRUG ABUSE POLICY

24.1 Purpose

Confidential, Probation Officers Safety, Fire Safety, Law, and Management Units, Deputy County Counsels and Assistant County Counsel

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While Sutter County has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective. Drug and alcohol abuse increases the potential for accidents, absenteeism, substandard performance, poor morale and damages the public services of Sutter County. Involvement with drugs and alcohol can take its toll on job performance and employee safety.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the County's Mental Health Department or under the County's health plan. While the County will be supportive of those who seek help voluntarily, the County will be equally firm in identifying and disciplining those who continue to be substance abusers.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of County managers and employees. To that end the County will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the County's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the County, and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by Sutter County.

(Amended 11/06/18, Confidential Unit Agreement)
(Amended 11/06/18, Deputy County Counsels & Assistant County Counsel Agreement)
(Amended 12/12/18, Probation Officers Safety Unit MOU)
(Amended 02/12/19, Fire Safety Unit MOU)
(Amended 04/09/19, Resolution 19-026, Management Unit)
(Amended 03/26/19, Law Enforcement Unit MOU)

General, Supervisory, and Professional Units

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While Sutter County has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves. The presence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective. Drug and alcohol abuse increases the potential for accidents, absenteeism, substandard performance, poor morale and damages the public services of Sutter County. Involvement with drugs and alcohol can take its toll on job performance and employee safety.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance under the County's health plan or Employee Assistance Program (EAP). While the County will be supportive of those who seek help voluntarily, the County will be equally firm in identifying and disciplining those who continue to be substance abusers.

Supervisors will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of County managers and employees. To that end the County will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the County's reputation. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination, or in not being hired.

In recognition of the public service responsibilities entrusted to the employees of the County, and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by Sutter County.

(Amended 08/09/22, General, Supervisory and Professional Units MOU)

24.2 Policy

Confidential, Probation Officers Safety, Fire Safety, Law, and Management Units, Deputy County Counsels and Assistant County Counsel

It is Sutter County's policy to provide a drug free workplace for Sutter County employees and that employees shall not be under the influence of or in possession of alcohol or drugs while on County property, at work locations, or while on duty. Further-more, employees shall not use or be under the influence of alcohol or drugs, nor have their ability to work impaired as of the result of the use of alcohol or drugs while subject to being called to duty. Sutter County employees shall not manufacture, sell or otherwise provide drugs or alcohol to any other person, including a county employee, on duty or on standby.

Any employee who violates one or more of the prohibitions outlined in the regulations and County policy may be subject to discipline, up to and including termination pursuant to subsection 18.5 of the Sutter County Personnel Rules and Regulations.

However, an employee removed from work as a result of violating one or more of the prohibitions shall be placed on Leave of Absence With Pay pursuant to subsection 14.16 of the Sutter County Rules Governing Employee Compensation, Benefits, and Working Conditions until they return to work pursuant to the regulations and County Policy or discipline is imposed which would remove them from paid status.

While use of medically prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties or operation of County equipment can result in discipline, up to and including termination. It is the intent of the County that this requirement is solely for the purpose of identifying physical or mental limitations that could impact the employee's performance or safety. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from a qualified physician may be required

The County reserves the right to search upon reasonable suspicion without employee consent, all areas and property in which the County maintains control or joint control with the employee, except as provided by law. Otherwise, the County may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the County.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be assigned no duty for a reasonable time until he or she can be safely transported from the work site.

The County is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The County's health plan provides medical care for employees with alcohol or drug problems. The County's Mental Health department is also available with counselors trained in alcohol or drug abuse problems.

(Amended 11/06/18, Confidential Unit Agreement)

(Amended 11/06/18, Deputy County Counsels & Assistant County Counsel Agreement)

(Amended 12/12/18, Probation Officers Safety Unit MOU)

(Amended 02/12/19, Fire Safety Unit MOU)

(Amended 04/09/19, Resolution 19-026, Management Unit)

(Amended 03/26/19, Law Enforcement Unit MOU)

General, Supervisory, and Professional Units

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Any employee who violates one or more of the prohibitions outlined in the regulations and County policy may be subject to discipline, up to and including termination pursuant to Section 18 of the Sutter County Personnel Rules and Regulations.

However, an employee removed from work as a result of violating one or more of the prohibitions shall be placed on Leave of Absence With Pay pursuant to subsection 14.16 of the Sutter County Rules Governing Employee Compensation, Benefits, and Working Conditions until they return to work pursuant to the regulations and County Policy or discipline is imposed which would remove them from paid status.

While use of medically prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties or operation of County equipment can result in discipline, up to and including termination. It is the intent of the County that this requirement is solely for the purpose of identifying physical or mental limitations that could impact the employee's performance or safety. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from a qualified physician may be required

The County reserves the right to search upon reasonable suspicion without employee consent, all areas and property in which the County maintains control or joint control with the employee, except as provided by law. Otherwise, the County may notify the

appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the County.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be assigned no duty for a reasonable time until he or she can be safely transported from the work site.

The County is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

The County's health plan provides medical care for employees with alcohol or drug problems. The Employee Assistance Program (EAP) may also have resources that employees may utilize for substance abuse issues.

(Amended 08/09/22, General, Supervisory and Professional Units MOU)

24.3 Application

This policy applies to all employees of and to all applicants for positions with the County. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

(Adopted by the Sutter County Board of Supervisors 10/10/89)

(Adopted 10/01/91, Law Enforcement Unit MOU)

24.4 Employee Responsibilities

An employee must:

- A. Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- B. Not manufacture, possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while on standby, on breaks, during meal periods or at anytime while on County property;
- C. Not directly or through a third party manufacture, sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to being called;
- D. Notify his/her supervisor, before beginning work, when taking any medication or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operation of County equipment;

- E. Provide within 24 hours of request bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name; and
- F. Notify his/her supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after conviction.

(Amended by the Sutter County Board of Supervisors 11/29/94)

24.5 Management Responsibilities and Guidelines

- A. Managers and supervisors are responsible for reasonable enforcement of this policy. Managers and Supervisors are also responsible for communicating this policy to employees and volunteers and for participating in substance abuse training.
- B. Managers and supervisors, after consultation with the County Human Resources Department, may require that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs and/or alcohol while on the job or on standby or call back status.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent manager or supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

In conducting a reasonable suspicion inquiry management and/or supervisors should evaluate the following, documenting the presence of any of the listed indicators:

1. Speech: Incoherent, confused, slurred, rapid, loud or rambling speech;
2. Balance: Staggering, swaying or falling;
3. Walking or movement: unsteady, staggering, swaying, stumbling, falling, pacing or rapid;
4. Mental state or physical behavior: sleepy/stupor, confused, lack of concentration, paranoid, excessive yawning, fatigue, withdrawn, nervousness;
5. Abilities: Lack of coordination, confused thinking, slow movements, fidgeting, unable to sit still, rapid movements, cannot operate/control machinery or equipment;
6. Appearance: red eyes, droopy eyelids, dilated or constricted pupils, weight loss/malnutrition, disheveled/unkept appearance, smell of alcohol,

wearing sunglasses at inappropriate times, dry mouth, flushed or pale face, frequent sniffing.

The following factors, in combination with a reasonable number of the above, may constitute reasonable suspicion:

1. Experiences or causes an accident, injury or property damage, near-miss of serious accident, dangerous operation of equipment or vehicle;
 2. Verbal or physical abuse or altercation, inability to get along with others;
 3. Poor attendance or observation of work hours;
 4. Poor job performance including excessive mistakes, not following directions, lack of motivation;
 5. Possession of alcohol or drugs;
 6. Information obtained from a reliable person with personal knowledge.
- C. Any manager or supervisor requesting an employee to submit to a drug and/or alcohol test should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs and/or alcohol. It shall then be routed to the Human Resources Department for consultation and advice prior to requiring any testing.
- D. Managers and supervisors shall not physically search the person or employees, nor shall they search the personal possession of employees without the freely given consent of, and in the presence of, the employee. Note: all searches must be cleared with the Human Resources Department.
- E. Managers and supervisors shall notify their Department Head or designee when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the County. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.
- F. Where there is reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor should assign the employee to no duty for a reasonable time until the employee can be safely transported home.

(Amended 01/11/00, General, Supervisory and Professional Units MOU)

(Amended 02/01/00, Confidential Unit Agreement)

(Amended 02/01/00, Resolution 2000-06, Management Unit)

(Amended 02/01/00, Deputy County Counsels & Assistant County Counsel Agreement)

(Amended 01/09/01, Fire Safety Unit MOU)

(Amended 01/08/02, Law Enforcement Unit MOU)

24.6 Refusal of or Tampering with a Drug or Alcohol Test

Any manager or supervisor encountering an employee who refuses a request to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and disciplinary consequences of this policy. Absent justification satisfactory to management and/or supervision, in their sole discretion, an employee's refusal to submit to an alcohol or drug test required by this policy will be treated in the same manner as an employee who tested positive for alcohol and/or drugs. Tampering with or attempting to adulterate a specimen or violation of the collection procedure will result in termination of employment pursuant to Section 18.0, Discharge, Dismissal, Suspension, Reprimand, Reduction in Rank and Right of Appeal.

(Amended 01/11/00, General, Supervisory and Professional Units MOU)

(Amended 02/01/00, Confidential Unit Agreement)

(Amended 02/01/00, Resolution 2000-06, Management Unit)

(Amended 02/01/00, Deputy County Counsels & Asst. County Counsel Agreement)

(Amended 01/09/01, Fire Safety Unit MOU)

(Amended 01/08/02, Law Enforcement Unit MOU)

24.7 Confidentiality

Laboratory reports of test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Human Resources Director. The reports or test results may be disclosed to County management on a strictly need-to-know basis as provided by law and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

(Adopted by the Sutter County Board of Supervisors 10/01/89)

(Adopted 10/01/91, Law Enforcement Unit MOU)

24.8 Privacy

Nothing herein shall be construed to constitute a waiver by any County employee of his or her right to privacy as secured in the State and/or Federal Constitution and any other privacy-related rights that the employee may have under State and/or Federal law.

(Amended by the Sutter County Board of Supervisors on 10/01/89)

24.9 Testing Pursuant to U. S. Department of Transportation Regulations – General, Supervisory, Professional and Management Units

Employees who operate “Commercial Motor Vehicles”, as defined by the U. S. Department of Transportation Regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991, shall be subject to drug and alcohol testing in accordance with the provisions of those regulations and the County policy developed in response to those regulations. The County shall determine which employees are covered by the regulations and County policy and shall inform those employees of their rights and responsibilities thereunder.

Any employee who violates one or more of the prohibitions outlined in the regulations and County policy may be subject to discipline, up to and including termination. However, an employee removed from work as a result of violating one or more of the prohibitions shall be placed on Leave of Absence With Pay pursuant to subsection 14.16 of the Sutter County Rules Governing Employee Compensation, Benefits and Working Conditions until they return to work pursuant to the regulations and County policy or discipline is imposed which would remove them from a paid status. The cost of all drug and alcohol testing and the cost of the services of a Substance Abuse Professional required pursuant to the regulations and County policy shall be paid by the County. The cost of any rehabilitation program the employee may be required to undergo upon a determination of a Substance Abuse Professional shall be paid by the affected employee.

(Amended 03/01/11, General, Supervisory and Professional Units MOU)
(Amended 04/19/11, Resolution 11-037, Management Unit)

24.10 Testing of Employees Not Covered by U.S. Department of Transportation Regulations

A. Management Unit

Effective July 1, 2000, the County of Sutter Drug and Alcohol Policy Pursuant to the Department of Transportation (DOT) Regulations shall apply to all regular and hourly employees in classifications that contain “safety-sensitive function(s)” who are not covered by the DOT regulations as required by law. A listing of classifications that contain “safety-sensitive function(s)” is available at the Human Resources Department and on the intranet. Employees subject to testing will be provided a copy of the policy.

Employees in classifications that contain “safety-sensitive function(s)” shall be covered regardless of driving and/or licensing requirement(s). “Safety sensitive function” shall be defined as follows:

- Operating a vehicle or power driven equipment.
- Handling hazardous or controlled substances.

- Carrying a firearm.
- Working in an environment that is inherently dangerous as defined by the department head.

The County shall inform those employees of their rights and responsibilities thereunder. Any employee who violates one or more of the prohibitions outlined in the regulations and County policy may be subject to discipline, up to and including termination. However, an employee removed from work as a result of violating one or more of the prohibitions shall be placed on Leave of Absence With Pay pursuant to subsection 14.16 of the Sutter County Rules Governing Employee Compensation, Benefits and Working Conditions until they return to work pursuant to the regulations and County policy or discipline is imposed which would remove them from a paid status. The cost of all drug and alcohol testing and the cost of the services of a Substance Abuse Professional required pursuant to the regulations and County policy shall be paid by the County. The cost of any rehabilitation program the employee may be required to undergo upon a determination of a Substance Abuse Professional shall be paid by the affected employee.

(Amended 04/19/11, Resolution 11-037, Management Unit)

B. Drug and Alcohol Testing - Fire Safety Unit

Effective January 3, 1998, the County of Sutter Drug and Alcohol Policy Pursuant to the Department of Transportation Regulations shall apply to all employees in the Fire Safety Unit. All employees shall be covered regardless of driving and/or licensing requirement(s). For purposes of the Fire Safety Unit "safety sensitive function" shall be defined as any and all time worked. The County shall inform those employees of their rights and responsibilities thereunder. Any employee who violates one or more of the prohibitions outlined in the regulations and County policy may be subject to discipline, up to and including termination. However, an employee removed from work as a result of violating one or more of the prohibitions shall be placed on Leave of Absence With Pay pursuant to subsection 14.16 of the Sutter County Rules Governing Employee Compensation, Benefits and Working Conditions until they return to work pursuant to the regulations and County policy or discipline is imposed which would remove them from a paid status. The cost of all drug and alcohol testing and the cost of the services of a Substance Abuse Professional required pursuant to the regulations and County policy shall be paid by the County. The cost of any rehabilitation program the employee may be required to undergo upon a determination of a Substance Abuse Professional shall be paid by the affected employee.

(Amended 01/04/11, Fire Safety Unit MOU)

C. Law Enforcement Unit

Effective July 1, 2002, the County of Sutter Drug and Alcohol Policy Pursuant to the Department of Transportation (DOT) Regulations shall apply to all regular and hourly employees in classifications that contain "safety-sensitive function(s)" who are not covered by the DOT regulations as required by law. A listing of classifications that contain "safety sensitive function(s)" is available at the Human Resources Department and on the intranet. Employees subject to testing will be provided a copy of the policy.

Employees in classifications that contain "safety-sensitive function(s)" shall be covered regardless of driving and/or licensing requirement(s). "Safety sensitive function" shall be defined as follows:

- Operating a vehicle or power driven equipment.
- Handling hazardous or controlled substances.
- Carrying a firearm.
- Working in an environment that is inherently dangerous as defined by the department head.

The County shall inform those employees of their rights and responsibilities hereunder. Any employee who violates one or more of the prohibitions outlined in the regulations and County policy may be subject to discipline, up to and including termination. Any employee who tests positive for drugs and/or alcohol, or any employee who is being treated in the same manner as an employee who tests positive for drugs and/or alcohol pursuant to Section 24.6, Refusal of or Tampering with a Drug or Alcohol Test, shall be terminated pursuant to Section 18.0, Discharge, Dismissal, Suspension, Reprimand, Reduction in Rank, and Right of Appeal. Notwithstanding the forgoing, the first time an employee tests positive for alcohol or any positive drug test that is the result of using prescription or over-the-counter medication, such employee may be eligible for a last chance agreement at the discretion of the appointing authority.

However, an employee removed from work as a result of violating one or more of the prohibitions shall be placed on Leave of Absence With Pay pursuant to subsection 14.16 of the Sutter County Rules Governing Employee Compensation, Benefits and Working Conditions until they return to work pursuant to the regulations and County policy or discipline is imposed which would remove them from a paid status. The cost of all drug and alcohol testing and the cost of the services of a Substance Abuse Professional required pursuant to the regulations and County policy shall be paid by the County. The cost of any rehabilitation program the employee may be required to undergo upon a determination of a Substance Abuse Professional shall be paid by the affected employee.

(Amended 11/26/13, Law Enforcement Unit MOU)

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