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## **CLAY COUNTY POLICY ON DRUGS AND ALCOHOL**

### **PURPOSE**

1. The purpose of this shall be to establish a drug and alcohol-free workplace to help ensure a safe and productive work setting for all employees.

### **APPLICABILITY**

2. This policy shall apply to CDL Drivers of Clay County:

- a. Pre-Employment
- b. Post-Accident
- c. Reasonable suspicion regardless of rank or position, full-time or part-time

3. The only exception to this policy shall be the possession of controlled substances by law enforcement personnel as part of their law enforcement duties.

### **POLICY**

4. The following shall be a violation of this policy:

- a. The manufacture, distribution, dispensing, possession, sale, purchase, or use of a controlled substance or drug paraphernalia on County Property.
- b. Being under the influence of alcohol or illegal drugs while on Clay County Property or while on duty for the County.
- c. The unauthorized possession or use of prescription or over-the-counter drugs, while on County property or while on duty for the County, in a manner other than that intended by the manufacturer or prescribed by a physician.

### **DEFINITIONS**

5. A Controlled substance shall include any substance listed in Schedules I-IV Section 202 of the Controlled Substance Act (21 U.S.C.S 812), as amended.

6. County property shall include all County owned, rented, or leases real property such as building, land, parking lots, etc. and property used by employees such as vehicles, lockers, desks, closets, storage areas, etc.

7. Drugs shall include any chemical substance that produces physical, mental, emotional, or behavioral change in the user.

8. Drug paraphernalia shall include equipment, a product, or material that is used or intended for use in concealing an illegal drug or for use in injecting, ingesting, inhaling, or otherwise inducing into the human body an illegal drug or controlled substance.

9. Illegal drug shall include any drug or derivative thereof which the use, possession, sale, transfer, attempted sale or transfer, manufacture, or storage of its illegal or regulated under any federal, state, or local law or regulation and any other drug, including (but not limited to) a prescription drug, used for any other than a legitimate medical reason, and inhalants used illegally. Included is marijuana or cannabis in all forms.

10. Under the influence shall be defined as a state of having a blood alcohol concentration of 0.04 or more where "alcohol concentration" has the meaning assigned to it in Section 49.01 P.C.; or the state of not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body.

## **POLICY VIOLATIONS**

11. Any employee who violates this policy shall be subject to disciplinary measures up to and including termination.

## **PRESCRIPTION DRUGS**

12. CDL Drivers taking prescription medications shall be required to notify their supervisor of any possibly effects the medication might have regarding their job performance and physical/mental capacity.

13. Any information concerning prescription medications being used by an employee, and any other medical information of which the supervisor becomes aware, shall be treated as confidential information.

14. Prescription medications used at work are to be kept in their original container.

## **TREATMENT**

15. Employees having problems with drugs or alcohol are encouraged to seek treatment from qualified professionals.

16. Information on benefits provided for treatment of alcohol and drug problems through the County's medical insurance program is available in the employee's insurance coverage booklet or from the County Treasurer's Office.

## **RESERVATION OF RIGHTS**

17. Although adherence to this policy is considered a condition of continued employment, nothing in this policy shall alter an employee's status and shall not be deemed a contract or promise of employment.

## **CLAY COUNTY DRUG AND ALCOHOL POLICY**

### **1. Policy Statement**

Clay County recognizes that alcohol and drug abuse in the workplace is a concern. To help ensure a safe, healthy and productive drug-free work environment for all employees of Clay County, others on the property of Clay County, and to protect Clay County property and assets, maintain a favorable public image and to assure efficient operations, Clay County has adopted a policy on drugs, alcohol and other prohibited items applicable to Employees. This policy is intended to comply with the Drug Free Workplace Act of 1988, the Texas Workers Compensation Act and all applicable regulations issued by the Department of Transportation ("DOT").

It is the policy of Clay County to maintain its property and to provide a drug-free working environment that is both safe for Employees and others having business with Clay County to be conducive to efficient and productive work standards. This policy restricts certain items and substances from being brought on or being present in or on Clay County property, including all Clay County owned and operated buildings, parking areas, easements and rights of way, vehicles, equipment, parks and recreational areas, capital projects, construction sites, job sites and any areas which fall under the jurisdiction and control of Clay County. This policy prohibits Employees from reporting to work, working or being present on Clay County property, whether or not on duty, from having detectable levels or identifiable trace quantities of certain drugs and other substances. However, this policy is not intended to prohibit or restrict the legal and responsible use of alcohol in County recreation areas by County Employees while off duty.

### **2. Statement of the Drug and Alcohol Policy**

The use, possession, sale, manufacture, distribution, transfer, dispensation, concealment, receipt, transportation, or being under the influence of any prohibited items or substances (including the presence of detectable levels or identifiable trace quantities), as defined in Section 3, on Clay County property or while on Clay County business, by Employees, is prohibited. Employees must not report for duty or be on Clay County property while under the influence of, or have in their possession while on Clay County property, any prohibited item or substance.

### 3. Definitions

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol (ethanol) or any other low molecular weight alcohol including methyl and isopropyl alcohol.

CDL means Commercial Driver License holders. Clay County requires certain Employees to maintain a CDL. The DOT regulations (49 CFR Parts 40 and 382) require the County to have a special, mandatory controlled substance and alcohol testing policy for these Employees. All applicable drug and testing procedures shall meet DOT regulations. A copy of the DOT regulations shall be available for inspection and copying in the Treasurer's Office.

Controlled Substance means illegal drugs plus any other substance covered by Schedules I through V of the Federal Controlled Substances Act (21 USC 801, et seq.) or the Texas Controlled Substances Act (Chap. 481, Texas Health and Safety Code). A controlled substance is unauthorized if the Employee does not have a valid prescription for that substance at the time of its use or possession.

Conviction means a final, non-appealable finding of guilt by either a judge or jury, or a suspension of sentence, probation or deferred adjudication, including a plea of no lo contendere.

Department Head means an individual appointed as a supervisor or a department by one of the following: Commissioner's Court, County Judge, a designated representative of the Commissioner's Court, or an Elected Official.

Detectable means the measurable presence of an illegal or prohibited drug or substance found in body fluids at an mg/ml level of detection specified by the County's contract with a National Institute of Drug Abuse ("NIDA") certified testing laboratory; such levels will meet the DOT requirements.

Employee means any person employed by the County, including Elected Officials, full-time, part-time, temporary, probationary, and contract employees.

Under the influence means being unable to perform work in a safe and productive manner, being in a physical or mental condition which creates a risk to the safety and well-being of the individual, other employees, the public or County property, and/or having a measurable presence of an illegal or prohibited drug or substance found in body fluids at an mg/ml level of detection specified by the County's contract with a NIDA certified lab.

### 4. Prohibited Items and Prohibited Conduct

A. The use, possession, sale, manufacture, distribution, dispensation, concealment, receipt, transportation, or being under the influence of any of the following items or substances on Clay County property

(including the presence of detectable levels or identifiable trace quantities), by Employees, is prohibited:

i. Illegal drugs; controlled substances; marijuana; mood or mind altering substances, legal or illegal; "look-alike" substances; designer, counterfeit or synthetic drugs; inhalants; and any other drugs or substances which will in any way affect safety, workability, alertness, coordination, judgment, response or affect the safety of others on the job.

ii. Alcoholic beverages. Consuming alcoholic beverages while driving or driving while intoxicated any vehicle for Clay County business or any Clay County vehicle or equipment at any time is prohibited. The consumption of alcohol on Clay County time is prohibited.

iii. Drug paraphernalia.

iv. Prescription drugs and over the counter medications, except under the following conditions:

(a) The drugs have been prescribed by an authorized and Texas licensed medical practitioner for current use (within the past 12 months) for the person in possession of the drugs and filled in accordance with the provisions of the Texas Pharmacy Act, Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code) and regulations promulgated there under.

(b) The drugs/medications, both prescribed and over the counter, are limited to a one day's supply, or must be kept in their original container labeled in accordance with the provisions of the applicable laws of the State of Texas and must be taken in accordance with the dosage recommendations and usage cautions and generally must not affect the person's ability to perform work safely.

The following conduct is prohibited by this policy:

- A. Switching or altering any urine sample submitted for testing.
- B. Refusal to consent to testing (CDL holders). Consent is indicated by signing any form required by Clay County or its designated testing facility.
- C. Refusal to submit to an inspection of any desk, locker, vehicle or other Clay County property under Employee's control when asked to do so by Department Head or Elected Official.
- D. Conviction under any criminal drug statute for a violation occurring in the workplace.
- E. Failure to notify the Department Head, or Elected Official of any arrest or conviction under any criminal drug statute, or arrest or conviction of driving while intoxicated, within five (5) days of the arrest or conviction.
- F. Failure to notify Department Head, or Elected Official of the side effects of a prescription or non-prescription drug which may impair the Employee's behavior or physical or mental ability to safely and fully perform assigned duties.
- G. Failure to keep prescribed medicine in its original container or to provide proof of identification of drug prescriptions and prescribing physician for the one day dosage allowed to be carried outside of their original container.
- H. Failure of any Clay County Employee to report the use or possession of an illegal drug or prohibited item by another Clay County Employee while on duty or in a Clay County vehicle.

## 5. Policy Enforcement

a). Only Clay County employees who are required to possess a CDL to perform their job duty and/or every employee working in a job classified as a safety-sensitive position will be subject to random testing. be performed with concern for the personal privacy of each Employee or other person, and will also apply to contract labor, when feasible. All persons shall have the opportunity, prior to testing and at the testing facility, to list all prescription and non-prescription drugs they have used in the last thirty (30) days and to explain the circumstances surrounding the use of such drugs. All records containing medical information will be maintained in accordance with applicable law.

This testing policy does not include and specifically excludes those Employees covered by the Clay County Sheriff's Department Alcohol and Drug Testing Policy.

## 6. Penalties for Violating Policy

Any Employee found in violation of this policy, or who refuses to submit to a search, or urine and/or blood analysis, shall be removed from Clay County property and be subject to disciplinary action to include termination, in accordance with all Clay County personnel policies and all applicable state law.

Any Employee who, as a result of drug testing and screening, is found to have detectable levels or identifiable trace quantities of a prohibited drug or substance in his or her system, regardless of when or where the drug or substance entered that person's system, without an explanation satisfactory to the Department Head or Elected Official will be considered in violation of this policy, will be removed from Clay County property and will be subject to disciplinary action to include termination, in accordance with all Clay County personnel policies and all applicable state law. Additionally, if employment is continued, such Employees may be required to submit to random drug screens and/or to participate in and successfully complete a substance abuse program.

Preliminary findings of a policy violation may require that the Employee be suspended, without pay, pending the results of an investigation. If said investigation clears the Employee of any policy violation, then Employee will be fully reinstated, including pay, to his/her job.

## 7. Notification

Any Employee who is arrested or convicted of a drug-related offense must report the arrest or conviction to their Department Head, or Elected Official within five (5) days of the conviction. Any Employee who is arrested or convicted of driving while intoxicated must report the arrest or conviction to their Department Head, or Elected Official within five (5) days of the conviction. Failure to report such an offense may result in disciplinary action in accordance with all Clay County personnel policies and applicable state law.



#### 8. Treatment Programs and Employee Insurance

While Clay County does not sponsor or endorse any specific drug treatment program, such programs are available through public and private health care facilities in the area. Affected employees are encouraged to seek assistance for themselves and their dependents. The group health insurance offered to employees and their dependents may provide limited coverage for expenses related to drug treatment programs.

Clay County does not offer, nor require, participation in drug and alcohol abuse education and training programs. However, various public and private facilities in the area offer such programs and affected or interested employees are encouraged to seek assistance.

## **WEATHER CLOSING AND EMERGENCIES**

As a general practice, Clay County does not close its operations unless the health, safety, and security of county employees are seriously brought into question. When this happens, either because of severe weather conditions or other emergencies, the County Judge is responsible for initiating the closing.

The County Judge will make announcements of an emergency closing, to the extent possible, specify the starting and ending times of the closing. However, each elected official controls the working hours of their employees, even in an emergency situation.

Many County departments are continuous operating public safety and service departments. Many county personnel will be required to work during emergency closings. Each department head is responsible for designating their own employees and providing alternate information to personnel designated as essential during emergency closings. Public safety will be foremost in the development of departmental emergency action plans.