

TULARE COUNTY



SUPPORTS A DRUG FREE WORKPLACE

Tulare County Drug Free Workplace Policy

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DRUG FREE WORKPLACE POLICY

INTRODUCTION

The **Drug-Free Workplace Act of 1988** is a federal law which obligates certain federal contractors and grant recipients to undertake specified actions directed to ensuring a "drug-free workplace." Failure to comply can result in the loss of federal contracts and grants. The **Drug-Free Workplace Act of 1990** is a law of the State of California which requires state contractors and grantees to undertake similar action directed to ensuring a "drug-free workplace."

These acts require that the affected agencies certify that a drug-free workplace will be afforded by providing notice of the program requirements to each employee and by establishing a drug-free awareness program which informs employees about the dangers of drug abuse, about the employer's policy of maintaining a drug-free workplace, about available drug counseling, rehabilitation and employee assistance programs and about the penalties that may result from drug abuse violations in the workplace.

The Acts do not require drug testing.

POLICY

This statement sets forth the policy of Tulare County pursuant to the Federal Drug-Free Workplace Act and the California Drug-Free Workplace Act, herein jointly referred to as the "Act". All references to employee or management personnel shall mean those employees and managers in departments covered by the Act.

It is the intention of this policy to eliminate drug abuse and the effects of such abuse in the workplace and to thus provide and maintain an efficient and safe workplace for all employees. Drug abuse increases the potential for accidents, absenteeism, substandard performance, poor employee morale and damages the public service and Tulare County.

It is the policy of Tulare County that while any employee is on duty, on Tulare County property, at work locations or on "on-call" time, such employee shall not be under the influence of, or in possession of controlled substance;¹ shall not sell or provide drugs to any other employee or any other person; shall not engage in the unlawful manufacture of drugs; and shall not utilize or otherwise have his or her ability to work impaired as a result of the use of drugs. For purposes of this policy, "on-call" time is time during which an employee is required by the Department Head to be available to perform duties for the county as set forth in Tulare County Personnel Rule 4.4.

¹. The term "controlled substance" is defined by the Drug Free Workplace Act of 1988 as one set forth in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), a copy of which is attached [Copies of the Drug Free Workplace Act are available for review at your Department]. The term "drug", when used in this policy, shall mean a "controlled substance."

Tulare County will act to eliminate any drug abuse which could impair an employee's ability to safely and effectively perform the functions of his or her job. Accordingly, supervisors within the affected departments will be trained to recognize drug abusers and to become involved in the control of drug abuse in the workplace.

Employees who believe that they may have a drug problem are encouraged to voluntarily seek confidential assistance through the Employee Assistance Program. While it is Tulare County Policy to be supportive of those who seek help voluntarily, it is also policy that abuse of drugs will not be tolerated and disciplinary action, up to and including termination will be used as necessary to implement this policy and assure a drug free workplace.

It is the further policy of Tulare County that all employees should be made aware of the dangers of abusing drugs, of guidelines for the detection and deterrence of drug abuse, of the responsibilities of managers and employees alike, and of resources available for treatment of drug abuse.

EMPLOYEE RESPONSIBILITIES

An employee shall not:

A. Report to work while his or her ability to perform job duties is impaired due to any on or off duty illegal drug use;

B. Have his or her ability to perform job duties impaired due to illegal drug use while on "on-call" time.

C. Possess or use impairing illegal drugs during working hours or while on "on-call" time, on breaks, during work day or shift meal periods or at any time while on Tulare County property;

D. Sell or provide, directly or through any third person, any illegal drugs to any person, including any employee while either employee or both employees are on duty or on "on-call" time;

E. Manufacture any drugs during working hours or "on-call" time, during work day or shift meal periods, during breaks or at any time while on Tulare County property.

An employee shall:

A. Notify the Department Head of any criminal drug statute conviction, including a plea of guilty or nolo contendere, for an offense which occurred in the workplace or while on duty, no later than five days after such a conviction or plea.

B. Attend such programs as Tulare County may designate for the purposes of instructing employees generally of the dangers of drug abuse, which will be scheduled as work time.

C. Read this policy, agree to its terms and provide written acknowledgment of receipt of a copy of this policy.

MANAGEMENT RESPONSIBILITIES

Management shall:

- A. Provide each employee with a copy of this policy, of the Federal and State Drug-Free Workplace Acts, and of a list of available drug abuse treatment resources.
- B. Establish a Drug-Free Workplace awareness program to inform employees about the dangers of drug abuse in the workplace, of the County's policy of maintaining a drug-free workplace, of available counseling, rehabilitation and employee assistance programs, and of the penalties that may be imposed upon employees for violations of this policy and for drug abuse violations.
- C. Notify the Federal sponsoring agency within ten days after receiving notice from a covered employee of a conviction for a criminal drug statute violation occurring in the workplace.
- D. Take one of the following actions within 30 days of receipt of notice from an employee of any conviction for a drug statute violation occurring in the workplace:
 - (1) Take appropriate personnel action against such employee, up to and including termination; or
 - (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement, or other appropriate agency. (Failure to participate satisfactorily in such program may result in personnel action as set forth in paragraph D. (1) above).
- E. Make a good faith effort to continue to maintain a drug-free workplace.

ABUSE IDENTIFICATION

Tulare County is committed to providing reasonable accommodation to employees whose drug problem classifies them as handicapped under federal or state law. Where appropriate, the employees will be referred to the Employee Assistance Program.

Any manager or supervisor who has a reasonable suspicion that an employee is under the influence of illegal drugs should document the facts constituting reasonable suspicion in writing.

If a manager or supervisor has a reasonable suspicion that an employee may have illegal drugs in his or her possession or stored at or in any County property, they shall notify their Department Head. If the Department Head agrees that there is a reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.

For purposes of this policy, "reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs 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 or her job safely is reduced.

Employees reasonably believed to be under the influence of drugs shall be prevented from engaging in further work and shall be detained for a reasonable time to assure he or she can be safely transported from the work site.

Reasonable suspicion may, without limitation, include any of the following, singly or in combination:

1. Slurred speech
2. Unsteady walking or movements
3. An accident
4. A pattern of unusual mood swings
5. Physical or verbal altercations
6. Possession of drugs
7. Information obtained from a reliable source with personal knowledge.
8. Dilated or restricted pupils or other demeanor unusual for the particular employee, or consistent with impairment of ability to perform normal duties.

This policy shall be applicable to all Tulare County employees whether regular or probationary, full or part time.

Copies of the Federal Drug-Free Workplace Act of 1988, of the California Drug-Free Workplace Act of 1990 and of a list of available drug treatment resources are attached [Copies of the Federal Drug-Free Workplace Act of 1988 and the California Drug-Free Workplace Act of 1990 are available for review through your department].

Any inquiries regarding any aspect of this policy, the Federal Drug-Free Workplace Act of 1988, the State Drug Free-Workplace Act of 1990, the Employee Assistance Program, or other available drug abuse treatment resources, should be directed to the Tulare County Personnel Department. You may also confidentially contact the Tulare County Employee Assistance Program at Horizon Health 1-877-851-1631 or at www.horizoncarelink.com