Policy Title: Drug and Alcohol-Free Workplace		
Number: 036	Effective Date: 10/01/2025	Revision Date: 04/20/2026

Purpose

This policy applies to all applicants and employees of Burke County. The purpose is to ensure that all employees have a workplace that is safe and free of alcohol and controlled substances and that Burke County citizens enjoy service from employees who are focused and prepared to deliver service appropriately.

General Statement

Burke County is committed to the goal of a drug and alcohol-free workplace. This commitment is based on the belief that it is the County's responsibility to maintain a safe and healthy working environment for employees and a productive, effective workforce for the citizens of the county. This policy is intended to comply with all applicable federal and state laws governing anti-drug and alcohol programs, including those adopted by the U. S. Department of Transportation (DOT), for job specific applicable standards set for law enforcement, public safety and select other occupations and is designed to safeguard employee privacy rights to the fullest extent of the law.

Guidelines

Prohibited Behavior:

a. The unauthorized use, consumption, possession or storage, manufacture, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on County premises or any County work area, in County vehicles, or while on County business.
b. Reporting to work or working while under the influence of illegal drugs, nonprescribed drugs or alcohol, on County premises or any County work area, in County vehicles, or while on County business.
c. The use or possession of alcohol or illegal drugs off County premises and while not on duty where such conduct could likely have a direct and material adverse impact on the County's interests, including public image.
d. Conviction of selling illegal drugs or of possession with intent to sell illegal drugs at any time or place. Conviction of any criminal drug or alcohol statute at any time or place— for some positions, to be evaluated on a per case basis for relevancy to job.
e. Failure to notify the County of any arrest or conviction under any criminal drug or alcohol statute by the next workday following the arrest or conviction.
f. Failure to notify the employee's supervisor, before beginning to work, that the employee is taking prescription or over-the-counter drugs which may interfere with the safe and effective performance of duties.
g. Refusal to immediately submit to an alcohol and/or drug test when requested by a supervisor, in accordance with this policy.
h. Failure to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.
i. Tampering with or obstruction of a drug or alcohol test being administered by or for the County.

RESPONSIBILITY

The Human Resources Director is responsible for administering this policy and ensuring that employees are informed of the County policy during the new employee orientation. The Human Resources Director, under the direction of the County Manager or his/her designee, will approve and be the focal point for the selection of new employees and for disciplinary measures to be taken with current employees based on guidelines described in this policy. Any confidential information on substance abuse may be communicated by the Human Resources Director to the proper authority on a need-to-know basis.

Under federal guidelines, certain classes of employees are subject to special actions, such as random testing. For the County, these classes include employees in safety-sensitive and security-sensitive positions. The Human Resources Director will maintain a comprehensive list of these positions subject to special actions, but generally the list will include, but is not limited to, sworn law enforcement officers; detention officers; EMS employees, 911 Communications employees, nursing staff, and anyone who operates, maintains, or provides direct supervision of the operation or maintenance of heavy equipment or any vehicle requiring a CDL to operate.

Alcohol and drug free workplace issues in the Sheriff's Office will be the responsibility of the Sheriff. The Sheriff will be responsible for reporting tests results as required to the North Carolina Sheriff's Education and Training Standards Commission on employees holding certification from that Commission.

Department heads are responsible for the proper application of the procedures in their departments and for holding supervisors accountable for the daily implementation of the policy. Department heads and supervisors shall be responsible for identifying abuse related behavioral and performance problems, following the proper referral for testing, and taking appropriate disciplinary measures. Failure to take action when the supervisor has reasonable cause to believe an employee is impaired while at work will result in disciplinary action being taken against the supervisor. If in doubt about what action to take, the supervisor should consult with the department head, the Human Resources Director or the County Manager. It is also the supervisor's responsibility to protect the privacy, confidentiality, and dignity of employees by minimizing the number of employees who learn of suspicions involving a co-worker's possible substance abuse or actions taken against that employee.

As a condition of employment, all employees are responsible for knowing and following the requirements of this policy. Employees are expected to report for work and perform their jobs in a sober condition, free of any illegal drugs or alcohol, or abuse of any legally prescribed or over-the-counter drugs. Employees shall inform their supervisor if they are taking or intending to take any prescribed or over-the-counter drugs or other substance which might impair their ability to satisfactorily and safely perform their job. They need not give the supervisor specific medical information, but rather simply inform the supervisor of the impact on job performance to allow the supervisor to evaluate and determine the appropriate course of action.

PROCEDURES—Employee Rehabilitation

Subject to the approval of the County Manager or his/her designee an employee who voluntarily notifies his/her supervisor of a substance abuse problem or dependency prior to any policy violation or disciplinary action may be granted a medical leave in accordance with County policy to undergo an agreed-to certified rehabilitation program which requires the employee to be absent from his/her duties. Return to work will be

authorized upon certification to the Human Resources Department of successful completion of the program and a negative test result. Return to work will be conditional upon consent for random follow-up testing for a period of two (2) years. Positive results on a test will result in immediate dismissal with no opportunity for re-employment.

PROCEDURES—Conditions and Procedures for Testing

Results of all drug and alcohol tests, agreement or refusal to submit to them and any rehabilitation information are confidential information and must be treated as such. Only those with a need to know may have access. These procedures are compliant with N.C.G.S. Chapter 20, Controlled Substance Examination Regulation, § 95-230 – 236.

A positive drug test for controlled substances will result in withdrawal of the conditional offer of employment for applicants, or termination of employment for County employees. However, in cases involving substances that may be lawfully obtained, the County reserves the right to conduct an individualized assessment to determine the eligibility for hire or continued employment. Factors may consider the nature of the position, potential impairment, and applicable state or federal requirements. The County retains the sole discretion in making final employment determinations.

Failure to submit to a drug test, whether it be for Pre-Employment, Reasonable Suspicion, Post-Accident or a Random Drug Test, will result in a withdrawal of the conditional offer of employment for applicants, or termination of employment for employees of the County.

To enforce this policy, drug/alcohol tests may be administered as follows:

a. **Pre-employment:** Applicants accepting a conditional offer of employment in any position will be required to submit to a test before being hired. Applicants who test positive for illegal substances will not be considered for employment with the County for two (2) years after the test date. Instances in which a candidate may have tested positive for a substance legally obtained, may be allowed to be reconsidered for employment within 45 days of the original test date at the discretion of the County Manager or his designee. Candidate allowed to retest will be subject to random screenings for a period of one year from their hire date.

b. When the hiring department makes a conditional offer to a candidate the human resources department arranges for the candidate to be tested. The Human Resources Department receives the results and notifies the hiring department.

c. **Reasonable Suspicion:** Employees may be required to submit to a test if reasonable suspicion of illegal drug use or drug/alcohol use/abuse exists. “Reasonable suspicion” is a belief based on objective facts sufficient to lead a reasonable person to suspect an employee is impaired and incapable of satisfactorily and safely performing assigned duties and responsibilities. It is a quantity of proof or evidence that is more than just intuition or strong feeling; it must be based on facts. Facts supporting a reasonable suspicion determination include, but are not limited to, any one or more of the following: direct observation of prohibited drug or alcohol use; slurred speech; irregular or unusual speech patterns; impaired judgment; marijuana or alcohol odor; uncoordinated walking or movement;

unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness; a pattern of excessive absenteeism, tardiness or deterioration in work performance; a pattern of unexplained preventable accidents or information based on specific, objective facts that an employee has caused or contributed to an accident at work while under the influence of alcohol or drugs; a report of alcohol or drug use by an employee while at work by a credible source; possession of alcohol or drugs; evidence an employee is involved in the unauthorized possession, sale, solicitation or transfer of alcohol or drugs while working or while on the County's premises or operating a County vehicle, machinery or equipment; arrests, citations and deferred prosecutions associated with drugs or alcohol.

i. When there is reasonable suspicion, the supervisor shall consult the County Manager or his/her designee immediately and follow instructions to:

A. Arrange for another supervisor to verify reasonable suspicion, if possible.

B. Confront the employee privately about the performance/behavioral issues, stating suspicions, and allow the employee to state a reasonable explanation. A second party, preferably the department head or another supervisor, should be present.

C. The supervisor will inform the employee that a reasonable suspicion test is an obligation and refusal to submit to it will result in termination. If the employee agrees to take the test, the employee will be informed that she/he is suspended with pay and will be notified whether or not and under what circumstances she/he will be allowed to return to work. The supervisor will transport the employee to the appropriate testing facility. The sample should be taken as soon as is practicable from the time the employee is suspected, but no later than two (2) hours following the determination of reasonable suspicion. If the test is not administered within two (2) hours, the supervisor must document the reason(s) that the test was not properly administered. If the testing is not done within two (2) hours due to some reason other than the employee's refusal, the following should occur:

D. The employee shall not be allowed to remain on duty until a negative test result is obtained or twenty-four hours have elapsed following the determination of reasonable suspicion.

E. If an employee is observed using a suspected substance, the supervisor may demand that the employee surrender the item and related paraphernalia.

F. Any employee who is unable to drive safely or is in need of medical assistance will be transported by a supervisor to a medical facility or to his/her home, as appropriate. If the employee refuses, she/he will be advised that local law enforcement authorities will be notified that an employee who seems to be "under the influence" is trying to leave the premises.

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c. **Post-accident:** Employees will be tested following an on-the-job accident or other occurrence that involves one or more of the following events: a fatality, a serious injury to an employee or other individual, substantial damage to vehicles or other property, or if the employee receives a citation under state or local law for a moving traffic violation arising from the accident. Employees may also be tested after a series of minor on-the-job accidents or injuries as determined by the department head and Human resources Director, subject to determination by the County Manager or his/her designee.

   i. Following such an accident, the employee must immediately notify the supervisor and must submit to a test as soon as is practicable. The supervisor is responsible for transporting the employee to the appropriate testing facility. If a test is conducted by a law enforcement officer at the scene of the accident, the employee is required to immediately contact his/her supervisor to report the test result and to provide the supervisor with the name, badge number, and telephone number of the law enforcement officer who conducted the test. If the employee is hospitalized for injuries, arrangements will be made for the testing to be conducted at the medical facility to which the employee has been admitted.

   ii. Post-accident tests will be administered as soon as possible, but ideally not more than eight (8) hours after the accident. An alcohol test should be administered within two (2) hours of an accident. If unable to test within (2) hours, the supervisor must document the reason(s) for the time delay. If the test is not performed within eight (8) hours, the supervisor will cease attempts to administer the test and will document the reason(s) why the test was not conducted. The employee must refrain from consuming alcohol for eight (8) hours following an accident or until the alcohol test has been completed, whichever comes first. The employee must remain available for drug and alcohol testing or it will be considered a refusal, unless the employee is seriously injured.

   iii. Return-to-duty and follow-up: Employees who have voluntarily removed themselves from their job duties and have voluntarily undergone and successfully completed treatment for drug or alcohol abuse must submit to and furnish a negative test result prior to returning to duties. The return-to-duty test may involve both drug and alcohol tests, if the treating substance abuse professional indicates a multiple-substance abuse problem exists. These employees will also be subject to random, unannounced tests six (6) times a year for a period of up to two (2) years, as a condition of continued employment.

d. **Random:** Employees in designated safety-sensitive and security-sensitive positions will be subject to random, unannounced drug and alcohol screening. The Human Resources Director, with approval of the County Manager or his/her designee, will develop and maintain a list of jobs approved for random testing. The rate of random selection for drug and alcohol screening will be a percentage of the annual average employee base.

Every employee in the pool has an equal chance of being chosen each time a random selection is made. When an employee is required to submit to random testing, she/he will be notified verbally by a supervisor. Failure to submit to testing will result in termination of employment.

PROCEDURES—Inspections and Searches

When there is reasonable suspicion, the County reserves the right to search employer owned items used by employees (e.g., desks, lockers, vehicles, equipment, etc.) and employees should not expect privacy in these containers. Search efforts may be conducted by the employee's supervisor or department head and a minimum of one (1) individual in a management, administrative or Human Resources position. Law enforcement officials and department heads will be notified in appropriate cases.

The County also reserves the right to search personal belongings (vehicles, handbags, briefcases, other containers, clothing and other personal effects) while on County premises or while conducting County business if there is reasonable suspicion of a violation of this policy. Such searches of employee's personal belongings will only be conducted by the Human Resources Director or designee, subject to approval of the County Manager or his/her designee, and one other individual in a management, administrative or human resources position, in the presence of the employee concerned and after notification of intent to conduct the search has been given. Refusal on the part of the employee to allow such a search will be subject to disciplinary action, up to and including dismissal.

PROCEDURES—Employee/Applicant Options

When an employee or applicant has taken a drug or alcohol screening and a result of positive has been returned to Burke County Human Resources, and the employee or applicant feels the test result is incorrect, he/she has the right to request a retest of the sample given at the original screening (if applicable) which will be in the custody of the facility that conducted the test. All reasonable costs for such retest will be born by the employee or applicant. The employee or applicant has the right to choose to use another licensed testing facility, but the retest may only be performed using the original sample. If there is no "sample" to be retested, the original result will stand. A request to retest the original sample must be received by Burke County Human Resources within 5 working days of delivery of result to the employee or applicant.

Employees may appeal disciplinary actions resulting from violations of this policy in accordance with the County grievance procedure outlined in this policy.

This policy shall be administered in accordance with all applicable federal, state and local laws and regulations. Where federal or state law impose stricter standards, those standards shall take precedence, regardless of the procedures listed in this policy.