

Drugs and Alcohol Policy

The Township of Franklin recognizes that the possession or use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. Any employee who is observed by a supervisor or department head to be intoxicated or under the influence of alcohol or intoxicating substances during working hours or is under reasonable suspicion of same shall be immediately tested and is subject to discipline up to and including termination. The supervisor or Department Head will immediately report any reasonable suspicions to the Administrator.

An employee will be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that that employee is impaired due to current intoxication, drug or controlled substance use, or in cases where employment has been conditioned upon remaining alcohol, drug, or controlled dangerous substance free following treatment. Refusal to submit to testing when requested may result in immediate disciplinary action, including termination. Supervisors or Department heads that observe behavior constituting reasonable suspicion are required to institute testing and do not have the option of sending the employee home as an alternative.

The manufacturing, distribution, dispensation, possession, and use of alcohol, intoxicating substances or unlawful drugs on Township of Franklin premises or during work hours by employees is strictly prohibited.

Employees utilizing alcohol, cannabis or any other intoxicating substance(s) prior to reporting to work, should utilize caution and should allow a minimum of eight (8) hours to pass from time of last ingestion or utilization prior to reporting to work. If a medical professional clears the employee with less time, this must be done in writing and presented to the Township Administrator in advance by the employee.

Employees must notify their supervisor within five (5) days of conviction for a drug or alcohol related violation, whether or not the violation occurred in the workplace. Employees who are required to maintain a Commercial Driver's License (CDL) are subject to random drug testing as required by the federal government.

Employees using prescription drugs that may affect job performance or safety must notify the Administrator who is required to maintain the confidentiality of any information regarding an employee's medical condition in accordance with the Health Insurance Portability and Protection Act. Township of Franklin personnel who hold a Commercial Driver's License (CDL) are subject to the provisions of the Commercial Driver's Licenses Drug and Alcohol Testing Policy. (A program to assist employees who may have a drug/alcohol problem is provided through the Township of Franklin's Employee Health Insurance Benefits.)

No prescription drug should be used by any person other than the individual to whom it is prescribed. Such substances or non-prescription (over the counter) drugs should be used only as prescribed or indicated. Employees are prohibited from consuming prescription drugs that are not prescribed in their name on Township of Franklin property or while performing Township of Franklin business. Soliciting or distributing prescription drugs for or to other employees is also strictly prohibited.

REQUIRED TESTING

Pre-employment: All applicants must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.

Reasonable Suspicion: Employees are subject to testing based upon (but not limited to) observations by supervision or management of apparent workplace use, possession or impairment. The Administrator shall be consulted before sending an employee for testing. Under no circumstances will the employee be allowed to drive him or herself to the testing facility. A member of supervision/management and a union representative (if appropriate) must escort the employee; the supervisor/manager will make arrangements for the employee to be transported home.

Post-accident: Employees are subject to testing when they cause or contribute to accidents that damage a Township of Franklin vehicle, machinery, equipment, or property and/or result in an injury to themselves, another employee, or client requiring off-site medical attention. A probable belief circumstance will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including, but not limited to, fork lifts, pallet jacks, automobiles, pickups, vans, or trucks) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two (2) hours following the accident, if not sooner. Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.

Follow-Up: Employees who have tested positive, or otherwise violated this policy, are subject to discipline, up to and including discharge. Depending upon the circumstances and the employee's work history/record, the Township of Franklin may offer an employee who violates this policy or tests positive the opportunity to return to work on a last chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the Township of Franklin for a minimum of one (1) year but not more than two (2) years as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete their rehabilitation program or tests positive after completing the rehabilitation program, they will be subject to immediate discharge from employment.

CONSEQUENCES

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to re-apply/re-test in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be terminated. If the employee refuses to be tested yet we believe they are impaired, under no circumstances will the employee be allowed to drive himself or herself home.

The first time an employee tests positive for alcohol or illegal drug use under this policy, the result will be discipline up to and including discharge.

Employees will be paid for time spent in alcohol/drug testing and then suspended pending the results of the drug/alcohol test.

CONFIDENTIALITY

Information and records relating to positive test results, drug and alcohol dependencies and legitimate medical explanations provided to the MRO shall be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed where relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

INSPECTIONS

The Township of Franklin reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband upon a finding of reasonable suspicion; affected employees may retain representation during this process, including union representation for unionized employees. Inspections are to be conducted by authorized personnel; a member of the senior management team and/or a supervisor. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas, and property that might conceal a drug, alcohol, or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including termination.

CRIMES INVOLVING DRUGS

The Township of Franklin prohibits all employees from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on the Township of Franklin premises or while conducting Township of Franklin business. The Township of Franklin employees are also prohibited from misusing legally prescribed or OTC drugs. Law enforcement personnel shall be notified, as appropriate, where criminal activity is suspected.

The Township of Franklin does not desire to intrude into the private lives of its employees but recognizes that employee's off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the Township of Franklin reserves the right to take appropriate disciplinary action for drug usage/sale/distribution while off company premises. All employees who are convicted of, plead guilty to, or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to their Supervisor, Department Head or Administrator within five days. Failure to comply will result in automatic termination. Cooperation may result in suspension without pay to allow management to review the nature of the charges and the employee's past record with the Township of Franklin.

MEDICAL CANNABIS

Pursuant to the "Jake Honing Compassionate Use Medical Cannabis Act", N.J.S.A. 24:6I-6.1, Franklin Township shall not take any adverse employment action against an employee who has been authorized for the medical use of cannabis by a health care practitioner and is a registered qualifying patient under the Act based solely on the employee's status as a registrant with the Cannabis Regulatory Commission.

- If an employee or job applicant tests positive for cannabis pursuant to any drug test administered in accordance with this Policy, the employee or job applicant shall have an opportunity to present a legitimate medical explanation for the positive test result, and shall be provided written notice of the right to explain in the form of being provided a copy of this Policy.

- Within three working days after receiving notice pursuant to this section, the employee or job applicant may submit information to Franklin Township to explain the positive test result, or may request a confirmatory retest of the original sample at the employee's or job applicant's own expense. As part of an employee's or job applicant's explanation for the positive test result, the employee or job applicant may present an authorization for medical cannabis issued by a health care practitioner, proof of registration with the Cannabis Regulatory Commission, or both.

Nothing in this section shall be deemed to:

- Restrict Franklin Township's ability to prohibit, or take adverse employment action for, the possession or use of intoxicating substances during work hours or on the premises of the workplace outside of work hours; or
- Require Franklin Township to commit any act that would cause it to be in violation of federal law, that would result in a loss of a licensing-related benefit pursuant to federal law, or that would result in the loss of a federal contract or federal funding.

WORKPLACE CANNABIS IMPAIRMENT

Pursuant to N.J.S.A. 24:6I-52a(1), an employee shall not be subject to any adverse action solely due to the presence of cannabinoid metabolites in the employee's bodily fluid as a result of engaging in conduct permitted pursuant to the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act." However:

- Franklin Township has the right to maintain a drug free workplace consistent with the requirements of N.J.S.A. 24:6I-52; and
- Franklin Township may require an employee to undergo a drug test upon reasonable suspicion of an employee's usage of cannabis or cannabis products while engaged in the performance of the employee's work responsibilities, or upon finding any observable signs of impairment related to usage of cannabis or cannabis products, or as part of a random drug test program, or following a work-related accident subject to investigation by the employer.

A scientifically reliable objective testing method that indicates the presence of cannabinoid metabolites in the employee's bodily fluid alone is insufficient to support an adverse employment action. However, such a test combined with evidence-based documentation of physical signs or other evidence of impairment during an employee's prescribed work hours may be sufficient to support an adverse employment action. In order to demonstrate physical signs or other evidence of impairment sufficient to support an adverse employment action against an employee for suspected cannabis use or impairment during an employee's prescribed work hours Franklin Township may:

- Designate an interim staff member to assist with making determinations of suspected cannabis use during an employee's prescribed work hours. This employee:
 - Should be sufficiently trained to determine impairment and qualified to complete the Reasonable Suspicion Observation Report; and
 - May be a third-party contractor.

- Utilize a uniform “Reasonable Suspicion” Observation Report (see below) that documents the behavior, physical signs, and evidence that support a determination that an employee is reasonably suspected of being under the influence during an employee’s prescribed work hours.
- Completion of the “Reasonable Suspicion” Observation Report shall be performed by: o the employee’s manager or supervisor or an employee at the manager or supervisor level; and
 - An interim staff member that has been designated to assist with determining whether an employee is reasonably suspected of being impaired during an employee’s prescribed work hours, or a second manager or supervisor.
- The Reasonable Suspicion Observation Report is attached to this policy as Appendix A.
- Franklin Township may also utilize a cognitive impairment test, a scientifically valid, objective, consistently repeatable, standardized automated test of an employee’s impairment, and/or an ocular scan, as physical signs or evidence to establish reasonable suspicion of cannabis use or impairment at work.

DEFINITIONS

"Company Premises" includes, but is not limited to, all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by the Township of Franklin or on any site on which the Township of Franklin is conducting business.

"Illegal Drug" means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308.)

"Refuse to Cooperate" means to obstruct the collection or testing process; to submit an altered, adulterated, or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

"Under the Influence of Alcohol" means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

"Under the Influence of Drugs" means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly over-the-counter) where there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization).

REASONABLE SUSPICION AND POST-ACCIDENT TESTING PROTOCOL

1. The employee will be advised that the Township of Franklin believes that there is reasonable suspicion to believe that he/she is affected by illegal drugs or alcohol (or due to the nature of the accident the policy mandates this) and that this test is being offered to confirm or deny this suspicion.
2. The employee will be transported to any one of the company's contracted testing facilities or a hospital. One member of management/designated attendant will accompany the employee. Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. In cases where the supervisor and employee are of the opposite sex, the employee may request the management staff to arrange for a third management staff employee to accompany the supervisor and employee to the testing site.
3. Prior to leaving for the testing facility, supervision/management will contact the testing facility to inform them that staff from the Township of Franklin will be arriving and will need a drug and/or alcohol test completed.
4. The employee to be tested **MUST** present a PHOTO ID (i.e., a driver's license or state ID card) to the testing facility staff before the specimen can be obtained. Ensure that the employee brings this with them when leaving the Township of Franklin premises.
5. The employee to be tested must sign a consent form provided by/at the testing facility. Refusal to sign is addressed under the "Consequences" section of this document.
6. When leaving the testing facility, the supervisor/manager **MUST** make arrangements to transport the person home, unless testing results are immediate and negative. Under no other circumstances will the tested employee be allowed to drive himself or herself home.

