

DRUG AND ALCOHOL POLICY

Organization: Franklin County Government
Address: 315 West Main Street
Frankfort, Kentucky 40601
Phone: 502-875-8751

POLICY STATEMENT/OVERVIEW

The objective and purpose of the Franklin County Government's Drug and Alcohol Policy is to ensure a safe, drug free and alcohol free, working environment for the employees and customers we serve. It is our intention to prohibit drug use and alcohol misuse in the workplace. A copy of the policy shall be provided to all employees. The policy shall be in accordance with the provisions, requirement and regulations of the Federal Transit Administration (FTA) Drug and Alcohol Rule (49 CFR, Part 653, Prevention of Prohibited Drug Use in Transit Operations, and 49 CFR part 654, Prevention of Alcohol Misuse in Transit Operations, 49 CFR part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs), and the Federal Highway Administration (FHWA) Controlled Substances and Alcohol Use and Testing (49 CFR, Part 382, 390) and County Government Policy.

~~The Drug and Alcohol Policy is also in accordance with Franklin County's agency provisions herewith expressed in italics.~~

POLICY ON EMPLOYEE JOB CATEGORIES SUBJECT TO TESTING

All employees and volunteers who perform safety-sensitive functions must be subject to the testing provisions set forth in the FTA regulations (653.7 and 654.7). FTA has determined that safety-sensitive functions are performed by those who:

1. Operate revenue service vehicles including when not in revenue service
2. Operate non-revenue service vehicles that require drivers to hold commercial Driver's License (CDL's)
3. Dispatch or control revenue service vehicles
4. Maintain revenue service vehicles or equipment used in revenue service except for contractors to Section 18 transit agencies
5. Provide security and carry a firearm
6. Supervisors who perform any of the above functions or control movement of a revenue service vehicle
7. Operate county owned vehicles or eligible to operate county owned vehicles

FHWA has determined that safety-sensitive functions are performed by those who operate equipment or vehicles which require the driver to possess a CDL. Attachment I is a list of safety-sensitive job functions and corresponding position titles that identifies which employees are specifically covered.

PARTICIPATION AS A REQUIREMENT OF EMPLOYMENT

Alcohol:

An employee must not consume alcohol while performing a safety-sensitive function (654.23), (382.205), four hours prior to performing a safety-sensitive function, and up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first (654.27), (382.207 and 382.209).

No employee shall consume alcohol while performing any job function, or no employee shall consume alcohol four hours prior to reporting to work.

Drugs:

Use and ingestion of prohibited drugs are prohibited at all times.

PROHIBITED BEHAVIOR

Employees are prohibited from engaging in unlawfully manufacturing, distributing, dispensing, processing, or using controlled substances in the workplace consistent with the Drug-Free Workplace Act of 1988.

Possession of drugs or alcohol on transit vehicles, in any transit facilities, or work premises is prohibited.

Prohibited employee conduct includes using alcohol while performing safety-sensitive functions, using alcohol within four hours prior to performing safety-sensitive functions, performing a safety-sensitive function with an alcohol concentration 0.04 or greater, using alcohol eight hours following an accident which requires employee to take an alcohol test.

CIRCUMSTANCES FOR TESTING

The Federal Transit Administration and the Federal Highway Administration require that drug and alcohol tests be given to safety-sensitive employees and other employees in specific circumstances:

- Pre-Employment;
- Reasonable Suspicion;
- Post-Accident;
- Random;
- Return to duty;
- Follow-up

In addition to the above six types of testing, the Franklin County Government is also required to perform blind sample testing as a quality assurance measure for the testing laboratory (40.31).

Pre-employment Testing

The FTA regulations (635.41, 654.31) and FHWA regulation (382.301) require that all applicants for employment in safety-sensitive positions or individuals being transferred into safety-sensitive positions must be given pre-employment drug and alcohol tests. Employees may not be hired or assigned to the safety-sensitive function unless they pass the tests.

The Franklin County Government shall inform the applicant in writing of the testing requirements (653.27, 654.71).

FTA and FHWA regulations prohibit the Franklin County Government from assigning an individual who has violated either drug or alcohol regulations to a safety-sensitive position. However, if in the future, the same individual applies again for a safety-sensitive position, the County shall administer a pre-employment alcohol test if:

The applicant has undergone an alcohol test required by 49 CFR 654 or 382 or the alcohol misuse rule of another DOT agency under part 40 within the previous 6 months, with a result indicating an alcohol concentration less than 0.04; and

The County ensures that no prior employer of the applicant of whom the County has knowledge has records of a violation of the FTA and FHWA alcohol rule or the alcohol misuse rule of another DOT agency within the previous 6 months.

FTA and FHWA regulations permit, but do not require, the release of the results to the person being tested. However, prior to making a final decision to verify a positive drug test result, the Medical Review Officer (MRO) must give the applicant an opportunity to discuss the results (40.33).

If a pre-employment drug test is canceled, the Franklin County Government shall require the employee or applicant to submit to and pass another test.

It is the Franklin County Government's rule that all employees or applicants have pre-employment testing. The County is prohibited to assigning or employing any individual who test positive for drug or alcohol use. If a pre-employment drug test is canceled, the County shall require the employee or applicant to submit to and pass another test.

Passing a drug test is a condition of employment and shall be stated in newspaper notices and other forms of vacancy announcements. Applicants must sign a form acknowledging that they know they will be tested.

Reasonable Suspicion Testing

FTA regulations (653.43, 654.37) and FHWA regulation (382.307) requires safety-sensitive employees to submit to a test when the Franklin County Government has reasonable suspicion that an employee has used a prohibited drug or has misused alcohol as defined in FTA or FHWA regulations.

The County's request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the safety-sensitive employee.

Employees may be at work in a condition that raises concern regarding their safety or productivity. A supervisor must then make a decision as to whether reasonable suspicion exists to conclude that substance abuse may be causing the behavior.

Reasonable suspicion requires some indication of probable linkage between behavior or events and substance abuse.

If a supervisor, trained to identify the signs and symptoms of drug and alcohol use, reasonably concludes that objective facts may indicate drug use or alcohol misuse, this is sufficient justification for testing.

Post-Accident Testing

The FTA regulations (653.46, 654.33) and FHWA regulation (382.303) require testing for prohibited drugs and alcohol in the case of certain vehicular accidents.

Post-accident testing is mandatory for accidents where there is loss of life and for other nonfatal accidents unless an employee performance can be discounted completely as a causative or contributing factor.

An accident (653.7, 390.5) is defined as an occurrence associated with the operation of a vehicle in which:

An individual dies

An individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident

The mass transit vehicle involved is a bus, van, or automobile in which one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle

The mass transit vehicle involved is a railcar, trolley, bus, or vessel and is removed from revenue service

The County-owned vehicle involved is driven by a safety-sensitive employee possessing a CDL in which one or more vehicles incurs disabling damage as a result of the occurrence and is transported away from the scene by a tow truck or other vehicle.

FATAL ACCIDENT

Whenever there is a loss of human life, each surviving safety-sensitive employee on duty in the mass transit vehicle at the time of the accident must be tested. Safety-sensitive employees not on the transit vehicle whose performance could have contributed to the accident (as determined by the Franklin County Government using the best information available at the time of the accident) must be tested. In the case of a fatality involving a County vehicle requiring a CDL driver, the surviving CDL driver must be tested.

NONFATAL ACCIDENT

Following nonfatal accidents involving a bus, electric bus, trolley busses, van, or automobile, the Franklin County Government shall test each safety-sensitive employee on duty in the mass transit vehicle at the time of the accident if the employee received a citation under State or local law for a moving traffic violation arising from the accident (653.45, 654.33). For nonfatal accidents involving County vehicles requiring a CDL driver, the CDL driver shall be tested if the employee received a citation under State or local law for a moving violation arising from the accident (382.303).

For nonfatal accidents involving transit vehicles, the Franklin County Government shall test any other safety-sensitive employee whose performance could have contributed to the accident, as determined by the County using the best information available at the time of the accident.

Post-accident drug and alcohol tests must be performed as soon as possible. Drug tests must be performed within 32 ~~hour~~ hours following the accident. Alcohol tests must be performed within 8 hours.

If an alcohol test is not administered within 2 hours following the accident, the Franklin County Government must still attempt to administer the test, and also prepare and maintain on file a record stating the reason (s) the test was not promptly administered. If an alcohol test is still not administered within 8 hours following the accident, the County shall cease attempts to administer an alcohol test and shall maintain the same record.

The requirement to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means the County knows the location of the safety-sensitive employee.

Steps to follow in a post-accident situation are summarized as follows:

- Treat any injury first
- Cooperate with law enforcement officers
- Explain the need for testing
- Conduct test promptly
- Collect accident documentation promptly

Random Testing

The FTA regulations (653.47, 654.35) and FHWA regulation (382.305) require random drug testing of drugs and alcohol for all safety-sensitive employees.

The Franklin County Government will use a scientifically valid random number selection method to select safety-sensitive employees. Valid methods include the use of random-number table or a computer based random-number generator that is matched with safety-sensitive employees' identification numbers. At least 50 percent of the total number of safety-sensitive employees subject to drug testing and 25 percent subject to alcohol testing must be tested each year. A slightly higher percentage will be tested to provide for canceled tests.

The Franklin County Government is part of a statewide Drug and Alcohol Consortium. The annual rate calculated for the Franklin County Government is based on _____
(individual consortium organizational FTA membership)

Test dates will be spread reasonable throughout the year and not establish a predictable pattern. Testing will be performed on different days of the week and at different times throughout the annual cycle.

The process must be unannounced as well as random. Once the County notifies the employee that they have been selected for testing, the employee must report immediately to the collection site.

All safety-sensitive employees in the random pool will have an equal chance of being selected for testing and shall remain in the pool, even after being tested. It is possible for some employees to be tested several times a year.

Non-safety-sensitive employees and/or other agency employees outside the purview of FTA regulations shall be placed in a separate pool and tested under policy set forth by Franklin County.

Employees Notification of Random Testing Procedures

Receive notification from the Drug and Alcohol Consultant of employee identification number for testing.

Supervisor notifies the employee and requests the employee to report immediately to collection site. The County shall provide transportation to collection site.

Employees shall be afforded the maximum privacy possible and discreetly notified to report to the collection site.

Employee shall be afforded transportation from the testing site.

Non-safety-sensitive or agency employee standard notification procedures are the same as for FTA safety-sensitive employees as described above.

Return to Duty Testing

Before any employee is allowed to return to duty to perform a safety-sensitive function following a verified positive drug test result, an alcohol result 0.04 or greater, a refusal to submit to a test, or any other activity that violates the regulations, that employee must first be evaluated by a substance abuse professional and pass a return to duty test (653.49, 654.39), (382.309).

Before a return to duty test is performed, the employee must be evaluated by a substance abuse professional to determine whether the employee has followed the recommendations for action by the SAP.

The employee must have a verified negative drug test result or an alcohol test result of less than 0.02 to return to a safety-sensitive function. If drug test result is canceled; the Franklin County Government shall require the employee to submit to and pass another drug test.

The County policy is for termination of employment for verified positive drug or alcohol tests; therefore, return to duty testing will not apply.

Follow-up Testing

Once allowed to return to duty, an employee shall be subject to unannounced follow-up testing for at least 12 but not more than 60 months. Frequency and duration shall be recommended by the substance abuse professional as long as a minimum of six tests are performed during the first 12 months after the employee has returned to duty (653.51, 654.41), (382.311).

Employees subject to follow-up testing must also remain in the standard random pool and tested if selected by random.

The County policy is for termination of employment for verified positive drug or alcohol tests; therefore, follow-up testing will not apply.

BEHAVIOR THAT CONSTITUTES A REFUSAL TO SUBMIT TO A TEST TESTING PROCEDURES

Kinds of behavior that constitute a refusal:

Refusal to take the test

Inability to provide sufficient quantities of breath or urine to be tested without valid medical explanation

Tampering with or attempting to adulterate the specimen or collect site in the time allotted

Leaving the scene of an accident without a valid reason before tests have been conducted

TESTING PROCEDURES

Drug Testing:

Under the FTA and FHWA drug testing regulations for safety-sensitive employees, the Franklin County Government is required to conduct laboratory testing of urine specimens for five types (653.31). Identification of either a drug or its metabolite in the urine indicates use of the drug in the recent past. The FTA and FHWA regulations require testing for the following drugs or their metabolites:

Marijuana

Cocaine

Opiates (e.g. heroin, morphine, codeine)

Phencyclidine (PCP)

Amphetamines (e.g. racemic amphetamine, dextroamphetamine and methamphetamine)

Specimen Collection:

All urine specimens must be collected at an appropriate collection site. A collection site is defined (40.3) as a place designated by the County and the Statewide Drug and Alcohol Committee as a place where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Regardless of the collection site location, it will meet the Department of Transportation guidelines established in "Procedures for Transportation Workplace Drug and Alcohol Testing Program" (49 CFR part 40).

The site will have a privacy enclosure for urination, a toilet, a suitable clean writing surface and a water source for hand washing, which if practicable, will be outside the privacy enclosure.

Collection Site Personnel:

The collection site personnel are responsible for the integrity of the specimen collection and transfer process and for ensuring the dignity and privacy of the donor.

Regardless of the background and training of collection site staff, the Franklin County Government shall provide them with clear and unambiguous written instructions on collecting specimens.

Collection Process:

For specific requirements, refer to 49 CFR part 40.25.

1. Make sure that only DOT urine custody and control forms are used.
2. Inspect the collection room before and after each specimen collection. Remove any unauthorized persons and materials that could adulterate the specimen.
3. Verify identity of employee.
4. Request that the employee check belongings and remove any unnecessary outer garments.
5. Have employee rinse hands with water and dry them.
6. Unwrap collection cup in front of employee.
7. If employee is unable to provide a least 45 ml., the collection site technician shall instruct the employee to drink not more than 24 ounces of fluids during a period of up to two hours.
8. Within 4 minutes of receiving the specimen, the temperature must be recorded and must be between 90 degrees and 100 degrees F.
9. The Franklin County Government is to be notified should employee refuse to cooperate with the collection process.
10. If a collection container is used, in presence of the donor, pour the urine into two specimen bottles.
11. Both bottles must be sealed and labeled in presence of the donor.
12. Custody and control form must be completed.
13. Both primary specimen and the split specimen shall be sealed in a single shipping container.
14. Specimen should be placed in secure storage until dispatched to the lab.

The urine specimen must be split and poured into two specimen bottles. Employees have the option of having an analysis of the split sample performed at a separate DHHS laboratory should the primary specimen test result be verified positive. The employee has 72 hours after being performed by the MRO of a verified positive test to request a test of the split sample. The payment of the split sample testing shall be the responsibility of the employee.

All drug testing under the FTA and FHWA regulations must be completed in a laboratory certified by the Department of Health and Human Services (DHHS).

In the following circumstances, collection personnel must observe the second collection immediately after the first collection:

Employee presented a urine sample that fall outside the normal temperature range.

Oral body temperature varies by more than 1 degree C/ 1.8 Degree F from the temperature of the specimen

Site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample.

The Franklin County Government may authorize an observed collection when: The most recent urine specimen provided by the employee was determined by the lab to have a specific gravity of less than 1.003 and a creatinine concentration below 0.2 G/L, or the employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted under the FTA or FHWA regulation as a return to duty or follow up test. Supervisor of the collection site person shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct observation. The direct observation must be by a collection site person of the same gender as the employee being tested.

The DOT regulation requires an immunoassay test as the initial test. If any prohibited drug registers above the cutoff level on the immunoassay screen, an aliquot of the same urine specimen must be confirmed by using a technique called gas chromatography/mass spectrometry (GC/MS).

The FTA and FHWA regulations require that all drug testing laboratory results must be reviewed by a qualified Medical Review Officer (MRO). The purpose of this review is to verify and validate test results. An MRO is defined in the regulation as a licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

The Franklin County Government shall strictly adhere to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized by the FTA or FHWA rules to receive information.

Alcohol Testing:

FTA regulation (49 CFR, Part 654) and FHWA regulation (49 CFR, Part 382) requires the Franklin County Government to conduct breath alcohol testing on safety-sensitive employees. The breath specimen must be collected through the use of an evidential breath testing device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA).

FTA and FHWA regulations prohibit any employer from allowing an employee with an alcohol concentration of 0.04 or greater to perform any safety-sensitive duties until he/she has been evaluated by a SAP and has passed a return to duty test. An employee with an alcohol concentration of 0.02 or greater but less than 0.04 must be removed from duty for eight (8) hours or until a re-test shows an alcohol concentration of less than 0.02.

The County Policy will not allow persons who test positive for drugs or greater than 0.02 alcohol to return to duty.

Reference is made to Evidential breath Testing Device (EBT) (40.53).

Reference is made to Breath Alcohol Technician (40.51). The County shall identify the individual (s) that will serve as agency BATs. The supervisor of an employee to be tested for alcohol misuse must not serve as the BAT for that employee.

ALCOHOL TESTING SITE (reference 40.57)

Alcohol tests should be conducted at a site that provides privacy to the individual being tested. The testing site must be secured with no unauthorized access at any time the EBT is unsecured or when testing is occurring. The BAT must conduct only one test at a time and must not leave the testing site while the preparations for testing or test itself are in progress.

In unusual circumstances (e.g. accident) an alcohol test can be conducted at a place other than an alcohol testing site. The BAT shall conduct the test in a manner that provides the employee with privacy to the greatest extent practicable.

SCREENING ALCOHOL TEST

BAT will instruct the employee to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. Following the screening test, BAT must show the employee the result displayed on the EBT or the printed result. If result of test is less than 0.02, no further testing is required and test will be reported to the employer as a negative test. Employee may return to his safety-sensitive position.

If result of the screening test is an alcohol concentration of 0.02 or greater, confirmation test must be performed. Must be conducted at least 15 minutes but not more than 20 minutes, after completion of the initial test.

CONSEQUENCES OF THE USE OF DRUGS AND THE MISUSE OF ALCOHOL

Any safety-sensitive employee who refuses to submit to a test:

Result: Immediate removal from safety-sensitive function
 Disqualifies applicant from being hired
 Considered as automatic positive test

Any verified positive drug test result:

Consequences:
 Immediate removal from safety-sensitive function
 Disqualifies applicant from being hired

It is County mandated for automatic termination of employment

Employee must be evaluated by a Substance Abuse Professional

Alcohol Concentration of 0.045 or greater:

Consequences:
 Immediate removal from safety-sensitive function
 Disqualifies applicant from being hired

It is County mandated for automatic termination of employment

Employee must be evaluated by a Substance Abuse Professional

Alcohol Concentration of 0.02 or greater but less than 0.04:

Consequences:
 Immediate removal from safety-sensitive function for 8 hours or until re-test shows
 an alcohol concentration of less than 0.02
 Disqualifies applicant from being hired

It is County mandated for automatic termination of employment

Identity of Contact Person

The Drug and Alcohol Program Manager

_____ and _____ is /are the person(s) that represent(s) the Franklin County Government as a contract for Drug and Alcohol Program employee inquiries.

Questions about the drug and alcohol program may be addressed to the above individual(s) at the telephone number 502-875-7860 and the Franklin County Public Works Office located at 100 Lewis Ferry Road, P.O. Box 280, Frankfort, KY 40602-0599.

Contact person(s) name, office location and telephone number shall be posted on each bulletin board.

Posting will also reflect any new contact persons for our Drug and Alcohol Program.

AFFECTS OF ALCOHOL

Physically, alcohol enters the bloodstream almost immediately, circulates to the brain and all the organs, depresses the central nervous system, slowing thought processes, reflexes and other physical skills.

Mentally, its effects vary. In small doses, the user may feel relaxed, talkative, happy, excited. In larger doses, the person often feels confused, moody, angry, unhappy. Even larger doses result in unconsciousness, coma, even death.

Dangers include physical harm such as addiction, damage to the brain, liver and other organs, harm to babies whose mothers abuse alcohol during pregnancy, overdose and death. Drinking and driving is the greatest cause of fatal crashes. Alcohol is major factor in many divorces and in family, school and job problems. Alcohol abuse is often a factor in crimes and violence.

POLICY COMMUNICATION

Employees shall be made aware of the Franklin County Government's Drug and Alcohol Policy and the effect it will have on them. A notification letter (see attachment III) and a copy of the policy shall be given to each employee. See Attachment IV. Additionally the policy shall be communicated by the following:

- Orientation Sessions
- Written Materials
- Informational Material Displays
- Ongoing Dialogue

ONGOING AWARENESS PROGRAM

Ongoing awareness shall be reinforced during training, periodic safety meetings, and continuing dialogue between management and employees as well as through displays, bulletin board announcements, and informational pamphlets to serve as reminders and reinforce the key points of the entire policy.

Implementation of the FTA mandated drug and alcohol program is not subject to bargaining, unless the Franklin County Government's chooses not to accept FTA funding. The policy stated herein is subject to technical revisions and/or modification by the Federal government and or changes/revisions by the agency.

Attachment V is a copy of 49 CFR Part 653, 655; Drug-Free Workplace Act governing FTA regulations.

POLICY APPROVAL BY GOVERNING BOARD (653.23, 654.71)

Final governing board approval for the Drug and Alcohol Policy is made this _____ day of _____, 1995.

Board Chairman

Agency Signature

ATTACHMENT I

FRANKLIN COUNTY GOVERNMENT
AGENCY

DRUG AND ALCOHOL POLICY LISTING FOR SAFETY-SENSITIVE JOB FUNCTIONS/TITLES FOR EMPLOYEES
AND VOLUNTEERS

Employee Number	JOB FUNCTION/TITLE	Required in the		
		Drug Rule (653.25)	Alcohol Rule (654.71)	Agency Rule (FHWA)

ATTACHMENT III

Sample Program Notification Letter

Dear (Safety-Sensitive Employee):

The Federal Transit Administration has recently issued two new regulations entitled, Prevention of Prohibited Drug Use in Transit Operations (49 CFR part 653), and Prevention of Alcohol Misuse in Transit Operations (49 CFS part 654). The Federal Highway Administration has issued a new regulation entitled Controlled Substances and Alcohol Use and Testing (49 CFR, Part 382). The Franklin County Government is required to comply with these regulations. Under these regulations, we must issue a policy banning prohibited drug use at all time by our safety-sensitive employees. In addition, alcohol consumption by our safety-sensitive employees is prohibited while performing, and for four (4) hours prior to performing safety-sensitive functions. Alcohol use after an accident is also prohibited. We must also conduct tests to determine in six specific situations whether employees have used alcohol or drugs. The procedures and technology we will employ in this testing are specified in a Department of Transportation regulation, Procedures for Transportation Workplace Drug and Alcohol Testing Programs (49 CFR part 40).

The regulations are very specific regarding what the Franklin County Government must do to comply. We have developed a policy and procedures that will apply to you based upon the job functions you perform at the Franklin County Government. To help you and your representatives better understand out policy and procedures, the following information will be available at all times in the Personnel Office:

1. Contact Person
2. Safety-Sensitive employee categories
3. When employees are required to be in compliance
4. Prohibited behavior
5. Circumstances when employee is tested
6. Testing Procedures
7. Mandatory testing requirement for safety-sensitive functions
8. Consequences of refusing to submit to a test
9. Consequences of a verified positive drug test result