



Alcohol, Drug, and Controlled Substance Policy

Town of Atkinson New Hampshire

Adopted: April 8, 2024

Description:

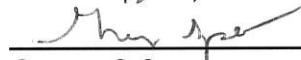
This document provides the policy on the elimination of alcohol, drug, controlled substance, and medication misuse and abuse within the town's workplaces.

Please note: This Town of Atkinson, New Hampshire Policy will be reviewed on a 3-year cycle and modified if necessary to maintain consistency with RSAs and current business practices. In addition, the policy may change with or without prior notice at any time. However, the Town of Atkinson will make a reasonable effort to seek input prior to any changes.

Policy Update Log:

Last Update	Action Taken	By Whom
4/8/2024	Adopted	BoS


David Paquette, Chair


Gregory S. Spero

William M. Baldwin, Vice Chair


Wendy Barker


Robert Worden

Purpose

In compliance with the Drug-Free Workplace Act of 1988, the Town of Atkinson is committed to promoting safety in the workplace as well as employee health and well-being. Alcohol, drug, and controlled substance abuse and misuse poses a threat to the health and safety of Town employees and the public as well as to the security of the Town's equipment and facilities. For these reasons, the Town of Atkinson is committed to the elimination of alcohol, drug, controlled substance, and medication misuse and abuse in the workplace.

Scope

This policy applies to all employees of the Town of Atkinson and all applicants/prospective employees who have been extended a conditional offer of employment with the Town of Atkinson. The Department Managers and the Town Administrator's Office is responsible for policy administration and shall be responsible for ensuring all employees receive a copy of this policy and information about counseling and rehabilitation services through the Town's Employee Assistance Program (EAP).

Employee Assistance

Employees with alcohol, drug and/or controlled substance misuse and abuse problems are encouraged to seek help, including but not limited to, utilizing the Town's Employee Assistance Program (EAP). The Town's EAP provider is Health Trust Insurance Company and can be reached at <https://www.healthtrustnh.org/> or 603-226-2861. The Town will assist and support employees who voluntarily seek help for drug, alcohol, controlled substances, and medication misuse and abuse problems. Such employees may be allowed to use accrued paid time off, be placed on leaves of absence, be referred to treatment providers and/or otherwise be accommodated as required by law. Such employees may be required to provide supporting documentation to show they are successfully following a prescribed treatment plan and may be required to take and pass follow-up alcohol, drug and/or controlled substance tests.

A Town employee will not be disciplined for voluntarily seeking assistance for an alcohol, drug, and/or controlled substance problem. However, employees who undergo voluntary counseling or treatment and who continue to work must meet all established standards of conduct and meet job performance expectations. The fact that an employee is in treatment for alcohol, drug, controlled substance, and/or medication misuse and/or abuse does not preclude the Town from taking corrective and/or disciplinary action for violation of its policies or standards of conduct. Likewise, an employee who has violated this policy is not immune from disciplinary action, including termination, by voluntarily requesting treatment for alcohol, drug, and/or controlled substance abuse.

General Policy and Rules

As a condition of employment, all Town employees are required to adhere to the terms and conditions of this Policy.

1. Whenever employees are working for the Town, performing job duties, operating any Town vehicle, on the Town's premises and/or conducting Town-related work offsite, they are prohibited from:
 - Using, possessing, administering, buying, selling, manufacturing, transporting or dispensing an illegal drug (including possession of drug paraphernalia); and
 - Being impaired and/or under the influence of alcohol or any drug/controlled substance/medication that adversely affects the performance of employee's assigned duties and/or adversely affects the employee's and/or another person's safety.

2. The presence of any detectable amount of any alcohol, illegal drug or controlled substance in an employee's body system, while performing work duties/Town business or while in a Town facility, is prohibited.
3. All employees are encouraged to exercise caution in their use of prescription and over-the-counter medications. Employees should speak with their health care providers to determine whether the use of a given medication may have an adverse effect on their ability to safely perform their job duties.
4. Employees with safety-sensitive job functions (such as driving and/or operating heavy equipment) are required to advise their direct supervisor or the Town Administrator's Office of their use of any drug, controlled substance, prescription medication, and/or over-the-counter medication that could impair the employee's ability to drive safely or safely perform other safety-sensitive functions, and must not drive or perform other safety-sensitive functions until authorized to do so by their direct supervisor or the Town Administrator's Office.
5. Employees are urged to report questionable behavior indicating possible impairment of fellow employees to their immediate supervisor at the time the behavior is witnessed.
6. It is a violation of this policy to fail to agree to any requirements of a drug or alcohol treatment or counseling program in which the employee is enrolled in as a condition of continued employment.

Consent to and Cooperation with Testing

Testing under this policy will not be conducted without the employee or prospective employee (who has been extended a conditional offer of employment) first providing their written consent. However, employees and prospective employees must submit to tests requested or required by the Town as a condition of employment. If an employee or prospective employee refuses to submit to a required or requested test, the employee will be subject to disciplinary action up to and including termination of employment (or in the case of the prospective employee, a final offer of employment may be denied/may not be extended).

For prospective employees or current employees who are minors (under the age of 18), a parent or legal guardian of the minor will be asked to provide prior written consent for the minor to submit to testing; however, the results of the test will be disclosed, in addition to the Town, to the minor only and not their parent/legal guardian. If the minor prospective employee or current employee requests to have the test results provided to their parent/legal guardian, they shall provide written consent to the Town granting permission to release the test results to the minor's parent/legal guardian.

Prospective employees and current employees subject to testing under this policy shall not try to subvert the test by using an adulterated, diluted, or substituted specimen. Failing to provide a specimen in a timely manner or otherwise tampering with the testing process is grounds for disciplinary action, up to and including termination of employment.

Types of Testing

Alcohol/Drug/Controlled Substance testing will be required only under the following circumstances:

Post conditional offer of employment: All prospective employees who are extended a conditional offer of employment for a safety-sensitive position with the Town must pass an alcohol/drug/controlled substance test before receiving a final offer of employment and beginning work at the Town. Safety-sensitive positions include those within the Town's first responder groups; Police, Fire, EMS, and Public Works. Members of the Elder Services Department who operate Town owned vehicles to drive patrons are also categorized within the safety-sensitive positions.

Post-accident: Employees may be subject to testing when they are involved in a workplace accident that seriously damages any Town vehicle, machinery, equipment or property, personal vehicle being used for Town-related work/purposes, and/or results in an injury to themselves or another person requiring

offsite medical attention **and** there is a reasonable possibility that alcohol, drug, controlled substance, and/or medication use, misuse, or abuse by the employee was a contributing factor to the accident. Absent extenuating circumstances, the investigation and subsequent testing must take place within two (2) hours following the accident.

Under no circumstances will the employee be allowed to drive themselves to the testing facility and they shall be immediately relieved of their job duties and directed to submit to an appropriate alcohol/drug/controlled substance testing in accordance with the collection and testing procedures further described below. The Department Manager, Town Administrator's office, or designee shall fully document in writing within twenty-four (24) hours, the circumstances, conditions, and observations that resulted in the removal of the employee from their job duties and being directed to submit to alcohol/drug/controlled substance testing.

Reasonable suspicion: Employees may be subject to alcohol, drug and/or controlled substance testing based on individualized reasonable suspicion that the employee is in violation of this policy. Reasonable suspicion may be based on, but is not limited to, observation of drug/alcohol/controlled substance use by the employee, physical signs of impairment of the employee (for example: distinctive scent, glassy eyes, slurred speech, agitated or lethargic demeanor, uncoordinated movement, erratic behavior), pattern of abnormal conduct and/or significant deterioration in work performance of the employee that is not attributable to other factors, admission by the employee, observations by the supervisor of apparent workplace use, possession or impairment. The Town Administrator will be consulted before taking an employee for testing. The Department Manager and/or Town Administrator's Office shall fully document in writing within twenty-four (24) hours, the circumstances, conditions, and observations that result in the removal of the employee from their job duties and being directed to submit to testing required under this policy.

Confirmation testing: A retest may be required and/or requested to substantiate the initial test results at the request of the employer or employee, including a split-specimen and/or use of a secondary testing facility. The retest request must be made within seventy-two (72) hours after the initial test result is known.

Return to duty testing: An alcohol/drug/controlled substance test with verified negative results must be completed for any employee who has previously tested positive before the employee may return to his/her/their respective job with the Town.

Follow-up: Employees who have been referred by the Town for drug, controlled substance and/or alcohol treatment or who have voluntarily participated in a drug, controlled drug, and/or alcohol treatment program may be requested or required to undergo random alcohol/drug/controlled substance testing during the treatment period and for a period of time, determined by the Town, after the completion of the treatment. Employees who test positive on a follow-up test, absent extenuating circumstances, will be subject to termination.

CDL Holders/Employees in Positions Regulated by the U.S. Department of Transportation: Employees of the Town who are required to have a Commercial Driver's License (CDL) as part of their jobs are subject to drug and alcohol testing as required by the U.S. Department of Transportation through the Federal Highway Administration ("FHWA"). CDL employees, in addition to reasonable suspicion and post-accident testing, shall be subject to pre-employment testing, random testing and return to work testing and any other testing required by and in accordance with state and/or federal laws, rules and regulations.

Collection and Testing Procedures

A test under this policy is a urinalysis (for drugs/controlled substances/medications) and an evidential Breathalyzer (for alcohol) administered under approved conditions and procedures for the sole purpose of detecting alcohol, drugs, medications and/or controlled substances. The laboratory shall test for the following: Amphetamines/Methamphetamines and Ecstasy (MDMA), Cocaine, Opiate Metabolites, PCP (Phencyclidine), THC (Marijuana), and Alcohol (tested through an evidential Breathalyzer instrument at a level of .02 alcohol/breath concentration or greater, expressed in terms of grams per 210 liters of breath).

Employees subject to reasonable suspicion and/or post-accident alcohol and or drug testing shall be immediately relieved of their job duties, and driven by a Town management liaison (who will also accompany the employee during the testing) to a designated facility. Alcohol, drug, and/or controlled substance testing will be performed by a qualified laboratory, hospital, or health care center designated by the Town. Collected specimens will be tested by trained technicians using approved alcohol/drug/controlled substance testing devices and the testing facility shall use a scientifically valid testing method that involves urine and/or breath specimen collection and chain of custody procedures to ensure proper identification, labeling, recordkeeping, handling and testing of specimens. Test results will be reviewed and interpreted by a qualified Medical Review Officer (MRO), who will notify the Town Administrator's office once the results have been received and verified.

Reasonable Suspicion and Post-Accident Testing Protocol

1. The employee will be advised by their direct supervisor, with permission from the Town Administrator's office, or in the case of an accident, the Police Officer on scene, that there is reasonable, individualized suspicion that they are under the influence of illegal drugs, controlled substances, medications and/or alcohol (or due to the nature of the accident the policy mandates this) and that this test is being requested to confirm or deny this suspicion.
2. The employee will be transported to the designated facility by a Town management liaison. One member of management or a designated attendant will accompany the employee during the process. Under no circumstances will the employee be allowed to drive themselves to the testing facility.
3. Prior to leaving for the testing facility, the Town management liaison will contact the testing facility to inform them that a Town employee will be arriving and will need an alcohol, drug, and/or controlled substance test administered.
4. The employee to be tested should be given reasonable time—not to exceed 15 minutes (absent extenuating circumstances)—to secure photo ID in the company/presence of the Town management liaison, if such identification is not already on the employee's person or otherwise readily available.
5. The employee to be tested shall present a photo ID (e.g., a driver's license, state ID card, valid passport) to the testing facility staff before the specimen can be obtained. The Town management liaison shall ensure that the employee has their photo ID prior to departing for the testing facility.
6. Prior to going to the testing facility, the employee to be tested must sign a consent form provided by the Town and will be advised that, upon arriving at the testing facility, they may be required to sign an additional consent/authorization form required and provided by the testing facility. An employee's refusal to consent to testing and/or complete the consent/authorization form(s) is addressed under the "Consequences" section of this policy.
7. The department manager and/or the Town Administrator's office shall fully document in writing, within twenty-four (24) hours absent extenuating circumstances, the specific circumstances, conditions, and observations that resulted in the removal of the employee from their job duties and being directed to submit to alcohol, drug, and/or controlled substance testing.

Consequences

Any prospective employee or current employee with alcohol/drug/controlled substance test results of other than non-dilute negative will have the opportunity to rebut or explain positive test results and/or to request a confirmatory re-test, a one-time cost to be covered by the Town (see "Confirmation Testing" under the "Types of Testing" section above). This opportunity may be provided to the prospective employee or current employee by the laboratory/testing facility before the test results are reported to the Town, in which case the prospective employee or current employee will not be afforded a second opportunity once the results are received by the Town.

Positive Test Results: Test results indicating a current employee or prospective employee has a blood alcohol concentration which is .02 or more, or other than non-dilute negative for a drug and/or controlled substance, will subject the current employee to corrective and/or disciplinary action, up to and including termination of employment. In the event such test results pertain to a prospective employee who has not yet been extended a final offer of employment, the conditional job offer may be withdrawn/rescinded, or a final job offer may not be extended.

If the positive test result may be explained by the existence of a medical condition and/or use of a valid prescription drug and/or over-the-counter medication, the prospective employee or current employee may present information and documentation to the Medical Review Officer, such as a treating health care provider's note stating the prospective employee or current employee has a valid prescription, is taking the medication in accordance with a treatment plan and is able to safely perform all of the essential functions of the individual's job with or without reasonable accommodation(s) while taking the medication. If the Medical Review Officer considers the information and documentation provided is sufficient, they shall have the authority to convert a positive test result into a negative test result. If an initial test is positive, and no information is presented to the Medical Review Officer that warrants reversing the test result, individuals who test positive will be offered the opportunity to have a confirmatory retest, at their own expense, as set forth in this policy. The confirmatory retest request must be made within seventy-two (72) hours after the initial test result is known.

Within its sole discretion, the Town may decide to refer a current employee for drug, controlled substance, and/or alcohol evaluation and treatment program in lieu of termination or other disciplinary action and require good faith participation in the evaluation and treatment program as a condition of continued employment. Within its sole discretion the Town may take corrective and/or disciplinary action against the employee while the employee participates in the evaluation and treatment program. Employees must pay for the cost of any such evaluation(s) and treatment program(s). Employees who refuse to participate in such programs or who fail to successfully complete a treatment program are subject to immediate termination.

Inconclusive or Diluted Test Results: In the event any test result is inconclusive, prospective employees and current employees may be required to submit to an unannounced retest as soon as practicable after the inconclusive results are obtained by the Town. A second inconclusive test may result in a withdrawal of a conditional job offer, and for an existing employee they may be subject to corrective and/or disciplinary action up to and including discharge, except as limited by applicable law. In the event a test result is diluted, the individual will be subject to an unannounced retest as soon as practicable after the diluted test results are obtained by the Town. If the individual cannot produce non-diluted specimen(s) in two attempts, and there is no documented medical reason for the diluted specimens, the Town reserves the right to treat such results as a refusal to cooperate in required tests. Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture, or dispense an illegal drug or are otherwise in violation of this policy will be subject to corrective and/or disciplinary action, up to and including discharge. If the employee refuses to cooperate and/or refuses to be tested, yet the direct supervisor and/or Town Administrator reasonably believes the employee is impaired, under no circumstances will the employee be allowed to drive themselves home or elsewhere.

and shall not be permitted to return to work for at least twenty-four (24) hours and/or further instruction from the Town Administrator's office.

For purposes of this policy, "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 to 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 alcohol, drug, and/or controlled substance testing will also be considered to have refused to cooperate and will be subject to discipline, up to and including discharge.

Employees will be paid for time spent in alcohol or drug testing required under this policy and then placed on administrative leave with or without pay pending the results of the alcohol, drug and/or controlled substance test as well as any related investigation. After the results of the test are received by the Town, the Town will notify the prospective employee or current employee of the results, and a meeting will be scheduled to discuss the results of the test as well as any consequences/disciplinary action with the employee, the department manager and Town Administrator, and others as is appropriate under the circumstances.

Nothing in this policy is to be construed as a guarantee of employment for any period of time or a restriction of the Town's ability to discipline or terminate employees, or its right to place employees on administrative leave. Employees may be terminated at any time, with or without cause or reason as all employees are employed on an at-will basis.

Confidentiality and Record Retention

Information and/or records relating to all employee alcohol, drug and controlled substance test results, drug and alcohol dependencies, and other medical/behavioral/mental health documentation and legitimate medical explanations shall be kept confidential to the extent possible or as required by law and shall be maintained in secure files separate from employees' regular personnel files. Such records and information may be reviewed by managers and supervisors on a need-to-know basis only.

Disclosure of such information to any other person, agency, or organization is prohibited unless prior written authorization is obtained from the employee or prospective employee offered a conditional offer of employment and may also be disclosed pursuant to a court order and/or when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or prospective employee.

The Town shall maintain all records related to drug and alcohol testing for each employee in a secure location with controlled access. The Town shall keep all documents sent by the laboratory/testing facility in accordance with Town policies and state and federal record retention laws.

Activity and Crimes Involving Alcohol/Drugs/Controlled Substances

If any employee is involved in alcohol/drug/controlled substance misconduct (including misuse/abuse of prescription and/or over-the-counter medications) on Town property or while engaged in Town business, the Town reserves the right to report the incident to law enforcement, and to cooperate in prosecuting the crime to the fullest extent of the law.

The Town does not desire to intrude into the private lives of its employees but recognizes that employees' off-the-job involvement with alcohol, drugs and/or controlled substances may have an impact on the workplace. Therefore, all employees who are convicted of a crime involving alcohol, drugs, and/or an illegal drug(s), and/or a controlled substance are required to report the conviction to the department manager and/or Town Administrator's office within three (3) days from the date the conviction is entered. Failure to comply with this reporting requirement will subject the employee to discipline, up to and including termination.

**EMPLOYEE ACKNOWLEDGMENT OF TOWN OF ATKINSON'S
ALCOHOL, DRUG, AND CONTROLLED SUBSTANCE POLICY**

(Original of this completed form to be retained by employer in employee's personnel file)

By my signature below, I hereby acknowledge that I have received a copy of the Town of Atkinson's Alcohol, Drug, and Controlled Substance Policy. I further acknowledge that I have been given an opportunity to review the Policy and ask questions about the terms and conditions of the Policy as well as the consequences of violating the terms and conditions of the Policy.

I understand that my compliance with all the terms and conditions of the Policy is a condition of my employment with the Town, and I understand that my failure to comply with the terms and conditions of the Policy may subject me to corrective and/or disciplinary action, up to and including termination of employment.

Printed name of employee

Signature of employee

Date