



- The term “employee” or “employees” shall include all positions of employment at State Hospitals as well as all individuals deemed contract employees at State Hospitals.
- The term “appointing authority” in this policy is used in accordance with its definition in K.A.R. 1-2-9.
- All employees at State Hospitals are safety-sensitive and are required to submit to reasonable suspicion drug testing.
- All employees are required to read and sign the Substance Abuse Policy Affirmation form upon hiring, rehiring, or when subject to reasonable suspicion testing.

Reasonable suspicion is a judgment supported by specific, contemporaneous, articulable facts or plausible inferences, that is made regarding the employee’s behavior, appearance, or speech, or supported by evidence found or reported that indicates drug use by the employee.

Reasonable suspicion that a person may be under the influence of drugs may be based on any of the following:

- (a) An on-the-job accident or occurrence in which there is evidence to indicate any of the following:
  - (i) The accident or occurrence was in whole or in part the result of the employee's actions or inactions;
  - (ii) the employee exhibited behavior or in other ways demonstrated that the employee may have been using drugs or may have been under the influence of drugs; or
  - (iii) a combination of the above-listed factors
- (b) an on-the-job incident that could be attributable to drug use by the employee, including a medical emergency;
- (c) direct observation of behavior exhibited by the employee that could render the employee unable to perform the employee's job, in whole or part, or that could pose a threat to safety or health;
- (d) information that has been verified by the superintendent, their designee, and/or a human resources employee and that indicates either of the following:
  - (i) The employee could be using drugs or is under the influence of drugs, and this circumstance is affecting on-the-job performance; or
  - (ii) the employee exhibits behavior that could render the employee unable to perform the employee's job or could pose a threat to safety or health;

- (e) physical, on-the-job evidence of drug use by the employee or possession of drug paraphernalia;
- (f) documented deterioration in the employee's job performance that could be attributable to drug use by the employee; or
- (g) any other circumstance providing an articulable basis for reasonable suspicion.

Any appointing authority (or designee) may ask any employee to submit to a drug screening test under the circumstances of reasonable suspicion listed above as a condition of employment.

At any time prior to the referral for a drug screen, an employee may provide a reasonable alternative explanation for their behavior, that may exclude the need for a drug screen. If the reason provided by the employee is deemed satisfactory by the appointing authority (or designee), the appointing authority (or designee) may elect to not refer the employee for a drug screen, and may send the employee home from work, or another arrangement may be made to transport the employee home from work.

A drug screening test that results in a confirmed positive test result may subject an employee to discipline up to and including dismissal. However, unless the employee is a temporary employee, in trainee status or on probationary status, an employee shall not be subject to dismissal solely on the basis of the confirmed positive test result if the employee has not previously had a previous confirmed positive test result. This does not preclude the appointing authority from proposing disciplinary action, up to and including dismissal, for other circumstances that occur in addition to a confirmed positive test result that are normally grounds for discipline.

Refusal to submit to a drug screening test or action substantially similar to a refusal shall constitute a positive test result. Any tampering and/or manipulation in the drug screening process by the employee may subject the employee to discipline up to and including dismissal.

Evaluation and referral of reasonable suspicion testing shall be done with employee dignity, privacy, and safety of the employee and hospital being of the highest priority. Evaluation and referral shall not be done in a manner to humiliate and/or embarrass the employee. No referral shall be done for retaliatory purposes, including but not limited to, union activity or other lawful practice(s).

At the time of referral, the appointing authority (or designee) should inform the employee of the facts supporting their reasonable suspicion determination.

In lieu of referral for drug screening, or if the employee is suspected of being under the influence of alcohol, an appointing authority (or designee) may elect to document the observed behavior and send the employee home from work. If the appointing authority (or designee) elects to send the employee home, such action shall be done with employee dignity, privacy, and safety of the employee and hospital being of the highest priority. In addition, sending the employee home shall not be done in a manner to humiliate and/or embarrass the employee. The appointing authority (or designee) may direct the employee to not operate a vehicle when the employee is suspected of being under the influence of drugs and/or alcohol and may contact local law enforcement authorities and inform them of the incident should the employee choose to operate a

vehicle. The appointing authority (or designee) may inform the employee of the same prior to the employee operating a vehicle. The appointing authority (or designee) may also contact a friend and/or family member to drive the employee home, if consented to by the employee.

If the appointing authority (or designee) elects to send the employee home in lieu of referral for drug screening, the process of referral for the Employee Assistance Program, or alternative solution, may be proposed to resolve the situation.

*Reference:* K.A.R. 1-9-19a; K.A.R. 1-2-9; K.S.A. 76-12a01; K.S.A 75-4362