

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY
RESOLUTION NO. 2021-077**

**A RESOLUTION
AMENDING RESOLUTION NO. 2012-164,
A RESOLUTION ADOPTING THE 2012 SANTA FE COUNTY HUMAN RESOURCES
HANDBOOK TO REPLACE THE 2008 SANTA FE COUNTY HUMAN RESOURCES
HANDBOOK**

WHEREAS, on December 11, 2012, the Board of County Commissioners (“Board”) of Santa Fe County (“County”) adopted Resolution 2012-164, a Resolution Adopting the 2012 Santa Fe County Human Resources Handbook to Replace the 2008 Santa Fe County Human Resources Handbook;

WHEREAS, Section 15.8 of the Santa Fe County Human Resources Handbook (Handbook) states that the County is a drug and alcohol free workplace and provides that “[a]s a condition of employment, Santa Fe County requires that employees adhere to policy regarding the use and possession of drugs and alcohol. Failure to comply may result in disciplinary action up to and including termination”;

WHEREAS, Section 15.10 of the Handbook provides that “[i]t is a violation of our drug and alcohol-free workplace policy to use, possess, sell, buy, trade, be under the influence of, be impaired by, or offer for sale, alcohol, drugs or intoxicants as set forth herein”;

WHEREAS, Section 15.12 of the Handbook sets forth the regulations pertaining to drug and alcohol testing;

WHEREAS, Section 15.12 includes provisions governing random drug and alcohol testing for individuals who hold a commercial drivers’ license (CDL) or who are in a safety or security related position, and reasonable cause testing for all employees;

WHEREAS, the zero tolerance drug policy set forth in the Handbook has been in force and enforced since its adoption in 2012, and a positive drug test indicating a detectable amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite has been grounds for employee discipline;

WHEREAS, the New Mexico Legislature adopted the Cannabis Regulation Act, NMSA 1978, Chapter 26, Article 2C (the Act), which, among other things, legalized the recreational use of marijuana;

WHEREAS, Section 34(A)(3) of the Act provides that it does not “prevent or infringe upon the rights of an employer to adopt and implement a written zero-tolerance policy regarding the use of cannabis products. A zero-tolerance policy may permit the discipline or termination of an employee on the basis of a positive drug test that indicates any amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite;” and

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WHEREAS, notwithstanding enactment of the Act, no change will be made to the Handbook's zero tolerance policy for a positive drug test indicating the presence of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite for employees who hold CDLs or who are in safety or security related positions, because of the risk posed by such employees working under the influence of drugs or alcohol and the fact that current tests are unable to distinguish between recent and remote use of cannabis; and

WHEREAS, enactment of the Act makes it prudent to reconfirm the County's general zero tolerance policy for positive alcohol and drug tests; and

WHEREAS, the Act supports a change to the current zero tolerance policy for a positive drug test indicating the presence of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite for employees who do not hold a CDL and who are not in a safety or security related position.

NOW, THEREFORE, BE IT RESOLVED by the Board that Resolution 2012-164 is hereby amended by adding the following new Sections 15.10.1 and 15.10.2 to the Handbook:

15.10.1. Except as provided in Section 15.10.2, employees who test positive for alcohol, non-prescription drugs, or a detectable amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite are subject to disciplinary action, up to and including termination.

15.10.2. An employee who is not required to hold a CDL and is not employed in a position identified by the County Manager as safety sensitive shall not be subject to disciplinary action solely because a positive drug test indicates a detectable amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite. A positive drug test indicating a detectable amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite may, however, be used as evidence in disciplinary proceedings if relevant."

PASSED, APPROVED, AND ADOPTED THIS 14th DAY OF SEPTEMBER, 2021.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: Henry P. Royal
Henry P. Royal, Chair

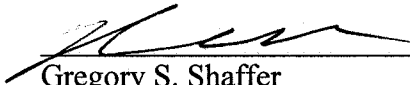
ATTEST:
Katharine E. Clark
Katharine E. Clark
Santa Fe County Clerk

Date: 09/17/21



SFC CLERK RECORDED 09/20/2021

APPROVED AS TO FORM:



Gregory S. Shaffer
Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

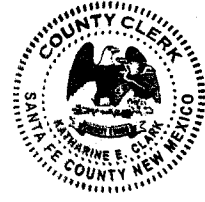
BCC RESOLUTIONS
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I Hereby Certify That This Instrument Was Filed for
Record On The 20TH Day Of September, 2021 at 10:52:49 AM
And Was Duly Recorded as Instrument # **1966080**
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark

Deputy  _____

County Clerk, Santa Fe, NM



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