

LANCASTER COUNTY ADULT DRUG COURT



Administered by the
Lancaster County Department of Community Corrections

Judicial Oversight by the
Lancaster County District Court

www.lancaster.ne.gov
keyword: drug court

COUNSEL'S GUIDE

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What is Drug Court?

Drug Court is a program within the criminal justice system designed to address the recidivism occasioned by drug-related and drug-motivated crimes through the treatment and intensive supervision of the participant.

Drug Court uses a combination of treatment, intensive supervision, and frequent drug testing to encourage the participant to deal with his or her substance abuse problem.

Drug Court is not only about learning to live a drug-free life, but also a responsible one. Participants will not be able to graduate from the program unless they demonstrate an ability to live responsibly **and** drug-free. Part of what makes Drug Court effective is the early identification of appropriate participants and their prompt placement in Drug Court. **It is important that a person eligible for Drug Court apply as soon as possible after his or her arrest.** The County Attorney's Office has agreed to expedite the release of law enforcement reports for clients applying for Drug Court.

Our Mission

The mission of the LCADC is to increase public safety by providing a program that facilitates access to treatment, implements intensive case management, decreases substance abuse, and returns law-abiding, productive, and responsible citizens to their families and the community.

In order to be eligible for participation in Drug Court, the defendant must be charged with a felony in the Lancaster County District Court and meet the following eligibility criteria:

(If you have any questions on the eligibility of a participant or general questions on the program please contact the Drug Court Coordinator at (402) 441-8122.)

The Defendant Must:

- have a history of chemical abuse and/or dependency
- be unable to address a substance abuse dependency issue without the resources of Drug Court.
- not be charged with a violent offense
- not be charged with a weapons violation
- not be classified as a violent offender
- not be charged as a habitual criminal
- not be charged with possessing enhanced quantities of or manufacturing a chemical substance for reasons other than to support the defendant's personal drug habit
- not be charged with selling drugs other than to support the defendant's personal drug habit
- not be charged with selling drugs to a minor
- not be charged with or have a history of sexual assault
- not have a significant history of misdemeanor assaults or other crimes of violence
- not be on parole or in another Drug Court program
- not be on probation in any other jurisdiction (cases involving probation in Lancaster County will be considered on a case by case basis)
- not have any outstanding warrants or other unresolved legal issues that would affect the defendant's ability to participate in Drug Court
- not have six or more months of sobriety, unless incarcerated or in a pre-trial release program with drug testing (At the time of the publication of this Guide, whether participation in a residential treatment program should be included as an exception has not been resolved by the Drug Court Team.)
- not have any other conditions that would prevent successful participation in Drug Court (e.g., inability to participate in all required program activities, taking medications that would interfere with drug testing.)

Defendants charged with Driving Under the Influence or Operating a Motor Vehicle During a 15 Year Suspension are not eligible.

If a defendant appears to meet these criteria and would like to apply to Drug Court, a written application shall be submitted to the Drug Court Coordinator by the defendant's legal counsel. Instructions for submitting an application for Drug Court and the application process begin on the next page. If you have any questions, feel free to contact the Drug Court Coordinator at (402) 441-8122.

Formal Application Process

An application to Drug Court must be made in writing (email, fax, or hard copy) to the Drug Court Coordinator by the defendant's counsel. **(There is no need to send a copy to the Drug Court Judge or the County Attorney).**

An application must be filed not later than 100 days from the date any defense counsel enters an appearance in county court on behalf of a defendant on the first case of any case(s) included in the application. With respect to all probation revocation motions an application must be filed not later than 60 days from the first date scheduled for a preliminary hearing or the filing of a waiver of a preliminary hearing, whichever occurs first.

If a defendant believes good cause exists for his or her not filing an application within the appropriate time frame set forth herein, he or she must submit a written request to the drug court coordinator, with a copy to the drug court county attorney, for an extension of the applicable deadline, setting forth, with specificity, the reason(s) for an extension and a deadline for an extension. If desired, the county attorney may file a written response, to be delivered to the drug court coordinator, with a copy to the defendant's counsel, within 10 day. The written materials will be submitted to the drug court judge(s) by the drug court coordinator and a decision will be made on whether to permit an extension. If an extension is permitted, it will be to a date certain. If an extension is not permitted, the application will be rejected.

If the applicant has a pending probation revocation, defense counsel must get the approval of the sentencing Judge before the applicant will be considered by the Drug Court Team. New applications are considered by the Drug Court Team on the Tuesday before the first Thursday of the month. In order for an applicant to be considered at that time, the client's application must be received by the Drug Court Office **before the first day of the prior month.**

Defense counsel will be notified in writing or through email, of all of the dates associated with the applications, as well as confirmation that it was received. A time for a screening will also be sent to the defense counsel. **It is the defense counsel's obligation to inform their client of the date and time of the screening appointment. If a client fails to appear for a screening they could be determined ineligible for Drug Court.**

In order to be eligible for participation in Drug Court, new applicants must have a plan to resolve all open cases *(not only the charges on which they are*

applying to Drug Court) by the date on which the Drug Court Team is to consider their application. If an open case will not likely impact the ability for a new applicant to participate in Drug Court (i.e. jail time is not likely) then it may still be possible to participate in Drug Court and that decision will be made at the discretion of the Drug Court Judges.

If an application is withdrawn after being submitted, the applicant will be ineligible from applying to Drug Court on the same charge in the future unless given explicit permission from the Drug Court Judge.

Eligible defendants may be accepted into Drug Court if there are openings or slots available. There is no guarantee that an eligible defendant will be accepted into Drug Court.

Defendants accepted for participation will sign a pre-bond on the Thursday following the screening meeting and, if in custody, released on the following Monday. Defendants will bond in to Drug Court on the third Thursday of the month in which they are approved, giving two weeks for the participant to get a feeling for the program, pleas to be entered and/or cases to be bound over. Defense counsel, or a representative thereof, shall be present during the bond-in process.

A person who applied for Drug Court and was not accepted, for whatever reason, may not reapply on the same charges at a later time. Similarly, they may not apply on any other charges that were pending at the time the original application was reviewed. An applicant may reapply following a motion to revoke probation, and may reapply with respect to charges filed after the original application was denied.

There is no review, administrative or otherwise, of a decision to reject an applicant.

In order to process defendants within the necessary time frame, the following information, in like format, must be provided in the body of the written application:

- Legal name and aliases;
- Date of birth;
- Social Security Number;
- Whether or not currently incarcerated;
- Reason for incarceration (if currently incarcerated);
- Local residence, including street address and zip code;
- Telephone number;
- Email address (if available);
- Primary language;
- Legal charge(s);
- Docket number(s);
- **The first date any defense counsel entered an appearance in county court on a criminal case or, if applicable, the date a preliminary hearing on a probation revocation was held or waived;**
- Status of case(s);
- Next court date(s);
- Presiding Judge(s);
- Prosecuting Attorney(s); and
- Other legal involvement

Failure to provide all of the above information may result in the screening request being returned to the defendant's counsel and the application process being set aside until the appropriate information in the correct format has been received.

A separate application shall be submitted in writing for each defendant applying for Drug Court.

The address for the Drug Court Coordinator is as follows:

Drug Court Coordinator
Lancaster County Adult Drug Court
555 S 9th St.
Lincoln, NE 68508

Applications can also be faxed to (402) 441-3606 or emailed to lparks@lancaster.ne.gov.

A defendant must be screened in order to determine eligibility for Drug Court. When a formal application is received by the Drug Court Coordinator, the defendant's counsel will be contacted by Drug Court with an appointment for the screening time as well as further instructions on how to proceed.

It is the responsibility of the defendant's counsel to make sure the applicant is aware of the time and date of the screening appointment. The defendant's counsel must also keep the Drug Court informed as to the defendant's whereabouts. These times will come quickly and will include an email and a letter. If the defendant's counsel is planning to be out of town, an alternative email address should be given to the Drug Court so that the applicant can be made aware of the appointments.

In order to complete the screening process, the defendant must be screened at the supervision office. Time slots for screening appointments are limited, so it is very important that applicants keep their appointments and arrive on time. The only exception is if the defendant is housed with Lancaster County Corrections at the time of application to Drug Court. In such cases, arrangements will be made to meet with the defendant in the booking area of the jail in order to complete the screening. **If the defendant is housed with Lancaster County Corrections at the time the application is made, and is subsequently released prior to being considered for the program, the defendant's counsel must contact the Drug Court Coordinator immediately at (402) 441-8122 to schedule a screening appointment.**

Any applicant who fails to be screened may not be considered for participation in Drug Court. An effort will be made to determine the reason for missing the screen, and if time permits, a rescreen may be offered.

Substance Abuse Evaluation, Intake, & Bonding In

Drug Court approval meetings are held at 12:45 p.m. on the Tuesday prior to the first Thursday of each month in the Judge's Jury Room, unless otherwise specified in the letter sent. All applicants who are out on bond shall appear in front of the Drug Court Judge at the date and time indicated in the letter sent. Once a defendant has been approved for participation in the Drug Court program, and signed a preliminary Drug Court bond, there will be two weeks during which pleas are to be entered and/or cases to be bound over. Substance abuse evaluations are also to be completed during this time, and intake appointments are to be held with the defendant's assigned Supervision Officer as well. Approved applicants who do not comply with the requirements listed above prior to the bond-in date will be taken off the approved list and not allowed to bond in to the Drug Court program following the preliminary Drug Court bond period, nor will they be allowed to reapply on the same offense.

During the intake appointment, each approved applicant will receive a copy of the **Participant's Handbook**. Copies can be obtained through the Drug Court Supervision Office or on-line. (Note: The handbook is subject to change. Counsel should obtain copies of the current Participant's Handbook from the website at www.lancaster.ne.gov, keyword: drug court.)

During the Drug Court hearing at which a participant is informed of his/her acceptance to the program, each approved applicant will be given an appointment with the date and time of her/his intake and substance abuse evaluation (if one completed within the previous six months has not been submitted to Drug Court). **Failure to show for either of these appointments could disqualify a defendant from bonding in to Drug Court.**

