



Drug and Alcohol Free Workplace Policy

Ordinance 19-07
July 1, 2019

Ordinance No. 19-07
MADISON COUNTY, KENTUCKY

AN ORDINANCE CREATING THE MADISON COUNTY DRUG AND ALCOHOL FREE WORKPLACE POLICY.

THE DRUG AND ALOCHOL FREE WORKPLACE POLICY WAS INCORPORATED IN THE MADISON COUNTY ADMINISTRATIVE CODE. THIS ORDINANCE SHALL BECOME EFFECTIVE ON THE DATE OF THE SECOND READING AND ADOPTION.

INTRODUCED, SECONDED AND GIVEN FIRST READING APPROVAL at a duly convened meeting of the Fiscal Court of Madison County, Kentucky, held on the 11 day of June, 2019.

MOTION BY: John Tudor

SECONDED BY: Tom Botkin

VOTE:	YES	NO
Magistrate Larry Combs	<u>✓</u>	_____
Magistrate Roger Barger	<u>✓</u>	_____
Magistrate John Tudor	<u>✓</u>	_____
Magistrate Tom Botkin	<u>✓</u>	_____
Judge Reagan Taylor	<u>✓</u>	_____

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Madison County, Kentucky, held on the 25 day of June, 2019.

DATE ADOPTED: 6/25/19

MOTION BY: Roger Barger

SECONDED BY: Tom Botkin

VOTE:	YES	NO
Magistrate Larry Combs	<u>✓</u>	_____
Magistrate Roger Barger	<u>✓</u>	_____
Magistrate John Tudor	<u>✓</u>	_____
Magistrate Tom Botkin	<u>✓</u>	_____
Judge Reagan Taylor	<u>✓</u>	_____


MADISON COUNTY JUDGE EXECUTIVE

Attest:

Table of Contents

Purpose	4
Definitions.....	5
Policy Administration and Enforcement.....	7
Scope.....	7
Policy Requirements	8
Confidentiality.....	9
Employee Assistance.....	9
Prohibited Behavior.....	10
Testing Protocol	13
Circumstances for Testing.....	14
Pre-Employment Testing	14
Random Testing	15
Reasonable Suspicion Testing.....	16
Post Accident Testing	17
Out of Town Assignment	18
Return to Duty/Follow Up Testing.....	18
Consequences	19
DRUG AND ALCOHOL FREE WORKPLACE POLICY AGREEMENT.....	21

Purpose

Madison County Fiscal Court is committed to protecting the safety, health and well-being of all employees and other individuals in our workplace. The County recognizes that alcohol abuse and drug use pose a significant threat to county goals. In the interest of assuring the safety of the general public by employing persons in safety sensitive positions that do not abuse illicit substances, illegal drugs, and alcohol, this Drug and Alcohol Free Workplace Policy establishes the balance of respect for individuals with the need to maintain an alcohol and drug-free environment.

Likewise, it is the County's additional purpose(s) and intent to accomplish the following with the establishment of this Policy:

- To comply with all requirements of 803 KAR 25:280 regarding the establishment and maintenance of a Drug Free Workplace for the purposes of obtaining Certification from the Department of Workers' Claims.
- As a recipient of Federal funds, to comply with the Drug Free Workplace Act of 1988 (PL100-690, Title V, Schedule D).
- To comply with the Federal Department of Transportation regulations regarding employees holding Commercial Drivers Licenses (CDL).
- To reduce the number of accidents and injuries to employees, other persons, and property.
- To reduce absenteeism and tardiness, and to increase the productivity of all employees of the county.
- To help ensure that the reputation of the County as a whole and of the employees throughout the community.
- In line with County's stated goals and objectives, to provide leadership in helping to end the abuse of alcohol, illicit substances, and illegal drugs throughout County and the Commonwealth of Kentucky as a whole.

It is with these stated goals in mind that the Madison County Fiscal Court issues this policy, declaring itself a Drug and Alcohol Free Workplace and hereby issues these accompanying rules regarding drug and alcohol use in the workplace for the Madison County Fiscal Court. The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the workplace.

Definitions

1. **Alcohol**: any intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol. This includes over-the-counter and prescribed medications which contain more than one-half (1/2) of one percent (1%) of alcohol by volume.
2. **Blood Alcohol Concentration (BAC)**: the percentage of alcohol in the bloodstream.
3. **Commercial motor vehicle**: a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle
 - has a gross combination weight of 26,001 or more pounds inclusive of a towed unite with a gross vehicle weight rating of more than 10,000 pounds; or
 - has a gross vehicle weight of 26,001 pounds or more; or
 - is designed to transport 16 or more passengers, including the driver; or
 - is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR 172(f)).
4. **Controlled substance**: has the meaning as assigned by 21 U.S.C. 802 and includes all substances listed on Schedule I through V as they may be revised from time to time (21 CFR 1308). See also *Drug*.
5. **Driver**: any person who operates a commercial motor vehicle and/or a road-worthy vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to any employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.
6. **Drug**: a controlled substance as defined in KRS 218A.010(6) and as established in 902 KAR Chapter 55, including but not limited to:
 - Amphetamines;
 - Cannabinoids (THC);
 - Cocaine;
 - Opiates;
 - Phencyclidine (PCP);
 - Benzodiazepines;
 - Propoxyphene;
 - Methaqualone;
 - Methadone;
 - Barbiturates; and

- Synthetic Narcotics.
7. **Drug or Alcohol Rehabilitation Program:** a service provider that provides confidential, timely, and expert identification, assessment, treatment and resolution of employee drug or alcohol abuse.
 8. **Drug Test:** a chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures, and protocols established by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).
 9. **Employee:** individuals employed by a department where the administrative authority is that of the Fiscal Court.
 10. **Illicit Substance:** those prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs.
 11. **Medical Review Officer (MRO):** a licensed physician with knowledge of substance abuse disorders, laboratory testing, and chain of custody collection procedures, and who has the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information.
 12. **Qualified Laboratory:** a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).
 13. **Random Selection Process:** means that alcohol and drug tests are unannounced. Tests conducted annually for employees who are CDL drivers and in the random pool shall equal or exceed ten percent (10%) for alcohol tests and twenty five percent (25%) for non-federally mandated and fifty percent (50%) for federally mandated employees for drug tests of the total number of individuals subject to testing.
 14. **Reasonable Suspicion:** a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific, objective, and articulable facts and reasonable inferences drawn from those facts in light of experience, training, or education. Reasonable suspicion may be determined by two or more supervisory personnel who will attest to their observations. The Fiscal Court will make the final determination.
 15. **Refusal to Submit:** the failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing; refusal to take the required test(s) or the failure to provide adequate urine for controlled substances testing without a valid medical explanation after the employee receives notice of the requirement of urine testing; and/or engaging in conduct that clearly obstructs the testing process.

16. **Road-worthy:** Any vehicle or equipment that operates on a public roadway.
17. **Safety Sensitive Position(s):** those jobs that would involve exceptional care and due diligence in the area of Public Safety to the County's citizenry and to all employees of the Madison County Fiscal Court. This includes any employee who performs a duty(s) that requires a CDL or any employee that holds a CDL, assigned a vehicle or other classifications identified within applicability section of this policy.
18. **Substance Abuse Professional:** a licensed or certified psychologist, social worker, employee assistance professional or addition counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.
19. **Volatile Substance:** any glue, cement, paint or other substance as described in KRS 217.900(1).

Policy Administration and Enforcement

It shall be the responsibility of the County Judge Executive and/or the Human Resources Department to administer and enforce this policy. This policy and its programs are not to be interpreted or modified by any other County supervisor or director.

Scope

The Drug and Alcohol Free Workplace Policy includes, but is not limited to, supervisors, full-time employees, part-time employees, off-site employees, contractors and applicants who are representing or conducting business for the County. This policy applies during all working hours, while on call or paid standby. Safety Sensitive positions are ones in which their performance requires an extra degree of care and diligence in the area of safety to the community.

Those positions identified as regularly Safety Sensitive include, but not limited to:

- Personnel holding a CDL;
- Mechanics who work on County owned vehicles;
- Any personnel assigned and/or operating County owned road-worthy vehicles;
- Any personnel who regularly drives a personal vehicle while conducting County business;
- Any personnel who handles finances; and
- Any personnel assigned to monitor inmate labor.

While this program includes those federally mandated employees, this Drug and Alcohol Free Workplace Policy is not intended to replace and shall be separate from any Drug and Alcohol Free Workplace Policy previously adopted and implemented by the County which may have included only federally regulated employees.

Policy Requirements

In accordance with 803 KAR 25:280:

The Madison County Human Resources Department shall conduct substance abuse awareness training for all employees. This substance abuse awareness training shall consist of the following minimum requirements:

- a. Upon a conditional offer of employment from the Court, each applicant shall be provided a written copy and will be asked to read the Drug and Alcohol Free Workplace Policy.
- b. Initial training shall consist of at least 1-hour for all employees.
- c. Annual refresher training shall be conducted for all employees in substance abuse awareness and shall consist of no less than thirty (30) minutes. All current employees will also be asked to read and sign the Certification of Acknowledgement-Drug and Alcohol-Free Workplace Policy Agreement Form (Appendix A).
- d. All alcohol and substance abuse awareness training shall include, at a minimum, information concerning:
 1. Alcohol and drug testing policy and procedures;
 2. The effects of alcohol and drug use on an individual's health, work and personal life;
 3. The disease of alcohol and drug addiction;
 4. Signs and symptoms of an alcohol and drug problem;
 5. The role of co-workers and supervisors in addressing alcohol and substance abuse; and
 6. Referrals to an employee assistance program.
- e. In addition to the above training, all supervisory personnel shall receive an additional thirty (30) minutes each year of alcohol and substance abuse education and awareness training. A sign-up sheet shall be completed on date of training. This additional supervisory training shall consist of at least the following:
 1. Recognizing the signs of alcohol and substance abuse in the workplace;
 2. How to document signs of employee alcohol or substance abuse;
 3. How to refer employees to an employee assistance program or other

- alcohol and substance abuse treatment program; and
4. Legal and practical aspects of Reasonable Suspicion testing for the presence of drugs and alcohol.

Madison County's Drug and Alcohol Free Workplace Policy shall include controlled-access maintenance in the Human Resources Department, or business records including the names and position titles of all employees and supervisory personnel trained under the program as described above, and the names of all persons who presented alcohol and substance abuse awareness training, for review by the Office of Workers' Claims.

Should any portion of this policy dealing with the actual administration of the policy be amended, employees shall be provided with copies of any administrative change or modification and given an opportunity to ask questions and obtain answers regarding any administrative changes in this policy; however, change may not be made to the policy that would circumvent any requirements associated with 803 KAR 25:280.

Confidentiality

All information received by the County through the Drug and Alcohol Free Workplace Policy is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies. Records of drug or alcohol test results, written or otherwise, received by the employer shall be confidential communications and shall not be disclosed by the employer to any party unless:

- A written release of information is granted and signed by the employee; or
- The release is ordered by a court of competent jurisdiction.

The County shall maintain records and documents of all alcohol and drug test results, schedules for follow-up tests and records relating to evaluation and referrals. These records shall be maintained for a period of at least five (5) years. The County shall provide test result information or other pertinent information relating to an applicant or existing employee's alcohol or controlled substance tests upon the applicant or existing employee's written request and shall do so within five (5) working days of being notified of the request.

Employee Assistance

Alcohol and drug abuse addictions are recognized as diseases responsive to proper treatment. The County provides a level of care through its Employee Assistance Program (EAP) provided in the Administrative Code. It also realizes that early intervention and

support, improve the success of rehabilitation. To support the employees, the County's Drug and Alcohol Free Workplace Policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem; and
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

Employees who voluntarily report a substance abuse problem *prior* to being required to take a controlled substance or alcohol test as defined in this policy, will not be subject to disciplinary action if they voluntarily and conscientiously seek substance abuse assistance and agree to a treatment plan. However, such an employee must understand that if the problem is not corrected and satisfactory job performance is not maintained, he or she will be subject to disciplinary action up to and including termination of employment. Failure to seek such assistance, or failure to abide by the terms of the treatment plan, shall be grounds for termination. Upon voluntarily reporting a substance abuse problem, the employee will be required to sign a *Substance Abuse Treatment Plan Return-to-Work Agreement* that will further define conditions of continued employment.

Prohibited Behavior

It is a violation of the Drug and Alcohol Free Workplace Policy to manufacture, distribute, dispense, process, or use controlled substances in the workplace. Prohibited conduct involving the use of drugs or controlled substances includes, but may not be limited to, the following:

- a. *Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription.* However, any Safety Sensitive employee taking prescribed or over-the-counter medications will, in all cases, be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of his/her Safety Sensitive job duties. Prior to initiating usage after such medications are prescribed, the Safety Sensitive employee shall submit a *Prescription Drug Notification Form* to their immediate supervisor who shall in turn, submit it to the County Judge Executive or

his/her designee as soon as possible.

After receiving such form, the County Judge Executive or his/her authorized designee may request written medical authorization showing the Safety Sensitive employee may possess/use such medication, that it was used in the prescribed manner and showing the Safety Sensitive employee is fit to safely perform Safety Sensitive assigned duties. If the use of such medication could compromise the safety of the Safety Sensitive employee, fellow employees, or the public at large, it is the Safety Sensitive employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty and notify his/her supervisor, etc.) to avoid unsafe workplace practices. No prescription drugs shall be brought onto or consumed on County property by anyone other than the individual for whom the drugs have been prescribed by a licensed medical practitioner. The illegal or unauthorized use of prescription drugs is strictly prohibited. It is a violation of the County's Drug and Alcohol Free Workplace Policy to intentionally misuse and/or abuse prescription medications.

Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur as the result of the intentional misuse and/or abuse of prescription medication.

The County reserves the right to have a designated physician of its choosing to determine if a prescription drug or medication produces effects that would be considered unacceptable in the performance of assigned Safety Sensitive work duties. The designated physician has final determination on whether the medication will have or is having an unacceptable effect on the Safety Sensitive employee's performance of duties. In such instances of temporary impediment to safe performance of regular Safety Sensitive duties, the Safety Sensitive employee may be temporarily reassigned to duties requiring a lesser safety awareness level if such duties are available. All doctors' statements and related medical information shall be confidential and maintained in a separate medical file in the Human Resources Department.

- b. The performance of or being immediately available to perform work duties while having a blood alcohol concentration greater than 0.00
- c. The use of alcohol for eight hours immediately following an accident requiring a post-accident alcohol test or until a post-accident test is administered, whichever occurs first.
- d. Testing positive for any of the prohibited substances during the performance of or

- upon being immediately available to perform work responsibilities.
- e. The performance of or being immediately available to perform Safety Sensitive work responsibilities while using any controlled substance, except when the use is under the instructions of a physician who has advised that the use will not adversely affect the Safety Sensitive user's ability to safely perform Safety Sensitive responsibilities as assigned.
 - f. In the case of Safety Sensitive employees, having in possession and/or transporting, drugs or controlled substances except when the use is under the instructions of a physician who has advised that the use will not adversely affect the Safety Sensitive user's ability to safely perform Safety Sensitive responsibilities as assigned during the performance of or being immediately available to perform Safety Sensitive work responsibilities. EMS and Law Enforcement personnel functioning within the scope of their assigned duties shall be considered exempt from this prohibition as deemed necessary by their respective department heads.
 - g. Refusal to submit and/or cooperate with any of the requested testing types.
 - h. Tampering with or attempting to alter, or actual altering of a test specimen is strictly prohibited and is grounds for immediate termination from employment with the County.

Volatile Substances

The intentional misuse, manufacture, sale, distribution, dispensation, or possession of a volatile substance as defined in KRS 217.900 which includes any glue, cement, paint or other substance containing a solvent or chemical having the property of releasing toxic vapors or fumes which when intentionally inhaled may cause a condition of intoxication, inebriation, stupefaction, dulling of the brain or nervous system, or distortion or disturbance of auditory, visual, or mental processes while at work, while on County property, or while conducting County business while off County property, is strictly prohibited and is considered cause for immediate discipline, up to and including termination.

Social Functions

Employees attending training programs and/or conferences related to their employment with the County may participate in social functions associated with the program or conference. If alcoholic beverages are present at the social function and the employee chooses to engage in consumption of said beverage(s), they shall do so at their own discretion. Employees who choose to engage in the consumption of alcoholic beverages as part of a work related social function shall do so in a responsible manner, maintaining a conduct that would not reflect adversely upon the County. Any unbecoming conduct by an

employee who has chosen to consume alcohol at such conference or training program that has an adverse effect upon the County will be subject to disciplinary action up to and including termination of employment.

Testing Protocol

The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (SAMHSA). Test results will be obtained by a qualified laboratory as defined elsewhere in this policy and results shall undergo a medical review as follows:

- a. All test results shall be submitted for medical review by a Medical Review Officer (MRO) of the County's choosing, who shall consider the medical history of the employee or applicant, as well as relevant biomedical information.
- b. If there is a positive test result, the employee or applicant will be given an opportunity to report to the MRO the use of any prescription or over-the-counter medication.
- c. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO may certify that the test results do not indicate the unauthorized use of alcohol or a controlled substance.
- d. If the MRO determines, after appropriate review, that there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or a prohibited drug, the MRO shall refer the individual tested to the County Judge Executive or his/her authorized representative for further proceedings in accordance with the County's Drug Free Workplace Policy.

MRO determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures outlined in the U. S. Department of Health and Human Services (SAMHSA) "Medical Review Officer Manual for Federal Drug Testing Programs".

Testing Process

Employees shall report to the collection site of the County's choosing immediately after being provided the notification to test. In the case of reasonable suspicion testing or post-accident, a supervisor or designee shall escort the employee to the collection site. Drug testing will be conducted by urine sample while alcohol testing will be analyzed using a breath alcohol testing/screening device. Drug and alcohol analysis will be performed by a trained technician.

To ensure that the test specimen is actually that of the donor, collection site staff will

require positive identification of the test subject. To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody. All drug-testing information will be maintained in separate confidential records at the Human Resources Department and at the third party administrator's location.

Alcohol

The Madison County Fiscal Court shall require all tests for alcohol to be performed by a Certified Breath Alcohol Technician (BAT).

Drugs

An eleven (11) panel urine test will be conducted and shall include analysis for the following substances:

- a. Amphetamines;
- b. Cannabinoids (THC);
- c. Cocaine;
- d. Opiates;
- e. Phencyclidine (PCP);
- f. Benzodiazepines;
- g. Propoxyphene;
- h. Methaqualone;
- i. Methadone;
- j. Barbiturates; and
- k. Synthetic Narcotics.

Circumstances for Testing

The County shall administer alcohol and drug tests in circumstances which include but may not be limited to the following:

Pre-Employment Testing

Breath alcohol and urine drug testing shall be required of all new hire applicants after their receipt of a conditional offer of employment. After receiving the conditional offer of employment and completing pre-employment paperwork, applicants have twenty-four

(24) hours in which to submit to testing at a testing facility of the County's choosing. The County requires that every newly hired employee test free of controlled substances and have a breath alcohol concentration of not more than 0.00. Each offer of employment by the County shall be conditional upon the passing of controlled substance and alcohol tests.

Refusal by any applicant for employment with the County to take the controlled substance test will result in the conditional offer of employment being withdrawn. All testing under this policy will be in accordance with testing protocols described elsewhere in this policy.

- a) An applicant with a confirmed positive test for controlled substances and/or breath alcohol in a concentration of 0.00 or greater which is not legitimately explained to and accepted by a Medical Review Officer, will not be considered for employment.
- b) Any applicant who fails a controlled substance or breath alcohol test may reapply after six months and must successfully pass pre-employment testing.
- c) Any applicant who refuses to take a controlled substance or breath alcohol test may reapply after six months and must successfully pass pre-employment testing.
- d) Any applicant who tampers with, or attempts to tamper with, a urine specimen in any manner shall be disqualified from current and future consideration of employment with the County.
- e) An applicant whose positive test is confirmed and upheld by the Medical Review Officer (MRO) may request that the same sample be retested at her/his own expense at a County approved laboratory.

Individuals undergoing pre-employment testing shall not begin official employment with the County until after all test results are received and shown to be negative. Upon receipt of the positive test, the County Judge Executive or his/her designee shall inform the appropriate department head of the results.

Random Testing

Employees in a Safety Sensitive position will be required to participate in a statistically valid, unannounced random selection process, which will subject them to mandatory drug and/or alcohol testing. This category of testing will conduct random tests for alcohol at a minimum rate of ten percent (10%) for non-federally regulated Safety Sensitive positions.

Employees holding positions in which a Commercial Driver License (CDL) is required, must also be tested at a minimum rate of ten percent (10%) for alcohol annually to satisfy Department of Transportation (DOT) requirements. In the ease of random testing for drug use, non-federally regulated Safety Sensitive positions will be tested at a minimum rate of twenty-five percent (25%). Employees holding positions in which a CDL is required, must be tested for drugs at a rate of fifty percent (50%) annually to satisfy DOT requirements. All employees in federally regulated Safety Sensitive positions shall be selected from a pool that is separate from the random selection pool for other non-federally regulated Safety Sensitive positions.

The County Judge Executive shall utilize a third party to conduct the random selection of Safety Sensitive employees, including employees holding a CDL, to be tested. This random testing shall be unannounced and will take place throughout each calendar year. Safety Sensitive employees are selected by a third party administrator using a statistically valid, random method of selection using specific employee codes. Because of the random nature of this testing process, Safety Sensitive employees may be selected for testing more than once or not at all. Once an employee is notified that he/she has been selected for testing, the employee must proceed immediately to the testing site of the County's choosing.

Employees in Non-Safety Sensitive positions will not be included in the random selection pool. However, Non-Safety Sensitive employees will be subject to testing for other reasons. Procedures and protocols for "Pre-Employment," "Reasonable Suspicion," "Post Accident," "Return-to-Duty," and "Follow-up" testing, all of which testing types, are described elsewhere in this policy will apply in their case.

Reasonable Suspicion Testing

A reasonable suspicion test shall be based on a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, training or education. The reasonable suspicion testing shall be based upon:

- a) While at work, direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
- b) While at work, abnormal conduct, erratic behavior, or a significant deterioration in work performance;
- c) A report of drug or alcohol use provided by a reliable and credible source;
- d) Evidence that an individual has tampered with a drug or alcohol test during employment with the County;

- e) Information that an employee has caused, contributed to, or been involved in an accident while at work;
- f) Evidence that an employee has used, possessed, sold, solicited, or transferred illegal or illicit drugs or used alcohol while on the County's premises or while operating the County's vehicle, machinery or equipment.
- g) Body odor of the safety sensitive employee

The County Judge Executive or his/her designee shall be notified immediately of any indication of reasonable suspicion. Both the observing department supervisor and the County Judge Executive or his/her representative will review the policies and procedures herein and if necessary make arrangements with a testing facility of the County's choosing to conduct reasonable suspicion drug and/or alcohol testing as soon as possible. If a representative from the Human Resources Department is not available, the observing supervisor shall obtain the assistance of another County supervisor or other credible and reliable source and together they shall complete the *Reasonable Suspicion Form*, and forward it to the Human Resources Department. If after completing the form, it is determined that there is in fact, reasonable suspicion that the employee is under the influence of drugs and/or alcohol, the observing supervisor or his/her designee will notify the employee and accompany him/her to the testing site.

When a reasonable suspicion test is ordered, the employee must submit to testing within 45 minutes of being notified that he/she will be tested. The observing supervisor and/or designee shall remain at the testing site with the employee being tested, until the collection process is completed. Any employee who is tested for reasonable suspicion shall be placed on leave (with or without pay is up to Fiscal Court for approval) until the results of the test are known. After submitting to the drug/alcohol test, the employee may not return to work until the results of the test are known and only then if the results are negative. Only the County Judge Executive or his/her authorized designee may order a reasonable suspicion test.

Post Accident Testing

Drug and alcohol testing will be conducted following an employee's involvement in an accident on or off the County's premises while on duty in which, property damage of five hundred dollars (\$500) or greater occurs, accident contains 2 or more individuals, or an individual requires off-site medical attention be administered to a person.

Qualifying Event Exception: Due to varying types of accident cause, all accidents categorized as a "qualifying event" may not require post-accident testing. Exceptions to the "qualifying

event” for requiring post-accident drug and alcohol testing will include, but may not be limited to the following types of accidents:

- a. Injuries whose onset is cumulative or gradual – such as carpal tunnel syndrome, progressive hearing loss, mental disorders, dermatitis, respiratory diseases, skin disorders, etc.
- b. Injuries where the employee can be completely discounted as the contributing factor (i.e. injuries caused by a third party or some other uncontrollable force or event such as weather, insects, toxic plants, etc.)
- c. Injuries where the employee can be completely discounted as the major contributing factor or those injuries occurring during physical fitness or a training event, in which the employee did everything within reason to avoid the injury accident (i.e. was performing training as instructed).

In each case, the County Judge Executive or his/her designee shall determine the necessity of drug and alcohol testing and shall communicate such testing with the involved employee and the employee's respective department head. The County Judge Executive or his/her designee shall coordinate all required tests with the appropriate medical facilities.

Out of Town Assignment

An employee involved in an accident while on an out-of-town assignment, shall notify their department head or his/her designee as soon as possible but no later than two (2) hours after the accident occurred, unless there is extenuating circumstances. The department head shall notify the County Judge Executive or her/his designee to discuss possible drug/alcohol testing requirements.

Return to Duty/Follow Up Testing

Only in circumstances in which the employee *voluntarily* elects to seek assistance for a substance abuse problem through the Employee Assistance Program prior to being selected for a test, completes a form of treatment that a Substance Abuse Professional recommends and is willing to sign a Return to Work Treatment Plan Agreement, will the County consider allowing the employee to return to work after treatment is successfully completed as confirmed by a Substance Abuse Professional. In all cases, it shall be at the discretion of the County, subject to all applicable laws and regulations, as to whether to allow an employee to return to work.

The employee may be allowed to return to work only under the following circumstances:

- a. The employee may resume regular duties only after the employee tests negative in an alcohol and/or controlled substance test administered by the County-approved laboratory and can provide a release to return to work

from an appropriate substance abuse treatment facility or confirmation of continued and on-going participation in a County recognized substance abuse assistance program. An employee must test negative within a reasonable period of time from receipt of the initial test results not to exceed forty-five (45) days. Any repeat occurrence of substance abuse or violation of any other aspect of the County's Drug and Alcohol Free Workplace Policy will result in immediate termination.

- b. Prior to returning to work, the employee shall be required to meet with the County Judge Executive or his/her authorized designee to receive an explanation of the terms of continued employment; and to sign a written *Return-To-Work/Treatment Plan Agreement*, detailing the terms under which the employee will be allowed to return to work. Such agreement shall stipulate that the employee, at the Court's request, may be required at any time, to submit to interviews and/or evaluation by the professional staff at an appropriate chemical dependency treatment facility approved by the County's Employee Assistance Program (EAP). The return-to-work agreement shall also stipulate that the employee be required to submit to unannounced controlled substance and/or alcohol testing after resuming duties. The frequency of the follow-up testing shall consider recommendations of any involved Substance Abuse Professional (SAP) but shall be not less than once per quarter (every three months) for one (1) year.

Consequences

One of the goals of the Drug and Alcohol Free Workplace Policy is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the Drug and Alcohol Free Workplace Policy, the offer of employment shall be withdrawn. The applicant may reapply after six months and must successfully pass pre-employment testing.

An employee will be subject to the immediate termination of employment if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, fails or declines to take a second drug test when directed, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

Any employee who tests positive will be immediately removed from duty, referred to a substance abuse professional for assessment and recommendations, required to pass a Return-to-Duty test and sign a Return-to-Work Agreement, subject to ongoing, unannounced, follow-up testing for a period of one year and terminated immediately if he/she tests positive a second time or violates the Return-to-Work Agreement.

If an employee violates the policy, he or she will be subject to progressive disciplinary action up to immediate termination of employment and may be required to enter rehabilitation. An employee required to enter rehabilitation that fails to successfully complete it and/or repeatedly violates the policy will be terminated from employment.

Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

DRUG AND ALCOHOL FREE WORKPLACE POLICY AGREEMENT

I have received a copy of Madison County Fiscal Court's Drug and Alcohol Free Workplace Policy Ord. 19-07.

I understand that it is my obligation to read the Drug and Alcohol Free Workplace Policy and agree to follow all policies and procedures that are set forth therein. I agree to abide by the standards outlined in the document for the duration of my employment with Madison County Fiscal Court. I understand that this Drug and Alcohol Free Workplace Policy, and my signature below, does not constitute an employment contract and that the County is an at-will employer. Should I have any questions related to the Drug and Alcohol Free Workplace Policy, it is my obligation to seek assistance from my supervisor, department head, or Human Resources Department.

Furthermore, I understand that this policy may be amended at any time. In the event this policy is amended, I understand that I will receive notification via County email.

Employee Signature

Date

Employee Printed Name

