

Drug and Alcohol-Free Workplace Policy for Non-DOT Regulated Employees

Tentatively Approved on March 15, 2021

Effective on April 15, 2021

It is the policy of Madison County to provide a drug and alcohol-free work environment for its employees.

Madison County has implemented a drug and alcohol policy and conducts a testing program, pursuant to Mississippi state law in code section 71-7-1, *et seq.* (the Act), and this policy serves as notice of the existence of said Act.

Testing occurs under this policy when persons apply for County employment, when the County has reasonable suspicion to test for drugs or alcohol, when applicable employees are subject to quarterly random testing, and in certain instances when an employee sustains an injury at work or asserts a work-related injury.

Positive confirmed test results, refusal to take a drug or alcohol test when directed to do so by Human Resources in accordance with applicable state and federal law, or interference with the testing process, including, but not limited to, altering the specimen, is considered cause for refusal to hire applicants and possible disciplinary action up to and including termination of employees.

Policy Scope

This policy does not apply to employees in the office of an elected official who has adopted and filed with the Board of Supervisors a drug and alcohol testing policy for that office that fully complies with Mississippi statutory requirements.

Grantees of federal agencies must certify that they will provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988. Departments containing federal grantees must comply fully with the provisions of this law. Additionally, employees will be expected to comply with, and will be subject to, all remaining provisions of the County's Drug and Alcohol-Free Workplace Policy.

Employees who are subject to federal drug and alcohol testing requirements as well as applicants for those positions will be subject to this policy.

Other than the named exceptions, this policy applies to all County employees.

Employees Subject to Federal Drug and Alcohol-Free Testing Regulations

Employees in certain positions, or applicants for such positions, may be subject to federal alcohol and drug testing regulations. Employees are subject to Federal Motor Carrier Safety

Administration (FMCSA) drug testing regulations if they have a commercial drivers license (CDL) and operate any of the following types of commercial motor vehicles for the County:

- a vehicle with a gross vehicle weight rating or gross combination weight rating (whichever is greater) of 4,537 kg (10,001 lbs.) or more
- a vehicle designed or used to transport between 9 and 15 passengers (including the driver) for compensation, whether direct or indirect
- a vehicle designed or used to transport 15 or more passengers including the driver and not used for compensation
- any size vehicle used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5101 et seq.) and required to display a DOT placard in the transportation of hazardous material.

Such employees are subject to the County's policy for DOT-regulated employees and applicants.

Circumstances Under Which Testing May Occur

1. Applicants: All applicants, except those subject to federal law or regulations governing the administering of drug and alcohol tests, will be notified in writing by Human Resources upon application that if they are given favorable consideration for employment, they will be required to take a pre-employment drug and alcohol test to determine the presence of alcohol, drugs, or their metabolites. Applicants who refuse to test or whose testing results indicate the presence of alcohol or drugs may not be hired, or if employment has already begun, may be discharged.
2. Reasonable Suspicion Testing: The County may require an employee to supply a specimen sample for testing if there is reasonable suspicion that an employee is using or has used alcohol or a drug in violation of this policy based upon, among other things:
 - a. observable phenomena, such as direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of a drug;
 - b. abnormal conduct or erratic behavior while at work, absenteeism, tardiness or deterioration in work performance;
 - c. a report of drug use provided by reliable and credible sources and which has been independently corroborated;
 - d. evidence that an individual has tampered with a drug and alcohol test during employment with the County;
 - e. information that an employee has caused or contributed to an accident while at work;
 - f. evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while working or while on the County's premises or operating the County's vehicle, machinery or equipment.

Supervisors, upon learning of any of these circumstances, must promptly report them to Human Resources.

3. Random Testing: The following departments will be subject to random testing under this policy:

- all employees in the Administrative department except the receptionist
- all employees in the Comptroller office
- all employees in Emergency Management
- all employees in Fire Services
- all employees in Human Resources
- all employees in Information Technology
- all employees in Purchasing
- all employees in the Road Department except employees subject to federal testing laws
- all employees in the Engineering Department except employees subject to federal testing laws
- all employees in Justice Court
- all employees in Veteran Services

The employees of elected officials who have adopted their own drug and alcohol testing policy in accordance with Mississippi law and filed said policy with the Board of Supervisors are not subject to the County's drug and alcohol testing policy, including the random testing portion. This is a list of which elected official offices are subject to random testing in the case that they have not adopted and submitted their own policy.

- all employees in the Chancery Clerk's office
- all employees in the Circuit Clerk's office
- all employees in the Sheriff's Department
- all employees in the Tax Assessor's office
- all employees in the Tax Collector's office

As a condition of continued employment, these employees may be required periodically to submit to drug and alcohol testing. Such employees will be chosen on a neutral selection criteria basis. Random testing will occur once per quarter. The selection process is performed by MEA Drug Testing Consortium, a neutral third party. MEA Drug Testing Consortium uses Drug Pak 2000 for the selection process and to track testing results. Prior to each quarterly selection, MEA Drug Testing Consortium updates the selection pool in its database by confirming all eligible employees with Madison County. MEA maintains two lists and two separate pools. One pool consists of employees under FMCSA and the other is for the remaining employees listed above as subject to random testing. After the random generator program pulls the testing lists, MEA will provide Madison County with the list of individuals selected for testing.

Departments not listed above are not subject to random testing. Similarly, employees of elected officials' offices not listed above are not subject to random testing.

4. Post-Injury Testing: If an employee sustains an injury at work or asserts a work-related injury, the employee should report such injury immediately and will be required to promptly submit to drug and alcohol testing.

Time of Testing

Any drug and alcohol testing mandated by the County shall occur as quickly as possible. Regardless of the timing of the testing, the amount of time spent traveling to and from the tests and waiting for and undergoing the tests shall be deemed to be performed during work time for purposes of determining compensation and benefits for employees. No compensation will be provided to applicants.

Confidentiality

All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the County through its drug and alcohol testing program are confidential communications. Any information obtained by the County pursuant to the Act and these regulations shall be the property of the County. The County shall not release to any person other than the employee or job applicant, or County supervisory or human resources personnel, on a need-to-know basis, information related to drug and alcohol test results unless:

- the employee or job applicant has expressly, in writing, granted permission for the County to release such information;
- federal or state agency or other unit of the state or United States government as required under law, regulation or order, or in accordance with compliance requirements of a state or federal government contract;
- the information must be disclosed to a drug abuse rehabilitation program for the purpose of evaluation or treatment of an employee; or
- there is a risk to public health or safety that can be minimized or prevented by the release of such information; provided, however, that unless such risk is immediate, a court order permitting the release shall be obtained prior to the release of the information.

The confidentiality provisions provided for by the Act shall not apply to other parts of an employee's or job applicant's personnel or medical files. If an employee refuses to sign a written consent form for release of information to persons as permitted in the Act, the County shall not be barred from discharging or disciplining the employee.

An employee or job applicant to be tested shall be given (1) a medication disclosure form to permit the employee or job applicant to disclose any non-prescription or prescription medications that have been taken within forty-five (45) days prior to being tested, and (2) a

statement that the form shall be submitted directly to the County's designated Medical Review Officer, ensuring that no person or entity has access to the information disclosed on the form other than the Medical Review Officer.

Violation of This Policy

1. **Refusal to Provide Specimen:** Refusal to provide a specimen for laboratory testing when required and failure to appear at the place and time for collection as directed are violations of this policy. For said violations, employees may be discharged, and applicants may not be hired.
2. **Interference with Testing:** Evidence of inappropriate interference in the testing process, including tampering with any specimen submitted for testing, is a violation of this policy and will be treated in the same manner as a refusal to provide a specimen.
3. **Positive Test:** Whenever a positive drug or alcohol test result is confirmed under the terms of this policy, the employee or applicant will be presumed to be in violation of this policy and will be subject to corrective action (including discharge) or will not be hired.

The laboratory conducting the testing must disclose the results to the employer within five working days after the test. Within one working day after the County receives notice of a positive confirmed test result report from the laboratory, Human Resources will inform the employee in writing of a positive test result, the consequences of such a report, and the options, if any, that may be available.

An employee who receives a positive confirmed drug and alcohol test result will be allowed an opportunity to contest the accuracy of the result or explain it. The employee, within five working days after receiving notice of a positive confirmed test result, may have a portion of the specimen retested, at the individual's expense, at a laboratory chosen by the individual that meets state law standards for employee drug testing and/or submit confidential information to Human Resources explaining the test results and why the results do not constitute a violation of the County's policy. If an employee's explanation of the positive test results is not satisfactory, a written explanation as to why the employee's explanation is unsatisfactory, along with the report of positive results, shall be made a part of the employee's medical and personnel records.

Substances for Which Employees and Applicants Are Tested

Employees or applicants drug tested under this policy, will be tested for the following:

- Amphetamines
 - Methamphetamine
 - MDMA (Ecstasy)
- Cocaine
- Marijuana
- Opiates
 - Codeine
 - Morphine
 - Heroin (6-am)
- PCP

The County is aware that some of the listed substances can be prescribed by a medical care provider. Employees with prescriptions for any of the listed substances should disclose that they are taking said substances in the medical disclosure form they will receive prior to testing.

Rehabilitation

1. **Voluntary Rehabilitation:** Any employee, who feels that he or she has developed an addiction to dependence upon or problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance. However, a request for assistance will not prevent or stop any pending disciplinary action, and the County expressly reserves the right to terminate any employee at will. Assistance may be sought in writing to or by asking for a personal appointment with the County Administrator or the County Human Resources Department. Employees who are suspected of being in violation of the Drug and Alcohol-Free Workplace Policy may be asked if they have a dependency problem. Employees who acknowledge that they do have such a problem may be given an opportunity to enter a Rehabilitation Program, provided they are not a prior participant and have not violated any of the terms of the policy described above. The County is under no obligation to retain any employee regardless of successful completion of a rehabilitation program.

Rehabilitation itself is the responsibility of the employee, along with all associated costs. Each request for assistance will be treated as confidential.

2. **Benefits and Leave:** Any employee seeking medical attention for alcoholism or drug addiction consistent with the Employee Rehabilitation Assistance may be entitled to benefits under the County's group medical insurance plan, subject to the restrictions and limits set forth therein. The eligibility for leave will be determined consistent with other leave policies.

3. Return to Duty: To be considered for return for duty after leave for treatment, at a minimum, the employee must (i) maintain weekly contact with the County Human Resources Department and (ii) provide certification that he or she is continuously enrolled in a treatment program and actively participating in, and in compliance with, that program. Following completion of the program, the County Human Resources Department must be provided certification that the employee has successfully completed the requisite program and is capable of returning to gainful employment without jeopardizing the safety and/or health of the employee, other employees, or other persons they may be in contact with while working for the County.

Return to duty testing may be required for any employee who is allowed to return to work following treatment by a substance abuse professional. A test with a negative result will be required before being allowed to return to work.

4. Follow Up Testing: Follow up testing is to be completed as prescribed by the substance abuse professional with a minimum of six (6) tests in a twelve (12) month period following a return to duty. These tests will be unscheduled and without prior notice to the employee.
5. Rejection of Treatment/Failure of Rehabilitation: Any employee suffering from an alcohol or drug problem who rejects treatment or who leaves a treatment program prior to being discharged will be immediately terminated. After the effective date of this policy, no employee will be eligible for this Assistance Program more than one time. The recurrence of an alcohol or drug problem following rehabilitation will be cause for termination.