

# MADISON COUNTY, VIRGINIA PERSONNEL POLICIES MANUAL

<b>ALCOHOL AND DRUG-FREE WORKPLACE</b>			
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**POLICY NO.**

6.4

**EFFECTIVE:**

01/02/2024

## A. Purpose

Madison County recognizes that alcohol and drug abuse is a serious problem across America. It is, therefore, the goal of the County to establish and maintain a safe and healthy workplace for its employees, free from alcohol and illegal drug use and to protect the safety of its citizens by providing the highest quality of service.

## B. Employee Responsibilities

1. No employee shall unlawfully manufacture, dispense, possess, use or distribute any controlled substance, medication or alcohol.
2. Any employee convicted under a Federal or State statute regulating controlled substances shall notify their supervisor and the County Administrator within five (5) days after the conviction.
3. No employee shall consume alcoholic beverages within eight (8) hours of their scheduled start time, during work hours or while at work during breaks or lunches.
4. No employee shall be impaired by alcoholic beverages less than eight (8) hours before work, during work hours or while at work during breaks or lunches.
5. No employee shall represent the County in an official capacity while impaired by alcohol, illegal drugs or medication.
6. No employee using medication that may impair performance shall operate a motor vehicle or engage in safety-sensitive functions while on duty for the County.
7. Employees are responsible for understanding the effects of prescription or nonprescription medication they are using that may impair performance of duties.

8. An employee who has reason to believe that the performance of another employee is impaired by alcohol, illegal drugs and/or medication shall immediately notify his Supervisor, Department Head or County Administrator.
9. Department heads, and in the absence of a department head their deputy, shall be responsible for maintaining a drug and alcohol-free workplace in their area of operations and implementing the following drug and alcohol testing program.

#### C. Drug and Alcohol Testing

In order to achieve a drug-free workplace, all candidates offered employment with Madison County, shall be required to participate in all of the following alcohol and controlled substances testing:

1. When an applicant for any position has been extended a conditional offer of employment, but before beginning work;
2. When there is a reasonable suspicion to believe that the employee is in an impaired state. Reasonable suspicion is a belief based on objective and articulated facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of the job is impaired or such that the employee's ability to perform his/her job safely is reduced.
3. Employees in public safety positions are subject to random drug testing. These tests are unannounced and unexpected by employees. Random selection software shall be employed to eliminate human errors and bias and otherwise ensure accuracy and fairness of selecting employees for testing such that there is an equal chance for individual employees to be picked for testing.
4. After any accident or incident;
5. As a condition for return for duty after testing positive for controlled substances or alcohol; or,
6. As part of follow-up procedures for return-to-duty related drug or alcohol violations.

#### D. Definitions

For purposes of this policy, the following terms shall mean:

1. Commercial Motor Vehicles - Vehicles which have a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 26,001 pounds or more; or

- a. Vehicles made to carry sixteen (16) or more passengers, including the driver; or
  - b. Vehicles that transport hazardous materials that have to be placarded by federal law.
2. Controlled substances - Any drug or substance assigned a DEA controlled substance code number in the following groups: Opiates, Opium derivatives, Hallucinogenic substances, Depressants, and Stimulants. The mere possession of a valid prescription or over-the-counter drug for medical reasons does not constitute a policy violation. In addition, the use of such a drug also will not constitute a policy violation, as long as the drug does not affect the driver's ability to function on the job.
  3. Director - The Director of a County department.
  4. Driver or Employee - Any Madison County employee who operates a commercial motor vehicle on behalf of the County and on County business or activity or who is employed in a safety sensitive position.
  5. Drug - Any substance that is unlawful to possess under either the Federal Controlled Substances Act or state law, or any substance that could affect one's ability to function on the job.
  6. EAP - Employee Assistance Program.
  7. DEA - Drug Enforcement Agency.
  8. MRO - Medical Review Officer.
  9. BAC - (Breath Alcohol Concentration). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test or as a percentage of blood in the body as expressed by a qualifying blood alcohol test.
  10. Public safety position - Any position in the following County departments: Emergency Medical Services, Emergency Management/Public Safety, and Emergency Communications Center.
  11. Reasonable Suspicion - A belief based on objective and articulated facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of the job is impaired or such that the employee's ability to perform his/her job safely is reduced.

Behaviors that include, but are not limited to, any one of the following, or in combination, may constitute reasonable suspicion:

- a. Slurred speech
  - b. Dilated pupils
  - c. Odor of alcoholic beverage on breath
  - d. Inability to walk a straight line
  - e. Lack of coordination
  - f. Incoherence
  - g. Tremors
  - h. Convulsions
  - i. Paranoia
  - j. Verbal altercation
  - k. Physical altercation
  - l. Possession of drugs or alcohol
  - m. On-duty accident or incident involving County property
  - n. When the employee has endangered others in the workplace
12. An "accident" or "incident" - Defined as any occurrence in which a driver is behind the wheel of a County vehicle and death, personal injury and/or property damage occurs or when a vehicle has left the roadway under other than normal causes or any individual is injured and requires medical care as a result of an action or inaction by a County employee. "Accident" or "Incident" shall also include abnormal occurrences when a driver is not behind the wheel, such as an abnormal departure from the roadway or when other facts or circumstances suggest reasonable cause to suspect drug use. Postaccident testing will be conducted regardless of who was injured, what property was damaged or who was responsible. An occurrence may qualify as an "accident" or "incident" regardless of whether the vehicle was in motion, temporarily stopped, parked or being loaded or unloaded, or on either public or private property.
13. Randomly select means to select by a method that features an equal probability that any employee from a group of employees will be tested.

## E. Guidelines for Screening

### 1. Reasonable suspicion

Drivers will be tested for drugs and alcohol whenever the County has "reasonable suspicion" that the driver may have used drugs or alcohol. Whenever possible, the conduct or event giving rise to the "reasonable suspicion" should be witnessed by at least two persons, and a supervisor or department head should be called to the scene.

### 2. Post-accident Testing

Following an accident or incident involving a County vehicle, the County shall require the driver to submit to a blood, urine and/or breath analyzer test if:

- a. The driver receives a citation for a moving traffic violation arising from the accident;
- b. The accident results in the death of a human being or a bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;
- c. The accident results in total damage to any one property amounting to \$500.00 or more based upon actual costs or reliable estimates;
- d. Any condition that meets the definition of "accident" or "incident" under this policy.

Post-accident testing should be completed as soon as possible after the accident. Every effort will be made to ensure that the test is conducted within four (4) hours after the accident.

Following the accident, the driver will be taken to a medical facility or certified lab in order to have the blood, urine, breath analyzer and/or other appropriate tests. If the employee requires hospital care, the County will make arrangements to assure that the appropriate tests are performed at the hospital.

A driver who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his/her system.

If a driver does not need hospital care but is required to have a post-accident test under this policy, he or she shall not use alcohol until eight (8) hours after the accident or until the test is performed, whichever occurs first.

### 3. Random Drug Screening

Madison County will randomly select two public safety employees for drug testing and compliance with its drug-free workplace policy on a quarterly basis.

Each quarter a Drug Screening Coordinator designated by the County Administrator shall randomly select two (2) employee names from the full pool of public safety employees on a day selected by a computer-based random-date and random name generator. The Drug Screen Coordinator shall inform the appropriate department head of the employees selected for testing and the testing date. In the event a department head is selected for testing, the County Administrator shall be notified.

The department head, or County Administrator in the event a department head is selected, is responsible for ensuring that the testing is completed on the next scheduled workday of the selected employee(s). The department head shall keep appropriate records concerning selection, notification, scheduling, and results for all testing.

The drug screening coordinator and department head have no discretion to waive the selection of a randomly selected employee. Employees selected for testing shall not be informed of the testing until the day of the test.

Confirmed positive tests will result in appropriate follow-up by the department head.

### 4. Return-to-duty Testing

Any driver found to have engaged in conduct prohibited by this regulation shall undergo a test before returning to duty. If the prohibited conduct involved alcohol, the driver shall take an alcohol test and shall not be allowed to return to work unless the result is less than 0.02 BAC. If the prohibited conduct involved controlled substances, the driver shall take a controlled substances test and shall not be allowed to return to work unless the result is verified negative for controlled substance use.

### 5. Follow-up Testing

Any driver identified as needing assistance in resolving problems associated with controlled substance use or alcohol misuse shall be subject to unannounced followup controlled substance and/or alcohol testing as directed by a substance abuse professional.

## F. Drugs to be Tested

The purpose of the drug testing policy is to identify the use of any drug which affects an employee's ability to function on the job. An alcohol concentration of 0.04% BAC or greater, and/or detectable amounts any illegal drug, over-the-counter drug, or prescribed medication found in an employee's system shall violate this policy, except when an employee has advised his/her supervisor of their usage of over-the-counter drugs or prescribed medication, and the employee has been permitted to continue driving.

1. Employees will be tested for a broad range of drugs, including marijuana, cocaine, opiates, PCP (phencyclidine), amphetamines, alcohol and any other drug which impairs one's ability to function on the job.
2. Employees taking over-the-counter or prescribed medication are responsible for knowing the effects of that medication on their job duties. Employees may not drive or perform other duties under the influence of any prescription medication or over-the-counter drug that could impair their ability to function on the job. Employees must report to their supervisor the use of any medication that may have such an effect. An employee who is taking medication which adversely affects his/her performance will be removed from driving service and any public safety functions temporarily and will be eligible for sick leave or other appropriate benefits, if any are available.
3. Employees shall not report for work or be on County property while impaired by alcohol. Employees are prohibited from using alcohol within eight (8) hours of being on duty. An employee found to have a blood alcohol concentration (BAC) of 0.04% or more while on duty or on County property will be considered presumptively impaired and in violation of this policy.
4. Because alcohol consumption is legal and socially acceptable, and current technology is so accurate that it may even detect consumption from a previous night, the County will not discipline an employee based solely upon a blood alcohol test result of less than 0.04% BAC. However, an employee whose breath test reveals an alcohol concentration of 0.02% or greater but less than 0.04% shall be removed from safety-sensitive function for twenty-four (24) hours or until the start of the employee's next regular scheduled period, whichever period of time is greater.

#### G. Test Procedures

1. The administration of the Drug and Alcohol Testing Program shall be in accordance with the Department of Transportation Regulations, Federal Highway Administration and the Drug-Free Workplace Act of 1986. Detailed provisions are listed in the regulations regarding collecting, labeling and transporting the sample. Specific requirements regarding confidentiality are also included. The testing of the sample shall be performed by a laboratory approved by the National Institute of Drug Abuse (NIDA), including a NIDA panel screening with gas chromatography/mass spectrometry (GC/MS)

confirmation on all positive tests. The cost for all drug and/or alcohol tests shall be borne by the County, with the exception of re-testing for any employee who tests positive.

2. Whenever this policy requires that an employee be tested for drugs or alcohol after an accident or incident, or upon reasonable suspicion, or for any reason allowed by the policy, then the employee will be taken to an approved testing facility for the purpose of collecting the sample (except in the case in which the County relies on tests conducted by law enforcement or any other investigative authority). In no case will an employee be given more than twenty-four (24) hours' notice of a test.
3. Once at the testing facility, the employee will be required to provide a urine, blood and/or breath analyzer sample. The employee will not be directly observed while providing the urine sample, but laboratory personnel will take appropriate steps to assure that the sample remains unadulterated. If the technician determines that a first sample was adulterated, then the County may adopt an inference of employee drug or alcohol use. The technician will request that the employee submit a second sample, and appropriate steps, including direct observation, may be taken to assure that a proper sample has been submitted. If it is determined that the employee has altered or substituted the urine specimen provided, the employee is subject to immediate dismissal.
4. After the employee has provided the sample, the laboratory will comply with appropriate chain of custody procedures and will certify that the employee has actually provided the specimen submitted for testing. Results will be reported to a person designated by the County and qualifying as a Medical Review Officer (MRO).

#### H. Failure To Appear, Refusal To Give Consent Or Refusal To Submit To Testing

Failure to appear for testing without providing proper notice acceptable to the County shall be considered a refusal to participate in the testing and shall subject the employee to disciplinary action up to and including dismissal, or in the case of an applicant, the rescinding of a conditional offer of employment. Likewise, failure to give consent to see results or refusal to submit to testing will also subject the employee to disciplinary action up to and including dismissal.

If the employee refuses to be tested, he/she shall be immediately suspended from duty without pay and transported home. The refusal of an employee to submit to testing shall result in disciplinary action, up to and including dismissal. The supervisor who orders an alcohol and/or drug test shall document, in writing, within twenty-four (24) hours of the observed behavior the conduct giving rise to the reasonable belief of alcohol or drug use. The documentation shall include any statements made and any actions taken by persons involved. All records shall



immediately be forwarded to the County Administrator to be placed in the employee's personnel file.

#### I. Negative Test Results

In any case of a negative test result, the MRO will contact the department head and the employee to report the negative laboratory findings.

#### J. Positive Test Results

1. When a confirmed positive test result for drugs has been returned, the employee shall be given the opportunity to provide the Medical Review Officer information to demonstrate the positive test result is a result of utilizing a legally prescribed medication.
2. Evidence to justify a positive test result may include, but is not limited to:
  - a. A valid prescription; or
  - b. Verification from the individual's physician verifying a valid prescription.
3. If the Medical Review Officer determines that there is a lack of evidence to justify a positive result, the result shall then be considered a verified positive test result. The Medical Review Officer shall immediately notify the County Administrator (or the Chairman of the Board of Supervisors if the County Administrator has been tested) of the test results.
4. All testing information is confidential and shall be treated as such by anyone authorized to review such information.
5. For the purposes of maintaining a workplace free of drugs and alcohol, the County reserves the right to search the lockers, file cabinets, desks, other County-owned or provided fixtures and fixtures owned by employees but used for County business.

#### K. Disciplinary Action

Because of the serious nature of illegal use or abuse of alcohol, controlled substances and/or non-prescribed use of medication, appropriate disciplinary action shall be taken, up to and including dismissal. Actions shall not be prescribed since individual case situations may feature mitigating factors.