

Appendix 1:

DRUG AND ALCOHOL POLICY

Policy Statement:

Madison County is committed to providing a safe working environment for all employees while serving the citizens of Madison County. Madison County recognizes that any employee, who improperly uses intoxicating substances, including drugs and alcohol, poses a serious threat to his or herself, co-workers and to the public in general. Even small quantities of narcotics, abused prescription or over-the-counter drugs or alcohol can impair judgment and reflexes. This impairment can have dire results, particularly for employees operating vehicles or potentially dangerous equipment.

It is therefore the policy of Madison County that all employees or any person performing any kind of work for Madison County must report to work completely free from alcohol, illegal or unauthorized drugs or any other substances that may have a mind-altering or intoxicating effect or otherwise impair the employee's judgment, reaction times or functioning.

The County also prohibits all employees from using, possessing, manufacturing, distributing or making arrangements to distribute alcohol, illegal or unauthorized drugs or any other intoxicating substances while at work, on, or about any county property.

In order to avoid creating safety problems and violating this policy, employees must inform his or her supervisor when he or she is legitimately taking any medication, including prescription drugs or over-the-counter medications, which affects his or her ability to work. Employees whose job performance might be affected by such medications may be required to provide a fitness-for-duty certification before being allowed to resume their job duties.

Any employee who violates this policy in any way shall be immediately removed from his or her job duties and shall be subject to discipline, up to and including immediate termination.

No part of this policy shall be construed to create a contract of continued employment or to confer upon any employee or applicant a property interest in his or her employment. The County maintains the right to change this policy at any time without notice. To the extent that any portion or provision of this policy and

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procedure conflicts with any applicable federal or state laws or regulation, such federal or state laws or regulations will be controlling.

Employees of the Transportation for Rural Areas of Madison County (TRAM) are subject to DOT Substance Abuse Regulations, unless the County's policies are more stringent, in which case the County's policy would apply.

Drug and Alcohol Policy Board:

The Drug and Alcohol Policy Board (DAPB) is hereby established consisting of three members. The members shall be the County Personnel Director who shall serve as Chairman, The County Administrator and a third member who shall be a Madison County employee appointed by the County Commission who shall serve at the pleasure of the County Commission.

The DAPB is empowered to adopt necessary rules, regulations, policies and procedures to carry out the purposes of this Policy. The DAPB is charged with determining any disciplinary action called for or required under this Policy.

Upon receipt by the DAPB of any positive test results or information required to be delivered to the DAPB, the following procedure shall be followed:

The test results or information received by the DAPB shall be delivered in writing to the employee involved with a notice of the time and place of a hearing, if any, to be held by the DAPB to determine what, if any, action shall be taken in connection with the test results, information, or incident. The hearing shall be held not less than three (3) calendar days from the employee's receipt of the notice.

At any such hearing, the employee shall be given the opportunity to provide any information he or she desires in connection with the incident or the action being considered by the DAPB. The employee may be represented by counsel if he or she so desires.

The DAPB shall determine within seven (7) calendar days of the conclusion of the hearing what disciplinary action, if any, will be taken, and shall notify the employee in writing of its decision. The action taken by the DAPB may include any action deemed appropriate in the sole discretion of the DAPB, up to and including termination.

Following any decision of the DAPB the employee shall have all rights prescribed by Act No. 941 of the Legislature of the State of Alabama (Regular

Revised Policy Approved by the Madison County Personnel Board on February 16, 2016

Session, 1973) and by the Rules, Policies, and Procedures for the Classified Service of Madison County, Alabama.

At any time before the hearing procedures begin, the employee involved may elect, at his own expense, to request a retest of the same urine sample at the laboratory which performed the screening test and/or the confirmation test, or at a laboratory at his or her choice so long as that laboratory meets the qualifications required by this Policy. An employee electing a retest must notify the Personnel Director in writing before the hearing commences that they are electing to have their sample retested and requesting the hearing be postponed until the results of the retest are made available. A negative result from this additional test shall be deemed a negative result and all proceedings under this section shall terminate.

All test results obtained under this Policy shall be treated as confidential by the DAPB, the County Personnel Board, and all persons who have access to said information for all purposes. Any test results utilized under this Policy shall not be used for any law enforcement purpose, but shall only be used for the purposes set forth in this Policy.

Any hearing held by the DAPB hereunder may be closed to the public and held in private at the request of any party involved.

Safety Sensitive Employees:

All employees in safety sensitive positions may be subjected to urinalysis to determine violations of this Policy. The County has determined that safety sensitive positions involve employees who are authorized to carry firearms as part of their duties; who regularly operate or maintain County vehicles or on or off road equipment or machinery of any kind, the misuse of which may pose a threat to the employees' safety or the safety of others; positions that involve duties, functions or situations that have the potential of causing serious injury or death to an employee or general public; who have regular and direct contact with persons confined in the County Jail or the Juvenile Detention Facility; or who dispatch or direct law enforcement vehicles. Those positions currently deemed safety sensitive are set forth in Exhibit "A" to this Policy. The Personnel Department will maintain a list of safety sensitive positions and may add or remove positions as required.

Employees Subject to Testing:

The following employees are designated as being subject to drug and/or alcohol testing:

- a) Pool 1: Employees who hold positions that due to the nature of the job duties, require a Commercial Driver's License (CDL) and are therefore subject to the testing rates, policies and procedures of the Federal Motor Carrier Safety Administration (FMCSA);
- b) Pool 2: Employees who hold positions or regularly perform duties that meet the policy criteria as being safety sensitive. Madison County will follow the annual testing rates established for Pool 1 for random drug testing and for random alcohol testing for safety sensitive positions.
- c) Any employee that is injured or involved in an accident causing physical injury, no matter how minor to any person or damage to any property while performing job duties during the course of employment; and
- d) Any employee, regardless of whether he or she holds a safety sensitive position, whose conduct, behavior or physical symptoms establishes reasonable cause to believe that said employee is under the influence of any drug and/or alcohol while performing their job duties or while being physically present on the premises of Madison County's property during any activity sponsored, supervised or in which Madison County participates.

Types of Testing:

Pursuant to Madison County's policy and procedures, employees will undergo testing as directed below.

- a) **Pre-Employment:** Applicants for positions designated for Pool 1 and Pool 2 will be required to take and pass a pre-employment drug and alcohol test before an offer of employment is extended. Testing will also be completed when an employee transfers into a position listed in Pool 1 or Pool 2. Refusal to take a required test or test results reporting a presence of illegal drugs or results showing an altered or diluted specimen shall be the basis for rejecting an applicant.
- b) **Random Testing:** Employees holding positions designated for Pool 1 and Pool 2 will be subject to testing on a random basis without advance notice to them. **Employees will be required to report to the designated collection**

site for testing as soon as possible, but in no case later than two (2) hours following notification. Failure to report for drug and/or alcohol screening within two (2) hours of notification will be treated as a positive test result:

- c) **Reasonable Cause:** A drug and/or alcohol test may be scheduled when behavioral observations indicate to the employee's supervisor that any employee may be involved in illegal use of a controlled substance, use of alcohol or abuse of legal drugs. Before testing, the employee's supervisor shall contact a DAPB member by means of the Personnel Department for approval and authorization for a reasonable cause drug test. After the Personnel Department verifies approval by the DAPB member, the employee shall be promptly escorted to the collection site for testing by the employee's supervisor or designee. Refusal to take a required drug or alcohol test will be treated as a positive test result;
- d) **Employees arrested or convicted:** An employee's off-the-job use or possession of illegal or controlled substances shall undergo drug or alcohol testing to assist Madison County in determining fitness for duty. Employees who test positive will be referred to the DAPB for disciplinary action;
- e) **Post-Accident Testing:** All employees are required to report all injuries or damage related accidents, and submit to a post-accident drug and/or alcohol test as set out in this policy. Each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident shall be subject to testing. The employee's supervisor or his designee shall schedule the drug screening test immediately following a reportable incident or a reportable accident. Refusal to take a required drug or alcohol test will be treated as a positive test result.

All drug testing conducted by Madison County will not be used to identify the existence of any disability.

In the event there is reasonable suspicion of a violation of this policy, Madison County also reserves the right to search all property, cabinets, toolboxes, vehicles, including personal vehicles brought onto Madison County's property.

All employees are subject to drug and alcohol testing when there is reasonable cause to believe that they have violated this policy and after any accident involving physical injury or serious property damage. However, employees who have been designated as safety-sensitive are also subject to pre-employment testing and random testing. Random drug tests can be performed any time a safety-sensitive employee

is on duty. An alcohol test can be performed when the safety-sensitive employee is performing a safety sensitive duty, just before or just after the performance of a safety sensitive duty.

In addition, employees occupying positions deemed to be “safety-sensitive” must promptly report any arrests, charges or convictions for drug or alcohol related criminal offenses, including both misdemeanors and felonies, to his or her supervisor.

FAILURE TO REPORT SUCH ARRESTS, CHARGES OR CONVICTIONS MAY BE GROUNDS FOR DISCIPLINE, UP TO AND INCLUDING IMMEDIATE DISMISSAL.

Off Duty Conduct:

Off-the-job use of drugs, alcohol or any other prohibited substance which results in impaired work performance, including, but not limited to, absenteeism, tardiness, poor work product or harm to the County’s image, tasks or government is prohibited. Employees should realize that these regulations prohibit all illicit drug use, on and off duty.

Prescription Drugs:

The proper use of medication prescribed by a physician is not prohibited; however, Madison County prohibits the misuse of prescribed and/or over-the-counter medications or other intoxicating substances and requires all employees using drugs at the direction of a physician to notify their direct supervisor in writing, when these drugs may affect his or her job performance, such as, causing drowsiness. Employees may not perform safety-sensitive functions while using any controlled substances, unless the employee’s physician certifies that the substances will not adversely affect the employee’s ability to perform his or her job.

General Testing Procedures:

Madison County will contract with a properly certified testing laboratory that will ensure that all proper testing procedures are followed in accordance with this Policy and all applicable laws. The following is a list of the general procedures that will be followed for all drug and alcohol testing, regardless of the reason why the test is being performed:

Urinalysis:

When urinalysis is required by this Policy or is requested by an employee, the following guidelines and procedures shall be followed.

- a) The collection site for collecting the urine specimen for testing shall be designated by the DAPB. The site shall be maintained with the necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation of urine specimens to a drug testing laboratory.
- b) Security of the collection site shall be maintained at all times. Chain of custody forms for each specimen or test shall be utilized and properly maintained during the collection and transportation procedure. The collection procedure shall allow for individual privacy unless there is reason to believe that an employee may adulterate or substitute a specimen.
- c) Precautions shall be taken to insure that the specimen not be adulterated, diluted or substituted during the collection procedure. After collection, the specimen shall be sealed, labeled, and signed by the collection site personnel.
- d) Any employee, who alters, tampers with, substitutes, dilutes or adulterates a urine sample or who attempts such action or who aids another in so doing shall be subject to disciplinary action by the DAPB, up to and including termination.

Alcohol Testing Procedures:

All employees are prohibited from possessing, drinking or being impaired or intoxicated by alcohol while at work or on duty. *In addition, safety-sensitive employees are prohibited from consuming any alcohol four (4) hours prior to going on duty. Individual departments reserve the right to require employees to refrain from consuming alcohol for longer periods of time before going on shift. Employees are responsible for knowing and abiding by the policies for their department.* A Blood Alcohol Content (BAC) of 0.04 will be accepted as presumptive evidence of intoxication.

- a) Any employee may be subject to alcohol testing either for reasonable suspicion or post-accident. Safety sensitive employees are also subject to random alcohol testing. Random testing will be conducted just before, during or after the employee has performed a safety-sensitive function.

Revised Policy Approved by the Madison County Personnel Board on February 16, 2016

- b) All alcohol tests will be conducted using evidentiary breath testing devices approved by the National Highway Traffic Safety Administration by a properly trained person.

Alcohol Testing Results and Disciplinary Procedures:

- a) Safety sensitive employee with a Blood Alcohol Content (BAC) of 0.02 to .039:
 - i. Employee is removed from duty and is required to use accrued leave to cover all scheduled work hours for the remainder of their shift. Employees who do not have sufficient accrued leave to cover the remaining hours in their shift will move into an unpaid status.
 - ii. Employee must return to the testing facility on their next scheduled workday and submit to a follow-up alcohol test prior to the start of their shift.
 - i. If the employee's BAC is lower than 0.02, the employee may return to work and the employee will be referred to the DAPB for a disciplinary hearing and possible disciplinary action.
 - ii. If the employee's BAC is higher than 0.02 or if the employee fails to take the follow-up test for any reason, the employee will be removed from active duty until further notice and will be referred to the DAPB for a disciplinary hearing and possible disciplinary action.
- b) Safety sensitive employee with a BAC of .04 or higher:
 - i. Employee is removed from duty, must use accrued leave to cover all scheduled work hours, and is referred to the DAPB for a disciplinary hearing and possible disciplinary action.

Laboratories:

The laboratory to be utilized under this Policy shall be selected by Madison County and shall be certified according to the Department of Health and Human Services "Scientific and Technical Guidelines for Drug Testing Programs" (53 Fed. Reg. 11970, April 11, 1988), as they may be amended from time to time.

Revised Policy Approved by the Madison County Personnel Board on February 16, 2016

The laboratory shall at all times maintain the certification required and shall follow the security, chain of custody, testing and record keeping procedures as set forth in the Health and Human Services Guidelines set forth above.

Retention of Records:

All records will be maintained to preserve confidentiality and prevent unauthorized persons from accessing, releasing or tampering with records.

Investigation/Searches:

Where a supervisor has reasonable cause to suspect that an employee has violated the substance abuse policy, he or she may inspect vehicles which an employee brings on the County's property, lockers, work areas, desks, purses, briefcases, tool boxes or other belongings and at locations where County related activities are being conducted without prior notice in order to ensure a work environment free of prohibited substances. An employee may be asked to be present and remove a personal lock. Where the employee is not present or refuses to remove a personal lock, a supervisor will do so for him or her. The County may release any illegal or controlled drugs or paraphernalia to appropriate law enforcement authorities.