



DRUG-FREE WORKPLACE

Policy #5-47f

Effective Date: 06/27/19

ADMINISTRATIVE POLICY

Chapter 5 – Personnel – Employee Rights, Responsibilities, and Limitations

Orig/Rev Date: 03/24/89; 04/11/05; 07/19/05; 07/11/13; 08/14/18

Statement of Policy

This policy sets forth the County's position as it relates to a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988.

It is a violation of the Drug-Free Workplace policy to manufacture, use, be under the influence of, possess, dispense, distribute, sell, trade, solicit, and/or offer for sale a controlled substance, including medical or recreational marijuana, in violation of Federal law, or alcohol.

Applicability

This policy applies to all County employees, Elected Officials, volunteers, contractors, and applicants for a County position. This policy also applies to those persons who are covered by Policy #5-47i, Drug and Alcohol-Commercial Driver's License and Related Functions.

This policy applies whenever conducting County business. This policy also applies during meal periods or other breaks if any person covered by this policy is expected to return to work after the meal period or break. Any testing in this policy is separate and apart from the Federal Department of Transportation (DOT) Motor Carrier testing program described in Policy #5-47i, and if both policies apply, two separate pre-employment or reasonable suspicion drugs and/or alcohol specimen collections and tests will be conducted.

The alcohol restrictions in this policy are not intended to apply to social gatherings and community events on County property where persons are not performing services for the benefit of the County and are not expected to return to performing services for the benefit of the County afterwards.

Definitions

1. Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol and capable of and designed to be ingested by a human being.
2. Controlled Substances: Are defined as including, but not limited to, all forms of narcotics, depressants, stimulants, hallucinogens, and cannabis, whose sale, purchase, transfer, use, or possession is prohibited or restricted by law including all substances identified in 21 CFR 1308.
3. County Business: Is defined as all working hours, whenever representing the County, during travel on County business, while on call, while on paid standby, while on or in

County property or during vehicle operation on County time, and/or while working at County-sponsored events.

4. Covered Person: Regular employees, Elected Officials, extra help, or volunteers.
5. Contractor: Any person or entity that has a current contractual relationship with the County and is performing work for the County under such contract. Contractor also includes any employee, subcontractor, or agent of a contractor.
6. Drug and Alcohol Test: The compulsory production and submission of breath or urine by a covered person in accordance with procedures contained herein for chemical analysis to detect prohibited drugs and/or alcohol use.
7. Drugs: For the purposes of this policy, drugs will be defined as all intoxicants and controlled substances as defined by law including all substances identified in 21 CFR 1308, excluding any substance lawfully prescribed and authorized by a licensed medical practitioner for the covered person's or applicant's use which is used according to the licensed medical practitioner's instructions. Medical marijuana is not a lawful prescribed substance.
8. Licensed Medical Practitioner: A person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, or local laws and regulations, to prescribe controlled substances and other drugs.
9. Medical Review Officer (MRO): A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by a covered person's or applicant's drug testing program and evaluating medical explanations for certain drug test results.
10. Over-the-Counter Drugs: Those which are generally available without a prescription from a licensed medical practitioner and are limited to those drugs which are capable of impairing the judgement or function of a covered person to safely perform their duties.
11. Prescription Drugs: Those which are used in the course of medical treatment and have been prescribed and authorized for use by a licensed medical practitioner.
12. Reasonable Suspicion: The determination that reasonable suspicion exists must be based on specific contemporaneous articulable observations regarding an individual's work performance, appearance, behavior, speech, or body odors including all derived inferences from those observations that would lead the reasonable person to suspect that the individual under the influence of drugs or alcohol when reporting to duty or while on duty. The observations may include indications of the chronic and withdrawal effects of drugs and/or alcohol.
13. Supervisor: An employee with the authority to assign and review the work of a covered person and to appoint, discipline, evaluate, or otherwise change the status of a covered person.
14. Under the Influence: A covered person is considered under the influence of drugs and/or alcohol when test results indicate any detectable level of alcohol or the presence of drugs when a positive drug test result is obtained from a certified testing lab and confirmed by the MRO as applicable; when a positive alcohol test result is obtained from a certified

collector; or when the covered person fails a drug and/or alcohol test as determined in this policy.

15. Use of Alcohol: The drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol.

In General

Jackson County is legally required to provide a safe and healthful workplace. Therefore, Jackson County is committed to protecting the safety, health, and well-being of all employees and other individuals in the workplace. The County recognizes that drugs and/or alcohol use and abuse pose a significant threat to our goals and that a covered person's and contractor's involvement with drugs and/or alcohol can be very disruptive; adversely affect the quality of work and services, performance, and the efficient operation of the County; pose serious threat to the health and safety of users and others; have a negative impact on productivity and morale; risk County property; expose the County to liability; and jeopardize the County's requirements to meet the Drug-Free Workplace Act of 1988. The County has established a Drug-Free Workplace policy that balances respect for persons with the need to maintain a drug and alcohol free environment.

The County expects all covered persons and contractors to report to work in a condition to perform their duties in a safe, effective, and efficient manner.

As a condition of employment or volunteer service, the County requires that all covered persons adhere to this policy regarding the use and possession of drugs and alcohol, and notify the County of any criminal drug statute convictions.

Notification of Convictions

Covered persons must notify the County of any criminal drug statute conviction. The notification must be in writing from the covered person to the Human Resources Office within five (5) calendar days of the conviction. Elected Officials' notification must be in writing to the County Administrator's Office (CAO) within five (5) calendar days of the conviction. The CAO will immediately notify the Human Resources Office. When appropriate, Federal contracting agencies will be notified within ten (10) calendar days. In accordance with Federal law, the County will take appropriate action within thirty (30) days of the notification.

Assistance

Jackson County recognizes that drug and/or alcohol abuse and addiction are treatable illnesses. The County also realizes that early intervention and support improve the success of rehabilitation. To support covered persons, the Drug-Free Workplace policy:

- Encourages seeking help if a covered person is concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages utilizing the services of qualified professionals in the community to assess the seriousness of suspected drug and/or alcohol problems and identify appropriate sources of help.
- Offers all Elected Officials and regular employees, as well as their covered family members, assistance with drug and/or alcohol problems through the Employee Assistance Program.

- Allows the use of applicable accrued paid leave while seeking treatment for drug and/or alcohol problems for regular and extra help employees.

Treatment for drug and/or alcohol use disorders may be covered by a covered person's benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the covered person.

Communication

All covered persons who are subject to the provisions of this policy will receive a written copy of this policy and a signed certificate of receipt will be placed in their official personnel file in the Human Resources Office for employees and Elected Officials, and in the department for volunteers.

Prohibited Conduct

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a licensed medical practitioner's prescription and do not interfere with the safe performance of the covered person's duties. Any covered person or contractor taking prescribed or over-the-counter medications will be responsible for consulting the prescribing licensed medical practitioner and/or pharmacist to ascertain whether the medication may interfere with safe performance of their duties. Failure to report the use of prescribed or over-the-counter medication, which the covered person has been informed may affect their abilities to safely perform assigned duties, may subject a covered person to disciplinary action up to and including termination.

In the event there is a question regarding a covered person's ability to safely perform assigned duties, clearance from a licensed medical practitioner will be required. If the use of a medication could compromise the safety of the covered person or contractor, fellow employees or the public, risk County property or expose the County to liability, it is the covered person's or contractor's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor) to avoid unsafe workplace practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of the County's Drug-Free Workplace policy to intentionally misuse and/or abuse prescription drugs.

The following conduct is strictly prohibited in County policy and will subject employees to immediate termination following applicable due process procedures and volunteers to immediate termination of volunteer service:

1. No covered person shall perform their duties, report for duty, or remain on duty when the person manufactures, uses, is under the influence of, possesses, dispenses, distributes, sells, trades, solicits, and/or offers for sale a controlled substance, including medical or recreational marijuana, in violation of Federal law, or alcohol as described in the applicability section of this policy.
2. No covered person shall perform their duties, report for duty, or remain on duty when the covered person uses and/or is under the influence of any drug or substance identified in 21 CFR 1308.11 Schedule I.
3. No covered person shall perform their duties, report for duty, or remain on duty when the covered person uses any non-Schedule I drug or substance that is identified in the other

Schedules in 21 CFR 1308, except when the use is in accordance with Federal law and does not adversely affect the covered person's ability to safely perform their duties.

4. No covered person shall perform their duties, report for duty, or remain on duty if the covered person tests positive, has an adulterated or substituted test specimen, or otherwise has a failed drug test as defined in the Consequences of Prohibited Conduct or Failed Drug or Alcohol Testing Violations section of this policy.
5. No covered person shall use alcohol while performing their duties.
6. No covered person shall perform their duties, report for duty, or remain on duty while having any detectable level of alcohol, tests positive, or has a failed alcohol test as defined in the Consequences of Prohibited Conduct or Failed Drug or Alcohol Testing Violations section of this policy.
7. No covered person shall possess alcohol while on duty or while operating a County-owned motor vehicle or any vehicle while on County business, unless the alcohol is manifested and transported as a part of an authorized shipment.
8. No covered person shall refuse to submit to a pre-employment/pre-placement or reasonable suspicion drug and/or alcohol test as required under this policy.

Circumstances for Testing

Unless otherwise described herein, all testing will be required as follows:

1. **Pre-Employment or Pre-Placement Testing:** Pursuant to an accepted conditional offer of employment or unpaid internship documentation, all applicants for County positions and unpaid interns shall undergo testing for drugs. Failure to submit to the testing will result in the withdrawal of the offer of employment or unpaid internship. All offers of employment or internship placement are conditional upon the County receiving a drug test result indicating a negative drug test result and verified by the MRO as applicable.
2. **Reasonable Suspicion Testing:** A covered person shall immediately submit to testing for drugs and/or alcohol whenever their supervisor, or other County management representative, who has undergone reasonable suspicion training, along with one other management witness, has reasonable suspicion to believe that the covered person has violated the corresponding portions of this policy.

A written record shall be made of the observations leading to the drug and/or alcohol reasonable suspicion test, and it shall be signed by the supervisor and/or other County management representative who made the observations, within 24 hours of the observed behavior or before the results of the drug and/or alcohol tests are released to the County, whichever is earlier.

The results of a urine test for the use of drugs or a breath or blood test for the use of alcohol conducted by Federal, State, or local officials having independent authority for the test(s) shall be considered to meet the requirements of this section, provided such tests conform to applicable Federal, State, or local drug and/or alcohol requirements or County policy and the results of such tests are obtained by the County.

Method of Testing

All types of testing as described above are conducted as follows:

- Drug testing will be done by a urine test and shall also be conducted by a licensed professional chosen by the County. The urine specimen will be collected unattended; however, any substitution or adulteration or attempt to substitute or adulterate the integrity of the specimen will result in immediate termination, following applicable due process procedures for employees, withdrawal of the conditional offer of employment or internship, or termination of volunteer or intern service. Urine specimens shall be split into two (2) portions. If testing on the first portion proves positive and the covered person wishes to exercise their right to a second test, the covered person must request to the licensed professional the second test within two (2) business days after the receipt of the results from the first test. The second test will be performed on the second portion of the original specimen and by a second certified laboratory. If the results of the second test refute the results of the first test, the results of the second test will be determinative.
- Alcohol testing will be done by a breath test that shall be conducted by a licensed professional chosen by the County.

Requirement to be Tested

Any covered person or applicant, who is subject to being tested pursuant to the requirements of this policy, must submit to being tested for drugs and/or alcohol immediately upon notification to do so by their supervisor or other designated County management representative.

Paid Administrative Leave

Any covered person in a regular position who is required to submit to reasonable suspicion testing shall be immediately placed on paid administrative leave following the drug and/or alcohol test and pending the County's receipt of the test results.

Covered persons not in a regular position, volunteers, and interns will not be scheduled for work or volunteer service following the drug and/or alcohol test and pending the County's receipt of the test results.

Refusal to be Tested

A refusal to be tested shall be treated as a positive test result. Any covered person who is subject to being tested pursuant to this policy will violate this policy by refusal to submit to a required drug and/or alcohol test through, but not limited to, any of the following:

1. Telling the covered person's supervisor, other County management representative or the person(s) conducting the tests or collecting the specimens that they are refusing to be tested.
2. Failing to report to, delaying to report to, or leaving the County job site or testing site, or failing to report to, delaying to report to, or leaving a specified on-site location for transportation to the testing site if the testing site is other than a County facility, before the required testing and/or collection is completed.

3. Failing to remain readily available for reasonable suspicion testing provided that this requirement shall not be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit the covered person from leaving the scene of an accident for a period to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
4. Failing to provide the adequate amount of urine when directed and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
5. Failing to provide the adequate amount of breath for alcohol testing when directed and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
6. Failure to cooperate with any part of the testing process including, but not limited to, engaging in violence, threats of violence, or other abusive, aggressive, or disruptive behavior; not producing an adequate specimen within three (3) hours from the first collection attempt; or behaving in a confrontational way that disrupts the testing process.
7. Is reported as having a verified adulterated or substituted test result.
8. Any delay in immediately reporting an incident/accident or failure to report an incident/accident that would trigger reasonable suspicion testing.

Consequences of Prohibited Conduct or Failed Drug or Alcohol Testing Violations

One of the goals of the County's Drug-Free Workplace policy is to encourage covered persons and contractors to voluntarily seek help with drug and/or alcohol problems. If, however, a covered person, applicant to County positions, or contractor violates this policy, the consequences are serious.

A failed test shall include refusal to test under any of the above circumstances for testing; a positive diluted specimen; a second negative diluted specimen; invalid results; providing a substituted or adulterated specimen; an attempt to substitute or adulterate the specimen; test results indicating any detectable level of alcohol; or test results indicating the presence of drugs or a positive drug test as confirmed with the MRO, resulting in the covered person or applicant to a County position deemed to be under the influence as defined in this policy. The consequences are:

- In the case of applicants and unpaid interns, the conditional offer of employment or internship placement shall be withdrawn and the opportunity to reapply for any County job or placement will be revoked for two (2) years from the date the failed test is reported to the County.
- Any probationary employees, employees not in a regular position, volunteers, or unpaid interns who violate this policy shall be terminated immediately.
- All other regular employees who have completed their probationary period or management/confidential employees who violate any of the provisions in this policy will be removed from the job immediately and will be subject to termination following applicable due process procedures upon notice of a failed test result.

- Elected Officials who violate any provisions of the policy will not be permitted to operate a County vehicle.
- Further, the County will report positive test results that have been verified by the MRO for drugs and/or positive test results for alcohol to any agency from which the covered person holds a professional license or certificate.
- Violation of any provision of this policy by any contractor who is conducting business for the County, while under contract with the County, shall be cause for the County to terminate the contract unless the contractor elects to take appropriate actions with the person who violated this policy and the person will no longer be permitted to perform work pursuant to that contract.

Drug and Alcohol Test Results Under the County's Policy #5-47i, Drug and Alcohol-Commercial Driver's License and Related Functions

With authority independent from 49 CFR 382, the County shall take disciplinary action in accordance with this Policy #5-47f, Drug-Free Workplace, when test results received under Policy #5-47i, Drug and Alcohol-Commercial Driver's License and Related Functions, violate Policy #5-47f in any manner.

Payment of Program Costs for Drug and Alcohol Testing

The department will pay all costs including, but not limited to, pre-employment/pre-placement and reasonable suspicion testing. The employee's time for reasonable suspicion testing will be paid by the department. The applicant's time for a pre-employment test will not be County-paid time.

However, a covered person who has a test performed on a split specimen following a positive drug test must make the arrangements and pay for the second test. The County will only reimburse the covered person for the testing cost if the retest result refutes the initial positive test.

Searches

Jackson County reserves the right to search, without consent, all areas and property over which the County maintains joint or full control. All County-owned, rented or leased vehicles, equipment, offices, desks and lockers, or any other County property, shall be subject to search. Refusal to submit to a search or refusal to cooperate in any investigation is subject to disciplinary action, up to and including termination.

Confidentiality

All information received by the County through the Drug-Free Workplace policy is confidential communication. Access to this information is in compliance with relevant laws and County policies.

Effect of Changes to Laws Applicable to this Policy

This policy, and the procedures adopted to implement this policy, is intended to be in compliance with any and all applicable laws at the time of the adoption of this policy. If applicable laws change, and this policy has not been amended to reflect the impact of such changes, the County shall amend its procedures and the application of this policy to reflect the current state of the law, even if an amendment to this policy to reflect those changes has not been formally adopted by the County.

Compliance

For covered persons or contractors to which this policy applies, including Elected Officials, failure to comply with any provisions of this policy will result in the consequences identified in the section of this policy titled, "Consequences of Prohibited Conduct or Failed Drug or Alcohol Testing Violations." Any other violations of this policy may lead to discipline up to and including termination.

/s/ Danny Jordan
Danny Jordan
County Administrator

Board Approved: June 27, 2019