



# Medina County Policy Manual



<b>Policy: Drug and Alcohol Policy</b>	<b>Section: Health &amp; Safety</b>	<b>Number: 6.003</b>
<b>Issued: 4/25/17</b>	<b>Reviewed/Revised:</b>	<b>Page #: 1 of 6</b>

## A. INTRODUCTION

The Medina County Board of Commissioners is dedicated to providing prudent, effective, safe and economical governmental services to the county's residents. To accomplish this end it is necessary for the Board to hire competent employees, provide them with the requisite resources and a safe and healthy work environment that permits them to concentrate on the work that needs to be done. The use of alcohol or illegal drugs in the workplace prevents this from happening, i.e., they impair health and safety, lower productivity and performance quality, promote crime and generally undermine the public's confidence in organizations where it occurs. The Board is determined that this not happen within the county and to this end it has declared Medina County a drug-free workplace and adopted this policy. Compliance with this policy is a condition of your employment with the county.

## B. PROHIBITED ACTIVITY

Medina County forbids its employees from being under the influence of alcohol or prohibited drugs during their active work status. To this end, the county strictly prohibits the unauthorized use, possession, manufacture, distribution, dispensation or sale of illegal drugs, drug paraphernalia, controlled substances, or alcohol on its premises, on any other site where its work is performed or in its vehicles. It also prohibits refusal to take its alcohol or drug test, all efforts to compromise the integrity or accuracy of its testing program or any failure or refusal to abide by its alcohol and drug abuse policy. Additionally, the federal Drug-Free Workplace Act of 1988 requires any employee convicted of violating a criminal drug statute to inform the Human Resources Director of such conviction (including pleas of guilty and nolo contendere) within five (5) calendar days of the conviction occurring. This includes both misdemeanor and felony convictions.

## C. TESTING

The Board of Commissioners will require an alcohol or drug test: 1) for applicants (drug test only) offered positions as a condition of employment with the county; 2) for any employee who has been absent without leave and there is reasonable suspicion that the individual's absence was caused in whole or part because of the influence of drugs or alcohol; 3) for employees involved in on-the-job accidents/injuries or near miss incidents when there is reasonable suspicion that the accident or near miss was caused in whole or part because the individual was under the influence of drugs or alcohol; 4) for any employee that presents reasonable suspicion of being unfit for duty because of being under the influence of alcohol or drugs; and 5) as a condition of discipline or rehabilitation imposed for a violation of this policy.

Employees are required to participate and grant all necessary consent and/or sign all waivers and releases for the testing and analysis of results as required by the testing facility.

A positive test result is a violation of this policy.

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For the purpose of this policy, an employee transferring from another appointing authority to the Board of Commissioners shall be considered an applicant and tested accordingly.

The Board shall designate a Medical Service Provider who will conduct its alcohol and drug testing in accordance with this policy.

**D. APPLICANT NOTIFICATION**

Applicants will be notified of this policy by the inclusion of the following statements on all vacancy announcements: "Must pass drug test to be hired." Additionally, the applicant selected for an opening must review the policy and sign the Medina County Release for Alcohol and Drug Test before taking the tests.

**E. COLLECTION AND HANDLING OF SPECIMENS**

The applicant or employee directed to report to the Medical Service Provider for alcohol or drug testing shall be required to present a photo ID or provide other confirming identification before the test will be administered. If the individual's identity cannot be established, the test will not be administered. Beyond this, the Medical Service Provider will administer the test(s), handle specimen(s), analyze sample(s), establish a chain of custody and report the results in accordance with national institute of drug abuse guidelines.

The Medical Service Provider shall maintain all alcohol and drug test records and all positive urine samples shall be stored for retesting as required by federal law.

**F. TEST RESULTS AND REPORTING**

The testing procedures, drugs tested for and cutoff levels for each shall be those adopted by the Department of Health and Human Services (DHHS).

The Medical Service Provider shall report test results to the Human Resource Director as either positive or negative. All specimens that test negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific drug or drugs. The Human Resources Director will notify applicants or employees of the results of their alcohol and drug tests.

The Medical Service Provider will use a Medical Review Officer to review positive test for employees but not applicants.

**G. ILLEGAL DRUG RETEST OPTION**

There is no retest option for applicants.

An employee who has tested positive for one or more illegal drug under this policy may ask for a retest of the original specimen according to the following procedure. The employee must pay for the retest and all related costs.

**The retest procedure follows:**

1. The retest must be completed within three (3) calendar days of the day the employee received notice of the positive test result.
2. A laboratory certified by the National Institute of Drug Abuse must do the retest.
3. The retest must be a gas chromatography/mass spectrometry assay and the cutoff indices for a positive test must be the same as those used for the confirmatory test by the county's Medical Service Provider.
4. The laboratory selected by the employee must arrange with the county's Medical Service Provider to have the retest specimen transported to his lab by medical courier.

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- The employee's laboratory is to provide the Human Resources Manager with the results of the retest within 24 hours of its completion.

The Board reserves the right to require a second drug test on an employee whose retest result is negative.

#### **H. CONFIDENTIALITY**

Drug test results are confidential information. Consequently, it will only be shared with those members of management who have a "need to know" it.

#### **I. REFERRING AN EMPLOYEE FOR DRUG TESTING**

Any supervisor or manager who believes there is reasonable suspicion an employee is under the influence of drugs or alcohol should call the Human Resources Director to discuss the reason(s) therefore and arrange for testing.

The time an employee spends taking a reasonable-suspicion drug test required by the county shall be paid time.

#### **J. DISCIPLINE**

**Violators of this policy will be subject to the punishments set forth below.**

- Applicants who refuse to take the drug test, attempt to compromise the integrity or accuracy of the test or test positive for drug and/or alcohol use shall be removed from further consideration for the position applied for.
- Probationary employees who test positive for either drug or alcohol use, are found to have engaged in prohibited drug use or have engaged in other behavior prohibited by this policy shall be terminated.

Any employee who refuses to take an alcohol or drug test or attempts to compromise the integrity of the test shall be terminated.

#### **3. Non-probationary employees who:**

Have a positive alcohol or drug test, are found to have engaged in prohibited drug use or have engaged in other behavior prohibited by this policy shall be terminated.

Have taken leave without pay because of prohibited drug use shall be terminated.  
Have been involved in an accident or near miss and have a positive alcohol or drug test or are found to have engaged in prohibited drug use shall be terminated.

Have entered into a rehabilitation agreement with the county will be terminated if they break the terms of the agreement or fail to satisfactorily complete the rehabilitation program

Have been convicted of a misdemeanor criminal drug statute or fails to report it to the county within the deadline will be subject to disciplinary action, up to and including termination.

Have been convicted of a felony criminal drug statute or fails to report it to the county within the deadline shall be terminated.

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## **K. COUNSELING**

Non-probationary employees with a drug or alcohol abuse problem who voluntarily approach management seeking assistance in treating their problem will be given an opportunity to seek counseling or treatment. Before the Commissioners grant this, however, the employee must sign the county's Alcohol and/or Drug Rehabilitation Agreement. Additionally, the employee must satisfactorily complete the program to retain his/ her position.

The counseling option may not be granted to those employees who are under investigation at the time of application for a violation of this policy or any other county policy, procedure or work rule or who have been directed to report for drug testing.

The employee will be responsible for all costs involved in such counseling. Employees are advised moreover that at this time the county's medical insurance plans do cover substance abuse services as one of their benefits.

## **L. THRESHOLD LIMITS FOR PROHIBITED SUBSTANCES**

The threshold limits for illegal drugs shall be those set by the DHHS. The Medical Review Officer shall determine other prohibited drug use, e.g., intentional misuse or inappropriate use.

## **M. CONFORMITY CLAUSE**

This policy supersedes all previous Commissioners' alcohol and drug policies, both written and unwritten. In the event there is a conflict between the provision(s) of this policy and a collective bargaining agreement, the labor agreement language shall control for the covered employees. In the event there is a conflict between the provisions of this policy and any applicable law, the law shall prevail. In both cases, the rest of the policy's provisions will remain in force and effect.

## **N. EMPLOYEE WAIVER**

The employee acknowledges that if he/she continues working for the Medina County Board of Commissioners after the issuance of the Alcohol and Drug Policy he/she is accepting its terms and conditions as governing his/her employment with the Board. Additionally, in exchange for current and continuing employment, the employee releases the Medina County Board of Commissioners, its managers, supervisors and other employees from any and all claims, suits, charges, causes of action, liability and damages relating to or arising from submission to the test, refusal to submit to the test, removal from further consideration for a position for failing or refusing to take the test(s) and the termination of employment based on a positive test result and/or refusal to submit to testing.

## **O. DEFINITIONS**

**Accident/near miss incident** - any accident or near-miss incident that results or could reasonably have resulted in an injury requiring treatment by a medical professional or property damage.

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**Active work status** - means the conditions under which an employee is actually in a work status and is eligible to receive pay but does not include vacation pay, sick pay, bereavement leave, compensatory time, holidays, personal leave and disability leave.

**Alcohol** - means ethyl alcohol or ethanol.

**Alcohol test** - an evidential breath-testing device that is capable of measuring a 0.02 alcohol concentration level and which can distinguish alcohol from acetone. The testing device must be capable of conducting an air bank and performing an external calibration check.

**Applicant testing** - means drug testing of final applicants for positions in county service who have tentatively met all relevant employment criteria but cannot be hired until they pass the county's drug test.

**Controlled substance** - means those substances defined in sections 3719.01-.41 of the ORC.

**Drug test** - means a chemical test administered for the purpose of determining the presence or absence of a drug in an employee's bodily fluids. The Commissioners will use a ten-panel test for its drug test.

**Prohibited drugs/drug use - includes** **1)** use, possession/sale of any illegal drug; **2)** intentional misuse of any over-the-counter drug in cases where such misuse impairs job performance; **3)** use of any prescription drug in a manner inconsistent with its medically prescribed intended use, or under circumstances where use is not permitted; **4)** being under the use of alcohol and illegal drugs at any time during active work status; and **5)** intentional and inappropriate use of any substance, legal or illegal, which impairs job performance.

**Employee** - means any person holding a position subject to appointment, removal, promotion or reduction by an appointing official or board who has adopted this policy and such person is paid by warrant of the county auditor.

**Illegal drug** - means any substance other than alcohol, having psychological and/or physiological effects on a human being that is not a prescription or non-prescription medication, including controlled dangerous substances and controlled substance analogs of volatile substances, which produce the psychological and/or physiological effects of a controlled dangerous substance through deliberate inhalation.

**Medical Review Officer** – means person who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with a person's medical history and other relevant biomedical information.

**Positive drug test** – means a drug test result that was positive on an initial FDA-approved immunoassay test, confirmed by a gas chromatography/mass spectrometry assay and reviewed and verified by a medical review officer, or a breath test for alcohol which indicates an employee was under the influence of alcohol during active work status.

**Reasonable suspicion testing** – means alcohol or other drug testing on a belief that an employee is using or has used alcohol or drugs in violation of the county's policy drawn

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from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, e.g., 1) observable phenomena, such as direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of a drug; 2) abnormal conduct or erratic behavior while at work, absenteeism, tardiness, or deterioration in work performance; 3) a report of drug use provided by reliable and credible sources; 4) evidence that an individual has tampered with a drug test during his/her employment with the county; 5) evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of alcohol and/or other drugs while working, or while on the county premises or operating the county's vehicles; 6) having an on-the-job accident/injury or damaging property while driving a vehicle on county business which was caused in whole or part because the individual was under the influence of drugs or alcohol; 7) the occurrence of any incident in which an employee's actions result in the personal injury of any person or damage of any property. Refusal to take the drug test shall include but not be limited to verbal or written refusal to do so, conduct that prevents the completion of the test or compromises the test's accuracy, or failing to report to the test site at the appointed time.

**Vehicle(s)** – includes both vehicles and motorized equipment owned, rented or leased by the county as well as privately owned or leased vehicles while being used by county employees in the performance of their duties.