

**PICKAWAY COUNTY**  
**DRUG FREE WORKPLACE POLICY**  
**Revised 8/30/07**

## **I. Notice Upon Hiring:**

***A. As a condition prior to hiring, all prospective employees will receive a copy of the Pickaway County Drug Free Workplace Statement and Policy, and Drug Testing Policy; and will be required to sign a receipt which will become a permanent part of the employee's personnel file.***

***B. In addition, as a further condition precedent to hiring, all prospective employees will be required to sign a written statement to the effect that:***

- 1. They understand and support the Pickaway County Drug Free Workplace Policy;***
- 2. They agree to refrain from violating this policy while employed by the County;***
- 3. They acknowledge, in advance, that they understand that the penalty for breach can be discharge, and agree that the penalty is appropriate when supported by evidence; and***
- 4. They acknowledge that they have been warned that alcohol and drug testing of employees will be conducted in accordance with the County's policy where there is individualized reasonable suspicion of alcohol or drug use.***

## **II. Distribution of Drug Free Workplace Policy:**

***A. All current employees will receive a copy of the County's Drug Free Workplace Statement and Policy and will be required to sign a receipt for it, which becomes a permanent part of the employees' personnel file.***

***B. All current employees will be asked to voluntarily sign a statement supporting the strict enforcement of this policy.***

***C. All current employees will be given notice that the County reserves the right to order employees to submit to alcohol or drug testing where supported by and individualized reasonable suspicion of alcohol or drug use.***

## **III. THE DRUG FREE WORKPLACE POLICY GUIDANCE:**

### ***A. DEFINITIONS:***

1. **Alcohol**: the intoxication agent in beverage alcohol, ethyl alcohol, or other lower molecular weight alcohols including methyl and isopropyl alcohol.
2. **Controlled Substance**: any controlled substance contained in Schedules I through V of Section 202 of the Controlled Substance Act (21 USC 812; or as defined in O.R.C. 3719.01).
3. **Conviction**: any finding of guilt, including a plea of *nolo contendere* (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal, or state criminal drug statutes.
4. **Criminal Drug Statute**: a criminal statute which states that a person may not manufacture, distribute, dispense, use, possess, provide, or administer any controlled substance.
5. For purposes of this policy all definitions will be consistent with O.R.C. 3719.01 *et seq.*

## ***B. STATEMENT OF POLICY***

1. It is the policy of Pickaway County to maintain a safe and productive workplace free of drugs and free of those individuals who use drugs.
2. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee which takes place in whole or in part in the workplace is strictly prohibited and will result in criminal prosecution and employee discipline, which may include termination from employment.
3. Any employee convicted of any federal, state, or municipal criminal drug statute must notify the Employer of that fact within five (5) calendar days of the conviction. Notification by the employee does not excuse that employee from possible disciplinary action under the County's Personnel Policy Manual.
4. The arrival or return to duty under the influence of any drug, legal or illegal, or alcohol to the extent that job performance is affected will be subject to disciplinary action or discharge. Any decision to take such action may be held in abeyance pending the completion by the employee of a drug rehabilitation program.

**5. Any employee convicted of a drug offense, who fails to report the conviction as required by the above, will be:**

- a. Terminated from employment;
- b. Forever barred from future employment with Pickaway County;  
and
- c. Held civilly liable for any loss of federal funds resulting from the failure to report the conviction.

### ***C. DRUG TESTING:***

**1. Applicant Drug Testing:** Applicants for positions covered by this policy shall be required to sign a written waiver and consent form and to take a drug test as a condition of employment. Additional rules may apply specifically for commercial driver's license holders under a separate policy.

**2. Employee Drug Testing:** The employer reserves the right to set standards for employment and to require employees, as a condition of continued employment, to submit to physical examinations including breath or urine tests for alcohol, illegal drugs, misuse of legal drugs where there is reasonable suspicion that the employee's work performance is, or could be, affected by the conditions.

**3. In cases in which the Employer has a reasonable suspicion to believe that the employee is in an altered or impaired condition as the result of the influence of alcohol or the controlled substances referred in DEFINITIONS above, the Employer may require the employee to go to a medical clinic, at the Employer's expense, to provide breath or urine specimen. For purposes of this policy, "reasonable suspicion" means suspicion based on personal observation by an Employer representative, including descriptions of inexplicable or abnormal behavior, appearance, speech, or breath.**

**4. If requested, the employee will sign a waiver and consent form authorizing the clinic to examine a specimen of breath or urine and release the test result to the Employer.**

**5. A refusal to sign a waiver and consent form or to provide a specimen will constitute insubordination and a presumption of a positive test and may result in discharge.**

**6. Any employee tested in accordance with the above procedure may, if the test results are positive, request retesting at the employee's expense using a federally certified laboratory or may request, in advance of the original test, that a portion of the original specimen be delivered to a third party for testing at the employee's expense.**

**7. The results of any such test will constitute medical information and will remain confidential in accordance with state law.**

***D. POLICY DISTRIBUTION: Each employee will receive annually an information packet containing:***

**1. Information concerning the dangers of drug and alcohol use in the workplace;**

**2. A current copy of the County's published statement;**

**3. A current copy of the County's Drug Free Workplace Policy;**

**4. A current copy of the County's Drug Testing Policy;**

**5. Information concerning any available drug counseling, rehabilitation, and employee assistance programs;**

**6. Information concerning the penalties that will be imposed for the breach of the County's Drug Free Workplace Policy;**

**7. Notice to the employee that any work-related conviction of any federal or state criminal drug statute must be reported in writing to the Employer within five (5) calendar days after such conviction.**

## **E. TRAINING**

- 1. All employees and supervisors will receive annual training in the dangers of drug abuse.**
- 2. All supervisors and managers will receive annual training in the enforcement of this policy.**

**The Pickaway County Board of Commissioners adopted this 8/30/07 revised Drug Free Workplace Policy by resolution on 9/4/07.**

### **Drug-Free Workplace Policy**

#### **I. Overview:**

This document (referred to as "the Policy") describes our Pickaway County's Drug-Free Workplace Program, and every employee is expected to read and understand it. The Policy applies to every employee including top management, and also applies to contractors and subcontractors we may use. The consequences stated in this Drug-Free Workplace Policy will apply to anyone who violates the Policy. The County holds all employees accountable in terms of substance use but also supports getting help for employees. Employees who come forward voluntarily to identify that they have a substance problem will receive County support and assistance. However, if an employee has a substance problem and does not come forward, and the employee then tests positive for drug or alcohol use in violation of this Policy, the Company Employer reserves the right to take appropriate action up to and including termination.

Employees will have the opportunity to receive information about substance use as a workplace problem, signs and symptoms, dangers of use, and how and where to get help for themselves and their families. Each County Employer will be responsible for coordinating drug and alcohol testing, identifying resources that employees can turn to for help for themselves and/or their families, and arranging for qualified people to help with employee awareness education and with supervisor training.

#### **A. Program Protections**

This program is designed to protect employees from the behaviors of substance users. Some of the protections built into the program are:

- Employee records such as testing results and referrals for help will be kept confidential. Information will be on a need-to-know basis. Any violation of confidentiality rights is subject to disciplinary action up to and including termination of employment.

- Employees will receive substance awareness education from a qualified person to help identify problems and learn where to turn to for help. This will be done annually.
- Testing will be done through a federally certified laboratory that uses the highest level of care in ensuring that results are accurate including the use of a Medical Review Officer (MRO). The MRO is an expert in substance use. When the MRO receives positive test results, the MRO will contact the employee and any appropriate health care provider to determine whether there is a valid reason for the presence of the drug in the person's system.
- The testing program consists of an initial screening test. If the initial results are positive, then a second test is used. Cut-off levels for each drug and for alcohol are established based on federal and state guidelines.

#### **B. Employee Awareness Education:**

Every current employee will be required to attend a session in which this program is discussed. There will be an opportunity to ask questions.

#### **C. Supervisor Training:**

Supervisors will be trained to recognize substance problems that may endanger the employee and others as well as violate this Policy. This training is in addition to annual employee education. Supervisors will be trained about testing responsibilities, how to recognize behaviors that demonstrate an alcohol/drug problem and how to make referrals for help.

#### **D. Drug and Alcohol Testing:**

Testing is intended to detect problems, deter usage and allow appropriate corrective action. In addition to alcohol, the drugs that we're testing for are:

- Amphetamines (speed, uppers)
- Cocaine (including Crack)
- Marijuana
- Opiates (Codeine, Morphine)
- Phencyclidine (PCP, "angel dust")

An employee attempting to adulterate a specimen or otherwise manipulate the testing process will result in termination of employment, as will a refusal to produce/provide a specimen.

#### **D. Employee Assistance**

The County Employer believes in offering assistance to employees with a substance problem. We are supportive of employees taking action on their own behalf to address a substance problem. The County Employer believes in offering a second chance to employees who are willing to do something about their problem. To help those who come forward voluntarily and those who test positive in violation of this Policy, we've established a relationship with Mount Carmen Behavioral Healthcare—Interact through our medical benefits program, an employee assistance provider. If an employee is willing to actively engage in resolving the substance use problem, the County will refer the employee to the provider for an assessment and possible outpatient counseling with a substance professional.

An employee who violates this Policy will have the opportunity to meet with the substance counselor, and the County Employer will be informed whether the employee is attending sessions and actively participating but will not receive information about the specifics of the counseling. An employee who completes these counseling sessions will be allowed to return to work, subject to signing a "second chance" or "last chance" agreement acknowledging that a second violation of the County substance use Policy will result in termination of employment. The employee will be tested prior to being allowed

to return to work and must produce a negative test result, and at various times thereafter in conjunction with the substance use professional.

## **II. Frequency and Situations When Testing Occurs**

Employees will be tested for the presence of drugs in the urine and/or alcohol on the breath under any and/or all of the conditions outlined below:

### **A. Post-Offer, Pre-Employment Drug Testing**

As part of the County Employers' employment procedures, applicants for **Safety Sensitive Positions** will be required to undergo a post-offer, pre-employment drug screen/test within the first 45 days of employment that is conducted by a contractor designated by the Employer. Any continuing employment is contingent upon, among other things, a negative result upon completion of this screening, and the determination by the Company that the applicant is capable of performing the responsibilities of the position that has been offered.

Safety Sensitive Positions are positions that the employer has analyzed on an individualized basis using professional guidance. Employers are advised to discuss the job duties of a specific position with the County Prosecutors Office to determine whether pre-employment drug testing for a particular position is warranted.

Safety Sensitive Positions are characterized by the employee performing duties involving such risk of injury to self or others that even a momentary lapse of attention could have disastrous consequences. For example, positions which involve:

- Hours of service railroad workers,
- Drug interdiction agents and armed law enforcement agents,
- Firefighters,
- Armed police officers,
- Teachers,
- Bus drivers,
- Certain prison employees,
- CDL holders in accordance with federal regulations,
- Administration of medications/drugs,
- Operation of heavy (construction or industrial manufacturing) machinery
- Driving vehicles which require a Commercial Drivers License,
- Providing care an oversight for children, the elderly or others in a protected population,
- Providing safe drinking water – the treatment/distribution of drinking water,
- Transporting individuals (clients, prisoners, etc,) in a vehicle,
- Positions where driving a vehicle is a significant part of the individual's job duties,
- Use of chemicals/ substances which could cause physical harm if not handled with the utmost care and attentions

### **B. Reasonable Suspicion Testing**

Reasonable suspicion testing will occur when County Employer management and/or supervision has reason to suspect that an employee may be in violation of this Policy. The suspicion must be documented in writing within 24 hours of the event or prior to the release of the test findings. Reasonable suspicion testing may be based upon, among other things:

1. Observed behavior, such as direct observation of drug/alcohol use or possession and/or the physical symptoms of drug and/or alcohol use;
2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notification of the Employer, within five (5) working days, of any drug-related conviction;
4. Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use; or
5. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

### **C. Post-Accident Testing**

Post-accident testing will be conducted whenever an accident occurs as defined below. For purposes of this policy, an accident is considered an unplanned, unexpected or unintended event that occurs on County Employer property, during the conduct of the Employer's business, or during working hours, or which involves Employer-supplied motor vehicles or motor vehicles that are used in conducting County business, or is within the scope of employment, and which results in any of the following:

- (i) A fatality of anyone involved in the accident;
- (ii) Bodily injury to the employee and/or another person that requires off-site medical attention away from the County's place of employment;
- (iii) Vehicular damage in apparent excess of \$750; or
- (iv) Non-vehicular damage in apparent excess of \$500.

When such an accident results in one of the situations above, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

#### Drug and/or Alcohol Testing after an Accident

Urine specimen collection (for a drug test) or breath/saliva (for an alcohol test) is to occur immediately after a need has been determined. At no time shall a drug specimen be collected after 32 hours from the time of an employment-related incident. Breath or saliva alcohol testing will be performed within two (2) hours of the incident whenever possible, but within eight (8) hours, or it won't be performed but will be documented. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee herein expressly grants unto the County Employer, its officers and management, the right to request that attending medical personnel obtain appropriate specimens (breath, blood and/or urine) for the purpose of conducting alcohol and/or drug testing. Further, all employees herein expressly grant unto the County Employer, its officers and management, access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the employment-related accident, to include, but not be limited to, a full medical report from the examining physician(s) or other health care providers.

### **D. Follow up Testing after Return to Work from Assessment or Treatment**

This testing occurs when an employee who has previously tested positive is allowed to return to work under a "second-chance" or "last-chance" agreement. A return-to-duty test is required before the employee is allowed to return to work and, if the employee fails this test, this will lead to termination of employment. Once an employee passes the drug and/or alcohol test

and returns to work, there will be a series of four or more additional tests conducted over a period of at least a year. Any employee with a second positive test result will be terminated.

**Effective October 13, 2004, Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means that an employee may dispute or prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work related injury.**

**The burden of proof is on the employee to prove that the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to a chemical testing may be disqualified for compensation and benefits under the Worker's Compensation Act.**

### **III. Substances to be Tested for and the Methods for Testing**

Systems presence testing is the procedure that is used to identify the presence of the following controlled substances or alcohol that may be present: (A negative initial screening test is considered a negative test.) For each of the tested drugs (amphetamines, cocaine, marijuana, opiates and PCP), there is an initial test used to screen the urine specimen. If the initial screen is positive [at or higher than a cut-off level that comes from the federal Department of Health & Human Services (DHHS)], a second or confirmatory test is done. This is a different test and is considered 100% accurate.

Breath alcohol testing will be conducted by a testing contractor that uses only certified equipment and personnel. Breath alcohol concentrations exceeding .04 will be considered a verified positive result. In the event of an accident where an employee has a "whole blood" alcohol drawn at a medical treatment facility, a result equal to or greater than .04 shall be considered to be a verified positive result. An Evidentiary Breath Test (EBT) is used to confirm any initial positive test result. The Company also expressly reserves the right to add or delete substances on the list above, especially if mandated by changes in existing Federal, State or local regulations or legislation.

### **IV. Specimen Collection Procedure**

Testing shall be conducted by trained collection personnel, who meet quality assurance and chain-of-custody requirements for urine collection and breath alcohol testing. Confidentiality is required from our labs. Any individual subject to testing under this Policy shall be permitted to provide urine specimens in private, but subject to strict scrutiny by collection personnel so as to avoid any alteration or substitution of the specimen to be provided. Breath alcohol testing will likewise be done in an area that affords the individual privacy. In all cases, there will only be one individual tested at a time. Failure to appear for testing when scheduled shall be considered refusal to participate in testing, and will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment.

### **V. Reporting of Results**

All test results will be reported to the MRO prior to the results being issued to the County Employer. The MRO will receive from the testing laboratory a detailed report of the findings of the specimen. Each substance tested for will be listed along with the results of the testing. The County Employer will receive a summary report, and this report will indicate that the

employee passed or failed the test. All of these procedures are intended to be consistent with the most current guidelines for Medical Review Officers, published by the federal DHHS.

**VI. Positive Test Results**

Employees who are found to have a confirmed positive drug or alcohol test will be immediately taken off safety-sensitive duties and are subject to discipline up to and including termination.

**VII. Termination Notice**

In those cases where substance testing results in the termination of employment, all termination notices will list "misconduct" as the reason. Termination shall be deemed "for cause."

## Drug Free Workplace Policy Acknowledgement

As a condition precedent to my hiring, I hereby acknowledge that:

1. I understand and support the Employer's Drug Free Workplace Policy.
2. I agree to refrain from violating this policy while in the employ of Pickaway County.
3. I understand that the penalty for breach can be discharge and agree that is appropriate when supported by evidence.
4. I have been notified and agree that either prior to commencement of employment in a Safety Sensitive Position (as identified by the employer) but prior to completion of the probationary period I will be required to submit to a drug test which must be passed as a condition of permanent employment with Pickaway County.
5. I have been warned that drug testing of employees will be conducted where there is individual reasonable suspicion of drug or alcohol use.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Witness

## Drug Free Workplace Policy Receipt

This is to acknowledge that I have received on this date a copy of the Pickaway County Drug Free Workplace Policy which I understand is currently in full force and effect, and is applicable to all employees of the County.

\_\_\_\_\_

Date

\_\_\_\_\_

Employee Signature

\_\_\_\_\_

Witness