

Subject: Drug Free Workplace

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PURPOSE

The purpose of this policy is to establish rules governing the maintenance of a drug-free workplace. With respect to mandated drug and alcohol testing of employees who are required to have a commercial drivers license ("CDL"), this policy is intended to comply with the Omnibus Transportation Employees Drug Testing Act of 1991 and Title 49 Code of Federal Regulations, Parts 40, 382 and 391 Subpart H.

STATEMENT OF POLICY

The Pinal County Board of Supervisors is strongly committed to programs that promote safety in the workplace. Consistent with the recognition of the harmful effects of alcohol and controlled substance abuse the Board has pledged its full support to a policy of zero tolerance for the use, possession or distribution of drugs and alcohol in the workplace.

I. PROHIBITIONS

A. Alcohol and Controlled Substance

The use, including presence in the body, manufacture, possession or distribution of any controlled substance or alcohol, other than proper dosages of prescribed medication, by any employee on Pinal County property or while on County business is prohibited except 1) as part of a training exercise or criminal investigation authorized by the Pinal County Sheriff or County Attorney, 2) public or private events at the Pinal County Fairgrounds within the scope of authorized fairgrounds operations.

Any supervisor, manager or director who knowingly permits or requires an employee who is in violation of this policy to continue to work, shall be subject to disciplinary action up to and including termination of employment.

Reporting for work within four hours of consuming alcohol or with a blood alcohol concentration of .02 percent or higher is prohibited.

No employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

B. Job Applicants

Applicants for employment or reemployment in safety sensitive positions identified in this policy that test positive for alcohol or controlled substance, other than proper dosages of prescribed medication, or, who refuse to submit to such tests shall be eliminated from further employment consideration.

C. Over-the-Counter or Prescribed Medications

Employees who take over-the-counter or prescribed medications are responsible for being aware of any effect the medications may have on the performance of their duties. Employees must promptly report to their supervisors the use of medications likely to impair their ability to do their jobs. Employees tested under this policy for any reason, who are found to have a concentration of over-the-counter or prescribed medications that exceeds the level that would be expected, based upon the prescribed or recommended dosage, shall be subject to separation from employment.

D. Refusal to Submit to a Required Alcohol or Controlled Substance Test

Refusal to submit to any test authorized by this policy or failure to cooperate with any part of the testing process shall be considered a failure of the testing requirement.

II. DISCIPLINARY ACTIONS

A. Administrative Suspension with Pay

An employee under investigation for violation of this policy shall be placed on administrative suspension with pay. This would include situations that involve:

1. Failure to provide an adequate breath or urine sample;
2. Automobile accidents requiring testing coupled with evidence of alcohol or drug use;
3. Reasonable suspicion of alcohol or drug use in violation of this policy;
4. Altering or substituting a urine specimen.

B. Administrative Suspension without Pay

An employee shall be placed on administrative suspension without pay, pending review of the circumstances by the Human Resources Department, when there is evidence that the employee has:

1. Used alcohol or a controlled substance in violation of this policy;
2. Refused to submit to a test for alcohol or a controlled substance required by this policy;
3. Failed to cooperate with any part of the process of any test authorized by this policy.

C. Termination of Employment

An employee found to be in violation of this policy, as determined by the Appointing Authority, Director of Human Resources or a designee, shall be separated from employment with Pinal County.

An employee who fails to enroll in a substance abuse program within 72 hours of being placed on administrative suspension following a voluntary self referral shall be separated from employment with Pinal County.

D. Use of Leave Benefits

Vacation and compensatory time may be used by employees on administrative suspension without pay. Sick leave and donated leave may not be used.

III. VOLUNTARY SELF-REFERRAL AND FOLLOW UP

Employees with a drug or alcohol problem are encouraged to contact their supervisor or the Human Resources Department for possible referral to the Employee Assistance Program for professional help. All communications will be strictly confidential. Employees will not be subject to discipline for voluntarily acknowledging a drug or alcohol problem provided they enroll in a substance abuse program within 72 hours of being placed on administrative suspension following a voluntary self-referral. However, an employee may not exercise the provisions of this voluntary self-referral program after they have been notified of the requirement to submit to drug or alcohol testing.

An employee who enters treatment voluntarily will be placed on paid administrative leave for up to 30 calendar days. He or she must pass alcohol and/or controlled substance tests administered by Risk Management prior to reinstatement.

The employee shall be subject to unannounced follow-up alcohol and/or controlled substance testing administered by Risk Management. The number and frequency of such follow-up testing shall be directed by a substance abuse counselor and shall consist of at least six tests in the first 12 months following the employee's return to duty. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. Failure of a follow-up alcohol or controlled substance test will result in separation from employment.

IV. PERSONS SUBJECT TO TESTING

The Post-Accident and Reasonable Suspicion provisions of this policy shall apply to all employees. The pre-employment and random testing provisions shall apply only to employees holding, and applicants for, the following safety-sensitive positions:

Positions That Require a Commercial Driver's License ("CDL")

Assistant Highway Foreman	0441
Automotive Mechanic	0445
Highway Foremen	0435
Highway Maintenance Supervisor	0440
Operator – Basic	0430
Operator – General	0431
Operator – Certified	0432
Evidence/Tow Truck Operator	0433

Safety-Sensitive Positions That Do Not Require a CDL

Animal Control Officer	0804
Animal Control Officer II	0805
Animal Control Supervisor	0806
Automotive Shop Supervisor	0427
Electrician	0449
Facility Management Worker I	0420
Facility Management Worker II	0421
Facility Management Worker III	0422
Facilities Foreman	0418
Heavy Equipment Mechanic	0446
HVAC Worker I	0465
HVAC Worker II	0466
Maintenance Worker I	0410
Maintenance Worker II	0411
Maintenance Worker III	0412
Maintenance Supervisor	0416
Para-Transit Driver	0429
Para-Transit Coordinator	0685
PCSO Captain	0834
Chief Deputy Sheriff	1005
PCSO Corporal	0831
Detention Officer	0817
Detention Corporal	0818
Detention Sergeant	0821
Detention Lieutenant	0822
Detention Captain	0824
Deputy Sheriff	0830
Dispatch/Communications Specialist	0810
Dispatch/Communications Supervision	0812
Investigator	0622
Investigator	0849
Identification Technician	0815
Lieutenant	0833
Major	0835
Sergeant	0832

The list of safety-sensitive positions may be revised by the Director of Human Resources.

V. TRAINING

Supervisors of employees in positions that require a CDL must receive a minimum of two hours of training annually. Such training shall include:

1. Ways to identify an at-risk employee;
2. Characteristics of various drugs;
3. Drug and alcohol testing;
4. How to confront and refer an employee.

VI. REQUIRED TESTS

Controlled substance testing shall be performed on urine or blood by a certified provider. Alcohol testing shall be performed by Evidential Breath Test (EBT) or from blood.

VII. TESTING PROCEDURES

A. Pre-Employment Testing:

1. Pre-employment testing shall be conducted after an offer of employment has been extended
2. Job Applicants: Positive test results for drugs or alcohol with a concentration of .02 percent or greater will eliminate any employment candidate from further consideration.
3. Reemployment: Individuals who leave employment for 30 days or more shall be treated as a job applicant regarding testing requirements.

B. Post Accident Testing for Work-Related Accidents

1. Accidents Requiring Testing

- a. Any accident involving a human fatality;
- b. Any accident involving bodily injury requiring immediate medical treatment away from the scene, and there is reasonable suspicion the employee caused or contributed to the cause of the accident;
- c. A vehicle is rendered not drivable as a result of the accident and there is reasonable suspicion that the employee caused or contributed to the cause of the accident.

2. Time of Tests

When a required drug or alcohol test has not been administered within the time frames below following the accident, the following actions shall be taken:

Time Elapsed	Action Required
2 Hours	If the employee has not submitted to an alcohol test at this time, the Supervisor shall prepare a report stating the reason a test was not promptly administered. The report shall be forwarded to Risk Management for filing.
8 Hours	If the employee has not submitted to an alcohol test at this time, the County shall cease attempts to administer alcohol test, and the Supervisor is to prepare a report as described above. The report shall be forwarded to Risk Management for filing.

32 Hours

If the employee has not submitted to a controlled substance test at this time, the County shall cease attempts to administer the test, and the Supervisor is to prepare a report as described above. The report shall be forwarded to Risk Management for filing.

4. Post Accident Test Procedure

- a. All injuries shall be treated first.
- b. The employee and the supervisor shall cooperate with all law enforcement officers.
- c. The supervisor must contact his or her superior or the Risk Manager prior to taking any action related to drug testing.
- d. The supervisor shall explain to the employee that testing is required to ensure that drugs or alcohol were not a contributing factor in the accident.
- e. If the employee refuses to submit to the required testing, the supervisor shall inform him or her that continued refusal to submit to testing will be considered a failure of the testing requirement.
- f. If the employee agrees to the testing, a supervisor will transport the employee to the designated collection site. The supervisor will remain at the collection site with the employee, but shall not go into the examination room or sample collection room.
- g. After the sample collections are obtained, the supervisor shall allow the employee to return to duty if, as determined by the supervisor, there is no suspicion that drugs or alcohol were a contributing factor in the accident and if the employee's physical condition allows.
- h. If there is reason to believe that the employee may have been under the influence of drugs or alcohol, he or she shall be placed on administrative suspension with pay pending receipt of test results and a review of circumstances. The employee shall be offered transportation home.
- i. If the results of the tests are negative the employee shall be reinstated.
- j. If the results of the tests are verified positive the employee will be placed on administrative suspension without pay pending a review of the circumstances by Human Resources.

C. Random Testing For Employees Subject to Random Testing

Risk Management shall conduct unannounced random selection for controlled substance and alcohol testing. A statistically-verifiable, computer-generated, random selection process shall be used to select the appropriate number of employees from each pool to be tested. Risk Management may also test all members of a pool at one time on an annual basis.

Any selected employee who is absent from duty on the date designated for random testing will not be informed of the selection, and will automatically be added to the following testing period. All employees shall remain in the pool at all times, regardless of whether or not they have been previously selected for testing.

If the results of the tests are verified positive the employee will be placed on administrative suspension without pay pending a review of the circumstances by Human Resources and shall be offered transportation home.

D. Reasonable Suspicion Testing

Reasonable suspicion of controlled substance or alcohol use by an employee may be established by observation or report of the employee's behavior, admission by the employee, physical signs of being under the influence, or newspaper articles indicating drug involvement and/or arrest. Upon determining that reasonable suspicion exists the employee shall be required to submit to drug and alcohol testing.

The decision to require testing for reasonable cause shall, as a general rule, be based upon objective observation by two or more supervisors or County officials. Such observation shall be documented on a Reasonable Suspicion Observation Form. If observation by two supervisors or County officials is not feasible the observation of one supervisor or official will be acceptable.

Once a determination has been made that reasonable suspicion exists, the employee shall be informed that he or she is required to submit to drug and alcohol testing and the reasons for such action. This meeting shall take place in privacy. The employee shall be required to sign a Drug and Alcohol Testing Consent Form. Refusal to sign the form shall be considered a failure of the testing process. Both Forms shall be sent to the Human Resources Department.

If the employee agrees to the testing, a supervisor will transport the employee to the designated testing facility collection site. The supervisor will remain at the collection site with the employee, but shall not go into the examination room or sample collection room.

After the tests are conducted the employee shall be placed on administrative suspension with pay pending the test results and shall be offered transportation home. If the results of the testing are negative the employee will be reinstated. If the results of the tests are verified positive the employee will be placed on administrative suspension without pay pending a review of the circumstances by Human Resources.

VIII. CONTROLLED SUBSTANCE TESTING PROCEDURES

A. Urine Sample Collection:

The County shall contract with an approved laboratory to perform all urine sample collections. Employees must allow collection site personnel to inspect personal belongings that may have been brought to the site. The "**split sample**" method of collection shall be used.

B. Insufficient Urine Sample:

If the employee is unable to provide an adequate amount of urine within the time designated in 49 CFR Part 40 testing shall be discontinued and the Risk Management Department or Human Resources Department in cases of pre-employment tests, and the Medical Review Officer ("MRO") shall be notified.

The MRO shall refer the employee for a medical evaluation, the cost of which is to be paid by the employee, to determine whether or not the insufficient specimen constitutes a refusal to test. The employee shall be placed on administrative suspension with pay until a decision is made.

C. Altered or Substituted Specimen:

Altering or substituting a urine specimen shall be considered a failure of the testing process. The employee shall be placed on administrative suspension with pay pending review of the circumstances by the Human Resources Department and shall be offered transportation home.

D. Notification of Test Results:

If a test is positive the MRO shall contact the employee directly by telephone to discuss the test result and to provide an opportunity for the employee to explain. If the MRO is unable to reach the employee he or she shall notify the Risk Management Department or Human Resources Department so that the employee's supervisor may be directed to have the employee contact the MRO. If the County is unable to contact the employee after making a reasonable effort, or, if the employee fails to contact the MRO, the employee shall generally be deemed to have failed the test.

Upon notification by the MRO that the primary specimen results were positive the employee shall be placed on administrative suspension without pay pending the results of the test of the split specimen.

E. Split Specimen Test

The employee shall have seventy-two (72) hours in which to request a test of the split specimen at the **employee's own expense**. The employee will be required to provide payment for this test to the Risk Manager. Performance of this test shall not be conditioned upon prior payment by the employee.

If the employee requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a verified positive test, the MRO shall direct the laboratory in writing to provide the split specimen to another laboratory for analysis. If the analysis of the split specimen fails to confirm the presence of drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable or inadequate the original test results shall be disregarded.

The test results of a split specimen shall be finale. If the results are negative, the employee shall be reinstated with back pay.

IX. ALCOHOL TESTING PROCEDURES

Alcohol testing shall be conducted through the use of a certified Breath Alcohol Technician (BAT) using an Evidential Breath Testing Device (EBT). Employees shall, as a general rule, be tested for alcohol at locations that prevent unauthorized persons from seeing or hearing test results. The BAT shall complete Step 1 on the Breath Alcohol Testing Form. The employee shall then complete Step 2 and sign the certification. Refusal by the employee to sign this certification shall be considered a failure of the testing requirement.

Positive tests shall be immediately followed by a confirmation test. The BAT shall notify the Risk Management Department or the Human Resources Department of positive test results immediately via e-mail and telephone in order to prevent the employee from performing safety-sensitive functions.

Inability to Provide Adequate Amount of Breath: If an employee is unable to provide an adequate amount of breath to complete a test:

1. The BAT shall immediately inform the Risk Management Department.
2. Risk Management shall direct the employee to a licensed physician in order to obtain a medical evaluation. The evaluation shall be completed within five working days of the attempted test.
3. The employee shall be placed on administrative suspension with pay pending the results of the medical examination and shall be offered transportation home.
4. If the physician states in writing that a medical condition precluded the employee from providing an adequate amount of breath, the employee shall not be deemed to have refused to take the test. The employee shall be returned to work status.

5. If the physician is unable to provide a written opinion that a medical condition precluded the employee from providing an adequate breath sample the employee shall be deemed to have refused to take the test.

X. MAINTENANCE OF RECORDS

All records are confidential and shall be filed in an area with controlled access. Except as required by law or unless expressly authorized by the employee through the provision of a signed release, designated employee information shall not be released.

A. Release of Information: The County shall release information regarding a designated employee's alcohol and controlled substance test records:

1. As directed by a specific, written consent of the employee;
2. In accordance with legal actions or other proceeding relating to a benefit sought by the employee.
3. In compliance with requests from the DOT or National Transportation Safety Board;

B. Records Retention: The Risk Management Department shall retain records of:

1. Drug and alcohol tests for at least one year and shall retain records of failed tests for at least five years;
2. The selection of employees to be tested for two years;
3. Previous employers for three years.

XI. DEFINITIONS

Adulterated Specimen: A urine specimen containing an unexpected substance or an extraordinary concentration of a substance

Alcohol Use: The consumption of any beverage, or mixture, including medication, containing alcohol

Confirmation Test: A second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test

Controlled Substance: A drug, substance or immediate precursor identified, defined or listed in Arizona Revised Statutes, title 36, chapter 27, article 2; including, but not limited to cannabis, heroin, cocaine, morphine, phencyclidine (PCP), amphetamines, barbiturates and hallucinogens

Evidential Breath Testing Device: A device approved by the National Highway Traffic Safety Administration for the evidential testing of breath

Medical Review Officer ("MRO"): A licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret, evaluate and verify an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information

Substance Abuse Counselor: A certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors)

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Under the influence: Apparent signs of chemical misuse such as staggering, reddened eyes, odor of chemicals, nervousness, restlessness, falling asleep or dozing at work, memory loss, abusive language or other abnormal behavior