



**ADMINISTRATIVE POLICIES**

<b>SECTION:</b>	Health, Safety, & Security		<b>POLICY #:</b>	518	
<b>TITLE:</b>	Drug and Alcohol Free Workplace		<b>PROCEDURE #:</b>	518-A	
			<b>ORDER #:</b>	14-18	
<b>DEPT:</b>	Business Services		<b>PROGRAM:</b>	Risk Management	
<b>ADOPTED:</b>	4/03	<b>REVIEWED:</b>	04/22	<b>REVISED:</b>	04/22

**PURPOSE:** The purpose of this policy is to establish guidelines for creating and maintaining a drug and alcohol free workplace that encourages a safe, healthy, and productive work environment, and promotes efficient and safe public services.

**AUTHORITY:** The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interests and business of the County under ORS 203.010, 203.035, 203.111, and 203.230.

The Marion County Board of Commissioners expresses the governing body’s formal, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. The policy statements serve to provide rules for public officials on the conduct of Marion County business.

The Marion County Board of Commissioners’ Administrative Policies and Procedures manual outlines the forms and process through which the board takes official action on administrative policy. It is the official record of Marion County administrative policy.

Statutory Authority: ORS 659A.127; Drug Free Workplace Act of 1988, P.L. 100-690, Title V, Subtitle D, § 5151; 41 USCS §§ 701 et seq.

**APPLICABILITY:** All Marion County employees.

**GENERAL POLICY:** In compliance with the provisions of the federal Drug Free Workplace Act of 1988, Marion County expects its employees to report to work in a condition to perform in a safe, effective, and efficient manner free from drug and alcohol use.

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### **DEFINITIONS:**

Alcohol: Ethyl alcohol in any form, including all beverages, liquids, and powders containing ethyl alcohol.

Breath Alcohol Test (breathalyzer): A test that measures the amount of alcohol in the exhalation. This measurement is used to estimate the blood alcohol content.

Controlled substance: All forms of narcotics, depressants, stimulants, analgesics, hallucinogens, and cannabis, as classified in Schedules I - V under the Federal Controlled Substances Act (21 USC 811-812) as modified by ORS 475.035, whose sale, purchase, transfer, use, or possession is prohibited or restricted by law.

County premises: All property and facilities owned, leased or rented by Marion County including grounds, buildings, vehicles and other equipment, or any site where an employee is performing work for the County.

Drug paraphernalia: All equipment, products, and materials of any kind, as more particularly defined in ORS 475.525, which are or can be used in connection with the production, storage, delivery or use of drugs.

Drug test: A certified laboratory analysis of a urine or blood sample to determine the presence of certain prohibited substances or their metabolites in the body.

Drugs: Controlled substances, designer drugs (drug substances not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration), and over-the-counter preparations available without a prescription from a medical doctor that are capable of impairing an individual's mental or physical ability to safely, efficiently, and accurately perform work duties. This includes marijuana, cannabis, cannabis extract or synthetic cannabis that is otherwise lawful to use under state law including being obtained through a prescription.

Employee: Includes all full time and part time employees, trial service employees, temporary employees, and interns.

Medical review officer (MRO): A medical doctor, trained in toxicology, who contracts with employers and laboratories primarily to review non-negative preliminary drug test results with employees. The MRO determines whether the results are likely to have been caused by factors other than substance abuse.

On duty: Anytime an employee is engaged in tasks and activities on behalf of the county, or the period of time before or after work when an employee is wearing a uniform, badge, or other employee insignia provided by the County, or operating a vehicle or equipment identifying Marion County.

Prescription medication: A medication for which an individual is required by law to have a valid, current prescription from a health care provider.

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Reasonable suspicion: A set of objective and specific observations or facts that lead a supervisor to suspect that an employee is under the influence of drugs or alcohol.

Refusal to test: Refusing to take a drug or alcohol test required under this policy, including but not limited to: adulteration, substitution or tampering with a sample; failing to cooperate with testing personnel or protocols; or leaving the testing location without permission before the test is conducted or completed.

Substance abuse professional: A licensed physician, or licensed or certified psychologist, social worker, employee assistance professional, addictions counselor, or other medical professional with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug related disorders.

Under the influence: When testing indicates the presence of any detectable level of drugs or alcohol.

### **POLICY GUIDELINES:**

#### **1. RESPONSIBILITIES**

##### **1.1. Employees**

- 1.1.1. Shall comply with legally mandated occupational requirements whether or not they are specifically included in this policy.
- 1.1.2. Must understand and be aware of the effects of any prescription or nonprescription medications that they are taking.
- 1.1.3. Must notify their supervisor prior to beginning work when taking any prescription or nonprescription medication that may interfere with the safe and effective performance of work tasks, including the operation of equipment or vehicles.
- 1.1.4. In an emergency callback, the employee shall notify their supervisor if the employee reasonably assumes they are under the influence of drugs or alcohol when requested to come in to work.

##### **1.2. Department Heads, Managers, and Supervisors**

- 1.2.1. Shall enforce this policy, including investigating and reporting employees reasonably suspected of being under the influence of drugs or alcohol to the appropriate departmental management and human resources.
- 1.2.2. Must investigate any question that arises about an employee's fitness to work due to the use of prescription or nonprescription medications.
- 1.2.3. Must refer any employee who appears to be under the influence of drugs or alcohol for reasonable suspicion testing.
- 1.2.4. Must administer the drug testing process for employment applicants based on the criteria outlined in this policy.

##### **1.3. Prohibited Conduct**

- 1.3.1. Reporting for duty or being on Marion County premises under the influence of drugs or alcohol is prohibited.
- 1.3.2. While on duty or on Marion County premises, being under the influence of prescription or nonprescription medications that impair an employee's ability to safely perform the

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- duties of their position or compromise the health and safety of others in the workplace is prohibited.
- 1.3.3. While on duty or on Marion County premises, employees shall not possess, consume, use, manufacture, distribute, cause to be brought, dispense, purchase, or sell alcohol, or alcohol containers.
    - 1.3.3.1. An exception is made when the alcohol containers are sealed and in a private vehicle or are purchased or collected in conjunction with a Marion County authorized fundraiser.
  - 1.3.4. While on duty or on Marion County premises, employees shall not possess, consume, use, manufacture, distribute, cause to be brought, dispense, purchase, or sell drugs or drug paraphernalia except when lawfully required as part of the job.
  - 1.3.5. While on duty or on Marion County premises, employees shall not distribute, dispense, purchase, or sell prescription medications except when lawfully required as part of the job.
  - 1.3.6. Supervisors must be notified when alcohol or alcohol containers, or drugs or drug paraphernalia are brought onto Marion County premises.
- 1.4. Basis for Testing
- 1.4.1. Marion County conducts drug and alcohol testing for the following situations.
    - 1.4.1.1. Reasonable suspicion of drug or alcohol use.
    - 1.4.1.2. Post-offer drug testing for applicants of specific job classifications/positions.
      - 1.4.1.2.1. All employees applying internally for a different Marion County position will be subject to post-offer testing on the same basis using the same procedures and methods as outside applicants for safety sensitive or special needs positions.
    - 1.4.1.3. Random drug testing in compliance with U.S. Department of Transportation (DOT) regulations, as outlined in [Policy 511](#) and [Procedure 511-A](#), Commercial Vehicle Operator Alcohol and Controlled Substance Testing.
      - 1.4.1.3.1. For employees in the Marion County DOT pool, operating under a Commercial Driver License (CDL).
    - 1.4.1.4. Before returning to work after a confirmed positive test result in an employment-related drug or alcohol test for being under the influence of alcohol or drugs.
    - 1.4.1.5. As part of a program of unannounced follow-up testing provided for in a “last chance agreement.”
    - 1.4.1.6. As part of post-accident testing
      - 1.4.1.6.1. Employees may be tested following a work-related accident resulting in a fatality or injury that involves hospitalization.
      - 1.4.1.6.2. CDL holders are subject to DOT post-accident testing requirements. CDL holders must comply with the non-DOT testing requirements in this policy.

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### 1.5. Post-Offer Drug Tests

- 1.5.1. Conducted for safety sensitive or special needs job classifications as listed on the Safety Sensitive/Special Needs List in the Drug and Alcohol Testing section of the Marion County HR Forms website. <http://intra.co.marion.or.us/HR/Pages/hrforms.aspx>
- 1.5.2. Safety sensitive job classifications meet at least one of the following criteria.
  - 1.5.2.1. SS1- Requires the carrying or use of a firearm.
  - 1.5.2.2. SS2- Public Works classifications that operate medium or heavy equipment.
  - 1.5.2.3. SS3- Involves or could involve driving a vehicle that requires a CDL under DOT standards.
  - 1.5.2.4. SS4- Involves or could involve operating a ferry or potential back-up to the operation of a ferry under Coast Guard standards.
  - 1.5.2.5. SS5- Involves safety tasks that pose a great danger to the public or have responsibilities significantly affecting the safety of the public.
  - 1.5.2.6. SS6- Involves high risk safety tasks that can be life threatening.
- 1.5.3. Special needs job classifications meet at least one of the following criteria.
  - 1.5.3.1. SN1- Involved in drug counseling or has direct service in drug and alcohol programs.
  - 1.5.3.2. SN2- Has access to or handling of controlled substance, contraband, or criminal evidence.
  - 1.5.3.3. SN3- In a program or specific worksite that has a documented history of violating the drug and alcohol policy.
  - 1.5.3.4. SN4- Has access to or responsibility for vulnerable clients or individuals.
  - 1.5.3.5. SN5- Responsible for the apprehension, prosecution, or disposition of adult or juvenile offenders under criminal law.
  - 1.5.3.6. SN6- Responsible for adults in custody, parolees, and detention juveniles, in addition to the safety and security of the corrections facility and juvenile detention facility.

### 1.6. Reasonable Suspicion Testing

Conducted if there is evidence that an individual is or has been under the influence of drugs or alcohol while on duty. Reasonable suspicion must be based upon specific observations as listed in the Reasonable Suspicion Guide for Supervisors. Contact Human Resources or Risk Management for details. An employee shall not refuse to submit to a test for alcohol or drugs if it has been determined by two supervisors or managers trained in reasonable suspicion investigation and procedures that there is reasonable suspicion the employee is under the influence of drugs or alcohol.

- 1.6.1.1. Refusal to submit includes, but is not limited to:
  - 1.6.1.1.1. Refusing an order to take a required test.
  - 1.6.1.1.2. Inability to provide a urine specimen or breath sample without a valid medical reason, confirmed by a physician.
  - 1.6.1.1.3. Tampering, adulterating, or substituting a specimen or any other attempt to defeat or obstruct a drug or alcohol test.
  - 1.6.1.1.4. Leaving the collection site before the drug or alcohol testing process is complete.
  - 1.6.1.1.5. Failing to permit an observed or monitored collection when required.

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- 1.6.1.1.6. Failing to take a second test when required.
    - 1.6.1.1.7. Failing to cooperate with any part of the testing process.
  - 1.6.2. The County will provide training to supervisors and managers on establishing reasonable suspicion and the nature of alcohol and drug dependency.
    - 1.6.2.1. Only supervisors or managers that have been trained in detecting reasonable suspicion are authorized to investigate and refer employees for testing.
  - 1.6.3. If an employee is thought to be under the influence of drugs or alcohol, two supervisors or managers that have been trained in reasonable suspicion, must follow Procedure 518-A to determine if the employee should be tested.
- 1.7. Testing Methodology
  - 1.7.1. Alcohol testing will be conducted by use of a breathalyzer, blood test or urine test as specified by the county or the applicable collective bargaining agreement.
  - 1.7.2. Drug testing shall be conducted by selected laboratories which are licensed and operated in accordance with ORS 438.010 and OAR 333-24-305 through 350.
  - 1.7.3. Testing procedures for all employees and applicants will be governed by industry practices for non-DOT testing. These standards include, but are not limited to, standards governing sample acquisition, chain of custody, laboratory selection, testing methods and procedures, and verification of test results.
  - 1.7.4. Drug and alcohol tests shall be paid for by Marion County and conducted according to this policy and its accompanying procedure.
- 1.8. Notification of Felony or Conviction
  - 1.8.1. Employees shall promptly and fully disclose to their supervisor as soon as possible but no later than the next working day:
    - 1.8.1.1. All drug or alcohol-related arrests, citations, convictions, guilty pleas, no contest pleas, or diversions that resulted from conduct which occurred while the employee was on duty, on Marion County property, in a Marion County vehicle, or in a personal vehicle on Marion County business.
    - 1.8.1.2. Any other violation of laws regulating the use of alcohol and controlled substances that adversely affects an employee's ability to perform essential job functions, including loss or limitation of driving privileges when the employee's job is identified as requiring a valid driver's license or loss or limitation of any other certification or license required by the employee's position or job duties.
- 1.9. Disciplinary or Disqualifying Actions
  - 1.9.1. Employees who violate this policy shall be subject to discipline in accordance with the appropriate collective bargaining agreements or personnel rules.
  - 1.9.2. Employees will be held fully accountable for their on-duty behavior.
  - 1.9.3. Employees will not be subject to discipline for seeking treatment for drug or alcohol dependency. Seeking treatment will not mitigate discipline for rule or policy violations or other unacceptable conduct caused by drug or alcohol dependency. Applicants who

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refuse to test post-offer or who fail the required drug test shall be disqualified from consideration for employment or placement.

- 1.9.4. If an employee or applicant disagrees with the results of a drug or alcohol test, the employee or applicant may request the sample be retested at the employee's or applicant's expense.
    - 1.9.4.1. The request for retesting must be submitted in writing to the testing facility and Marion County Human Resources within three (3) business days of receiving the original test results.
    - 1.9.4.2. The result of any retest will be deemed final and binding and not subject to any further test.
    - 1.9.4.3. Failure to make a timely written request for a retest shall be deemed an acceptance of the original test results.
    - 1.9.4.4. If an employee requests a retest, disciplinary action shall be stayed pending receipt of the results of the retesting. The employee may be placed on administrative leave pending results of retesting.
  - 1.9.5. In instances in which the County determines that a regular employee's conduct warrants termination and the employee is diagnosed as having an alcohol or chemical dependency condition by a substance abuse professional, the County may offer the employee continued employment under the terms of a last chance agreement.
- 1.10. Assistance
- 1.10.1. Marion County recognizes that alcohol and drug abuse and addiction are treatable illnesses. Early intervention and support improve the success of rehabilitation. The Employee Assistance Program is a free and confidential benefit that can assist employees and their eligible family members with drug and alcohol related issues.
  - 1.10.2. Information about the Employee Assistance Program can be found at: <https://www.co.marion.or.us/HR/Benefits/Pages/nonmclea.aspx>The County encourages employees to seek help from a qualified professional to assess the seriousness of personal or family related problems with drugs or alcohol. Professionals in this area can identify appropriate sources of help.

## **2. EXCEPTIONS**

There are no exceptions to this policy.

## **3. IMPLEMENTATION**

- 3.1. As directed by the Board of Commissioners, Risk Management and Human Resources have the authority and responsibility to assure compliance with this policy by all Marion County departments.
- 3.2. Department heads have the authority and responsibility to implement this policy within their respective departments.

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4. PERIODIC REVIEW

This policy will be reviewed by Risk Management and Human Resources at least every three years, or as local, state, and federal regulations are revised and necessitate a change in the policy.

Adopted: 06/03

Revised: 12/08  
02/14  
09/18  
04/22