

HR Standard 1.17

DRUG FREE WORKPLACE

PHILOSOPHY

Public Children Services Agencies believe that it is very important to provide a safe workplace for all employees. Agencies should be addressing the problem of substance abuse because it negatively affects the workplace and undermines the mission of safe children, stable families, and supportive communities. PCSAs should be concerned with the health and well being of all staff members, and should not condone or tolerate behavior on the part of an employee that relates to substance use. This includes, but is not limited to:

- a.) Use of illegal drugs;
- b.) Abuse or misuse of legal drugs, (prescription or over the counter medications)
- c.) Use of alcohol;
- d.) Sale, purchase, transfer, use or possession of any illegal drug, or prescription drugs obtained illegally;
- e.) Arrival at work or return to work under the influence of any drug (legal or illegal) or alcohol.

Behavior related to substance use can endanger all employees, not just substance users. Agencies should strive to protect employees from the actions of substance users that may cause accidents and injuries, which affects the employee's service to the clients of which they serve.

OUTCOME

A safe workplace and a healthy work force contributes to the attainment of the mission of the Public Children Services Agency.

APPLICATION

Agencies should develop a Drug-Free Workplace policy which deals with paragraph (F) (2) of 4123-17-58 of the Ohio Administrative Code, as administered by Ohio Bureau of Worker's Compensation (BWC). The following as an example adopted by _____ County Commissioners's. Where the two sections are similar there will be no notation and both phases will be covered. In those areas where there are differences the differences will be explained.

The _____ County Drug-Free Workplace Policy covers five key parts which are:

1. A written policy that clearly outlines the program and the benefits to County employees.

2. Substance awareness education for all employees.
3. Training for supervisors to help them understand the program and their responsibilities, especially in the area of testing and making referrals for assistance.
4. Drug and alcohol testing, which is considered the most effective way to change substance use behaviors.
5. Employee assistance for those who come forward voluntarily to share a substance use problem or, at the discretion of the Appointing Authority, those who test positive for drugs or alcohol.

Definitions

1. “Drug-Free Workplace Program” or “DFWP Program” means the bureau’s (BWC) rate to eligible employers for implementing a program addressing workplace use and abuse of alcohol and other drugs, including prescription, over-the-counter, and illegal substances.
2. “Prescription Drug Abuse” means the over-use of over-the-counter drugs or medication, prescribed by a licensed medical practitioner, by the party issued the prescription or by someone other than the person for whom they were prescribed or for purposes other than those for which they were prescribed or manufactured. The employee should notify their supervisor of any prescription drug that could adversely affect their job performance.
3. “Accident” or “Incident” means an unplanned, unexpected, or unintended event which occurs on the employer’s property, during the conduct of the employer’s business, or during working hours, or which involves employer’s supplied motor vehicles, or motor vehicles used in conducting the employer’s business, or the use of other equipment within the scope of employment.
4. “Reasonable Suspicion” testing will be conducted when agency management and/or supervisors have reasonable suspicion through direct observation that an employee may be under the influence of an unacceptable substance (i.e. drugs and/or alcohol)
5. “Random Selection” means drug and alcohol testing of an employee, selected from a pool of employees, made regardless of whether any suspicion illegal drug use exists. This testing is made without advance notice to the employee, and is based upon an objective and non-discriminating computer program, operated and maintained by an outside contractor. In _____ County, this section covers those employees who are required to have a Commercial Driving License (CDL) and/or who are in a safety-sensitive position.
6. “Safety-Sensitive Position or Function” means any job position, or work-related

function, or job task, designated as such by the employer, which through the nature of the activity could be detrimental, or dangerous, to the physical well being of the employee, co-workers, or the general public, through a lapse in attention or judgement. The safety-sensitive position or function may be seriously jeopardized or compromised through a lapse in attention or judgement.

7. “Supervisor” means an employee who supervises others in the performance of their jobs, has the authority and responsibility to initiate reasonable suspicion testing, when appropriate, and has the authority to recommend or perform hiring and firing procedures.
8. “Pre-Employment Testing” means all new employees shall be required to submit to a drug test. The drug test should be given prior to start of employment, but under no circumstances should the test be delayed more than thirty days after the person starts to work for the County. Please see the Policy on Pre-Employment. A potential new employee who is a minor must have a signed release by the parent or guardian. If the minor is part of a cooperative employment program, the school will be notified of any positive test. In all cases, the parent or guardian will be given a copy or the results, if requested.
9. “Submit to Testing” means that any employee who refuses, or fails to report, when ordered, within the time limits, to a test site, will be considered as taking the test and having a positive test result. A positive test result can result in discipline up to and including removal. Positive test results will be covered later in another section.
10. “Testing Site” means that the testing site used by the County, will be federally certified to do the drug testing. The testing site collecting and testing breath specimens, shall hold all legally necessary licenses. Collection of samples shall be conducted in a manner consistent with United States Department of Health and Human Services (DHHS) guidelines.
11. “Testing Standards” means the standards used for testing for drugs shall be those DHHS standards in effect at the time the test is administered. The testing standards shall also include a Medical Review Officer (MRO). The testing site will select the MRO.
12. “Drug Test” means that in addition to alcohol, all employees and potential employees, are subject to a nine (9) drug-screening test. The drug test will be in compliance with DHHS, and subject to change to be in compliance with DHHS standards.
13. “Positive Drug Test” means that the result of the drug test is positive. Upon this result, at the discretion of the Appointing Authority, the employee will be placed on Leave of Absence, or in a non-sensitive position. If placed on Leave of Absence, the Appointing Authority may, at their discretion, put the employee in a “No-Pay” status,

or they may allow the employee to use accrued leaves. The Appointing Authority may also discipline the employee, up to and including removal, depending on the seriousness of the offense. In case of Pre-Employment Testing, a positive test will result in the “Conditional Employment Offer” being withdrawn. Employees who test positive are encouraged to enter a Drug-Free Program, through the Employee Assistance Program (EAP).

14. “Follow Up or Return to Work” has two meanings. The first is when an employee returns from EAP Drug-Free Program. Before being reinstated to full status, the employee must have a negative drug test. At the discretion of the Appointing Authority, the employee may be required to take up to six (6), but not less than four (4), additional tests, plus random drug selection tests in a calendar year from the date the employee returned to full status. The second meaning for “return to work” is when an employee returns to work after an extended leave of absence.
15. “Second Positive Test” means that any employee with a second positive test result will have their employment terminated.
16. “Employee Assistance Program” is a program that gives employees the opportunity to receive information about substance use as a problem, and how to, and where to get help for themselves, and their families.

Implementation

The provisions of this policy apply equally to all employees, at every level, within the County. Many of the terms used appear in “Definitions” section of this policy.

A. EMPLOYEES TO BE TESTED

1. Pre-employment testing for all employees (full and part-time)
2. Post Accident/Incident Testing
Employees are required to undergo drug and/or alcohol testing following their involvement in a work-related accident.
3. Reasonable suspicion-where the supervisor has reasonable suspicion that an employee is under the influence of illegal drugs or alcohol while on County premises or conducting County business.
4. Random Testing:
 - (A) CDL License in compliance with the U.S. Department of Transportation guidelines;
 - (B) Safety Sensitive position, or function, subject to random testing for

drugs and alcohol in compliance with 4123-17-58 of the Ohio Revised Code, and/or other employees, at the discretion of the Appointing Authority.

5. Return to Work:

- (A) Return to work after extended, approved, leave of absence;
- (B) Return to work after completion of a Drug Cessation Program after a positive drug test for any reason as stated above. Employees that have completed the program, and have tested negative, are subject to testing up to six (6) times, but not less than four (4), within the first year after completion of the program (at the discretion of the Appointing Authority) in addition to testing by random selection.

6. Prescription drug abuse

Periodic-Other State, Federal or Local agencies may require additional tests for employees holding certain certifications that require a special testing sequence. _____ County will comply with the special testing required by other governmental agencies.

B. Positive Test

- 1. Any employee who refuses to take a scheduled test at the time and place assigned, or any employee who attempts to alter the sample.
- 2. An employee who has a positive test will encouraged to take part in an Employee Assistance Program (EAP) for Drug and Alcohol Abuse. At the discretion of the Appointing Authority, the employee will be placed on Leave of Absence without/with pay (medical leave/vacation/compensatory time). The employee may also remain employed, at the discretion of the employer, in a non-safety sensitive position or position not requiring a CDL. In any event, the second offense will result in termination of employment of the employee.
- 3. The criminal implication of the drug involved may result in discipline up to and including employment termination for the first occasion.

C. Employee Initiated

When an employee initiates an EAP on their own, and notifies the Appointing Authority prior to and not as the result of a drug test, the Appointing Authority will encourage the employee to follow Section Positive Test, Item 2 (above).

D. Arrest for Any Drug Charge

The employee will notify the Appointing Authority as soon as possible on the next assigned shift (or first overtime worked, which ever comes first) of their arrest for any drug charge.

Employee Assistance Program

The _____ County Commissioners believe in offering help to employees with a substance use problem. To help employees who come forward voluntarily, and for those who test positive in violation of the County Policy, the Commissioners have established a relationship with an employee assistance provider (this is a one time evaluation). The prescribed rehabilitation will be covered in the Health Insurance that employees are offered by the County. The County is not required to provide rehabilitation, pay for treatment, or reinstate the employee to their original position.

If an employee has a confirmed positive alcohol and/or drug test while enrolled in, or subsequent to, completion of the rehabilitation program, they will be considered as having a second positive test and will be subject to termination of employment. Nothing in the above will absolve the employee from any criminal charges, which could lead to termination of employment.

In order to maintain confidentiality during the counseling or rehabilitation program, the County will be informed whether the employee is attending sessions, and actively participating but will not receive information about the specifics of the counseling. Nothing in this session is applicable to new or conditional offer of employment.

Testing and Testing Facility

A. General

The drug and alcohol testing for the County shall be conducted by trained collection personnel who meet quality assurance and chain-of-custody requirements for urine collection procedures, breath alcohol testing. The collection site that coordinates the testing procedure, as required by the Federal Department of Health and Human Services (DHHS) certified laboratories, will meet strict confidentiality requirements.

This agency will conduct a nine (9) panel drug testing. The levels for five (5) drugs tested will meet the standards for CDL as set by the Federal Department of Transportation/Federal Highway Administrative as established by DHHS. The County will follow the guidelines offered by DHHS certified labs for the other drugs tested.

The County also expressly reserves the right to add or delete substances on the list, set forth in this section. These changes may be made if, at the County's discretion, they become warranted by changing nature of abused substances, or if mandated by

changes in existing Federal, State, or Local regulations or legislation.

B. Pre-Employment Post Offer Testing

At an applicant's first interview, the agency will notify the applicant that any offer of employment from the County shall be contingent upon, among other things, satisfactory completion of a post-offer and pre-employment drug test. At the time of the interview, the agency shall explain the consent form to the applicant and answer any questions the applicant may have regarding the consent form or the testing procedures. The applicant shall be given an opportunity to review the Drug-Free Workplace Policy. The interviewer will give the applicant an opportunity to ask any questions they may have concerning the Policy. Applicants for employment shall be directed to the collection facility. Drug testing must be undertaken as soon after notification as possible, but no later than 48 hours after notice to applicant. Applicants will be advised of the opportunity to submit medical documentation that may support a legitimate use of a specific drug, and that such information will be reviewed only by the Medical Review Officer, to determine whether the individual is illicitly using an otherwise legal drug. If the applicant is a minor, they must have a parent or guardian signature.

The agency will decline to extend a final offer of employment to any applicant with a verified positive test result, and such applicant may not reapply to the agency for employment for a period of one year after the positive test.

C. Random Testing

Random drug and alcohol testing is required as a part of the County's overall program to ensure a drug-free and alcohol free workplace. The random testing will cover two categories of employees:

- 1.) CDL license holder, as defined by the Federal Department of Transportation and,
- 2.) Safety-Sensitive position, as defined by Ohio Bureau of Workers Compensation.

In order to implement random testing, the testing facility shall select the Counties employees, at random, for drug testing at anytime during each calendar year. The County has contracted with an outside agency to perform the periodic selection of employees for inclusion in the random testing pool. The County will provide the outside agency with names of employees to be random tested. This testing is made without advanced notice to the employee, and is based on an equal probability of selection. Random selection testing is based upon an objective and non-discriminating computer program, operated and maintained, by an outside agency, to identify and test a specific percent of the total workforce over the course of a year. All employees, including those previously selected for testing, have an equal chance of being selected each time the testing process occurs, such that some employees may be selected more than once for random selection testing, while other employees may

not be selected at all. It shall be the responsibility of the County to notify each employee, who was selected, with the date, time, and location that random testing will be performed. When notified, it will be the responsibility of the individual employee to provide a urine specimen for drug testing and/or submit to a breath alcohol testing. An employee's failure to comply with the request for a specimen, for random testing, will result in immediate medical disqualification of the employee, which disqualification will result in the employee being unable to perform certain job duties. The refusal of the employee to take the test will result in the employee be considered as having taken the test and the test results being positive. This can lead to discipline up to and including removal.

Since each of the two groups of employees subject to testing must meet different standards, each group will have their own random testing list.

D. Reasonable Suspicion

Reasonable Suspicion testing will be performed when Department Managing Officer and/or supervisor has reasonable suspicion through direct observation that an employee of the County may be under the influence of an unacceptable substance (i.e., drugs and/or alcohol). The suspicion must be documented in writing within 24 hours of the event or prior to the release of the testing.

Reasonable Suspicion Testing may be based upon, among other things:

- (1.) Observable phenomena, such as direct observation of drugs or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol;
- (2.) A pattern of abnormal conduct or erratic behavior;
- (3.) Arrest or conviction for a drug-related offence, 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 to the county at the first shift, or the first overtime, if prior to his/her regular working day of any drug-related conviction or arrest;
- (4.) Information provided, to the County, either by reliable and creditable sources or information independently corroborated regarding an employee's substance abuse.
- (5.) Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

Although reasonable suspicion testing does not require certainty, mere “hunches” are not sufficient to meet this standard. To prevent this, all supervisors will be trained in the recognition of drugs and alcohol-related signs and symptoms, and testing may only be requested by at least one trained supervisor, with the concurrence of a second individual (either another trained supervisor, or another management staff, if a second trained supervisor is not available). The testing may be for drugs or alcohol or both. Please see Appendix C.

In the event that the decision is made to have the employee tested for drugs/alcohol the supervisor should contact the Drug-Free Workplace Program Administrator (DFWPA) to schedule an immediate drug/alcohol test. The supervisor should not send the employee to the test site. The supervisor should arrange for transportation to the test site. If the employee is a union member, a union official, and the supervisor, should accompany the employee. If the employee is not a union member the employee should be taken to the test site by two other employees. If possible, at least one of the employees that is accompanying the suspected employee should be the same sex as the employee to be tested.

After the test the suspected employee should be taken to his/her residence. This can be accomplished by calling a member of the family or the two employees who accompanied the suspected employee may take him/her to their resident. Public transportation may also be used (i.e., taxi). Do Not allow the employee to operate a motor vehicle.

The employee should be placed on Administrative Leave with pay for the balance of the day if the employee is suspected of violation of Policy, (i.e., alcohol). If the employee is suspected of use of drugs, the employee may be placed on Administrative Leave until the drug test results are returned.

E. Post Accident / Incident Testing

Post accident / incident-testing will be conducted whenever an accident / incident occurs. An accident / incident is defined as an unplanned, unexpected or unintended event that occurs on County property, during the conduct of County business, or during working hours, or which involves employer supplied motor vehicles that are used in conducting County business, or is within the scope of employment, and which results in any of the following:

- (1). An employee of the county is involved in an accident where there is a fatality of anyone involved in the accident;
- (2). An employee of the County is involved in an employment-related accident

that causes bodily injury to the employee, and / or another person that requires off-site medical attention away from the employee's place of employment;

- (3). Bodily injury (other than minor abrasions/contusions) requiring off-site medical attention (at the discretion of the Appointing Authority);
- (4). An employee of the County is involved in an employment-related accident that causes vehicular damage in apparent excess of \$1,000;
- (5). An employee of the County is involved in an employee-related accident that results in non-vehicular damage in apparent excess of \$1,000;
- (6). An employee of the County is issued a citation for moving traffic violation arising from a vehicular accident that occurred during the employee's scope of employment with the County;
- (7). The use of deadly force, whether a fatality occurs or not. If an emergency condition exist, and a number of employees are involved in use of deadly force, the Managing Officer may wave this section.

When any of the conditions of Section E above occur, testing should be administered as soon as possible after necessary medical attention is received. Breath of saliva alcohol testing will be performed within two (2) hours of the incident whenever possible, but within eight (8) hours, or not performed. If the employee responsible for the employer-related accident is injured the employee grants the attending medical personnel to obtain appropriate specimens for the purpose of conducting alcohol and/or drug test. Failure of the employee to allow the test to be conducted will result in the employee being considered as having taken the drug/alcohol test with positive results. The employee is subject to discipline in accordance with other sections of this Policy.

The employee should not be sent to the test site, he/she should be taken to the site.

F. Testing Procedure and Protections

This Policy is designed to protect employees from behaviors as substance users. Some of the protections built into the program will follow. Care will be taken to ensure confidentiality of program records such as those related to drug/alcohol testing results, and referrals for assistance. Information is kept confidential, and shared in a need to know basis within the chain of command. Any violation of confidentiality rights is subject to disciplinary action up to and including termination of

employment. The County is committed to support rehabilitation for violation of the Policy, and each situation will be reviewed individually. Employee assistance is available for employees, and their families, through the literature on substance use resources, through the Drug Free Workplace Administrator. Supervisors will be trained in their duties related to testing. Employees will receive substance awareness education from a qualified professional, to help identify problems and learn where to turn for help.. This will include training in this Policy.

Testing for drugs and alcohol is done through federally certified laboratories that use the highest level of care in ensuring that an employee's test results are accurate. This testing process has proven to be 100% accurate in detecting the substance that the county is concerned about, is present in the employee, in sufficient quantity to lead to behavior that may endanger the person or other employees. The lab will work closely with our local hospital, _____ General Hospital and _____ Area Health Center Occupational Health, to ensure all established procedures are followed, and that the specimen being tested belongs to the right person. In addition, the Occupational Health Center has a Medical Review Officer (MRO) to ensure that there isn't a valid reason for the presence of the substance in question in the employee's system. The MRO is an expert in substance use. When the MRO receives results that indicate an employee has tested positive, at a level higher than established in this Policy, the MRO will contact the employee, and any appropriate health care providers, to determine whether there is valid reason for the presence of the drug in the person's system. In addition, the testing program consists of an initial test and, if the preliminary results are positive, a second test is used. Cut-off levels for each drug and alcohol were established based on federal guidelines, detect alcohol and/or illegal substance is present at a level that a positive test is indicated. A positive test result means that the substance is present at a high enough level to be a safety problem. There are many other protection for employees that the County built into this program, and these will be spelled out in other sections of the Policy. Cut-off levels will be identified for each drug, and for alcohol, with the advise of our laboratory, and based on federal guidelines. These cut-off levels set percentages of drugs and/or alcohol in a person's system that show clearly that the employee has taken the substance into his/her body and that there is not another reason for the drug/alcohol to be present. For example, the percentage related to marijuana (cannabinoids) is set higher than a person could get from second hand smoke. (Appendix A)

G. Employee's Right Related To An Initial Positive Test Results

In the event that an employee test positive for any drugs or alcohol, as prohibited in this Policy, the employee will be given an opportunity to explain the findings to the Medical Review Officer (MRO) propr to the issuance of a report of a positive test result to the County. Accordingly upon receipt of a confirmed positive finding, the MRO shall contact, or attempt to contact, the employee by telephone or in person.

If contact is made by the MRO, the MRO shall inform the employee of the positive finding and give the employee an opportunity to rebut or explain the findings.

The MRO can request information on recent medical history, and on medications taken within the last thirty days by the employee. In the event that the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position (for example, the name of treating physicians, pharmacies where prescriptions have been filled, etc.). A failure on the part of the employee to provide such documentary evidence will result in the issuance of a positive report by the MRO with no attendant medical explanation. A medical disqualification of the employee will result.

If an employee fails to contact the MRO within five days of having been instructed to do so, the MRO will issue a positive report to the County. Since no contact with employee was possible, no medical explanation can be provided, and the employee shall forego the right to offer a defense to the positive test findings. A medical disqualification shall result, subject to re-test provisions set forth in the MRO's report.

All test results will be reported to the MRO prior to the results being issued to the County. The MRO will receive from the Department of Health and Human Services (DHHS) testing laboratory a detailed report of the findings of the specimen. Each drug tested and alcohol will be listed along the results of the testing. The County will receive a summary report, and this report will indicate that the employee passed or failed the drug/alcohol test.

Another avenue for the employee who has had a positive drug test is, a second drug test. At the time the specimen was taken, the specimen was divided into two parts. The employee may request that the split-sample is sent to laboratory for second test. While the county is responsible for the cost of the original sample, the employee will be responsible for any cost incurred for testing the split-sample.

All of the above in G, procedures are intended to be consistent with the most current guidelines for Medical Review Officers that are published by the federal Department of Health and Human Services.

H. Drug Free Workplace Program Administrator

The Drug Free Workplace Administrator (DFWPA) will be the person responsible for implementing, directing and managing the Drug-Free Workplace Program for the County. The DFWPA will be the principle contact with the testing laboratory, and maintains the effective operation of the Drug-Free Workplace Program within the County. Since, the employee will be informed by the Medical Review Officer (MRO) and be given the opportunity to re-test (split-sample) before the DFWPA is

informed about a positive test, it will be his/her duty to inform the managing Officer or his/her designee about any positive test in his/her area of supervision. The Administrator will be responsible for informing the testing laboratory of any new employee or employees that should be deleted from the vendor current number list. This would include any Pre-Employment test so the Managing Officer will be notified of the conditional offer of employment.

The office of the Administrator should be informed of all “probable cause” tests being given and to assist the supervisor, if requested. The DFWPA should check the test and the log of the incident as soon as possible to insure that the information is documented. He/she should coordinate arrangements for testing with the test site. The Administrator should notify the supervisor of the date and time of the drug/alcohol test.

The administrator will be responsible for all record keeping and practices to track and maintain all required documents. Quarterly certifications forms to Bureau of Workers Compensation (BWC). Also included will be statistics regarding the number of employees, supervisors, and new hires that have training. This will include the number of training sessions and information (certification) about the trainers and educators who do the training. The BWC reports include, but are not limited to, number of employees (average over the year); the number of safety-sensitive positions; program year and dates when testing occurred; number of new employees and percent tested; aggregate number (no confidential information) for the number and results of testing done within each category of testing; and information about, and detailed contact information for labs, collection sites, MRO’s.

In addition, the Program Administrator will certify that the County has met requirements of its employee assistance plan, or Employee Assistance Program, (EAP). Report E.A.P. statistics i.e., number of employees who tested positive and received referrals information for assessment, and number of employees who tested positive and were referred to assistance for assessment.

The Administrator will also be responsible for the program budget. This includes but is not limited to any safety grants awarded by BWC, the cost of training for employees and supervisors and other expenses and projected savings.

And finally, and most importantly, the Administrator will be responsible for the integrity, and the confidentiality of the program, and the employees involved.

The Drug-Free Workplace Administrator position involves the credibility of the program. So, this person has to be substance free. This position is exempt from the E.A.P., and termination on the first violation is a requirement.

The _____County Commissioners have assigned the duties of the Drug-Free Workplace Administrator to the Human Resources Director.

In review of the policy the following information merits repeating. All employees will be treated equally regardless of classification or title. The County will hold all employees accountable in terms of substance use, but also supports rehabilitation. Those employees who come forward voluntarily, to identify that they have a substance use problem, will receive County support and assistance. However, if an employee has a substance use problem, and does not come forward, and the employee then tests positive for drugs and alcohol use in violation of this Policy, the County reserves the right to terminate employment for violation of this Policy. Whether an employee who test positive will be allowed to enter an E.A.P. to seek assistance aimed at changing substance use behavior will be determined individually based on such factors as quality of performance, length of service, willingness to acknowledge a problem and to seek help and criminal charges if any. A second violation of County substance use will lead to termination of employment.

Please see Appendix A

Please see Appendix B

I. Bureau of Workers Compensation (BWC) – Benefits

“In concert with our Drug-Free Workplace Program,_____ County believes that employees share responsibility for a safe work environment, and that it is reasonable for employees to avoid usage of alcohol and other drugs that affects their performance and safety at work. Our primary interest is to prevent all accidents and injuries. In line with this,_____ County intends to hold employees accountable for violating our drug-free workplace policy and may seek disallowance of a workers’ compensation claim when an employee tests positive for alcohol or a controlled substance (drug) as specified in our policy after a work-related accident or injury. Under H.B. 122 (a copy is available from our Human Resources Department), intoxication of an employee (defined by a positive alcohol test); or being under the influence of a controlled substance not prescribed by a physician (defined by a positive drug test and as described in our DFWP policy) will be considered the cause of the injury.

Until and unless proven otherwise, the positive test is considered proximate cause of the injury and may result in the disallowance of workers’ compensation benefits for the injured worker who tests positive. The County policy will be to refuse to certify a worker’s compensation claim filed by any injured employee who tests positive for

injuries on or after the date that this policy change goes into effect.

H.B. 122 also states that an employee's refusal to submit to a chemical test described in the law is considered a positive test and creates a rebuttable presumption that the employee is intoxicated or under the influence. This is consistent with our current drug-free policy. Refusal to test also includes failure to provide a specimen or to provide on in the time frame that an employee is given to do so, or adulterating, attempting to adulterate or substituting a specimen.

Again, the change in our policy is that a positive test will be considered the proximate cause of a work-related injury based on the post-accident test results and could affect your eligibility for workers' compensation benefits. Rather than having a claim disallowed, we hope to prevent these accidents from occurring by holding employees accountable for following work rules that exist in the interest of the safety of ALL employees. Employees who fail to follow work rules and thereby endanger themselves, their coworkers and/or our ability to operate our business will be held strictly accountable.

This modification of our drug-free workplace policy related to workers' compensation claims is a change in terms and conditions of employment. Testing will continue to be done by the most reliable system available. Analysis is through a laboratory certified by the U.S. Department of Health and Human Services/Substance Abuse and Mental Health Services Administration consistent with the procedures specified for federally mandated testing. This type of testing (called systems presence testing) provides the greatest accuracy and protections for employees. A medical review office (physician with a specialization in substance abuse) is contacted with to review the testing process before a test is determined as a positive. Cut-off levels for a positive drug test specified in H.B. 122 match the levels we are currently using. In addition, a positive test for alcohol that is a violation of our DFWP policy may also be at a high enough cut-off level for a workers' compensation claim to be disallowed."

Standard adapted from the Marion County Children Services Board

APPENDIX A

SUBSTANCES TO BE TESTED FOR AND THE METHODS OF 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.)

<u>Drug Class</u>	<u>Screening Test Level</u>	<u>Confirmation Test Level</u>	<u>Confirmation Method</u>
(1) Amphetamines	1,000 ng/ml	1,000 ng/ml	GC/MS
(2) Barbiturates	300 ng/ml	300 ng/ml	GC/MS
(3) Benzodiazepines	300 ng/ml	300 ng/ml	GC/MS
(4) Cocaine	300 ng/ml	150 ng/ml	GC/MS
(5) Marijuana (Cannabinoids)	50 ng/ml	15 ng/ml	GC/MS
(6) Methadone	300 ng/ml	300 ng/ml	GC/MS
(7) Opiates	2,000 ng/ml	2,000 ng/ml	GC/MS
(8) Phencyclidine	25 ng/ml	25 ng/ml	GC/MS
(9) Propoxyhene	300 ng/ml	300 ng/ml	GC/MS

The Federal Department of Health and Human Services (DHHS) has established these detection thresholds consistent with available technology for each of the drugs listed above.

Department of Transportation (CDL)

- A. The CDL uses a five (5)- panel drug test that is set up by DHHS. The tested five drugs are Amphetamines, Cocaine, Cannabinoids (Marijuana), Opiates, and Phencyclidine. The levels for the five drugs tested for under the Federal Department of Transportation / Federal Highway Administration are established by DHHS, while employers should follow the guidance offered by their DHHS-certified labs for the other five drugs.
- B. Test for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) – approved evidential breath device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. An employee who has a confirmed alcohol concentration of greater 0.02, but less than 0.04, will result in removal from his/her position for twenty-four (24) hours, unless a retest results in a concentration measure of less than 0.02. Drivers who have an alcohol concentration of 0.04 or greater will be considered a positive alcohol test in violation of this Policy.

Ohio Bureau of Workers Compensation (BWC)

- A. The BWC program requires the full panel of drugs be tested.
- B. Breath alcohol testing will be conducted by the contractor utilizing only certified equipment and personnel. Breath alcohol concentrations exceeding 0.04 will be considered a verified positive result. An Evidentiary Breath Test (EBT) is used to confirm an initial positive test result.

In both of the above, the DOT and BWC, an employee attempting to adulterate a specimen or otherwise manipulate the testing process will result in the employee being considered as having a “Positive Test”, as will a refusal to produce/provide a specimen. In either case the employee will be subject to discipline that could result in termination.

APPENDIX B

**ACKNOWLEDGEMENT OF RECEIPT
OF
DRUG-FREE WORKPLACE POLICY**

Signing this form acknowledges that the employee has received a copy of the _____ County Drug-Free Workplace Policy, has had the opportunity to discuss the Policy and have questions answered, and understands all of the provisions in the Policy. Although it reflects the _____ County current Policy regarding substance use, it may be necessary to make changes from time to time to best serve the needs of our organization. However, any changes deemed necessary will be made in writing, and the modified Policy will be shared with every employee.

By my signature below, I acknowledge that I have received a copy of the Drug-Free Workplace Policy of _____ County. I understand that it is my obligation to read, understand and comply with the procedures and provisions contained within this Policy.

Date Signed

Employee's Signature

Witness Signature

Printed Name of Employee

DFWP2000

RECEIPT
Revision 7/2001