

# ADMINISTRATIVE PROCEDURES



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*C. Duellbury*  
County Administrator

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SUBJECT: **DRUG-FREE WORKPLACE**

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DEPARTMENT RESPONSIBLE: **Finance and Risk Management**

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## 1. STATEMENT

Pima County is committed to protecting the safety, health, and well-being of all employees, volunteers, and other individuals in the County workplace. The County's drug-free workplace program balances respect for individuals with the need to maintain an alcohol and drug-free environment. This Administrative Procedure and related procedures are issued for compliance with the Federal Drug-Free Workplace Act of 1988, as a requirement for all Federal grantees, and Arizona Revised Statutes (A.R.S.) Title 23, Chapter 2, Article 14, beginning at A.R.S. §23-493.

Pima County encourages employees to voluntarily seek help with drug and alcohol problems for themselves or their family members. The County's Employee Assistance Program (EAP) or the employee's health coverage may be utilized by employees to assist in seeking help with drug or alcohol issues.

## 2. SCOPE

This procedure includes all County employees performing functions for Pima County.

This procedure outlines post-offer and reasonable suspicion testing. Under this procedure, post-offer testing is limited to applicants applying for positions in the County Attorney's Office, Sheriff's Department, or the Health Department. Risk Management maintains a list of positions that fall under the post-offer testing portion of the procedure. The County Attorney's Office and Sheriff's Department have departmental drug policies. When in conflict, those policies will supersede this procedure.

## 3. DEFINITIONS

**Alcohol:** Ethanol, isopropanol, or methanol.

**Driving Under the Influence:** Under A.R.S. §28-1381, it is unlawful for a person to drive or be in actual physical control of a vehicle while under the influence of intoxicating liquor and/or drugs if the person is impaired to the slightest degree.

**Drugs:** As defined by A.R.S. §23-493, are any substance(s) considered unlawful under the schedules of the controlled substances section as outlined in the Code of Federal Regulations (CFR) Part 21 §812, or any drug(s) or metabolite(s) of the substances listed in A.R.S. §13-3401. For the purpose of this procedure, controlled substances or drugs include legal substances obtained illegally or used in an unauthorized manner, but do not refer to the proper use of controlled substances authorized by law which do not affect job safety or performance.

**Follow-up Testing:** If an employee has a verified positive test and if the employee is to return to work, the employee must have follow-up testing. An employee who is allowed to return to duty shall be subject to unannounced follow-up testing for at least twelve (12) months, but not more than sixty (60) months. The frequency and duration of the follow-up testing will be recommended by a substance abuse professional (SAP) as long as a minimum of six (6) tests are performed during the first twelve (12) months after the employee has returned to duty. Follow-up tests are to be conducted under direct observation.

**Impairment:** As defined in A.R.S. §23-493, impairment is a condition with symptoms that an employee may exhibit under the influence of drugs and/or alcohol that may decrease or lessen the employee's performance of the duties or tasks of his or her position. Per A.R.S. §23-493, symptoms of impairment may include the employee's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor, irrational or unusual behavior, negligence or carelessness in operating equipment or machinery, disregard for the safety of the employee or others, involvement in an accident resulting in serious damage to equipment, machinery, or property, disruption of a production or manufacturing process, any injury to the employee or others, or other symptoms causing a reasonable suspicion of the use of drugs or alcohol.

**Intoxicant:** A substance which, when taken into a body by one means or another, produces a condition of impairment or diminished mental or physical ability.

**Medical Review Officer (MRO):** A physician approved by Risk Management to provide onsite drug testing at their clinic, is certified as a MRO, and is responsible to review all positive drug test results.

**Post-offer Testing:** A required drug test that applies to specific positions within specific County departments. Immediately following any contingency offer of employment to the successful candidate and prior to the candidate's identified first day of employment with the hiring department, the successful candidate for the position must submit to a drug test. Post-offer testing is also known as pre-employment testing.

**Reasonable Suspicion Testing:** Alcohol and/or drug testing that an employee is directed to undergo when the Appointing Authority has reasonable suspicion to believe that the employee is currently impaired by drugs and/or alcohol. The request to undergo a reasonable suspicion test includes, but is not limited to, specific, contemporaneous, articulable, reliable observations concerning the appearance, behavior, speech, body odor of the employee, and/or other observable impairment exhibited by the employee.

**Return-to-Duty Testing:** A required test done before any employee is allowed to return to duty after any one of the following events: (1) an alcohol result of 0.04 or greater, (2) a

verified positive drug test result, or (3) after a refusal to submit to a drug or alcohol test. The return-to-duty alcohol test result must indicate an alcohol concentration of less than 0.02. The return-to-duty drug test result must indicate a verified negative result for controlled substances.

**Split Specimen Collection:** A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

**Substance Abuse Professional (SAP):** A professional (doctor, certified psychologist, social worker, etc.) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance disorders. The SAP evaluates employees who have violated County drug and alcohol policies/procedures and makes recommendations concerning education, treatment, follow-up testing, etc. The SAP also determines if the employee demonstrates successful compliance with the recommended education and treatment.

#### 4. RESPONSIBILITIES

##### 4.1. Departments shall:

- 4.1.1. Inform employees of the drug-free workplace procedure.
- 4.1.2. Maintain a drug and alcohol-free workplace through the efforts of personal example of management.
- 4.1.3. Determine through direct observation whether an employee is capable of performing his or her assigned duties.
- 4.1.4. Discuss with employees any behavior or job performance factors that may indicate the use of drugs, alcohol, or other violations of this procedure and to suggest, when appropriate, that employees seek assistance through the Employee Assistance Program (EAP).
- 4.1.5. Notify the appropriate federal agency within 10 days after receiving notice that a covered employee working on any federal grant has been convicted of a criminal drug violation in the workplace.

##### 4.2. Risk Management shall:

- 4.2.1. Communicate with the Medical Review Officer (MRO), the Substance Abuse Professional (SAP), departments, and employees outlined in this procedure.
- 4.2.2. Communicate test results to departments.

- 4.2.3. Provide a list of SAP evaluation services to an employee who has tested positive or refused a test and has been retained as an employee under this procedure.
  - 4.2.4. Ensure for pre-employment and return-to-duty testing, that the appropriate people have been informed of the specific date, time, and location of the test.
  - 4.2.5. Ensure test results are attributed to the correct employee by requiring the MRO to confirm employee identity through review of a government issued identification.
  - 4.2.6. Make educational materials and opportunities about the dangers of alcohol and drug use available to employees, as well as information regarding the availability of help.
  - 4.2.7. Make training available to supervisors and managers to help them recognize, assist, and manage employees with alcohol and/or other drug problems.
- 4.3. Employees shall:
- 4.3.1. Make themselves available and participate, in a timely manner, in the testing protocol required by this procedure.
  - 4.3.2. Not refuse a test under this procedure.
  - 4.3.3. Notify their Appointing Authority in writing within five calendar days of the conviction, if convicted of a drug violation in the workplace.

## 5. **PROCEDURE**

- 5.1. Prohibited Behavior
  - 5.1.1. No employee, while on duty, shall use, purchase, possess, sell, trade, or offer for sale alcohol, illegal drugs, or intoxicants.
  - 5.1.2. No employee shall report to work or return from a break, lunch, or rest period while impaired by alcohol, drugs, or intoxicants.
    - 5.1.2.1. As stated in Merit Rule 12, no employee shall have a blood alcohol level of 0.04 or greater and for safety reasons an employee with a blood alcohol level between 0.02 and 0.04 shall not operate a vehicle or safety sensitive equipment.

- 5.1.2.2. Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of the employee's job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor, notify County doctor) to avoid unsafe workplace practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur.

- 5.1.3. A supervisor having knowledge or reasonable suspicion that an employee has illegally used or misused drugs or alcohol shall not permit the employee to perform or continue to perform work assignments. See section 5.3 of this procedure for additional information concerning the consequences of a positive drug and/or alcohol test.

## 5.2. Drug and Alcohol Testing

- 5.2.1. To ensure the accuracy and fairness of the County's testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines as part of the U.S. Division of Labor Human and Health Services. Where applicable the testing program will include a screening test; a confirmation test; split specimen collection; review by a Medical Review Officer, including the opportunity for an employee who tests positive to confidentially provide a legitimate medical explanation, such as a physician's prescription for the positive result; and a documented chain of custody. All drug-testing information will be maintained in a separate confidential record. A copy of test results will be furnished to the employee upon the employee's request. Testing for the presence of alcohol may also be conducted through, but not limited to, analysis of breath and saliva.
- 5.2.2. As a condition of employment, as detailed in Pima County Personnel Policy 8-114.C, an employee is required to participate in drug and/or alcohol testing if the Appointing Authority has reasonable suspicion that the employee is under the influence of drug and/or alcohol.
- 5.2.3. An employee who tests positive for alcohol shall not return to work and shall be immediately removed from duty until the Appointing Authority has

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directed the employee to return. See section 5.3 of this procedure for consequences of a positive alcohol test.

- 5.2.4. Pending the results of a drug test, an employee shall not return to work until Risk Management has informed the Appointing Authority the results of the drug test, and the Appointing Authority has directed the employee to return. See section 5.3 of this procedure for the consequences of a positive drug test.
- 5.2.5. An employee who refuses to be tested will be immediately removed from duty and considered to have tested positive. See section 5.3 for consequences.
- 5.2.6. An exception to a positive test will be determined by the MRO when the doctor concludes that the use of a controlled substance is a result of the prescription of a licensed medical provider. The MRO may request more information from the employee or the employee's licensed medical provider(s) regarding prescription medication prior to making a final determination. If the MRO concludes that the use of a controlled substance is a result of the prescription of a licensed medical provider, but effects of the prescription could pose safety concerns, then Risk Management may obtain an independent review of the prescription medications in relationship to the functions of the job.

### 5.3. Consequences

One of the goals of the County's drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates this procedure, the consequences are serious.

- 5.3.1. For post-offer job candidates required to participate in post-offer testing, a positive test shall result in the offer of employment being withdrawn. The candidate may reapply with the County for a job after one year from the failed drug test.
- 5.3.2. If an employee violates this procedure, he or she shall be subject to corrective action up to and including termination or dismissal.
- 5.3.3. If a department retains an employee following a violation of this procedure, the employee shall be referred to an SAP for assessment and recommendations for a rehabilitation plan, a copy of which will be provided to Risk Management. The costs of the assessment and the SAP's recommendations will be the responsibility of the employee and not paid for by the department or Risk Management.
- 5.3.4. Based upon the SAP's recommendation, the employee may be required to enter rehabilitation program. The County may also require the employee to adhere to the procedures as outlined in section 5.4, Return-to-Work Agreement.

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- 5.3.5. An employee who fails to successfully complete rehabilitation, tests positive a second time, violates the Return-to-Work Agreement defined below, or violates this procedure shall be dismissed from employment and may not apply for another County position for another year from dismissal.
  - 5.3.6. An employee will be subject to the same consequences of a positive test if the employee refuses the test, adulterates or dilutes the specimen, substitutes the specimen or sends an imposter, or refuses to cooperate in the testing process in such a way that prevents completion of the test.
  - 5.3.7. Nothing in this procedure prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

#### 5.4. Return-to-Work Agreement

- 5.4.1. Following a violation of the drug-free workplace procedure, if, at the department's discretion, the department retains the employee, the employee shall participate in a Return-To-Work Agreement. In such cases, the employee must:
  - 5.4.1.1. Sign and abide by the terms set forth in a Return-to-Work Agreement as a condition of continued employment;
  - 5.4.1.2. Successfully complete the SAP's recommended rehabilitation program including continuing care;
  - 5.4.1.3. Pass a Return-to-Duty test, as defined in Section 3 of this procedure; and,
  - 5.4.1.4. Be subject to ongoing, unannounced, follow-up testing for a period as recommended by the SAP of not less than twelve (12) months or more than five (5) years, and be subject to immediate termination if he/she tests positive a second time, violates the Return-to-Work Agreement, or violates any portion of this procedure.
- 5.4.2. The financial obligation of the recommended treatment is the employee's responsibility. EAP or the employee's health coverage may be utilized by the employee.

#### 5.5. Confidentiality

All information received by the County through the drug-free workplace program is confidential. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

### 6. **EMPLOYEE ASSISTANCE PROGRAM**

- 6.1. Through the County's Employee Assistance Program, an employee can voluntarily seek help for drug or alcohol abuse or misuse.

- 6.2. The County realizes that early intervention and support improve the success of rehabilitation. To support Pima County employees, the County's drug-free workplace procedure:
- 6.2.1. Encourages employees to seek help if they are concerned that they or their, or their family members, may have a drug and/or alcohol problem.
  - 6.2.2. Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug and/or alcohol problems and identify appropriate sources of help.
  - 6.2.3. Offers all employees and their family members assistance with alcohol and drug problems through the EAP.
  - 6.2.4. Encourages employees to contact Pima County's Human Resources Department for additional information on approved leave and EAP.

**7. ADDITIONAL INFORMATION**

Any questions that may arise from employees, supervisors, or managers concerning the requirements of this procedure should be directed to Risk Management.