

(Amended September 12, 2006)

Policy #41

## ST. CLAIR COUNTY DRUG-FREE WORKPLACE POLICY

### Introduction

The illegal use of drugs is a national problem that seriously affects every American. Drug abuse not only affects individual users and their families, but also presents new dangers for the workplace. Practical experience and research have proven even small quantities of narcotics, abused prescription drugs, or alcohol can impair judgment and reflexes. Even if not readily apparent, impairment can have serious and costly results, particularly for employees operating vehicles or potentially dangerous equipment, or for employees who are making important decisions, or handling sensitive information or valuables.

St. Clair County is committed to providing a safe work environment and to fostering the well being and health of its employees and the general public. That commitment is jeopardized when any County employee illegally uses drugs; abuses prescription drugs; uses alcohol on the job; comes to work under the influence; or possesses, distributes, manufactures or sells drugs in the workplace. For these reasons, the County has decided to implement a Drug-Free Workplace Policy. Adherence with this policy is a condition of employment with the County, and all employees and independent contractors/contractor employees will be required to execute the applicable consent forms. An employee whose conduct violates this policy will be subject to discipline, up to and including termination.

Elected and Appointed Officials of St. Clair County who are not otherwise classified as employees of the County are not subject to this policy. Furthermore, this policy does not in any way create a contract.

Beginning sixty (60) days after the Effective Date of this Policy, the County will implement active employee substance screening or testing as further described in this Drug-Free Workplace Policy. Pre-employment screening or testing is to begin immediately as further described in Section 2.A. Any existing policy or practices of the County remain effective until implementation of this new Policy Statement. Copies of this Policy Statement will be available to all employees and applicants for inspection, and employees will participate in an annual education program on substance abuse and our policies on substance abuse. Copies of the Policy Statement will be kept in the office of the administrator of the drug testing policy and made available during regular business hours for review by all prospective job applicants or current employees. Continuing notice of this policy will be posted in the office of the policy administrator.

County employees whose duties are regulated by or subject to other drug and alcohol testing regulations will comply with those regulatory requirements. If such regulatory requirements result in different or conflicting drug and alcohol testing requirements, the applicable regulations shall prevail.

The County has developed its drug-free workplace policy in substantial compliance with The Alabama Drug-Free Workplace Act of 1995, Ala. Code §§ 25-5-334 et seq., with three basic

objectives in mind:

1. Employees deserve a work environment that is free from the effects of drugs and the problems associated with their use;
2. The County has a responsibility to maintain a healthy and safe workplace; and
3. To reduce the risk of property damage or injury to the general public, co-workers and employees.

The County asks that every employee work together for a drug free workplace, as well as a safe and rewarding place to work. To further its objectives, the County announces the following policy:

**1. The St. Clair County Policy on Drugs and Alcohol**

- A. The use of any illegal drugs, including narcotics or hallucinogenic drugs, marijuana, or other non-prescribed controlled substances is **prohibited** during work hours or while on County property. That includes use, possession, distribution, sale, purchase, trade, manufacture, offer for sale, offer to buy, or make arrangements to distribute, or reporting to work under the influence of, intoxicants or illegal drugs (including narcotic or hallucinogenic drugs, marijuana or other non-prescribed controlled substances). This prohibition also includes any equipment, products, and materials which are used, intended for use, or designed for use with non-prescribed controlled substances.
- B. This policy also **prohibits** reporting to or being at work if the presence of intoxicants, non-prescribed narcotics, hallucinogenic drugs, marijuana or other non-prescribed controlled substances in blood or urine exceeds statutory limits.
- C. This policy also **prohibits** reporting to or being at work where the presence of prescribed or over-the-counter narcotics or drugs exceeds statutory limits in blood or urine, or if, in the opinion of the County, the use of prescribed or over-the-counter narcotics or drugs prevents the employee from performing his or her job or poses a risk to the safety of the employee, other persons, or property.
- D. Any employee taking a prescribed or over-the-counter narcotic or drug must advise his or her supervisor of its use if such narcotic or drug might pose a risk to the safety of the employee, other persons, or property, or if its use might interfere with the employee's job-related performance. Such prescriptions brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date. An employee using such prescribed or over-the counter substances may be required to take a leave of absence or other appropriate action as determined by supervisors. An employee or job applicant shall be allowed to provide confidential notice to the Medical Review Officer (MRO) of currently or recently used prescription or

nonprescription drugs. Should the MRO contact the employee, such information shall be placed in writing upon the employee's personal copy of the lab's drug testing records form as a reference.

- E. Recent studies indicate that ingestion of hemp seed oil and hemp food products can result in a positive test for marijuana. Accordingly, ingestion of such products is prohibited.
- F. On-call employees are prohibited from using alcohol for the specific on-call hours of that employee. The County will provide an opportunity for any such on-call employee to acknowledge the use of alcohol at the time he/she is called to report for duty, and it is the employee's responsibility to inform his/her supervisor at the earliest possible time of any potential impairment from alcohol.
- G. Adherence to the County policy on drugs and alcohol is a condition of employment for all employees. All employees will be required to sign the applicable acknowledgment form and to consent to this policy.
- H. Employees must notify the County of any conviction on drug-related charges within five (5) working days of such conviction in conformity with the Drug Free Workplace Act of 1988.
- I. Violations of this policy, including (but not limited to) a positive confirmed laboratory test result for drugs or alcohol; refusal to sign a consent or chain of custody form; refusal to submit to or cooperate with a substance screening by blood, urine, hair, or saliva, including an employer's initial screening, as required in this policy; knowingly submitting an adulterated, diluted, or otherwise altered blood or urine specimen; or submitting a specimen from another person, are subject to disciplinary action by the County, up to and including termination. Refusals will be classified as a positive test.
- J. The County reserves the sole right to interpret all provisions of this policy and take all appropriate actions within its sole discretion and judgment.
- K. **Off-the-job use of drugs, alcohol, or any other prohibited substances which results in impaired work performance, such as absenteeism, tardiness, poor work product, or harm to the County's image, is prohibited. Employees should realize that these regulations prohibit all illicit drug use – on and off duty.**
- L. Additionally, these rules may apply to any contractor used by the County and to any employee of that contractor working on County property.
- M. The County reserves the right to alter, amend, or supplement the terms and conditions of this Policy to accommodate changes in current state and federal

regulations, insurance requirements, testing technologies, or circumstances which impact County practices and policies or industry standards.

## 2. Drug/Alcohol Screening and Testing

Under the St. Clair County Drug-Free Workplace Policy, employees may be requested to undergo a diagnostic test performed by a certified laboratory to detect the presence of drugs or alcohol in the following circumstances:

### a. Pre-Employment

Pre-employment substance screening or testing will be performed on all final applicants seeking safety-sensitive positions as a condition of their employment with the St. Clair County. Such screening or testing may be required on its own, or as part of a fitness-for-duty physical exam for those safety sensitive job positions that would require such an exam. Present employees who transfer into another safety sensitive position with the St. Clair County may also be required to complete a pre-employment substance screen or test.

Applicants must sign a Pre-Employment Substance Testing Consent and Release form, which releases the County from liability, before voluntarily submitting to initial screening or testing conducted by a St. Clair County representative, or at a certified lab chosen by the St. Clair County. The St. Clair County shall inform final applicants safety sensitive positions that any offer of employment is conditioned upon passing a substance screen or test. The applicant will be informed that the specimen is subject to being tested for the presence of any or all of the following substances: Amphetamines, Cocaine, Cannabinoids, Opiates, Phencyclidine (PCP), Methadone, Methaqualone, Barbiturates, Benzodiazepines, or Propoxyphene in conformity with the Alabama Drug-Free Workplace Act.

**Any job offer will be withdrawn** if the applicant tests positive in a confirmed lab test; refuses to submit to a test, including any initial screening performed by a St. Clair County representative; refuses to execute the required consent/release form; or if the initial screening is not negative and the applicant withdraws his/her application.

Applicants will also be provided with access to a copy of the St. Clair County's Drug-Free Workplace Policy. An applicant who decides not to cooperate in the pre-employment screening or testing or who is unwilling to acknowledge this St. Clair County's policy on drug and alcohol screening or testing may withdraw his/her application, and will not be considered for employment.

If the St. Clair County representative, physician, official, or lab personnel have reasonable suspicion to believe that the applicant has tampered with the specimen, the applicant will not be considered for employment.

## **b. Reasonable Suspicion**

An employee will be screened or tested when a County manager, supervisor, or personnel officer has a good reason to suspect that an employee has reported to work or is on County property under the influence of intoxicants, drugs or narcotics. Reasonable suspicion may be based on a supervisor's observations, an employee's physical or mental symptoms, or an employee's personal behaviors that may indicate drug or alcohol use. Supervisors must immediately detail in writing on the "Reasonable Suspicion Checklist" specific reasons and observations for requiring an employee to undergo testing or screening for reasonable suspicion.

If indicators of the need for a reasonable suspicion test are present, the employee will be screened or tested immediately, either in an initial screening performed by a County representative or certified agency contracted by county on or off the job site, or by using a lab test. An "initial screening" is an analytical procedure performed at the worksite or offsite by a collector using a simple kit to test for the possible presence of drugs or alcohol. All initial screening kits shall use an immunoassay or equivalent procedure, or shall use a more scientifically-accepted method as more accurate technology becomes available in a cost-effective form. All employees who demonstrate "non-negative" screening results may be referred for confirmatory testing by a certified lab. The County may, at its own cost and discretion, refer negative screening results to a certified lab for confirmatory testing. Any employee who reports to work visibly impaired by drugs or alcohol will not be allowed to work.

## **c. Post-accident**

Safety-sensitive employees will be screened or tested after any work related injury or accident where:

- i. an employee is injured beyond the need for simple first aid,
- ii. property or vehicles are damaged (over \$500.00 estimated),
- iii. an employee has caused or contributed to an on-the-job injury which results in loss of work time,
- iv. a workers' compensation claim is filed, or
- v. there is reasonable suspicion of drug or alcohol use.

Non-safety sensitive employees will be screened or tested after any work related injury or accident where a supervisor has a reasonable belief based on specific facts that the employee's acts or omissions contributed to the occurrence or severity of the accident as should be detailed on the "Confidential Work-Related

Accident Report.”

Safety-sensitive employees are those employees who discharge duties fraught with risks of injury to others that even a momentary lapse of attention can have disastrous consequences. Factors which have been considered in determining whether a position is safety sensitive include: handling of potentially dangerous machinery, mostly unsupervised responsibility for children, and handling of hazardous substances in an environment where others could be injured. Positions which have been found to be safety sensitive include: firefighters, emergency medical technicians, law enforcement officials who carry firearms, fire and police dispatchers, 911 operators, heavy machinery operators, bus drivers, some (but not all) transportation workers, pipeline operators, gas meter repairmen, jail officers, and airline industry personnel. Some employees who come under federal laws and regulations, such as those under the Department of Transportation regulations, natural gas pipeline industry, and aviation, are determined to be safety sensitive by those regulations. Unless an employee comes under drug-testing regulations of some federal agency, each position must be individually evaluated to determine whether it is safety sensitive. The County has performed a review of the job duties for each job classification and determined that the following are classified as safety sensitive for purposes of its Alabama Drug-Free Workplace Program:

*ms*  
Administrator-Operations Center  
Animal Control Officer  
Court Security Officers  
CSEPP Planner/Systems Manager  
Dept. of Transportation (All classifications excluding clerical)  
E911 Advanced Clerk  
E911 Data Base Coordinator  
EMA Director  
Flood Plain Coordinator  
Jail Administrator  
Jail Captain  
Detention Officers (All classifications)  
Litter Control Officer  
Logistics & Training Officer  
Maintenance Supervisors  
Personal & Real Estate Appraiser  
Property Manager  
Sheriff Department: Deputies (All classifications), Chief Deputies, Captains,  
Sergeants, Transport Officers and Investigators  
Telecommunicators (All classifications)

All employees are prohibited from using alcohol within eight (8) hours following an accident, until testing or initial screening is completed. Any test or screen for alcohol should be completed within two (2) hours of a work-related accident, or as soon thereafter as possible.

All employees are put on notice that a positive confirmed laboratory drug test following an on the job accident is evidence of "willful misconduct" under this policy and disqualifies the employee from receipt of workers' compensation benefits.

### **3. Employee responsibilities**

For any initial screening or drug and alcohol testing, an employee is responsible for the following:

a. **Reporting to the collection site within one (1) hour of being ordered by a supervisor, or to report to a designated County representative for initial screening within one (1) hour.** If the employee fails to report in the time specified, he/she must document a serious illness, injury, or other verifiable circumstance that prevented his or her arrival at the test location. If an employee is unable to document such a circumstance, he/she will be considered to have refused to take the test (classified as a positive result), and will be subject to termination of employment.

b. **Providing a specimen for screening or testing, whether it is breath, urine, hair, blood, or saliva, as the specific screen or test to be given may require.** If the employee refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen of another person, sends an imposter, or will not sign the required forms, the employee will be subject to termination from employment as if the test were positive.

c. **Cooperating with the Medical Review Officer (MRO) in providing specimen or medical information.** The job of the MRO is to decide whether the employee has passed the laboratory drug or alcohol test. As part of the verification process, the MRO will:

d. Conduct a medical interview with the employee, if the employee consents to such an interview (this interview may be in person or by telephone);

- i. Review the individual's medical history and any relevant biomedical factors, if the employee consents to the review and cooperates with the MRO during the interview;
- ii. Review all medical records made available by the tested employee to determine if a confirmed laboratory positive test resulted from legally prescribed medications,
- iii. If necessary, reanalyze the original specimen taken at the lab to determine the accuracy of the test results;
- iv. Verify that the lab report and assessment are correct. Based on available data, including other test results, the MRO may conclude that a particular drug test is scientifically insufficient for further action and may conclude and verify that the test for that employee is negative.

At screening or testing, the employee shall be given the opportunity to list information he/she considers relevant to any test or initial screening, or any test or initial screening results, including identification of currently or recently-used prescription or nonprescription medication or other relevant medical information. The employee should list such information on the employee's personal copy of the lab drug testing records form. This information shall not prevent testing or initial screening, but may be considered by the MRO in interpreting any positive confirmed lab test result.

An employee who receives a positive confirmed test result may contest or explain the result to the employer within five (5) working days after notification of the positive test results. The MRO will provide the employee with an opportunity to discuss the results of any apparently positive confirmed lab test. If the employee expressly declines the opportunity to discuss the test results with the MRO, the MRO may verify the test as confirmed positive without further discussion with the employee. If, in the sole judgment of the MRO, there is a legitimate medical reason for a confirmed positive lab test, the MRO will verify the test as negative. If there is no legitimate medical reason for a confirmed positive lab test, the MRO will verify the test as positive and report the finding to the County. It is the employee's responsibility to return any phone calls from the MRO within a reasonable period of time and not to exceed 24 hours. If the employee does not contact the MRO within 5 days of notification or if the employee refuses to talk to the MRO, then the MRO may report the results of the test to the County.

An employee who tests positive for drugs or alcohol in a positive confirmed lab test will be subject to disciplinary action, up to and including termination of employment.



#### **4. Testing Procedure**

At the option of the County, employees may be given an initial screening at the work site by a designated County representative, certified agency contracted by county or at a designated collection site. All lab testing will be performed by a laboratory certified by either the National Institute on Drug Abuse/Substance Abuse and Mental Health Services Administration or the Department of Health and Human Services (DHHS) as qualified to perform drug and alcohol testing under federal workplace testing programs. Procedures may include an initial screen or lab test for any or all of the following: Amphetamines, Cocaine, Cannabinoids, Opiates, Phencyclidine (PCP), Methadone, Methaqualone, Barbiturates, Benzodiazepines, Propoxyphene, or Alcohol. All positive lab test results will be subject to confirmation testing and verification by a certified Medical Review Officer (MRO). All laboratory drug tests are to be conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation (DOT) in 49 C.F.R. Part 40.

Any employee who receives a non-negative result on an initial screening for drugs or alcohol may choose to have their specimen submitted to a certified lab chosen by the County for laboratory testing.

A confirmed positive lab test for a controlled substance, conducted and evaluated in accordance with Department of Transportation regulations, is a conclusive presumption of impairment. A confirmed positive breath, or saliva, or blood alcohol test result which shows a breath alcohol content of 0.04 or higher is a conclusive presumption of impairment for safety sensitive employees. For non-safety sensitive employees, a breath alcohol content of .08 or higher is a conclusive presumption of impairment. Non-safety sensitive employees with a breath alcohol content of 0.04 or higher will be subject to discipline short of discharge for the first offense. For a subsequent breath alcohol content of 0.04 or higher, non-safety sensitive employees will be subject to additional discipline, including termination.

#### **5. Employee Drug and Alcohol Education Program**

The County will conduct annual educational programs to educate employees about the dangers of drug and alcohol abuse, the indicators of drug and alcohol abuse, its policy of maintaining a drug-free workplace, and the penalties that may be imposed for violation of the policy. Supervisors will participate in such educational programs and will also receive annual training on how to recognize signs of substance abuse, how to document signs of employee substance abuse, and how to refer employees to the proper treatment providers. In addition, the County will keep available a resource file of information on drugs and alcohol and information on community treatment resources for employees' confidential use.

## 6. Confidentiality

The County is committed to a safe, productive workplace that is free of substance abuse. The County is also concerned about employees' privacy. All information received by the County, its managers and supervisors, testing lab, or MRO, concerning employee drug and alcohol testing, initial screening results, lab test results, and related medical information is *confidential*. Such information shall be released only upon the written consent of the employee, except:

- a. To local, state, or federal agencies with investigative or regulatory jurisdiction;
- b. To the County's workers' compensation carrier, or other third-party administrator of workers' compensation or insurance claims; employees of the County who have a "need to know;" as well as any retained consultant or counselor of the County relating to its drug and alcohol testing program;
- c. As evidence, obtainable discovery, or disclosure in any public or private proceedings, with the exception of any criminal proceeding against the employee;
- d. By subpoena from a court of competent jurisdiction;
- e. To subsequent employers upon receipt of a written request/release from the former employee;

Records relating to drug and alcohol testing, initial screening, lab reports showing test results, or other documents relating to the County's drug and alcohol testing program shall be kept in a separate location from employees' individual personnel files. Records shall be kept in a secure location and only authorized personnel shall have access to the records. A written consent form from the employee shall contain at a minimum all of the following information:

- i. Name of the person who is authorized to obtain the information
- ii. Purpose of the disclosure
- iii. Precise information to be disclosed
- iv. Duration of the consent
- v. Signature of the person authorizing release of the information

## 7. Employee Assistance / Benefits Program

Counseling and rehabilitation for alcohol or substance abuse is available through the health and welfare benefit program for employees, *only to the extent of the current benefits package*. The County will assume no direct financial responsibility for counseling or rehabilitation costs of an employee. Any costs in addition to or in excess of any available health benefits are the employee's responsibility. The County can provide a list of state and national resources upon

request.

An eligible employee with a drug and alcohol problem may make a voluntary self-referral for assistance prior to being chosen for screening or testing without jeopardizing his/her continued employment, provided the employee immediately discontinues the substance abuse. Employees may not, however, make a voluntary self-referral to avoid taking a required drug or alcohol test or screen.

Employees who are referred for a rehabilitation program through administrative channels or who are suspended from work for failure of a drug or alcohol test pending the completion of such a program may use the extent of any accrued paid vacation or sick leave time during such time as they are in attendance at the rehabilitation program. If the employee has accrued no paid vacation or sick leave time at the time he/she enters the rehabilitation program, such attendance will be without pay to the employee.

### **8. Investigations or Searches**

Where there is reasonable cause to suspect an employee has violated this policy, the County reserves the right for a supervisor to inspect lockers, work areas, desks, cabinets, purses, bags, briefcases, tool boxes, or other belongings, and county vehicles on County property or at locations where work-related activities are being conducted, without prior notice. "Cause to suspect" shall be solely in the judgment and discretion of the County. The County may release any illegal, or controlled drugs, or paraphernalia to law enforcement authorities in accordance with appropriate procedures.

### **9. Consequences of Policy Violation**

An employee who refuses to submit a blood test, urinalysis, "breathalyzer" test or other diagnostic test for the purpose of detecting drug or alcohol use immediately upon request for an initial screening; refuses to sign a consent form; refuses to cooperate with the testing process in any way that prevents completion of the test; or adulterates or dilutes the specimen; or who is otherwise in violation of this policy, is subject to disciplinary action *up to and including immediate termination*. An employee who refuses to submit to or cooperate with a blood, saliva, breath or urine test after an accident forfeits his or her right to recover Workers' Compensation benefits under the Alabama Code and is subject to disciplinary action up to and including termination. An employee who is terminated for refusing to submit to a screening or testing procedure, for testing positive in a confirmed lab test for either drugs or alcohol, or for other violations of this drug and alcohol policy, forfeits his or her unemployment benefits under the Alabama Code.

An employee subject to discipline or termination for the violation of this policy shall have the same rights of hearing or appeal as set forth for any other violation of County policy.

**St. Clair County Active Employee Certificate of Agreement and  
Receipt of Employee Policy Statement Consent Form**

I certify that I have received and read the St. Clair County Drug-Free Workplace Policy Statement. The terms and conditions of the County's drug-free workplace program have been explained to me and I freely and voluntarily consent to submit to the drug and alcohol screening or testing as set forth in the County's program. I understand and acknowledge that under the Alabama Code, no workers' compensation benefits will be paid to me if I test positive for drugs or alcohol in a confirmed laboratory test at the time of a work-related injury or death, or if I refuse to submit to either a drug or alcohol test or screening at the time of a work accident.

I also understand that a positive confirmed laboratory result from a post-accident drug or alcohol test is evidence of willful misconduct so as to disqualify me from Workers' Compensation benefits. I also understand and acknowledge that under the Alabama Code, no unemployment benefits will be paid to me under certain circumstances related to a drug and alcohol test, including if I am dismissed as the result of a positive confirmed laboratory test for drugs or alcohol; if I refuse to submit to an initial screening or a laboratory test for drugs or alcohol; if I refuse to cooperate with the County's representative in an initial screening; or if I knowingly alter or adulterate any screening or test sample.

I understand that if I refuse to submit to screening or testing or if there is a positive confirmed laboratory test result, that it will affect my continued employment and result in disciplinary action as described in the County's Drug-Free Workplace Policy Statement, up to and including termination. I also understand that the purpose of screening and/or testing is not to identify any disability I may have and that all testing activities will be conducted in accordance with regulations under the Americans with Disabilities Act (ADA).

I give my consent to the County and/or its designated representative to collect specimens, as set out in the policy, for the purpose of determining the presence of drugs and alcohol. I further agree to and hereby authorize the release of the results of said tests to St. Clair County, to the County Medical Review Officer, and as set forth in the Policy Statement.

I further agree that a reproduced copy of this consent form shall have the same force and effect as the original. I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent form is a voluntary act on my part and that I have not been coerced into signing this document by anyone. I expressly authorize the County, its agents, and its Medical Review Officer to release any screening or testing-related information,

including positive confirmed laboratory test results, to the Alabama Department of Industrial Relations, Unemployment Compensation Agency, St. Clair County's workers' compensation administrator or carrier, officials of the government agency investigating my employment or the termination thereof, or in any related administrative or court proceeding, and as set forth in the Policy Statement. I understand that this agreement in no way limits my right to terminate my employment or be terminated and the Policy Statement is not in any manner contractual in nature.

Employee Printed Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

Witness Printed Name: \_\_\_\_\_

Witness: \_\_\_\_\_

Signature: \_\_\_\_\_

**(This form is to be signed by employee and retained in personnel file.)**