



**STRENGTH OF THE STATE**

**WASHINGTON COUNTY**  
**JOB EVALUATION COMMITTEE**

**To:** Beck Lewallen, Angela Wood, Patrick Deakins, Jay Cantrell, Russell Hill, Bobby Hill, Kyle Sylvester, Roger Morris, Matt Durrett  
**From:** Patty Burchett, HR Director  
**Subject:** Job Evaluation Committee Agenda

There will be an in person meeting held on Monday, March 25, 2024 at 3:30 pm in the 5<sup>th</sup> Floor Conference Room; below is the agenda for this meeting.

**AGENDA**

March 25, 2024

LOCATION: 5<sup>th</sup> Floor Courthouse Conference Room

- I. Public Comments
- II. Unfinished Business:
  - a. Approval of the February 26, 2024 JESAP Meeting Minutes
- III. New Business:
  1. Request to approve and discussion of the newly proposed Drug & Alcohol Free Workplace Policy.





## **6.13 DRUG-FREE AND ALCOHOL FREE WORKPLACE POLICY**

Washington County is committed to protecting the safety, health, and wellbeing of all employees and the public in our workplace. The County has established a workplace program that balances our respect for individuals with the need to maintain an alcohol-free and drug-free environment. The purpose of this policy is to assure worker fitness for duty and to protect the County's employees, passengers, and the public from the risk posed by misuse of alcohol and use of prohibited drugs. This policy is intended to comply with all applicable federal regulations governing workplace anti-drug and anti-alcohol programs.

### **Testing**

To ensure the accuracy and fairness of drug and alcohol testing, all testing will be conducted in accordance with procedures required by the U.S. Department of Transportation where applicable, and in compliance with all applicable laws and regulations. Prohibited controlled substances are those defined by the Federal Controlled Substances Act and applicable Arkansas statutes governing controlled substances. An employee whose initial drug test result is positive and who requests a test of the split sample will be suspended without pay until the County receives the result of the split test. The cost of the split test will be paid by the County, to be reimbursed by the employee. A negative result from the split test will render the first test invalid and the employee will be reinstated with back pay and will waive the reimbursement requirement related to the cost of the split test.

### **Prescription Drugs, Over-the-Counter Drugs, and Medical Marijuana**

Prescription drugs and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription—however, a safety-sensitive employee who has been prescribed a medication that might cause drowsiness or otherwise impair the employee's ability to safely perform job functions has an affirmative duty to report use of such prescription. Reasonable accommodations that do not create undue hardship or a direct threat, shall be discussed with the employee. A reasonable accommodation is one that would permit the employee to continue to work in a safety-sensitive position, despite the use of the prescription.

When an applicant or employee tests positive on a drug screening test and has a valid prescription or medical marijuana card that would explain the result, the applicant or employee may share this information with the Medical Officer provided through the drug testing process. If the Medical Officer finds that the prescription or medical marijuana card explains the positive drug test within applicable limits, the positive drug test result will not be reported to the employer.

When proper notification is made and the prescribing healthcare practitioner provides a statement that the employee will not pose a direct threat to themselves or others and is otherwise able to perform their essential job duties, despite the use of the prescription medication, the employee may continue working in the same position. If a statement is not provided, or if a provided statement does not certify that the employee's use of the prescription will not impair

the employee's ability to safely perform job functions, a reasonable effort will be made to assign the employee to another position, if available.

The illegal or unauthorized use of prescription drugs is prohibited. Medical marijuana usage under the Arkansas Medical Marijuana Amendment is subject to Act 593 of 2017. An employee who holds a safety-sensitive position is not permitted to engage in the current use of medical marijuana while employed in the safety sensitive position. A safety-sensitive employee shall be removed from their position if they test positive for marijuana, or if the employer has a good-faith belief the employee is engaged in the current use of medical marijuana. This applies even if the employee is a qualifying patient under the Amendment and/or holds a registry identification card.

Employees are also subject to discipline, up to and including termination for the following acts related to medical marijuana:

1. Possession, ingestion, smoking, or otherwise using marijuana while on duty, or on the premises of the County, regardless of duty status; or
2. Being under the influence of marijuana while on duty, or on the premises of the County, regardless of duty status.

### **Post-Offer / Pre-Employment Testing**

County officials who hire for a position may elect to conduct post-offer / pre-employment testing on any class of prospective County employees, based on whether the position is Safety-Sensitive, regulated by DOT, or subject to other testing requirements. Testing under this section shall be consistent among job classes under an elected official and within departments. The prospective employee will not be employed until the test results are received by the Human Resources Director. The HR Director will then notify the Elected Official or Department Head whether the employee is hireable. A prospective employee cannot start work until the post-offer / pre-employment test result is received.

### **"Safety-Sensitive Positions"**

Safety-Sensitive positions include, but are not limited to, positions involving a safety-sensitive function pursuant to regulations governing drug and alcohol testing adopted by the U.S. Department of Transportation and the Arkansas General Assembly, or identified as safety-sensitive under the Fourth Amendment. Safety-sensitive positions typically involve job duties where impairment may present a clear and present risk to co-workers or other persons. A safety-sensitive position includes any position where a momentary lapse in attention could result in injury or death to another person. A safety-sensitive position includes, but is not limited to, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to:

1. carry a firearm;
2. perform life-threatening procedures;
3. work with confidential information or criminal investigations;
4. work with controlled substances;

5. maintain a commercial driver's license;
6. operate heavy equipment as part of normal duties;
7. serve as a mechanic on County vehicles;
8. serve as a dispatcher for law enforcement or emergency services;  
or
9. serve as a jailer or detention officer.

In cases where it is not clear whether a position is safety-sensitive, the hiring Elected Official shall determine whether the position is safety sensitive or not, based on all relevant information. Similar positions must be classified consistently.

- a. In general, County employees are subject to testing to detect the presence of alcohol and controlled substances in the following circumstances:
  1. Post-offer / pre-employment, depending on the position;
  2. Reasonable suspicion (including post-accident testing when the County has a reasonable suspicion that controlled substances and/or alcohol were a factor in the accident); or
  3. When otherwise permitted under the law.
- b. County employees who are subject to DOT regulations are subject to testing to detect the presence of alcohol and controlled substances in the following circumstances:
  1. Post-offer / pre-employment testing;
  2. DOT reasonable suspicion;
  3. DOT random testing;
  4. DOT post-accident testing; and
  5. DOT "Return-to-Duty" testing and "Follow-Up" Testing. 49 CFR 40
- c. Random Testing of Safety-Sensitive Employees

Employees in safety-sensitive positions will be subject to random, unannounced testing. A computerized program shall determine the individual safety-sensitive employees to be randomly tested.

### **Reasonable-Suspicion Testing**

County employees must be free from the effects of drugs or alcohol while on duty or on County property, including off-site County vehicles. An employee who is reasonably suspected of being intoxicated, impaired, under the influence of alcohol or drugs, or not fit for duty, shall be suspended from job duties with pay pending an investigation and verification of condition. Only an elected County official or supervisor who has been trained in reasonable-suspicion testing requirements may initiate reasonable-suspicion testing.

### **Disciplinary Action**

The following may result in immediate discharge:

1. Refusal to take a mandated test for drugs or alcohol. Refusal to submit to testing means that the employee fails to provide an

adequate urine or breath sample for testing without a valid medical explanation after he/she has received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process. Refusal to submit to testing includes, but is not limited to, refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, and/or submission or attempted submission of an adulterated or substituted urine sample;

2. A positive drug test (once the time limit for requesting a split test has expired, or upon receipt of a positive result from the split test);  
or
3. A positive alcohol test;
4. Committing a violation of the Arkansas Uniform Controlled Substance Act or the Federal Controlled Substance Act on County property or in a County vehicle; or
5. Failure to notify the County within five days of pleading guilty or nolo contendere, or of being found guilty of a violation of the Arkansas Uniform Controlled Substance Act or Federal Controlled Substance Act.

### **Records**

All records regarding the County's Drug-Free and Alcohol-Free Workplace Policy shall be confidentially maintained, in a secure location with controlled access, pursuant to A.C.A. § 11-14-109(e). Although records maintained by the County will remain confidential, such records may be used in legal proceedings in defense of the County, its agents, and employees, and such records may be otherwise disclosed as required or allowed by law, except that information on drug or alcohol test results for tests shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section is inadmissible as evidence in any such criminal proceeding, pursuant to A.C.A. § 11-14-109(c).