

ANTRIM COUNTY
Probate/Family Court
Drug and Alcohol Policy

This policy is effective August 13, 2009.

Antrim County and the Antrim County Probate/Family Court are committed to providing a safe, healthy, and efficient working environment for all employees and those who do business with Antrim County as well as protecting its reputation. Where County employees participate in illegal drug use or drug activity the integrity of the County, and public confidence in that integrity, are destroyed. This confidence is further eroded by the potential for corruption created by drug use.

In order to meet its responsibilities to the public and in an effort to prevent prohibited drug use and the misuse of alcohol by employees, the County and Probate/Family Court have adopted this Drug and Alcohol Policy. The Chief Judge of the Probate Court is hereinafter referred to as the Employer.

This Policy applies to all Antrim County Probate/Family Court employees.

A. Policy Statement on Drug and Alcohol Use in the Workplace

1. Employees must be free from the effects of drugs and alcohol during scheduled working hours, and when they report to work, as a condition of employment. Drinking alcoholic beverages or using drugs on County premises (including vehicles) or during working hours, during breaks, between shifts, or at lunch, or working or reporting to work when drugs, drug metabolites or alcohol are present in the employee's system is strictly prohibited and grounds for disciplinary action, up to and including immediate discharge.

In addition, the distribution, dispensation, possession, concealment, sale or unlawful manufacture of drugs or alcohol while on duty or on County premises, or conviction of any criminal drug statute for a violation occurring in the workplace is strictly prohibited and grounds for immediate discharge.

2. Subject to the provisions below, the Employer reserves the right to require employees to submit to urine drug testing and breath alcohol testing to determine usage of drugs and/or alcohol. Any employee who refuses to submit to any required test will be subject to immediate discharge. (The kinds of behavior which constitutes a refusal to test and a violation of this Drug and Alcohol Policy are described below in section J.) Any employee who tests positive for drugs and/or has an alcohol concentration at or above the proscribed limits will be subject to disciplinary action as outlined below. Such employees will also be subject to the established procedures regarding evaluation and treatment, and return to duty and follow-up testing.

In addition, the Employer reserves the right to require return to duty and follow-up testing as a condition of continuing employment or reinstatement following an employee's participation in or completion of an Employer-approved drug and/or alcohol treatment, counseling or rehabilitation program.

B. Use of Alcohol

Employees are subject to the following rules and restrictions regarding the use of alcohol:

1. Employees shall not report for duty or remain on duty while having an alcohol concentration greater than 0.00.
2. Employees shall not use alcohol while on duty, including breaks and mealtimes.
3. Employees shall not use alcohol within four (4) hours prior to reporting for duty.
4. Employees must submit to all authorized alcohol tests.

In addition, employees who are found to have an alcohol concentration greater than 0.00 in any authorized alcohol test shall be removed from duty, and may not return to duty until their alcohol concentration measures not greater than 0.00, or if not retested, for at least eight hours.

C. Prohibited Substances/Legal Drugs/Unauthorized Items/Searches

Prohibited Substances. Alcoholic beverages and drugs are considered to be prohibited substances in the workplace. For purposes of this policy, the term "drugs" includes controlled substances (as identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 USC Section 812, and the regulations promulgated thereunder), including the five (5) drugs listed below, synthetic narcotics, designer drugs, and prescription drugs, excepting only: authorized prescription drugs approved by and used in accordance with the directions of the employee's physician.

The following drugs are presently considered to be prohibited drugs for purposes of drug testing under this policy: marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

Legal Drugs. The appropriate use of prescription drugs, including medical marijuana and over-the-counter medications is not prohibited. However, the following guidelines must be observed. All prescription drugs shall be in the original container and in the employee's name. Any employee using medical marijuana must comply with all of the provisions of the Michigan Medical Marijuana Act, MCL 333.26421 et. seq. An employee who is ingesting medical marijuana may never do so in the work place and may not work while under the influence of marijuana. Any employee who, as a part of their duties, operates a vehicle or equipment which could cause harm and who is using a prescription drug should consult with her/his physician regarding the effects of that drug in relation to the operation of motorized vehicles and/or equipment. Employees should read all labels carefully. On-duty employees may not use any over-the-counter medications where the manufacturer advises against their use while operating motorized vehicles and/or equipment, or where their use during working hours has not been approved by the employee's physician. In the event of a question regarding the use of any prescription drug or over-the-counter medication, the employee must notify the Employer about such use and shall submit written approval for use of the drug or medication from her/his physician, upon request.

Unauthorized Items. Employees may not have any unauthorized items in their possession or in any area used by them or under their control. Unauthorized items include alcoholic beverage containers and drug paraphernalia used to administer drugs.

Searches. Where management has reasonable suspicion that the use, unlawful manufacture, distribution, dispensation, possession or sale of drugs or alcohol is taking place while an employee is on duty or on County premises, the Employer reserves the right to perform reasonable searches or inspections of the employee's work area, locker, desk, tool box and/or personal effects to determine whether the employee is engaged in prohibited conduct.

In such a case, the employee will be required to cooperate. Any employee who refuses to cooperate will not be forcibly searched, but will be advised that submission to such a search is a condition of employment and that failure to cooperate will result in termination of employment. If the employee again refuses, she/he will be terminated.

Prior to conducting a search of an employee or her/his personal effects, the Employer will meet with the employee to discuss the facts which form the basis for the reasonable suspicion and to give the employee an opportunity to provide an explanation. For purposes of this policy, reasonable suspicion will be based upon specific objective facts provided by a reliable witness, and the reasonable inferences drawn from these facts.

D. When Drug and Alcohol Testing May Be Required

Employees (and applicants) shall be required to submit to urine testing for use of prohibited drugs and/or breath alcohol testing in the following circumstances:

1. Prior to employment.

An applicant must have a verified negative drug test and is required to release to the Employer all drug and alcohol testing histories from prior employers who have employed the person at any time during the two years before the date of the application. Any such applicant with a prior positive or refused drug or alcohol test must provide the Employer with proof of having successfully completed a referral, evaluation and treatment plan.

2. When the Employer has reasonable suspicion that an employee has used a prohibited drug, or has engaged in prohibited conduct regarding the use of alcohol.

For purposes of this rule, reasonable suspicion shall be based upon specific, contemporaneous observations concerning the appearance, behavior, speech, or body odors of the employee.

An employee shall be subject to reasonable suspicion alcohol testing only if the observations mentioned in the preceding sentence are made during, just preceding, or just after the period of the workday that the employee is prohibited from using alcohol.

3. When an employee is involved in a vehicular accident while driving on County business in either a County-owned or personal vehicle.

Unless the Employer determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the

accident, the Employer may test any employee involved in an accident which (a) results in death or bodily injury requiring immediate treatment of a person away from the scene of the accident; or (b) results in one or more vehicles being transported away from the scene by a tow truck or other vehicle.

If testing is ordered, the employee shall be drug tested as soon as practicable, but within thirty-two (32) hours, following the accident and be alcohol tested as soon as practicable following the accident. If the alcohol test is not administered within eight (8) hours following the accident, the Employer shall cease attempts to administer the alcohol test. An employee required to undergo post-accident testing shall refrain from alcohol use for eight (8) hours following the accident, or until she/he undergoes a post-accident alcohol test. Any employee who fails to remain readily available for post-accident testing may be deemed to have refused to submit to such testing. Nothing in this paragraph shall be construed to require the delay of necessary medical attention for the injured following the accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

4. When an employee suffers an occupational on-the-job injury (requiring immediate treatment from a physician), or following a serious or potentially serious accident or incident in which safety precautions were violated, equipment or property was damaged, an employee or other person was injured, unsafe instructions or orders were given by the employee, or unusually careless acts were performed by the employee, testing may be ordered. In the case of on-the-job injuries, special consideration will be given to whether the injury occurred through no fault of the employee.
5. As part of a return to duty testing program.
If an employee voluntarily takes a leave of absence to participate in a substance abuse program, in order to return to duty, the employee must (a) have a verified negative drug test and/or an alcohol test indicating an alcohol concentration of not greater than 0.00; and (b) have been evaluated and released by a Substance Abuse Professional (SAP) acceptable to the Employer, who may require additional types of testing.
6. As part of a follow-up testing program.
In order to return to duty, an employee who has had a verified positive drug test or was found to have an alcohol concentration greater than 0.00 must have a verified negative drug test or an alcohol test indicating an alcohol concentration of not greater than 0.00. In addition, after returning to duty, the employee shall be subject to unannounced follow-up drug and/or alcohol testing. The number and frequency of such tests shall be as directed by the SAP, and shall consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. Follow-up testing may include additional types of testing based on the SAP's recommendations. Follow-up testing is in addition to all other types of testing required by this policy.
7. When an employee's performance and/or attendance record or verified information submitted by a supervisory employee or a complainant creates a reasonable suspicion that alcohol, controlled substances including the drugs listed above, synthetic narcotics, designer drugs, or prescription drugs are present in the employee's system.

For purposes of this rule, reasonable suspicion shall be based upon specific objective facts in the employee's performance and/or attendance record which show a pattern of suspected abuse, disciplinary problems or otherwise unexplained behavior; or upon the supervisory employee's or complainant's personal observation of specific objective facts including the appearance, behavior, speech, conduct or body odors of the employee, and the reasonable inferences drawn from these facts in light of experience and/or training. In the case of reasonable suspicion based only upon an employee's performance and/or attendance record, the Employer will meet with the employee at least one (1) time prior to any demand for testing to advise the employee of the Employer's concerns and to put the employee on notice that drug and alcohol testing will be required if the pattern of suspected abuse, disciplinary problems or otherwise unexplained behavior continues.

8. When the laboratory values in any authorized drug test indicate the need for additional testing, as determined by the Medical Review Officer (MRO), or where any authorized drug test must be canceled due to a collection, chain of custody or other procedural problem.

E. Additional Conditions Regarding Testing

When testing is administered under subsections D 2 or D 7 above, all objective facts on hand at the time of the demand for testing which form the basis for the reasonable suspicion shall be disclosed to the employee at that time, and the employee shall at the same time be given the opportunity to explain her/his behavior, action and/or appearance. Upon request, bargaining unit employees shall have the right to union representation; provided that such representation is readily available and will not unnecessarily delay testing. The objective facts and reasonable inferences drawn from these facts shall be reduced to writing, with a copy given to the employee within three (3) working days of the demand for testing.

F. Drug and Alcohol Testing Procedures

The following procedures shall govern the administration of drug and alcohol tests:

1. Drug and alcohol testing shall be conducted in a manner designed to protect employees and the integrity of the testing process, safeguard the validity of test results, and ensure that those results are attributable to the correct employee.

Except as provided below, all drug and alcohol testing shall be conducted substantially in accordance with the procedures set forth in 49 CFR Part 40, which will be on file in the Employer's office as well as the Coordinator/ Planner office.

2. Urine samples for drug testing shall be collected in private at the collection site designated by the Employer, using the split sample collection method. If medical personnel at the collection site have reason to believe that an adulterated or substituted sample has been provided (or that the employee may alter or substitute the sample), the employee shall be required to submit a second sample (or the original sample) under the direct observation of a same gender collection site person. Refusal by the employee to allow a directly observed collection under such circumstances constitutes a refusal to test.
3. An approved chain of custody procedure shall be followed in the administration of all drug tests. Urine samples shall be sealed and initialed by the employee and a witness.
4. Urine samples shall be promptly sent to and tested by a laboratory that is certified to perform drug tests by the U.S. Department of Health and Human Services (DHHS).
5. Urine samples, including the primary specimen and the split specimen, shall be stored in accordance with the requirements of 49 CFR Part 40. Any specimens which test positive for drugs shall be retained in long-term frozen storage by the laboratory conducting the analysis for a minimum of one year.
6. Breath alcohol tests shall be conducted in private at a collection site designated by the Employer.
7. Initial drug screening shall be conducted using an accepted immunoassay method. All positive tests shall be confirmed using the Gas Chromatography/ Mass Spectrometry (GC/MS) drug testing method.
8. Alcohol tests shall be conducted using a breath testing device. If the initial test indicates an alcohol concentration greater than 0.00, a second test shall be performed to confirm the results of the initial test.
9. Upon request, legible copies of the results of all drug and alcohol tests shall promptly be made available to the employee.
10. Any employee required to submit to a drug and/or alcohol test shall cooperate fully with the collection process and complete all required forms and documents.

G. Positive Drug Tests

Cutoff Limits. The cut-off limits established under 49 CFR Part 40 shall be used to determine whether drug test results are positive. In the event that the cutoff limits established under 49 CFR Part 40 are revised, the Employer shall recognize such new or revised cutoff limits.

Medical Review Officer. The Employer shall have a designated Medical Review Officer (MRO). The MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's positive test result and any other relevant biomedical information. The MRO shall be responsible for receiving, reviewing and analyzing all drug test results, and reporting any verified positive drug test results to the Chief Judge of the Probate Court, or his/her designee. The MRO shall also be responsible for directing the analysis of the split specimen in appropriate cases.

Dilute Negative Tests. In all instances where the MRO informs the Employer that a negative drug test was dilute, but the MRO does not direct the Employer to conduct a recollection under direct observation, the Employer will require the employee to take another test immediately, which will not be collected under direct observation unless there is a basis for use of direct observation as specified in 49 CFR Part 40. The result of this second test (and not that of the original test) becomes the test of record, upon which the Employer will rely. If the result of the second test is also negative and dilute, the Employer will not require the employee to take an additional test because the second test was dilute, unless the MRO directs the Employer to do so.

Prescription Drugs. When a positive drug test may be the result of use of a prescribed drug, the employee will be required to submit proof of the prescription within forty-eight (48) hours of the request to do so, together with a written statement from her/his physician approving the use of the drug during working hours. If the prescription and/or physician's statement is not submitted within the specified time limit, the employee will be subject to disciplinary action under this policy.

H. Substance Abuse Professional

The Employer shall have available the services of a designated Substance Abuse Professional (SAP). The SAP shall be a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor, with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The duties and responsibilities of the SAP shall be as follows:

1. The SAP shall make a face-to-face assessment and evaluation of an employee who has refused to submit to a drug test, has a verified positive drug test or has engaged in prohibited conduct regarding the use of alcohol and refer the employee to either (a) an education program or (b) a treatment or rehabilitation program. The SAP will determine if the employee has properly followed these referrals.
2. The SAP may recommend that an employee who has a verified positive drug test be subject to a return to duty alcohol test; or that an employee who has engaged in prohibited conduct regarding the use of alcohol be subject to a return to duty drug test.
3. Subject to the other provisions of this policy, the SAP shall determine the frequency and duration of the follow-up testing to be administered following an employee's return to duty. The SAP may recommend that follow-up testing include testing for drugs and/or alcohol, and may terminate the requirement for follow-up testing.

An employee who has refused to submit to a drug test, has a verified positive drug test or has engaged in prohibited conduct regarding the use of alcohol is responsible for all costs associated with SAP services and for education programs or treatment programs required by the SAP.

In addition, each employee who has a verified positive drug test, or has engaged in prohibited conduct regarding the use of alcohol shall be advised by the Employer of resources available to the employee in evaluating and resolving problems associated with prohibited drug use and/or the misuse of alcohol, including the names, addresses, and telephone numbers of substance abuse professionals.

I. Retesting

Any employee who has a confirmed positive drug test or a refusal to test because of adulteration or substitution, either of which is verified by the MRO, may request an analysis of the split specimen, in accordance with the following guidelines:

1. The employee must make the request to the MRO within seventy-two (72) hours after the employee has been informed of a verified positive test. Requests made after seventy-two (72) hours may be accepted if the MRO concludes that there was a legitimate explanation for the employee's failure to contact the MRO within seventy-two (72) hours.
2. The MRO shall direct, in writing, the original laboratory to provide the split specimen to another DHHS certified laboratory for analysis.
3. The original laboratory shall follow an approved chain of custody procedure when transferring the split specimen to the second laboratory.
4. The second laboratory shall analyze the split specimen by GC/MS to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen.
5. If the analysis of the split specimen is negative, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation to the Employer and the employee.
6. The Employer, by establishing appropriate accounts for testing split specimens, will assure that the split specimen is tested in a timely manner, regardless of the employee's ability to pay at the time, once the employee has made a timely request for the test of the split specimen. If the analysis of the split specimen reconfirms the initial test result, the employee must reimburse the Employer for the total cost of the additional analysis and all costs associated with the transfer of the split specimen to the other DHHS laboratory, including shipping and handling. If the analysis of the split specimen is negative, or the MRO cancels the test for any other reason, the Employer will reimburse the employee for any such costs.
7. The results of the retest will be binding on the Employer, the employee and the Union.

If the retest is negative, any discipline the employee has received will be voided and no further disciplinary action will be taken against the employee. If the retest is positive, or if no retest is requested, the test result cannot be challenged under the grievance procedure or arbitration.

J. Disciplinary Action

Grounds for Immediate Discharge. Employees will be subject to immediate discharge for the first offense in any of the following circumstances:

1. Refusal to submit to an authorized drug or alcohol test after being directed to do so. The following kinds of behavior constitute a refusal to test:
 - a. Failure of the employee to provide adequate breath or urine without a valid medical explanation. This includes:
 - i) failure to provide a sufficient amount of urine when directed, and it has been determined through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - ii) failure to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
 - b. Failure to appear within a reasonable time after notification, as determined by the Employer;
 - c. Failure to remain at the testing site until the testing process is complete;
 - d. Failure to undergo a medical examination or evaluation, as directed by the MRO or the Employer;
 - e. In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of the employee's provision of a specimen;
 - f. Failure or declining to take a second test the Employer or collector has directed the employee to take.
 - g. Engaging in conduct that clearly obstructs the testing process. This includes:
 - i) failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process, or refusal to sign the Testing Form;
 - ii) the MRO reporting that the employee has a verified adulterated or substituted test result.
2. Drinking alcoholic beverages or using drugs on County premises, or while on duty, including break and mealtimes.
3. Working or reporting to work with an alcohol concentration greater than 0.00.

4. Working or reporting to work when ability to perform is impaired by drugs. A positive drug test, when confirmed by evidence of impairment during working hours, will establish impairment.
5. Distribution, dispensation, possession, concealment, sale or unlawful manufacture of any prohibited substance, including alcoholic beverages, while on duty or on County premises.
6. Conviction of any criminal drug statute for a violation occurring in the workplace.
7. Refusal to cooperate in a search.

Progressive Discipline. Except in cases where impairment is established or the employee is otherwise subject to immediate discharge, an employee who tests positive for drugs in any authorized drug test will receive the following discipline for first offense:

A minimum unpaid suspension of the employee's next twenty (20) scheduled work days. In addition, the employee may not return to work until (a) passing a return to work drug and/or alcohol test and (b) receiving a release from the SAP.

Subject to the same exceptions, an employee who has an alcohol concentration greater than 0.00 in any authorized alcohol test will receive the following discipline for the first offense:

A minimum unpaid suspension of the employee's next ten (10) scheduled work days.

In order to be re-employed following completion of such a suspension, the employee must undergo and pass a return to duty drug and/or alcohol test, and be evaluated and released by the SAP, in accordance with subsections D 5 or D 6 above.

The Employer will attempt to schedule the return to duty drug and/or alcohol tests and the evaluation by the SAP so as to avoid any lost work time beyond the period of the suspension. However, the employee will remain on disciplinary suspension, without pay, until the Employer has received written notification from the MRO that the employee has passed the return to duty drug test (and/or notice from the collection site that the employee had an alcohol concentration not greater than 0.00 in the return to duty alcohol test) and written notice from the SAP that the employee has been released to return to duty.

At her/his option, the employee may elect to have the date of a return to duty drug test delayed; provided, however, that the employee must undergo the return to duty drug test within forty-five (45) days of the date of the initial drug test and the Employer will have the right to schedule the return to duty drug test anytime within seven (7) days before or after the testing date requested by the employee.

If the employee tests positive for any drug or has an alcohol concentration greater than 0.00 in a return to duty test, or in any other authorized drug or alcohol test administered within the next twelve (12) months, she/he will be immediately discharged.

Rehabilitation and Additional Testing.

In the event an employee receives disciplinary action less than discharge for a drug or alcohol-related infraction, the following procedures shall also apply:

1. The Employer may require the employee to enroll in an Employer-approved treatment, counseling and/or rehabilitation program for drug and/or alcohol abuse at the time discipline is imposed, based on the recommendations of the SAP.
2. If the employee is required to enroll in such a program, her/his continued employment or reinstatement shall be contingent upon successful completion of the program and remaining drug and alcohol free for its duration. In addition, the employee must submit to any drug and/or alcohol testing administered as part of the program, and provide the Employer with the results of such tests. The employee must also provide the Employer with progress reports from her/his therapist, or the agency running the program, on at least a monthly basis. (Failure to provide such reports or the results of such tests will result in the employee being placed on suspension, without pay.)

An employee who tests positive for drugs or has an alcohol concentration greater than 0.00 in any test administered as part of a treatment program will not be subject to progressive discipline under the procedures set forth in section J above. However, if the employee is on active status, she/he will be immediately removed from duty and suspended without pay; and in all cases, the employee will not be allowed to return to work until she/he has been released by the SAP.

3. In accordance with subsection D 6 above, an employee who is required to undergo return to duty drug and/or alcohol tests may be administered unannounced follow-up drug and/or alcohol tests.

The employee shall bear the cost for any such rehabilitation and testing.

K. Voluntary Drug and Alcohol Rehabilitation

If an employee who is not otherwise subject to disciplinary action for use of drugs and/or alcohol voluntarily admits that she/he has a drug and/or alcohol abuse problem:

1. The Employer will meet with the employee to discuss various treatment, counseling and rehabilitation options that are available. These options may include allowing the employee to continue working while she/he is receiving outpatient treatment, counseling and/or rehabilitation in an Employer-approved outpatient drug and/or alcohol abuse program; or placing the employee on unpaid requested or unrequested leave of absence while she/he is receiving treatment, counseling and/or rehabilitation in an Employer-approved inpatient or outpatient drug and/or alcohol abuse program.
2. The Employer shall have the right to require the employee to be evaluated by the SAP and/or submit to drug and/or alcohol testing prior to deciding what action is appropriate. No disciplinary action will be taken by the Employer. However, the Employer shall have the option to require the employee to successfully participate in rehabilitation and testing as described in the "Rehabilitation and Additional Testing" portion of section J above, at the employee's expense.

3. If the employee tests positive for any drug or has an alcohol concentration greater than 0.00 in any authorized test given during the twelve (12) month period following completion of an Employer-approved treatment, counseling or rehabilitation program for drug and/or alcohol abuse, the employee shall be given one last opportunity for rehabilitation under the procedure described above, provided the employee is not otherwise subject to discipline at the first step of the disciplinary procedure set forth in section J above.

4. If the employee voluntarily admits that she/he has experienced a reoccurrence of her/his drug or alcohol abuse problem at any time following completion of a treatment, counseling or rehabilitation program, and the employee is not otherwise subject to disciplinary action, she/he will be given one last opportunity for rehabilitation and no discipline will be imposed.

Drug and Alcohol Policy Acknowledgement

All employees are required to sign below to acknowledge they have read and have a general understanding of the Antrim County Probate/Family Court Drug and Alcohol Policy.

Signature: _____

Print name: _____

Date: _____