

# Macomb Township

## Drug-Free Workplace Policy

Effective  
September 1, 2004



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## **PURPOSE AND COVERAGE**

Macomb Township values its employees and customers and recognizes the need for a safe, productive and healthy work environment. Employees who abuse drugs and/or alcohol are less productive, less dependable, and are a critical threat to the safety, security and welfare of Macomb Township, its employees, customers, vendors, those who do business with Macomb Township, as well as the general public. The establishment of a Drug-Free Workplace Policy (Policy) is consistent with Macomb Township's desire to provide a safe, productive work environment for our employees.

Accordingly, it is the policy of Macomb Township to maintain a workplace free from the use and abuse of drugs and alcohol. Macomb Township will require that all employees and applicants participate in, consent and comply with the terms of this Policy as a condition of employment and continued employment. If questions arise regarding this Policy, please direct them to John F. Brogowicz, Human Resources Director and Macomb Township's Drug Program Coordinator (DPC). This Policy originally became effective July 1, 1997 as amended.

This Policy covers all employees of Macomb Township. Employees who are leased or subcontracted to clients may be required to be tested if required under a client's drug and/or alcohol testing policy, provided that the testing is in accordance with the policy and the policy complies with applicable law. This Policy, by its terms, also covers applicants insofar as applicants, after a conditional offer of employment has been made, are required to consent to, take and participate in a pre-employment test. Applicants, however, are not entitled to participate in any Employee Assistance or Rehabilitation Program offered by Macomb Township to its employees.

## **NON-DISCRIMINATION**

In accordance with the requirements of the Americans with Disabilities Act, Macomb Township does not discriminate against employees or applicants who are qualified individuals with a disability who are not currently engaged in use of illegal drugs and who do not otherwise violate the provisions of this Policy, including but not limited to individuals who: 1) have successfully completed or who are currently participating in a supervised rehabilitation program and are no longer engaging in such use; or 2) have otherwise been rehabilitated successfully and are no longer engaging in such use.

## **INSPECTIONS**

Macomb Township reserves the right to inspect Macomb Township vehicles, premises, and property (including offices, desks, lockers and other repositories) and personal effects (such as lunch boxes/bags, purses, gym bags, backpacks, handbags, briefcases, packages or coats) where there is reasonable cause to believe that an employee has violated this Policy. This Policy will extinguish and eliminate any continuing expectation of privacy where reasonable cause exists to believe that there has been a Policy violation. Where reasonably practical, inspections will be conducted in the presence of the employee implicated in the potential Policy violation.

## **DEFINITIONS**

**Drug** means a controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. § 812, including cocaine, opiates, marijuana, amphetamines and phencyclidine (PCP). The term "illegal drug" does not include the use of a drug obtained and taken under supervision by and in accordance with prescriptions or other instructions issued by a licensed health care professional and other drugs otherwise authorized to be used under the Controlled Substances Act.

**Under the influence of alcohol** means (1) the presence of alcohol in the individual's system which equals or exceeds a blood alcohol content (BAC) of .04; or (2) behavior, appearance, speech, or bodily odors that lead a supervisor or manager to reasonably suspect that the employee is impaired by alcohol during working time or on Macomb Township premises.

**Under the influence of drugs** means (1) the presence of any detectable amount of an illegal drug or its metabolites demonstrated by a verified positive drug test result, or (2) behavior, appearance, speech, or bodily odors that lead a supervisor or manager to reasonably suspect that the employee is impaired by illegal drugs or is using illegal drugs during working time or on Macomb Township property.

**During working time** means time during which the employee is being paid to work for or represent Macomb Township or the employee is in fact representing Macomb Township's interests. The term also includes all paid break and meal periods.

**Safety-sensitive position** means a job, including any supervisory or management position, in which impairment caused by drug or alcohol usage, would threaten the health or safety of any person. Safety-sensitive positions Macomb Township include the following: Department Head, Manager, Supervisor, Fire Fighter, Water & Sewer Inspector, Utility Worker, Building Inspector or Enforcement Officer, Lifeguard, Building or Park Attendant, any position entrusted with the care of children, disabled or impaired resident or senior citizen, or any employee driving a Township vehicle.

### **TESTING**

Macomb Township reserves the right, within the limits of federal and state laws, to examine and test for the presence of drugs and/or alcohol. Under the conditions of this Policy, applicants or employees may be asked to submit to a medical examination and/or submit to urine, saliva, breath, and/or blood testing for drugs and/or alcohol. The types of testing performed by Macomb Township include, but are not limited to, the following:

### **Pre-Employment/Pre-Placement**

Macomb Township makes all offers of employment subject to and conditioned on the applicant's: 1) consent to taking a drug and/or alcohol test; and 2) a negative test result. Applicants will be required to voluntarily submit to urinalysis, breath, blood or saliva drug and/or alcohol testing and sign a consent and testing appointment agreement. If the tests are positive or if the applicant refuses to undergo testing, the offer of employment will be withdrawn, provided that, where an offer is withdrawn on the basis of a positive alcohol test, the withdrawal is job-related and consistent with business necessity.

### **Post-Accident**

A drug and/or alcohol test will be conducted on all employees involved in accidents occurring during work time or on Macomb Township property. Covered accidents include, but are not limited to, accidents that the employee caused or contributed to that involve: 1) personal injury to employees or others which necessitates medical attention; or results in lost work time; and/or 2) damage to Macomb Township property. Employees are expected to make themselves available for post-accident testing. If circumstances require an employee to leave the scene of an accident, the employee must make a good faith attempt to be tested and to notify Macomb Township of his or her location. Any employee who fails to report any work-related accident is in violation of this Policy and is subject to disciplinary action, up to and including termination. Under certain state laws, employees testing positive may be ineligible for workers' compensation benefits.

### **Reasonable Cause**

Employees will be asked to submit to a drug and/or alcohol test if reasonable cause exists indicating that the employee is under the influence of illegal drugs or alcohol. Reasonable cause means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

### **Return-to-Duty**

Employees who have tested positive and have been removed from his/her job duties must submit to and furnish a negative drug and/or alcohol test result prior to returning to his/her job duties.

### **Follow-Up**

An employee who has been removed voluntarily or otherwise from his or her job duties on the basis of a verified positive drug test result and/or confirmed positive alcohol test result will be subject to unannounced drug and/or alcohol testing to determine whether he or she is under the influence of alcohol or drugs. The testing can continue up to twenty-four (24) months from the return-to-work date.

### **Annual**

All employees may be subject to drug and/or alcohol testing as part of a routine annual physical examination, provided that the employee has been given at least two weeks' written notice that a drug and/or alcohol test may be requested or required as part of the physical examination.

### **POLICY PROHIBITIONS**

Employees are strictly prohibited from engaging in the conduct listed below.

1. With respect to illegal drugs, employees violate this Policy by engaging in the following conduct, whether or not during work time or on Macomb Township premises or property:

- a) bringing and/or storing (including in a desk, locker, automobile, or other repository) illegal drugs or drug paraphernalia on Macomb Township's premises or property, including Macomb Township owned or leased vehicles, in vehicles used for Macomb Township purposes or a customer's premises;
- b) having possession of, being under the influence of, testing positive for, or otherwise having in one's system, illegal drugs;
- c) using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling or dispensing illegal drugs;
- d) a conviction or plea of guilty relative to any criminal drug offense. All employees must notify Macomb Township in writing of any criminal drug conviction no later than five (5) calendar days after such conviction;
- e) abuse of prescription drugs which includes exceeding the recommended prescribed dosage or using others' prescribed medications;
- f) switching, tampering with or adulterating any specimen or sample collected under this Policy, or attempting to do so;
- g) refusing to cooperate with the terms of this Policy which includes submitting to questioning, drug testing, medical or physical tests or examinations, when requested or conducted by Macomb Township or its designee, is in violation of Macomb Township's Policy and subject to disciplinary action, up to and including termination. A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork, failing to report to the collection site at the appointed time and failing to be reasonably available for a post-accident test;
- h) failure to consent to, participate in and abide by the terms and recommendations of any Employee Assistance Program (EAP) or rehabilitation program to which Macomb Township makes a referral, including but not limited to, failure to follow recommendations, if any, regarding behavior modification and abstinence. These failures are a violation of this Policy, as is any failure to be available for any prescribed continuing or follow-up sessions;
- i) failure to advise a supervisor or manager of the use of a prescription or over-the-counter drug which may alter the employee's ability to perform the essential functions of his or her job is a violation of this Policy; or
- j) failure of employees to notify his or her supervisor before going to work if he or she believes that he or she is under the influence of drugs.
- k) Where lawful, Macomb Township strictly prohibits employees from using hemp products, which some within the medical community have indicated may cause a positive marijuana test result. Similarly, except where prohibited or restricted by law, and in accordance with and consistent with Department of Transportation guidelines for drug testing of certain truck drivers, Macomb Township will not generally consider use of hemp products a valid medical explanation for a positive marijuana test result. Any questions about this prohibition should be directed to the Director of Human Resources.

2. With respect to alcohol, employees violate this Policy by engaging in the following conduct during work time or on Macomb Township premises or property:

- a) bringing and/or storing (including a desk, locker, automobile, or other repository) alcohol on Macomb Township premises or property, including Macomb Township owned or leased vehicles, in vehicles used for Macomb Township purposes or a customer's premises;
- b) having possession of, being under the influence of, testing positive for or having in one's system, alcohol;

- c) using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling or dispensing alcohol;
- d) a conviction or plea of guilty relative to any criminal alcohol offense. All employees must notify Macomb Township in writing of any criminal alcohol conviction no later than five (5) calendar days after such conviction;
- e) switching, tampering with or adulterating any specimen or sample collected under this Policy, or attempting to do so;
- f) refusing to cooperate with the terms of this Policy which includes submitting to questioning, alcohol testing, medical or physical tests or examinations, when requested or conducted by of Macomb Township or its designee, is in violation of Macomb Township's Policy and subject to disciplinary action, up to and including termination. A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork, failing to report to the collection site at the appointed time and failing to be reasonably available for a post-accident test;
- g) failure to consent to, participate in and abide by the terms and recommendations of any Employee Assistance Program (EAP) or rehabilitation program to which Macomb Township makes a referral, including but not limited to, failure to follow recommendations, if any, regarding behavior modification and abstinence. These failures are a violation of this Policy, as is any failure to be available for any prescribed continuing or follow-up sessions; or
- h) failure of employees to notify his or her supervisor before going to work if he or she believes that he or she is under the influence of alcohol.

#### **CONSEQUENCES FOR POLICY VIOLATIONS**

Employees who engage in any of the prohibited conduct listed above are in violation of this Policy and are subject to discipline, up to and including termination and at Macomb Township's sole discretion. While the discipline imposed will depend on the circumstances, and Macomb Township reserves the right to determine, in its discretion, discipline imposed, ordinarily certain offenses will result in immediate termination (e.g. possession, sale or use of illegal drugs on Macomb Township's premises or during working time).

Macomb Township also reserves the right to refer employees with a verified positive drug and/or confirmed alcohol test for assessment, counseling, rehabilitation services or treatment by a Rehabilitation Service Provider, Substance Abuse Professional, or other qualified person licensed or certified in accordance with applicable state law, if any, to provide chemical dependency counseling and to require any employee so referred to enter into and abide by one or more of the following: a Rehabilitation Agreement and/or a Return-to-Work Agreement. Costs associated with this benefit may be covered by the employee's medical insurance plan; however, any costs not covered by the employees medical insurance plan and which are not otherwise required to be paid by any applicable plan are entirely the employees sole responsibility.

Finally, employees for post-accident or reasonable cause testing will be removed from his or her position and receive a non-disciplinary suspension until Macomb Township receives the test results. Hourly employees will not be compensated for time missed from work if the test is positive, but will be compensated if the test is negative.

#### **VOLUNTARY TREATMENT AND COUNSELING**

We encourage all employees who need assistance in dealing with alcohol or drug abuse dependency problems to seek counseling through the various private and public agencies that are available. Employees who come forward to request treatment or leaves of absence for treatment will not be subject to discipline. Costs associated with any rehabilitation program may be covered by the employee's medical insurance plan; however, any costs not covered by the employee's medical insurance plan and which are not otherwise required to be paid by any applicable plan are entirely the employee's sole responsibility. Macomb Township will comply with any applicable medical leave law, disability discrimination law or applicable leave policy in the event leave is requested. Except as otherwise required by such laws or policies, Macomb Township cannot guarantee that the employee will return to the same or a comparable position upon return to duty.

Employees may not escape discipline by first requesting such treatment and/or leaves after being selected for testing or violating Macomb Township's policies and rules of conduct. Nor will such requests, leaves or participation in treatment or counseling excuse employees from compliance with normal standards of performance or conduct. Requests for voluntary treatment or counseling and related matters will be kept confidential in accordance with any applicable federal and/or state law requirements.

**-OR-**

### **EMPLOYEE ASSISTANCE PROGRAM**

Macomb Township offers an Employee Assistance Program (EAP) for employees and their dependents. The EAP provides confidential assessment, referral, and short-term counseling for employees who need or request it. Any employee, through self-referral or through a referral source, can access the EAP. These EAP services are available to employees if Macomb Township's disciplinary rules have not been violated. Employees may not escape discipline, however, by first requesting EAP services after being selected for testing or violating Macomb Township's policies and rules of conduct. Nor will such requests or utilization of EAP services excuse employees from compliance with normal standards of performance or conduct. Information provided when accessing and utilizing EAP services will be kept confidential in accordance with any applicable federal and/or state law requirements.

Costs associated with this benefit may be covered by the employee's medical insurance plan; however, any costs not covered by the employee's medical insurance plan and which are not otherwise required to be paid by any applicable plan are entirely the employee's sole responsibility.

### **CONFIDENTIALITY AND PRIVACY**

All drug and alcohol test results are reported to Macomb Township's DPC and will remain and be considered confidential. Results will only be disclosed within Macomb Township and on a need-to-know basis and as allowed by law and retained in a secure location with controlled access. Information about an employee's medical condition or history obtained in connection with a drug and alcohol test will be kept in a file separate and apart from the employee's personnel file. The release of an individual's drug and alcohol test results and other information gained in the testing process will only be otherwise disclosed in accordance with an individual's written authorization or as otherwise required by applicable law.

Macomb Township will attempt to ensure that all aspects of the testing process, including specimen or sample collection, are as private and confidential as reasonably practical. Employees or applicants will not be observed while providing a urine specimen unless there is reason to believe the employee or applicant has tampered with, adulterated, switched or attempted to tamper with, adulterate or switch a urine specimen.

### **EDUCATION AND TRAINING**

Macomb Township has available information, education and training regarding problems associated with drug and alcohol abuse in the workplace and otherwise. One important source of information is the "Employee Handbook." We also provide training for supervisors and managers through, among other things, the "Supervisor Training Manual."

### **CONSENT**

As a condition of continued employment, employees must sign a consent form (a copy of which is attached hereto and made a part hereof).

### **RESERVATION OF RIGHTS**

This Policy supersedes and revokes any other Macomb Township practice or policy relating to the use of drugs and alcohol in the workplace and drug and/or alcohol testing. Macomb Township reserves the right to interpret and administer this Policy, and at any time and at its sole discretion, amend, supplement, modify, revoke, rescind or change this Policy, in whole or in part, with or without notice and with or without consideration. This Policy is not an express or implied contract of employment nor is it to be interpreted as such. Additionally, this Policy does not in any way affect or change the status of any at-will employee. At-will employees continue to be free to terminate their employment or resign from employment at any time and Macomb Township continues to be free to terminate employee, with or without cause, with or without notice, for any lawful reason or for no reason at all. Nothing in this Policy is a promise or guarantee or should be construed as a promise or guarantee that Macomb Township will follow in any particular circumstances any particular course of action, disciplinary, rehabilitative or otherwise.



## Drug Free Workplace Policy

### Acknowledgement of Receipt of Policy and Consent to Testing

I certify that I have received and understand my company's Drug-Free Workplace Policy.

I agree to comply with the company's policy on drugs and/or alcohol and understand failure to comply is grounds for disciplinary action, up to and including termination.

I consent to submit to drug and/or alcohol testing as outlined in the company's policy.

I consent to provide specimens at the assigned collection site(s) and further consent to have urine specimens tested for drugs at a U.S. Department of Health and Human Services/Substance Abuse and Mental Health Services Administration (DHHS/SAMHSA)-certified laboratory.

I consent to the release of the drug and/or alcohol test results in accordance with the company policy to the selected Medical Review Officer (MRO), to the company's third-party administrator (currently ChoicePoint), to and within the company on a need-to-know basis, and to additional parties in accordance with my written authorization or as otherwise required by applicable federal or state law.

I will be given an opportunity to discuss a positive drug test result with the MRO before the result is reported to the company as a verified positive.

In the event of a post-accident test, the drug and/or alcohol test result(s) may also be provided to the workers' compensation insurance carrier.

Employee Name (*Print*): \_\_\_\_\_ Date: \_\_\_\_\_

Employee Social Security Number: \_\_\_\_\_

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

Employer Name: **Macomb Township**  
54111 Broughton Road  
Macomb, MI 48315

I am the parent/guardian of \_\_\_\_\_, and I acknowledge that I understand the company's Drug-Free Workplace Policy. I hereby consent to his/her participation in the company's Drug-Free Workplace Program.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_