



POLICIES AND PROCEDURES		SECTION: Six Standards of Conduct and Conditions of Employment DATE: 07/12/93 REVISED: 1/19/11 PAGES: 14
REFERENCE: 2.6-9 Drug/Alcohol-Free Workplace		
RELATED STANDARDS:		
AMENDS or SUPERSEDES: 2.65 Drug and Alcohol Policy Chapter 5 (Appendix C) Substance Abuse Policy	DISTRIBUTION: All Osceola County Employees	

- I. AUTHORITY:** Osceola County Board of County Commissioners.
- II. PURPOSE:** To eliminate the abuse by any Osceola County Board of County Commissioners (hereafter known as County) covered worker of alcohol, drugs, or any other substance which could affect safety, job performance, and/or the general welfare of the citizens of the community.
- III. DEFINITIONS:**
- A. CDL-required position: A position with Osceola County that requires the maintenance of a Commercial Driver’s License as a condition of employment.
 - B. Confirmation Test: A second analytical test performed following the initial screening test that provides quantitative data of alcohol concentration or identifies the presence of a specific drug or metabolite in a specimen; considered the final test result.
 - C. Covered Worker: Any individual who conducts business for the County or is applying for a position with the County. This includes but is not limited to executives, management, supervisors, full-time, part-time and temporary employees, off-site employees, volunteers, interns and job applicants.
 - D. Drug: Alcohol, including a distilled spirit, wine, a malt beverage, or intoxicating liquor; an amphetamine, a cannabinoid (marijuana), cocaine, phencyclidine (PCP), a hallucinogen, methaqualone, an opiate, a barbiturate, a benzodiazepine, a

synthetic narcotic, a designer drug, or a metabolite of any of the substances listed in this paragraph.

- E. **Drug Test:** Any chemical, biological, or physical instrumental analysis administered by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of alcohol or drug or its metabolites.
- F. **Employee:** A person who works for salary, wages or other remuneration for the County.
- G. **Employee Assistance Program (EAP):** An established program capable of providing expert assessment of employee personal concerns; confidential and timely identification of services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program or require monitoring after returning to work.
- H. **Last Chance Agreement:** An agreement between the County and an employee who tests positive for drugs or alcohol, specifying the terms the employee must abide by in order to maintain employment with the County. Last Chance Agreements are entered into at the sole discretion of the County Manager or his designee.
- I. **Medical Review Officer (MRO):** A licensed physician contracted by the County, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate a covered worker's positive test result in relation to their medical history or any other relevant biomedical information.
- J. **Prescription or Non-Prescription Medication:** A drug or medication obtained pursuant to a lawful prescription, or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.
- K. **Reasonable Suspicion:** A belief based on objective facts and the rational inferences which may be drawn from such facts, or based on direct or reported observations from a verifiable source, that the particular covered worker is using or is impaired by drugs or alcohol.
- L. **Safety-Sensitive Position:** A position in which drug impairment constitutes an immediate and direct threat to public health or safety, including but not limited to:
 - 1. Positions that require the possession of a Commercial Driver's License.

2. Positions defined as Special Risk by Florida Statute, including Certified Law Enforcement Officers, Certified Corrections Officers, Firefighters, Nurses, Emergency Medical Technicians, and Paramedics.
3. Positions that require a security background check, including fingerprinting, as a condition of employment, because of the special trust or responsibility or sensitive location of those positions.
4. Positions that require the employee to carry firearms or other weapons.
5. Positions that require the employee to work with controlled substances.
6. Positions where a lapse in attention could result in the injury or death of the covered worker or another person.

Safety-sensitive positions are designated by Osceola County Human Resources' Risk Management section.

- M. Split-Specimen: A testing procedure created when an initial urine sample is split into two. One sample is used for the initial screen, and if positive, the second sample is used for the confirmation test. If there is a positive result, the individual being tested may request the confirmation test be done at a different laboratory.
- N. Substance Abuse Provider (SAP): A licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity/ Alcohol & Other Drug Abuse) who has clinical experience in the diagnosis and treatment of drug and alcohol related disorders.
- O. Under the Influence: To be physically, mentally, or emotionally subject to the affects of a drug or alcohol.
- P. Work-Related Illness: Any abnormal health condition or disorder caused by exposure to factors associated with the work environment (e.g., repetitive conditions such as carpal tunnel syndrome).
- Q. Work-Related Injury: Any wound or other damage to the body resulting from an event in the work environment.

IV. POLICY: County employees are prohibited from using, selling, dispensing, distributing, possessing, or manufacturing illegal drugs and alcoholic beverages on County premises, work sites, or in County vehicles. Employees are prohibited from off-premise possession, use, or sale of illegal drugs. In addition, employees are prohibited from off-premise use of

alcohol and drugs when such activity adversely affects job performance, job safety, or interferes with the County's ability to carry out its mission.

V. PROCEDURES:

A. General Procedures

The Human Resources department shall implement this policy through a Drug-Free Workplace Program, established and administered in accordance with Florida Statutes Section 440.102, Drug-Free Workplace Program Requirements and any applicable provisions of the Code of Federal Regulations (CFR).

1. Applicability

This policy is intended to apply whenever anyone is representing or conducting business for the County. Therefore, this policy applies to all covered workers during all working hours, whenever conducting business or representing the organization, while on call, paid standby, and at County-sponsored events.

2. Testing

All drug and alcohol testing under this policy shall be conducted in accordance with any applicable state or federal laws or regulations. A certified Medical Review Officer (MRO) who is not employed by the testing laboratory will be responsible for interpreting the drug test results. The County shall pay for all drug tests that it requires. The County is not required to pay the costs of treatment for a covered worker with a drug related problem.

3. Testing Standards

- a. **Alcohol Testing:** Alcohol testing shall be conducted using saliva devices or breath testing using evidential breath testing (EBT) and non-evidential breath testing devices approved by the National Highway Traffic Safety Administration (NHTSA). For CDL holders, an initial screening shall be conducted first and any result less than 0.02 is considered a negative test. If the alcohol concentration is 0.02 or greater, a second confirmation breath test must be conducted to determine blood alcohol content (BAC). Alcohol testing will be accomplished through the use of a certified Breathalyzer Operator/Technician, and performed in compliance with the standard procedures as practiced by the local law enforcement agencies or a blood alcohol test performed by the County designated Physician/Staff and tested by an approved Laboratory.

- b. **Drug Testing:** The initial screen for all drugs shall use an immunoassay that meets the requirements of the Food and Drug Administration for commercial distribution. All specimens identified as positive in the initial test will be confirmed by a second test (confirmation test) using gas chromatography/ mass spectrometry (GC/MS) or an equivalent scientifically acceptable method of confirmation. (See Attachment 1, Thresholds for Positive Screen and Confirmation Tests.) A urine sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample. For CDL holders, split specimen procedures shall be utilized as required by federal law. The Department of Transportation's alcohol and drug testing regulations require all tests be performed using this collection process.

4. Positive Test Results

- a. If a drug test is confirmed positive, the MRO is required to contact the covered worker prior to reporting the results of the test to the employer. If the donor provides a plausible explanation for the positive test result (i.e., legal use of prescription or nonprescription medication) as determined by the MRO, the MRO will report the test result as negative to the employer. To make such a determination, the covered worker shall provide to the MRO an authorized physician verification of current prescription for any drug or medication identified within five (5) working days. The prescription must be in the covered worker's name. The MRO is responsible for administering the procedures for this process.
- b. The County shall provide a copy of the final test results to the covered worker upon request. The County will not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of a covered worker on the sole basis of a positive test result that has not been verified by a confirmation test.

5. Test Tampering

Evidence that an applicant has tampered with a drug sample shall lead to rejection of his or her application for employment or internship. Evidence that an employee has tampered with a drug sample shall lead to discipline, up to and including termination of employment.

6. Searches

The County reserves the right to search all areas of property for which the County maintains control or joint control with the covered worker. Management shall not physically search the covered worker or the covered

worker's personal possessions, without his or her consent, nor without the presence of a witness.

7. Prescription Drug Use

The mere use of prescription drugs is not a violation of this Policy.

However, a covered worker must notify their supervisor when taking any prescription or over the counter medication that could interfere with his or her safe and effective performance of assigned job duties, including but not limited to, operation of County equipment, a County vehicle, or a personal vehicle.

- a. The Osceola County Drug Disclosure Form (Attachment 2) shall be used to provide notification. The form is to be completed by the covered worker and provided to Human Resources via the assigned Human Resources Coordinator. Failure to provide such notification shall result in disciplinary action, up to and including termination of employment.
- b. A clearance from a qualified physician approved by the County may be required before a covered worker is approved to work while taking prescribed medication.
- c. The County may decline to approve an employee to work if, as a result of taking prescribed medication, the employee is unable to satisfactorily perform his or her assigned duties.

8. Employee Assistance Program

The County provides an Employee Assistance Program (EAP) through Cigna where employees may voluntarily seek treatment for drug or alcohol abuse. Cigna may be contacted at (888) 371-1125. An employee who has not previously tested positive by the County for drugs or alcohol, and who voluntarily seeks treatment for a drug or alcohol problem, shall not be disciplined or terminated solely on the basis of seeking such treatment.

9. Confidentiality

Except as otherwise required by law, all information, interviews, reports, statements, memoranda, and drug tests, written or otherwise, received or produced as a result of a drug testing program shall be treated as confidential and shall only be disclosed or released in accordance with the provisions of Florida Statute Section 440.102 or any other applicable law.

10. Duty to Report

A covered worker who is arrested, charged, or issued a citation for any criminal violation of a criminal drug statute or for driving under the influence or while intoxicated, must report such arrest, charge, or citation to

the County on their next scheduled work day. Such reporting shall be to the covered worker's supervisor, the department director, or Human Resources. The department must notify Human Resources immediately. Failure to make such a report shall result in discipline, up to and including termination of employment.

11. Collective Bargaining Agreements

The policies and procedures contained herein are not intended to amend, modify or impact the terms and conditions of the employment of bargaining unit members, without the benefit of the collective bargaining process that may be applicable by law. The Drug Free Workplace program requirements are a mandatory topic of negotiation, therefore, the Collective Bargaining Agreement in effect shall control when the provisions contained herein conflict with the terms of the Collective Bargaining Agreement. Covered employees have the right to appeal to the Public Employees Relations Commission or applicable court. Nothing herein is intended to waive the County's right to exercise management rights or discretion.

B. Testing Procedures

Drug and alcohol testing shall be conducted in accordance with the following procedures:

1. HR Coordination

All drug testing shall be coordinated through Human Resources.

2. Consent and Disclosure

The Osceola County Drug Screening Questionnaire and Consent Form (Attachment 3) shall be completed by the covered worker and provided to the assigned testing facility. The form shall be used to obtain the covered worker's consent for the drug or alcohol test and will allow the covered worker to disclose any information to the MRO that he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. A list of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test, shall be provided to the covered worker (Attachment 4).

3. Post-Offer Drug Testing

All selected applicants for employment or internship must submit to a post-offer drug test as a condition of employment. The refusal to submit to a post-offer drug test or a positive confirmed post-offer drug test shall result in the revocation of the offer for employment or internship. Applicants who test positive in a post-offer drug test shall be restricted from employment with the County for a period of one (1) year.

4. Reasonable Suspicion Testing

When there is a reasonable suspicion that a covered worker is intoxicated or under the influence of drugs or alcohol while on duty or on standby, the covered worker may be required to submit to a drug test. Reasonable suspicion shall be based on sufficient articulable facts to lead management to believe that a covered worker's ability to perform the functions of the job is impaired.

- a. Any supervisor or manager making a reasonable suspicion determination must be trained, through a source approved by the County, to conduct a reasonable suspicion evaluation. Where a trained manager or supervisor is not on site, the supervisor or manager in charge shall immediately contact HR's Risk Management section to report the behavior. Where practicable, the behavior should be witnessed by two supervisors or managers, at least one of whom must be trained by an approved source to make a reasonable suspicion determination.
- b. Factors in making a reasonable suspicion determination shall include, but not be limited to:
 - i. Slurred speech;
 - ii. Alcohol odor;
 - iii. Unsteady walking or movement;
 - iv. Causing, contributing to, or being involved in an accident while at work;
 - v. Physical or verbal altercation;
 - vi. Documented unusual or erratic behavior while at work or a significant deterioration in work performance;
 - vii. Direct observation of drug/alcohol use, or the symptoms of being under the influence of a drug or alcohol, while working or while on the employer's premises or while operating the employer's vehicle, machinery or equipment;
 - viii. Evidence that an employee has used, possessed, sold, or solicited drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery or equipment;

- ix. A report of drug use, provided by a reliable and credible source.
 - c. The supervisor or manager making the reasonable suspicion determination shall complete the Osceola County Reasonable Suspicion Worksheet (Attachment 5) in its entirety and have it signed by all required parties. The document shall be faxed to HR's Risk Management section immediately.
 - d. The appropriate Human Resources representative shall contact the testing facility to schedule and approve testing.
 - e. The supervisor/designee shall transport the covered worker to the testing facility designated by Human Resources.
 - f. The supervisor/designee shall make arrangements with the covered worker for post-test transportation home.
5. Fitness for Duty Testing
 Employees shall be required to submit to a drug test if the drug test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination or part of a medical exam to determine the employee's ability to perform the essential functions of their position.
- a. HR shall maintain and routinely update a list of all classifications that are subject to a drug screen as part of a routine fitness for duty medical examination. All employees in such classifications shall be notified that they are subject to this type of screen.
 - b. Fitness for Duty drug testing shall be coordinated through the Risk Management section of Human Resources. The HR representative shall contact the testing facility to schedule testing.
 - c. The employee shall complete any necessary paperwork to complete the screen.
6. Return to Duty Testing
 An employee who was required by the County, after a positive confirmed test result, to enter a drug rehabilitation program as a condition of continued employment shall be subject to a Return to Duty drug test prior to returning to work. All Return to Duty drug testing shall be coordinated through HR.
7. Follow Up Testing
 An employee who was required by the County to enter a drug rehabilitation

program as a condition of continued employment shall be subjected to required random drug tests at least once a year for a two (2) year period after completion of the program. Employees are subject to at least six (6) follow up tests in the first twelve (12) months after a return to duty. Follow up testing may be extended for up to sixty (60) months following return to duty. All follow up tests shall be unannounced.

8. Random Drug Testing

Employees in safety-sensitive positions (see Attachment 6) or positions that require a Commercial Drivers License (CDL) may be randomly drug tested at work as provided by law or County policy.

- a. Random testing will be conducted for employees in safety-sensitive and CDL-required positions.
- b. Employees in CDL-required positions will not be tested in the same pool as other employees in safety-sensitive positions, as per Federal Motor Carrier Safety Administration (FMCSA) guidelines.
- c. Random testing will be spread reasonably throughout the calendar year.
- d. All random alcohol and drug tests will be unannounced, with each employee having an equal chance of being tested each time selections are made.
- e. Human Resources will provide the testing facility with a list of all employees in the random pool. The testing facility then generates a list of employees that will be tested.
- f. Once notified that he/she has been selected for testing, the employee must proceed immediately to the assigned collection site.
- g. The employee must provide a breath and/or urine sample to the site collector.
- h. If the randomly selected employee is found to have an alcohol concentration of 0.02 but less than 0.04, he or she shall not perform, and not be permitted to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- i. If the employee is found to have an alcohol concentration of 0.04 or greater, this is considered to be a positive drug test and requires the immediate removal from safety-sensitive functions.

9. Post Injury Drug Testing

- a. The County shall drug and alcohol test covered workers who sustain a work-related injury as follows:
 - i. Any covered worker who sustains a workplace injury that requires medical attention beyond basic first aid.
 - ii. Any covered worker who causes or contributes to a work-related injury of another, where such injury requires medical treatment beyond basic first aid.
 - iii. Covered workers who develop a work-related illness, as defined by this policy, shall not be subjected to drug or alcohol testing based solely on the development of such an illness.
- b. Testing shall occur as soon as practicable following a work-related injury or following notice to the County that medical treatment beyond basic first aid has been sought.
- c. Upon notification of a work-related injury, the designated Human Resources representative will contact the testing facility to schedule and approve testing.
- d. The supervisor/designee will transport the covered worker to the testing facility designated by Human Resources, unless Emergency Transport is required.
- e. The supervisor/designee will make arrangements with the covered worker for post-test transportation home post-test.

10. General Motor Vehicle Accident Testing

The County shall drug and alcohol test all covered workers who are involved in a work-related vehicular accident as follows:

- a. Whoever was performing safety-sensitive functions with respect to the vehicle during the occurrence of a motor vehicle accident;
- b. Whoever caused or contributed to the motor vehicle accident;
- c. Whoever sustained an injury that required medical attention beyond first aid as a result of the motor vehicle accident;

- d. Covered workers shall be subjected to drug and alcohol testing for work-related motor vehicle accidents regardless of whether the accident occurred on or off County property or in a County or personal vehicle, as long as the accident was work-related.

11. Motor Vehicle Accident Testing (CDL Holders)

In addition to the general post accident testing procedures detailed above, covered workers in CDL required positions who are involved in an occurrence with a County vehicle weighing 26,000 pounds or more shall be further subjected to drug and alcohol testing where:

- a. the CDL holder performed safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- b. the CDL holder received a citation within 8 hours (for alcohol testing) and/or 32 hours (for drug testing) of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident:
 - i. involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii. involved one or more motor vehicles incurring disabling damage as a result of the accident which required the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

12. Property Damage Testing

Any covered worker who causes or contributes to damage to County property or the property of another while performing work on behalf of the County shall be subject to drug and alcohol testing, regardless of whether any bodily injury occurs.

13. Baseline Testing

At the discretion of the County Manager, County employees may be subject to baseline testing upon the implementation of the Drug Free Workplace Program.

C. **Procedures to Contest or Challenge a Confirmed Positive Drug or Alcohol Screen**

- 1. A covered worker who receives notification of a positive confirmed test result from the MRO may contest or explain the result to the MRO within five (5) working days after receiving written notification of the test result. If

the explanation or challenge is unsatisfactory to the MRO, the MRO shall report a positive test result to the County. The covered worker may then contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

- a. A covered worker who wishes to contest the positive drug result pursuant to law or to the rules adopted by the Agency for Health Care Administration must notify the laboratory of any administrative or civil action brought pursuant to Section 440.102, Florida Statutes.
2. Within five (5) working days after receipt of a positive confirmed test result from the MRO, the County shall inform the covered worker in writing of the positive test result, the consequences of the positive test result, and available options, if applicable (see Attachment 7).
3. The covered worker may within five (5) working days after receiving notice of a positive confirmed test result, submit information to the County explaining or contesting the test result, and explaining why the result does not constitute a violation of the County policy.
4. If the covered worker's explanation of the positive test result is unsatisfactory to the County, the County must provide a response as to why the explanation was not satisfactory, along with the report of the positive test result. This confidential information shall be retained by the County for at least one (1) year in a confidential folder secured in Human Resources.
5. Per Florida statute 112.0455 8.2(h) Drug-Free Workplace Act, covered workers have 180 days after receiving written notification of a positive test result to have the sample retested at his or her expense at another licensed or certified laboratory chosen by the covered worker. The County is not required to allow an individual to submit a new sample for re-testing.

D. **Consequences of a Positive Confirmed Drug or Alcohol Test**

1. **Job Applicant or Intern**
A confirmed positive result from a drug screen performed on a job applicant or intern shall result in rejection of the prospective employee or intern. Applicants or interns who test positive on a post-offer drug test shall be restricted from employment with the County for a period of one (1) year.
2. **Current Employee**
 - a. A positive confirmed result from a drug and/or alcohol screen performed on a current County employee shall subject the employee to discipline, up to and including termination of employment. An

employee in a safety-sensitive position (see Attachment 6) or on a Last Chance Agreement who tests positive on a drug or alcohol screen shall be subject to an automatic termination.

- b. At the discretion of the County Manager or designee, employees may be offered, as a condition of continued employment, a Last Chance Agreement (Attachment 8) contingent upon participation and successful completion of a drug or alcohol rehabilitation program (see Attachment 9, Local Substance Abuse Provider List). All Last Chance Agreements must be coordinated through Human Resources. Refusal to participate in an offered Last Chance Agreement shall subject the employee to automatic termination.

E. **Consequences of Refusal to Submit to a Drug Test**

1. Job Applicant or Intern

The refusal of a job applicant or intern to submit to a drug screen shall result in the rejection of the prospective employee or intern. Applicants who refuse to take a post-offer drug test shall be restricted from employment with the County for a period of one (1) year.

2. Current Employee

The refusal of any County employee to submit to a drug screen as required or authorized under this policy or by law shall subject that employee to discipline, up to and including termination of employment.

3. Failure to submit to testing includes, but is not limited to:

- a. Failure to provide an adequate specimen for testing without a valid medical explanation.
- b. Providing an adulterated sample.
- c. Providing a specimen from someone other than the employee.
- d. Failure to appear or remain at the testing facility as directed.
- e. Declining to take a second test, as directed.
- f. Leaving the scene of an accident during work hours or failing to remain readily available for testing following an accident.
- g. Refusing to cooperate in the collection process including refusing to sign the necessary testing forms.