

*Bargaining Unit employees should review their appropriate Collective Bargaining Agreement (CBA) to determine if this policy applies to them. In case of a conflict between the applicable CBA and these policies, the provision in the CBA controls.*

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7/30/2025

## **Drug Free Workplace & Drug Testing**

**OVERVIEW:** The County acknowledges the importance of establishing and maintaining a drug free workplace; and complying with all federal, state, and local regulations related to drug use, including the *Federal Drug Free Workplace Act of 1988*, *Florida Statute 440.102*, *F.A.C. 59A-24*, the *State Comprehensive Economic Development Act of 1990* and the *Omnibus Transportation Employee Testing Act of 1991*.

**SCOPE:** This policy applies to all employees of the Board.

### **PROVISIONS:**

#### **I. Drug-free Workplace Policy**

1. **General Rule.** The Board is committed to providing a safe work environment and to fostering the health and well-being of its workforce. Employees are required to report to work in a fit condition for duty. If an employee is under medical treatment with a drug that could alter the employee's ability to do the job, they are required to report this drug use immediately to Human Resources. Any employee who refuses to submit to a test for drugs or alcohol pursuant to this policy shall be presumed, in the absence of clear and convincing evidence to the contrary, to be under the influence and may forfeit eligibility for all Workers' Compensation medical and indemnity benefits and may be terminated or disciplined. The County does not permit use of marijuana acquired through a medical marijuana certificate as allowed in Section 381.986(15.a.) Florida Statutes. Medical marijuana use will be treated as an illicit substance and is subject to this policy. Over-the-counter THC products and CBD products are not regulated and may contain enough THC to result in positive drug tests.
2. **Definition.** As used herein, "drug abuse" includes the use of illicit substances or misuse of controlled substances, alcohol, or other psychoactive drugs. This includes the use of marijuana acquired with a marijuana identification card and CBD products that contain enough THC to elicit a positive drug test.
3. **Notice.** The County will provide a one-time written notice to all employees, as required by Section 440.102(3), Florida Statutes.
  - a. The notice will be provided to all potential employees prior to any pre-employment drug testing.

- b. Copies of this notice will be placed on all employee bulletin boards and a general statement that the County will test all final candidates in mandatory testing positions will be included on vacancy announcements.

**4. Prohibited Behavior.**

- a. The manufacture, illegal use, possession or distribution of illicit or controlled substances is strictly prohibited.
- b. Being under the influence of alcohol or illicit drugs during work hours and being under the influence of legal drugs to the extent that normal faculties are significantly impaired on the job, is strictly prohibited.

**5. Suspected Drugs on County Property.** Supervisors will notify their Department Director of suspected illegal drugs on County property. The Director will contact Risk Management and local law enforcement officials to investigate any suspected illegal drugs.

**6. Corrective Action.** Employees who violate the County's Drug Free Workplace Policy by failing a drug test or by being under the influence, using or distributing drugs on the job are subject to corrective action, including dismissal, according to the guidelines below:

- a. Employees who have completed their probationary period and have a first time positive confirmed drug and/or alcohol test will be referred to the County Employee Assistance Program (EAP) or other community alcohol and drug rehabilitation program(s) as appropriate.

Use of the EAP or other rehabilitation resources will not prevent the County from taking appropriate corrective action for violations of other County policies.

- b. Employees who have a Medical Review Officer (MRO) confirmed tests during their probationary period will be subject to immediate termination.
- c. If an employee seeks help on a voluntary basis with personal use of drugs or alcohol, then confidentiality will be protected to the extent possible. The County reserves the right to take corrective action against an employee for work performance or conduct issues regardless of the employee voluntarily seeking treatment.
- d. Employees referred to the EAP or other rehabilitation program as a result of a first violation will be allowed to continue employment with the County provided that:
  - i. They contact the EAP or other rehabilitation resource and strictly adhere to all terms of treatment and counseling prescribed; and
  - ii. They immediately cease any and all abuse/use of alcohol or drugs; and

- iii. They consent in writing to periodic unannounced testing for a period of up to two years after returning to work or completion of any rehabilitation program, whichever is later; and
  - iv. They pass all drug tests administered under this program by the County; and
  - v. They execute and abide by an agreement describing the above stated conditions.
- e. Failure to meet any of the above conditions 6(d), a refusal to sign the Agreement or the occurrence of a follow-up confirmed positive drug test will result in immediate dismissal from employment. An employee who refuses to sign the Agreement will not be eligible for rehire for a period of no less than two years.
  - f. Employees who separate employment are not eligible for rehire by the Board until the entirety of the unsigned or signed Agreement has terminated.
7. **Confidentiality.** The provisions of Section 440.102(8), Florida Statutes, shall govern the release of any information, interviews, reports, statements, memoranda and drug and/or alcohol testing results received by the County through this Drug Free Workplace and Drug Testing Policy.
8. **Employees Working Under Federal Grants.** Employees working under Federal grants must notify management, as a condition of employment, in writing, within five calendar days, if they are convicted of violating a criminal drug statute. Employees who are convicted of violating a criminal drug statute will be subject to corrective action up to and including termination, or will be required to satisfactorily participate in a federal, state, local or law enforcement approved drug abuse assistance or rehabilitation program. The County will notify the Federal agency in writing, within 10 calendar days, if any employee working under a Federal Grant is convicted of violating a criminal drug statute.
9. **Rehabilitation.** Any employee who feels an addiction to, dependence upon, or has developed a problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance.
- a. Responsibility. Rehabilitation is the responsibility of the employee.
  - b. Employees may seek such assistance through the County-sponsored Employee Assistance Program (EAP) or other community resources.
  - c. Health Benefits. Any employee seeking medical attention for alcohol misuse or drug abuse will be entitled to benefits only to the extent specified under the County's group health insurance program and EAP.

- d. Leave of Absence. Employees required to be absent from the workplace while in treatment may request Family Medical Leave Act (FMLA) leave in accordance with the Board of County Commissioners' Employee Policies.

An employee shall be permitted to utilize all available accumulated paid leave before being placed in a leave without pay status.

- e. Reinstatement to Position. Upon successful completion of the voluntary EAP or other treatment program, the employee shall be reinstated to the same or equivalent position that was held prior to such rehabilitation.
- f. Prior Medical History. The County will not discharge, discipline or discriminate against an employee solely on the basis of any prior medical history revealed to the County pursuant to this policy.

## II. Drug Testing Procedures

- 1. **Reasons for Testing under Florida's Drug Free Workplace.** The County will require drug testing for the following reasons:
  - a. **Job Candidate.** Job Candidates accepting or employees otherwise transferring to another position shall submit to drug testing within 48 hours of being notified by Human Resources under the County's Drug Free Workplace Policies that fall under the mandatory testing positions as defined by the following criteria:
    - i. that carry a firearm as a requirement of the job or work closely with an employee who carries a firearm,
    - ii. that perform life-threatening work,
    - iii. that work with heavy or dangerous machinery,
    - iv. that work as a safety inspector,
    - v. that regularly (15 hours a week) work with children,
    - vi. that work with detainees in the correctional system,
    - vii. that regularly work with confidential information or documents pertaining to criminal investigations,
    - viii. that work with controlled substances,
    - ix. that have a job assignment in which a momentary lapse in attention could result in serious injury or death to another person (this does not include general operation of county vehicles), or

- x. that are assigned to a special risk position under the Florida Retirement System.

The Human Resources Department will maintain a list of job classifications or titles that meet the requirements of this Policy and are, therefore, mandatory testing classifications.

Any individual whose confirmed positive test result will not be hired and may not reapply for 180 days.

- b. **Scheduled Physical Examination.** Any person who undergoes a scheduled occupational physical examination shall also be tested for drug and/or alcohol use as part of that examination, if the person is in a mandatory testing classification (section 1.a above).
- c. **Reasonable Suspicion.** Reasonable suspicion testing is based on a belief that an employee is using or has used drugs and/or alcohol in violation of this policy, drawn from specific objective and articulable facts, and reasonable references drawn from those facts in light of experience.
  - i. An employee who suspects another employee may be in violation of this policy will immediately notify their supervisor to report the behavior giving rise to the suspicion. The supervisor will document the suspicious behavior using the Observed Behavior Form (Appendix C) and will request that another supervisor confirm the observation using the same form. If the observation is confirmed, the form will be submitted to the suspect employee's supervisor. If it is necessary to question the employee, only the Human Resources Director or Risk Manager may direct and approve such questioning.
  - ii. After both supervisors confirm their observations, they will notify the Department Director, who will notify Human Resources and Risk Management. If the Director is unavailable, the supervisor should contact Human Resources and Risk Management.
  - iii. Only the Human Resources Director or the designee shall authorize approval for reasonable suspicion testing. Drug testing is administered by the Office of Risk Management. Risk Management and Human Resources will coordinate their respective functions in compliance with this Policy.
  - iv. Facts and inferences giving rise to reasonable suspicion may be based upon:
    - 1. Observable documented phenomena while at work, such as direct observation of drug or alcohol use or of the physical symptoms or

manifestations of being under the influence of a drug or of alcohol.

2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug use or possession or on-duty alcohol use, provided by a reliable and credible source.
4. Evidence that an individual has tampered with a drug or alcohol test during the employee's employment with the County.
5. Information that an employee has caused, contributed to, or been involved in an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on County premises or while operating County vehicles, machinery or equipment.

v. Testing on Reasonable Suspicion.

1. The original documentation shall be kept confidential by the County pursuant to this policy and shall be retained for at least one year.
2. A copy of this documentation shall be given to the employee upon written request.
3. The employee's supervisor, or another supervisor will drive the employee to the testing facility without any additional stops or interactions with other persons.

d. **Post-Accident/Incident.** An employee who is injured while performing work duties where there is probable cause that the employee is under the influence of drugs or alcohol may be tested regardless of seeking medical care under Workers' Compensation. Employees using personal vehicles for County business or County owned or rented vehicles and/or equipment may be tested for drugs and alcohol as follows:

- i. Any employee who caused or contributed to an accident when anyone requires professional medical attention as a result of that accident, or any employee operating a motor vehicle or motorized equipment who has an accident resulting in property damage, will be tested for drugs and alcohol immediately following the accident in accordance with procedures established by Risk Management. An employee is not considered to have caused or contributed to an accident unless the

employee actually affects the situation by their action or failure to act reasonably as required by the situation.

1. A supervisor must escort the employee directly to the testing facility without any additional stops or interactions with other persons.
    2. If an employee has a positive post-accident drug or alcohol test, they will be removed from operating County vehicles or equipment until such time that a MRO provides a negative drug or alcohol test to the County.
  - ii. The County's DER (Designated Employer Representative) or Risk Manager has the authorization to remove or return employees to safety sensitive duties.
  - e. **Return- to- Duty Testing.** An employee who has a MRO confirmed drug and/or alcohol test cannot return to work until such time that they have a MRO confirmed negative drug and/or alcohol test. This test is directly observed. The return to duty testing schedule will be based on scientifically verified detection periods for the substance(s) confirmed by the MRO.
  - f. **Follow-up Drug Testing Program.** If an employee in the course of employment has a MRO confirmed positive drug or alcohol test and enters into a one-time Drug-free Workplace Violation Agreement will be required to submit to an observed drug and/or alcohol test on no less than a quarterly basis, for two years thereafter. The testing will be unannounced and random within each quarter.
2. **Safety-Sensitive Transportation Employees Reasons for Testing.** All employees required to hold a Commercial Driver's License (CDL) as a condition of employment will be tested for drugs and/or alcohol in accordance with the Omnibus Transportation Employee Testing Act of 1991 and Department of Transportation (DOT) Rule 49 CFR Part 40 as follows:
- a. **Pre-employment.** Final candidates or employees who transfer to a safety sensitive position will be tested for drugs before they perform safety sensitive functions for the first time.
  - b. **Post-accident.** Any employee who caused or contributed to an accident that meets the requirement for DOT post- accident testing as defined by 49 CFR §382.303, will be tested under DOT requirements for alcohol and drugs following the accident. The employee must be escorted immediately to the testing facility by a supervisor without any additional stops or interactions with other persons.

Those involved in an accident that does not meet the DOT requirements for testing but does meet the County's post-accident requirement for testing will be tested under the Drug Free Workplace Policy.

- c. **Random.** Employees will be tested for drugs and alcohol on a random unannounced basis just before, during or just after performance of safety sensitive functions.
  - i. Not less than 50% for drugs and not less than 10% for alcohol of the total number of safety sensitive employees will be tested for drugs and alcohol each calendar year, or in accordance with percentages as established by Federal law.
  - ii. Risk Management will maintain a program of random testing and notification. Employees notified of testing must be escorted immediately to the testing facility by a supervisor without any additional stops or interactions with other persons.
- d. **Reasonable Suspicion.** Reasonable suspicion testing is based on a belief that an employee is using or has used drugs and/or alcohol in violation of this policy, drawn from specific objective and articulable facts, and reasonable references drawn from those facts in light of experience. Refer to Reasonable Suspicion testing procedures found in this Policy. Only the Human Resources Director or designee shall authorize such testing.
- e. **Return- to- Duty Testing.** An employee who has violated DOT drug and alcohol regulations is afforded the opportunity to enter a DOT Drug Free Workplace Violation Agreement with the County. The employee cannot perform any DOT safety-sensitive duties until a Substance Abuse Professional (SAP) evaluation, at their expense, has been completed and the terms of the treatment plan been met.
  - i. After completion of the prescribed SAP program and treatment, and employee cannot return to duty until a return- to- duty test has been conducted. This test is directly observed, and a negative result is required before resuming driving duties.
  - ii. The Return- to- Duty testing schedule will be based on scientifically verified detection periods for the substance(s) confirmed by the MRO.
- f. **Removal from Duty.** A MRO confirmed positive, adulterated, or substituted drug test will require the employee to be removed from performing all safety sensitive functions until successful completion of the Return- to- Duty process as defined in this Policy and DOT Rule 49 CFR Part 40 subpart O.
  - i. A confirmed blood alcohol level of 0.02g%, but less than 0.04g% will require that the employee be removed from performing all safety-sensitive functions for a minimum of eight hours, or until a re-test shows the employee's blood alcohol content has dropped below 0.02g%.

- ii. If an employee has a confirmed blood alcohol level of 0.04g% or greater, the employee may not return to a safety-sensitive function until, at a minimum:
    - 1. The employee undergoes an evaluation, and where necessary, treatment; and
    - 2. A Substance Abuse Professional (SAP) determines that the employee has successfully complied with any recommended treatment; and
    - 3. The employee's blood alcohol content is less than 0.02g% on a return-to duty test.
- g. **Follow-up.** If an employee, in the course of employment, has a confirmed positive drug or alcohol test and subsequently follows the Return- to- Duty process, the County will require the employee to submit to observed, unannounced drug and/or alcohol testing schedule prescribed by the SAP or at least six drug and/or alcohol tests for the first year and on a quarterly basis, for up to two years thereafter.
- h. **FMCSA (Federal Motor Carrier Safety Administration) Clearinghouse Policy.** The County will adhere to any and all requirements provided in chapter 49 Code of Federal Regulations, parts 40 and 382.
  - i. All prospective employees in a safety sensitive position will have a full inquiry completed in the FMSCA Clearinghouse as provided by chapter 49 prior to beginning employment with the County.
  - ii. All current employees in a safety sensitive position will be subject to no less than an annual limited query of the Clearinghouse by the County. Anyone found to have a violation in the limited query, will have a full query performed.
 

Refusal to consent to a limited or full query will prohibit that employee from performing any safety sensitive functions and can result in disciplinary action.
  - iii. The MRO, SAP, employer, or other designated individual will report the following personal information collected and maintained under this Policy to the Clearinghouse in accordance with all applicable rules and regulations:
    - 1. A verified positive, adulterated, or substituted drug test result;

2. An alcohol confirmation test with a concentration of 0.04 or higher;
  3. A refusal to submit to any test required by subpart C of §382.301;
  4. An employer's report of actual knowledge, as defined at §382.107;
  5. On duty alcohol use pursuant to §382.205;
  6. Pre-duty alcohol use pursuant to §382.207;
  7. Alcohol use following an accident pursuant to §382.209;
  8. Controlled substance use pursuant to §382.213;
  9. A substance abuse professional (SAP as defined in §40.3) report of the successful completion of the return-to-duty process;
  10. A negative return-to-duty test;
  11. An employer's report of completion of follow-up testing
3. **Drugs Tested.** All specimen collection and testing for drugs shall be conducted in accordance with Sections 440.102(5), (6), and (7), Florida Statutes. The County may test for any or all of the following:
  - a. Alcohol
  - b. Amphetamines
  - c. Cannabinoids
  - d. Cocaine
  - e. Phencyclidine
  - f. Methaqualone
  - g. Opiates
  - h. Barbiturates
  - i. Benzodiazepines
  - j. Methadone
  - k. Propoxyphene
4. **Initial Test.**
  - a. Narcotics. The initial test for all drugs shall use an immunoassay.
  - b. Alcohol. The initial test for alcohol shall be an enzyme oxidation methodology.
  - c. When first screening specimens, all levels equal to or exceeding the following shall be reported as positive:
    - i. Alcohol (CDL holders only) -- 0.02g% (by breath alcohol testing)

- ii. Alcohol (all other employees) -- 0.04g% (by blood or breathe)
- iii. Amphetamines -- 1000 ng/mL
- iv. Cannabinoids -- 50 ng/mL
- v. Cocaine -- 300 ng/mL
- vi. Phencyclidine -- 25 ng/ml
- vii. Methaqualone -- 300 ng/ml
- viii. Opiates -- 2,000 ng/ml
- ix. Barbiturates -- 300 ng/mL
- x. Benzodiazepines -- 300 ng/mL
- xi. Methadone -- 300 ng/ml
- xii. Propoxyphene -- 300 ng/ml

These levels will remain in effect until such time as Federal Legislation or State Statute revises them.

All new levels will become effective on the date specified within the related legislation.

5. **Confirmation Test.** All specimens identified as positive on the initial tests shall be confirmed using a second test.
  - a. Narcotics. A gas chromatography/mass spectrometry (GC/MS) test, or an equivalent or more accurate scientifically accepted method approved by the State or Federal government will be used for the confirmation test.
  - b. Alcohol. The confirmation test for alcohol will be gas chromatography.
  - c. All confirmations shall be done by quantitative analysis.
  - d. When confirming initial results, all levels equal to or exceeding the following shall be reported as positive:
    - i. Alcohol (CDL holders only) -- 0.02g% (by breath alcohol testing)
    - ii. Alcohol (all other testing) -- 0.04g% (by blood or breathe)
    - iii. Amphetamines -- 500 ng/ml
    - iv. Cannabinoids -- 15 ng/ml
    - v. Cocaine -- 150 ng/ml
    - vi. Phencyclidine -- 25 ng/ml
    - vii. Methaqualone -- 150 ng/ml
    - viii. Codeine -- 2,000 ng/ml
    - ix. Morphine -- 2,000 ng/ml
    - x. 6-Acetylmorphine -- 10 ng
    - xi. Barbiturates -- 150 ng/ml
    - xii. Benzodiazepines -- 150 ng/ml
    - xiii. Methadone -- 150 ng/ml
    - xiv. Propoxyphene -- 150 ng/ml

These levels will remain in effect until Federal Legislation or State Statute revises them.

All new levels will become effective on the date specified within the related legislation.

6. **Reporting Test Results.** The testing laboratory shall report test results to a medical review officer (MRO) chosen by the County to act on its behalf.
  - a. These results shall be reported within seven business days after receipt of the specimen by the laboratory.
  - b. The laboratory shall transmit results to the MRO in a manner designed to ensure confidentiality of the information.
  - c. The MRO shall contact the employee or candidate if the test is positive. Legal use of a prescription or non-prescription medication as determined by the MRO will be reported as a negative to the employer. Employees and candidates are required to return all phone calls from the MRO within 48 hours. Failure to return the MRO calls results in the positive test results standing.
  - d. The MRO has 10 business days to provide a final report to the County.
  - e. Records Retention. The laboratory, for a minimum of two years, shall retain all records pertaining to a given specimen, unless the County or the employee requests the records to be retained for a longer period of time.
  - f. Notification of Results. Within five working days after receipt of a confirmed positive test result from the MRO, the County shall inform the employee in writing of such positive test result, the consequences of such result, and the options available to the employee.
  - g. Notification shall be emailed to a County email, as well as, employee provided email, mailed via certified mail or hand-delivered.
  - h. Absent extenuating circumstances, emailed or mailed notification shall be deemed received by the employee after five calendar days.
  - i. A copy of the test results will be provided to the employee with this notification.
7. **Employee Challenges and Option to Retest.** An employee may make a legal challenge pursuant to Statute.
  - a. Within five business days after receiving notice of a confirmed positive test result from the County, the employee may submit information to Risk Management explaining or contesting the test results and why the results do not constitute a violation of this Policy.
  - b. When an employee initiates the appeal process, it shall be the employee's responsibility to notify Risk Management and the laboratory in writing that such an appeal has been filed, reference the chain of custody specimen identification

number, and request that the laboratory retain the sample until final disposition of the appeal.

- c. The employee will be notified in writing if the explanation or challenge is unsatisfactory to the County.
  - d. This notice will be emailed, hand-delivered or mailed within 15 days of receipt of the employee's explanation or challenge and will state why the employee's explanation is unsatisfactory.
  - e. All such documentation will be kept confidential and will be retained for at least one year.
  - f. It is the responsibility of the employee or candidate to notify the laboratory of any Administrative or Civil actions brought forward in accordance with Section 440.102 F.S.
8. **Retest.** During the 180-day period following the employee's receipt of a notice of a positive test result, the employee may request that a portion of the original specimen be retested, at the employee's expense.
- a. The retesting must be done at a State licensed or National Institute of Drug Abuse (NIDA) approved laboratory other than the original testing facility, and must be tested at equal or greater sensitivity for the drug in question as the first.
  - b. The employee may also appeal employment decisions made pursuant to this policy in accordance with the Disciplinary Policy.
9. **Over-the-Counter Medications.** The following medications can cause a false positive on a drug test. Please notify the MRO of any and all medications. This list is not meant to be inclusive of all medications that can lead to a false positive.
- a. Ibuprofen (Motrin, Advil)
  - b. Diphenhydramine (Benadryl)
  - c. Dextromethorphan (Robitussin, Delsym)
  - d. Doxylamine (Unisom)
  - e. Pseudoephedrine (Sudafed)
10. **Contact Information**
- a. MRO- Dr Donald Freedman at 4237 Salisbury Road North, Suite 312, Jacksonville, FL 32216. 800-550-9640
  - b. EAP Program- Ulliance- 800-448-8326