

Board of County Commissioners Leon County, Florida

Policy No. 16-1

Title: Drug and Alcohol Free Workplace Policy

Date Adopted: June 8, 2021

Effective Date: June 8, 2021

Reference: Florida Workers Compensation Law; Federal Omnibus Transportation Employee Testing Act of 1991

Policies Superseded: Policy No. 94-10, Drug & Alcohol Testing, adopted December 13, 1994; Policy No. 96-8, Drug and Alcohol Testing, adopted April 9, 1996; revised December 11, 2012; Policy No. 16-1, “Drug and Alcohol Free Workplace Policy”, adopted February 9, 2016

It shall be the policy of Leon County, Florida, that Policy No. 16-1, “Drug and Alcohol Free Workplace Policy,” adopted by the Board of County Commissioners on February 9, 2016, is hereby amended and a revised policy is hereby adopted in its place, to wit:

ARTICLE I

1. APPLICABILITY

Article I is applicable to all County *employees*.

2. PURPOSE

The Board of County Commissioners (“County”) is committed to providing a safe work environment for its *employees*, its guests, and the public. The abuse of alcohol and drugs is a national problem which impairs the safety and health of *employees*, promotes crime and harms the community. Substance abuse, while at work or otherwise, seriously endangers the safety of *employees* as well as the general public, and creates a variety of workplace problems including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of services provided.

In order to maintain the highest standards of morale, productivity and safety in County operations, and as a part of the County’s commitment to safeguard the health of its *employees*, to provide a safe workplace for its *employees*, and to promote an alcohol and drug-free community, the County has established this Policy on the use of *alcohol* and *drugs* by its employees. The application of this Policy to off-duty conduct is intended, in most instances, to be corrective rather than punitive.

Nevertheless, *employees* found to have an off-duty *alcohol* or *drug* abuse issue that impacts work performance may be given an opportunity for rehabilitation before disciplinary action is imposed.

3. AUTHORITY

This Drug and Alcohol-Free Workplace Policy is established pursuant to the authority granted by the Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §31306; and 49 CFR Parts 40 and 382; and section 440.102, Florida Statutes, Drug-Free Workplace Program Requirements.

4. VIOLATION OF DRUG AND ALCOHOL FREE WORKPLACE POLICY

- A. It shall be a violation of this Policy for an *employee* to use or to otherwise be under the influence of *drugs* or *alcohol*, possess, sell, trade, and/or offer for sale *drugs* or *alcohol* during or within the scope and performance of one's job, or otherwise violate the terms and conditions hereof.
- B. It shall be a violation of this Policy for an *employee* to refuse to submit to an *alcohol* or *drug* test when otherwise required hereby. An *employee* who refuses to submit to an *alcohol* test or *drug* test following an occupational injury which requires medical treatment forfeits his or her eligibility for all workers' compensation medical and indemnity benefits in accordance with Florida law. A *job applicant* who refuses to submit to a *drug* test shall not be hired.
 - 1. A refusal to submit to an *alcohol* test or *drug* test includes any conduct that obstructs the testing process.
 - 2. A refusal to submit to an *alcohol* test shall include failure to provide an adequate breath sample, without medical explanation, after receiving notice of the requirement for *alcohol* testing in accordance with this Policy.
 - 3. A refusal to submit to a *drug* test shall include failure to provide an adequate urine sample, without a genuine inability to provide a specimen (as determined by medical evaluation), after receiving notice of the requirement for *drug* testing in accordance with this Policy.
- C. Any *employee* in violation of this Policy shall be subject to disciplinary action, up to and including dismissal. Entry or participation in an *employee assistance program* or *drug and/or alcohol rehabilitation program* by an *employee* shall not prevent the County from taking disciplinary action, up to and including dismissal, for any violation of this Policy.

5. DEFINITIONS

As used in this Policy the terms set forth below shall have the following meanings:

- A. *Drug* or *alcohol* test means any chemical, biological or physical instrumental analysis administered by a laboratory certified by the United States Department of Health and Human Services (HHS) or licensed by the Agency for Health Care

Administration (AHCA) for the purpose of determining the presence or absence of a *drug* or its metabolites, and unless otherwise specified including *alcohol*.

1. *Initial drug test* means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the United States FDA or the AHCA.
 2. *Confirmation test, confirmed test, or confirmed drug test* means a second analytical procedure used to identify the presence of a specific *drug* or metabolite in a specimen, which test must be different in scientific principle from that of the *initial test* procedure and must be capable of providing requisite specificity, sensitivity and quantitative accuracy. All tests to confirm an initial positive result for *drugs* other than *alcohol* shall use a gas chromatography/mass spectrometry or equivalent method. All tests to confirm positive results for *alcohol* shall use a gas chromatography method.
- B. *Drug and/or alcohol rehabilitation program* means a service provider established pursuant to Florida law that provides confidential, timely, and expert identification, assessment, and resolution of *employee alcohol* or *drug* abuse.
- C. *Employee* means an individual who works for the County on a full-time or part-time basis and receives salary, wages, or other remuneration.
- D. *Employee assistance program* means an established program capable of providing expert assessment of *employee* personal concerns; confidential and timely identification 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.
- E. *Job applicant* means a person who has applied for a position with the County and has been offered employment conditioned upon the County receiving a verification of a negative *drug test* result.
- F. *Mandatory-testing position* means a job position, including a supervisory or managerial position, in which drug impairment constitutes an immediate and direct threat to public health or safety. This includes, but is not limited to, job positions such as those that require the *employee* to carry a firearm, work closely with an *employee* who carries a firearm, perform life-threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances or drugs, or a job position in which a momentary lapse in attention could result in injury or death to another person.

- G. *Medical review officer (MRO)* means a licensed physician, employed or under contract with 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 an *employee's* positive test result in relation to the *employee's* medical history or any other relevant biomedical information.
- H. *Prescription or non-prescription medication* means a drug or medication obtained pursuant to a prescription as defined by section 893.02, Florida Statutes, 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.
- I. *Special-risk position* means a job position that is required to be filled by a person who is certified under chapters 633 or 943, Florida Statutes, as amended.
- J. *Specimen* means tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites as approved the FDA or the AHCA.
- K. *Workplace* means all property and facilities owned or leased by the County, including grounds, buildings, vehicles and other equipment, and any site, including off-site locations, where an employee performs work on behalf of the County.

6. MEDICAL MARIJUANA USE

Pursuant to Section 381.986(15), Florida Statutes, the County retains the right to enforce a drug-free workplace pursuant to this Policy. Accordingly, the use of medical marijuana is prohibited under this Policy. Nothing in this Policy shall be construed to allow employees to use marijuana, medical or otherwise.

7. GENERAL PROVISIONS GOVERNING DRUG AND ALCOHOL TESTING

- A. Notice of Common Medications: 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*, is set forth in Appendix A. *Employees* and *job applicants* should review this list prior to submitting to a *drug test*.
- B. Medication Information: An *employee* or *job applicant* may consult with the County's *MRO* or the testing laboratory for technical information regarding *prescription and non-prescription medication* and confidentially report the use of *prescription or non-prescription medication* to the *MRO* during the testing process.

C. Drugs To Be Tested And Cut-Off Levels

1. *Drug testing* may be required for any or all of the following drugs:
 - a. Alcohol;
 - b. Amphetamines;
 - c. Cannabinoids;
 - d. Cocaine;
 - e. Phencyclidine (PCP);
 - f. Methaqualone;
 - g. Opiates;
 - h. Barbiturates;
 - i. Benzodiazepines;
 - j. Synthetic narcotics (Methadone and Propoxyphene);
 - k. A metabolite of any of the substances listed herein;
 - l. Hallucinogens;
 - m. Designer drugs; and
 - n. Any other abused substances, as may be provided for under federal or state law.

2. The minimum cut-off levels for reporting positive results for both *initial* and *confirmation drug tests* shall be as set forth in the rules adopted by the Agency for Health Care Administration, Chapter 59A-24, Florida Administrative Code, as amended. The minimal levels for *drugs* and *alcohol* reported to the County may be different for *employees* subject to Article III of this Policy. Cut-off levels for *employees* subject to Article III shall be set forth in 49 CFR Part 40. The types of testing, as well as the minimum levels of *initial* and *confirmation drug testing*, may change pursuant to federal or state law or regulations enacted to implement same.

D. Drug Testing Procedures and Challenge of Test Results

1. Drug Testing Procedures. All *specimen* collection and testing for *drugs* or *alcohol* under this Policy shall be performed as set forth below:
 - a. A sample *specimen* 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.
 - b. *Specimen* collection must be documented, and the documentation procedures shall include:
 1. Labeling of *specimen* containers so as to reasonably preclude the likelihood of erroneous identification of test results.
 2. A form for the *employee* or *job applicant* to provide any information he or she considers relevant to the *drug test*, including identification of currently or recently used

prescription or nonprescription medication or other relevant medical information. The form must provide notice 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*. The providing of information shall not preclude the administration of the *drug test*, but shall be taken into account in interpreting any positive *confirmed test* result.

- c. *Specimen* collection, storage, and transportation to the testing site shall be performed in a manner that reasonably precludes contamination or adulteration of *specimens*.
- d. Each *initial* and *confirmation test*, not including the taking or collecting of a *specimen* to be tested, shall be conducted by a licensed or certified laboratory as described in section 440.102(9), Florida Statutes, as amended.
- e. A *specimen* for a *drug test* may be taken or collected by any of the following persons:
 - 1. A physician, a physician assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.
 - 2. A qualified person employed by a licensed or certified laboratory in accord with Florida law.
- f. A certified *specimen* collector shall be certified in accordance with the United States Department of Transportation (US DOT) training guidelines, 49 CFR Part 40. *Specimen* collectors must be re-certified every five (5) years. A certified breath technician (BAT) shall be certified in accordance with US DOT training guidelines, 49 CFR Part 40. BATs must be re-certified every five (5) years.
- g. A person who collects or takes a *specimen* for a *drug test* shall collect an amount sufficient for two *drug tests*.
- h. All *employee* and *job applicant initial drug test* results indicating a positive result for any *drug* shall be subject to a *confirmation test*.
- i. Every *specimen* that produces a positive *confirmed test* result shall be preserved by the licensed or certified laboratory that conducted the *confirmation test* for a period of at least 210 days after the result of the test was mailed or otherwise delivered to the *medical review officer*.

2. Challenge of Test Results:

- a. An *employee* or a *job applicant* who receives a positive *confirmed test* result may submit information to the *medical review officer (MRO)* contesting or explaining the result in writing within five (5) working days of receipt of notification of a positive *confirmed test* result.
- b. If the explanation or challenge of the *employee* or *job applicant* is unsatisfactory to the *MRO*, the *MRO* shall within five (5) working days report such result to the County.
- c. Within five (5) working days after receiving notice of a positive *confirmed test* result from the *MRO*, the County shall inform the *employee* or *job applicant* in writing of the positive *confirmed test* result, the consequences of such result, and the options available to the *employee* or *job applicant*, if any. Upon request, the County shall provide a copy of the test result to the *employee* or *job applicant*.
- d. Within five (5) working days after receiving notice of a positive *confirmed test* result from the County, the *employee* or *job applicant* may submit in writing information to the County explaining or contesting the test result, and explaining why the test result does not constitute a violation of this Policy.
- e. If the explanation or challenge of the *employee* or *job applicant* to the positive *confirmed test* result is unsatisfactory to the County, the County shall provide a written explanation within fifteen (15) working days of receipt as to why the *employee* or *job applicant's* explanation is unsatisfactory, along with a copy of the report of the results of the *confirmed test*. All such documentation will be kept confidential except as otherwise provided herein, and will be retained by the County for at least one (1) year.
- f. If an *employee* or *job applicant* further contests the results of the *drug test* by administrative or legal challenge, he or she will be solely responsible for notifying the laboratory and the County in writing by certified mail. The notice must include reference to the chain of custody *specimen* identification number, and the sample shall be retained by the laboratory until the case or administrative appeal is concluded. During the 180-day period after written notification of a positive *confirmed test* result, the *employee* or *job applicant* who has provided the *specimen* shall be permitted to have a portion of the *specimen* retested, at the *employee's* or *job applicant's* expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the *employee* or *job applicant*. The second laboratory must test at equal

or greater sensitivity for the *drug* in question as the first laboratory. The first laboratory that performed the *drug test* for the County is responsible for the transfer of the portion of the *specimen* to be retested, and for the integrity of the chain of custody during such transfer.

E. Medical Review Officer's Responsibilities for Testing

1. The *MRO* shall fully comply with all of the requirements set forth under Florida law and rules set forth in the Florida Administrative Code. The *MRO* shall be a licensed physician, under contract with the County, who has knowledge of substance abuse disorders, laboratory testing procedures, chain of custody collection procedures, and medical use of *prescription drugs* and pharmacology and toxicology of illicit *drugs*.
2. The *MRO* shall review and verify *drug test* results prior to the transmittal of the test results to the County. The *MRO* shall evaluate the *drug test* result(s), verify the chain of custody forms and ensure that the donor's identification number on the laboratory report and the chain of custody form accurately identifies the individual.
3. If the test results reported are negative, the *MRO* shall notify the County of the negative test result and submit the appropriate documentation to the ACHA.
4. If the test results reported are positive, the *MRO* shall notify the *employee* or *job applicant* of the positive *confirmed test* result within three (3) days of receipt of the test result from the laboratory and inquire as to whether *prescription or non-prescription medications* could have caused the test result.
5. Upon contacting an *employee* or *job applicant* who has received a positive *confirmed test* result, the *MRO* shall properly identify the donor, inform the donor that the *MRO* is an agent of the County whose responsibility it is to make a determination on test results and report them to the County, and inform the donor that medical information revealed during the *MRO's* inquiry will be kept confidential, unless the donor is in a *safety-sensitive position* and the *MRO* believes that such information is related to the safety of the donor or to the other *employees*.
6. The *MRO* shall outline the rights and procedures for a retest of the original specimen for the donor and process any *employee's* or *job applicant's* request for retest of the original *specimen* within one hundred eighty (180) days of notice of the positive test result in another licensed laboratory selected by the *employee* or *job applicant*.

7. Upon receipt of information and/or documentation from the *employee* or *job applicant*, the *MRO* shall review any medical records provided, authorized and/or released by the individual's physician, to determine if the positive test result was caused by a legally *prescribed medication*. If the donor does not have *prescribed medication*, the *MRO* shall inquire about *non-prescription medications* which could have caused the positive test result. The donor shall be responsible for providing all necessary documentation (i.e., a doctor's report, signed prescription, etc.) within the five (5) day period after notification of the positive test result.
8. If the *MRO* determines that there is a legitimate medical explanation for the positive *confirmed test* result, the *MRO* shall report a negative test result to the County. However, should the *MRO* determine that the legal use of the *drug* would endanger the individual or others, then the *MRO* shall report that the test is negative due to a validated prescription and shall request that the individual be temporarily placed in a position which would not threaten the safety of the individual or others.
9. If the *MRO* has any question as to the accuracy or validity of a test result or has a concern regarding the scientific reliability of the sample, the *MRO* may request the individual to provide another sample. As a safeguard to *employees* and *job applicants*, once an *MRO* verifies a positive test result, the *MRO* may change the verification of the result if the donor presents information concerning a legitimate explanation for the positive test result or if the donor presents information which documents that a serious illness, injury, or other circumstances unavoidably prevented the donor from contacting the *MRO* within the specified time frame.
10. If the *MRO* is unable to contact a donor who has tested positive within three (3) working days of receipt of the test results from the laboratory, the *MRO* shall contact the County and request that the County direct the donor to contact the *MRO* as soon as possible. If the *MRO* has not been contacted by the donor within two (2) days from date of the request of the County, the *MRO* shall verify the test result as positive.
11. If the donor refuses to talk with the *MRO* regarding a positive test result, the *MRO* shall verify the result as a positive and annotate such refusal in the remarks section. If the donor voluntarily admits to the use of the *drug* in question without a proper prescription, the *MRO* shall advise the donor that a verified positive test result will be sent to the County.
12. The *MRO* shall notify the County in writing of the verified test result, either negative, positive, or unsatisfactory, and appropriately file chain of custody forms with the County and submit the proper forms to the ACHA.

F. Confidentiality and Records Maintenance

1. Confidentiality of records concerning *drug testing* will be maintained in accordance with Florida law. All information, records, *drug test* results in the possession of the County, laboratories, *employee assistance programs* and *drug and/or alcohol rehabilitation programs* will be kept confidential. No such information or records will be released unless written consent, signed by an *employee* or *job applicant*, is provided or unless disclosure of such information or records is compelled by an administrative law judge, hearing officer, or court of competent jurisdiction. The County may also disclose such information when relevant to its defense in any civil, disciplinary or administrative hearing. The County will maintain records concerning *drug testing* separate and apart from an *employee's* or *job applicant's* personnel file.
2. Information on *drug testing* results will not be released in any criminal proceeding, in accordance with Florida law.

8. EMPLOYEE ASSISTANCE PROGRAM

- A. The name, address, and telephone number of the County's *employee assistance program* is found in Appendix B.
- B. If an *employee* in a *mandatory-testing position* or a *special-risk position* enters an *employee assistance program* or *drug and/or alcohol rehabilitation program*, the *employee* shall be assigned to a position other than a *mandatory-testing position* or *special-risk position*; if such position is not available, the subject *employee* shall be placed on leave while the *employee* is participating in the program. However, the *employee* shall be permitted to use any accumulated leave credits before leave may be ordered without pay.
- C. Entry or participation in an *employee assistance program* or *drug and/or alcohol rehabilitation program* by an *employee* shall not prevent the County from taking disciplinary action, up to and including dismissal, for any violation of this Policy.

9. INFORMATION AND TRAINING

- A. The Human Resources Division will provide information on *drug* and *alcohol* use and treatment resources to all *employees*, including the availability of the *employee assistance program* and shall be responsible for providing a copy of this Policy to all *employees* and *job applicants*.
- B. The Risk Management Program shall conduct an ongoing drug-free and alcohol-free awareness program to inform *employees* about this Policy; the dangers of *drug* and *alcohol* abuse; penalties for the use, sale, possession or manufacture of *drugs* and *alcohol* at work; and the availability of *drug* and *alcohol* counseling.

10. STRICT COMPLIANCE

Failure of the County or *MRO* to strictly comply with the requirements hereof shall not constitute grounds to overturn the results of a positive *confirmed drug test* or disciplinary action.

ARTICLE II

1. APPLICABILITY

Article II is applicable to all *employees* and *job applicants* who are not required to hold a commercial driver's license and/or drive County motor vehicles used to transport passengers or property above the thresholds set forth in Article III. However, and not by way of limitation, Article II specifically applies to all employees and job applicants who drive emergency medical services vehicles.

2. DEFINITIONS

As used in this Article II, the terms set forth below shall have the following meanings:

- A. *Alcohol* means a distilled spirit, wine, a malt beverage, ~~or~~ intoxicating liquor or the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
- B. *Drug* means *alcohol*; an amphetamine; a cannabinoid; 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.
- C. *Heavy equipment* means equipment, which may be mobile, semipermanent, or permanent, intended for heavy work such as earth moving, lifting containers or materials, drilling holes in earth or rock, or concrete or paving application.
- D. *Reasonable suspicion drug testing* means *drug testing* based on a belief that an *employee* is using or has used *drugs* in violation of this Policy drawn from specific, objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:
 - 1. Observable phenomena while at work, such as direct observation of *drug* use or of the physical symptoms or manifestations of being under the influence of a *drug*;
 - 2. Abnormal conduct or erratic behavior while at work or a significant deterioration of work performance;

3. A report of *drug* use, provided by a reliable and credible source, which has been independently corroborated;
 4. Evidence that an *employee* has tampered with a *drug test* during his or her employment with the County;
 5. Information that an *employee* has caused, contributed to, or been involved in an accident while at work; or
 6. Evidence that an *employee* has used, possessed, sold, solicited, or transferred *drugs* while working or while on the County's premises or while operating a vehicle, machinery, or *heavy equipment* of the County.
- E. *Random drug testing* means a *drug test* chosen to be conducted based on a computer-generated random sampling of *employees* subject to *random drug testing*. All *employees* subject to *random drug testing* shall have an equal chance of being selected each time selections are made.

3. APPLICABILITY OF DRUG AND ALCOHOL TESTING

- A. All *job applicants* for a *mandatory-testing* or *special risk position* and *employees* who transfer to a *mandatory-testing* or *special risk position* shall be subject to pre-employment *drug testing*.
- B. All *employees* shall be subject to *reasonable suspicion*, Fitness-for-duty, and Return to duty/Follow-up *drug testing*.
- C. All *employees* in a *mandatory-testing* or *special risk position* shall be subject to *random, reasonable suspicion*, Fitness-for-duty, and Return to duty/Follow-up *drug testing*.
- D. All *employees* who operate a motor vehicle or *heavy equipment* for the County shall be subject to Post-accident *drug testing*.

4. DRUG AND ALCOHOL TESTING

- A. Types of Testing: In order to maintain a *drug* and *alcohol*-free work environment and in accordance with Florida's Drug-Free Workplace Program, section 440.101, et seq., Florida Statutes, as amended, and applicable administrative rules codified in the Florida Administrative Code, the County will test for the presence of *drugs* and/or *alcohol* unless otherwise provided herein, under the following circumstances:
 1. Pre-employment: All *job applicants* who have received a contingent job offer for a *mandatory-testing* or *special-risk position* and all County *employees* who transfer to a *mandatory-testing* or *special-risk position* shall submit to and successfully pass a *drug test* by receiving a negative test result for the presence of *drugs* prior to commencing employment or work for the

County. A refusal to submit a *drug test* or a positive *confirmed drug test* shall constitute a sufficient basis for refusing to hire a *job applicant*.

2. Random: Eligible *employees* will be chosen based on a computer-generated random sampling of *employees* subject to *random drug testing*. All *employees* shall have an equal chance of being selected each time a selection is made. Federal law or a collective bargaining agreement, if any, may set forth further restrictions or rules concerning *random drug testing*.
 - a. It is within the discretion of the County to decide when and how frequently to randomly test *employees* subject to *random drug testing*. The Risk Management Division shall be responsible for maintaining updated *employee* lists subject to *random drug testing* and for producing a random generation of *employee's* names to be tested.
 - b. The Risk Management Division shall complete the referral form and schedule each *employee* for the *drug test*.
 - c. Once an *employee* is randomly selected and scheduled for a *drug test*, the Risk Management Division, in conjunction with the Division Director, shall:
 1. Give selected *employees* notice of the scheduled *drug test*.
 2. Notify the *employees* of the collection or testing site.
 3. *Employees* will not be excused from *random drug testing* unless they are on prior approved leave.
 4. Additional rules and restrictions may apply to particular groups of *employees* based upon federal or state law.
3. Reasonable suspicion: *Employees* will be required to submit to *reasonable suspicion drug testing* when a supervisor has *reasonable suspicion* to believe that an *employee* is using or has used *drugs* in violation of this Policy. The supervisor will document the circumstances which formed his or her determination of *reasonable suspicion* in writing within three (3) working days from the date of his or her determination. A copy of this documentation will be given to the *employee* upon request.
4. Fitness-for-duty: All *employees* who are subject to a routine fitness-for-duty medical examinations must take a *drug test* as part of their medical examination.
5. Return to duty or Follow-up: All *employees* who have entered an *employee assistance program* for *drug-related* issues or a *drug rehabilitation program* shall be required to take return to duty or follow-up *drug tests* on at least a quarterly basis for two (2) years after returning to work. Return to duty

drug tests shall be unannounced, and depending on the circumstances, may be extended for up to sixty (60) months following a return to duty by the subject *employee*. This requirement may be waived, in the sole discretion of the County, in cases where an *employee* voluntarily enters a *drug rehabilitation program* before disciplinary action has been taken.

6. Post-accident: *Employees* who drive motor vehicles and/or operate *heavy equipment* for the County shall be subject to *drug testing* within four (4) hours of an accident, if the subject *employee's* performance could have contributed to the accident and when one or more of the following is a result of the accident:
 - a. If the accident involved the loss of human life (regardless of fault);
or
 - b. Bodily injury to any person who, as a result of the injury, receives medical treatment beyond basic first aid; or
 - c. One or more motor vehicles incurred disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle; or
 - d. Damage to *heavy equipment*, due to negligence or abuse that requires repair to maintain the operational functionality of the equipment or property.

An *employee* required to take a post-accident *drug test* shall not use *alcohol* for eight (8) hours following the accident, or until such *employee* undergoes a post-accident *drug test*, whichever occurs first.

5. CONSTRUCTION

In the event of a conflict between the provisions of this Article II and the provisions of Article I of this Policy, the provisions of Article II shall prevail.

ARTICLE III

1. APPLICABILITY

Article III is applicable to all *drivers* and *job applicants*, as defined under this Article. Article III does not apply to any person who drives an emergency medical services vehicle.

2. DEFINITIONS

As used in this Article III the terms set forth below shall have the following meanings:

- A. *Alcohol* means a distilled spirit, wine, a malt beverage, ~~or~~ intoxicating liquor, or the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
- B. *Driver* means an individual who works for the County on a full-time or part-time basis and receives salary, wages, or other remuneration, and is required by the County to hold a commercial driver's license and/or who drive County motor vehicles used to transport passengers or property which either: (i) have a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (ii) have a gross vehicle weight rating of 26,001 or more pounds; (iii) are designed to transport 16 or more passengers, including the *driver*; or (iv) are of any size and are used in the transportation of hazardous materials, as defined under applicable law.
- C. *Drug or controlled substance* means an amphetamine; a cannabinoid; 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.
- D. *Job applicant* means a person who has applied for a job position with the County as a *driver* and has been offered employment conditioned upon the County receiving a verification of a negative *drug test* result.
- E. *Reasonable suspicion drug testing* means a *drug test* based on a belief that a *driver* is using or has used, or is abusing or has abused, *alcohol* or *controlled substances* in violation of this Policy drawn from specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the *driver*.
- F. *Random drug testing* means a *drug test* chosen to be conducted based on a computer-generated random sampling of *drivers* within each group subject to *random drug testing*. All *drivers* within a group subject to *random drug testing* shall have an equal chance of being selected each time selections are made.
- G. *Safety sensitive functions* means:
1. Waiting to be dispatched while on duty;
 2. Inspecting, servicing or conditioning a vehicle;
 3. Driving a vehicle;
 4. Occupying a vehicle at times other than when actually driving (e.g., riding with another *driver* while on duty, sitting in a parked vehicle);
 5. Loading or unloading a vehicle, supervising or assisting in loading or unloading, attending to a vehicle being loaded or unloaded, remaining in

readiness to operate the vehicle being loaded or unloaded, or giving or receiving receipts for shipments loaded or unloaded;

6. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

H. *Substance abuse professional* means a person qualified under 49 CFR Part 40.281 to provide diagnosis and treatment of *alcohol* and *controlled substance*-related disorders, and is knowledgeable about federal Department of Transportation guidelines.

3. PROHIBITED CONDUCT

- A. No *driver* shall report for duty or remain on duty requiring the performance of *safety sensitive functions* having a breath *alcohol* concentration of 0.04 or greater. Any *driver* who is found to have an *alcohol* concentration of 0.02 or greater but less than 0.04 shall be immediately removed from *safety sensitive functions* and shall not be permitted to resume such functions until the start of the *driver's* next regularly scheduled duty period, but in any event not less than twenty-four (24) hours following the administration of the *alcohol test*.
- B. No *driver* shall be on duty or operate a vehicle while the *driver* is in possession of *alcohol*.
- C. No *driver* shall use or be under the influence of *alcohol* while performing *safety sensitive functions*.
- D. No *driver* shall perform *safety sensitive functions* within four (4) hours after using *alcohol*.
- E. No *driver* who is required to take a post-accident *alcohol test* shall use *alcohol* for eight (8) hours following the accident, or until he or she undergoes a post-accident *alcohol test*, whichever occurs first.
- F. No *driver* shall report for duty or remain on duty requiring the performance of *safety sensitive functions* while the *driver* uses or is under the influence of any *controlled substance*, except when the use is pursuant to the instructions of a physician who has advised the *driver* that the substance does not adversely affect the *driver's* ability to safely operate a vehicle, and the *driver* has informed the County of the use of the *controlled substance*. The County reserves the right to restrict a *driver* from performing *safety sensitive functions* when, in the opinion of the County, lawful use of a *controlled substance* renders the *driver* unable to perform his or her *safety sensitive functions* safely or in accordance with the standards prescribed by the County.
- G. No *driver* shall report for duty, remain on duty or perform a *safety sensitive function* if the *driver* tests positive for *controlled substances*.

- H. No *driver* may refuse to submit to any *alcohol* or *controlled substance test* required under this Article.

4. TESTING FOR ALCOHOL AND CONTROLLED SUBSTANCES

- A. Pre-Employment Testing: All *job applicants* who have received a contingent job offer and all *employees* who transfer to a job position subject to the provisions of this Article III, shall be subject to pre-employment *drug testing*, and must successfully pass the *drug test* by receiving a negative test result for the presence of *drugs*. A refusal to submit a *drug test* or a positive *confirmed drug test* shall constitute sufficient basis for refusing to hire a *job applicant*.
- B. Post-Accident Testing: As soon as practicable following an accident involving a commercial motor vehicle, each *driver* shall be tested for *alcohol* and *controlled substances* who either (a) was performing *safety sensitive functions* with respect to the vehicle, if the accident involved the loss of human life; or (b) who is documented as at fault under state or local law for a moving traffic violation arising from the accident, if the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene or the accident; or (c) if any of the vehicles involved incurred disabling damage.
 - 1. Tests for *alcohol* will be administered within eight (8) hours after the accident. Tests for *controlled substances* will be administered within thirty-two (32) hours following the accident.
 - 2. The *driver* shall remain available for such testing or will be deemed by the County to have refused to submit to testing. The *driver* must contact his or her supervisor for instructions related to post-accident *drug* or *alcohol testing*.
- C. Random Testing: All *drivers* shall be subject to unannounced *random testing* for *alcohol* and/or *controlled substances*. *Random alcohol testing* will be administered while a *driver* is performing *safety sensitive functions*, just before the *driver* is to perform *safety sensitive functions*, or just after the *driver* has ceased performing such functions.
 - 1. *Drivers* who are selected for *random testing* shall proceed to the directed test site immediately upon being notified. *Random testing* for *controlled substances* does not have to be conducted in immediate time proximity to performing *safety sensitive functions*.
 - 2. *Drivers* are randomly selected for testing from a “pool” of *drivers* subject to testing. The testing dates and times are unannounced and are with unpredictable frequency throughout the year. Each year, the number of *random tests* conducted by the County will be consistent with the percentage set forth in 49 CFR. §382.305 for *drivers* performing *safety*

sensitive functions. Some *drivers* may be tested more than once a year; some may not be tested at all depending on the random selection.

- D. Reasonable Suspicion Drug Testing: The County will require a *driver* to submit to an *alcohol* and/or *controlled substance drug* test when the County has *reasonable suspicion* to believe that the *driver* is using or has used *alcohol* and/or *controlled substances* in violation of this Article. *Reasonable suspicion* of *controlled substance* use may include indication of the chronic and withdrawal effects of *controlled substances*.
1. *Drivers* will be required to submit to *reasonable suspicion drug testing* for *alcohol* or *controlled substances* when a supervisor has reasonable suspicion to believe that a *driver* is using or has used *alcohol* or *controlled substances* in violation of this Policy. The supervisor will document the circumstances which formed his or her determination of reasonable suspicion in writing within three (3) working days from the date of his or her determination. A copy of this documentation will be given to the *driver* upon request.
 2. A *driver* shall be directed to undergo *reasonable suspicion drug testing* for *alcohol* while the *driver* is performing *safety sensitive functions*, just before the *driver* is to perform *safety sensitive functions*, or just after the *driver* has ceased performing such functions. *Reasonable suspicion drug tests* will be administered within eight (8) hours following the determination that reasonable suspicion exists.
- E. Return to-Duty and Follow-Up Testing: Should a *driver* complete the counseling or treatment program, as required by a *substance abuse professional*, in lieu of being terminated in connection with a violation of this Article, the *driver* shall be required to undergo a Return-to-duty *alcohol* or *controlled substance* test, whichever is applicable.
1. No *driver* will be permitted to return to duty unless, in the case of *alcohol* tests, the *alcohol* concentration is less than 0.02, or, in the case of *controlled substances*, there is a verified negative result to the test.
 2. A *driver* who, in accordance with this Article, has been determined by a *substance abuse professional* to require assistance in resolving an *alcohol* or *drug* issue must be tested periodically upon his or her return to duty for a minimum of six (6) tests in the first twelve (12) months following the *driver's* return to duty. Testing will continue for a period not to exceed five (5) years following the return to duty. Follow-up testing will be unannounced; however, a *driver* will only be directed to undergo Follow-up *alcohol* testing while the *driver* is performing *safety sensitive functions*, just before the *driver* is to perform *safety sensitive functions*, or just after the *driver* has ceased performing such functions. A *driver* may have to undergo Return-to-duty or Follow-up testing for both *alcohol* and

controlled substances if the *substance abuse professional* evaluating the *driver's* situation determines that Return-to-duty and Follow-up testing for both *alcohol* and *controlled substances* is necessary for that particular *driver*. The use of the *EAP* or *drug* or *alcohol rehabilitation program* shall be at the *driver's* sole expense.

- F. Fitness-for-Duty Testing: All *drivers* who are subject to a fitness-for-duty medical examinations must take a *drug* and *alcohol* test as part of their medical examination.

5. TESTING PROCEDURES

All testing for *alcohol* and *controlled substances* shall be administered in accordance with the regulations issued by the U.S. Department of Transportation, 49 CFR. Part 40, as amended. Copies of these regulations shall be made available upon request.

6. SUBSTANCE ABUSE PROFESSIONALS

- A. If the County decides to not terminate a *driver* after a violation of this Policy, the County may require the *driver* to be evaluated by a *substance abuse professional* of the County's choosing and at the County's expense. That *substance abuse professional* will determine what, if any, assistance the *driver* may need to resolve his or her *alcohol* and/or *drug* issue. The *substance abuse professional* shall then refer the *driver* to a counseling or treatment program from which the professional receives no remuneration or in which the professional has no financial interest. The *substance abuse professional* shall continue to evaluate whether the *driver* has followed the course of action that the *substance abuse professional* prescribed in his or her initial evaluation. Any program that the *driver* undertakes on the recommendation of the *substance abuse professional* shall be at the *driver's* expense. The *driver* must successfully comply with the *substance abuse professional's* evaluation recommendations prior to the *driver* performing *safety-sensitive functions*.
- B. Each *driver* or *job applicant* who violates this Policy shall be provided the names, addresses and telephone numbers of *substance abuse professionals*, counseling, *employee assistance program*, and treatment programs which may assist the *driver* in evaluating and resolving problems with *alcohol* and *controlled substances*, unless otherwise terminated or not hired. The *driver* is responsible for any expense associated with seeking treatment with *substance abuse professionals*, counseling, or treatment programs, unless the County requires a *driver* to be evaluated by a *substance abuse professional*.

7. CONSTRUCTION

In the event of a conflict between the provisions of this Article III and the provisions of Article I of this Policy, the provisions of Article III shall prevail.

APPENDIX A

List of Common Medications

| | |
|------------------------|---|
| Alcohol | All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick’s Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof). |
| Amphetamines | Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin. |
| Cannabinoids | Marinol (Dronabinol, THC). |
| Cocaine | Cocaine HCl topical solution (Roxanne). |
| Phencyclidine | Not legal by prescription. |
| Methaqualone | Not legal by prescription. |
| Opiates | Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc. |
| Barbiturates | Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, etc. |
| Benzodiazepines | Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax. |
| Methadone | Dolophine, Metadose. |
| Propoxyphene | Darvocet, Darvon N, Dolene, etc. |

Due to the large number of obscure brand names and constant marketing of new products, this list cannot and is not intended to be all-inclusive.

APPENDIX B

List of Employee Assistance Programs and Drug Rehabilitation Programs

Leon County EAP provider is:

Mr. Steve Serventi
Employee Management Systems
908 Thomasville Road
PO Box 3846
Tallahassee, FL 32315
Phone: (850) 422-2000

Revised 6/8/2021 (and moved from Section 2 to Section 11 of the Policy Manual)