

CF OPERATING PROCEDURE  
NO. 60-05

STATE OF FLORIDA  
DEPARTMENT OF  
CHILDREN AND FAMILIES  
TALLAHASSEE, October 31, 1998

Chapter 12

DRUG-FREE WORKPLACE

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## Chapter 12

## DRUG-FREE WORKPLACE

12-1. Purpose. This operating procedure establishes a uniform process for drug testing job applicants, volunteers, and employees within the Department of Children and Families, and includes job applicant testing, reasonable suspicion testing, and fitness to work testing.

12-2. Authority.

- a. Chapter 98-430, Laws of Florida.
- b. Chapter 39, Florida Statutes (F.S.)
- c. Section 110.502(2), F.S.
- d. Section 112.0455, F.S.
- e. Chapter 59A-24, Florida Administrative Code (F.A.C.)
- f. Article 29, Florida Nurses Association (FNA).
- g. Article 16, Police Benevolent Association (PBA).
- h. Article 15, Federation of Physicians and Dentists (FPD).

12-3. Explanation of Terms.

a. Applicant. A person who has applied for a special risk or safety sensitive position with the department and who has been offered the position conditioned upon successfully passing a drug test.

b. Collection Site. A place owned, operated or contracted by a laboratory licensed under Chapter 59A-24, F.A.C., or a site prepared by a collector authorized under section 112.0455, F.S., where individuals present themselves for the purpose of providing a specimen or specimens to be analyzed for the presence of drugs or alcohol.

c. Confirmation Test (or Confirmed Test) (or Confirmed Drug Test). A second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. This confirmation method must be capable of providing requisite specificity, sensitivity and quantitative accuracy. Confirmation for alcohol will be gas chromatography alone and confirmation for all other drugs will be gas chromatography/mass spectrometry 6gc/ms.

d. Controlled Substance. Any substance named or described in Schedules I through V of s.893.03, F.S., controlling the manufacture, distribution, preparation, dispensing or administration of drugs.

e. Donor. Any applicant, volunteer or employee required to submit to a drug test as a condition of employment; where there is reasonable suspicion of drug use; as part of a routinely scheduled employee fitness-for-duty medical examination; or for follow-up testing related to supervisory referral to an Employee Assistance Program or drug or alcohol rehabilitation program.

f. Drug Test. Any chemical, biological or physical instrumental analysis as authorized by Chapter 59A-24, F.A.C., which is administered for the purpose of determining the presence or absence of a drug or its metabolites.

g. Drug Testing Laboratory. The laboratory, including a collection site of the laboratory, that has contracted to conduct drug testing of department applicants, volunteers and employees in accordance with applicable laws and rules.

h. Drug. Alcohol, including distilled spirits, wine, malt beverages and intoxicating liquors, amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs or a metabolite of any of the substances listed herein or any other substance subsequently designated by the legislature or the Agency for Health Care Administration (AHCA).

i. Employee Assistance Program (EAP). An established program for employee assessment, counseling and possible referral to an alcohol or drug rehabilitation program.

j. Employee. Any person who works for salary, wages or other remuneration for the department.

k. Initial Drug Test. The first drug test used as a screen to identify negative and presumptive positive specimens. The initial test for alcohol will be an enzyme oxidation methodology and the initial test for all other drugs will use a sensitive and reliable Food and Drug Administration approved immunoassay procedure.

l. Laboratories. Facilities licensed by AHCA to collect or analyze specimens for an employer's drug testing program. The laboratory must comply with the provisions of Chapter 483, Part I, F.S.

m. Local Coordinator. The human resources manager, or other individual as designated by the secretary or district administrator, who is authorized to serve as the contact person for the district/central office and to interact with the Medical Review Officer (MRO) regarding drug testing results. State law prohibits the MRO from giving drug-testing results to anyone except for the contact person, or person acting in that capacity, for the district/central office.

n. Medical Review Officer (MRO). Licensed physician with knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures, who possesses the appropriate medical training to interpret and evaluate an individual's positive test result together with his or her medical history or any other biomedical information. The MRO responsibilities are normally included in the contract with the laboratory. The MRO makes the final determination of the donor's test results.

o. Negative Drug Test. When an initial or confirmation test result shows that a-donor's specimen does not contain drugs or metabolites as listed in Chapter 59A-24, F.A.C., or contains an insufficient amount.

p. Non-prescription Medication. 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.

q. Positive Drug Test. A specimen of a donor that has shown through initial and confirmation testing procedures to contain a sufficient amount of drugs or metabolites as listed in Chapter 59A-24, F.A.C.

r. Prescription Medication. A drug or medication obtained pursuant to a prescription as defined by s. 893.02(19), F.S.

s. Reasonable Suspicion Drug Testing. Drug testing based on a belief that an employee is using or has used drugs in violation of department policy, drawn from specific objective and articulable facts and reasonable inferences in light of experience. Reasonable suspicion testing shall not be required except upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. Among other things, such facts and inferences may be based upon:

(1) Observable phenomena while at work, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being under the influence of a drug or alcohol.

(2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.

(3) A report of drug use or alcohol use in violation of department policy, provided by a reliable and creditable source that has been independently corroborated.

(4) Evidence that an individual has tampered with a drug or alcohol test during his or her employment with the current employer.

(5) Information an employee has caused or contributed to an accident while at work.

(6) Evidence that an employee has used, possessed, sold, solicited or transferred drugs while working, or while on department premises, or while operating department vehicles, machinery or equipment.

t. Safety Sensitive Positions. Any positions, including supervisory or management positions, in which a drug impairment would constitute an immediate and direct threat to public health or safety. These positions are designated by the department.

u. Special Risk Positions. Any position for which the employee is required to be certified under Chapter 943, F.S., as a condition of employment. The district administrator designates these positions with review by the secretary. (This primarily refers to certified security officer positions).

v. Specimen. A product of the human body capable of revealing the presence of drugs or their metabolites.

w. Volunteer. Any person who, of his or her own free will, provides goods or services to the department with no monetary or material compensation.

#### 12-4. Policy.

a. It is the policy of the department to create a drug-free workplace in compliance with s.112.0455, F.S., the Drug-Free Workplace Act. The abuse of alcohol or controlled substances is inconsistent with the behavior expected of employees, subjects all employees and the public to unacceptable risks and undermines the department's ability to operate effectively and efficiently.

b. Further, the use of alcohol or abuse of controlled substances which negatively affects an employee's performance or the unlawful manufacture, distribution, dispensation, possession, sale or use of a controlled substance in the workplace or while engaged in department business while off the department's premises is strictly prohibited. Such conduct is also prohibited during non-working hours to the extent that, in the judgment of the department, it impairs an employee's credibility or ability to perform on the job, or threatens the reputation or integrity of the department.

c. A refusal by an applicant, volunteer or employee to submit to a drug test authorized by the department is a violation of this policy and will result in denied employment or disciplinary action.

d. Any instance of illegal drug use by a person in a safety sensitive position, in itself, constitutes interference with job performance.

#### 12-5. Responsibility.

a. The secretary or designee will administer drug-testing procedures specified in this policy for central office.

b. District administrators will administer drug-testing procedures specified in this policy for their respective districts.

c. The office of human resource development will serve as the statewide coordinator for the drug-testing program and will coordinate the selection of the drug-testing vendor(s).

d. Human resources managers (district, institution, or central office) will serve as the local coordinators for the drug testing program and will receive and refer results of drug tests to district, institution or central office managers, and maintain the official confidential records of donors who test positive.

e. Job opportunity announcements shall advise applicants of the department's drug testing policy for special risk and safety sensitive positions.

f. The department shall provide all new employees with a copy of the department's drug testing policy and document proof of receipt in the employee's official personnel file.

#### 12-6. Procedures.

a. Local coordinators are responsible for administering the drug-testing program within their geographic area.

b. All job opportunity announcements for special risk and safety sensitive positions, listed in Attachment 1 to this chapter, must contain the notice "Successful completion of a drug test is a condition of employment."

c. The local coordinator, or designee, schedules the date and time for all drug tests.

d. The local coordinator, or designee, provides the prospective donor with an authorization letter identifying the type of drug test requested; the location/address of the collection site; and the date and time of the appointment. The donor must report for the scheduled appointment at the designated selection site as failure to report at the appointed time may disqualify the donor from further consideration.

e. A donor may confidentially report the use of prescription or non-prescription medications to the MRO before or after being tested. Donors also have a right to consult with the laboratory before or after being tested for technical information regarding the use of prescription or non-prescription medication.

f. The designated laboratory shall test the specimen from the authorized collection site in accordance with Chapter 59A-24, F.A.C.

g. The MRO will receive the written test results from the laboratory. If the result of the test from the laboratory is **negative**, the MRO shall:

- (1) Receive and review the test result(s) from the laboratory;
- (2) Verify the laboratory report by checking the chain of custody form for required signatures, procedures, and information;
- (3) Ensure that the specimen identification number on copy 2 of the laboratory test report and on copy 4 of the chain of custody form sent to the MRO by the collection site accurately identifies the donor with the negative test result;
- (4) Notify the local coordinator in writing of the negative test result no more than seven working days after the laboratory receives the specimen, and appropriately file copy 2 and 4 of the chain of custody form under confidential procedures for a period of two years; and,
- (5) Within 24 hours of notification to the department of a negative test result, notify the testing laboratory that the result was submitted to the department.

h. If the results of the confirmed test is **positive**, the MRO shall:

- (1) Receive and review the test result(s) from the laboratory;
- (2) Verify the laboratory report by checking the chain of custody form for required signatures, procedures and information;
- (3) Ensure that the specimen identification number on copy 2 of the laboratory test report and on copy 4 of the chain of custody form sent to the MRO by the collection site accurately identifies the donor with the positive test result;
- (4) Notify the local coordinator of a confirmed positive test result, within three days of receipt of the test result from the laboratory;
- (5) Within five days of receipt of notification of the positive test result by the donor, provide an opportunity for the donor to discuss the test result and submit documentation of any prescriptions relevant to the positive test result;
- (6) Review any medical records provided by the donor's health care provider, and determine if the positive test result was caused by the use of a legally prescribed medication;
  - (a) If the donor was not prescribed medication, the MRO shall inquire about over-the-counter medications which could have caused the positive test result.
  - (b) The donor shall provide all necessary documentation (i.e., a doctor's report, signed prescription, etc.) within the five day period after notification of the positive test result.
- (7) Report a negative test result to the employer if the MRO determines that there is a legitimate medical explanation for the positive test result, based on the medical judgment of the MRO and accepted standards of practice;
- (8) Notify the employer in writing of the verified test result, either negative, positive or unsatisfactory, no more than seven working days after the laboratory received the specimen, and appropriately file the chain of custody form under confidential procedures for two years;

(9) Process any donor request for a retest of the original specimen, within 180 days from receipt of notice of the positive test result, at another licensed laboratory selected by the donor.

(a) The donor requesting the additional test shall pay for the costs of the retest, including handling and shipping expenses.

(b) The MRO shall contact the original testing laboratory to initiate the retest.

(10) Not declare a confirmed positive as verified until receipt of copy 2 of the chain of custody form from the drug testing laboratory and copy 4 from the collection site.

i. Chain of Custody Procedures. A strict chain of custody procedure, initiated at the time of specimen collection, is mandatory for the validation of any test result. The MRO shall, before reporting either positive or negative test result(s) to the employer, review all signatures, procedures and information as required on the chain of custody form and determine whether the specimen was under authorized control both before and during laboratory analysis. If proper chain of custody procedures were not followed, the MRO shall declare the test result as unsatisfactory, due to an unacceptable chain of custody procedure.

j. Verification for Opiates. Before a positive test for opiates is verified, the MRO shall determine that there is clinical evidence in addition to the urine test, of illegal use of any opium, opiate, or opium derivative (e.g., morphine codeine). This requirement does not apply if the GC/MS confirmation test for opiates confirms the presence of 6-monoacetylmorphine.

k. Reanalysis Authorized. Should any question arise as to the accuracy or validity of a test result which was collected and analyzed in accordance with these rules, the MRO may order a reanalysis of the original sample at any laboratory licensed under these rules.

l. Scientifically Unsatisfactory Results. The MRO, based on a review of the chain of custody form, quality control data, multiple samples and other pertinent results, may determine that the result is scientifically unsatisfactory for further action and may request the donor to provide another sample or request a reanalysis of the original sample before making such decision. The MRO may request the same laboratory or another licensed laboratory to perform the reanalysis test from an aliquot (specific scientific unit of measurement) of the original specimen. The laboratory shall assist in this review process when requested by the MRO and shall provide appropriate personnel for consultation when required by the MRO. The MRO shall report all findings based on the unsatisfactory specimen, but shall not include any personal identifying information in such reports.

m. Contacting Donors Who Test Positive.

(1) Within three working days of receipt of a positive test result from the laboratory, the MRO shall contact the local coordinator and request that the employer advise the individual to contact the MRO as soon as possible. If the donor does not contact the MRO within two working days from the request by the employer, the MRO shall verify the report as positive.

(2) As a safeguard to donors, once a MRO verifies a positive test result, the MRO may change the verification of the result if the donor presents information to the MRO which documents that a serious illness, injury or other circumstance unavoidably prevented the employee from contacting the MRO within the specified time frame, and if the individual presents information concerning a legitimate explanation for the positive test result.

(3) If the donor declines to discuss the positive test result with the MRO, the MRO shall validate the result as positive and annotate such decline in the remarks section.

n. Identification of the Donor. Prior to providing a donor with an opportunity to discuss a test result, the MRO shall confirm the identity of the individual. At a minimum, to confirm their identity, the donor must provide the following information:

(1) If the request is in person, the donor shall provide a picture identification; or,

(2) If the request is over the telephone, the donor shall provide an employee identification number or social security number, date of birth, employer's name and work telephone number.

o. Information for the Donor. After the MRO confirms the individual's identity, and before soliciting additional information, the MRO shall:

(1) Inform the donor that the MRO is an agent of the department responsible for determining test results and reporting them to the department.

(2) Inform the donor that medical information revealed during the inquiry is confidential, except when the individual occupies or applies for a safety sensitive or special risk position, and the MRO believes that such information is relevant to the safety of the individual or to other employees; the donor voluntarily provides written consent; where such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal; or where deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding.

(3) Outline the rights and procedures for a retest of the original specimen by the donor.

(4) If the donor voluntarily admits to the use of the drug in question without a proper prescription, the MRO shall advise the individual that the department will receive a verified positive test report.

p. Verification Signature. After the MRO reviews the chain of custody forms from the laboratory and the collection site (copy 2 from the laboratory and copy 4 from the collection site) and, in the case of a positive test result, has contacted the individual who tested positive, the MRO shall:

(1) On copy 2 of the chain of custody form, mark the appropriate box if the verified result is positive or negative and if positive, write in for which drug(s). If the test was not performed or the test was canceled, mark the appropriate box, and explain the reason for the cancellation or non-performance of the test in the remarks section.

(2) On copy 2 of the chain of custody form, sign and date the verification of the final test result.

(3) Prepare and sign a verification letter to the employer revealing the final verified test result (copies of the laboratory report form or chain of custody are not suitable for this purpose).

#### 12-7. Authorized Drug Testing of Donors.

a. The drugs tested for under this policy are amphetamines, cannabinoids, cocaine, phencyclidine (PCP), methaqualone, opiates, barbiturates, benzodiazepines, methadone, propoxyphene and alcohol, including distilled spirits, wine, malt beverages, intoxicating liquors, medications containing ethyl alcohol (ethanol) and other drugs as determined by legislation or rule.

b. The department will not test applicants for the presence of alcohol in the pre-employment process. The department will test an employee when it believes the employee is under the influence as defined by the reasonable suspicion criteria or by an EAP provider as part of a treatment program.



c. The department shall provide each donor who is tested for the presence of drugs in their system with a copy of the department's drug testing policy, and require that each individual sign a consent form prior to testing. The following categories represent the only situations for which the department authorizes drug testing:

(1) Applicants. Job applicants, including current employees, for appointment to positions designated as special risk or safety sensitive shall pass the prescribed drug test. It is the local coordinator's responsibility to schedule the drug tests after the selection of the applicant is approved.

(2) Reasonable suspicion. This paragraph applies to **all** department employees and volunteers. The department may require an employee or volunteer to submit to a drug test when it appears that the individual is using or has used drugs in violation of department policy. The recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question and approval by the respective local coordinator is required before conducting reasonable suspicion drug testing.

(a) When an employee or volunteer meets one or more of the categories for reasonable suspicion drug testing, the local coordinator must obtain authorization from a supervisor prior to transporting the individual to a collection site in the area. The individual shall not be allowed to drive to the collection site. The local coordinator shall immediately make transportation arrangements, contact the collection site and make arrangements for conducting the drug test.

(b) No later than two working days after the drug test was conducted, the supervisor and second level supervisor shall document and forward the reasons, including observations or information received that was used to justify testing the employee or volunteer, to the local coordinator. The coordinator shall provide the necessary information to the secretary or appropriate district administrator.

(3) Fitness for Duty. All employees in safety sensitive positions listed on Attachment 1 shall submit to drug testing on a periodic basis, not exceeding three years between testing. Supervisors of these individuals shall also submit to testing in the same manner.

(4) Follow-up. The department may require an employee to take a drug test as part of the department's EAP program, providing the employee is attending due to alcohol or drug related problems. The EAP provider may require an employee who is undergoing treatment initiated during the course of employment through the EAP for drug or alcohol problems to undergo random drug testing for up to two years. Follow-up testing shall meet NIDEA criteria.

(5) Temporary Assignment. During the period after testing for the reasonable suspicion of drug use category, or when a positive test result is received for a special risk or safety sensitive employee, the department shall assign temporary duties not involving special risk or safety sensitive activities. If such duties are unavailable, the department shall place the employee on leave status until the secretary, appropriate district administrator or designee makes a decision on the action to be taken. If placed on an approved leave status, the department shall permit the use of any accumulated leave credits prior to taking leave without pay. For other than special risk or safety sensitive employees, the secretary or appropriate district administrator or designee shall determine whether to reassign the employee to temporary duties pending the decision of final action.

#### 12-8. Receipt of Test Results and Action by the Department.

a. The results of drug testing of donors by the department are confidential. Due to this confidentiality requirement, the laboratory authorized to conduct the drug test shall provide all positive and negative test results to the department's MRO. The MRO shall provide the test results to the local

coordinator. In the event of a positive test result, the local coordinator shall immediately notify the secretary or appropriate district administrator or designee.

b. The laboratory shall provide to the MRO a copy of the chain of custody form containing information relative to any prescribed drugs the donor listed as being consumed at the time the drug test was conducted, and the affect the drug could have on the outcome of the test.

c. Within five working days after receiving positive test results, the local coordinator shall inform the donor in writing (by hand delivery or by certified mail, return receipt requested) of such positive test results, the consequences of such results and the options available.

d. The department shall maintain all materials related to the donor's challenge or explanation in a confidential file in the servicing human resources office for a minimum of one year from the date the test was administered. At the end of the required time period, the department must maintain the records in accordance with the retention schedule required by Florida Statutes in effect at that time.

12-9. Disciplinary Action, Discharge, Employee Assistance Program, Refusal to Hire. The department shall not discharge, discipline, refuse to hire, discriminate against, request or require treatment of any individual based solely on the results of an unconfirmed test.

a. If a donor refuses to submit to a drug test, the department shall have just cause to refuse to hire the applicant or to discipline the employee, up to and including dismissal.

b. If an applicant for a special risk or safety-sensitive position does not report for the drug test as scheduled, without a reasonable excuse acceptable to the department, the department shall have cause to refuse to hire the applicant.

c. If the MRO reports that an applicant's test is confirmed positive, the department shall have just cause to refuse to hire the applicant.

(1) The department is not required to hold the position vacant while the job applicant pursues administrative action.

(2) If the administrative finding is for the applicant, the department shall provide the applicant with an opportunity for employment in the next available comparable position.

d. The department will refer an employee (except an employee in a special risk position), who has a first-time positive confirmed drug test result, to the EAP. The employee shall pay all treatment costs. Personal health insurance may cover all or part of the cost. The local coordinator and the employee shall sign an agreement outlining provisions of the EAP treatment program for the employee and any other department requirements. The agreement is confidential.

e. An employee in a special risk position is subject to disciplinary action up to and including dismissal for any use of illegal drugs.

f. The department shall reassign an employee in a safety sensitive position from the safety sensitive duties to non-safety sensitive duties during the rehabilitation or treatment program. If such duties are unavailable, the department shall place the employee on leave status while participating in an EAP or alcohol and drug rehabilitation program. If placed on an approved leave status, the department shall permit the employee to use any accumulated leave credits prior to being placed on leave without pay.

g. Except for an employee in a special risk position, the department shall not discipline, discharge or discriminate against an employee based on **the first** positive confirmed drug test, **unless** the employee

was given an opportunity to participate in an EAP or alcohol and drug rehabilitation program, and the employee:

- (1) Refused to participate in the program;
- (2) Failed to successfully complete the program, as evidenced by withdrawal before completion or a report from the program indicating unsatisfactory compliance;
- (3) Tested positive after completion of the program; or,
- (4) Refused to sign a written consent form allowing the department to obtain information regarding the progress and successful completion of the EAP or alcohol and drug rehabilitation program.

h. Upon successful completion of the EAP or alcohol and drug rehabilitation program, as determined by the provider, the department shall reinstate the employee to the same or equivalent duties that he or she held prior to such rehabilitation, and document that the employee successfully completed the agreement between the employee and the department.

i. The department shall not discharge, discipline or discriminate against an employee for voluntarily seeking treatment for a drug-related problem while under the employ of the department if the employee has not previously tested positive (confirmed) for drug use, entered mandated EAP for drug-related problems or entered an alcohol and drug rehabilitation program. However, special risk employees are subject to discipline when the presence of illicit drugs, pursuant to s.893.13, F.S., is confirmed.

j. If the treatment recommendation is for inpatient rehabilitation, the department shall permit the employee to use any accumulated leave credits prior to placing the employee on leave without pay. Upon successful completion of the treatment program, as determined by the provider, the department shall return the employee to the same or equivalent position held prior to such rehabilitation.

k. An employee who violates the department's Standards for Disciplinary Actions to be Applied related to possession, use, sale, or solicitation of drugs, including convictions for drug related offenses, is subject to disciplinary action under those standards, up to and including dismissal.

#### 12-10. Confidentiality.

a. All information, interviews, reports, statements, memoranda and drug test results, written or otherwise, received by the department through the drug testing program are confidential communications and are exempt from the provisions of s.119.07, F.S.

b. These records shall not be used or received in evidence, obtained in discovery or disclosed in any public or private proceedings except as permitted by law, including:

- (1) By order of a hearing officer or a court of competent jurisdiction pursuant to an appeal or grievance filed under this policy, or where deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding;

- (2) To certifying bodies of special risk employees relative to positive confirmed drug test results; or,

- (3) To the donor who was tested and voluntarily signs a consent form.

12-11. Notice to Employees. As positions are included in the drug-testing program, the department shall provide notice to incumbent employees.

a. The department shall provide such employees with notice as outlined in s.112.0455(6), F.S., at least 60 days prior to testing.

b. A list of the most common medications by brand names which may affect a drug test are in the Department Employee Handbook or Chapter 59A-24, F.A.C.

c. Each donor who is tested must review and acknowledge a similar list of drugs at the collection site. The list is provided on the Drug Testing Chain of Custody form, AHCA Form 3170-5006, reverse side of Copy 5.

d. The human resources manager or local coordinator shall provide a listing by name, address and telephone number of local EAP and alcohol and drug rehabilitation programs to all employees at the time of notification to report to a specific collection site for drug testing.

e. Upon request, the donor may obtain a copy of the results from the local coordinator.

f. Within five working days after receiving the results, the donor may submit information to the local coordinator contesting the processing of the test.

g. There is a required minimum 210 day storage period for specimens. Within this 210 day period the local coordinator, donor or MRO may request, in writing, that the laboratory retain the specimen for an additional period of time. When notified in writing, the laboratory shall maintain any specimens under legal challenge until such challenge is resolved. If no such request is received, the laboratory may discard the specimen after the required period of storage.

h. When a donor undertakes an administrative or legal challenge to the test result, the donor shall notify the department and laboratory, in writing, of such challenge and such notice shall include reference to the chain of custody specimen identification number. After such notification, the laboratory shall retain the specimen until the case or administrative appeal is settled.

i. During a period of 180 days after written notification of a positive test result, the department shall permit the donor who provided the specimen to have a portion of the specimen retested, at the donor's expense. The laboratory which performed the original test for the employer shall transfer a portion of the specimen to a second laboratory, licensed under these rules and selected by the donor, and shall assume responsibility for the integrity of the specimen and for the chain of custody during such transfer.

12-12. Employee Rights.

a. Any employee who is disciplined, or any individual who applies for a special risk or a safety-sensitive position and is not selected based on a positive drug test, may file an appeal with PERC pursuant to ss.110.227 and 447.401, F.S.

b. The notice of discipline shall inform the employee of the right to file an appeal or, if available, the right to file a grievance under a collective bargaining contract. The individual must file any request for appeal within 30 calendar days of the notice of discipline or refusal to select.

c. An appeal to PERC is the only administrative remedy for any employee who is disciplined or applicant who is not selected. An employee covered by a collective bargaining agreement, however, may file a grievance under that contract, but the employee may not file both an appeal and a grievance.

d. A person who alleges a violation of s.112.0455, F.S., not within the authority of PERC or an arbitrator to resolve, may file a claim in civil court to have the action set aside, to obtain damages, or both. The time limit for filing the claim is 180 days from the date the final action was taken by the department. Employees in this situation are not required to appeal or grieve before filing the civil action.

BY DIRECTION OF THE SECRETARY:

*(Signed original copy on file)*

DENNIS L. CROFT  
Assistant Secretary for  
Administration

### SAFETY SENSITIVE POSITIONS REQUIRING DRUG SCREENINGS

1. Effective October 1, 1998, individuals meeting the following definition require drug screening: All successful job applicants, current employees, volunteers and contract personnel who currently perform or are seeking to perform child protective investigations, in accordance with section 39.001(2)(d), F.S.

2. Effective January 4, 1999, all successful job applicants for, and current employees in Selected Exempt and Senior Management Services positions are required to pass drug screening.

### CERTIFIED SECURITY OFFICERS

1. All Certified Security officers located within an institution and covered by the Police Benevolent Association Collective Bargaining contract.

## LIST OF DRUGS FOR WHICH THE DEPARTMENT WILL TEST

The following is a list of drugs for which the department will test, and over-the-counter and prescription drugs which could alter or affect a test result. Due to the large number of obscure brand names and constant marketing of new products, this list, as follows, is not all-inclusive.

1. Alcohol. All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vicks' Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contac Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).
2. Amphetamines. Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin.
3. Cannabinoids. Marinol (Dronabinol, THC).
4. Cocaine. Cocaine HCl topical solution (Roxanne).
5. Phencyclidine. Not legal by prescription.
6. Methaqualone. Not legal by prescription.
7. 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.
8. Barbiturates. Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, etc.
9. Benzodiazepines. Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.
10. Methadone. Dolophine, Metadose.
11. Propoxyphene. Darvocet, Darvon N, Dolene, etc.