



FLORIDA DEPARTMENT OF JUVENILE JUSTICE

<i>Secretary</i> /s/ W.G. "Bill" Bankhead	<i>Effective Date</i> 8/1/01	<i>Number</i> FDJJ 4.07 P
<i>Subject</i> DRUG TESTING PROGRAM PROCEDURES		
<i>Authority</i> Chapters 20, 39, 110, 112, 985, Florida Statutes Chapters 59A-24, 11B-27, Florida Administrative Code	<i>No. of Attachments</i> 7	
RELATED REFERENCES		
PROCEDURE	To establish uniform procedures for the Drug Testing program within the Department of Juvenile Justice (DJJ) in accordance with Florida Statutes and the Florida Administrative Code.	
DEFINITIONS	<p>A. Alcohol - For the purpose of this procedure, alcohol, including distilled spirits, wine, malt beverages or other intoxicating liquors or substances.</p> <p>B. Aliquot - Means a portion of a specimen used for testing.</p> <p>C. Applicant - Means a person who has applied for a safety sensitive position <i>or special risk</i> position and has been offered employment conditioned upon successfully passing a drug test.</p> <p>D. Chain of Custody – Refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.</p> <p>E. Collection Site - A place owned, operated, or contracted with, by a laboratory licensed under Chapter 59A-24, Florida Administrative Code, or by a DJJ-appointed authority, where specimens may be collected by individuals properly trained in compliance with Chapter 59A-24, Florida Administrative Code. Any site where a collector performs a sample collection.</p> <p>F. Collector - A collector is a person who instructs and assists donors at a collection site and who collects or receives and makes an initial observation of the specimen provided by those donors. The laboratory is responsible to ensure that the collector(s) is trained to carry out his/her responsibilities under this policy.</p> <p>G. Confirmation Test - An analytical procedure used to identify the presence of a specific drug or metabolite in a specimen after an initial test has identified a specimen as presumptively positive.</p> <p>H. Designated Agency Authority – An individual authorized to administer the drug testing program for employees or job applicants and to interact with employees regarding all aspects of the drug testing program. A Department of Juvenile Justice employee authorized to interact with the Medical Review Officer (MRO) regarding drug testing results.</p> <p>I. Donor - Means a job applicant or employee who presents him/herself to a collection site for the purpose of submitting to a drug test.</p> <p>J. Drug - For the purpose of this procedure: alcohol, as defined above; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); benzodiazepines; hallucinogens; methaqualone; opiates; barbituates; synthetic narcotics; designer drugs; benzodiazepines; or a metabolite of any of the substances listed herein under Section 112.0455, Florida Statutes.</p>	
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<p>DEFINITIONS (cont'd.)</p>	<p>K. Drug Test - Any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.</p> <p>L. Employee - Any person who works for salary, wages or other remuneration for the Department of Juvenile Justice or contractual programs.</p> <p>M. 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. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. 397.311(28).</p> <p>N. Employer – means a person or entity that employs a person and that is covered by the Workers’ Compensation Law.</p> <p>O. Initial Drug Test - 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.</p> <p>P. Laboratory - A place that must meet or exceed the Agency for Health Care Administration or the Substance Abuse and Mental Health Services Administration certifications. The laboratory is where examinations are performed on specimens taken from the human body to provide information regarding the presence or absence of drugs or their metabolites for the purpose of promoting a drug free workplace under the provisions of Section 112.0455, F.S.</p> <p>Q. Mandatory Referral - The referral of an employee to an employee assistance program as a result of a first time positive confirmed drug screen/test.</p> <p>R. Medical Review Officer (MRO) – means a licensed physician, employed with or contracted with an employer, <u>who is certified in the law and methodology of drug testing</u>; 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.</p> <p>S. Prescription or Nonprescription Medication - 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.</p> <p>T. Random Drug Test - A drug test chosen to be conducted based on a computer generated random sampling of employees. All employees shall have an equal chance of being selected each time selection is made. A minimum of five (5) % of the average number of filled positions identified shall be randomly tested on an annual basis.</p> <p>U. Reasonable Suspicion Drug Testing – means drug testing based on a belief that an employee is using or has used drugs in violation of DJJ’s 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:</p> <ol style="list-style-type: none"> 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.
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<p>DEFINITIONS (cont'd.)</p>	<ol style="list-style-type: none"> 3. A report of drug or alcohol use in violation of department policies, provided by a reliable and credible source which has been independently corroborated, or by self-admission of employee. 4. Evidence an individual has altered or attempted to alter a drug test during his employment. 5. Information that an employee has caused or contributed to an accident while at work. 6. Evidence that an employee has used, possessed, passed, sold, solicited, or transferred drugs in violation of law while working or while on the DJJ's premises or while operating DJJ's vehicle, machinery or equipment. <p>V. Safety Sensitive Position – means a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or confidential juvenile information, or work with controlled substances; a position in which a drug impairment constitutes an immediate and direct threat to the employee's health or safety; a position which has access to a juvenile facility; a position in which the employee is responsible for the well-being of a minor; or a position in which a momentary lapse in attention could result in injury or death to another person.</p> <p>W. Special Risk Position – Any position for which an employee is required to be certified in accordance with Chapter 633 or Chapter 943, Florida Statutes.</p> <p>X. Specimen - Tissue, hair, or product of the human body capable of revealing the presence of or drugs or the metabolites.</p>
<p>GENERAL POLICIES AND GUIDELINES</p>	<p><u>Pre-Employment Drug Testing</u></p> <ol style="list-style-type: none"> A. All vacancy announcements for safety sensitive <i>or special risk</i> positions shall include the statement: "Successful completion of a drug test is a condition of employment." B. Once an applicant has been recommended for a position, the Designated Agency Authority shall: <ol style="list-style-type: none"> 1. Contact the Office of Inspector General to query the database to determine that the applicant has not failed a drug test, failed to appear for a drug test, or received an invalid drug test result. 2. Determine the most appropriate, approved DJJ-designated collection site. 3. Will complete a referral form indicating the drug test time range, approved collection site and location, and type of testing required, and advise the applicant to return signed and dated referral form to the Designated Agency Authority or designee. 4. Complete the information on the Drug Testing Chain of Custody Form (Step 1D) (labeled "to be completed by collector or the designated agency authority/employer") indicating type of tests to be conducted. 5. Ensure that the applicant completes the Applicant Drug Testing Consent Form (ATTACHMENT A). 6. Apprise the applicant to drink no more than 40 ounces of liquid within three hours (approximately 6 oz. per 30 minutes) of providing a urine sample, to prevent a diluted sample. 7. Maintain the original of the Applicant Drug Testing Consent Form. 8. If an applicant refuses to sign the Applicant Drug Testing Consent Form, the DAA shall advise the applicant that he or she is no longer being considered for employment and be precluded from future employment consideration, mark the appropriate box on the Drug Testing Consent Form, sign and date it. This form shall be retained in the applicant's confidential background screening file in the Office of Inspector General.
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9. Advise the applicant as to when he or she must report to the designated collection site, once the Referral Form, Applicant Drug Testing Consent Form, and the Drug Testing Chain of Custody Form have been appropriately completed. The applicant will be required to present a government-issued photographic identification, which must be viewed by the authorized individual at the collection site and indicated on the Drug Testing Chain of Custody Form, if applicable.
- C. It is essential that the applicant not be given more than 24 hours notice when being tested for drugs.
- D. The applicant is responsible for taking all copies of the Referral Form and the Drug Testing Chain of Custody Form to the collection site.
- E. If the applicant does not present himself/herself at the collection site within the specified time frame, the Designated Agency Authority shall notify the applicant in writing that he/she is no longer being considered for employment. If the applicant provides sufficient justification for failure to appear, the Designated Agency Authority, will have the authority to authorize a new test date.
- F. Levels on initially screened urine specimens which are equal to or exceed those listed in Chapter 59A-24, Florida Administrative Code, or its equivalent, shall be considered to be presumptively positive and submitted for confirmation testing.
- G. After the specimen has been analyzed, the laboratory shall send the test results to the MRO for evaluation.
- H. All drug test results shall be transmitted from the lab by secure means and mailed in a confidential envelop to the MRO in compliance with Chapter 59A, Florida Administrative Code, or its equivalent. All test results are to be reviewed and released by the Medical Review Officer to the Designated Agency Authority, who shall notify the appropriate personnel liaison.
- I. If upon review the test results are positive:
 1. The MRO will contact the applicant, in compliance with Chapter 59A-24, Florida Administrative Code, or its equivalent, to inquire as to any prescriptions or over-the-counter medications the applicant may have taken that would cause a positive test result.
 - a. If the MRO is unable to contact the applicant within two days of receiving the test result from the laboratory, the MRO shall request the Designated Agency Authority to direct the applicant to contact the MRO as soon as possible. The Designated Agency Authority shall notify the MRO when contact has been made. If the MRO has not been contacted by the applicant within five working days from the notification by the Designated Agency Authority, the MRO shall verify the test results as positive.
 - b. If contact is not made with the applicant by either the Designated Agency Authority or MRO within 14 days from the date MRO receives the result, the test result becomes positive.
 2. If the MRO determines that the positive test result is a result of a legitimate prescription or over-the-counter medication, the MRO shall report a negative test result to DJJ's Designated Agency Authority.
 3. If the MRO determines that the positive test result is a result of illegal use of drugs, the MRO shall report a positive test result to the Designated Agency Authority.
 4. Upon MRO notification that the applicant's test results are positive or invalid, the Designated Agency Authority shall:

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- a. Notify the applicant within five working days in writing of such positive or invalid test results and the consequences of such results using form letter, ATTACHMENTS C or D, and mailed or delivered return receipt requested in a confidential envelope.
 - b. Should documentation be received at a later date reflecting that the positive test result was in error, the Designated Agency Authority shall contact the Office of Inspector General, which will maintain a copy of the test result, any correspondence regarding the test result, in the applicant's confidential background screening file.
5. If the applicant's initial urine sample is visibly determined at the collection site to be adulterated, the collection site shall instruct the applicant to provide another sample at that time which will be forwarded to the laboratory for testing. The Applicant will remain at the collection facility until a second specimen is collected. The second specimen should follow normal collection time frame constraints of three hours and 40 ounces of fluid (approximately 6 oz. per 30 minutes). Both specimens shall be sent to the laboratory for testing.
- If the Donor exceeds three hours, the applicant should be directed for an immediate evaluation, by a medical physician, for an ascertainable physiological condition (i.e., a urinary system dysfunction) or a documented pre-existing psychological disorder, but does not include unsupported assertions of "situational anxiety" or dehydration that could preclude the donor from providing an adequate amount of urine. If there is no adequate explanation, it should be considered a refusal to test. The cost of the medical evaluation will be the sole responsibility of the applicant.
- If the urine sample is determined at the laboratory to be diluted as a result of a creatinine level below 20 milliliters per deciliter and a specific gravity of less than 1.003, the laboratory shall inform the MRO that the test result is diluted. The MRO shall inform the DAA that the initial test result is diluted and the DAA will direct the applicant to be retested. The applicant should not be given more than 24 hours notice, by the Designated Agency Authority, for a new test to be collected.
- J. All written test results shall be maintained in a confidential file.
 - K. The employer's copy of the Drug Test Chain of Custody Form must be kept in a suspense file with the Designated Agency Authority until DJJ has been billed for that individual's test. The form will then be used to verify that the test was requested by DJJ.

Reasonable Suspicion Drug Testing

- A. The Designated Agency Authority shall follow the steps outlined below in carrying out the department's drug testing program:
 - 1. To determine if an employee is to be tested, the supervisor of the employee shall document all of the specific objective evidence, articulable facts and reasonable inferences drawn from those facts, and review them with a supervisor at the next level or higher, who is responsible for recommending whether or not the employee is to be tested. If it is recommended the employee is to be tested, the documentation shall be reviewed with the Office of the General Counsel for a final determination of reasonable suspicion of drug use. Written documentation must be forwarded to the Office of the General Counsel within 24 hours of review.

If an employee is to be tested for reasonable suspicion of use of alcohol during work hours other than the administrative shift and an attorney cannot be contacted, the Designated Agency Authority has the authority to make the determination of reasonable suspicion and authorize a drug test. However, the General Counsel's Office shall be contacted as soon as possible to review the information leading to the determination of reasonable suspicion.
 - 2. Once it has been determined that an employee is to be tested, the Designated Agency Authority shall determine the most appropriate designated collection site or the drug testing technology.

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To test for alcohol on the evening and midnight shifts, and collection or alcohol screen is not available, the person in charge at the location shall call the laboratory to arrange for a mobile collection site.

If a mobile collection site is not available, the following steps shall be taken:

- a. Maintain documentation that the employee is suspected of being under the influence of alcohol.
 - b. Advise the employee that he or she is relieved of duty for this shift and will be placed on annual leave, sick leave, compensatory leave or leave without pay.
 - c. Arrange for the employee to be transported to his or her home.
 - d. Initiate procedure for disciplinary action to be taken if appropriate.
3. Apprise the employee that he or she is to be drug tested and answer any questions the employee may have regarding the drug test.
 4. If applicable, apprise the employee that he or she will be placed on administrative leave in compliance with Chapter 60K, of the Florida Administrative Code.
 5. Complete the necessary information in Step 1 (D) of the Drug Testing Chain of Custody Form (labeled "to be completed by collector or designated agency authority/employer").
 6. The Designated Agency Authority will make arrangements for the employee to be transported to the collection site or to proceed with the drug testing procedure. The employee shall also be accompanied by his/her supervisor or a supervisor at the next level or above. Once the employee has been transported to the collection site the Drug Testing Chain of Custody form must be completed and signed.
 7. If an employee refuses to complete and sign the Drug Testing Chain of Custody Form, the employee will be considered to have refused to submit to drug testing and shall be advised in writing by the Designated Agency Authority that he or she is subject to disciplinary action up to and including dismissal.
 8. It is essential the employee be tested as soon as practical, within not more than 24 hours when being tested for drugs, and not more than one hour when being tested for alcohol.
 9. The Designated Agency Authority shall inquire of the supervisor if the employee has submitted to testing. If the employee has not appeared at the collection site within the specified time frame, the employee will be considered to have refused to submit to drug testing. The employee shall be advised in writing that he or she is subject to disciplinary action up to and including dismissal for failure to report to the collection site unless the employee provides sufficient justification for failure to appear, subject to approval by the Regional Director or equivalent level administrator.
 10. If an employee refuses to complete and sign any required forms or attempts to alter, dilute or adulterate the test process, the employee will be considered to have refused to submit to reasonable suspicion drug testing. The employee shall be advised in writing by the Designated Agency Authority that he/she is subject to disciplinary action up to and including dismissal.
 11. All drug test results shall be transmitted to the MRO from the lab by secure means and mailed in a confidential envelope in compliance with Chapter 59A-24, Florida Administrative Code, or its equivalent. All test results are to be reviewed and released by the Medical Review Officer to the Designated Agency Authority who shall notify the appropriate personnel liaison to proceed.
 12. If the first test result is positive:
 - a. The employee shall be referred to the Employee Assistance Program following procedures outlined in the DJJ Policy and Procedures Manual.

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- b. If an employee enters an Employee Assistance Program or an alcohol and drug rehabilitation program pursuant to this policy, the employee must submit to a drug test as a follow-up to such a program, on a quarterly, semi-annual, or annual basis for up to two years, as recommended by the employee assistance or rehabilitation program.
- 13. If any subsequent test is positive, the employee is subject to disciplinary procedures up to and including dismissal.
- 14. If the MRO determines that the positive test result is a result of a legitimate prescription or over-the-counter medication, the MRO shall report a negative test result to DJJ 's Designated Agency Authority.
- 15. All written test results must be maintained in a separate confidential file within the Bureau of Personnel.

Random Drug Screening/Testing

- A. The Bureau of Personnel shall be responsible for maintaining updated employee lists and shall submit monthly the lists to the MRO for random generation of employee names to be tested. The list shall include the date by which all tests for that testing period must be completed.
- B. The MRO shall notify the Designated Agency Authority (by secured fax or overnight mail) or contact directly by telephone with the list of employees to be tested during each random testing period.
- C. The Designated Agency Authority shall complete the referral form and schedule each employee for the test.
- D. Once an employee is randomly selected and scheduled for a test under the provisions of this procedure, the Designated Agency Authority shall:
 - 1. Give selected employees no more than 24 hours notice of the scheduled drug test.
 - 2. Notify the employees of collection or testing site.
 - 3. Meet with the employees to notify them that they are to be drug tested, require the employee to read and sign the Employee Random Drug Testing Notice (ATTACHMENT B) and answer any questions. Keep the original copy of the notice and give a copy to the employee.
 - 4. Complete a referral form indicating the drug test time range, approved collection site and location, type of testing required, and advise the applicant to return signed and dated referral form to the Designated Agency Authority or designee.
- E. Employees shall not be "excused" from random drug testing unless they are:
 - 1. On prior approved leave of absence; or
 - 2. Out-of-town on department business.
 - a. The Attendance and Leave Report or Request for Travel Reimbursement (whichever is applicable) must be attached to the documentation for any employee unavailable for the test.
 - b. If the employee returns in time for the test to be scheduled and completed within the prescribed deadline, the Designated Agency Authority shall do so. The employee is not to be notified of his/her selection for a random drug test prior to returning to work.
 - c. The Designated Agency Authority shall schedule the test if the employee returns in time for the test to be completed within the established 24-hour deadline.

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- F. If an employee refuses to complete and sign any required forms or attempts to alter, dilute or adulterate the test process, the employee will be considered to have refused to submit to random drug testing. The employee shall be advised in writing by the Designated Agency Authority that he or she is subject to disciplinary action up to and including dismissal.
- G. If the employee has not appeared at the collection site within 24 hours or fails to return the referral form within 24 hours of collection, the employee will be considered to have refused to submit to drug testing. The employee and their supervisor shall be advised in writing by the Designated Agency Authority that the employee is subject to disciplinary action, up to and including dismissal, for failure to comply with the drug testing program, unless the employee provides sufficient justification for failure to appear, subject to approval by the Regional Director or equivalent level administrator.
- H. All drug test results shall be transmitted from the lab by secure means and mailed in a confidential envelope to the MRO in compliance with Chapter 59A, Florida Administrative Code, or its equivalent. All test results are to be reviewed and released by the Medical Review Officer to the Designated Agency Authority.
- I. If the test results are positive, the following steps shall be taken by the Medical Review Officer:
 - 1. The MRO will contact the employee in compliance with Chapter 59A-24, Florida Administrative Code, or its equivalent, to inquire as to any prescriptions or over-the-counter medications the employee may have taken that would cause a positive test result.

If the MRO is unable to contact the employee within two days of receiving the test result from the laboratory, the MRO shall request the Designated Agency Authority to direct the employee to contact the MRO as soon as possible. The Designated Agency Authority shall notify the MRO when contact has been made. If the MRO has not been contacted by the employee within five days from the notification by the Designated Agency Authority, the MRO shall verify the test results as positive.

If contact is not made with the employee by either the Designated Agency Authority or MRO within 14 days from the date MRO receives the results, the test result becomes positive.
 - 2. If the MRO determines that the positive test result is a result of a legitimate prescription or over-the-counter medication, the MRO shall report a negative test result to the Designated Agency Authority.
 - 3. If the MRO determines that the positive test result is a result of illegal use of drugs, the MRO shall report a positive test result to the Designated Agency Authority and the Designated Agency Authority shall notify the employee's supervisor.
 - 4. Upon MRO notification that the employee's test results are positive or invalid, the Designated Agency Authority shall:
 - a. Notify the employee and the employee's supervisor in writing within five working days of such positive or invalid test results and the consequences of such results using form letter, and mailed or delivered in a confidential envelope by return receipt requested.
 - b. Should documentation be received at a later date reflecting that the positive test result was in error, the Designated Agency Authority shall notify the Office of Inspector General. The test results will be kept in a separate confidential file within the Bureau of Personnel.
 - 5. If the employee's initial urine sample is visibly determined at the collection site to be adulterated, the collection site shall instruct the applicant to provide another sample at that time which will be forwarded to the laboratory for testing. The Applicant will remain at the collection facility until a second specimen is collected. The second specimen should follow normal collection time frame constraints of three hours and 40 ounces of fluid (approximately 6 oz. per 30 minutes). Both specimens shall be sent to the laboratory for testing.

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If the Donor exceeds three hours, the applicant should be directed for an immediate evaluation, by a medical physician, for an ascertainable physiological condition (i.e., a urinary system dysfunction) or a documented pre-existing psychological disorder, but does not include unsupported assertions of “situational anxiety” or dehydration that could preclude the donor from providing an adequate amount of urine. If there is no adequate explanation, it should be considered a refusal to test. The cost of the medical evaluation will be the sole responsibility of the applicant.

6. If the initial urine sample is determined at the laboratory to be diluted as a result of a creatinine level below 20 milliliters per deciliter and a specific gravity of less than 1.003, the laboratory shall inform the MRO that the test result is diluted. The MRO shall inform the DAA that the initial test result is diluted and the DAA will direct the applicant to be retested. The applicant should not be given more than 24 hours notice by the Designated Agency Authority for a new drug test.
- J. All written test results shall be maintained in a separate confidential file by the Bureau of Personnel.
- K. If the first test result is positive:
 1. The employee shall be referred to the Employee Assistance Program following procedures outlined in the DJJ Policy and Procedures Manual.
 2. If an employee enters an employee assistance program or an alcohol and drug rehabilitation program pursuant to this policy, the employee must submit to a drug test as a follow-up to such a program on a quarterly, semi-annual, or annual basis for up to two years, as recommended by the employee assistance or rehabilitation program.
- L. If any subsequent test is positive, the employee is subject to disciplinary procedures, up to and including dismissal.