



## 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
<i>Subject</i> <b>EMPLOYMENT DRUG TESTING PROGRAM</b>		
<i>Authority</i> <b>Chapters 20, 39, 110, 112, 985, Florida Statutes Chapters 59A-24, 11B-27, Florida Administrative Code</b>		<i>No. of Attachments</i> 7
<b>RELATED REFERENCES</b>		
<b>POLICY</b>	It is the policy of the Department of Juvenile Justice (DJJ) to maintain a healthy and productive workforce and provide a safe working environment free from the effects of drugs or alcohol.	
<b>DEFINITIONS</b>	<p>A. <b>Alcohol</b> - For the purpose of this procedure, alcohol, including distilled spirits, wine, malt beverages or other intoxicating liquors or substances.</p> <p>B. <b>Aliquot</b> - Means a portion of a specimen used for testing.</p> <p>C. <b>Applicant</b> - Means a person who has applied for a safety sensitive position or special risk position and has been offered employment conditioned upon successfully passing a drug test.</p> <p>D. <b>Chain of Custody</b> – 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. <b>Collection Site</b> - 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. <b>Collector</b> - 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. <b>Confirmation Test</b> - 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. <b>Designated Agency Authority</b> – 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. <b>Donor</b> - 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. <b>Drug</b> - 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>	
PAGE 1 OF 5	FDJJ – 4.07	

<p><b>DEFINITIONS (cont'd.)</b></p>	<p>K. <b>Drug Test</b> - 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. <b>Employee</b> - Any person who works for salary, wages or other remuneration for the Department of Juvenile Justice or contractual programs.</p> <p>M. <b>Employee Assistance Program</b> – 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. <b>Employer</b> – means a person or entity that employs a person and that is covered by the Workers’ Compensation Law.</p> <p>O. <b>Initial Drug Test</b> - 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. <b>Laboratory</b> - 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. <b>Mandatory Referral</b> - 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. <b>Medical Review Officer (MRO)</b> – 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. <b>Prescription or Nonprescription Medication</b> - 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. <b>Random Drug Test</b> - 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. <b>Reasonable Suspicion Drug Testing</b> – 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"> <li>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.</li> <li>2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.</li> </ol>
<p>PAGE 2 OF 5</p>	<p>FDJJ – 4.07</p>

<p><b>DEFINITIONS (cont'd.)</b></p>	<p>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.</p> <p>4. Evidence an individual has altered or attempted to alter a drug test during his employment.</p> <p>5. Information that an employee has caused or contributed to an accident while at work.</p> <p>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> <p>V. <b>Safety Sensitive Position</b> – 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. <b>Special Risk Position</b> – Any position for which an employee is required to be certified in accordance with Chapter 633 or Chapter 943, Florida Statutes.</p> <p>X. <b>Specimen</b> - Tissue, hair, or product of the human body capable of revealing the presence of or drugs or the metabolites.</p>
<p><b>GENERAL POLICIES AND GUIDELINES</b></p>	<p><b>EMPLOYMENT DRUG TESTING</b></p> <p>A. Designated Agency Authorities are responsible for administering the drug testing program for their location, to include directing the applicant or employee to the appropriate collection site for testing, interacting with the laboratory and the MRO regarding test results, and other matters as may be necessary.</p> <p>B. Each personnel office is responsible for maintaining an adequate supply of the Drug Testing Consent and the Drug Testing Chain of Custody forms.</p> <p>C. A urine specimen that has a creatinine level below 20 milliliters per deciliter and a specific gravity of less than 1.003 will be considered diluted and may be considered consistent with an adulterated sample and will be reviewed on a case-by-case basis by the MRO and the Designated Agency Authority.</p> <p>D. Failure to comply with an ordered drug test by an employee or any evidence of an attempt to defeat the validity of the test shall result in the employee being disciplined up to and including dismissal or an applicant being disqualified.</p> <p>E. All employees or job applicants with a confirmed positive drug test shall be contacted by the MRO and offered the opportunity to produce valid documentation, within five work days of receiving notification, of lawful ingestion of any substance which may have resulted in the positive test. During the 180 day period after written notification of a positive test result, the employee or job applicant shall be permitted to have a portion of the specimen retested, at his or her own expense. The laboratory that performed the original test for the employer shall be responsible for transferring a portion of the specimen to be retested at a second laboratory licensed in accordance with the requirements of the Agency for Health Care Administration. The laboratory, which performed the initial test, shall be responsible for the integrity of the specimen and for the chain of custody during such transfer.</p>
<p>PAGE 3 OF 5</p>	<p>FDJJ – 4.07</p>

**GENERAL  
POLICIES AND  
GUIDELINES  
(cont'd.)**

- F. Each employee of the department shall be furnished and sign a copy of the department's "Drug Free Workplace Policy Statement," which will be maintained in the employee's personnel file.
- G. Each facility or unit shall post the department's "Drug Free Workplace Policy Statement" in locations where it may be readily accessible to all employees.

**Pre-Employment Drug Testing**

- A. All recommended applicants for a position shall be required to successfully complete a drug test as a condition of, and prior to, employment.
- B. The results of the test must be known by the Designated Agency Authority prior to the selected applicant's first day of employment.
- C. Failure to comply with the taking of a drug test by a recommended applicant, or any evidence of an attempt to affect the validity of such a test, shall preclude the applicant from being employed by DJJ.
- D. To assure the maximum validity of the test, the drug test should be conducted as soon as possible but not more than 24 hours after notice from the Designated Agency Authority to proceed to the collection site. Failure to appear within the prescribed time period shall preclude a recommended applicant from being employed and shall be considered as refusal to take the drug test, unless the applicant provides a written explanation satisfactory to the Designated Agency Authority.
- E. If an applicant is not appointed to a position within 60 days of receiving a negative drug test result, the applicant must be retested prior to beginning employment in the position.

**Reasonable Suspicion Drug Testing Program**

- A. Employees may be required to submit to a drug test based upon a belief that the employee is using or has used drugs or alcohol in violation of the department's policy, drawn from specific evidence and articulable facts and reasonable inferences drawn from those facts. Reasonable suspicion drug 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. A drug test for reasonable suspicion may occur before, during or immediately after the regular work period of the employee and shall be considered hours worked.
- B. During the reasonable suspicion drug testing process, an MRO is responsible for verifying that the chain of custody is observed and makes the final determination regarding the test results. A senior management position or equivalent level administrator shall designate specific administrative or supervisory positions to be responsible for administering the drug-testing program. This responsibility includes directing the employee to the appropriate collection site for testing, interacting with the laboratory regarding locations, and communicating with the MRO regarding test results and other problems that may arise.
- C. To assure the maximum validity of the test, the drug test should be conducted as soon as possible but not to exceed one hour after notice.
- D. If a specimen appears to be adulterated, based on normative laboratory values, it may be considered an adulterated sample and shall be reviewed on a case-by-case basis by the laboratory and the MRO. The Designated Agency Authority will be apprised of the results of the review by the MRO.

**GENERAL  
POLICIES AND  
GUIDELINES  
(cont'd.)**

E. All employees with a first time positive confirmed drug test or result shall receive a mandatory referral to the Employee Assistance Program. If the employee refuses to participate in the EAP; fails to complete a program prescribed by the EAP (as evidenced by withdrawal from the program before its completion or a report from the program indicating unsatisfactory compliance); or receives a positive test result on another random drug test, the employee may be dismissed in accordance with the department's disciplinary procedures.

**Random Drug Testing Program**

A. Employees selected for random drug testing will be selected via a computer generated random sample, which distributes the tests equivalently based on the number of employees who are subject to random testing.

1. The department shall test a minimum of five (5) % of the total number of filled positions on an annual basis.
2. Due to the random selection methodology, employees may be tested up to several times or not at all during the course of any given year.

B. To assure the maximum validity of the test, the random drug test should be conducted as soon as possible but not more than 24 hours after notice from the Designated Agency Authority to proceed to the collection site. Failure to appear within the prescribed time period shall be considered as refusal to take the drug test unless otherwise authorized in writing by the Secretary, Deputy Secretary, Assistant Secretary or specifically authorized designee, whichever is appropriate.

C. All employees with a first time positive confirmed drug test result shall receive a mandatory referral to the Employee Assistance Program. If the employee refuses to participate in the EAP; fails to complete a program prescribed by the EAP (as evidenced by withdrawal from the program before its completion or a report from the program indicating unsatisfactory compliance); or receives a positive test result on another random drug test, the employee may be dismissed in accordance with the department's disciplinary procedures.