

County of Monroe

The Florida Keys



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1100 Simonton Street, 2nd Floor
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OFFICE of the COUNTY ADMINISTRATOR
Key West, Florida

MONROE COUNTY ADMINISTRATION INSTRUCTION 4703.10

Date: November 16, 2015
Subject: Drug-Free Workplace Policy
Reference: (A) Drug-Free Workplace Act – F.S. 440.102
Enclosure: (1) Drug Free Workplace Policy and Summary
(2) Employee Acknowledgement
Effective Date: Upon Receipt

(1) Background:

Reference (A) requires most federal government contractors, as well as recipients of federal grants, to take specific steps to ensure a drug-free workplace for all employees. Provision requires employers to prepare and distribute an anti-drug policy.

(2) Purpose:

The purpose of this instruction is to maintain a program for a drug-free workplace for Monroe County employees.

(3) Cancellation:

This instruction is to remain in effect until specifically revised or canceled.

(4) Instruction/Action:

A. Enclosure (2) is signed by all new hires and made part of their personnel file.

Christine Hurley,
Assistant County Administrator

Distribution: List III
Originator: DHR
Review: November 16, 2018

M.C.A. Inst 4703.10
November 16, 2015
Enclosure (1)

MONROE COUNTY

DRUG-FREE WORKPLACE

POLICY AND WORK RULES

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A. POLICY STATEMENT

Monroe County (the "County") is committed to providing a safe work environment for our employees, our guests, our community 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 our community. In order to maintain the highest standards of morale, productivity and safety in our operations, we have a drug and alcohol free workplace policy. The program is designed to provide a safe workplace environment free from drugs and alcohol use and/or abuse.

We recognize that alcohol and drug dependency require medical supervision and treatment if there is to be successful rehabilitation. Our desire and intent is to encourage any employee with alcohol or drug dependency to voluntarily enter a drug or alcohol rehabilitation program. It is the responsibility of each employee to initiate and obtain assistance before any difficulties with drugs or alcohol affect his or her work. Accordingly:

EMPLOYEES OF MONROE COUNTY ARE HEREBY NOTIFIED THAT IT IS A CONDITION OF EMPLOYMENT FOR EACH EMPLOYEE TO REFRAIN FROM REPORTING TO WORK OR WORKING WITH THE PRESENCE OF DRUGS OR ALCOHOL IN HIS OR HER BODY. IF AN INJURED EMPLOYEE REFUSES TO SUBMIT TO A TEST FOR DRUGS OR ALCOHOL, PURSUANT TO STATE LAW THE EMPLOYEE MAY FORFEIT ELIGIBILITY FOR MEDICAL AND INDEMNITY BENEFITS.

Our Policy complies with the Florida Drug-Free Workplace Program, as provided in Section 440.101, et seq, Florida Statutes. This Drug Free Workplace Policy and Work Rules requires all employees to be free from the influence of drugs and alcohol while working or while on County property. The use, possession, sale, distribution, or manufacture of any drugs, and/or the unauthorized possession and/or use of alcohol, while working or while on County property is prohibited.

All employees will be subject to drug and alcohol testing upon reasonable suspicion, after an accident or injury, and as part of a routine fitness for duty (physical) examination.

All employees are encouraged to be aware of the effects of and to advise their supervisor when taking prescription medication which may affect their performance at work.

To ensure a workplace free from the influence of illegal drugs and alcohol abuse, the following Policy has been established. The Policy applies to all employees, supervisors and managers. Any violation of the Policy will result in discipline, up to and including termination of employment.

B. DEFINITIONS

1.0 Alcohol: "Alcohol" means ethyl alcohol (ethanol) and includes distilled spirits, wine, malt beverages and intoxicating liquors. For purposes of this policy, alcohol is considered to be a drug. Thus, any reference to drugs and/or drug testing includes alcohol and/or alcohol testing.

2.0 Drugs: "Drugs" means alcohol, an amphetamine; a cannabinoid; cocaine, phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; benzodiazepines; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this policy.

3.0 Employee: "Employee" means an individual who works for the County on a full-time or part-time basis and receives salary, wages, or compensation.

4.0 Drug Test:

4.1 "Drug 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 of a drug or its metabolites, including alcohol.

4.2 Drug testing may require the collection of blood, urine, breath, saliva, or hair (if approved by the FDA) of an employee. The County has the right to use more accurate, scientifically accepted methods which may be approved in the future by the United States Food and Drug Administration (FDA) or the AHCA as such technology becomes available in a cost effective form.

4.3 "Initial Drug Test" means a sensitive, rapid, and reliable screening procedure of the blood or urine of employees for the presence of alcohol and drugs in accordance with the Florida Drug-Free Workplace Program and appropriate Florida Administrative Rules.

4.4 "Confirmation Test" means a second test of all specimens identified as positive on an initial test in accordance with the Florida Drug-Free Workplace Program and appropriate Florida Administrative Rules.

4.5 **Drug Testing Methodology:** Specimens for drug testing will be collected, handled, maintained and tested in accordance with the Florida Drug-Free Workplace Program. Urine will be used for the initial and confirmation tests for all drugs except alcohol. Blood will be used for the initial and confirmation tests for alcohol.

5.0 **Positive Confirmed Test or Confirmation Test:** "Positive confirmed test" or "confirmation test" means a second analytical procedure which confirms a positive result from an initial drug test in accordance with the Florida Drug-Free Workplace Program.

6.0 **Medical Review Officer:** "Medical Review Officer" (MRO) means a licensed physician who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures, who is responsible for receiving and reviewing all positive confirmed test results, and who is responsible for contacting all individuals who tested positive in a confirmation test to inquire about possible medications which could have caused a positive result.

7.0 **Prescription Or Non-Prescription Medication:** "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.

8.0 **Reasonable Suspicion Drug Testing:** "Reasonable suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs or alcohol in violation of this Policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. 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. Among other things, such facts and inferences may be based upon:

- (a) Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations or being under the influence of a drug or alcohol;
- (b) Abnormal conduct or erratic behavior while at work or a significant deterioration of work performance;
- (c) A report of drug or alcohol use, provided by a reliable and credible source;
- (d) Evidence that an individual has tampered with a drug test during his employment with the County;

- (e) Information that an employee has caused, contributed to, or been involved in an accident while at work; report of reckless driving or
- (f) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on the County's premises or while operating a vehicle, machinery, or equipment of the County.

9.0 Safety-Sensitive Position: "Safety-sensitive position" means a position in which a drug or alcohol 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 work with controlled substances; a position subject to Section 110.1127, Florida Statutes; or a position in which a momentary lapse in attention could result in injury or death to another person.

10.0 Special-Risk Position: "Special-risk position" means a position that is required to be filled by a person who is certified under Sections 633 or 943, Florida Statutes, as amended.

11.0 Specimen: "Specimen" means a tissue or product of the human body including blood, urine, saliva, and hair that is capable of revealing the presence of alcohol and/or drugs or their metabolites as approved the FDA or the AHCA.

C. RULES ON DRUGS AND ALCOHOL

EMPLOYEES OF MONROE COUNTY ARE HEREBY NOTIFIED THAT IT IS A CONDITION OF EMPLOYMENT FOR EACH EMPLOYEE TO REFRAIN FROM REPORTING TO WORK OR WORKING WITH THE PRESENCE OF DRUGS OR ALCOHOL IN HIS OR HER BODY. IF AN INJURED EMPLOYEE REFUSES TO SUBMIT TO A TEST FOR DRUGS OR ALCOHOL, PURSUANT TO STATE LAW THE EMPLOYEE MAY FORFEIT ELIGIBILITY FOR MEDICAL AND INDEMNITY BENEFITS.

It is not the intent of the County to intrude into the private lives of its employees. However, the effect of drug and alcohol use, abuse and/or dependency on safety, work quality,

increased medical expenses and lost productivity requires that this Policy be implemented. Any employee who violates any of these rules will be subject to termination of employment. The following rules apply under the County's Policy.

1.0 Pre-Employment Conditions

1.1 The County will not discriminate against an applicant for employment because of the applicant's past addiction to drugs or alcohol. It is the current use/abuse of drugs or alcohol that will not be tolerated.

2.0 Conditions of Continuing Employment

2.1 The County will provide each employee with a summary of the County's Drug Free Workplace Policy and Work Rules. The entire policy is available in Microsoft Exchange. It is a condition of continuing employment for each employee to abide by the Policy and Work Rules. The rules contained in the Policy are to be considered conditions of continuing employment and are to be consistently followed. Any violation of these conditions of continuing employment will result in termination.

3.0 Prohibition of Possession, etc.

3.1 The unlawful manufacture, distribution, dispensation, possession, sale or use of any drug or unprescribed, controlled substances and/or the unauthorized possession or usage of alcohol by employees while working or when on any County property are strictly prohibited.

4.0 Prohibition of Drug or Alcohol Use

4.1 All employees are prohibited from being at work or on County property with the presence of any drug or its metabolite, as set forth herein, in the employee's body. Any employee who has a confirmed positive test of a drug or its metabolite at the levels defined herein will be presumed to be under the influence of the drug and in violation of County Policy.

4.2 All employees are prohibited from being at work or on County property with the presence of alcohol, as set forth herein, in the employee's body. Any employee who has a confirmed positive test of alcohol at the levels defined herein will be presumed to be under the influence of alcohol and in violation of County Policy and Rules.

5.0 Requirement to Report Medication Use

5.1 The County does not prohibit the use of a drug (prescribed medication) provided:

- (a) The drug is prescribed or authorized for an employee by a medical doctor; and
- (b) The use of the drug at the prescribed or authorized level is consistent with the safe performance of the employee's duties; and
- (c) The drug is used at the dosage prescribed or authorized.

5.2 Employees are encouraged to notify their immediate supervisor when reporting for work or during the course of a work shift if the use of any prescription or non-prescription medication may adversely affect his or her ability to satisfactorily and safely perform his normal job duties (e.g., including but not limited to drowsiness). A form for reporting the use of prescription or non-prescription medication is attached. Additional forms are available from the Human Resources Office. Employees in safety sensitive or special risk positions (see page 5) are required to provide their supervisor with such information.

6.0 Employee Drug and Alcohol Testing

6.1 Employees will be required to submit to drug and/or alcohol testing upon reasonable suspicion as defined in this policy, during a routine fitness for duty (physical) examination, and after an on-the-job accident, or injury or any off-the-job accident and/or injury which involves or occurs on County property. This would exclude employees who are on County property such as parks and beaches during non-working hours for purely recreational purposes.

6.2 An employee who tests positive on a confirmation test will be subject to termination.

6.3 Confidentiality will be maintained at all times except to the extent necessary to comply with these policies and to the extent permitted by law.

7.0 Employee Drug or Alcohol Related Criminal Charges or Arrests

7.1 Employees are required to notify the Human Resources Office of any criminal drug statute related criminal charge or arrest no later than five days after such charge has been filed. Employees in positions which require driving a County vehicle on County business must notify the Human Resources Office of any alcohol or drug related (e.g., including but not limited to Driving while Under the Influence) arrest on the next workday.

7.2 The County will take appropriate action with respect to an employee who is so charged, which action may include transfer to a non-safety sensitive or special risk position in alcohol related cases or discipline in cases related to illegal drugs.

7.3 Employees are required to notify the Human Resources Office of any final action regarding all criminal drug statute or alcohol related criminal charges no later than five days after said final action. Final action includes but is not necessarily limited to, notification of a conviction, a plea of guilty, and adjudication of guilty, a plea of nolo contendere, and adjudication withheld, and acquittal or a dismissal of the charges.

7.4 The County will take appropriate disciplinary action against such employee within thirty days of receiving notice of the outcome or any change in the status of such criminal drug statute or alcohol related charges.

8.0 Rehabilitation Procedures

8.1 An employee who is experiencing problems as a result of drug and/or alcohol abuse should contact the Administrator of Human Resources for referral for treatment and/or counseling. This discussion will be kept confidential. Such employee will be subject to testing to verify recovery from substance abuse pursuant to the Policy requirements and failure to take or pass a drug and/or alcohol test will result in termination of employment. Where an employee voluntarily enters a treatment program before disciplinary action is initiated, the County, in its sole discretion, may elect to waive follow-up drug testing. If follow-up drug testing is required it must be conducted at least once a year for a two-year period after completion of the program. Advance notice of a follow-up testing date to the employee to be tested is strictly prohibited.

8.2 An employee in a safety-sensitive position who enters a substance abuse rehabilitation program will be assigned to a position other than a safety-sensitive position, or, if such a position is not available, will be placed on leave while the employee is participating in the program. The employee shall be permitted to use any accumulated leave credits before leave will be ordered without pay.

8.3 An employee in a special-risk position is subject to discharge for the first positive confirmed test result if the drug confirmed is an illicit drug under section 893.03, Florida Statutes (1993). A special-risk employee who is participating in a substance abuse program will not be allowed to continue to work in a safety-sensitive or special-risk position, but will be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program. The employee shall be permitted to use any accumulated annual leave credits before leave will be ordered without pay.

8.4 This section applies to employees referenced in Sections 8.2 and 8.3 (above) and who are permitted to enter into a substance abuse rehabilitation program. The County will attempt to hold the employee's job open for so long as is possible. When the employee successfully completes said program, the County will attempt to return them to their former position. It is recognized that it may not be feasible to return the employee to their former position (e.g., if the job involves driving). If the employee is not returned to their former job, the County will utilize its best efforts to place the employee in another similar available position.

9.0 Employee Education and Referral Program

9.1 It is the responsibility of each employee to seek assistance before drugs and alcohol use or abuse leads to disciplinary problems. Employees who may require assistance for substance dependency and related programs are encouraged to seek assistance and information from the Human Resources Office.

9.2 Once a violation of this Policy occurs, subsequent use of a counseling or rehabilitation program on a voluntary basis will not affect the imposition of appropriate disciplinary action.

9.3 An employee's decision to seek assistance or referral from the Human Resources Administrator prior to any incident warranting disciplinary action will not be used as the basis for disciplinary action or in any disciplinary proceeding.

9.4 The County has no interest in restricting social drinking outside of working hours (working hours does include an employee's lunch and break periods) and no intent to intrude upon private or personal lives of employees. The County is concerned only when the employee's health, job performance and safety conditions are adversely affected.

9.5 Upon successful completion of a drug treatment program an employee may be released to resume work but, except as provided in section 8.0 above, will be subject to drug testing on a random, periodic basis, at least quarterly, for at least two years thereafter as a condition of continued employment.

9.6 An individual's participation in an alcohol or drug treatment program will not be made part of any personnel records and will remain confidential except to the extent necessary to comply with this Policy and to the extent permitted by law. Medical and insurance records, if any, will be preserved in the same confidential manner as all other medical records. Program participation records will be maintained by the Administrator of Human Resources.

10.0 Employee Education Information

10.1 The following "crisis information centers" will provide information regarding employee assistance programs and local alcohol and drug rehabilitation programs available to employees:

Monroe County
Help Crisis Line, Inc.
Telephone: (305) 296-4357
1 (800) 228-5463

Employee Assistance Program
Telephone: 1-877-747-1200

Lower Florida Keys Health Systems (Chemical Dependency Unit).
1200 Kennedy Drive
Key West, FL 33040
Telephone: (305) 292-5531

Dade County
Switchboard of Miami
Telephone: (305) 358-4357

Broward County
Crisis Information Line
Telephone: (305) 467-6333

Collier County
Project Help
Naples, Florida
Telephone: (813) 262-7227

10.2 Other available resources include:

1-800-356-9996 Al-Anon
1-800-527-5344 American Council of Alcoholism Helpline
1-800-COCAINE COCAINE HOTLINE
1-800-NCA-CALL National Council on Alcoholism
1-800-662-HELP National Institute on Drug Abuse Hotline
1-800-843-4971 National Institute on Drug Abuse Hotline

10.3 Employees may obtain further information regarding available drug and alcohol assistance and rehabilitation programs by contacting the Human Resources Office

11.0 Management's Responsibilities

11.1 County Officers, Managers, and Supervisors (hereafter collectively referred to as "supervisors") are responsible for implementing the drug and alcohol free workplace Policy. It is the responsibility of supervisors to observe the behavior of employees on the job as a precaution against unstable or unreliable behavior which could threaten the safety and well-being of employees or the public.

11.2 Supervisors are responsible for maintaining a safe work environment by determining each employee's fitness for duty.

11.3 In the event a supervisor has a reasonable suspicion (as defined in this policy) that an employee may be affected by drugs or alcohol or has otherwise violated this Policy, the employee will be sent for drug testing. A form for reporting the reason(s) for drug testing is attached and should be completed as soon as practicable following the incident or observations giving rise to such reasonable suspicion.

11.4 In all cases when an employee is being removed from duty for drug testing, the supervisor should notify his superior at the earliest possible time.

12.0 Employees' Responsibilities

12.1 It is each employee's responsibility to be fit for duty when reporting for work and to inform his or her supervisor if he or she is under the influence of prescription medication which may affect job performance or safety.

12.2 In the event an employee observes behavior which raises a doubt as to the ability of a co-worker to work in a safe and reliable manner, the employee should report this behavior to his/her supervisor.

12.3 Employees who voluntarily, enter a drug or alcohol treatment and/or rehabilitation program must participate and complete recommended treatment. Any employee who enters a drug or alcohol treatment and/or rehabilitation program will be responsible for payment for the treatment and/or program to the extent not covered by medical insurance provided by the County. If the employee fails to comply with the treatment and/or the program, the employee will be subject to termination.

12.4 An employee in a safety-sensitive position shall be placed by the employer in a non-safety sensitive position, or if such position is unavailable, on leave status while participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave status without pay, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay.

13.0 Employee Education

13.1 Employees and Supervisors will be required to participate in a drug-free awareness program on an annual basis. The program will inform employees about the following:

- (a) The legal, social, physical and emotional consequences of the use, misuse and/or abuse of alcohol or drugs;
- (b) The County's commitment to maintain a drug-free workplace;
- (c) Available drug counselling, rehabilitation and employee assistance programs;

- (d) Assistance in identifying personal and emotional problems which may result in the misuse of alcohol or drugs.
- (e) The penalties which may be imposed by the County on employees for drug abuse violations occurring in the workplace.

14.0 Rights Under Collective Bargaining Agreements: Employees who are covered under any collective bargaining agreement between the County and any certified labor organization will have the right to file a grievance regarding discipline imposed by the County as a result of a violation of this policy if said grievance is permitted to be filed pursuant to the collective bargaining agreement.

D. TESTING PURSUANT TO THE DRUG-FREE WORKPLACE POLICY

1.0 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, as amended, and applicable administrative regulations, the County will test for the presence of drugs and/or alcohol in the following circumstances:

1.1 Reasonable Suspicion: Employees who are determined to be under reasonable suspicion of drug or alcohol use (as defined in this policy), will be required to submit to a drug and/or alcohol test.

1.2 Fitness-For-Duty: All employees who are subject to a routine fitness for duty medical examinations must take a drug and/or alcohol test as part of their medical examination.

1.3 Follow-up: All employees who have entered an employee assistance program or rehabilitation program for drug and/or alcohol abuse must take drug and/or alcohol tests on a quarterly, semi-annual or annual basis for two years after return to work. This requirement may be waived in the sole discretion of the County in cases where an employee voluntarily enters a drug treatment program before disciplinary action has been taken.

1.4 Post Accident or Injury: All employees who are involved in an accident or injury to an employee occurring while at work which was caused, contributed to or involved an employee must take a drug and/or alcohol test after administration of emergency medical treatment. If it cannot be determined who was driving the County vehicle at the time of the accident, then anyone who was driving the vehicle during the applicable time period will be required to submit to testing.

1.5 Random Testing for Safety-Sensitive or Special-Risk Employees: Safety-sensitive and special-risk employees are subject to random testing as determined by the County. Random testing shall be conducted via an unbiased selection procedure, and in accordance with drug-testing rules adopted by the Agency for Health Care Administration and the Department of Labor and Employment Security. Random testing shall be subject to collective bargaining, and shall not be conducted for employees covered by such agreements unless expressly included in the agreement.

2.0 Consequences of Refusing a Drug Test

2.1 An employee who refuses to submit to a drug test will be subject to termination. An employee who refuses to submit to a drug test following an occupational injury which requires medical treatment forfeits his eligibility for all workers' compensation medical and indemnity benefits in accordance with Florida law.

3.0 Actions Following Positive Confirmed Test: The County will terminate any employee who has a positive, confirmed drug test.

4.0 Reporting of Use of Medication: Employees may confidentially report the use of prescription or non-prescription medication both before and after having a drug test. A form for reporting medication use is attached.

5.0 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 attached. Employees should review this list prior to submitting to a drug test.

6.0 Medication Information: An employee may consult with the County's MRO or the testing laboratory for technical information regarding prescription and non-prescription medication.

7.0 Drugs To Be Tested

7.1 Our Policy complies with the Florida Drug-Free Workplace Program as provided in Section 440.101, et seq, Florida Statutes. Drug testing will be required for any or all of the drugs listed in the Florida State Statute, Section 440.102. These drugs may be subject to change as per federal regulations.

7.2 Drug Cut-Off Levels will be followed as indicated by the Florida State Statutes

8.0 Reasonable Suspicion Drug Testing

8.1 Employees will be required to submit to drug and/or alcohol testing when a supervisor has "reasonable suspicion," as defined in this policy, to believe that an employee is using or has used drugs or alcohol in violation of this Policy. The supervisor will document the circumstances which formed his or her determination of "reasonable suspicion" in writing as soon as is practicable. While this should be done on the same day or the next working day, it must be done within three working days from the date of the determination. A form for the use of a supervisor to specify the reason(s) for the test is attached. A copy of this documentation will be given to the employee upon request within seven days from the date of the supervisor's determination of "reasonable suspicion."

9.0 Confidentiality and Records Maintenance

9.1 Confidentiality of records concerning drug testing pursuant to the Drug-Free Workplace Policy 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 alcohol rehabilitation programs will be kept confidential. No such information or records will be released unless written consent, signed by an employee, is provided or unless disclosure of such information or records is compelled by court order. The County may also disclose such information when relevant in any civil, disciplinary or administrative hearing. The County will maintain records concerning drug testing separate and apart from an employee's personnel file.

9.2 Information on drug testing results will not be released in any criminal proceeding.

10.0 Challenge of Test Results of Drug Test Under Florida Law

10.1 An employee who receives a positive confirmed test result may submit information to the MRO contesting or explaining the results in writing within five (5) working days of receipt of notification of a positive confirmed test result.

10.2 If the explanation or challenge of the employee is unsatisfactory to the MRO, the MRO shall report a positive result back to the County.

10.3 Within five (5) working days after receiving notice of a positive confirmed test result from the MRO, the County shall inform the employee in writing of the positive test result, the consequences of such results, and the options available to the employee. Upon request, the County shall provide a copy of the test result to the employee.

10.4 Within five (5) working days after receiving notice of a positive confirmed test result from the County, the employee may submit information to the County explaining or contesting the test result, and explaining why the result does not constitute a violation of the County's policy.

10.5 If the explanation or challenge of the employee is unsatisfactory to the County, the County shall provide a written explanation (within fifteen (15) days of receipt) as to why the employee explanation is unsatisfactory, along with a copy of the report of positive confirmed test results. All such documentation will be kept confidential except as provided in Section 9, above and will be retained by the County for at least one (1) year.

10.6 An employee may further challenge the results of the test in a court of competent jurisdiction or, if the drug test was administered due to a workplace injury, by filing a claim for benefits with a Judge of Compensation Claims, pursuant to Chapter 440, Florida Statutes.

10.7 If an employee contests the drug test results, he or she will be solely responsible for notifying the laboratory and the County in writing by certified mail and provide a copy of the written notice, by certified mail, to the County. The notice must include reference to the chain of custody specimen identification number.

10.8 An employee who receives a positive, confirmed test result may, at the employee's expense, obtain a retest of a portion of the original specimen at another licensed and approved laboratory selected by the employee, within one hundred eighty (180) days of the notice of the positive test result.

11.0 Medical Review Officer's Responsibilities for Testing Under Florida Law

11.1 The Medical Review Officer (MRO) shall fully comply with all of the requirements set forth in Section 440.102, Florida Statutes, as it may from time to time be amended. 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.

11.2 The MRO shall review and verify drug test results prior to the transmittal of the test results, either positive or negative, 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.

11.3 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.

11.4 If the test results reported are positive, the MRO shall notify the employee of a confirmed positive test result within three (3) days of receipt of the test result from the laboratory and inquire as to whether prescriptive or over-the-counter medications could have caused the positive test result. Within five (5) days after receiving written notification of the positive test result, the employee may contest or explain the result to the MRO. If the

employee's explanation or challenge is unsatisfactory to the MRO, the MRO will report a positive test result back to the County.

11.5 Upon contacting an employee who has received a positive test result, the MRO shall properly identify the donor, inform the donor that the MRO is an agent of the County whose responsibility 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.

11.6 Additionally, the MRO shall outline the rights and procedures for a retest of the original specimen for the donor and process any employee'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. The employee who requests the additional test shall be required to pay for the cost of the retest, including handling and shipping expenses. The MRO shall contact the original testing laboratory to initiate the retest.

11.7 Upon receipt of information and/or documentation from the employee, 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 over-the-counter 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.

11.8 If the MRO determines that there is a legitimate medical explanation for the positive test result, the MRO shall report a negative test result to the County. However, should the MRO feel 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 placed in a position which would not threaten the safety of the individual or others.

11.9 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, once an MRO verifies a positive test result, the MRO may change the verification of the result if the donor presents information which documents that a serious illness, injury, or other circumstances that unavoidably prevented the donor from contacting the MRO within the specified time frame and if the donor presents information concerning a legitimate explanation for the positive test result.

11.10 Laboratories can now report if a specimen has been tampered with. They can identify the substance used to alter the specimen and can report such substance, in addition to reporting a positive or negative result. An adulterated or tampered with specimen is considered a refusal to test.

11.11 If the MRO is unable to contact a positive-tested donor within three (3) 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 the request of the County, the MRO shall verify the report as positive.

11.12 If the donor refuses to talk with the MRO regarding a positive test result, the MRO shall validate 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.

11.13 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 to the County and submit the proper forms to the ACHA.

12.0 Collective Bargaining

12.1 In the event of any conflict between this policy and the terms of a collective bargaining agreement, the terms of the Agreement will prevail.

12.2 In the event that mandatory changes to the policy need to be made based on state law or regulation, said changes may be made as required. Permissive changes will be made subject to impact bargaining.

E. DRUG AND ALCOHOL TESTING OF DRIVERS AND OWNER-OPERATORS

In addition to the policies and procedures set forth above, some employees who are connected with the operation of commercial motor vehicles are subject to drug and alcohol testing as required by the Omnibus Transportation Employee Testing Act of 1991 and all applicable procedures and regulations promulgated by the Department of Transportation and the Federal Highway Administration, particularly the regulations promulgated by the Department of Transportation contained in 49 C.F.R. part 40, as well as any additional policy adopted by the County pursuant to those federal laws and regulations. In cases where the requirements of both federal and state drug and alcohol laws and regulations and/or the County's Drug-Free Workplace Policy may be applicable, the requirements of federal drug and alcohol laws and regulations will control if a conflict arises between federal law and regulations and the requirements of state law or the County's Drug-Free Workplace Policy.

OVER-THE-COUNTER AND PRESCRIPTION DRUGS WHICH COULD ALTER OR AFFECT THE OUTCOME OF A DRUG TEST

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), Contac Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).

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, etc.

BARBITURATES

Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad, etc.

BENZODIAZEPINES

Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.

METHADONE

Dolophine, Methadose

PROPOXYPHENE

Darvocet, Darvon N, Dolene, etc.

MONROE COUNTY

FORM FOR REPORTING THE USE OF PRESCRIPTION OR NON-PRESCRIPTION MEDICATION.

NAME: _____

SIGNATURE: _____

DATE: _____

PRESCRIPTION MEDICATION(S):

NON-PRESCRIPTION MEDICATION(S):

DO ANY OF THE ABOVE MENTIONED MEDICATIONS IMPAIR YOUR ABILITY TO DRIVE?

_____ YES _____ NO

OR

PERFORM ANY OTHER REQUIRED DUTIES? _____ YES _____ NO

IF THE ABOVE IS "YES" ON EITHER QUESTION, SUPERVISOR IS TO CONTACT HUMAN
RESOURCES FOR FUTHER INSTRUCTIONS.

RECEIVED BY:

NAME: _____

POSITION: _____

DATE: _____

CC: Human Resources

LIST OF DRUGS BY TRADE OR COMMON NAMES
Please note this is not a list indicative of the drugs that may be tested for

<u>DRUGS</u>	<u>TRADE OR COMMON NAMES</u>
<u>Narcotics</u>	
Opium	Dover's Powder, Paregoric, Parepectolin
Morphine	Morphine, Pectoral Syrup
Codeine	Tylenol with Codeine, Empirin Compound with Codeine, Robitussin A-C
Heroin	Diacetylmorphine, Horse, Smack
Hydromorphone	Dilaudid
Meperidine (Pethidine)	Demerol, Mepergan
Methadone	Dolophine, Methadone, Methadose
Other Narcotics	LAAM, Leritine, Numorphan, Percodan, Tussionex, Fentanyl, Darvon, Talwin, Lomotil
<u>Depressants</u>	
Chloral Hydrate	Noctec, Somnos
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril
Methaqualone	Quaalude
Glutethimide	Doriden
Other Depressants	Equanil, Miltown, Noludar, Placidyl, Valmid
<u>Stimulants</u>	
Cocaine	Coke, Flake, Snow, Crack
Amphetamines	Biphetamine, Delcobese, Desoxyn, Dexedrine, Mediatric
Phenmetrazine	Preludin
Methylphenidate	Ritalin
Other Stimulants	Adipex, Bacarate, Cylert, Didrex, Ionamin, Plegine, Pre-Sate, Sanorex, Tenuate, Tepanil, Voranil

Hallucinogens

LSD

Mescaline and Peyote

Amphetamine Variants

Phencyclidine

Phencyclidine Analogs

Other Hallucinogens

Acid, Microdot

Mesc, Buttons, Cactus

2,5-DMA, PMA, STP, MDA, MDMA, TMA,
DOM, DOB

PDP, Angel Dust, Hog

PCE, PCPy, TCP

Bufotenine, Ibogaine, DMT, DET, Psilocybin

Cannabis

Marijuana

Pot, Acapulco Gold, Grass, Reefer, Sinsemilla,
Thai Sticks

Tetrahydrocannabinol

THC

Hashish

Hash

Hashish Oil

Hash Oil

MEMORANDUM

TO: Human Resources Office
FROM: _____
DATE: _____
SUBJECT: Reasonable Suspicion Report

As per the Monroe County Drug Free Workplace Policy Section 8.0(a), I am hereby requesting that _____ be tested for:
(employee name)

_____ drugs and/or _____ alcohol, as per the Reasonable Suspicion provisions outlined below.

_____ 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 drugs or alcohol. (List signs of drug or alcohol use.)

_____ 2. Behavioral symptoms associated with drug use or intoxication from either drugs or alcohol such as abnormal conduct, erratic behavior, reckless driving, or a significant deterioration in work performance. (List behavioral symptoms.)

_____ 3. Report of drug or alcohol use provided by a credible source. (List evidence such as letters, reports, etc.)

_____ 4. Any evidence that an individual has tampered with a drug test during his/her current employment. (List evidence.)

_____ 5. Any evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or on County property whether the employee is working or not, or while operating County vehicles, machinery, or other equipment. (List evidence.)

_____ 6. Information that an employee has caused, contributed to, or been involved in an accident while at work. (Explain:)

Supervisor

Date

2nd Supervisor in concurrence

Date

****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.**

**COUNTY'S NOTIFICATION TO WORKERS' COMPENSATION CARRIER
OR SELF-INSURER,**

**RE: NOTICE OF DENIAL OF MEDICAL INDEMNITY BENEFITS BECAUSE
OF AN INJURED EMPLOYEE'S POSITIVE DRUG TEST.**

**A notification similar to this one should be sent to the County's workers'
compensation carrier as soon as you receive written positive drug test
results and decide to deny medical and indemnity benefits.**

Date:

Dear Worker's Compensation Carrier:

The employee listed below and who may have suffered an on-the-job injury on _____ [date of accident] has tested positive for drugs pursuant to our County's Drug-Free Workplace Policy.

_____ [Employee's name]

_____ [Employee's social security no.]

The specimen/sample collected from the employee at the time of the accident was tested twice by the laboratory. In addition, the test results were verified by the County's Medical Review Officer in order to ensure the accuracy of the test.

Pursuant to Florida Statutes § 440.102(5)(p), carriers [or self insurers] are required to give "reasonable notice" to all affected health care providers that payment for treatment, care and attendance provided to the above-named employee after a future date certain will be denied.

We hereby request that you immediately provide reasonable notice to all affected health care providers that the payment for treatment, care and attendance provided to the above-employee will be denied. We also request that you deny payment for any other medical or indemnity benefits to the above named employee, after you have provided the above described reasonable notice.

Please call if you need more information. Thank you for your cooperation in this matter.

Respectfully submitted,

[County's Official]

FORMS FOR ORDERING DRUG TESTS

The form for ordering a drug test is in Microsoft Exchange under County Forms/Personnel Forms.

This form is to be completed by Human Resources only, but it is available in the exchange for your review.

SUMMARY OF DRUG-FREE WORKPLACE POLICY

EMPLOYEES OF MONROE COUNTY ARE HEREBY NOTIFIED THAT IT IS A CONDITION OF EMPLOYMENT FOR EACH EMPLOYEE TO REFRAIN FROM REPORTING TO WORK OR WORKING WITH THE PRESENCE OF DRUGS OR ALCOHOL IN HIS OR HER BODY. IF AN INJURED EMPLOYEE REFUSES TO SUBMIT TO A TEST FOR DRUGS OR ALCOHOL, PURSUANT TO STATE LAW THE EMPLOYEE MAY FORFEIT ELIGIBILITY FOR MEDICAL AND INDEMNITY BENEFITS.

I. WHAT IS THE DRUG-FREE WORKPLACE PLACE POLICY?

- A. In accordance with Florida's Drug Free Workplace law, Section 440.101 et seq., Monroe County ("the County") prohibits the illegal use, possession, sale, manufacture, or distribution, of drugs, alcohol, or other controlled substances on its property. For purposes of this policy alcohol is considered to be a drug.
- B. It is also against County policy for employees to report to work or to work under the influence of drugs or alcohol. This includes prescription drugs which induce an unsafe mental or physical state. Any employee who is taking any prescription drug which might impair safety, performance, or any motor functions should advise his or her supervisor before commencing work under such medication.
- C. For the purpose of this policy, an individual is presumed to be under the influence of drugs or alcohol if a confirmed drug or alcohol test is positive.
- D. The use, sale, purchase, possession, distribution, or dispensing of drugs or alcohol on duty or on County property is cause for immediate discharge.
- E. The County may suspend employees without pay under this policy pending the results of a drug test or investigation. If placed on leave status without pay, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay.
- F. This County has contracted with a Medical Review Officer (MRO) who is a licensed physician with knowledge of substance abuse disorders, laboratory testing procedures, chain of custody collection procedures, the medical use of

prescription drugs and the pharmacology and toxicology of illicit drugs. The purpose of the MRO is to ensure to the maximum extent possible that all test results are accurate. Applicants or employees can discuss any technical questions regarding testing with the MRO prior to or after the test.

II. WHO IS TESTED BY THE COUNTY?

The County tests all employees as described below:

A. Employees:

1. Reasonable-suspicion Testing: Employees will be tested when there is a reasonable suspicion that an employee is using or has used drugs or alcohol.
2. Post On-the-Job Accident or Injury Testing: Employees who sustain an on-the-job injury, or who have caused, contributed to or have been involved in an accident while at work will be tested at the time medical treatment is administered, or as soon as possible.
3. Routine Fitness-for-Duty Testing: Employees will be drug tested as part of any routinely scheduled employee fitness-for-duty medical examination.
4. Additional Testing: Additional testing may also be conducted as required by applicable state or federal laws, rules, or regulations or as deemed necessary by the County.

III. WHAT IF AN EMPLOYEE REFUSES TO BE TESTED?

- A. Any employee who refuses to submit to a drug test will be terminated from employment. An injured employee who refuses to submit to a drug or alcohol test, or has a positive confirmation test, in addition to the above, forfeits his or her eligibility for all workers' compensation medical and indemnity benefits.

IV. WHAT IF SOMEONE TESTS POSITIVE?

- A. Tests will be conducted only by laboratories licensed and approved by the proper state and/or federal agencies. Test specimens will be collected, tested, and stored pursuant to the requirements of Florida law. No physician-patient

relationship is created between an employee and the County or any person performing or evaluating a drug test.

- B. Laboratories can now report if a specimen has been tampered with. They can identify the substance used to alter the specimen and can report such substance, in addition to reporting a positive or negative result. An adulterated or tampered with specimen is considered a refusal to test.
- C. The County's Medical Review Officer (MRO) will initially receive and verify that test results were properly analyzed and handled by the laboratory testing. The MRO will then contact the employee to give the person an opportunity to explain or challenge a positive test result to determine whether prescription or other legitimately taken drugs could have caused the positive test result. If the MRO decides that the applicant or employee's explanation is unsatisfactory, the MRO will report a positive test to the County. The County will notify the employee of confirmed positive test results within five (5) working days after receipt of the result from the MRO.
- D. A employee who receives a positive confirmed drug test result may contest or explain the result to the MRO or the County within five (5) days after written notification of the positive test result. If the explanation or challenge is unsatisfactory, a written explanation will be given to the applicant or employee. If the applicant's or employee's challenge is unsatisfactory to the MRO or the County, the applicant or employee has the right to contest the test results pursuant to rules adopted by the Florida Division of Workers' Compensation.
- E. The testing laboratory will preserve specimens of confirmed positive test results for at least 210 days after the result was mailed to the MRO. A employee has the responsibility of notifying the drug testing laboratory of any administrative or civil action brought pursuant to Chapter 440, Florida Statutes. If timely notified, the testing laboratory will maintain the sample until the case or administrative appeal is settled.
- F. Any applicant or employee who elects to have a portion of his or her specimen retested must notify the testing laboratory and make a request to the County within 180 days after written notification of a positive test result.
- G. A list of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs are on file with the County. This information will be provided to any person upon request.

V. WHAT IF AN EMPLOYEE HAS QUESTIONS ABOUT LEGITIMATE PRESCRIPTION DRUG OR OTHER TECHNICAL INFORMATION ABOUT THE TESTS?

- A. Employees have the right to confidentially consult the Medical Review Officer (MRO) for technical information regarding prescription and non-prescription medication and may contest or explain the test result to the MRO both before and after being tested.
- B. Prior to testing, the employee will be given a list of the most common medications by brand name or common name and chemical name which may alter or affect a drug test. This information is on the Drug Testing/Chain-of-Custody/HRS Form 1806.
- C. A Drug Use Information form, which is a confidential report, may be filled out by employees before or after being drug tested. This form permits individuals to provide to the MRO a list of all prescription and non-prescription drugs they are currently using or have used in the last month, as well as any other information they consider relevant to the test.
- D. All information, interviews, reports, statements, memoranda and drug test results, written or otherwise, received by the County as part of this drug testing program are confidential communications. Unless authorized by state laws, rules or regulations, the County will not release such information without a written consent form signed voluntarily by the person tested. The County or its legal counsel may disclose such information in the event that a challenge or other form of civil, disciplinary or administrative litigation is commenced by a employee.

VI. WHAT TYPE OF DRUGS ARE TESTED?

Our policy complies with the Florida Drug-Free Workplace Program, as provided in Section 440.101, et seq, Florida Statutes. Monroe County tests for drugs listed in the Florida State Statutes, Section 440.102. This list could be subject to change according to federal regulations.

VII. WHAT ELSE SHOULD I KNOW ABOUT THE POLICY?

- A. Details of this policy may be obtained from the Human Resources Office.
- B. **The contents of this policy constitute statements of the County's current policy and may be changed and updated by the County at any time. Nothing in this policy is intended to create a contract between the County and any employee. Nothing in these guidelines binds the County to a**

specific or definite period of employment or to any specific policies, procedures, actions, rules, or terms and conditions of employment.

- C. **As a condition of employment and continued employment, all employees are required to abide by this policy.**

- D. All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug testing program are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art 1 of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section.

- E. An employee in a safety-sensitive position shall be placed by the employer in a non-safety sensitive position, or if such position is unavailable, on leave status while participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave status without pay, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay.

**EMPLOYEE ACKNOWLEDGMENT OF RECEIPT
OF SUMMARY OF DRUG-FREE WORKPLACE POLICY**

I, _____, hereby acknowledge that I received a
(Employee's Name)
copy of the Monroe County Summary of Drug-Free Workplace Policy, consisting of this page and the
five (5) preceding typewritten pages on the date indicated below. I understand that on the effective
date of the policy, it will be a condition of my employment to refrain from reporting to work or
working with the presence of drugs or alcohol in my body.

(Employee's Signature)

DATE: _____