

Policy 91-06  
Drug-Free Workplace Program

I. PURPOSE

- A. The St. Johns River Water Management District (“District”) recognizes the damage to employees, families and society caused by drug and alcohol abuse. The District is committed to protecting staff and the public from the dangers of on-the-job drug and alcohol use. Employees deserve a work environment free from the effects of drugs and alcohol and the problems associated with their use. The District has a responsibility to maintain a safe workplace.
- B. Therefore, the District has established a policy opposing drug and alcohol abuse in the workplace and providing a program for testing certain job applicants and employees for the use of illegal drugs or the illegal or misuse of legal drugs or alcohol.
- C. Law enforcement officials will be notified whenever illegal drugs are found on District property.

II. APPLICABILITY

This policy applies to all job applicants submitting applications for safety-sensitive positions, and to all employees during working hours or while on call, in or operating District vehicles or equipment, or while using a personal vehicle in the scope of District employment.

Nothing in this policy precludes the appropriate use of legally prescribed medications in accordance with the instructions of a health care provider, where such use does not impair the ability of the employee to safely and properly perform work or operate equipment, machinery or vehicles.

III. DEFINITIONS

The defined terms contained in this Policy have the same meaning as used in section 440.102(1), *Florida Statutes*, and Rule 59A-24.003, *Florida Administrative Code*, as amended.

“Drug” – alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen, methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed above.

“Drug Test” or “test” - any chemical, biological, or physical instrumental analysis administered by a laboratory certified by the United States Department of Health and

Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites.

“Employee” - any person who works for salary, wages, or other remuneration for the District.

“Job Applicant” - a person who has applied for a safety-sensitive position with the District and has been offered employment conditioned upon successfully passing a drug test.

“Medical Review Officer” (MRO) - a licensed physician, employed with or contracted with the employer 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 a positive test result in relation to the employee’s or job applicant’s medical history or any other relevant biomedical information.

“Prescription or nonprescription medication” - a drug or medication obtained pursuant to a prescription 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.

“Safety-sensitive position” - a position in which drug impairment constitutes an immediate and direct threat to public health or safety, or a position in which a momentary lapse in attention could result in injury or death to another person.

#### IV. NOTICE TO JOB APPLICANTS AND DISTRICT EMPLOYEES

- A. Section 440.102(3), *Florida Statutes*, requires that all employees and job applicants, prior to being tested, be given written notice of this policy.
- B. Job applicants will be given a copy of this policy during the interview process and be required to sign an acknowledgement that a copy of the policy has been received and read.
- C. Employees will be given a copy of this Policy and will be required to sign a statement that they have received and read it. The signed statement will be placed in each employee’s personnel file.
- D. The District will include notice of drug testing on vacancy announcements for positions requiring drug testing.

#### V. CONFIDENTIALITY

Unless authorized in writing by the employee or job applicant, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced by the District as a result of a this drug testing program are

confidential and exempt from the Florida Public Records Act, Chapter 119, *Florida Statutes*. Such information may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the provisions of Section 440.102(8) (a), *Florida Statutes*.

## VI. TRAINING

- A. The District will provide training to staff regarding the dangers of drug and alcohol abuse and how to recognize drug and alcohol abuse.
- B. The District will also provide training to supervisors in dealing with drug and alcohol abuse issues.

## VII. PROHIBITED BEHAVIOR

- A. It is a condition of District employment for an employee to refrain from consuming or unlawfully manufacturing, distributing, dispensing, processing or otherwise being under the influence of alcohol or illegal drugs as prohibited by this policy during working hours or while on call, or while in or operating District vehicles or equipment or while operating a personal vehicle in the scope of District employment.
- B. Violations of this policy are subject to disciplinary action per District Policy 80-10, Disciplinary Action.
- C. Prohibited behavior includes, but is not limited to:
  - 1. Reporting to work, performing work, or operating District vehicles or equipment with the presence of alcohol or illegal drugs in his or her body pursuant to the test levels as defined in Section IX(G) of this policy;
  - 2. Possession of alcohol in open containers while in or operating a District vehicle or District equipment; and
  - 3. Misuse or illegal use of prescription or non-prescription medications that have the potential to induce sleepiness, alter or adversely affect judgment, motor skills, the ability to safely operate District vehicles or equipment, or the ability to perform assigned job duties.

## VIII. NOTIFICATION OF DRUG OR ALCOHOL-RELATED CONVICTIONS

An employee who is convicted of, or pleads no contest or nolo contendere to any misdemeanor or felony drug or alcohol-related offense which occurred on District property, during working hours or while on call, or while in or operating District vehicles or equipment or while operating a personal vehicle in the scope of District employment, must report such conviction or pleading to the Human Resources Director within five (5) work days. Such employee will be subject to disciplinary action under Policy 80-10, Disciplinary Action.

## IX. DRUG TESTING

A. The District requires drug testing under the following circumstances:

1. Job applicant: conducted when a job applicant is offered a safety-sensitive position by the District. Both new employees and current employees placed in a safety-sensitive position from a non safety-sensitive position by an action of the District are subject to job applicant drug testing.
2. Reasonable suspicion: conducted when a supervisor believes an employee is using or has used or misused drugs or alcohol in violation of the District's policy.
3. Routine fitness for duty: conducted when the test is a part of a routinely scheduled fitness-for-duty medical examination required by law, District policy, or District job qualifications.
4. Follow-up: conducted following a mandatory referral to and the successful completion of an employee assistance program or resultant referral or rehabilitation program during the course of employment for drug or alcohol related problems.

B. The Office of Human Resources will coordinate all drug testing and communications with employees and job applicants concerning test results.

C. Drug testing will be conducted by a laboratory licensed and approved by the Agency for Health Care Administration pursuant to Rule 59A-24.006, *Florida Administrative Code*.

D. The District will contract with a Medical Review Officer (MRO) to receive, review and verify all test results from the laboratory. The MRO will be certified by the American Association of Medical Review Officers, American Society of Addiction Medicine or the Medical Review Officer Certification Council.

E. Employees and job applicants, both before and after being drug tested, may confidentially report the use of any prescription or over-the-counter drugs to the MRO. In addition, employees and job applicants have the right to consult with

the MRO for technical information regarding prescription and non-prescription medications.

- F. The following is the list of drugs for which the District will test including the names of common drugs that may affect a drug test. Due to the large number of obscure brand names and constant marketing of new products, this list of common names cannot and is not intended to be all-inclusive:

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

- G. For the purpose of this policy, levels on initially screened specimens, which are equal to or exceed the following levels shall be considered presumptively positive and will be submitted for confirmation testing.

<b>Drug Class</b>	<b>Initial Test Level</b>	<b>Confirmatory Test Level</b>
Alcohol	.04 g/dl%	.04 g/dl%
Amphetamines	1,000 ng/mL	500 ng/mL
Cannabinoids	50 ng/mL	15 ng/mL
Cocaine	300 ng/mL	150 ng/mL
Phencyclidine	25 ng/mL	25 ng/mL
Methaqualone	300 ng/mL	150 ng/mL
Opiates	2,000 ng/mL	Codeine: 2000 ng/mL Morphine: 2000 ng/mL 6-Acetylmorphine <sup>2</sup> : 10 ng/mL
Barbiturates	300 ng/mL	150 ng/mL
Benzodiazepines	300 ng/mL	150 ng/mL
Methadone	300 ng/mL	150 ng/mL
Propoxyphene	300 ng/mL	150 ng/mL

- H. The only specimen for alcohol testing shall be blood pursuant to Rule 59A-24.003, *Florida Administrative Code*.
- I. All specimens tested indicating the presence of a specific drug or metabolite at a level equal to, or exceeding the levels established by the Florida Agency for Health Care Administration, as outlined in IX.G, will be subject to confirmation testing.
- J. The MRO is responsible for contacting all positively tested individuals to inquire about possible prescription or non-prescription medications that could have caused a positive test result.

X. **JOB APPLICANT TESTING**

- A. Only job applicants for safety-sensitive positions will be required to submit to job applicant drug testing. The designation of a position as “safety-sensitive” must be approved by the Executive Director. The Office of Human Resources will maintain a list of all positions designated as “safety-sensitive.”
- B. With respect to safety-sensitive positions, a job applicant who interviews for a position will be given written notice of this policy and will be required to sign a statement that they are aware of both this policy and the fact that any employment offer is contingent upon passing a drug test.

- C. The District will withdraw its offer of employment to any job applicant who refuses to submit to the required drug test or who shows a positive confirmed drug test result by the MRO.
- D. An action by the District to place a current employee into a safety-sensitive position from a non safety-sensitive position will be contingent upon the employee successfully passing a drug test. The District will withdraw its offer of employment to any employee who has applied for a safety-sensitive position and who refuses to submit to the drug test or who shows a positive confirmed drug test result.
- E. A current employee who is also a job applicant for a safety-sensitive position receiving a positive confirmed test result will be subject to the provisions of this policy and Policy 80-10, Disciplinary Action.

#### XI. REASONABLE SUSPICION TESTING

- A. “Reasonable suspicion” means a belief that an employee is using or has used drugs or alcohol in violation of District Policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:
  - 1. Observable phenomena while at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
  - 2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
  - 3. A report of drug or alcohol use provided by a reliable and credible source;
  - 4. Evidence that an individual has tampered with a drug test during employment with the District;
  - 5. Information that an employee has caused, contributed to, or been involved in an accident while at work; or
  - 6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on District premises or while operating a District vehicle or equipment, or while using a personal vehicle in the scope of District employment.

B. Procedure for Reasonable Suspicion Testing

1. Any employee who observes abnormal conduct or erratic behavior of a co-worker causing a concern of impairment should notify his or her own supervisor immediately.
2. Supervisors observing abnormal conduct or erratic behavior, or the physical symptoms or manifestations, of drug or alcohol use in violation of this policy by an employee must seek another supervisor's opinion confirming the behavior; or, if no supervisor is available, the opinion of another employee. If no other supervisor or employee is available, the observing supervisor must note that fact in any resultant written documentation to the Director of Human Resources.
3. The observing supervisor must then consult with the employee to determine the cause of the apparent impairment. If, following consultation with the employee, the supervisor has a reasonable suspicion the employee is using or has used drugs or alcohol in violation of this Policy, the supervisor must immediately contact the Office of Human Resources for a drug test at District expense.
4. An employee, who is believed to be impaired based upon a supervisor's reasonable suspicion, will be required to submit to a drug test and will be driven to the drug-testing site. An employee who is believed to be impaired will not be allowed to work nor will such employee be allowed to drive himself or herself home.
5. An employee who refuses to submit to a drug test in accordance with this policy will be considered to have engaged in insubordination and will be subject to disciplinary action pursuant to District Policy 80-10, Disciplinary Action.
6. Within twenty-four hours after contacting the Office of Human Resources to arrange a drug test for an apparently impaired employee, the observing supervisor must submit written documentation to the Human Resources Director stating:
  - a. date, time, and location of the incident that led the supervisor to believe the employee was impaired;
  - b. the specific actions of the employee that gave rise to the reasonable suspicion of impairment;
  - c. the name and position of the supervisor or employee confirming the employee's apparent impaired behavior; and

- d. the details of the supervisor's consultation with the employee to determine the cause of apparent impairment.
- 7. When a drug test has been performed based upon reasonable suspicion, the Human Resources Director must within seven days after testing detail in writing the circumstances that formed the basis of the reasonable suspicion warranting the drug test. A copy of the documentation will be given to the employee upon request. The original will be retained confidentially by the Office of Human Resources for at least one year.
- 8. If an employee injured at work is required to submit to drug testing based upon reasonable suspicion and refuses to submit to a test or shows a confirmed positive drug test result by the MRO, the employee will forfeit eligibility for medical and indemnity benefits under Section 440.101, *Florida Statutes*.

## XII. ROUTINE FITNESS-FOR-DUTY TESTING

Employees will be tested if the test is conducted as part of a routinely scheduled fitness-for-duty medical examination that is required by law, District policy, or District job qualifications. However, routine medical screening required by statute, rule, or regulation for monitoring exposure of employees to toxic or other unhealthy substances will be limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests.

## XIII. FOLLOW-UP TESTING

- A. An employee who in the course of his or her employment is required to participate in an employee assistance program or an alcohol and drug rehabilitation program for drug or alcohol-related problems will be required to submit to follow-up drug tests quarterly for two years from the date the initial program was successfully completed. The employee must provide the Human Resources Director with documentation certifying successful completion of the program.
- B. The Office of Human Resources will schedule drug tests for the employee beginning no later than three months following the date of program completion and no later than each three months thereafter for a period of two years. The dates of the testing will be determined by the Office of Human Resources with notification to the employee no sooner than the scheduled date.

## XIV. VERIFICATION AND NOTIFICATION OF TEST RESULTS

- A. In the process of verifying that a positive test result was properly analyzed and handled, the MRO must notify the employee or job applicant of a confirmed positive drug test within three (3) days of receipt of the test result from the

laboratory and inquire as to whether prescription or non-prescription medications could have caused the positive test result.

- B. Within five (5) days of notification to the employee or job applicant of the positive test result, the MRO must provide an opportunity for the employee or job applicant to discuss the positive test result and to submit documentation of any prescription or non-prescription medications relevant to the positive test result.
- C. The MRO will report to the District in writing the verified test result within seven (7) working days after the specimen was received by the laboratory.
- D. Within five (5) working days after receipt of a positive confirmed test result from the MRO by the District, the District will inform the employee or job applicant in writing of such positive test result, the consequences of such result, and the options available to the employee or job applicant. The District will provide the employee or job applicant, upon request, with a copy of the test results.
- E. Within five (5) working days after receiving notification from the District of a positive confirmed test result, an employee or job applicant may submit information to the District's Human Resources Director explaining or contesting the test result, and explaining why the result does not constitute a violation of the District's policy.
- F. If the job applicant's or employee's explanation of the confirmed positive test result is unsatisfactory, the Human Resources Director will provide the employee or job applicant with a written explanation as to why the explanation is unsatisfactory along with the report of the positive result.

#### XV. CHALLENGING CONFIRMED POSITIVE DRUG TEST RESULTS

- A. When an employee or job applicant undertakes a legal or administrative challenge to the test result pursuant to Section 440.102(5), *Florida Statutes*, it is the employee's or job applicant's responsibility to notify the District and the testing laboratory in writing of such challenge. After such notification, the sample will be retained by the laboratory until the challenge is resolved.
- B. During the 180-day period after written notification of a positive test result, the employee or job applicant providing the specimen will be permitted by the District to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, and chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory.

- C. If a retest of a job applicant or employee resulting from a challenge produces a negative result, the Executive Director will determine what action, if any, will be taken by the District.

## XVI. EMPLOYEE ASSISTANCE

- A. The District recognizes the importance of making available assistance to employees with drug and alcohol problems and will offer those employees an opportunity to acquire assessment, counseling, and referral to an alcohol and drug rehabilitation program through the District's Employee Assistance Program, Policy 90-04. Local counseling and referral for employees may be obtained through Corporate Care Works at 1-800-327-9757 or 1-904-296-9436.
- B. All employees, who are given drug tests for any reason listed in Section IX with the exception of follow-up testing, resulting in a positive confirmed drug test result will be required to participate in the District's Employee Assistance Program and successfully complete any resultant referral or rehabilitation program.
- C. Employees with positive confirmed test results, who refuse to participate in the District's Employee Assistance Program or any resultant referral or rehabilitation program, or fail to complete the program successfully, may be dismissed under Policy 80-10, Disciplinary Action.
- D. Pursuant to Policy 90-04, Employee Assistance Program, participation of up to two (2) hours per week in the District's Employee Assistance Program or any resultant referral or rehabilitation program may be recorded as time worked. Employees participating in a rehabilitation program because of alcohol or drug problems may use sick leave (with documentation of participation), annual leave, compensatory leave, or, after exhaustion of all other available leave, leave-without-pay.
- E. An employee who in the course of his or her employment is required to participate in an employee assistance or rehabilitation program for alcohol or drug-related problems will be required to submit to quarterly follow-up drug testing for two (2) years from the date the initial program was successfully completed as outlined in Section XIII, Follow-up Testing.
- F. Employees may at any time voluntarily seek assistance for an alcohol or drug related problem through the District's Employee Assistance Program. Such employee contact with the provider is confidential. The District is informed neither about the contact nor about the details of the contact unless written authorization is given by the employee.

History – Effective 01-/27/1992, Amended 09/16/2000, 03/14/2001, 09/02/08, 10/17/08, 06/30/10 ED



**DRUG-FREE WORKPLACE POLICY ACKNOWLEDGMENT**

I acknowledge that I have received and read the Drug-Free Workplace Policy 91-06 requirements of the St. Johns River Water Management District (“District”).

I understand that any offer of employment in a safety-sensitive position extended to me is contingent upon my successfully passing a drug test.

I also understand that taking a drug test is not an offer of employment by the District.

I understand that any action by the District to place me in a safety-sensitive position now or in the future will be contingent upon my successfully passing a drug test.

\_\_\_\_\_  
Employee’s or Job Applicant's Name (print)

\_\_\_\_\_  
Employee’s or Job Applicant's Signature

\_\_\_\_\_  
Date