

# MARTIN COUNTY



## BOARD OF COUNTY COMMISSIONERS DRUG-FREE WORKPLACE POLICY

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**MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS  
DRUG-FREE WORKPLACE POLICY**

**A. PURPOSE AND SCOPE**

The purpose of this Drug-Free Workplace Policy (DFWP) is to deter the use of drugs and alcohol in the workplace by establishing standards and procedures for drug testing by the Martin County Board of County Commissioners (hereinafter referred to as "the Employer" or "the County") for employees and job applicants. As part of our commitment to safeguard the health of our employees, to provide a safe place for our employees to work, and to promote a drug-free community, we have established this policy dealing with the problems of alcohol and substance abuse. Substance abuse, while at work or otherwise, seriously endangers the safety of all employees, as well as the general public, and creates a variety of workplace problems including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided.

**B. POLICY STATEMENT**

Although the purpose of this policy is to deter the use of drugs and alcohol in the workplace, the Employer also recognizes the rights of employees to privacy and protection from searches of any kind which are inherently intrusive, and which should not be undertaken except for real problem situations. This policy is intended to be corrective, rather than punitive, in application. The Employer strives to prevent the use and/or presence of alcohol and the drugs specifically identified herein in the workplace and to assist the employees in overcoming any dependence on drugs and/or alcohol in accordance with the following guidelines. An employee found to have an alcohol or substance abuse problem will be given at least one opportunity for rehabilitation prior to disciplinary action being imposed. Nothing in this policy shall be construed to require the Employer to drug test or create a legal obligation upon itself to request an employee or job applicant to undergo drug testing. Also, nothing in this policy shall be construed to prohibit the Employer from affording an employee greater protection than is specifically provided in Chapter 59A-24, Florida Administrative Code.

**C. REGULATIONS**

The Employer is implementing this Drug-Free Workplace Policy using Chapter 59A-24, Florida Administrative Code, as a guideline. Accordingly, if a worker is injured in the course and scope of his or her employment, and has a positive confirmation of a drug at a level prescribed herein, such an injured employee may forfeit his or her eligibility for medical and indemnity benefits under the Workers' Compensation Act upon exhaustion of the procedures provided in Chapter 440, Florida Statutes, and the rules contained herein. Furthermore, those County employees who are subject to the rules and regulations prescribed by the U. S. Department of Transportation (D.O.T.), Federal Highway Administration (F.H.W.A.), and the Federal Transit Administration (F.T.A.) must comply

with the controlled substance and alcohol use and testing procedures set forth and specifically outlined in the Federal Register, 49 CFR Parts 382, 40 and 655. The Omnibus Transportation Employee Testing Act of 1991 requires drug testing of employees who hold a commercial driver's license (hereinafter referred to as "CDL") and perform safety-sensitive functions in both interstate and intrastate truck and motor coach operations, including those operated by federal, state, and local government agencies. The U.S. D.O.T., F.H.A/FTA policy and procedures will not apply to any fire department employees, or any employee of the Board of County Commissioners who is NOT subject to the rules and regulations prescribed by the U.S. Department of Transportation as stated above.

Pursuant to the FTA, the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace. Furthermore, an employee convicted of a drug statute violation, occurring in the workplace, is to report such to the Employer in writing no later than five days after such a conviction.

#### **D. DEFINITIONS**

For the purpose of these rules, the following definitions apply:

1. "Alcohol" means ethyl alcohol (ethanol), including distilled spirits, wine, malt beverages or any intoxicating liquor. References to use of alcohol include use of a beverage, mixture or preparation containing ethyl alcohol.
2. "Chain of Custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, storing and reporting of test results.
3. "Collection Site" means a place where individuals present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs.
4. "Collection Site Person" means a person provided by an approved laboratory who instructs and assists individuals at a collection site and who receives and makes an initial examination of the specimen provided by those individuals.
5. "Confirmation test," "confirmed test," or "confirmed drug test" means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. The confirmation method must be capable of providing requisite specificity, sensitivity and quantitative accuracy. The confirmation test for alcohol will be gas chromatography and the confirmation test for all other drugs will be gas chromatography/mass spectrometry.
6. "Drug includes, but is not limited to alcohol, including distilled spirits, wine, malt beverages and intoxicating liquors, amphetamines, cannabinoids, cocaine, phencyclidine (PCP), and opiates, hallucinogens, barbiturates, benzodiazepine, fentanyl, methadone, methaqualone, propoxyphene, synthetic narcotics, designer drugs, or metabolite of any of the substances listed herein and any other substance as may be provided for under state or federal law.
7. "Drug test" means any chemical, biological or physical instrumental analysis in

- conformity with this rule, administered to determine the presence or absence of a drug or its metabolites.
8. "Employee" means an individual who works for the County on a full-time or part-time basis and receives salary, wages, or other remuneration.
  9. "Employee assistance program" means an established program for employee assessment, counseling, and referral to an alcohol and drug rehabilitation program.
  10. "Employer" means the Martin County Board of County Commissioners who employ individuals for salary, wages or other remuneration.
  11. "GC/MS" means gas chromatography/mass spectrometry.
  12. "Initial drug test" means a sensitive, rapid and reliable procedure to identify negative and presumptive positive specimens. All initial tests shall use an immunoassay procedure or an equivalent or must use a more accurate scientifically accepted method approved by the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.
  13. "Job applicant" means a person who has applied for a position with the employer and has been offered employment conditioned upon successfully passing a drug test.
  14. "Laboratory" means a facility, inside or outside the State of Florida, licensed by the Department of Health and Rehabilitative Services or in certain cases, a facility certified by the National Institute on Drug Abuse (NIDA) to analyze specimens for the detection of drugs.
  15. "Medical Review Officer or MRO" means a licensed physician, employed with or contracted with by the Employer, who is responsible for receiving and reviewing all confirmation results for the laboratory. The MRO is responsible for contacting all positively tested individuals to inquire about possible prescriptive or over-the-counter medications, which could have caused a positive test result. The MRO must have knowledge of substance abuse disorders and have the appropriate medical training to interpret and evaluate a positive test result with prescriptive or other relevant medical information.
  16. "Nonprescription controlled substance" means amphetamines; cannabinoids; cocaine; phencyclidine (PCP); and opiates obtained without a prescription.
  17. "Nonprescription medication" means a medication that is authorized pursuant to state or federal law for general distribution and use without a prescription in the treatment of human disease, ailments or injuries.
  18. "Prescription medication" means a drug or medication obtained pursuant to a prescription as defined by Section 893.02 (17), Florida Statutes.
  19. "Reasonable suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the Employer's 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 written recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question; and it must be based upon the direct observation of at least two

corroborating witnesses. Reasonable suspicion is defined as the following:

- a. Observable phenomena while at work, such as the direct observation of drug use or the physical symptoms or manifestations of being under the influence of a drug.
  - b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
  - c. A report of drug use, provided by a reliable and credible source, which has been independently corroborated.
  - d. Evidence that an individual has tampered with a drug test during his employment with the current Employer.
  - e. Information that an employee has caused or contributed to a vehicular accident while at work.
  - f. Evidence that an employee has used, possessed, sold, or solicited drugs while working or while on the Employer's premises or while operating the Employer's vehicle, machinery, or equipment.
20. "Safety sensitive position" means those job positions listed in Exhibit A.
  21. "Specimen" means a tissue, hair or product of the human body capable of revealing the presence of alcohol and/or drugs or their metabolites.
  22. "Threshold detection level" means the level at which the presence of a drug or alcohol can be reasonably expected to be detected by an initial and a confirmatory test performed by a laboratory that meets standards established herein. The threshold detection level indicates the level at which a valid conclusion can be drawn that the drug or alcohol is present in the employee's sample.

#### **E. GENERAL PROVISIONS FOR DRUG AND ALCOHOL TESTING**

1. Authority to Test  
The Employer has the authority to require employees and job applicants to submit to testing for the presence of alcohol or drugs only as set forth specifically in this Drug-Free Workplace Policy.
2. Types of Tests  
The Employer may conduct the following types of drug tests in order to maintain a drug-free workplace program:
  - a. Testing of job applicants - The Employer may require job applicants for identified safety sensitive positions (See Exhibit A) to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusal to hire the job applicant.
  - b. Reasonable suspicion - The Employer may require an employee to submit to reasonable suspicion drug testing. The definition of "reasonable suspicion drug testing" as set forth in this Drug-Free Workplace Policy will be the sole basis for determining whether reasonable suspicion exists to test an employee.
  - c. Follow-up testing - If the employee in the course of employment enters an

employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, the Employer may require the employee to submit to one drug test per quarter as a follow-up to such program for a twenty-four month period thereafter. The employee shall be responsible for the payment of all follow-up testing. CDL holders are subject to the follow-up testing required by federal law.

d. Post-Accident testing - Employer may require an employee to submit to post accident testing based on the definition of "reasonable suspicion drug testing" as set forth in this Drug-Free Workplace Policy. CDL holders will also be subject to post-accident testing and are required to submit to drug and alcohol testing consistent with federal law.

e. Random Testing for CDL Holders - Employees who possess a CDL and are in safety sensitive positions shall be subject to random drug and/or alcohol testing consistent with federal law.

3. Refusal to Test

If an employee refuses to submit to a test for drugs or alcohol, it constitutes a positive drug test. In addition, he/she forfeits his/her eligibility for all medical and indemnity benefits and the employee may be disciplined by the Employer.

4. Drugs to be Tested:

- a. Alcohol, including distilled spirits, wine, malt beverages or any intoxicating liquor;
- b. Amphetamines
- c. Barbiturates;
- d. Benzodiazepine;
- e. Cannabinoids;
- f. Cocaine;
- g. Fentanyl;
- h. Methadone;
- i. Methaqualone;
- j. Phencyclidine;
- k. Propoxyphene;
- l. Opiates;
- m. Hallucinogens;
- n. Designer drugs;
- o. A metabolite of any of the substances listed herein;
- p. Any other substance, as may be provided for under state or federal law.

5. Cut-off Levels: The minimum cut-off levels for reporting positive for both initial and confirmation drug tests shall be as set forth in the rules adopted by the Agency for Health Care Administration, Chapter 59A-24, Florida Administrative Code, as amended.  
<https://www.flrules.org/gateway/readFile.asp?sid=0&tid=0&cno=59A-24&caid=1211741&type=4&file=59A-24.doc>

6. Blood Alcohol Provisions: The following shall apply for detected blood alcohol:
  - a. Less than .02 is a negative test;
  - b. .02 through .039 requires immediate removal from duty for 24 hours with a repeat test upon return for work.
  - c. .04 or greater is a positive test and requires immediate removal from safety sensitive functions until employee successfully completes EAP.

**F. NOTICE TO EMPLOYEES AND JOB APPLICANTS**

1. This policy also serves as notice to all employees that it is a condition of employment to refrain from using illegal drugs or abusing legal drugs, and that a drug-testing program is being implemented. Sixty days must elapse between the notice and the actual drug testing.
2. Prior to testing, the Employer must provide all employees or job applicants for employment with notice of this Drug-Free Workplace Policy.
3. The Employer will include a notice of drug testing on all vacancy announcements for those positions where drug testing is required. A notice of the Employer's Drug-Free Workplace Policy will also be posted in an appropriate and conspicuous location on the Employer's premises, and copies of the policy shall be made available for inspection during regular business hours by the general public in the Employer's Human Resources Department.

**G. COLLECTION PROCEDURES, CHOICE OF SPECIMEN, COSTS**

1. An employee injured at the workplace and required to be tested shall be taken to a medical facility for immediate treatment of injury. If the injured employee is not at a designated collection site, the employee will be transported to one as soon as it is medically feasible where specimens shall be obtained. If it is not medically feasible to move the injured employee, specimens shall be obtained at the treating facility under the procedures set forth in this policy and transported to an approved testing laboratory.
2. No specimens shall be taken prior to the administration of emergency medical care. Once this condition has been satisfied, an injured employee must release to the Employer the result of any tests conducted on such specimen for the presence of alcohol or drugs only as is specifically provided for in this Drug-Free Workplace Policy.
3. The Employer may test for any or all drugs, including but not limited to those listed in Section E.4 above.
4. Body specimens - Urine will be used for the initial test for all drugs, and for the confirmation of all drugs, except alcohol. A breathalyzer will be used for the initial



and confirmation testing for alcohol. In addition, employees may opt to provide a blood specimen for alcohol; however, a breathalyzer test is still required. Breath will be used as the initial and confirmation test for alcohol. Nothing in this section shall be construed to limit the discretion of a physician to determine whether drawing a blood sample will threaten the health of the injured employee, or if the employee has a medical condition unrelated to the accident which may preclude the drawing of the necessary quantity of blood for a testing specimen. No inference or presumption of intoxication or impairment may be made in a case where a physician prevents a specimen extraction based on his or her medical expertise.

5. Cost of testing - The Employer will pay the cost of initial and confirmation drug tests which it requires of employees and job applicants. An employee or job applicant shall pay the costs of any additional drug tests not required by the Employer unless specifically stated otherwise in this Drug-Free Workplace Policy.
6. Collection site - The Employer will utilize its wellness center or a collection site designated by the approved laboratory which has all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, chain of custody procedures, temporary storage and shipping or transportation of urine and blood specimens to an approved drug testing laboratory. A medical facility may be utilized as a collection site provided it meets the applicable requirements set forth in this policy.
7. Security of the collection site, chain of custody procedures, privacy of the individual, collection control, integrity and identity of the specimen and transportation of the specimen to the laboratory shall be in accordance with Section 112.0455, Florida Statutes, and its attendant rules in Chapter 59A- 24.005, Florida Administrative Code. The Chain of Custody Form will be used for each employee or job applicant tested.
8. Collection site personnel – A specimen for a drug test may be taken or collected by:
  - a. A physician, a physician's assistant, a registered professional nurse, a licensed practical nurse, a nurse practitioner, or a certified paramedic who is present at the scene of the accident for the purpose of rendering emergency service or treatment; or
  - b. A qualified person employed by a licensed laboratory who has the necessary training and skills for the assigned tasks.

## **H. LABORATORIES' PROCEDURES**

1. No laboratory may analyze initial or confirmation drug specimens unless the laboratory is licensed by Agency for Health Care Administration using criteria established by the Department of Health and Rehabilitative Services to perform such tests in accordance with Section 112.0455, Florida Statutes, and its attendant rules in Chapter 59A-24.006, Florida Administrative Code.
2. Laboratory assistance - The approved laboratory shall provide technical assistance to the MRO or employee for the purpose of interpreting any positive confirmed test results which could have been caused by a prescription or non-prescription medication taken by the employee.
3. Laboratory analysis procedures - All laboratory security, chain of custody, transporting and receiving of specimens, specimen processing, retesting, storage of specimens, instrument calibration and reporting of results shall be in accordance with Section 112.0455, Florida Statutes, and its attendant rules in Rule 59A-24.006, Florida Administrative Code.
4. Initial test - The initial screen for all drugs shall use an immunoassay methodology except that the initial test for alcohol will be an enzyme oxidation methodology.
5. Confirmation test - All specimens identified as positive on the initial test shall be confirmed using gas chromatography mass spectrometry (GC/MS) except that alcohol will be confirmed using gas chromatography. All confirmations shall be done by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value."
6. Drug testing laboratories shall retain, and store all confirmed positive specimens pursuant to Section 112.0455, Florida Statutes, and its attendant rules as established in Chapter 59A-24.006, Florida Administrative Code. The assigned laboratory shall be required to maintain any specimens under legal challenge for an indefinite period.

## **I. RELEASE OF RESULTS**

1. Reporting results:
  - a. The laboratory shall report tests results to the MRO within seven working days after receipt of the specimen by the laboratory.
  - b. The laboratory shall report as negative to the MRO all specimens which are negative on the initial test or are negative on the confirmation test. Only specimens which are confirmed as positive on the confirmation test shall be reported positive to an MRO for a specific drug.
  - c. The laboratory shall transmit results to the MRO in a manner designed to

ensure confidentiality of the information. The laboratory and MRO must ensure the security of the data transmission and restrict access to any data transmission, storage, and retrieval system.

- d. The MRO may request from the laboratory, and the laboratory shall provide, quantitative test results.
  - e. The MRO will also verify that positive and negative test results were properly analyzed and handled. The MRO will have knowledge of substance abuse disorders and shall also be knowledgeable in the medical use of prescription drugs and in the pharmacology and toxicology of illicit drugs. The MRO shall evaluate the drug test results which is reported by the laboratory, verify the drug test results by checking the chain of custody form that the specimen was collected, transported and analyzed under proper procedures.
  - f. The MRO will notify the employee or job applicant of a confirmed positive test result within three business days of receipt of the test result from the laboratory and determine if any alternate medical explanations caused a positive test result. This determination by the MRO shall include conducting a medical interview with the employee or job applicant, review of the employee's or job applicant's medical history, review of any other relevant bio-medical factors, a review of all medical records made available by the tested employee or job applicant, and an inquiry as to whether any prescription or non-prescription medications could have caused the positive test result. Within five calendar days of notification to the individual of the positive results, the MRO will provide an opportunity for the employee or job applicant to discuss the positive test result and to submit documentation of any prescriptions relevant to the positive test result.
  - g. The MRO will communicate the test results of an employee or job applicant to the drug program coordinator and the employee or job applicant. The test results shall be communicated only after the MRO has verified that the positive and/or negative test results were properly analyzed and handled and, in the case of a positive test result, the MRO has provided an opportunity for the employee or job applicant to discuss the positive test results and to submit documentation of any information relevant to the positive test results. The MRO must make every reasonable effort to immediately contact the tested employee or job applicant and the drug program coordinator.
2. Within five working days after receipt from the MRO of a positive confirmed test result, the Employer will inform the employee or job applicant in writing of such

positive test results, and the Employer will inform the employee and/or job applicant of his right to explain or challenge the test results.

3. All records pertaining to a given specimen shall be retained by the drug testing laboratory for a minimum of five years. Also, drug testing laboratories shall retain in place all confirmed positive specimens in a properly secured long-term frozen storage facility for a period of at least one year from the date of the initial testing. Within this one-year period of time, an employer, employee, job applicant, or medical review officer may request in writing that the laboratory retain the specimen for an additional period of time. If no such request is received, the laboratory may discard the specimen after one year of storage. However, when notified in writing, the laboratory shall be required to maintain any specimens under administrative or legal challenge for an indefinite period.
4. The MRO shall provide to the drug program coordinator and the employee or job applicant a copy of the test results subject to the employee protection provision (Section K) and confidentiality provision (Section N) of this policy.

#### **J. CHALLENGES TO TEST RESULTS**

1. After receiving written notice of a positive confirmed test result by the Employer, the employee or job applicant must be allowed up to five business days to submit information to the Employer explaining or contesting the test results prior to a final decision by the Employer. Within fifteen calendar days of receipt of this explanation or challenge, the Employer must notify the employee or job applicant in writing of their final decision. If the employee's or job applicant's explanation is unsatisfactory, the Employer must include in their final decision the consequences of such results and the options available to the employee or job applicant including the right to file an administrative or legal challenge. All such documentation shall be kept confidential by the Employer and shall be retained by the Employer for at least one year.
2. An employee may challenge through the grievance process the testing procedures, test results, and/or consequential action taken by the Employer. Any grievances shall be immediately arbitrated under the expedited arbitration rules as set forth in the collective bargaining agreement. The grievance process will begin as soon as the Employer notifies the employee in writing of the Employer's final decision regarding the tested employee. However, if the employee disputes whether reasonable suspicion exists, the employee may also file a grievance as specifically set forth in section K-2, the employee protection provision, of this Drug-Free Workplace Policy.
3. When an employee or job applicant does undertake an administrative or legal challenge to the results of a drug test, it shall be the employee's or job applicant's responsibility to notify the Employer and the laboratory in writing of such challenge. After such notification, the sample shall be retained by the laboratory

indefinitely until the administrative or legal challenge is settled. However, regardless of an administrative or legal challenge, all positive confirmed specimens will be retained by the laboratory for at least one year from the date of initial testing. [SEE SECTION I-3 (RELEASE OF RESULTS)]

4. Nothing in this drug testing policy shall be construed to eliminate or diminish any rights provided to the Employer/employee by the collective bargaining process and the resulting collective bargaining agreements thereof.

#### **K. EMPLOYEE PROTECTION**

5. The supervisor recommending testing shall detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant testing. A copy of this documentation must be given to the employee prior to testing. The original documentation shall be kept confidential by the Employer.
6. If an employee disputes the supervisor's recommendation of reasonable suspicion, the employee must, nonetheless, submit to a blood or breath/urinalysis test, as ordered by the Employer, while also filing a grievance in writing with his/her department director by the close of business on the next business day following the day of the testing order. Such grievance shall be immediately arbitrated under the expedited arbitration rules of the American Arbitration Association, unless otherwise specified in the respective collective bargaining agreement. Pending the arbitrator's decision, which shall be final and binding, the blood/urinalysis sample shall be frozen, and testing by the laboratory shall be withheld. Test results will not be released to any representative of the Employer unless the arbitrator confirms that the Employer ordered the testing based on reasonable suspicion as defined in this policy.
7. The Employer will not request or receive from any testing facility any information concerning the personal health, habit, or condition of the tested employee including the presence or absence of HIV antibodies in the tested employee's body fluids.
8. The drug testing laboratory may not disclose any information concerning the health and mental condition of the tested employee.
9. During the 180-day period after written notification of a positive test result, the employee who has provided the specimen shall be permitted by the Employer to have a portion of the specimen retested at the employee's expense. Such retesting must be done at another HRS- licensed or NIDA-approved laboratory, as appropriate, chosen by the employee or job applicant. The second laboratory must test at equal or greater for the sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the Employer shall be responsible for the transfer of the portion of the specimen to be retested, and

for the integrity of the chain of custody during such transfer. If the split sample is shown to be negative, the Employer shall reimburse the employee for all costs associated with testing the split sample.

10. The Employer will not discharge, discipline, refuse to hire, discriminate against, or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test.

#### **L. DISCIPLINARY ACTION**

11. Should testing substantiate the use of drugs or alcohol, the employee may be disciplined up to and including discharge.
12. In the case of a first-time violation of the Employer's Drug-Free Workplace Policy, the employee will be given one opportunity for rehabilitation prior to disciplinary action being imposed subject to the following conditions:
  - a. The employee must enter into a Rehabilitation Agreement with the County:
  - b. The employee must immediately enter an approved rehabilitation program through the County's Employee Assistance Program.
  - c. Safety sensitive employees will be immediately removed from their safety sensitive position and reassigned to a non-safety sensitive position if one is available. If a non-safety sensitive position is not available, the employee will be placed on unpaid administrative leave. The safety sensitive employee can return to their safety sensitive position upon completion of the approved rehabilitation program and a passed drug test upon completion of the rehabilitation program.
  - d. Any employee who is certified under Florida Statutes Chapter 401 to provide emergency medical services that does not complete an approved rehabilitation program will be reported to the Florida Department of Health pursuant to §456.076(9)(b), Florida Statutes.
13. The Employer will place any employee tested under the provisions of "reasonable suspicion" of this policy on administrative leave with pay until the final test results are received by the Employer.

#### **M. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

14. The EAP is a confidential counseling service for the employee and his/her immediate family members. The Employer will not discharge, discipline or discriminate against an employee solely upon the employee's voluntarily seeking treatment, while under the employment of the Employer, for a drug-related problem. The Employer has contracted for EAP Sessions with Human Affairs International, Inc. for problem assessment, supportive professional consultation, counseling, information and referral to other agencies.

15. Procedures - Employees may contact the EAP at (800) 624-5544, 24 hours a day, 7 days a week.
16. Confidentiality - EAP operations are confidential and information about employees is not shared with the Employer unless the employee desires to share the information, and signs the appropriate release of information, except for compliance with State and Federal mandates, or to comply with the duty-to-warn laws when a client has threatened another person, or as a result of our policy governing Post-Testing evaluations as stated herein.
17. Post-Test evaluations - After notification of a positive test result, an employee may take advantage of a one time opportunity for rehabilitation. The EAP will assist the Employer/employee by providing problem assessment and referral. It is mandatory that the employee sign the appropriate release of information to the Employer on all post- test referrals. If the treatment plan calls for continuing treatment, the employee will be responsible for the costs, however, financial assistance is available for employees who participate in the County's Health Insurance Program.

**N. CONFIDENTIALITY**

18. All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced by the Employer through this policy are confidential communications and are exempt from the provisions of Section 119.07(1), Florida Statutes, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with Section 112.0455, Florida Statutes.
19. The Employer, the assigned laboratory, the Medical Review Officers (MROs), the employee assistance programs, the drug and alcohol rehabilitation programs and their respective agents who receive or have access to this information concerning drug test results shall keep all information confidential. Release of such information under any other circumstances shall be solely pursuant to a written consent form signed voluntarily by the person tested, unless such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this drug testing policy, or unless deemed appropriate by professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:
  - a. the name of the person who is authorized to obtain the information
  - b. the purpose of the disclosure
  - c. the precise information to be disclosed
  - d. the duration of the consent
  - e. the signature of the person authorizing release of the information.
20. Information on drug test results shall not be released or used in any criminal

proceeding against the employee or job applicant. Information released contrary to Section 112.0455, Florida Statutes, shall be inadmissible as evidence in any such criminal proceeding.

21. Nothing herein shall be construed to prohibit the Employer, an agent of the Employer, or the laboratory conducting a drug test from having access to employee drug test information when consulting with legal counsel in connection with the actions brought under or related to this policy or when the information is relevant to its defense in a civil or administrative matter.

#### **O. DRUG PROGRAM COORDINATOR**

The Employer shall appoint a Drug Program Coordinator(s) assigned to carry out the purposes of the program. The Drug Program Coordinator will be responsible for directing the operation of the program. The Drug Program Coordinator will serve as the central connection between the drug collection agency and the Employer. All employees or job applicants will be referred to the Drug Program Coordinator who will perform the following functions:

22. Schedule and authorize all drug testing required under this program,
23. Ascertain that all employees or job applicants to be tested have a photo I.D.,
24. Receive all drug and alcohol test results from the collection agency and take the responsibility of forwarding that information to the proper Employer officials or employees,
25. Ensure that all employees verify their receipt of the General Notice as specified in Section F,
26. Ensure that a statement of the Employer's drug and alcohol testing policy is included in employment application materials,
27. Oversee the training and education sessions regarding this drug-free workplace program.
28. Provide information and documentation related to the administration of this program to the Director of Administrative Services, if required.

#### **P. EDUCATION AND IMPLEMENTATION**

29. The Employer will maintain a current resource file of providers of employee assistance including alcohol and drug abuse programs, mental health providers, and various other persons, entities or organizations designed to assist employees with personal or behavioral problems.
30. The Employer must provide an annual education course for its employees to assist them in identifying personal and emotional problems which may result in the misuse of alcohol or drugs. This course must also include a presentation on the legal, social, physical, and emotional consequences of the misuse of alcohol or drugs.
31. The drug program coordinator will be responsible for implementing a supervisory



training package that ensures that all supervisors are fully informed about the Employer's Drug-Free Workplace Policy. Initial training shall occur within 90 days of the distribution of the General Notice.

**Q. CONFLICT WITH OTHER LAWS AND/OR LABOR AGREEMENTS**

32. This Drug-Free Workplace Policy is in no way intended to diminish, waive, or supersede any constitutional or other rights that the employee may be entitled to under federal, state, or local statutes.
33. This Drug-Free Workplace Policy is in no way intended to diminish, waive, or supersede any rights provided to employees under an applicable collective bargaining agreement. The employee also has the right to challenge the results of any drug or alcohol tests and any discipline imposed due to the provisions of this drug testing policy in the same manner that any other employer action can be grieved under the terms of an applicable collective bargaining agreement.
34. Federal laws and regulations have specific requirements for CDL holders that employers must follow. When this policy conflicts any such federal laws or regulations, the federal laws and regulations shall prevail. Employees who hold a CDL pursuant to their job description will execute the attached CDL Acknowledgement recognizing that they have been notified and understand the provisions in Martin County's DFWP that differ for CDL holders as a result of the federal requirements. (See Exhibit B)

**R. CONCLUSION**

The Employer's Drug-Free Workplace Policy has been prepared so as not to conflict with public policy and, further, not to be discriminatory or abusive. A drug-free workplace should be the goal of every community in America. It is the goal of this policy to eliminate drug use through drug and alcohol testing, rehabilitation, and education of all employees.

**EXHIBIT A**  
**DFWP Safety Sensitive Positions**

**TITLE**

Airport Director  
Airport Maintenance Supervisor  
Airport Maintenance Technician  
Airport Operations Coordinator  
Airport Operations Supervisor – CJIS Certified Required  
Aquatic Maintenance Supervisor  
Aquatics Manager  
Assistant Building Official  
Assistant Chief Information Officer – CJIS Certified Required  
Assistant County Administrator – CJIS Certified Required  
Battalion Chief EMT  
Battalion Chief Paramedic  
Bridgetender  
Building Maintenance Coordinator  
Building Official/Director  
Building Operations Supervisor  
Bureau Chief  
Captain – EMT  
Captain – Paramedic  
Carpenter  
Case Manager  
Chief Inspector/Plans Examiner  
Chief Plant Operator  
Children's Assistant  
Coastal Program Manager  
Code Compliance Investigator  
Code Compliance Specialist  
Community Risk Reduction Specialist  
Compliance Technician  
Construction Inspector  
Construction Project Inspector  
Construction Worker  
County Administrator – CJIS Certified Required  
Deputy Emergency Management Director  
Deputy Fire Chief  
Deputy Fire Marshal  
Desktop Analyst – CJIS Certified Required  
District Chief  
Division Chief  
Drug Lab Technician  
Electrical Technician  
Electrician

Electronic Systems Technician  
Emergency Management Coordinator  
Emergency Management Director  
Emergency Management Specialist – CJIS Certified Required  
EMS - Captain  
EMS Captain  
EMT/Ocean Lifeguard  
Engineering Compliance Manager  
Engineering Inspector  
Entomological Technician  
Environmental Management Coordinator  
Equipment Operator  
Facilities Maintenance Worker  
Facilities Superintendent  
Financial Specialist  
Fire Financial Business Analyst – CJIS Certified Required  
Fire Inspector Non Sworn  
Fire Marshal  
Fire Mechanic – Combat  
Fire Mechanic – Non Combat  
Fire Rescue Chief  
Fire Rescue Finance Administrator  
Fire Rescue Public Information Officer – CJIS Certified Required  
Fire Rescue Records Management Coordinator – CJIS Certified Required  
Firefighter EMT  
Firefighter Paramedic  
Fleet Services Supervisor – CJIS Certified Required  
FRD Administrative Coordinator – CJIS Certified Required  
General Services Deputy Director – CJIS Certified Required  
General Services Director – CJIS Certified Required  
GSD Administrative Manager – CJIS Certified Required  
Harbormaster  
Hazardous Materials Technician  
Heavy Equipment Operator  
HR/Risk Coordinator – CJIS Certified Required  
Human Services Administrator  
HVAC Technician  
Hydrogeologist/Water Resources Coordinator  
Industrial Electrician  
Information Security Analyst – CJIS Certified Required  
ITS Infrastructure Manager – CJIS Certified Required  
Lab Quality Assurance Officer  
Laboratory Manager  
Lead Airport Maintenance Technician  
Lead Electrician  
Lead HVAC Technician

Lead Mechanic  
Lead Painter  
Lead Parks Services Specialist  
Lead Plumber  
Lead Pump Out Boat Operator  
Lead Security Officer Armed  
Lieutenant  
Life Safety Coordinator  
Logistics Coordinator  
Maintenance Worker  
Mechanic  
Meter Reader  
Mosquito Control Specialist  
Mosquito Control Technician  
Network Administrator – CJIS Certified Required  
Ocean Lifeguard  
Ocean Rescue Captain  
Ocean Rescue Chief  
Ocean Rescue Lieutenant  
Painter  
Park Supervisor  
Parks Service Specialist  
Parks Superintendent  
Plumber  
Process Control SCADA Coordinator  
Process Control SCADA Supervisor  
Project Engineer  
Project Leader  
Pump Out Boat Operator  
Recreation Coordinator  
Recreation Supervisor  
Research Entomologist  
Road Maintenance Supervisor  
Safety and Training Officer  
Seasonal Aquatics Supervisor  
Seasonal Lifeguard  
Seasonal Senior Lifeguard  
Security Office Unarmed/Courier  
Security Officer Armed  
Security/Life Safety Administrator  
Senior Aquatics and Park Manager  
Senior Building Operations Supervisor  
Senior Code Compliance Investigator  
Senior Desktop Analyst – CJIS Certified Required  
Senior Emergency Management Coordinator  
Senior Facilities Maintenance Worker

Senior Heavy Equipment Operator  
Senior Industrial Electrician  
Senior Maintenance Worker  
Senior Mechanic  
Senior Network Administrator – CJIS Certified Required  
Senior Parks Service Specialist  
Senior Project Engineer  
Senior Project Leader  
Senior Site Compliance Officer  
Senior Systems Administrator – CJIS Certified Required  
Senior Telecommunicator  
Senior Traffic Sign and Marking Technician  
Senior Utilities Service Worker  
Site Compliance Inspector  
Site Compliance Officer  
Solid Waste Lead Mechanic  
Solid Waste Mechanic  
Street Light Technician  
Survey Field Technician  
Survey Party Chief  
System Communications Technician  
Systems Administrator – CJIS Certified Required  
Teen Coordinator  
Telecommunications Manager  
Telecommunications Supervisor  
Telecommunicator  
Trades Superintendent  
Traffic Data Specialist  
Traffic Sign and Marking Technician  
Traffic Signal Technician  
Transit Specialist / Mobility Coordinator – CJIS Certified Required  
Treatment Plant Operations Administrator  
Treatment Plant Operator A, B, or C  
Utilities & Solid Waste Director  
Utilities and Solid Waste Maintenance Worker  
Utilities Construction Inspector  
Utilities Instrumentation Technician  
Utilities Maintenance Administrator  
Utilities Mechanic  
Utilities Project Manager – CJIS Certified Required  
Utilities Service Worker  
Vehicle Services Administrator

**Exhibit B**  
**Commercial Driver's License Holder Acknowledgement**

CDL holders are subject different rules and regulations for drug and alcohol testing under federal law. This acknowledgement provides you with some of the differences between Martin County's Drug Free Workplace Policy and the federal requirements. This acknowledgement summarizes main differences but is not a fully exclusive list.

<b>Martin County's Drug Free Workplace Policy</b>	<b>Federal Requirements for CDL Holders</b>
<ul style="list-style-type: none"> <li>• Comprehensive urine drug test</li> </ul>	<ul style="list-style-type: none"> <li>• 5 panel urine drug test</li> </ul>
<ul style="list-style-type: none"> <li>• Breath alcohol test with option to also provide a blood sample</li> </ul>	<ul style="list-style-type: none"> <li>• Breath or saliva alcohol test</li> </ul>
<ul style="list-style-type: none"> <li>• Completion of EAP program to return to work</li> </ul>	<ul style="list-style-type: none"> <li>• Completion of SAP return to work requirements</li> </ul>
<ul style="list-style-type: none"> <li>• Follow-up drug or alcohol testing up to 1 time per quarter for the first 12 months</li> </ul>	<ul style="list-style-type: none"> <li>• Follow up drug or alcohol testing within SAP program consisting of a minimum of 6 observed random drug or alcohol tests</li> </ul>
<ul style="list-style-type: none"> <li>• No random drug and alcohol testing</li> </ul>	<ul style="list-style-type: none"> <li>• Random drug and alcohol testing required based on current federal guidelines</li> </ul>
<ul style="list-style-type: none"> <li>• No federal registration</li> </ul>	<ul style="list-style-type: none"> <li>• Registration in FMCSA Clearinghouse required by employee</li> </ul>
<ul style="list-style-type: none"> <li>• Refusal to test constitutes positive drug test and employee is subject to discipline</li> </ul>	<ul style="list-style-type: none"> <li>• Refusal to test requires immediate removal from safety sensitive position and evaluation by a SAP for return to work</li> </ul>
<ul style="list-style-type: none"> <li>• No federal reporting requirements of positive drug or alcohol tests</li> </ul>	<ul style="list-style-type: none"> <li>• Positive or refused drug and/or alcohol tests must be reported in the FMCSA Clearinghouse and will be accessible to future and/or potential employers</li> </ul>
<ul style="list-style-type: none"> <li>• No federal reporting of EAP participation for employees</li> </ul>	<ul style="list-style-type: none"> <li>• SAP participation will be reported in the FMCSA Clearinghouse and will be accessible to future and/or potential employers</li> </ul>

I, \_\_\_\_\_, have reviewed Martin County's DFWP and understand that having a CDL is a requirement of my job; that I must register with the FMCSA Clearinghouse; and that I am subject to any and all drug and alcohol testing requirements under federal law, some of which may be in addition to and/or different than those in Martin County's Drug Free Workplace Policy.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Date

Witness: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Date