

TO: ALL COUNTY PERSONNEL

**FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR**

PREPARED BY: HUMAN RESOURCES

**SUBJECT: CONTROLLED SUBSTANCES
USE AND TESTING POLICY**

PPM #: CW-P-060

ISSUE DATE
April 29, 2021

EFFECTIVE DATE
April 29, 2021

PURPOSE:

To establish a policy on prohibiting drug and alcohol use in the workplace, and procedures for drug and alcohol testing of employees.

UPDATES:

Future updates to this PPM are the responsibility of the Director of Human Resources.

AUTHORITY:

- Omnibus Transportation Employee Testing Act of 1991, as amended.
- Palm Beach County Merit Rules and Regulations

DEFINITIONS:

Controlled Substances

1. Any illegal drug, including but not limited to marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine; and
2. Beverages containing alcohol or any substances including medication or food that would cause alcohol to be present in the body while performing County business.

On-Duty

Time during which an employee actually works including lunch periods and breaks when an employee is scheduled to return to work, and periods during which the employee is available to work, such as when stand-by. For employees performing safety sensitive functions, alcohol prohibitions also extend to the 4 hours before performing a safety sensitive function, and the 8 hours following an accident that requires testing.

Safety Sensitive Functions

Those duties requiring operation of a revenue service vehicle or operation and maintenance of vehicles or equipment in excess of 26,000 pounds GVWR, designed to carry 16 or more passengers (including the driver), or of any size which is used in the transportation of a placardable amount of hazardous material. A list of safety sensitive positions is updated monthly. A driver is considered to be performing a safety sensitive function during any period in which he/she is actually performing, ready to perform or available to perform safety sensitive functions, and including any other functions as provided by law.

Prohibited Conduct

1. Pursuant to the Merit Rules, the use, possession, solicitation, sale or disbursement of controlled substances and alcohol on County premises, in County vehicles, or while on County business.
2. Reporting for duty or remaining on duty under the influence or impaired by use of drugs or alcohol.
3. Refusing to comply with a request for testing, providing false information related to a test, attempting to falsify test results through tampering, contamination, adulteration or substitution. Refusal includes receiving a verified adulterated or substituted test result, being unable to provide a specimen or breath sample without a valid medical explanation, refusing to take any medical tests ordered by the Medical Review Officer (MRO), refusing to be observed if required, a verbal declaration, obstructive behavior, or physical absence, such as leaving the test site or the scene of an accident, resulting in the inability to conduct the test, not having identification or other means of identifying oneself at site, failing to appear within a reasonable time, refusing to sign testing forms, and other failures to cooperate as provided by law.

4. For Safety Sensitive Positions

Performing safety sensitive functions with an alcohol concentration of 0.04 or greater.

Using alcohol during the four hours before performing a safety sensitive function.

Using alcohol during the eight (8) hours following an accident, or before taking a required post-accident test.

Employees who violate these prohibitions will be subject to disciplinary action up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

POLICY:

This policy applies to all County employees, including volunteers, while on duty. Employees covered by the CWA bargaining unit should refer to their Contract for further information on drug testing. All employees will be subject to urine drug testing and alcohol testing for reasonable suspicion. In addition, certain employees who perform safety sensitive functions are subject to additional requirements to be tested for drugs, before beginning employment and for drugs and

alcohol following an accident and randomly.

It is the policy of Palm Beach County to:

1. Assure that employees are not impaired in their ability to perform assigned duties in a safe and productive manner.
2. Create a workplace environment free from the adverse effects of drug and alcohol use or misuse.
3. Prohibit the use, possession, solicitation, sale or disbursement of controlled substances while on duty.
4. Encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to work.

PROCEDURES:

Testing Requirements

Testing shall be conducted in a way that assures a high degree of confidentiality, accuracy and reliability and using techniques, equipment and laboratory facilities approved by the U.S. Department of Health and Human Services. All testing will be conducted according to the requirements of 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs." The costs of testing will be paid by the County, except as noted.

Drug testing will be for marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial immunoassay screen to eliminate negative urine specimens from further consideration will be conducted on each specimen. The split sample method of collection is used in which the sample is divided into two containers, the primary specimen and the split specimen. If the test result of the primary specimen is positive, a confirmation test will be done. This is a second analytical procedure using a different technique from the first, Gas Chromatography/Mass Spectrometry.

Alcohol testing will be conducted using an evidential breath testing device. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test. If an employee who performs safety sensitive functions has a confirmed alcohol concentration of greater than 0.02 but less than 0.04, they will not be in violation of the prohibitions of the Omnibus Testing Act, but they will not be allowed to perform safety sensitive functions until 24 hours following the test. In such cases, employees will be sent home and required to use sick or vacation leave or be on leave without pay.

Pre-employment Testing

Applicants who are considered final candidates for a safety sensitive position will be tested for the presence of illegal drugs as a part of the application process. Any applicant who refuses to be tested, fails to appear for testing, tampers with the test, fails to cooperate in testing, or fails the test will be ineligible for hire for one year. Before reapplying for a safety sensitive position, the applicant must

show proof of participation with a substance abuse program and a negative drug test.

In the case of promotion to a safety sensitive position, prior to the first time an employee performs a safety-sensitive function they shall undergo urine drug and breath alcohol testing. Receipt of negative test results is required for promotion and failure of a test will result in possible disciplinary action and required participation in a rehabilitation program through EAP.

Reasonable Suspicion Testing

Employees will be subject to testing when there are reasons to believe that the employee is under the influence of drugs or alcohol. A reasonable suspicion referral for testing must be based on a trained supervisor’s specific, contemporaneous, clearly explained observations concerning the appearance, behavior, speech or body odors of the employee. A written record of the observations leading to a test shall be made and signed by the supervisor who made the observations.

When supervisors have reasonable suspicion, based on past training, that an employee is under the influence of drugs or alcohol, they shall immediately stop the employee's performance of the job functions and inform the employee of the suspicion. Supervisors will arrange transportation for the employee to the testing site. The employee will be tested for both drugs and alcohol. After the testing is completed, the employee shall be transported to their place of residence. The employee shall be on administrative leave with pay until the test results are reported pursuant to the Merit Rules. If the results of the testing are positive, the employee may receive disciplinary action and be required to participate in a rehabilitation program through EAP.

Post-Accident Testing

A post-accident drug and alcohol test shall be performed if the accident occurs on a public road in commerce, the employee was performing safety-sensitive functions and the accident meets certain criteria:

Type of Accident Involved	Citation Issued to the Safety Sensitive Driver	Test Must be Performed by Employer
Human Fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene.	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away.	Yes	Yes
	No	No

1. The accident involved a fatality.

2. The employee received a citation under state or local law for a moving traffic violation arising from the accident and the accident results in an injury treated away from the scene, or the accident results in a vehicle being towed from the scene.

If testing is required, it is the responsibility of the supervisor to arrange for testing as soon as possible, i.e., within 2 hours but not to exceed 8 hours for alcohol testing and 32 hours for drug testing. If an alcohol test is not done within 2 hours, the supervisor must document why the test was not done. If the alcohol test is not done within 8 hours, the supervisor shall cease attempts to test and document again why testing was not done. If drug testing is not done within 32 hours, attempts to test must cease and documentation must be prepared as to why drug testing was not done.

A safety-sensitive employee involved in an accident requiring testing must refrain from alcohol use for 8 hours following the accident or until taking the test. Any employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test.

Random Testing for Safety Sensitive Positions

Random alcohol testing shall be conducted at a minimum annual rate of 10% of the average number of safety-sensitive positions.

Random drug testing shall be administered at a minimum annual rate of 50% of the average number of safety-sensitive positions.

Testing will be unannounced and testing dates will be spread reasonably throughout the calendar year. A computer-based random number generator matched to employees' position numbers will be used for selection. This process shall provide that each employee has an equal chance of being tested each time selections are made.

Human Resources will notify departments of selected employees to be tested. Departments are responsible for seeing that employees are immediately relieved of any safety sensitive functions and immediately sent or taken to the test site. If a selected employee is on leave, the testing will be postponed until the employee returns.

Return to Duty Testing/Follow-up Testing

Before an employee can return to duty performing job functions after engaging in any conduct prohibited by this PPM, the employee shall be tested for drugs and alcohol and cannot return to work until testing negative. Employees who have tested positive are subject to additional follow-up testing.

Consequences of a Violation

Reporting Results: A Medical Review Officer (MRO) is a licensed physician who receives the laboratory results and reports them to the Human Resources Department. Before verifying and reporting a positive result, the MRO shall make a reasonable effort to contact the employee.

The employee can confidentially discuss the test results with the MRO and offer any information that

could explain the test result, such as medicines which the employee is taking. Employees will have 72 hours from being contacted to request a test at another certified laboratory of the split sample specimen previously taken. All costs for split sample testing are paid by the employer. However, if the split sample also tests positive, the employee will be required to reimburse the County.

Referral to the Employee Assistance Program: Any employee who tests positive for drugs or alcohol will not be allowed to perform job functions. The employee will be referred to the Employee Assistance Program (EAP), Substance Abuse Professional (SAP) for safety sensitive employees, for evaluation to determine what assistance, the employee needs in resolving problems associated with substance abuse. The employee cannot return to safety sensitive duties until testing negative within 30 days of first positive result.

Employees with a first-time verified positive drug or alcohol test result shall be given a one-time opportunity to participate in, at the employee's own expense or pursuant to coverage under a health insurance plan, an employee assistance program or an alcohol and drug rehabilitation program, which shall be monitored by the Employee Assistance Program. Employees will be allowed to take sick and vacation leave to participate in a prescribed program.

The employee shall be discharged if the employee either refuses to participate in the employee assistance program or the alcohol and drug rehabilitation program, having initiated the participation within 30 calendar days of the positive drug test, or fails to successfully complete such program as evidenced by withdrawal from the program before its completion, or a report from the program indicates unsatisfactory compliance, or tests positive on a verified test or random test at a later date; or is under the influence of drugs or alcohol at a later date.

Evaluation by EAP does not shield an employee from disciplinary action under the Merit Rules or guarantee employment or reinstatement. Employees will be subject to appropriate disciplinary action excluding termination provided there have been no additional violations of the merit rules. If an employee is allowed to return to duty, they must agree to a contract that includes a release to work statement from EAP, a negative test for drugs and/or alcohol, an agreement to unannounced frequent follow-up testing, a statement of expected work-related behaviors, and an agreement to follow specified after-care requirements. Any violation of the contract will be grounds for termination.

Records Retention

All records of alcohol and drug testing results, documentation of refusals to submit to testing, reasonable suspicion and post-accident testing shall be maintained by the Human Resources Department. Records relating to treatment plans and training shall be maintained by the Risk Management Department. Records relating to agreements with collection site facilities, policy and procedures, and reports of statistical summaries of test results will be maintained by the Human Resources Department.



VERDENIA C. BAKER
COUNTY ADMINISTRATOR

Supersession History

1. PPM#CW-P-060, effective 4/1/95
2. PPM#CW-P-060, effective 3/1/98
3. PPM#CW-P-060, effective 12/18/02
4. PPM#CW-P-060, effective 11/10/03
5. PPM#CW-P-060, effective 12/17/12