

Brevard County Office of the Tax Collector



Policy and Procedure

Drug and Alcohol Testing of Applicants and Employees

Effective Date: *October 1, 2019*

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- I. The Tax Collector promotes a drug-free workplace. The Tax Collector recognizes that alcohol and drug abuse affect employment relationships and are major concerns in the workplace. The objective of the Tax Collector's drug and alcohol policy is to provide a safe and healthy workplace for all employees, to comply with federal and state health safety regulations and to reduce the potential for accidents.

The use, possession, sale, transfer, purchase, or condition of being under the influence of intoxicating liquor, illegal drugs, or other intoxicants by employees at any time on the Tax Collector's premises or while conducting Tax Collector business is strictly prohibited. Employees must not report for duty or be on the Tax Collector's property while under the influence of any intoxicating liquor, marijuana, illegally obtained drug, and/or prescription drugs that impair normal human motor functions. Employees are not to use or possess illegal drugs or illegally possessed prescription drugs, while on or off duty. Employees determined to be in violation of this policy are subject to disciplinary action up to, and including, termination of employment.

This Policy is intended to comply with all applicable Federal regulations governing workplace and anti-drug programs in the transit industry including *Rule 49 CFR and 382, Procedures for Transportation Workplace Drug and Alcohol Testing Programs*, enacted by the U.S. Department of Transportation, which requires the establishment. This rule mandates drug and alcohol testing for sensitive safety positions and prevents performance of safety sensitive functions when there is a positive test results. This section also sets standards for the collection and testing of urine specimens. *Rule 49 CFR, Part 29, The Drug-Free Workplace Act of 1988*, enacted by the U.S. Department of Transportation, which requires the establishment of drug-free work place policies and *Rule 49 CFR, Part 653 and 654, Prevention of Alcohol and Prohibited Drug Misuse in Transit Operations*. This policy is authorized by, and conforms to, Florida Statute Sections 440.102 *Drug Free Workplace Requirements* and 112.0455 *Drug Free Workplace Act*.

The Tax Collector, or designee, Chief Deputy and the Human Resources Personnel Administrator are the persons designated by the Tax Collector to answer questions pertaining to this material. These representatives are authorized to receive drug and alcohol test results and to deal with drug and alcohol related issues for the Tax Collector's Office.

II. References

- A. 49 CFR, Part 29: The Drug-Free Workplace Act of 1988
- B. 49 CFR, Part 40 and 382: Procedures for Transportation Workplace Drug & Alcohol Testing Programs
- C. 49 CFR, Part 653 and 654: Prevention of Alcohol and Prohibited Drug Misuse in Transit Operations
- D. 59 Federal Register (FR) 29908: Mandatory Guidelines for Federal Workplace Drug Testing Programs
- E. Department of Transportation (DOT) Guidelines for Implementation, Chapter 9, Section 2
- F. Department of Health and Human Services (DHHS) and Substance Abuse Mental Health Services Administration (SAMHSA) NLCP Program Document (PD) #035
- G. DOT Medical Review Officer (MRO) Guidelines for Interpreting Specimen Validity Test Results
- H. Florida Statutes Section *112.0455 Drug Free Workplace Act*
- I. Florida Statutes Section *110.1127 Employee background and screening*
- J. Florida Statutes Section *440.102 Drug-free workplace program requirements*

III. Definitions

- A. Illegally Used Controlled Substances of Drugs - Any illegal drug or any substance identified in Schedules I and II of 21 U.S.C. 812 and Sections 202 of the Controlled Substances Act, and as further defined by 21 CFR 1308.01. This includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.
- B. Legal Drugs - The appropriate use of FDA approved legally prescribed drugs and non-prescription medication is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgement may be adversely affected should be reported to supervisory personnel and medical advice should be sought, as appropriate, before performing work-related duties.
- C. Alcohol - means ethanol alcohol or any beverage containing more than ½ of 1% of alcohol by volume which is capable of use for beverage purposes either when alone or when diluted or medicines containing alcohol are classified as “alcohol” for the purposes of this Policy.

IV. Directives

A. Applicability

Safety sensitive employees under this Policy shall be defined as all applicants, and all full-time and part-time employees, who are applying for or employed in Mandatory Testing Position positions required to operate, dispatch, control, or maintain revenue service vehicles; provide security and carry a firearm; work closely with an employee who must carry a firearm; work as a safety inspector; work with children; work with confidential information, or documents

pertaining to criminal investigations; a job assignment that requires an employee security check pursuant to Florida Statutes Section 110.1127; hold a Commercial Driver's License (CDL) and operate a motor vehicle in excess of 26,000 pounds GVWR or designed to carry 16 or more passengers or any size used to transport a placardable amount of hazardous material; and safety sensitive positions in which drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee perform life-threatening procedures, or work with controlled substances, hazardous materials or substances or positions in which a momentary lapse in attention could result in injury or death to the employee or another person.

All Tax Collector employees shall be subject to post-accident, reasonable suspicion, return-to-duty, and follow-up testing under this Policy.

This Policy also applies to off-site lunch periods or breaks when an employee is scheduled to return to work.

All employees directed to report to a drug testing facility must report to the testing facility within 2 (two) hours of receipt of the drug test notice. Failure to report to the facility within 2 (two) hours will be considered a refusal to test and subject the employee to disciplinary action. Employees who have extraordinary circumstances that do not allow a two hour response time must receive written authorization from the Personnel Services Administrator or Chief Deputy to postpone the test.

Any applicant or employee who wishes to bring administrative action or civil suit against the testing laboratory has the responsibility of providing notification to the laboratory.

B. Confidentiality

All information from an employee or applicant's alcohol or other drug test is confidential and only the Personnel Services Administrator or his/her designee is to be informed of test results. In the case of an employee, when test results warrant pre-disciplinary and/or termination proceedings, the test results will be provided to the employee's supervisor or designee, as determined by the appointing authority.

All records relating to the taking of, or the order to take, an alcohol or other drug test shall be deemed confidential unless written authorization has been obtained from the employee or the records become the subject of an administrative or judicial proceeding.

All records relating to the taking or ordering of an alcohol or other drug test and the final test results shall be kept by the Tax Collector's Personnel Services Department in a separate secured medical file. Negative test results are to be kept for one (1) year and positive test

results are to be kept for five (5) years, or in accordance with the most current federal rules, regulations, and guidelines.

The Tax Collector shall make available copies of all results of drug and/or alcohol testing and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the Tax Collector or its employees pursuant to Department of Transportation Guidelines for Implementation, Chapter 9, Section 2.

C. Prohibited Conduct

1. All employees are encouraged to make use of the available resources for treatment for substance abuse problems. Under certain circumstances an employee may be required to undergo treatment for substance abuse. Any employee who refuses or fails to comply with Brevard Tax Collector requirements for treatment, after care, or return-to-duty, or follow-up testing shall be subject to disciplinary action, up to and including termination.
2. All employees must, as a condition of employment, abide by the terms of this Policy and, in addition, must report any arrest made under a criminal drug and /or DUI statute to his/her supervisor within twenty-four (24) hours of the arrest, or as soon as practical. A report of a conviction must be made to the Office of Human Resources within five (5) days of the conviction. Failure to comply with this Policy will result in appropriate disciplinary action up to, and including, termination.
3. Brevard Tax Collector is dedicated to assuring fair and equitable application of this substance abuse Policy. Therefore, supervisors and managers are expected to use and apply all aspects of this Policy in an unbiased and impartial manner. Any supervisor or manager who knowingly disregards the requirements of this Policy, or who is found to deliberately misuse the Policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

D. Drug Testing Procedures

1. All drug testing of employees and applicants shall be conducted at laboratories certified by the Department of Health and Human Services (DHHS) and the Substance Abuse Mental Services Administration (SAMHSA) and approved by the Agency for Health Care Administration. Only collection sites approved by Brevard Tax Collector will be used for obtaining specimens for drug testing. The certified lab used by the BCTC is Quest Diagnostics at 1777 Montreal Circle, Tucker, GA, 30084. The Certified Medical Review Officer (MRO) is D.R.S. DR. Neil Dash, 546 Massapaqua, NY, 11758, 800-526-9341. The Third Party Administrator (TPA) is Health First Medical Group at 1223 Gateway Dr. Suite 2H, Melbourne, FL. 32901.

2. Upon random selection of a safety sensitive employee's identification number, either the Personnel Services Administrator or his/her designee, will call the employee's department contact person (designated by the appointed authority) to notify him/her that the employee was selected for a random drug and /or alcohol test. The contact person will be told at the time whether the employee is to go for a urine drug test and breath alcohol test or just a urine drug test.
3. Upon notification to the department contact person the safety sensitive employee is to be notified immediately of his/her random selection for drug and /or alcohol testing. This notification must be done confidentially and in person. Once the safety sensitive employee has been notified of the required testing, the contact person must fill out the appropriate authorization forms. A master copy of the forms to be used will be provided to each department/office. It is important that the contact person inform the safety sensitive employee at this time that refusal to take the test constitutes insubordination and may result in disciplinary action, up to and including termination. If the safety sensitive employee refuses to take the test, it is treated as a positive result and handled accordingly.
4. Chain of Custody- Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an approved chain of custody form be used from time of collection, to receipt by the laboratory. Upon receipt by the laboratory, an appropriate laboratory chain of custody form(s) account for the sample or sample aliquots within the laboratory. Chain of custody forms shall, at a minimum, include and entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody.
5. Positive test results showing prohibited drug or drug metabolite shall be reported as negative where the MRO determines there is a legitimate medical explanation for the result.

When a confirmed positive test is reported from the laboratory, it is the responsibility of the MRO to:

- a. Review the individual's medical history, including any medical records and biomedical information provided;
- b. Afford the individual an opportunity to discuss the test results with the MRO;
- c. Determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. The employee must furnish a medical statement from a physician specifying the drug being taken or physical proof of the prescription.

An MRO may request the laboratory to analyze the original specimen again in order to verify the accuracy of the test result reported.

In any case, the MRO shall not convey test results to the employee's designated representative until the MRO has made a definite decision that the test result was positive or negative.

6. One (1) split specimen shall be collected sufficient for two (2) drug test as determined by the Agency for Health Care Administration and Substance Abuse Mental Health Services Administration.

Procedure:

Initial Drug Test: If negative, reported negative. If positive, a confirmation test shall be conducted.

Confirmation Test: If negative, report negative. If positive, report positive.

Standard for Drug Testing- When drug screening is required under the provisions of this Policy, the following standards, of the most current established SAMHSA standard, shall be used to determine what levels of detected substances shall be considered positive:

An 8 (eight) Panel test will be the test used and the following standards, or the most current SAMHSA standards, shall be used to determine what levels of detected substances shall be considered positive.

Drug Group	Screening Test	Confirmatory Test
Amphetamines	1000 ng/ml	500 ng/ml
Barbiturates	300 ng/ml	200 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Cocaine Metabolites	300 ng/ml	150 ng/ml
Marijuana Metabolites	50 ng/ml	15 ng/ml
Methaqualone	300 ng/ml	300 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Opiate Metabolites	2000 ng/ml	2000 ng/ml

7. An MRO must be provided by the drug and Alcohol testing services contractor, or the Tax Collector must contract with an MRO for the purpose of interpreting lab results.

The MRO must be a qualified and licensed physician with knowledge of substance abuse issues. The role of the MRO is to review and interpret confirmed positive test results and rule out other medical explanations for positive results. Positive test results showing

prohibited drug or drug metabolite shall be reported as negative where the MRO determines there is a legitimate medical explanation for the results.

Results must be interpreted and signed by the MRO before notification to the Personnel Services Administrator or his/her designee.

8. Results of a urine drug test will be interpreted by the MRO and reported as follows:
 - a. Negative results: If the results of the drug test administered by the Tax Collector are reported as negative by the MRO, no further action is required.
 - b. Positive results: If the results of the test administered by the Tax Collector are positive, appropriate disciplinary action shall be imposed after the following procedure has been followed:
 1. Within 72 hours of notification of the positive result, if the employee disputes the test results he/she may request that the second urine sample from the original split sample be sent to another certified lab by the MRO for testing at the employee's expense. If the results of the test are negative, the employee will be returned to his/her regular duty assignment.
 2. Upon notification of a positive result, the Personnel Services Administrator or his/her designee will, within 5 days of receipt of the positive result contact the employee in writing and notify him/her of the positive test result and provide a copy of the test results.
 3. The employee will be relieved from duty immediately and notice of pre-disciplinary action will be given. The employee has 5 working days from the receipt of the positive result to contest the findings with the MRO.
 - c. Abnormal Results:
 1. Adulterated specimens: A specimen is considered to be adulterated if:
 - a. The nitrite concentration is equal to or greater than 500 mcg/mL; OR
 - b. If the PH is less than or equal to 3 or greater than or equal to 11: OR
 - c. If a foreign substance is present; OR
 - d. A substance normally found in urine is present in a concentration greater than normal physiological concentration.

If a test result is reported as adulterated, this constitutes a refusal to submit and the employee will be subject to disciplinary action, up to and including termination. When evidence of adulteration is reported and the presence of a drug or drug metabolite is confirmed, the MRO is not to report the presence of the drug, only that the specimen is adulterated. Under these circumstances, the employee is NOT PERMITTED to have a second urine sample from the original split specimen retested.

2. Substituted Specimens: A specimen is considered to be substituted if the creatinine level is less than or equal to 5 mg/dL and has a specific gravity less than or equal to 1.001 or greater than or equal to 1.020 (such specimens do not exhibit clinical signs of characteristics associated with normal human urine). If a test result is reported as substituted, this constitutes a refusal to submit and the employee will be subject to disciplinary action, up to and including termination. Under these circumstances, the employee is NOT PERMITTED to have the second urine sample from the original split specimen retested.
 3. Diluted specimens: A specimen is considered to be diluted if it has a creatinine level less than 20mg/dL but greater than 5mg/dL and a specific gravity less than 1.003 but greater than 1.001. If this result is reported by the MRO, the Tax Collector may require that another specimen be collected either first thing the following morning or under direct observation by the same gender collector.
- d. Failure to provide an adequate sample: Under a split specimen collection process, a specific volume of urine is required to complete the testing process. If an employee fails to provide an adequate volume of sample, the following needs to occur at the collection site:
1. The collector will instruct the employee to drink fluids up to, but no more than 40 fluid ounces within three (3) hours. The employee is required to remain at the collection site and must be under direct observation of a collection site representative at all times.
 2. After the three (3) hour period, or any time during that period, the employee may again attempt to provide a sufficient quantity of urine. If the employee is still unable to provide the required volume, the collection site will contact the Personnel Services Administrator or his/her designee and notify him/her of the employee's inability to produce an adequate amount of urine.
 3. If the employee claims that his/her inability to produce an adequate sample is due to a medical condition, he/she must produce medical evidence to support this or submit to a medical examination by a Tax Collector approved physician.
 4. If there is no medical evidence to support the employee's failure to produce an adequate sample, the result is treated as a refusal to submit

and the employee will be subject to disciplinary action, up to and including termination.

5. If the employee leaves the collection site prior to producing an adequate sample AND without permission from the Personnel Services Administrator or his/her designee, it is treated as a refusal to submit and the employee will be subject to disciplinary action, up to and including termination.

Depending on eligibility, employees subject to disciplinary action under this policy can use the grievance procedures found in Article 13 of the employee collective bargaining agreement, or if not applicable, through other administrative or civil court action.

E. Alcohol Testing Procedures:

1. Only collection sites approved by Brevard Tax Collector will be used for obtaining specimens for alcohol testing.
2. The breath specimen must be collected through the use of an Evidential Breath Testing Device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA). The test must be performed by a Breath Alcohol Technician (BAT) who is trained and proficient in the operation of the EBT. The BAT must successfully complete an NHTSA course of instruction that provides training in the principles of EBT methodology, operation and calibration.
3. Tests are to be conducted at a site that provides privacy to the individual being tested.
4. If the result of a screening test is in the alcohol concentration of less than 0.02, no further testing is required and the test results will be reported as negative.

If the result of a screening test is in the alcohol concentration of 0.02 or greater for safety sensitive employees, a confirmation test must be performed. The confirmation test must be conducted at least 15 minutes, but no more than 20 minutes, after completion of the initial test.

If the result of the confirmation test is in the alcohol concentration of 0.02 or greater for safety sensitive employees, the BAT will notify the Personnel Services Administrator or his/her designee immediately in a confidential manner. An employee whose test result is in the range of 0.02 to 0.04 must be relieved from his/her duties in a safety sensitive position for at least eight (8) hours and may be subject to disciplinary action. Safety sensitive employees show test results are 0.04 or greater will NOT be permitted to return to duty and shall have given the Tax Collector grounds to begin pre-termination proceedings for a positive test result.

For any other employee who may be subject to alcohol testing in accordance with this Policy, if the result of the screening test is in the alcohol concentration of 0.04 or greater, the BAT will notify the Personnel Services Administrator or his/her designee immediately in a confidential manner. The employee's supervisor will then be notified and the employee will NOT be permitted to return to duty and shall have given the Tax Collector grounds to begin pre-termination proceedings for a positive test result.

F. Types of Testing

1. **Pre-Employment Testing:** Applicants under final consideration for safety sensitive positions shall undergo drug testing and receive a negative test result prior to employment.

Any applicant who has a confirmed positive test result will receive written notification of such positive test results and the consequences of such results from the Personnel Services Administrator. If the applicant disputes these results, he/she must submit, within 5 working days, information to the MRO as to why the results may not be valid. Failure to a drug test or refusal to submit to a drug test (either by falsification, adulteration, substitution, or failure to provide an adequate sample without a valid medical explanation) will disqualify an applicant for employment.

Any applicant who leaves the collection site at any point during the collection process without providing an adequate sample and without permission from the Drug & Alcohol Program Specialist or his/her designee, will be considered to have refused to submit to a drug test and will be disqualified from employment with Brevard Tax Collector for a period of at least 365 days.

2. **Reasonable Suspicion Testing:** This type of testing means belief that ANY employee is using or has used drugs or alcohol in violation of this policy based upon 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 inference may be based upon:
 - a. 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 drugs or alcohol.
 - b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
 - c. A report of drug or alcohol use, provided by a reliable and credible source, which has been independently corroborated.

- d. Evidence that an individual has tampered with a drug or alcohol test during his employment with Brevard Tax Collector.
- e. Information that an employee has caused, or contributed to, an accident while at work.
- f. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on the Tax Collector's premises or while operating the Tax Collector's vehicles, machinery, or equipment.
- g. Additional signs and symptoms of alcohol misuse include:
 - 1. Dulled mental processes
 - 2. Lack of coordination
 - 3. Odor of alcohol on breath
 - 4. Possible constricted pupils
 - 5. Sleepy or lethargic condition
 - 6. Slowed reaction rate
 - 7. Slurred speech

Supervisors who suspect an employee of drug and/or alcohol use at work are to complete a memorandum providing supporting documentation and submit it to the Personnel Services Administrator. If an employee is exhibiting signs of impairment the supervisor shall take action to safeguard the involved employee and others in the workplace from the associated dangers.

3. **Post-Accident Testing:** All employees will be subject to urine drug and/ or breath alcohol testing if they are involved in an accident that results in a fatality, OR injuries requiring medical attention away from the accident scene, OR in which one (1) or more vehicles incurs a disabling damage AND is transported away, OR the employee receives a citation for a moving violation as a result of the accident.

Post-accident drug and alcohol test must be performed as soon as possible. Drug tests must be performed within thirty-two (32) hours following an accident. Alcohol tests must be performed within eight (8) hours. If an alcohol test is not administered within two (2) hours following the accident, the Tax Collector must still attempt to administer the test, and must also prepare and maintain on file a record stating the reason (s) the test was not properly administered. The requirement to do post-accident testing should in no way interfere with necessary medical attention.

4. **Random Testing:** Safety sensitive employees will be subjected to random, unannounced urine drug and breath alcohol testing.

All safety sensitive employees will have the opportunity to review a copy of this Policy and be required to sign a Brevard Tax Collector Acknowledgment Form verifying knowledge of the Policy prior to being placed in the random pool.

A computer-based scientifically valid random-number selection method will be utilized for implementation of the random testing process. Information Systems will be responsible for maintaining the program and it will be the responsibility of each department/office to provide MIS with an updated list of safety sensitive employees and designated contacts quarterly.

At least 50% of the total number of safety sensitive employees shall be subject to random drug testing and at least 25% of those employees will be subject to random alcohol testing per calendar year.

Once the employee has been notified that he/she has been selected for random drug and/or alcohol testing, he/she should report to testing site immediately. If a valid reason exists why the employee cannot report immediately (i.e. annual leave, sick leave, training, etc.) the Personnel Services Administrator or his/her designee is to be notified and the reason documented.

Employees will be permitted to use their personal vehicle and receive the current allowable mileage reimbursement, or given a Tax Collector vehicle, or have a supervisor transport them to the test site. The mode of transportation will be at the discretion of each department.

5. **Return-to-Duty Testing:** Any employee who is permitted to enter into a treatment plan/rehabilitation agreement with the Tax Collector must test negative on a return-to-duty test, be evaluated and released to duty by an approved Substance Abuse Professional (SAP), and sign a written Brevard Tax Collector Rehabilitation and Follow-Up Testing Program Agreement before returning to work. Employees will be subject to monitored random urine/breath testing during the period of their re-entry contract.
6. **Follow-Up Testing:** Once returned to duty on the basis of a treatment/rehabilitation plan, an employee shall be subject to unannounced follow-up testing for at least twelve (12) months and not more than sixty (60) months. A minimum of six (6) tests must be performed during the first twelve (12) months after return to duty. Follow-up testing will be at the discretion of the Personnel Services Administrator or SAP.

G. Rehabilitation

Any employee who voluntarily comes forth and requests assistance with a substance abuse problem will be encouraged to obtain assistance through the Tax Collector's Employee Assistance Program (EAP). The phone number for EAP is 877-240-6863. The Tax Collector will make reasonable efforts to assist and encourage an employee to complete any necessary rehabilitation program. Additional EAP contact information is available through the Personnel Services Division.

The Tax Collector may provide the opportunity for employees to enter a Tax Collector approved/sponsored rehabilitation program. The Tax Collector has the sole authority to determine whether to maintain and/or continue any Tax Collector approved/sponsored rehabilitation program and that any approval for an employee to enter any rehabilitation program may be limited by the Tax Collector to one (1) opportunity during an employee's employment. Every employee shall be allowed a one-time opportunity to voluntarily enter a Tax Collector approved/sponsored rehabilitation program during the course of his/her employment, assuming that no disciplinary action is pending (and further that the employee has done nothing for which he/she could be subject to disciplinary action), and that no accident, injury, reasonable suspicion testing, or random drug testing has occurred prior to the time of such request. The Tax Collector encourages employees to volunteer in seeking assistance by way of professional counseling.

If an employee enters a Tax Collector approved/sponsored rehabilitation program, then, upon successful completion of rehabilitation (as determined by the Tax Collector designated physician), the employee shall be returned to his/her regular duty assignment or the equivalent thereof. If follow-up care is prescribed after treatment, such may be imposed by the Tax Collector as a condition of continued employment.

Immediately upon an employee's discharge from a rehabilitation program, the employee will provide the Tax Collector with documentation of the follow-up care requirements, as well as permission for the Tax Collector to ascertain whether the employee has been and/or is abiding by the program requirements. Moreover, the entry into such a rehabilitation program shall be deemed to constitute reasonable suspicion that the employee has in his/her system or is using controlled substances, narcotics, drugs or alcohol, and that, accordingly, the employee may be subject to testing procedures in accordance with the return-to-duty and follow-up testing paragraphs of this Policy, for a period not to exceed sixty-(60) months for the date that the employee is released from treatment.

Any employee who refuses or fails to comply with the requirements for treatment, after care, return-to-duty, or follow-up testing shall be subject to disciplinary action, up to and including termination.