

RESOLUTION R - 04-164

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING SECTIONS I-F AND XX-C OF THE MANATEE COUNTY PERSONNEL POLICY PERTAINING TO THE DRUG FREE WORKPLACE PROGRAM AND RE-EMPLOYMENT ELIGIBILITY RELATED TO DRUG VIOLATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR EFFECTIVE DATE.**

**WHEREAS**, Manatee County is a "drug-free workplace" under state and federal law and desires to continue to ensure that the use of illegal drugs by its employees is strictly prohibited and that disciplinary measures are consistent and commensurate with the offense; and

**WHEREAS**, certain changes in federal regulations make it advantageous to amend the operation of the County's Drug Free Workplace Program and related personnel rules.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Manatee County, Florida, that the Manatee County Personnel Policy Manual shall be amended to reflect the language attached to this Resolution.

**BE IT FURTHER RESOLVED** that the County Administration is authorized to make such layout or page designation edits as may be required to facilitate the changes made herein, and to distribute these policy changes to all County employees in accord with established Human Resources procedures.

**BE IT FURTHER RESOLVED** that this Resolution shall take effect at 12:01 a.m., August 1, 2004 and that any existing Resolution or portion thereof of the Board of County Commissioners which contains terms or provisions which are in direct conflict with and cannot be harmonized with the provisions of this Resolution shall, as to such terms or provisions, be deemed as superseded by this Resolution.

**BE IT FURTHER RESOLVED** that the provisions of this Resolution are severable such that the invalidity of any one provision shall not operate to invalidate any other provision.

**PASSED AND DULY ADOPTED** by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, this 15<sup>th</sup> day of June, 2004.

BOARD OF COUNTY COMMISSIONERS  
MANATEE COUNTY, FLORIDA

ATTEST:  
R.B. SHORE  
CLERK OF THE CIRCUIT COURT

By: Susan Shore  
Jane vonHahmann  
Jane vonHahmann, Chairman



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**I. EMPLOYMENT**

**Section: I-F**

**F. Re-Employment and Disqualification**

**Revision Date: August 1, 2004**

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1. An employee who has been terminated from County employment for disciplinary reasons, or who resigns after being notified of the County's intent to conduct a pre-termination meeting but prior to a final disciplinary decision, is ineligible for re-employment for three years from the date of such resignation or termination.
2. An employee terminated due to a positive drug/alcohol test, a refusal to test, or other violations of the drug-free workplace policy; or who voluntarily resigns within two weeks of a positive result in a test for drug use; or when an employee serves notice of resignation immediately upon notification of being selected for such test, is ineligible for re-employment for a period of three years after such resignation.
3. An employee who voluntarily resigns without giving the required two weeks notice (see Section IX.A.4) is ineligible for re-employment for a period of one year. In circumstances where the Human Resources Director certifies that a non-eligible former employee will meet a critical need of the County, the Human Resources Director has the authority to waive this waiting period.
4. Employees who separate from County service due to layoff, end of a temporary position, or whose employment is terminated because work is no longer available, are eligible for re-employment with no waiting period.
5. Notwithstanding the foregoing provisions, an employee may become ineligible for a longer period, or permanently ineligible for re-employment, as the result of independent action such as the settlement of a legal claim or an arbitration decision. Additionally, the County Administrator shall have the authority, in exceptional circumstances and where the best interests of the County will be served, to waive or reduce the periods of ineligibility stated in paragraphs 1 and 2 above.
6. NOTE: The disqualification periods contained herein are distinct from the ability of a department to recommend or not recommend an employee for re-hire. Such recommendations are simply the opinion of the former employee's management. Though such recommendations may be taken into account should a former employee apply for re-employment, they do not create a bar against such applicant from being considered for re-hire so long as the applicant is not under a disqualification period, and is otherwise qualified to perform the job duties.

**C. Consequences of Positive Test Results****Revision Date: August 1, 2004**

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## 1. Non-Employee Applicants

- a. If the results of a pre-employment drug test are confirmed positive, or deemed as a refusal to submit to testing as defined in Section XX.B.2.c.1 (hereinafter defined as "refusals"), a general public applicant will be disqualified from further employment consideration.
- b. Disqualified general public applicants are eligible to reapply for employment consideration after a thirty-six (36) month waiting period.
- c. Once the applicant has taken the pre-employment drug test, he/she must begin work within thirty (30) calendar days from the test date. If thirty (30) calendar days pass prior to the applicant beginning work, the hiring department must send the applicant for a re-test.
- d. **Safety-sensitive applicants who have violated DOT drug and alcohol regulations cannot perform any DOT safety-sensitive duties for any employer until and unless they complete the certified Substance Abuse Professional's evaluation, referral and education/treatment process set forth by the CFR.** Additionally, any DOT employee returning to County employment at the end of his/her restriction period will be required to show proof of completing the Substance Abuse Professional's (SAP) evaluation and recommendations and stating his/her ability to return to safety-sensitive duties. This must be done by a written report on letterhead from the SAP.

## 2. Employees

- a. An employee whose results are confirmed positive when tested for any reason, including random selection, reasonable suspicion, post-accident, reclassification based upon established career ladder advancements, internal promotion or joint employment applications, voluntary demotion or lateral transfer into a safety sensitive position, *or* who refuses to submit to testing as defined in Section XX.B.2.c.1, will be discharged.
- b. Notwithstanding the foregoing, non-safety-sensitive employees with a confirmed alcohol concentration of .02 or greater but less than .08, or safety-sensitive employees with confirmed alcohol concentration of .02 but less than .04, will not constitute a "positive." However, such employee will be immediately removed from duties and suspended for a minimum period of three (3) days without pay for having alcohol in the system during working hours.
- c. Employees terminated from employment due to a positive drug/alcohol test, refusal to test, or violation of the Drug-Free Policy shall be disqualified from re-employment for a period of thirty-six (36) months, as required by Section I.F.2.
- d. The County reserves the right to place an employee on administrative leave without pay pending receipt of the results of a drug test or the outcome of an investigation or appeal related to a violation of the County's Drug-Free Workplace Policy.