

***EXECUTIVE OFFICE OF THE GOVERNOR  
CODE OF PERSONAL RESPONSIBILITY***

**EFFECTIVE AS OF JANUARY 2, 2007**

**Policy Statement**

Governor Charlie Crist is committed to a government that serves the people of Florida, regardless of their individual race, sex, national origin or other legally proscribed characteristics. That commitment also translates into the respect afforded to those who choose to dedicate their lives to public service. Workplace discrimination based on race, sex, age, or any other characteristic encompassed by relevant federal and State law will not be tolerated.

To that end, Governor Crist on January 3, 2007 issued Executive Order 07-01 directing the immediate adoption and implementation of a Code of Personal Responsibility. This Code of Personal Responsibility sets forth clear standards of conduct and personnel procedures for the workplace. Governor Crist has also directed that each agency secretary review the personnel policies and procedures at his or her agency at his or her agency and evaluate them in light of this Code of Personal Responsibility as the basic standard for the personnel policies at his or her agencies.

### **Pledge on Behalf of the People of Florida**

1. I have been provided with a copy of Governor Crist's Code of Personal Responsibility.
2. I am committed to maintaining a workplace free from discrimination.
3. I therefore pledge to honestly and faithfully comply with both the letter and spirit of this Code of Code of Personal Responsibility, as well as the requirements set forth in federal and state law, in the discharge of my duties and responsibilities as a public servant.
4. I further pledge that, should questions regarding appropriate behavior arise, I will seek guidance from the appropriate person within the Office of the Governor or my agency on how to resolve the matter in question.

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Name:

Date:

## **I. General Provisions**

The term “employees” as used herein refers only to: employees in the Office of the Governor (all of whom are either senior management or selected exempt employees); and to all secretaries, deputy secretaries, and chiefs of staff of the executive agencies under the purview of the Governor.

All employees will comply with the requirements of this Code of Personal Responsibility, as well as relevant state and federal laws governing workplace behavior.

Each secretary of an executive agency under the purview of the Governor will review this Code of Personal Responsibility and evaluate his/her agency’s existing personnel policies, with a view towards using this Code of Personal Responsibility as the base standard for his/her agency to the extent practicable, adjusted for those unique program requirements and variables of his/her agency.

For employees who are agency secretaries, deputy secretaries, and chiefs of staff, unless expressly directed to refer to the Governor’s chief ethics officer, a general direction in this Code to refer to the chief ethics officer or chief of staff will mean his or her agency’s chief ethics officer or chief of staff. The Governor has also directed that each agency secretary attend training on the subjects of proper personnel procedures, and that thereafter each agency secretary arrange for similar training of his/her employees on an annual basis.

Governor Crist has directed that this Code of Personal Responsibility be periodically reviewed and evaluated, and that further recommendations be developed as necessary or appropriate to assure that we maintain and promote consistency of State agency workplace and personnel policies.

## **II. Equal Employment Opportunity/ Affirmative Action Policy**

### **A. General Statement**

The Office of the Governor does not discriminate on the basis of race, sex, age, or any other characteristic encompassed by relevant federal and State law. Any employee who believes that he or she has been discriminated against may file a complaint with the Florida Commission on Human Relations, the Chief of Staff, or the Personnel Officer-EEO/AA Officer within 365 days of the action causing the complaint. Complaints will be handled in accordance with procedures set forth in Chapter 60Y, F.A.C. Employees may also file a complaint with the Equal Employment Opportunity Commission within 300 days of any alleged employment discrimination. No employee shall in any way retaliate against a person filing a complaint of discrimination. A copy of the complaint will be provided to the Personnel Office and Legal Office who will work with the appropriate unit director and designated staff to resolve the case.

## **B. Internal Complaint Procedure**

Employees are encouraged to bring any prohibited conduct such as race, sex, age, and handicap discrimination under Title VII of the Civil Rights Act of 1964; the Florida Civil Rights Act of 1992, as amended (Chapter 760, Florida Statutes); Section 504 of the Rehabilitation Act of 1973; Equal Pay Act; or Age Discrimination Employment Act to the attention of the EEO/AA Officer (Personnel Officer).

An employee may file a complaint concerning prohibited conduct under Title VII or the Florida Civil Rights Act of 1992, as amended (Chapter 760, Florida Statutes), the Affirmative Action Plan, or the above cited Acts within ten workdays of the conduct. The complaint shall be filed with the EEO/AA Officer. The EEO/AA Officer shall reduce oral complaints to writing. The complaint shall state the date, time, and facts constituting the conduct or action complained of.

The EEO/AA Officer shall confer with the complainant and the respondent within five workdays from the complaint being filed to ascertain whether the matter can be resolved. The EEO/AA Officer will report the findings of the conference to the Director of Administration. The EEO/AA Officer shall investigate the complaint before the conference.

If no resolution can be reached at the conference, the EEO/AA Officer shall report the matter to the Chief of Staff within five workdays for a final decision. The report shall be in writing and contain recommendations. The Chief of Staff may ask questions of either party, direct further investigation (including investigation by the Inspector General), or appoint a committee of three people to hear the complaint before reaching a decision.

If appointed, the committee shall hear the matter within ten workdays of being appointed. Each committee member shall make a written recommendation and submit it in a sealed envelope to the Chief of Staff within ten workdays after the hearing.

If the Chief of Staff's decision is not acceptable to the complainant, he or she may seek recourse with the Florida Human Relations Commission, Equal Employment Opportunity Commission, or any other appropriate body.

The EEO/AA Officer shall notify the Director of Administration within 24 hours of the resolution of the complaint.

## **III. Policy of Non-Discrimination on The Basis Of Disability**

### **A. General Statement**

The Office of the Governor does not discriminate on the basis of disability in the admission or access to, or employment in, its programs or activities.

The Americans with Disabilities Act (ADA) Coordinator for the Office of the Governor/Lieutenant Governor is located in the Legal Affairs Office. The ADA Coordinator has responsibilities to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA Coordinator and/or the Personnel Office.

## **B. Internal Complaint Procedure**

The Office of the Governor has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U. S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination" in programs or activities sponsored by a public entity.

Complaints should be addressed to the ADA Coordinator, Legal Affairs Office, Suite 209, The Capitol, Tallahassee, FL 32399-0001.

A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.

A complaint should be filed within 15 days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination that occurred before this grievance procedure was in place will be considered on a case-by case basis.)

An investigation, as may be appropriate, shall follow a filing of complaint. The ADA Coordinator or his/her designee shall conduct the investigation. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than 30 days after its filing.

The ADA Coordinator shall maintain the files and records of the Office relating to the complaints filed.

The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 15 days to the Chief of Staff.

The right of a person to prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an

ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

This procedure shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the Office of the Governor complies with the Americans with Disabilities Act and implementing regulations.

#### **IV. Sexual Harassment Policy**

##### **A. Policy Statement**

Sexual harassment of employees and applicants is a form of discrimination and is conduct unbecoming a state employee as provided in Section 110.227, Florida Statutes. The Office of the Governor will take prompt and remedial action to resolve any complaint of sexual harassment. Employees found to have sexually harassed another person will be subject to disciplinary action.

The Office of the Governor considers the following as conduct unbecoming a state employee:

- unwelcome sexual advances to any person by an employee;
- unwelcome requests for sexual favors from any person by an employee; or
- unwelcome verbal or physical conduct of a sexual nature directed towards any person by an employee.

##### **B. Definitions**

(1) "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:

- submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2) "Supervisor" means any employee, including a Selected Exempt Service, Senior Management Service employee, or elected official who has the authority and responsibility of supervising other employees.

##### **C. Internal Complaint Procedure**

The Office of the Governor will conduct an investigation or take remedial action if information is received from any source, whether in writing or not, indicating that sexual harassment, as defined above, has occurred.

Complaints of sexual harassment are to be filed with the Personnel Officer or the Director of Administration. Normally, the Personnel Officer or the Director of Administration will investigate complaints unless otherwise assigned by the Chief of Staff or the Chief of Staff's designee.

Complaints shall be filed in writing, be signed by the complainant, and contain the following information:

- A. The name, business address and telephone number of the person filing the complaint;
- B. The name of the person who allegedly committed the act of sexual harassment and the alleged victim; and
- C. A clear and concise statement of the facts, including pertinent dates, locations, witnesses and other evidence in support of the complaint.

The complaint must contain all of the above noted information. Investigation of complaints will be initiated within thirty calendar days of the receipt of the required information.

A written report of the findings as a result of the investigation will be submitted to the Chief of Staff. The Chief of Staff or the Chief of Staff's designee will issue a written decision dismissing the complaint or taking corrective action, including the issuance of notice of any proposed disciplinary action to the accused.

#### **D. Disciplinary Actions**

- (1) Any employee who commits a prohibited act under this policy may be disciplined as follows:

<i>First Occurrence:</i>	1 Week Suspension to Dismissal
<i>Second Occurrence:</i>	Dismissal

- (2) Any supervisory or managerial employee who has knowledge or has been advised of sexual harassment, as defined in this policy, shall immediately report the matter directly to the Personnel Officer or Director of Administration. An employee who fails to follow this policy may be disciplined as follows:

<i>First Occurrence:</i>	Written Reprimand to Dismissal
<i>Second Occurrence:</i>	1 Week Suspension to Dismissal

- (3) Any employee who knowingly files a false complaint of sexual harassment against another employee may be disciplined as follows:

*First Occurrence:* 1 Week Suspension to Dismissal  
*Second Occurrence:* Dismissal

### **E. Employee Rights**

The filing of a complaint under this policy, whether the complaint is dismissed or not, does not preclude the complainant from also filing a complaint with the Florida Commission on Human Relations or the Federal Equal Employment Opportunity Commission.

### **V. Prohibition Against Retaliation**

Consistent with Section 112.3187, Florida Statutes, it is the policy of the Office of the Governor that there be no retaliation against an individual because such person has in good faith opposed any offense involving a violation of these provisions, made a charge or testified, assisted or participated in any manner in an investigation, proceeding, or hearing involving an alleged offense involving a violation of these provisions. Retaliatory actions shall subject the perpetrator to disciplinary action up to and including dismissal.

### **VI. Employee Political Activities**

The federal Hatch Act may and Florida law does apply to political activities of State employees.

Employees are prohibited from soliciting or knowingly accepting any campaign contribution in a governmental building or office. "Accept" means to receive a contribution by personal hand-delivery from a contributor or his agent. This does not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fund-raiser.

Employees are permitted to express their opinions on political subjects and candidates, take an active part in political campaigns outside of working hours, including the wearing of badges or buttons, and displaying bumper stickers and posters. Employees are encouraged to vote.

### **VII. Employees Seeking Political Office:**

Employees who wish to seek office must comply with the federal Hatch Act, Section 110.233, Florida Statutes; Rule 60K-13.0031, Florida Rules of Administrative Procedure; as well as with all other applicable laws. Employees must notify the designated ethics officer prior to announcing or qualifying for any elected position or office.



## **VIII. Family Employment (Nepotism)**

As proscribed in Section 112.3135, Florida Statutes, a public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the unit in which he/she is serving, or over which he/she exercises jurisdiction or control any individual who is a relative of the official.

A “public official” includes any employee of the Office of the Governor or an agency who is vested with the authority by law, rule, or regulation or to whom the authority has been delegated, to appoint, promote, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the Office of the Governor or respective agency. A “relative” means an individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, sister-in-law, son-in-law, daughter-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

The law does not prevent relatives from working together in public employment. The statute prohibits one who has authority to employ, appoint, promote, advance, or recommend same from using that authority with respect to his/her own relatives.

## **IX. Employee Assistance Program**

### **A. Policy Statement**

The Office of the Governor offers the Employee Assistance Program (EAP) to employees who have personal/medical problems that may potentially adversely affect their job performance and/or personal life. It is the policy of the Office of the Governor to help those individuals who develop such problems by providing a resource for consultation and treatment.

The individual employee's right to privacy and confidentiality will be respected through all aspects of the EAP. Participation in the Program will neither jeopardize the employee's job nor hinder future opportunities for advancement. The Office will intervene only in those instances where job performance has been impaired.

The EAP does not in any way alter management's authority or the employee's responsibility on the job. Therefore, participation in the Program does not protect the employee from action for job performance problems and/or disciplinary measures.

### **B. Definition of Personal/Medical Problems**

*Personal/Medical Problems* may include: abuse of alcohol and drugs; behavioral disorders, marital or familial conflicts; domestic violence; financial or legal burdens; stress and tension; or other problems that may have an adverse affect on personal well-being or job performance.

### **C. Administration**

Administration of the Employee Assistance Program is the responsibility of the Personnel Office. The Personnel Officer serves as the EAP Coordinator. The EAP Coordinator is responsible for administering the program, for directing the employee or supervisor to the proper resource(s) for assistance, and for providing EAP information and training to employees and supervisors.

### **D. Types of Referrals**

Referral into the Program may be made as a self-referral or supervisory referral.

#### **(1) Self Referral**

Employees or members of the employee's immediate family who wish to voluntarily seek assistance may do so by contacting the EAP Coordinator or the contracted EAP Provider. This voluntary participation is encouraged and shall be handled in a confidential manner. (Immediate family is defined as the employee's spouse and dependent children.)

#### **(2) Supervisory Referral**

Work performance problem(s), a positive confirmed drug test, or an employee being arrested or issued an injunction for an incident of domestic violence are the basis for supervisory referrals.

- Job Performance Problem -- An employee who has a job performance problem not readily corrected by the usual administrative or disciplinary procedures may be referred to the Employee Assistance Program. A supervisor in determining whether an employee should be referred may consult with the EAP Coordinator at any point.
- Domestic Violence -- In the case of domestic violence, the supervisory referral is made for an assessment to determine if a batterer's intervention program is appropriate. The Employee Assistance Program provider will determine the appropriate course of action in each specific case. (See Policy on Domestic Violence in the Workplace).
- Positive Confirmed Drug Test -- Employees with a first-time positive confirmed drug test result are required to seek treatment from the Employee Assistance Program or an alcohol and drug rehabilitation program. (See Drug-Free Workplace Policy).

### **E. Supervisory Referral Procedure**

The supervisor is expected to be alert to changes in job performance and unusual behavior exhibited by employees under his/her supervision. The supervisor's responsibility is not to try to diagnose the problem affecting the employee's job performance, but to document deteriorating work performance and confront the employee on that basis.

The supervisor should meet with the employee to inform the employee of the concern for the deterioration in performance and review documentation of the job problem; remind the employee of this policy to assist employees who may have a problem; remind the employee of the desired standards and levels of job performance and that failure to maintain these standards could result in disciplinary actions up to and including termination of employment; and encourage the employee to take advantage of the Employee Assistance Program.

An employee desiring assistance at this point should be referred to the EAP Coordinator in person or by telephone. The EAP Coordinator will then refer the employee to the EAP Provider for assessment.

A refusal to comply with mandatory referral for assessment can be construed as insubordination. In all instances the supervisor will continue documentation if the job problem continues.

If the deteriorating level of performance continues, the supervisor will notify the EAP Coordinator of the pending referral, prepare a Performance Improvement Plan, and meet with the employee to discuss the Plan and associated documentation, and again strongly recommend that the employee participate in the Employee Assistance Program. If warranted, the supervisor will administer disciplinary action.

The EAP Coordinator will provide the employee with information about the Program and will arrange an appointment with the EAP Provider. The EAP Coordinator will advise the supervisor when the referral is completed and will periodically provide the supervisor with information on whether the employee is keeping appointments and participating in the Program.

If rehabilitation efforts fail to improve job performance, the supervisor may consult with the EAP Coordinator, but the final determination as to the advisability of future personnel actions is a managerial decision based on job performance.

### **F. Time and Attendance in the Referral Process**

If an employee's first consultation with the EAP Provider is the result of a supervisory referral, the time spent in the initial consultation will be considered "time worked." All counseling sessions that follow are to be charged to sick leave, if appropriate, or to annual leave, compensatory leave or leave without pay. Supervisors are encouraged to

allow employees to set a flexible hour work schedule or make up time in the applicable work period to participate in the Employee Assistance Program.

#### **G. Payment for Employee Assistance Program Services**

The cost of the initial assessment and referral consultation will be absorbed by the Office of the Governor regardless of whether the visit is the result of a self-referral or supervisory referral. Payment for care or counseling after the initial consultation, whether supervisory referral or a self-referral, is the employee's responsibility. The Personnel Office will provide information concerning insurance benefits that may be available to the employee.

#### **H. Confidentiality**

Records of non-work related problems and/or records of Employee Assistance Program participation by an employee or his/her immediate family will be maintained only in clinic or treatment files of the EAP Provider. No record of participation or non-participation will be maintained in the employee's personnel file or in any other official file. No information concerning the employee's participation may be released by the EAP Provider to any person without the express written consent of the employee. An employee cannot be compelled to provide such consent.

#### **I. Employee Rights**

An employee has the right to refuse referral into the Program and may discontinue participation at any time. Failure to accept referral or to participate in the Program will be considered in the same manner as any other factor or illness which could continue to affect job performance. If the problem continues to adversely affect job performance, the employee will be subject to appropriate management action. If the problem disappears or no longer results in job performance or disciplinary problems, no further management action will be taken.

#### **J. Related Procedures**

Supervisors should refer to the Office's Drug-Free Workplace and Domestic Violence in the Workplace policies in addressing employee problems in these areas. Other references and guides are the Office's Review and Performance Planning System Procedure and Disciplinary Actions Procedure.

#### **K. Education and Training**

Unit Directors and supervisors are required to attend EAP supervisory training offered by the EAP Provider. New employees will receive information on the EOG Employee Assistance Program at new employee orientation. Periodic EAP orientation sessions will be held as deemed necessary.

## **X. Drug-Free Workplace Policy**

### **A. General Provisions**

Employees in the Office of the Governor are subject to the Florida Drug-Free Workplace Act, Section 112.0455, Florida Statutes.

### **B. Types of Drug Tests**

The drug tests conducted by the Office of the Governor are:

- Initial Hiring: all senior management and selected exempt employees in the Office of the Governor and all secretaries and deputy secretaries of executive agencies under the purview of the Governor may be tested prior to hiring, or if their employment is carried over from a previous administration, prior to March 2, 2007.
- Reasonable Suspicion: testing of an employee based on a belief that the employee is using or has used drugs in violation of this Policy.
- Follow-up: testing of employees who have entered and completed treatment in an Employee Assistance Program for drug related problems, or an alcohol and drug rehabilitation program. Employees in the Office of the Governor will be subject to quarterly drug testing for two years from the date of completion of such program.

### **C. Confidentiality**

Employees will be permitted to confidentially report the use of prescription or non-prescription medication both before and after being tested. Employees may consult the testing laboratory for technical information regarding prescription and non-prescription medication. All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received by the Office of the Governor through this drug testing program are confidential communications and shall not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the Drug-Free Workplace Act.

### **D. “Reasonable Suspicion” Drug Testing**

#### **(1) Test Procedure Definition**

“Reasonable suspicion” drug testing means drug testing based on a belief that an employee is using or has used drugs in violation of this Policy, drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
- Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- A report of drug use, provided by a reliable and credible source, which has been independently corroborated.
- Evidence that an individual has tampered with a drug test during his employment with the Office of the Governor/Lieutenant Governor.
- Information that an employee has caused, or contributed to, an accident while at work.
- Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on State premises or while operating the Office's vehicle(s), machinery, or equipment.

## **(2) When a "Reasonable Suspicion" Drug Test is Required**

A "reasonable suspicion" drug test will be required only upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question.

## **(3) Documentation Requirement**

The supervisor recommending that an employee submit to "reasonable suspicion" drug testing must promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion exists to warrant the testing. This document shall be forwarded under confidential cover or presented by hand by the immediate supervisor to the supervisor who would recommend testing. Where possible the written documentation should be prepared at the time the recommendation for testing is made.

## **(4) Scheduling the Drug Test**

If the decision is made to require a drug test, the supervisor must notify the Personnel Officer and immediately forward under confidential cover the original documentation. The Personnel Officer will schedule the appointment at the collection site. The Personnel Officer will also provide the documents that must be taken to the collection site and information on the Drug Testing Program.

## **E. Drugs**

Tests may be conducted for any or all of the following drugs:

<i><b>Drug</b></i>	<i><b>Trade Names</b></i>
Amphetamines	Biphphetamine, Delcobes, Desoxyn, Dexedrine, Mediatric
<i>Cannabinoids</i> Marijuana	
Tetrahydrocannabinol	THC
Hashish	
Hashish Oil	
Cocaine	
<i>Hallucinogens</i> Phencyclidine	
Methaqualone	Quaalude
Opiates	Opium, Paregoric, Parepectolin
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril
<i>Synthetic Narcotics</i> Methadone	Dolophine, Methadone, Methadose Propoxyphene
Alcohol	including distilled spirits, wine, malt beverages, and intoxicating liquors

#### **F. Notification of Test Results: Initial Hiring and Reasonable Suspicion Tests**

In the case of an initial hiring drug test, the Personnel Officer will notify the individual's immediate supervisor of the test results. In the case of agency secretaries, deputy secretaries and chiefs of staff, the immediate supervisor for purposes of this notification will be the Governor's Chief of Staff. In the case of a "reasonable suspicion" drug test, the Personnel Officer will notify the recommending supervisor of the test results. If the results of any drug test are positive confirmed, the Personnel Officer will prepare a notice

for the signature of the unit director and will advise the Chief of Staff and Director of Administration.

#### **G. Follow-Up Drug Test Procedure**

An employee who has a first-time positive confirmed drug test result who successfully completes an employee assistance program or alcohol and drug rehabilitation program must submit to a drug test on a semi-annual basis for up to two years after treatment. The Personnel Officer will schedule drug tests, and the results will be provided to the unit director, Chief of Staff and Director of Administration.

#### **H. Appeal Rights**

An employee who receives a positive confirmed drug test result may contest or explain the result in writing to the Personnel Officer in 5 working days after receipt of notification of the positive confirmed test. If applicable, an employee who is disciplined may file an appeal with the Public Employees Relations Commission. The employee must file any such appeal within 30 calendar days of receipt by the employee of notice of discipline. An employee alleging a violation of the provisions of Section 112.0455, Florida Statutes, that is not remediable by the Commission, must institute any civil action for injunctive relief or damages, or both, in a court of competent jurisdiction within 180 days of the alleged violation.

#### **I. Employee Assistance**

Employees with a first-time positive confirmed drug test result shall be required to seek treatment from an employee assistance program or alcohol and drug rehabilitation program which will be at the employee's expense. The successful completion of the program is a condition of continued employment. The Personnel Office will provide information and assistance in locating treatment programs.

An employee will not be dismissed, disciplined, or discriminated against as a result of voluntarily seeking treatment for a drug-related problem if the employee has not previously tested positive (confirmed) for drug use, entered an employee assistance program for drug related problems, or entered an alcohol and drug rehabilitation program.

#### **J. Test Refusals/Positive Confirmed Test After Treatment**

An employee who refuses to submit to a drug test is subject to immediate dismissal. An employee who completes an approved treatment program but whose follow up drug test is positive is subject to immediate dismissal.

#### **K. Drug-Free Awareness Program**

The Office of the Governor commits to and hereby reaffirms a Drug-Free Awareness Program to inform employees of the dangers of drug abuse and of available drug



counseling and rehabilitation programs. This will be accomplished through a continuing drug education program for current employees and the orientation of new employees.

#### **L. Disciplinary Standards**

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Office of the Governor.

Any employee who is arrested for the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or who is arrested for driving under the influence of alcohol, on or off the job, shall notify their immediate supervisor and the supervisor will ensure that the Chief of Staff is notified of such an occurrence. Failure to provide such notification by the end of the first working day following the occurrence may result in dismissal. The Chief of Staff may place the employee on appropriate leave pending evaluation of the charges and disposition of the arrest.

Any employee convicted of or who enters a plea of *nolo contendere* to a crime relating to the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, or other drug related criminal sanction, shall be dismissed.

The Office of the Governor will follow the provisions of the State Policy on Alcoholism in addressing infractions made by employees as a result of the use of alcohol. If working conditions and or public relations are obviously and adversely affected by the problem drinker's behavior, the employee will be placed on compulsory disability leave. If the problem drinker refuses to recognize his/her condition and fails to seek help, or fails to complete the program of treatment, or treatment is unsuccessful, the employee shall be dismissed.

#### **M. Distribution**

New employees will receive a copy of the policy upon hiring or appointment. Supervisors are to ensure that a copy of this policy is posted in their unit.

### **XI. Policy On Domestic Violence In The Workplace And Workplace Safety**

#### **A. Policy Statement**

The purpose of this policy is to heighten awareness of domestic violence and to provide guidance for employees and management in addressing the occurrence of violence (both domestic and non-domestic) and its effects in the workplace.

It is the policy of the Office of the Governor to use early intervention and awareness strategies as a first line of defense to avoid or minimize the occurrence and effects of violence in the workplace, both domestic and non-domestic. The Office will offer assistance to victims and perpetrators of domestic violence. Perpetrators of such acts will be subject to disciplinary action in accordance with the policies of the Office of the

Governor. The Office of the Governor has adopted model domestic violence and “workplace safety” policies attached to the resolutions of the Governor and Cabinet dated September 26, 1996 and April 15, 1997.

The Office of the Governor will not tolerate domestic violence that includes harassment of any employee or client while in State offices, facilities, work sites, vehicles, or while conducting State business. This includes the display of any violent aggressive, or threatening behavior (verbal or physical) that results in physical or emotional injury or otherwise places a person's safety and productivity at risk.

Any employee who threatens, harasses, or abuses someone at the workplace or from the workplace using any State resources such as State time, workplace phones, FAX machines, mail, E-mail, or other means will be subjected to disciplinary action up to and including dismissal. Correspondingly, employees who are arrested, convicted and/or issued an injunction for protection as a result of domestic violence are subject to disciplinary action.

## **B. Definitions**

- (1) “Arrest” or “Injunction”- to be detained in legal custody or have a court order to protect against domestic violence.
- (2) “Batterer” or “Perpetrator”- the individual who commits an act of domestic violence.
- (3) “Batterers’ Intervention Programs”- programs based on the power and control model of batterers’ intervention that batterers attend which are designed to eliminate violence in intimate relationships, stop other forms of abusive behavior and increase victim safety, and which are consistent with programs as described in Section 741.325, Florida Statutes.
- (4) “Domestic Violence”- includes but is not limited to stalking or other patterns of coercive behavior that are used by one person to control another by means of physical violence, sexual, emotional and psychological violence, intimidation, verbal abuse and economic control. (See Section 741.28, Florida Statutes).
- (5) “Domestic Violence Centers”- service agencies that provide counseling and referrals, community education, emergency shelter and other services to victims of domestic violence and their children.
- (6) “Inappropriate Batterers’ Intervention Programs”- include but are not limited to couples, marriage, or family counseling and anger management courses.
- (7) “Power and Control Model of Batterers’ Intervention”- a treatment program that requires completion of 24 counseling/educational sessions over at least 29 weeks. Mandatory section topics include: physical violence, coercion and threats,

intimidation, emotional abuse, isolation, minimizing, denying and blaming, children, male privilege and economic abuse. (See Section 741.325, Florida Statutes).

(8) “Victim”- the individual who is abused by the batterer.

### **C. Procedure Regarding Assistance for Victims of Domestic Violence**

An employee who is or may be a victim of domestic violence or of a stalker should immediately notify his/her unit director and/or supervisor who in turn will advise the Personnel Officer and/or Director of Administration.

In all cases the Director of Administration and Personnel Officer (EAP Coordinator) will have the following responsibilities:

#### *Action Step 1:*

The Director of Administration and/or Personnel Officer will notify the Chief of Staff or the Chief of Staff's designee that a domestic violence situation exists in the Office.

#### *Action Step 2:*

The Personnel Officer will meet with the employee and unit director and/or supervisor to determine measures that may be taken regarding safety, security, referral to the Office of the Governor's Employee Assistance Program and if necessary, referral to a domestic violence center.

#### *Action Step 3:*

The Personnel Officer or Director of Administration will notify the appropriate security personnel so that appropriate steps may be taken to change the workplace environment or workplace activities to heighten security and safety for this and other employees.

All steps will be taken in the strictest confidence and the employee's right to privacy will be respected.

### **D. Time and Attendance in Providing Assistance for Victims of Domestic Violence**

Leave requests made by employees who are victims of domestic violence for the purpose of seeking medical or legal assistance, for court appearances, counseling, relocation, or to make other necessary arrangements to provide for victim safety will be granted. Supervisors are encouraged to allow employees to set a flexible hour work schedule or make up time in the applicable work period to take care of concerns in this area.

### **E. Disciplinary Actions**

The perpetration of acts of domestic violence is considered conduct unbecoming a public employee and is prohibited in the Office of the Governor.

- (1) Any employee who threatens, harasses, or abuses someone at the workplace or from the workplace using any State resources may be disciplined as follows:

<i>First Occurrence:</i>	1 Week Suspension to Dismissal
<i>Second Occurrence:</i>	Dismissal

- (2) Any employee who is arrested, or issued an injunction, for a first occurrence of domestic violence may be disciplined as follows: 1 Week Suspension to Dismissal (if the offense is of such severity as to great bodily harm, permanent disability, or permanent disfigurement, the employee shall be dismissed).
- (3) Any employee who is arrested, or issued an injunction, for a second occurrence of domestic violence and who has been afforded the opportunity to complete a batterers' intervention program shall be dismissed. Otherwise, the employee will be subject to disciplinary action as stated above.

#### **F. Procedures Regarding Assistance for Batterers**

Employees who are perpetrators of domestic violence are encouraged to seek assistance and contact the Personnel Officer/EAP Coordinator or the Employee Assistance Program Provider in the case of a self-referral.

- (1) An employee arrested, or issued an injunction, for an incident of domestic violence shall notify his/her unit director or supervisor. Failure to provide such notification by the end of the first working day following the occurrence may result in dismissal.
- (2) Once it is determined (either through self-reporting or through documentation) that an employee has been arrested or issued an injunction for an incident of domestic violence, the employee must meet with his/her unit director and supervisor on the employee's first day back to work after the incident. A supervisory referral will be made to the Employee Assistance Program. A subsequent referral to the appropriate treatment program will be made within 2 working days of the initial meeting.
- (3) After referral to the Employee Assistance Program, the treatment process and reporting and recordkeeping will be handled as prescribed in that policy. The EAP Provider will determine the appropriate course of action in each case. If it is determined that the employee should be referred to a batterers' intervention program, the program will be a 29 week batterers' intervention program that uses the power and control model of intervention.
- (4) If the Employee Assistance Program Provider recommends a course of counseling concurrent with a batterers' intervention program, or instead of a batterers' intervention program, and the employee successfully completes that recommended program, no further action will be taken.

- (5) If an employee refuses, or in any other way does not successfully complete a batterers' intervention program or other program recommended by the Employee Assistance Program Provider, the employee will be subject to disciplinary action. If there are no other incidents of domestic violence, no further action will be taken.

#### **G. Employee Notification**

Effective the date of this policy, an employee who currently has at least one arrest, injunction or conviction for an occurrence of domestic violence, will on the next arrest, injunction or conviction for an occurrence of domestic violence be subject to disciplinary action.

Individuals hired in the Office of the Governor after the date of this policy will be given notice of this provision by the Personnel Office.

Employees are encouraged to seek assistance through the Employee Assistance Program.

#### **H. Education and Training**

The Office of the Governor will provide, encourage, and promote domestic violence education and training for all employees with special emphasis on workplace security and safety, and Employee Assistance Program training. The EAP Provider will ensure that supervisors and employees receive training on the Employee Assistance Program.

In addition, the Office will provide a list of resources available to victims and perpetrators of domestic violence.

#### **XII. Smoking Policy**

Smoking is prohibited in all government buildings.

#### **XV. Safety Policy**

It is the policy of the Office of the Governor to provide employees with a safe and healthy work environment through adequate maintenance of our facilities and equipment. Each employee is to assist in developing and maintaining this environment by observing safety regulations and employing safe work habits.

#### **XIII. Mandatory Use Of Seat Belts/Safe Operation Of Vehicles**

Rule 60B-1.012, Florida Administrative Code, requires the following:

##### **A. Mandatory Seat Belt Use**

All seated occupants of State-owned, leased, or rented vehicles and all personal vehicles operated on State business are required to wear seat belts. Failure to wear seat belts shall be considered improper use of a vehicle and shall subject employees to disciplinary

action. If an accident resulting in injury to an employee occurs and the employee is not wearing seat belts and the failure to use the seat belts contribute to injuries received, the employee's workers' compensation benefits may be reduced under the provisions of Section 440.09(4), Florida Statutes.

#### **B. Operation of Vehicles in a Safe and Courteous Manner**

All State-owned, leased, or rented vehicles and all personal vehicles operated on State business shall at all times be operated in a safe and courteous manner. Failure to operate vehicles in a safe and courteous manner shall be considered improper use of a vehicle and shall subject employees to disciplinary action.

#### **C. Operation of Vehicles in Compliance With Federal, State, and Local Laws**

All State-owned, leased, or rented vehicles and all personal vehicles operated on State business shall operate in compliance with all applicable federal, State, and local laws and ordinances. Failure to comply with federal, State, or local laws or ordinances shall be considered improper use of a vehicle and shall subject employees to disciplinary action. All fines and penalties resulting from failure to comply with federal, State, or local laws or ordinances are the personal responsibility of the operator of the vehicle.

#### **XIV. Telephone/Internet Usage/ E-Mail**

Personal long distance calls shall not be charged to State telephones. Employees must use their personal long distance credit card for this purpose.

State-provided Internet access is for public, not personal, business only. Employee use of the Internet is recorded and can be monitored. No employee is permitted to use or access the Internet for pornographic, obscene and/or other improper purposes.

It is also inappropriate to use a State cellular telephone for personal calls. We understand, however, that sometimes these calls are unavoidable. If personal calls are on the cellular telephone billing, the employee must reimburse the State for these calls. There is a \$3.00 processing charge when payment is made.

The Office of the Governor's current policy regarding the use of e-mails in the context of the public records laws is an adoption of the e-mail policy utilized by the Department of State. For example, as outlined in that policy, the sender of an e-mail is responsible first for determining whether such e-mail is subject to the public records law, and second, for retaining such e-mail either by hard copy or electronically, for the retention period outlined in the policy. The Office of Open Government will review that policy and make any appropriate recommendations regarding revisions to it.