THE ALMACA CONTINUUM OF SERVICES
ALCOHOL AND DRUG ABUSE IN THE WORKPLACE

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Alcohol and drug use is an increasingly visible and controversial problem. Abuse of alcohol and drugs in the workplace is being discussed in almost every arena. Employee Assistance Professionals have been grappling with the issue in the workplace for over thirty years. EAPs have long recognized the serious health and safety issues posed by alcohol and drug use and have been actively involved in intervening. The current discussions of drug testing focus a great deal of attention on a small piece of the solution.

Employee Assistance Programs, which began as occupational programs to intervene in alcoholism, have experienced a surge of growth and a broadening of focus in the 1970s and 1980s. Today's comprehensive Employee Assistance Programs deal with a wide range of personal problems, identified through employee self-referral or on the basis of job performance criteria. Studies of Employee Assistance Programs show reduced health costs, improved productivity, decreased absenteeism, decreased turnover, increased morale, and greater satisfaction with the job.

A safe workplace and a healthy, productive workforce are the goals of these programs. The focus is on the maintenance or return to high levels of productivity through the rehabilitation of employees experiencing personal problems including alcohol and drug abuse. Employee Assistance Programs are strongly supported by both labor and management. They have a proven track record and are rapidly expanding in the workplace.

The continuum model presented here is a comprehensive approach to the problem. Involvement of both labor and management is essential. Integration of this model into established organizational procedures increases program effectiveness. This model overlaps with employee/labor relations, risk management, medical, security and training departments, and often organizational development sections. It includes policy development, education and prevention activities, rehabilitation efforts, and perhaps testing. This approach does not provide a dramatic quick fix, although the results can be dramatic for employees and the organization.

This is the recommended continuum of services.

NOTE: This continuum of services was developed by Tamara Cagney, chairperson of the ALMACA Program Managers Committee, and was approved on November 4, 1986, by the ALMACA Board of Directors.

PROCEDURE FOR ADDRESSING ALCOHOL AND DRUG ABUSE IN THE WORKPLACE

PLANNING PHASE

- Organizational assessment of the problem
- Review of applicable statues & regulation
- Labor/Management committee formed to develop organizational policies in the areas of alcohol & drug use & organizationally sponsored use of alcohol. Clear work rules are developed.
- L/M Committee instrumental in formulation of employee assistance program
- EAP Policies & Procedures established to provide assistance to troubled employees thru both self & supervisory referral
- Gain Top Management support for policies & program
- Fitness For Duty Policy developed
- Insurance coverage is reviewed to guarantee access to treatment

IMPLEMENTATION PHASE

- Policies and Procedures are actively communicated to all levels of the organization
- Confidential assessment, referral & treatment services are available through EAP
- Reintegration plans & expectations are designed for employees receiving treatment
- EAP Relationship with disciplinary process is clearly deliniated
- Stewards & supervisors are trained in the use of EAP—sharpening skills in managing performance going far beyond mere awareness of behavioral effects of drug use.
- Comprehensive employee education programs are presented & supported by the organization
- L/M Committee monitors EAP utilization
- L/M Committee explores additional methods of intervention—searches, testing
- Goals & objectives of any testing program are defined
- Testing Program is constructed to assure competent and fair application*

IMPLEMENTATION PHASE (continued)

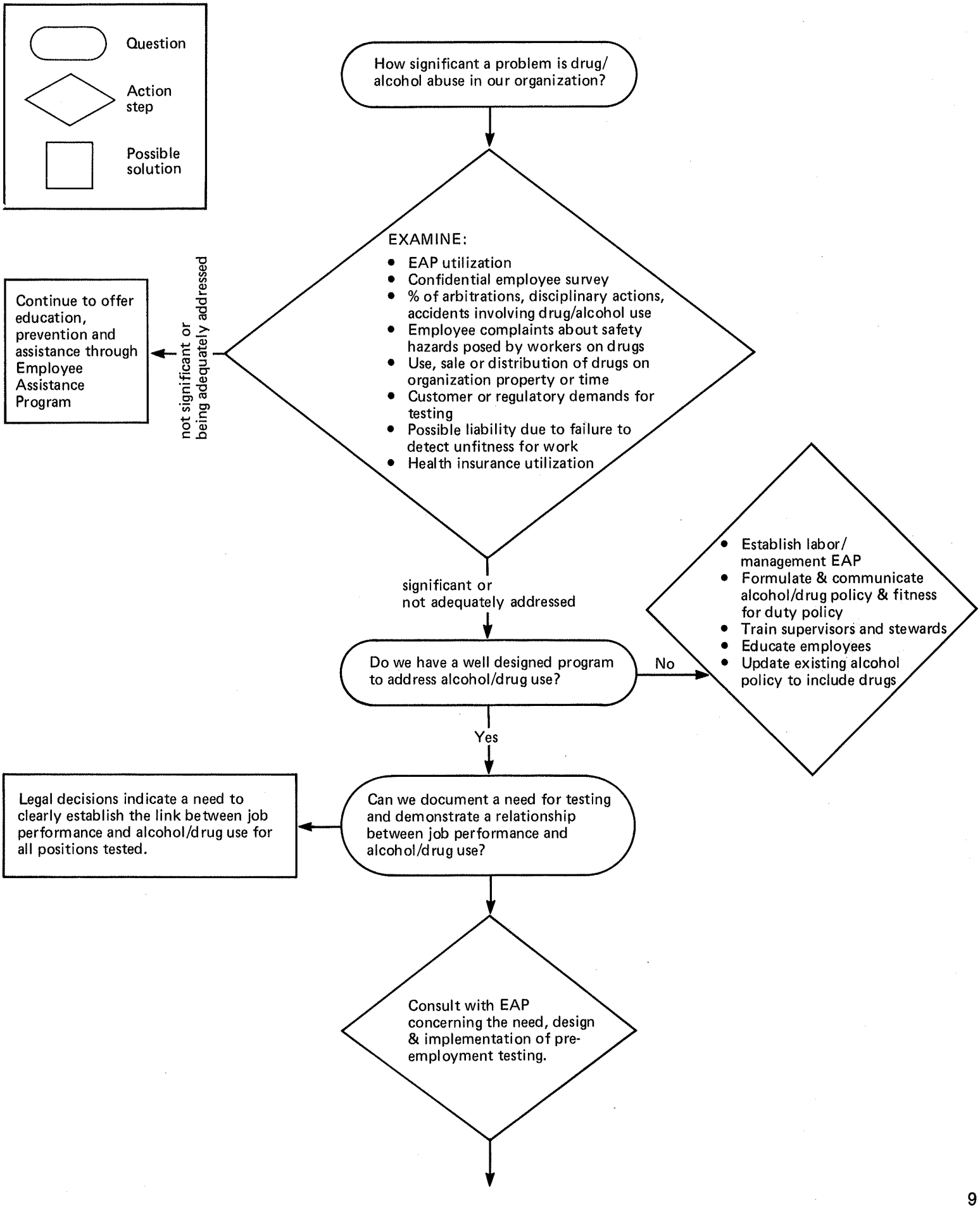
- All Testing programs are negotiated
- Conduct proper investigation of suspected rule violations
- Testing is initiated on the basis of reasonable suspicion
- Be sensitive to employees rights
- Roles in Testing are specified—supervisors, security, medical, EAP, disciplinary
- Employees who have confirmed positive tests are offered opportunity for appropriate rehabilitation
- Follow appropriate disciplinary guidelines
- Reintegration and follow up plans, perhaps including periodic testing, are established for employees receiving treatment
- L/M Committee continues to monitor all program for fairness & effectiveness

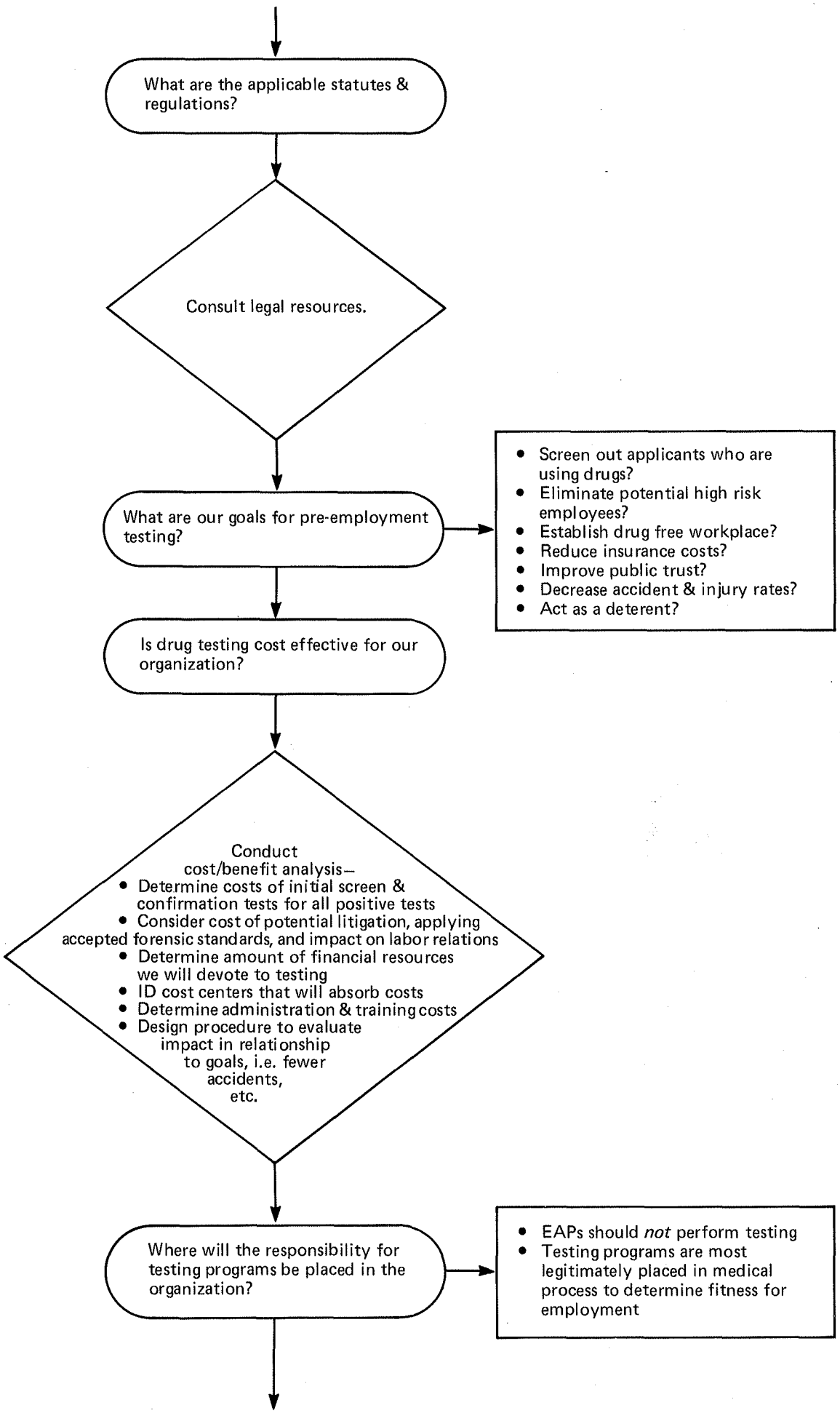
*Refer to process maps for specific details on drug testing.

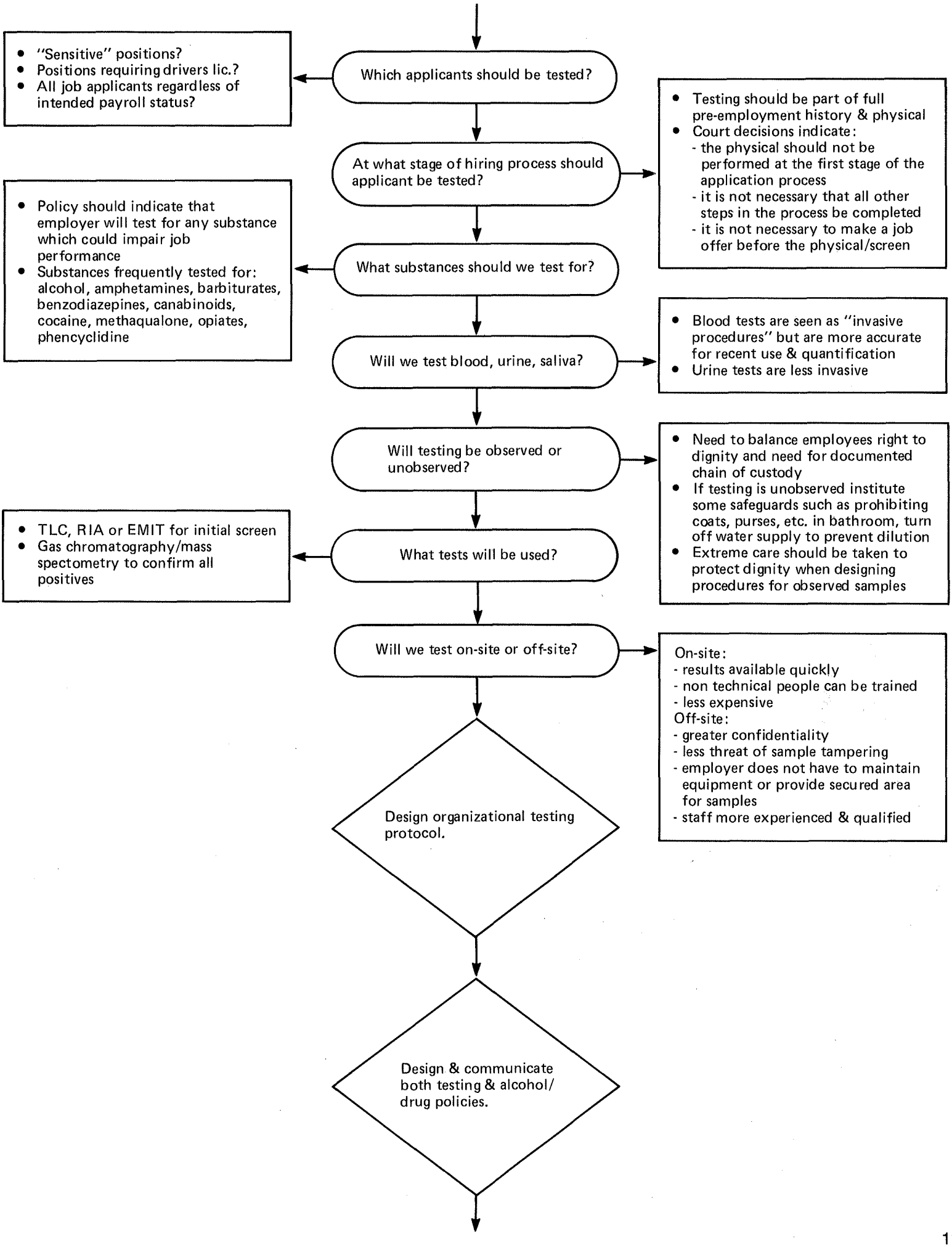
PRE EMPLOYMENT

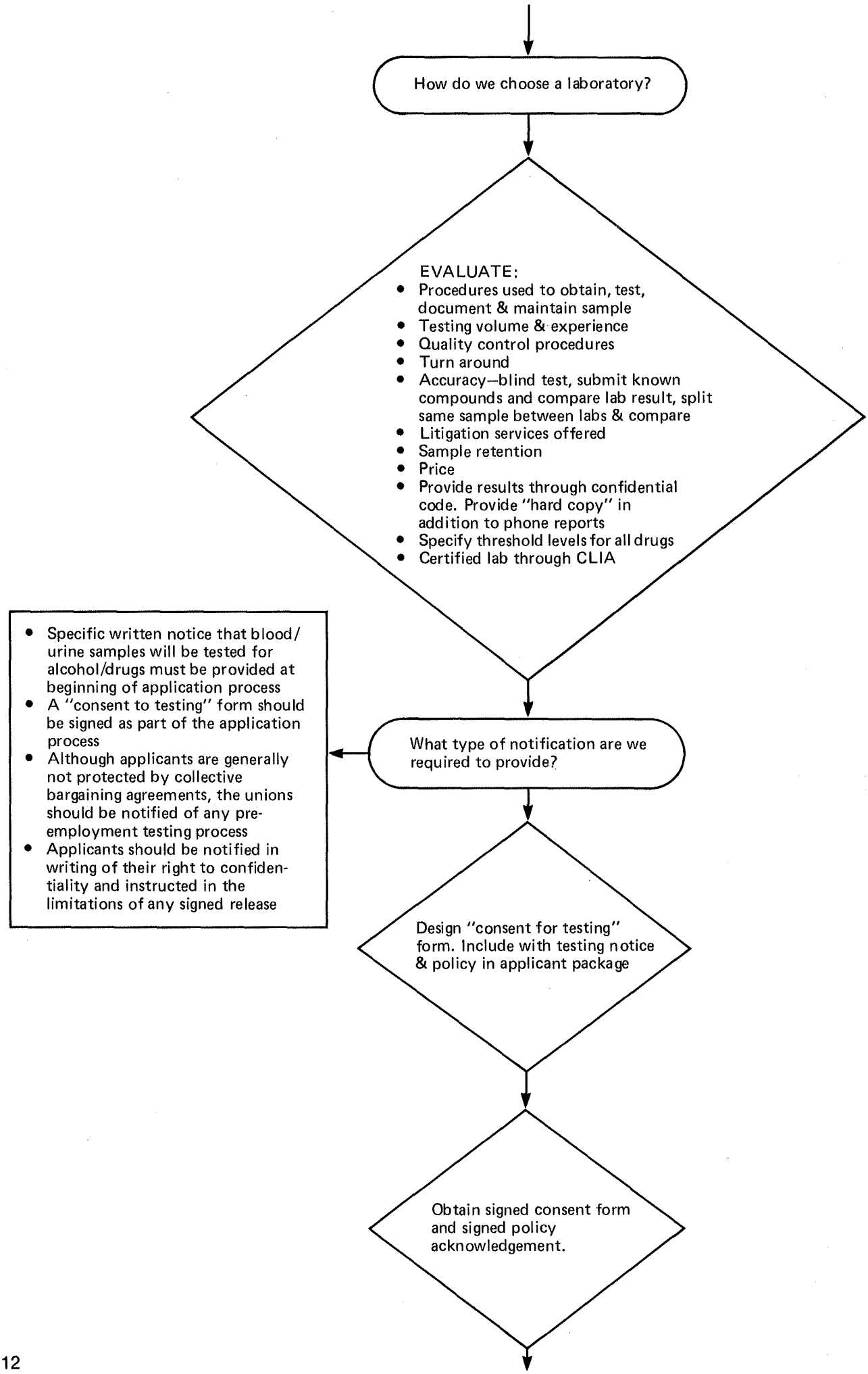
PRE EMPLOYMENT

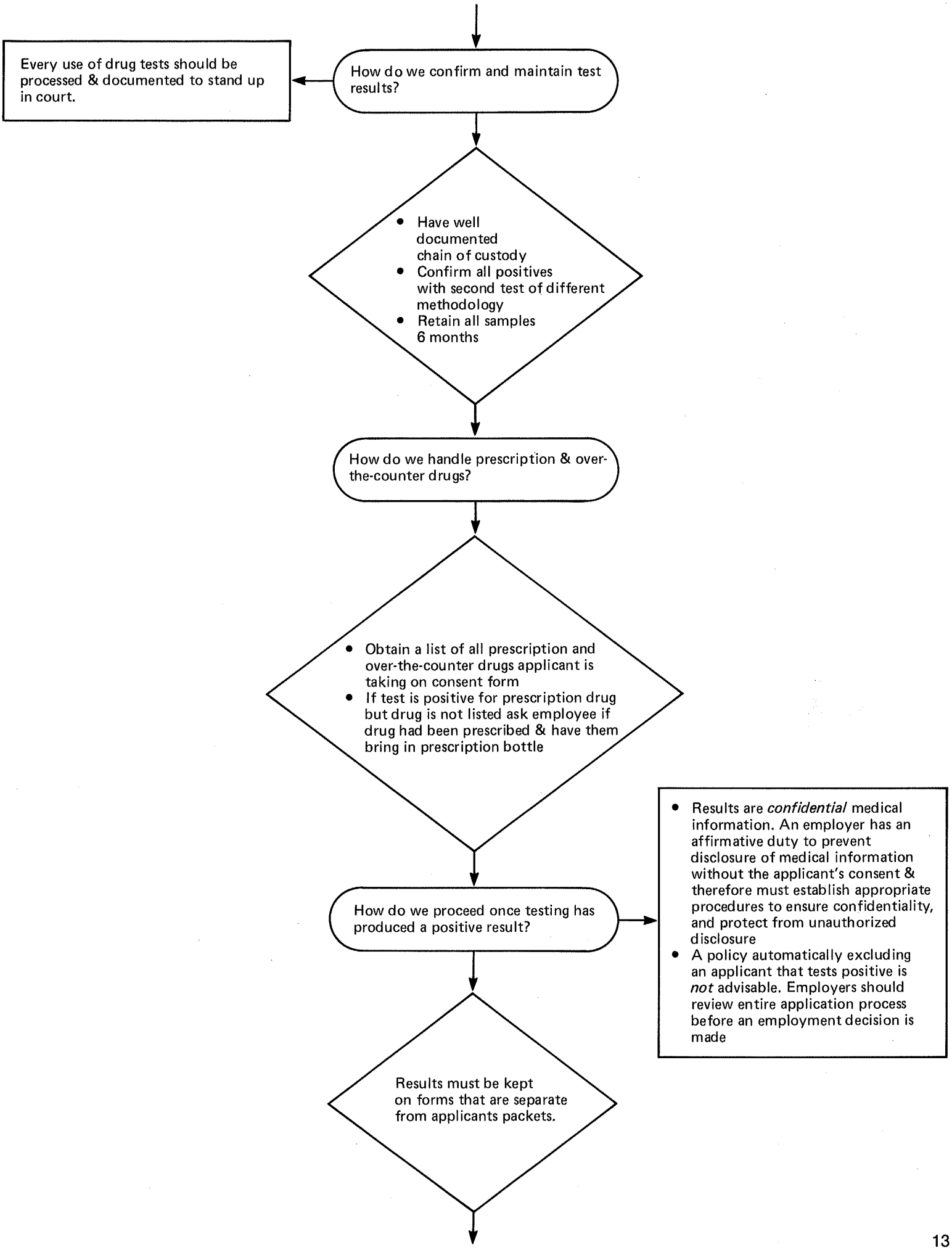
PROCESS MAP
ANALYZING DRUG TESTING ISSUES– PRE-EMPLOYMENT

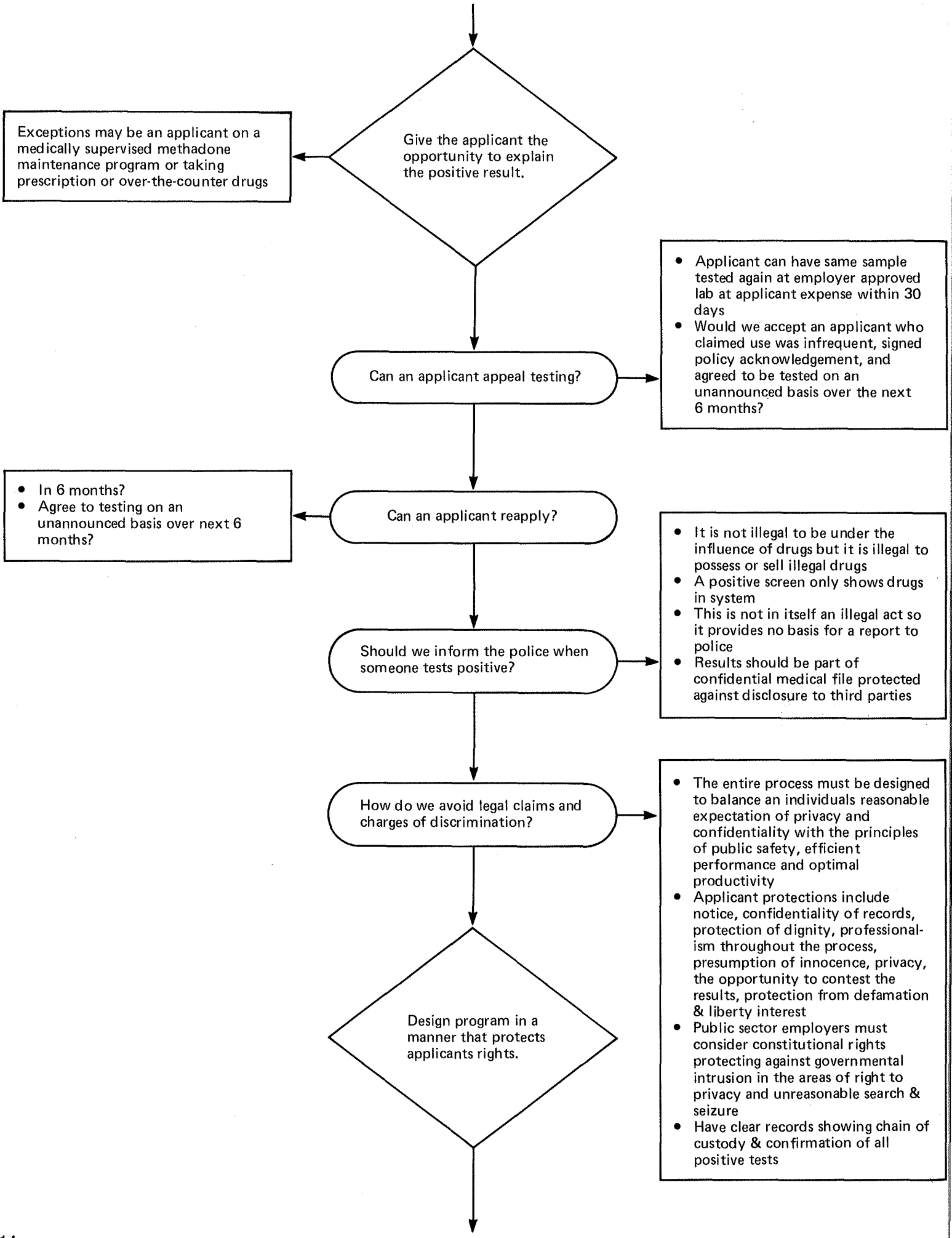


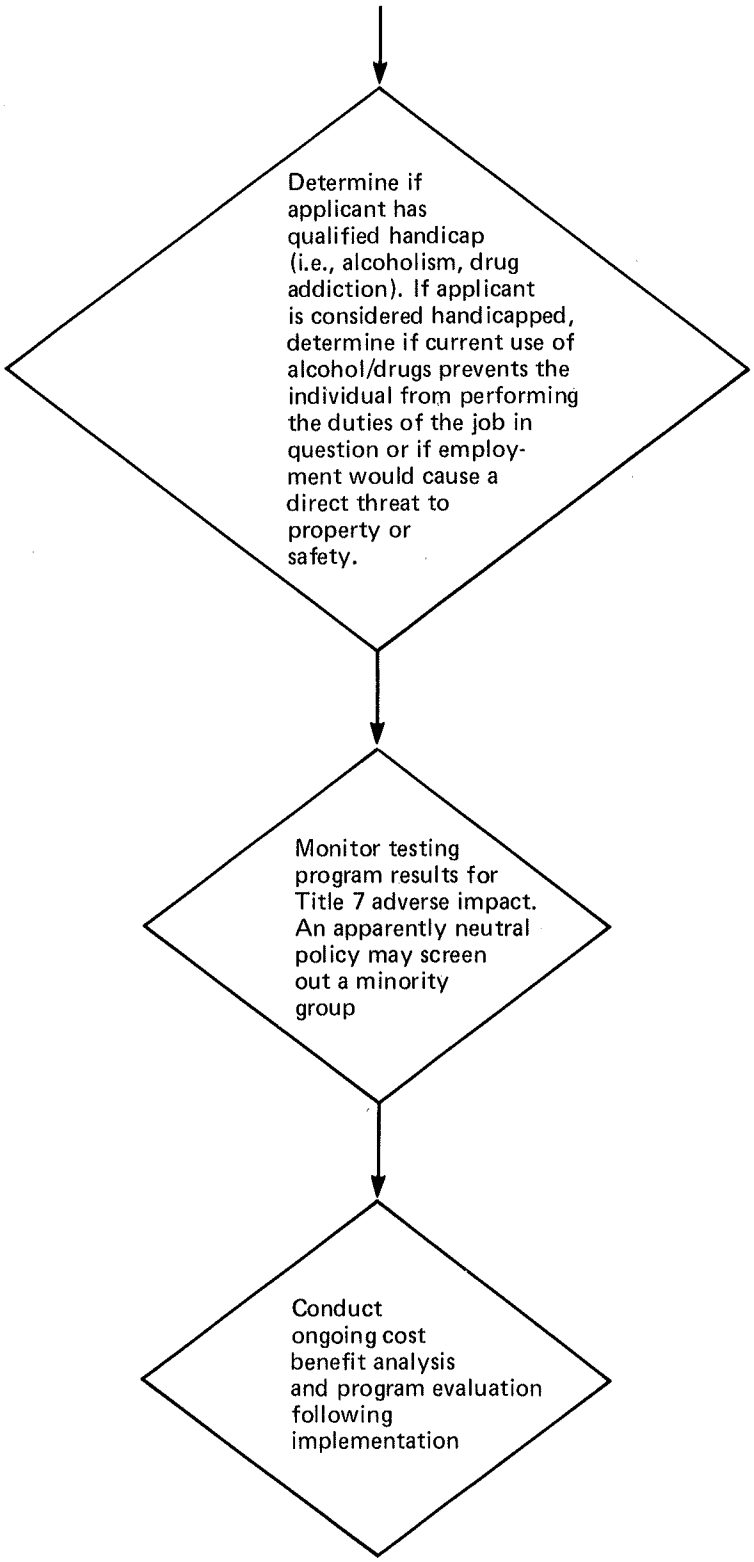

What are the applicable statutes & regulations?
Consult legal resources.
What are our goals for pre-employment testing?
• Screen out applicants who are using drugs?
• Eliminate potential high risk employees?
• Establish drug free workplace?
• Reduce insurance costs?
• Improve public trust?
• Decrease accident & injury rates?
• Act as a deterent?
Is drug testing cost effective for our organization?
Conduct cost/benefit analysis–
• Determine costs of initial screen & confirmation tests for all positive tests
• Consider cost of potential litigation, applying accepted forensic standards, and impact on labor relations
• Determine amount of financial resources we will devote to testing
• ID cost centers that will absorb costs
• Determine administration & training costs
• Design procedure to evaluate impact in relationship to goals, i.e. fewer accidents, etc.
Where will the responsibility for testing programs be placed in the organization?
• EAPs should *not* perform testing
• Testing programs are most legitimately placed in medical process to determine fitness for employment


Which applicants should be tested?
• "Sensitive" positions?
• Positions requiring drivers lic.?
• All job applicants regardless of intended payroll status?
At what stage of hiring process should applicant be tested?
• Testing should be part of full pre-employment history & physical
• Court decisions indicate:
- the physical should not be performed at the first stage of the application process
- it is not necessary that all other steps in the process be completed
- it is not necessary to make a job offer before the physical/screen
What substances should we test for?
• Policy should indicate that employer will test for any substance which could impair job performance
• Substances frequently tested for: alcohol, amphetamines, barbiturates, benzodiazepines, canabinoids, cocaine, methaqualone, opiates, phencyclidine
Will we test blood, urine, saliva?
• Blood tests are seen as "invasive procedures" but are more accurate for recent use & quantification
• Urine tests are less invasive
Will testing be observed or unobserved?
• Need to balance employees right to dignity and need for documented chain of custody
• If testing is unobserved institute some safeguards such as prohibiting coats, purses, etc. in bathroom, turn off water supply to prevent dilution
• Extreme care should be taken to protect dignity when designing procedures for observed samples
What tests will be used?
• TLC, RIA or EMIT for initial screen
• Gas chromatography/mass spectometry to confirm all positives
Will we test on-site or off-site?
On-site:
- results available quickly
- non technical people can be trained
- less expensive
Off-site:
- greater confidentiality
- less threat of sample tampering
- employer does not have to maintain equipment or provide secured area for samples
- staff more experienced & qualified
Design organizational testing protocol.
Design & communicate both testing & alcohol/ drug policies.


How do we choose a laboratory?
EVALUATE:
• Procedures used to obtain, test, document & maintain sample
• Testing volume & experience
• Quality control procedures
• Turn around
• Accuracy—blind test, submit known compounds and compare lab result, split same sample between labs & compare
• Litigation services offered
• Sample retention
• Price
• Provide results through confidential code. Provide "hard copy" in addition to phone reports
• Specify threshold levels for all drugs
• Certified lab through CLIA
What type of notification are we required to provide?
• Specific written notice that blood/urine samples will be tested for alcohol/drugs must be provided at beginning of application process
• A "consent to testing" form should be signed as part of the application process
• Although applicants are generally not protected by collective bargaining agreements, the unions should be notified of any pre-employment testing process
• Applicants should be notified in writing of their right to confidentiality and instructed in the limitations of any signed release
Design "consent for testing" form. Include with testing notice & policy in applicant package
Obtain signed consent form and signed policy acknowledgement.


How do we confirm and maintain test results?
Every use of drug tests should be processed & documented to stand up in court.
• Have well documented chain of custody
• Confirm all positives with second test of different methodology
• Retain all samples 6 months
How do we handle prescription & over-the-counter drugs?
• Obtain a list of all prescription and over-the-counter drugs applicant is taking on consent form
• If test is positive for prescription drug but drug is not listed ask employee if drug had been prescribed & have them bring in prescription bottle
How do we proceed once testing has produced a positive result?
• Results are *confidential* medical information. An employer has an affirmative duty to prevent disclosure of medical information without the applicant's consent & therefore must establish appropriate procedures to ensure confidentiality, and protect from unauthorized disclosure
• A policy automatically excluding an applicant that tests positive is *not* advisable. Employers should review entire application process before an employment decision is made
Results must be kept on forms that are separate from applicants packets.

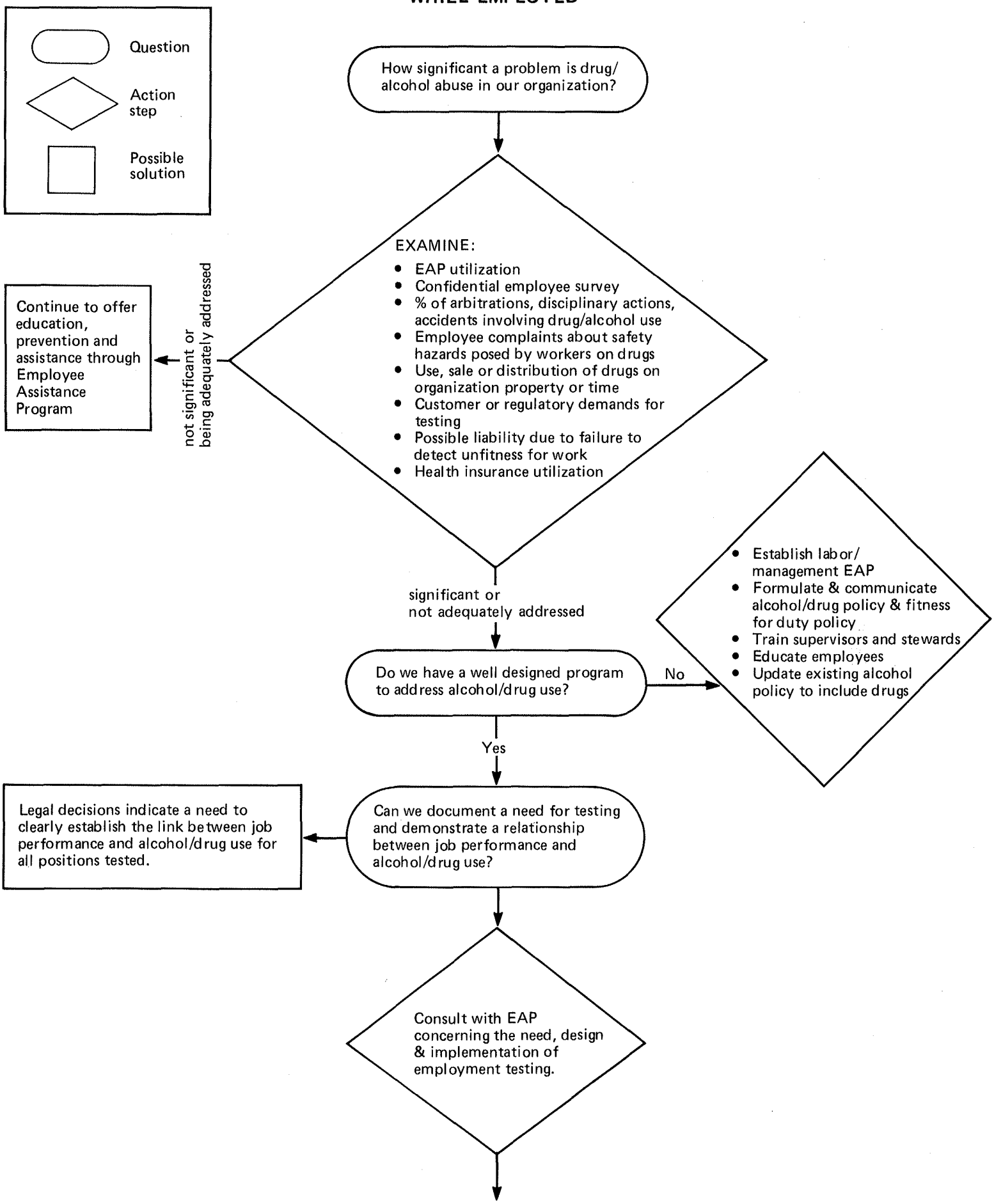

Give the applicant the opportunity to explain the positive result.
Exceptions may be an applicant on a medically supervised methadone maintenance program or taking prescription or over-the-counter drugs
Can an applicant appeal testing?
• Applicant can have same sample tested again at employer approved lab at applicant expense within 30 days
• Would we accept an applicant who claimed use was infrequent, signed policy acknowledgement, and agreed to be tested on an unannounced basis over the next 6 months?
Can an applicant reapply?
• In 6 months?
• Agree to testing on an unannounced basis over next 6 months?
Should we inform the police when someone tests positive?
• It is not illegal to be under the influence of drugs but it is illegal to possess or sell illegal drugs
• A positive screen only shows drugs in system
• This is not in itself an illegal act so it provides no basis for a report to police
• Results should be part of confidential medical file protected against disclosure to third parties
How do we avoid legal claims and charges of discrimination?
• The entire process must be designed to balance an individuals reasonable expectation of privacy and confidentiality with the principles of public safety, efficient performance and optimal productivity
• Applicant protections include notice, confidentiality of records, protection of dignity, professionalism throughout the process, presumption of innocence, privacy, the opportunity to contest the results, protection from defamation & liberty interest
• Public sector employers must consider constitutional rights protecting against governmental intrusion in the areas of right to privacy and unreasonable search & seizure
• Have clear records showing chain of custody & confirmation of all positive tests
Design program in a manner that protects applicants rights.

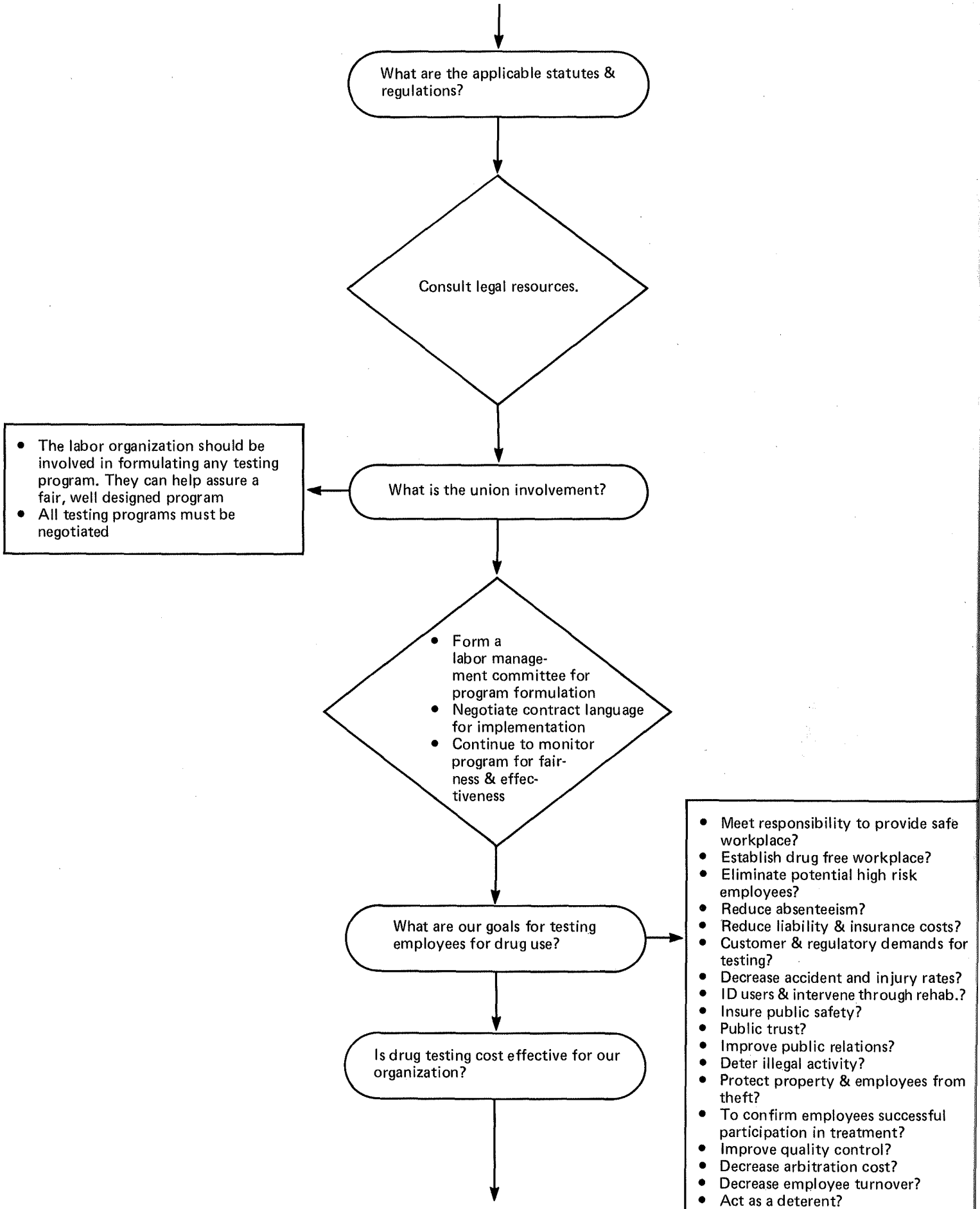

Determine if applicant has qualified handicap (i.e., alcoholism, drug addiction). If applicant is considered handicapped, determine if current use of alcohol/drugs prevents the individual from performing the duties of the job in question or if employment would cause a direct threat to property or safety.
Monitor testing program results for Title 7 adverse impact. An apparently neutral policy may screen out a minority group
Conduct ongoing cost benefit analysis and program evaluation following implementation

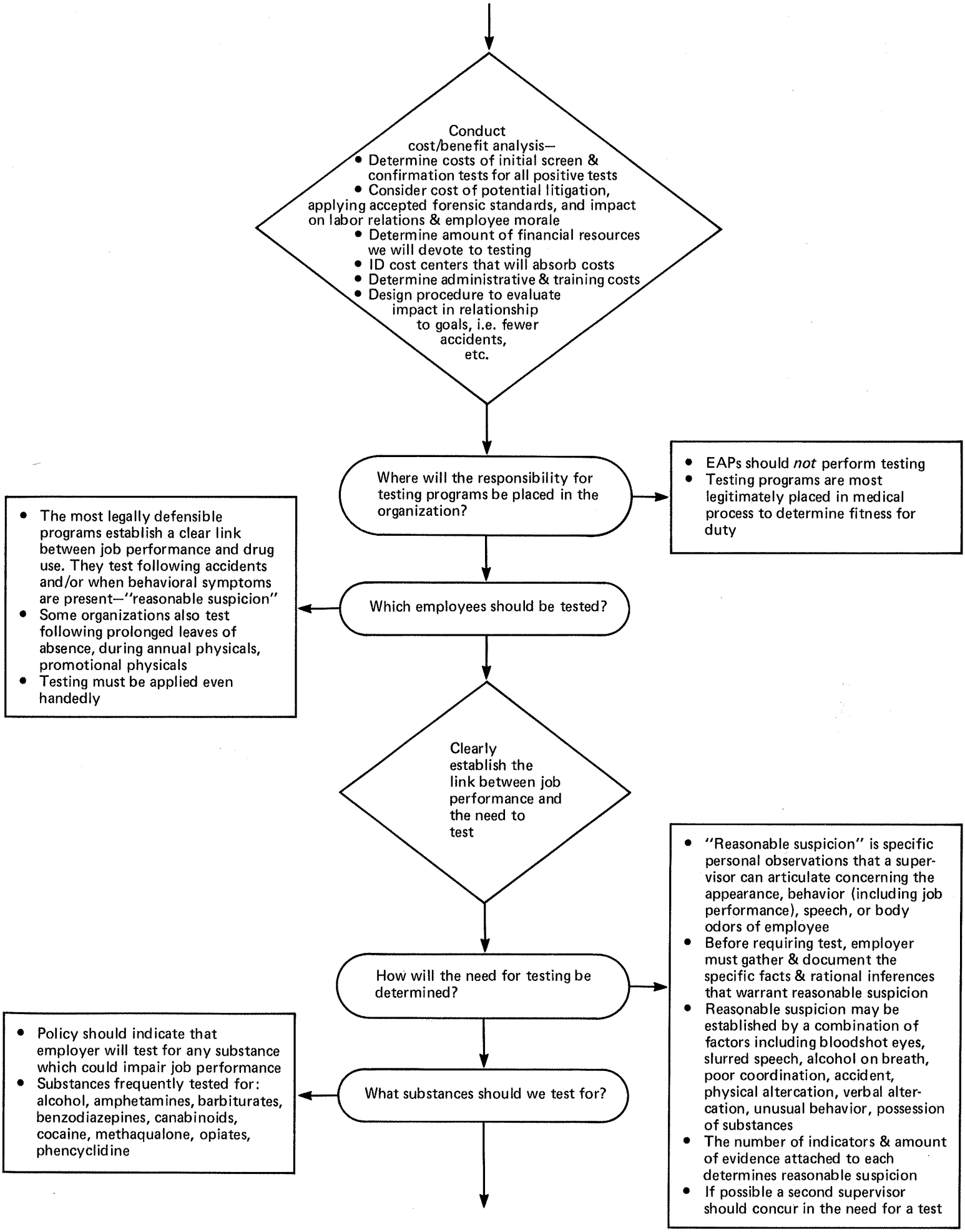
WHILE EMPLOYED

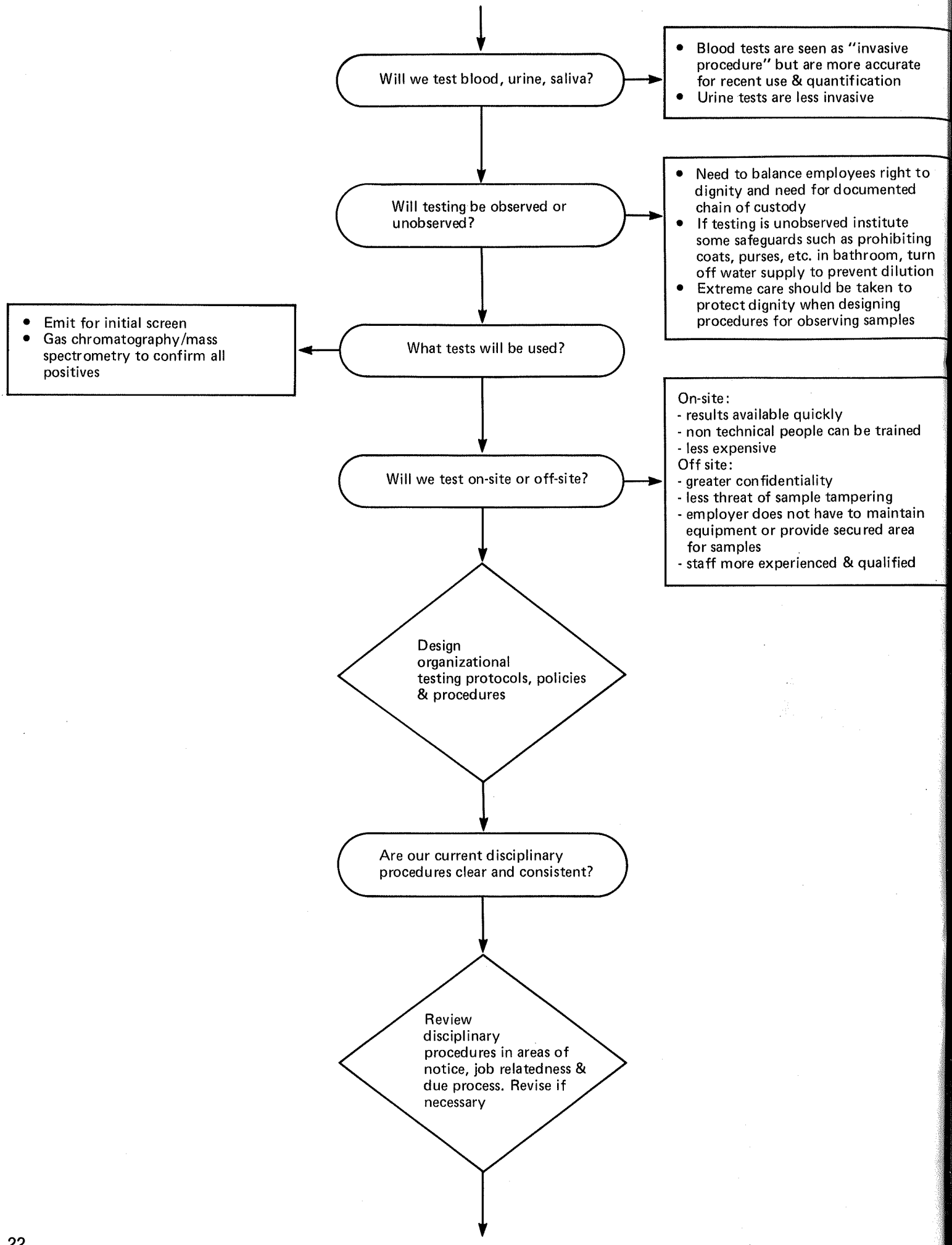
WHILE EMPLOYED

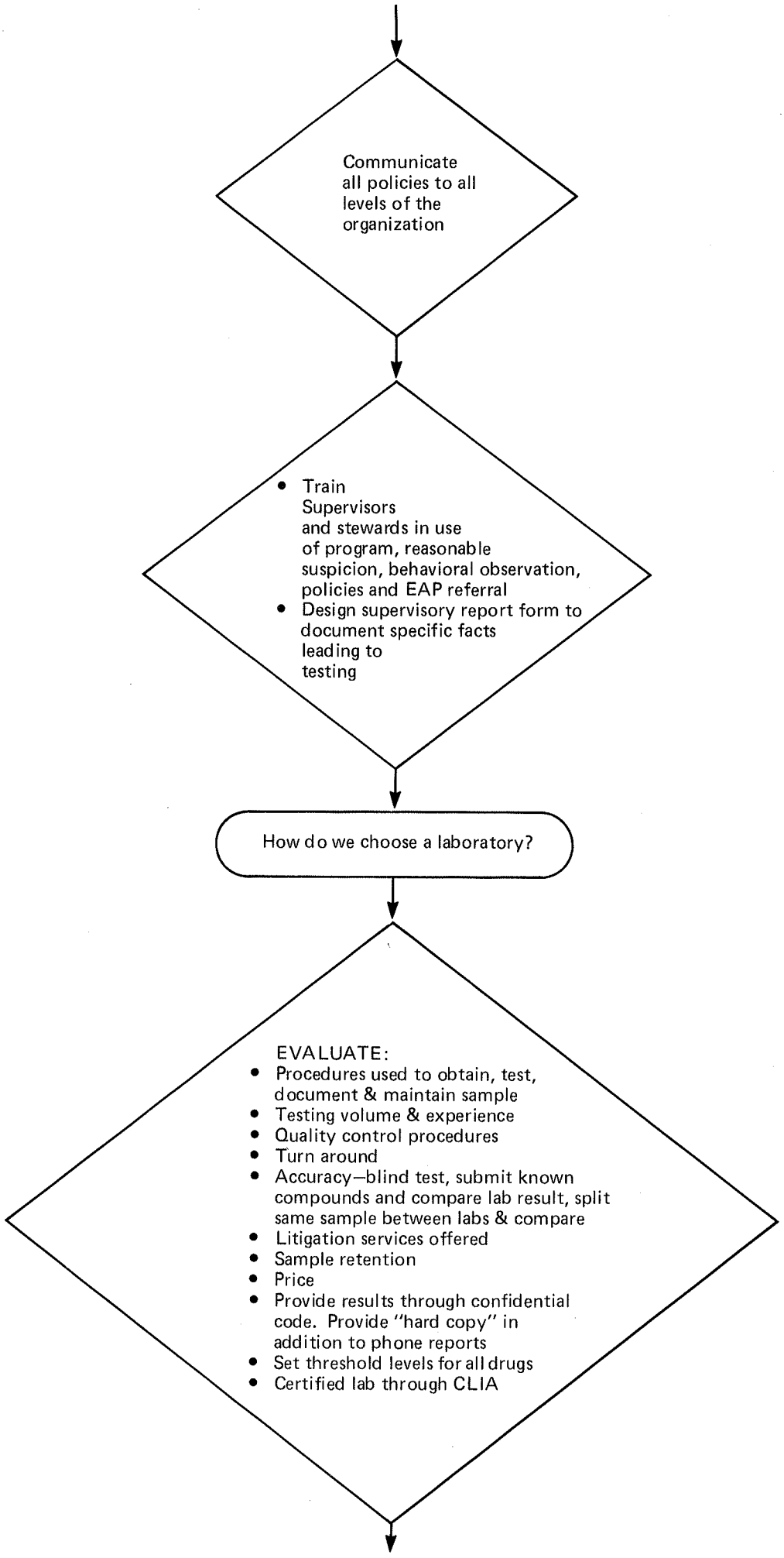
PROCESS MAP
ANALYZING DRUG TESTING ISSUES– WHILE EMPLOYED

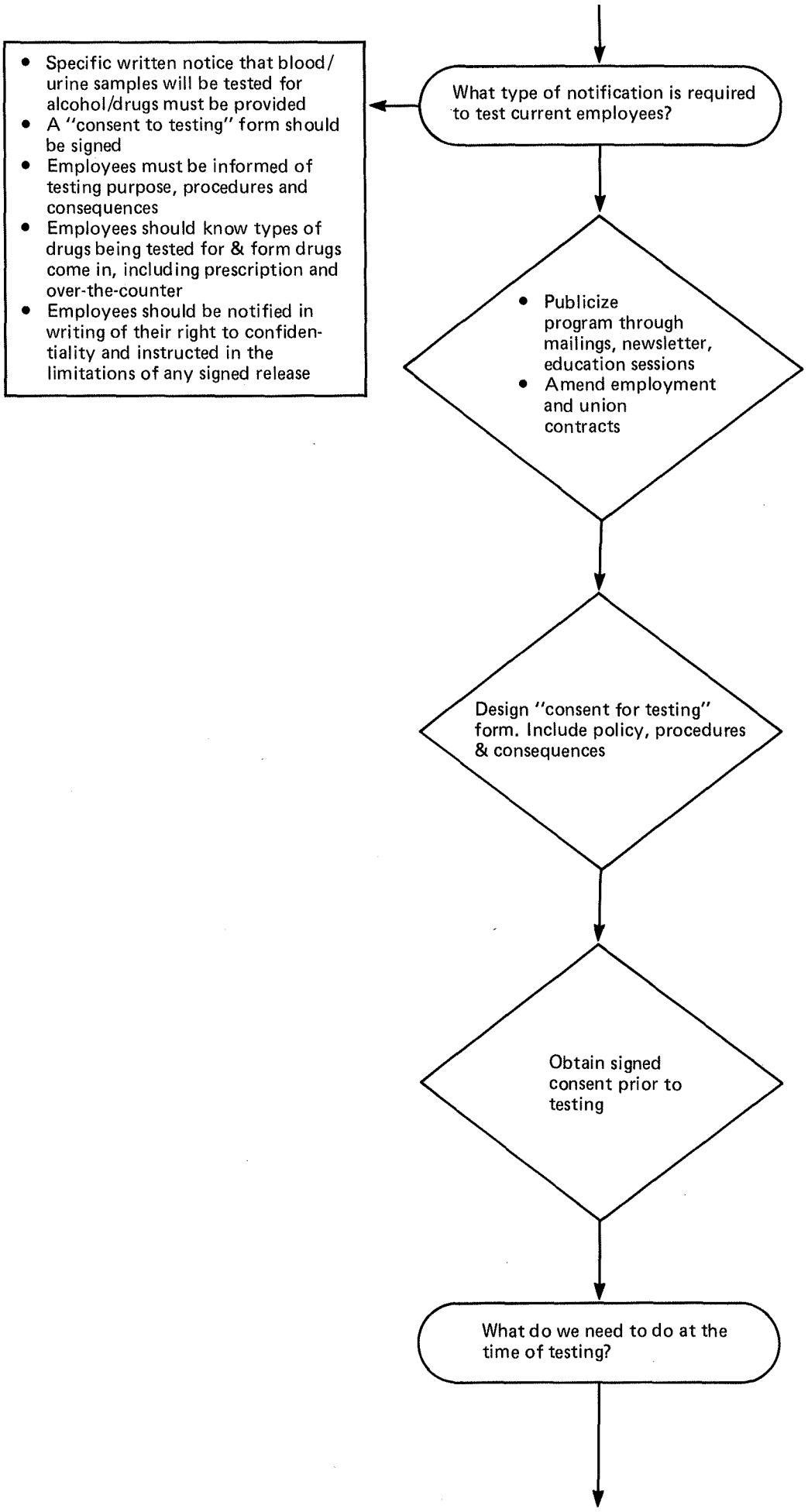


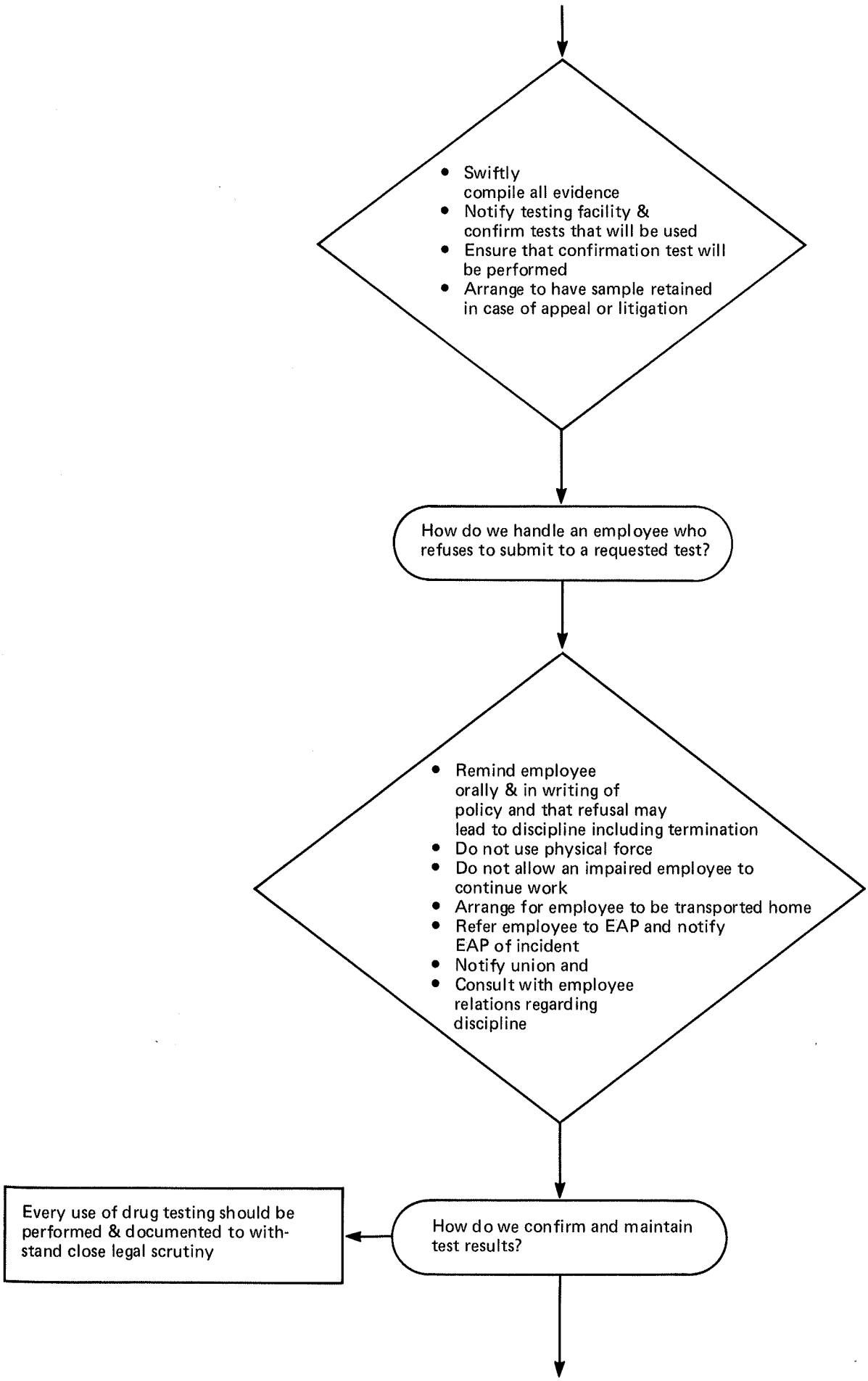

What are the applicable statutes & regulations?
Consult legal resources.
What is the union involvement?
• The labor organization should be involved in formulating any testing program. They can help assure a fair, well designed program
• All testing programs must be negotiated
• Form a labor management committee for program formulation
• Negotiate contract language for implementation
• Continue to monitor program for fairness & effectiveness
What are our goals for testing employees for drug use?
• Meet responsibility to provide safe workplace?
• Establish drug free workplace?
• Eliminate potential high risk employees?
• Reduce absenteeism?
• Reduce liability & insurance costs?
• Customer & regulatory demands for testing?
• Decrease accident and injury rates?
• ID users & intervene through rehab.?
• Insure public safety?
• Public trust?
• Improve public relations?
• Deter illegal activity?
• Protect property & employees from theft?
• To confirm employees successful participation in treatment?
• Improve quality control?
• Decrease arbitration cost?
• Decrease employee turnover?
• Act as a deterent?
Is drug testing cost effective for our organization?

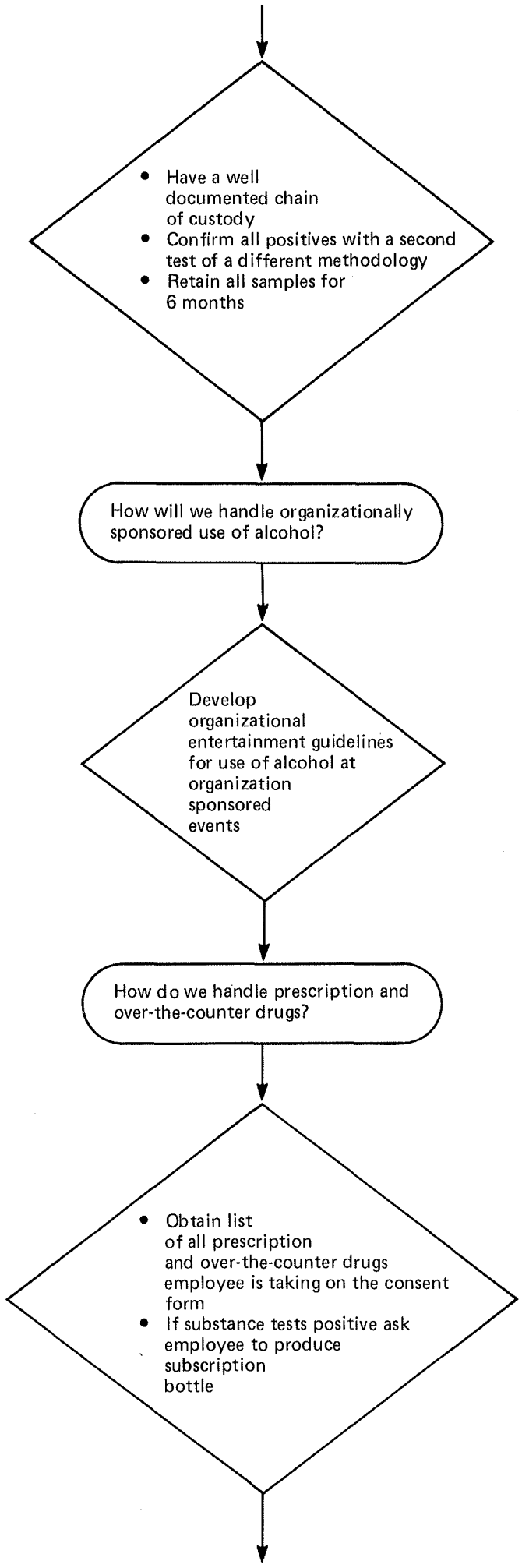

Conduct cost/benefit analysis—
• Determine costs of initial screen & confirmation tests for all positive tests
• Consider cost of potential litigation, applying accepted forensic standards, and impact on labor relations & employee morale
• Determine amount of financial resources we will devote to testing
• ID cost centers that will absorb costs
• Determine administrative & training costs
• Design procedure to evaluate impact in relationship to goals, i.e. fewer accidents, etc.
Where will the responsibility for testing programs be placed in the organization?
• EAPs should *not* perform testing
• Testing programs are most legitimately placed in medical process to determine fitness for duty
Which employees should be tested?
• The most legally defensible programs establish a clear link between job performance and drug use. They test following accidents and/or when behavioral symptoms are present—"reasonable suspicion"
• Some organizations also test following prolonged leaves of absence, during annual physicals, promotional physicals
• Testing must be applied even handedly
Clearly establish the link between job performance and the need to test
How will the need for testing be determined?
• "Reasonable suspicion" is specific personal observations that a supervisor can articulate concerning the appearance, behavior (including job performance), speech, or body odors of employee
• Before requiring test, employer must gather & document the specific facts & rational inferences that warrant reasonable suspicion
• Reasonable suspicion may be established by a combination of factors including bloodshot eyes, slurred speech, alcohol on breath, poor coordination, accident, physical altercation, verbal altercation, unusual behavior, possession of substances
• The number of indicators & amount of evidence attached to each determines reasonable suspicion
• If possible a second supervisor should concur in the need for a test
What substances should we test for?
• Policy should indicate that employer will test for any substance which could impair job performance
• Substances frequently tested for: alcohol, amphetamines, barbiturates, benzodiazepines, canabinoids, cocaine, methaqualone, opiates, phencyclidine

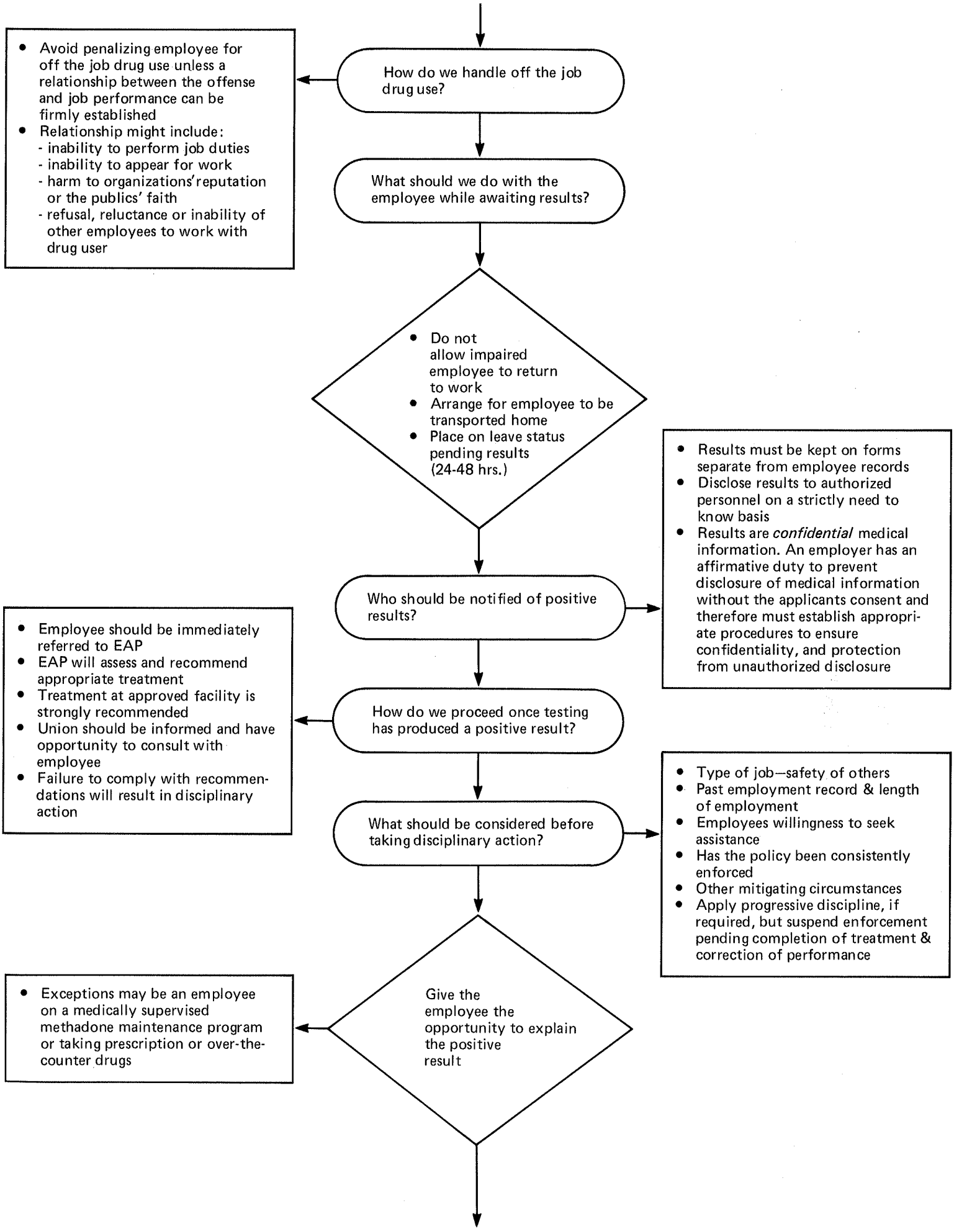

Will we test blood, urine, saliva?
• Blood tests are seen as "invasive procedure" but are more accurate for recent use & quantification
• Urine tests are less invasive
Will testing be observed or unobserved?
• Need to balance employees right to dignity and need for documented chain of custody
• If testing is unobserved institute some safeguards such as prohibiting coats, purses, etc. in bathroom, turn off water supply to prevent dilution
• Extreme care should be taken to protect dignity when designing procedures for observing samples
What tests will be used?
• Emit for initial screen
• Gas chromatography/mass spectrometry to confirm all positives
Will we test on-site or off-site?
On-site:
- results available quickly
- non technical people can be trained
- less expensive
Off site:
- greater confidentiality
- less threat of sample tampering
- employer does not have to maintain equipment or provide secured area for samples
- staff more experienced & qualified
Design organizational testing protocols, policies & procedures
Are our current disciplinary procedures clear and consistent?
Review disciplinary procedures in areas of notice, job relatedness & due process. Revise if necessary

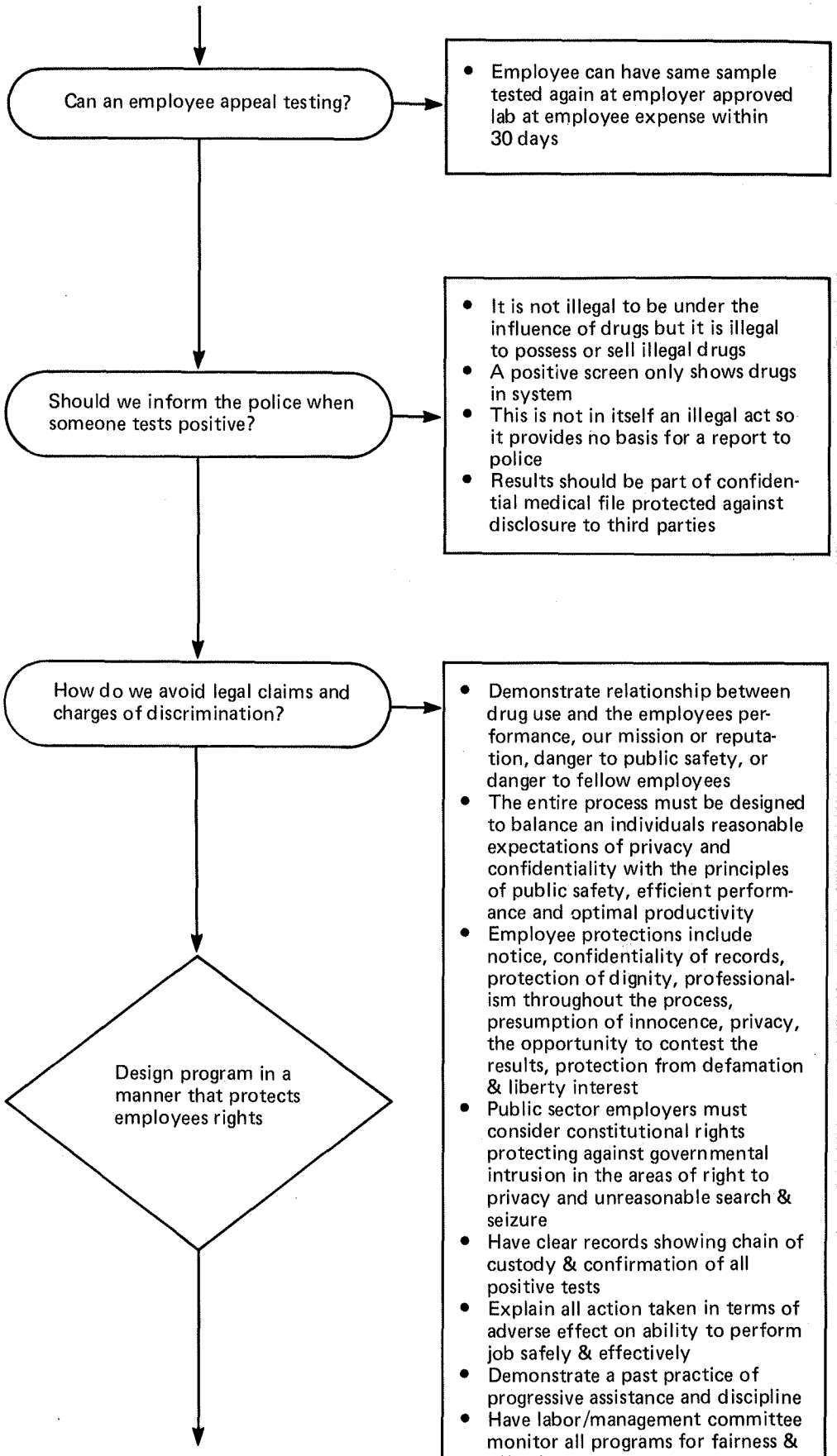

Communicate all policies to all levels of the organization
• Train Supervisors and stewards in use of program, reasonable suspicion, behavioral observation, policies and EAP referral
• Design supervisory report form to document specific facts leading to testing
How do we choose a laboratory?
EVALUATE:
• Procedures used to obtain, test, document & maintain sample
• Testing volume & experience
• Quality control procedures
• Turn around
• Accuracy—blind test, submit known compounds and compare lab result, split same sample between labs & compare
• Litigation services offered
• Sample retention
• Price
• Provide results through confidential code. Provide "hard copy" in addition to phone reports
• Set threshold levels for all drugs
• Certified lab through CLIA


What type of notification is required to test current employees?
• Specific written notice that blood/urine samples will be tested for alcohol/drugs must be provided
• A "consent to testing" form should be signed
• Employees must be informed of testing purpose, procedures and consequences
• Employees should know types of drugs being tested for & form drugs come in, including prescription and over-the-counter
• Employees should be notified in writing of their right to confidentiality and instructed in the limitations of any signed release
• Publicize program through mailings, newsletter, education sessions
• Amend employment and union contracts
Design "consent for testing" form. Include policy, procedures & consequences
Obtain signed consent prior to testing
What do we need to do at the time of testing?


• Swiftly compile all evidence
• Notify testing facility & confirm tests that will be used
• Ensure that confirmation test will be performed
• Arrange to have sample retained in case of appeal or litigation
How do we handle an employee who refuses to submit to a requested test?
• Remind employee orally & in writing of policy and that refusal may lead to discipline including termination
• Do not use physical force
• Do not allow an impaired employee to continue work
• Arrange for employee to be transported home
• Refer employee to EAP and notify EAP of incident
• Notify union and
• Consult with employee relations regarding discipline
How do we confirm and maintain test results?
Every use of drug testing should be performed & documented to withstand close legal scrutiny


• Have a well documented chain of custody
• Confirm all positives with a second test of a different methodology
• Retain all samples for 6 months
How will we handle organizationally sponsored use of alcohol?
Develop organizational entertainment guidelines for use of alcohol at organization sponsored events
How do we handle prescription and over-the-counter drugs?
• Obtain list of all prescription and over-the-counter drugs employee is taking on the consent form
• If substance tests positive ask employee to produce subscription bottle


How do we handle off the job drug use?
• Avoid penalizing employee for off the job drug use unless a relationship between the offense and job performance can be firmly established
• Relationship might include:
- inability to perform job duties
- inability to appear for work
- harm to organizations' reputation or the publics' faith
- refusal, reluctance or inability of other employees to work with drug user
What should we do with the employee while awaiting results?
• Do not allow impaired employee to return to work
• Arrange for employee to be transported home
• Place on leave status pending results (24-48 hrs.)
Who should be notified of positive results?
• Results must be kept on forms separate from employee records
• Disclose results to authorized personnel on a strictly need to know basis
• Results are *confidential* medical information. An employer has an affirmative duty to prevent disclosure of medical information without the applicants consent and therefore must establish appropriate procedures to ensure confidentiality, and protection from unauthorized disclosure
How do we proceed once testing has produced a positive result?
• Employee should be immediately referred to EAP
• EAP will assess and recommend appropriate treatment
• Treatment at approved facility is strongly recommended
• Union should be informed and have opportunity to consult with employee
• Failure to comply with recommendations will result in disciplinary action
What should be considered before taking disciplinary action?
• Type of job—safety of others
• Past employment record & length of employment
• Employees willingness to seek assistance
• Has the policy been consistently enforced
• Other mitigating circumstances
• Apply progressive discipline, if required, but suspend enforcement pending completion of treatment & correction of performance
Give the employee the opportunity to explain the positive result
• Exceptions may be an employee on a medically supervised methadone maintenance program or taking prescription or over-the-counter drugs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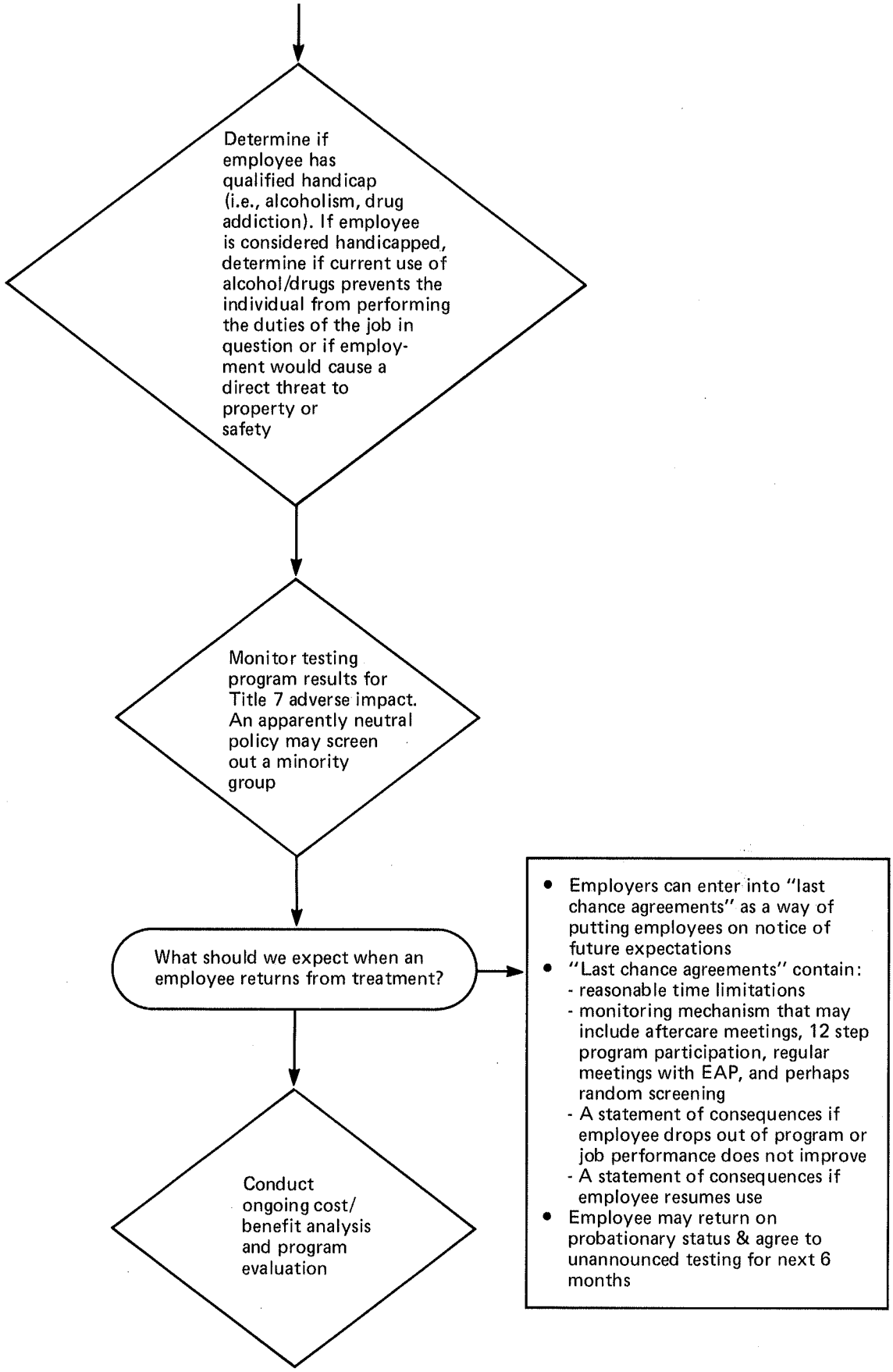
• Employee can have same sample tested again at employer approved lab at employee expense within 30 days
Should we inform the police when someone tests positive?
• It is not illegal to be under the influence of drugs but it is illegal to possess or sell illegal drugs
• A positive screen only shows drugs in system
• This is not in itself an illegal act so it provides no basis for a report to police
• Results should be part of confidential medical file protected against disclosure to third parties
How do we avoid legal claims and charges of discrimination?
• Demonstrate relationship between drug use and the employees performance, our mission or reputation, danger to public safety, or danger to fellow employees
• The entire process must be designed to balance an individuals reasonable expectations of privacy and confidentiality with the principles of public safety, efficient performance and optimal productivity
• Employee protections include notice, confidentiality of records, protection of dignity, professionalism throughout the process, presumption of innocence, privacy, the opportunity to contest the results, protection from defamation & liberty interest
• Public sector employers must consider constitutional rights protecting against governmental intrusion in the areas of right to privacy and unreasonable search & seizure
• Have clear records showing chain of custody & confirmation of all positive tests
• Explain all action taken in terms of adverse effect on ability to perform job safely & effectively
• Demonstrate a past practice of progressive assistance and discipline
• Have labor/management committee monitor all programs for fairness & effectiveness
Design program in a manner that protects employees rights


Determine if employee has qualified handicap (i.e., alcoholism, drug addiction). If employee is considered handicapped, determine if current use of alcohol/drugs prevents the individual from performing the duties of the job in question or if employ-ment would cause a direct threat to property or safety
Monitor testing program results for Title 7 adverse impact. An apparently neutral policy may screen out a minority group
What should we expect when an employee returns from treatment?
• Employers can enter into "last chance agreements" as a way of putting employees on notice of future expectations
• "Last chance agreements" contain:
- reasonable time limitations
- monitoring mechanism that may include aftercare meetings, 12 step program participation, regular meetings with EAP, and perhaps random screening
- A statement of consequences if employee drops out of program or job performance does not improve
- A statement of consequences if employee resumes use
• Employee may return on probationary status & agree to unannounced testing for next 6 months
Conduct ongoing cost/ benefit analysis and program evaluation

Dr. Jodi Jacobson Frey
University of Maryland
410-706-3607

ALMACA Clearinghouse for
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