



Purpose

The City is committed to providing and maintaining a safe and healthy work environment for its employees and a safe and dependable transportation system for the public. The use of drugs and/or alcohol can adversely affect the ability to perform safely and may constitute a threat to the health and safety of the public and other City employees and to the efficient operation of the City. Therefore, the City shall establish a work environment where its employees are free from the effects of drugs and/or alcohol.

It is the intent of this policy to achieve a drug and alcohol-free work force in the interest of the health and safety of employees and the public, to enhance worker productivity and safety, and to encourage employees to seek assistance and treatment for drug and/or alcohol-related problems before such problems affect performance and safety.

The objectives of this policy are to:

- Maintain a safe, drug- and alcohol-free transportation system.
- Maintain safe, efficient working conditions for City employees.
- Maintain the City's compliance with applicable federal regulations.
- Promote use of the City's Employee Assistance Program for help with problems related to drugs and alcohol.

Policy

Covered Employees

Covered employees shall include applicants for employment in positions that require a Commercial Drivers License (CDL) and City of Albany employees whose position requires a CDL. A CDL is required for employees who operate vehicles more than 26,000 pounds or a 16 passenger or more vehicle.

Prohibited Conduct

The City expects and requires all covered employees to report to work in an appropriate mental and physical condition to work safely and effectively. No covered employee shall report to work or engage in work while having the presence of alcohol, illegal drugs, or any other disabling or controlled substance in his/her system. A breath alcohol concentration level of 0.02 or greater or a verified positive result on a drug test will be considered to be evidence of the presence of alcohol or a prohibited drug in one's system. Compliance with this policy is a condition of employment. Any violation of this policy may subject the covered employee to discipline, up to and including suspension or discharge.

Except as specifically provided herein, covered employees are prohibited from engaging in the possession, sale, transporting, distribution, manufacture or use of alcohol, illegal drugs, or any other disabling or controlled substance at any time while on duty and/or on City premises, which include buses or other City owned or operated vehicle(s) or facilities.



City of Albany

Human Resources Policy

Policy #: HR-SF-05-004

Title: Substance Abuse - DOT

Safety

Federal Motor Carrier Safety Administration (FMCSA) regulation 49 CFR part 382, “Controlled Substances and Alcohol Use and Testing,” prohibits a covered employee from performing a safety-sensitive function with a breath alcohol concentration level of 0.02 or greater. In addition, a covered employee must not consume alcohol while performing a safety-sensitive function and must not consume alcohol four hours prior to performing a safety-sensitive function and up to eight hours following an accident or until the covered employee undergoes a post-accident drug and/or alcohol test, whichever occurs first. FTA regulation 49 CRF part 655, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations”, prohibits the use and ingestion of prohibited drugs at all times. Testing is permissible only just before, during and just following the performance of a safety sensitive duty.

Federal regulations require the City to test for prohibited drug use and alcohol misuse. Participation in the City’s drug and alcohol testing program is a condition of employment for all covered employees. A covered employee who refuses to submit to a drug or alcohol test will be in violation of this policy and may be subject to discipline, up to and including suspension or discharge.

Prescription/Over-The-Counter Drugs Use

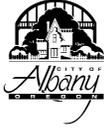
A covered employee may possess and use medically authorized prescription or over-the-counter drugs at work as long as the prescription or over-the-counter drugs do not have disabling effects or otherwise affect the covered employee’s fitness for duty or job performance. Covered employees must report the use of prescription or over-the-counter drugs that could have a disabling effect or otherwise adversely affect the covered employee’s fitness for duty or job performance to their immediate supervisor. It is the covered employee’s responsibility to determine from the physician, pharmacist, or other health care professional whether or not the prescribed or over-the-counter drugs could affect the covered employee’s fitness for duty or impair job performance. Covered employees may be required to provide a written medical authorization to work from a physician, upon reporting the use of prescription or over-the-counter drugs. Failure to report the use of prescription or over-the-counter drugs that have disabling effects or otherwise affect the covered employee’s fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including suspension or discharge.

Covered Employee Responsibility

The City expects and requires the support of all covered employees in meeting its commitment to providing a drug and alcohol free work environment. Each employee who observes or has knowledge of a covered employee in a condition that impairs his/her ability to perform his/her job duties or who poses a serious hazard to the safety and welfare of others, has an assertive responsibility to report the information to his or her immediate supervisor, the covered employee’s supervisor, or any member of the Human Resources Department.

Workplace Drug-Related Convictions

The Drug Free Workplace Act of 1988 requires covered employees, as a condition of employment, to report any criminal convictions of drug-related activity in the



workplace to the City no later than five days after a conviction. The City shall inform its federal contracting agency of such convictions within ten days of learning about a conviction.

Covered employees convicted of workplace drug-related crimes will be subject to suspension or discharge. Disciplinary action will be imposed within 30 days of the City being notified of the conviction.

Right To Inspection

When the City has reasonable grounds to believe a covered employee is in improper possession of drugs or open alcohol containers on City property that covered employee may be requested to permit an inspection of his or her person, personal property, clothing, or personal vehicle. The City will have at least one witness and/or union representative present when conducting an inspection of a covered employee or a covered employee's personal property, clothing, or personal vehicle. Refusal to submit to such an inspection may result in discipline, up to and including suspension or discharge. The City reserves the right to search City property (i.e. desks, file cabinets, lockers) at any time, including when this policy is violated.

Training

All covered employees will receive training regarding the effects and consequences of substance abuse use on personal health and safety, and the work environment. Training will also be provided regarding the manifestations and behavioral cues indicating substance abuse.

All supervisors who will be responsible for determining when it is appropriate to administer reasonable suspicion drug and/or alcohol tests will receive training on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse.

Testing

Participation in the City's drug and alcohol testing program is a requirement of each covered employee. Applicants for employment in a safety-sensitive position, covered employees requesting transfer into a safety-sensitive position, and covered employees in a position that requires the performance of a safety-sensitive function are required to submit to drug and possible alcohol testing, as mandated by federal regulations, as a condition of employment with the City. The Department of Transportation (DOT) regulation 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," prescribes the testing methods that will be used.

All drug and alcohol testing will be conducted in a manner that assures a high degree of accuracy and reliability by using the techniques, chain of custody procedures, and equipment and laboratory facilities that have been approved by the U.S. Department of Health and Human Services (DHHS) and the DOT.

All drug and alcohol testing will be conducted in an environment that affords maximum privacy practicable for the covered employee being tested. The City will strictly adhere

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to all standards of confidentiality, maintaining the confidentiality of the covered employee throughout the drug and/or alcohol testing process, and releasing testing records and results only to those authorized by the Federal Transit Administration (FTA) rules to receive such information.

Except as otherwise provided herein, the City will be responsible for all costs directly associated with the drug and alcohol tests specified in this policy.

Types of Testing:

1. Pre-employment

All applicants for employment in safety-sensitive positions or individuals under the City's authority requesting to be transferred or promoted into safety-sensitive positions must submit to and pass urine testing for drugs and may be required to submit to a breath alcohol test and have results indicating an alcohol concentration level less than 0.02 prior to being hired or assigned to a safety-sensitive position. An applicant who has a breath alcohol result of 0.02 or greater and less than 0.04 may be allowed to submit to a retest. Testing will be conducted after the employer makes a contingent offer of employment or transfer subject to the employee passing the test.

Failure of a drug and/or alcohol test will disqualify an applicant for employment in or transfer to a safety-sensitive position. A verified positive result on a drug test is considered to be a failure of the drug test. A breath alcohol concentration level of 0.04 or greater is considered to be a failure of the alcohol test. An applicant who has failed a pre-employment drug and/or alcohol test will not be eligible for evaluation by the City's Substance Abuse Professional (SAP). Unless otherwise provided by law, an applicant who has failed a pre-employment drug or alcohol test will be ineligible to submit another application for employment with the City for a period of six months. Further the employer ensures that no prior employer of the driver of whom the employer has knowledge has record of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

An applicant is not required to be tested if the driver had participated in a controlled substances testing program within the previous 30 days. Providing that while the applicant participated in the program he/she was tested for controlled substances within the past 6 months (from the date of the application with the employer) and participated in a random drug controlled substances testing program for the previous 12 months.

If an applicant or an employee requesting a transfer to a covered position is unable to provide an adequate specimen for a pre-employment drug and/or alcohol test or if the test is cancelled it will be considered a failed test. The applicant/covered employee will not be eligible for a referral by the City's Medical Review Officer (MRO) for a medical evaluation to determine if the inability to provide a specimen is for a valid medical reason.



2. Reasonable Suspicion

Covered employees will be required to submit to urine testing for drugs and/or alcohol breath testing when there is a reasonable suspicion that the covered employee is under the influence of a prohibited drug or has misused alcohol. The authorization to administer a reasonable suspicion test will be made by two or more supervisor(s) trained to identify the signs and symptoms of drug use and alcohol misuse. The supervisor(s) are required to articulate and substantiate physical, behavioral, and performance indicators of probable drug use or alcohol misuse. The authorization will be based on the supervisor's specific observations and completion of the Reasonable Cause Record Form.

When a covered employee has been notified that he/she will be required to submit to reasonable suspicion drug and/or alcohol testing, he/she must report immediately to the collection site designated by the City. Transportation to and from the collection site will be provided by the City. The covered employee will not be permitted to use rest room facilities, consume beverages, or smoke until specimen collection is completed.

A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier. All documents generated in connection with decisions to administer a reasonable suspicion drug and/or alcohol test will be forwarded to and maintained by the Human Resources Director or designee.

3. Post-accident

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employee shall test for **alcohol** for the surviving driver, if:

- The accident involved loss of human life, or
- An individual received a citation within 8 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:
 1. Bodily injury to any person who, as a result of an injury immediately receives medical treatment away from the scene of the accident; or
 2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employee shall test for **controlled substances** for the surviving driver, if:

- The accident involved loss of human life, or



- An individual received a citation within 32 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 1. Bodily injury to any person who, as a result of an injury immediately receives medical treatment away from the scene of the accident; or
 2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

| Type of accident involved | Citation issued to CDL driver | Test must be performed by employer |
|--|-------------------------------|------------------------------------|
| Human fatality | YES | YES |
| | NO | YES |
| Bodily injury with immediate medical treatment away from the scene | YES | YES |
| | NO | NO |
| Disabling damage to any motor vehicle requiring tow away | YES | YES |
| | NO | NO |

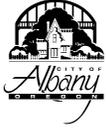
Post-accident drug and alcohol tests must be performed as soon as possible. Alcohol tests should be performed within two hours following the accident. If not, a file must be prepared and maintained stating the reasons the test was not promptly administered. Alcohol test must be performed within eight hours following the accident. If not able to obtain a specimen in eight hours, cease attempts to obtain a specimen and update the two-hour written report.

If the drug test is not administered within 32 hours following the accident, all attempts should cease to administer the drug test. Documentation must be prepared and maintained stating the reasons the test was not promptly administered.

Requirements for accident testing is stayed while employee assists in the resolution of the accident or receives medical attention following the accident, however, testing could be administered simultaneously, if conscious, to the covered employee while receiving necessary medical attention.

A driver involved in an accident must remain readily available for drug and/or alcohol testing for up to eight hours after the accident. The covered employee is responsible for notifying the City of s/he location if he or she leaves the scene of the accident prior to submission to testing. Failure by the covered employee to remain readily available may be determined to be a refusal to submit to testing and may lead to disciplinary action up to and including discharge.

When a covered employee has been notified that s/he will be required to submit



to post-accident drug and/or alcohol testing, s/he must report immediately to the collection site designated by the City. Transportation to and from the collection site will be provided by the City. The covered employee will not be permitted to use rest room facilities, consume beverages, or smoke until specimen collection is complete.

Note: Post-accident drug and alcohol tests required by this policy are in addition to and/or separate from any tests conducted for law enforcement purposes.

4. Random

All covered employees will be subject to random and unannounced drug and/or alcohol testing. Selections are made using a scientifically valid method. Testing will be spread reasonably throughout all periods of the calendar year with up to five tests per year. Testing will be unannounced and immediate and will allow no discretion by personnel as to who is selected or notified to proceed to testing. When a covered employee has been notified that s/he has been selected for testing, s/he must report immediately to the collection site designated by the City. Transportation to and from the collection site will be provided by the City. The covered employee will not be permitted to use rest room facilities, consume beverages, or smoke until specimen collection is completed.

The number of random drug and alcohol tests to be conducted each year will meet the current federal drug and alcohol testing requirements.

All covered employees will have an equal chance of being selected for testing and will remain in the random selection pool even after being tested. For example, it is possible for some covered employees to be tested several times in one year, and other covered employees not to be tested for several years.

5. Return to Duty

Prior to being permitted to return to duty, all covered employees who have previously had a verified positive drug test, and alcohol test result of 0.04 or greater, refused to submit to a test, or engaged in any activity that violates this policy, must be evaluated by a SAP to determine whether the covered employee has followed the recommendations for action by the SAP and must pass a return to duty drug test and/or submit to a breath alcohol test with a result showing an alcohol concentration level of less than 0.02.

The City may require covered employees returning to work from a leave of absence, illness, or layoff of a duration of more than 180 days or not doing a safety sensitive job for 90 days and has not been in the random pool, or from a voluntary drug and/or alcohol treatment program to undergo a physical evaluation, by a physician of the City's choice. The covered employee may be required to pass a return to duty drug test and/or submit to a breath alcohol test with a result showing an alcohol concentration level of less than 0.02, prior to

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return to work.

6. Follow-up

A covered employee who has been permitted to return to duty, following a verified positive drug test, an alcohol test result of 0.04 or greater, or a refusal to submit to a test WILL BE SUBJECT TO UNANNOUNCED FOLLOW-UP DRUG AND/OR ALCOHOL TESTING FOR A LEAST 12 MONTHS BUT NOT MORE THAN 60 MONTHS. THE FREQUENCY AND DURATION OF THE FOLLOW-UP TESTING WILL BE RECOMMENDED BY THE SAP, WITH A MINIMUM OF SIX TESTS DURING THE FIRST 12 MONTHS AFTER THE COVERED EMPLOYEE HAS RETURNED TO DUTY. A covered employee, who has been permitted to return to duty, following voluntary treatment for a drug and/or alcohol problem, may be required to submit to a follow-up drug and/or alcohol testing.

When a covered employee has been notified that he/she has been selected for testing, s/he must report immediately to the collection site designated by the City. Transportation to and from the collection site will be provided by the City. The covered employee will not be permitted to use rest room facilities, consume beverages, or smoke until specimen collection is completed.

Follow-up testing is separate from and in addition to the regular random testing program.

Drug Testing Procedures

Drug testing will be conducted using laboratory testing of urine specimens for all substances required by Department of Transportation (DOT) regulation 49 CFR Part 40.

All urine specimens will be collected at a collection site, designated by the City, which meets the guidelines established by the Department of Transportation (DOT).

The collection site personnel will be responsible for maintaining the integrity of the specimen collection and transfer process and for protecting the dignity and privacy of the covered employee providing the sample.

Chain of custody procedures, using DOT urine custody and control forms, will be used throughout the collection and analysis process to ensure that test results will be attributed to the correct covered employee. The DOT “Urine Custody and Control Form” documents the chain of custody and is legal evidence that the reported test results apply to the donor.

The covered employee will be required to urinate into a collection cup or specimen bottle, supplied by the collection site, providing at least 45 milliliters of urine.

The collection site personnel will be responsible for recording the temperature of the specimen and will visually examine the specimen for any unusual color or sediment and

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note the results on the custody and control form.

Collection site personnel will also be responsible for separating the specimen, in the presence of the covered employee, into two specimen bottles. One bottle shall contain thirty (30) ml of urine and will be used as the primary specimen. The second bottle shall contain at least fifteen (15) ml of urine and shall be used as the split specimen.

Both bottles must be sealed and labeled in the presence of the donor covered employee. The labels must be printed with the same specimen identification number as the custody and control form. The donor covered employee will initial the labels verifying that the specimen is his/hers.

If the covered employee is unable to provide at least 45 ml of urine, the covered employee will be permitted to drink not more than 40 ounces of fluids during a period of up to three (3) hours. If the covered employee is still unable to provide an adequate specimen, the testing will be discontinued, the City will be notified, and the MRO designated by the City will refer the covered employee to a physician approved by the City for a medical evaluation to determine whether the covered employee's inability to provide a specimen is genuine or constitutes a refusal to submit to a drug test.

Observed Collections

In the following circumstances, collection site personnel must observe a second urine collection immediately after the first collection if:

- The covered employee has presented a urine sample that falls outside the normal temperature range (90 to 100 degrees), and/or
- The collection site personnel observe conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample.

A supervisor of the collection site person or a representative of the City will review and concur in advance with any decision by a collection site person to obtain a specimen under direct observation. Collection site personnel will notify the City of the decision to conduct an observed collection.

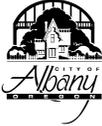
In the following circumstances, as permitted by the Federal regulations, the City may authorize an observed collection:

The covered employee has previously been determined to have used a controlled substance without medical authorization and the particular test in being conducted under the FTA regulation as a return to duty or follow-up test.

Direct observation of specimen collection must be by a collection site person of the same gender as the covered employee being tested.

Return to Duty After Specimen Collection

A covered employee who is required to submit to random or follow-up drug testing may be returned to duty immediately following specimen collection. If the covered employee is also subject to random or follow-up alcohol testing, the covered

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employee's return to duty will be dependent upon the outcome of the breath alcohol testing.

A covered employee who is required to submit to a reasonable suspicion or post-accident drug test will not be permitted to return to duty and will be placed on a paid leave pending the receipt by the City of a verified test result.

Drug Testing Laboratories

All drug testing must be completed in a laboratory certified by the Department of Health and Human Services (DHHS). Immunoassay screening will be used as the initial test for the testing of the primary specimen. If any prohibited drug registers above the cutoff level, designated in the Federal regulations, a confirmation test using gas chromatography/mass spectrometry (GC/MS) will be conducted.

Drug Test Results

All drug test results will be reported by the testing laboratory to a qualified MRO designated by the City. The MRO will be responsible for verifying and validating drug test results. The MRO will review and interpret a covered employee's confirmed positive drug test result by reviewing the individual's medical history and affording the covered employee an opportunity to offer any clarifying information that would explain a positive test result. The MRO will report each verified test result to the City and will notify each covered employee who has a verified positive test result.

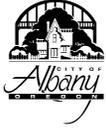
Positive Drug Test Results

A covered employee who has a verified positive drug test result will be immediately removed from his/her safety-sensitive position, advised of resources available to evaluate and resolve problems associated with drug abuse, and be evaluated by a SAP. The covered employee will be placed on a paid leave of absence pending the results of the evaluation by the SAP and may be subject to discipline, up to and including suspension or discharge.

Employees who test positive and seek the recommended treatment and counseling shall be responsible for the costs incurred through the City provided health insurance program.

A covered employee who has a verified positive drug test result will have 72 hours, including holidays and weekends, from the time of notification by the MRO, or the City, whichever occurs first, in which to request that the split specimen be analyzed at a different DHHS-approved laboratory. The split specimen will be analyzed, using Gas Chromatography/Mass Spectrometry (GC/MS) technology, to determine the presence, or absence, of the drug(s) for which a positive result was obtained in the test of the primary sample, without regard to the cutoff levels specified in the federal regulations for analysis of the primary sample. The covered employee will be responsible for paying the cost of the split sample testing.

If the result of the test of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO will cancel the test and



report the cancellation and the reasons for it to the City, the covered employee, and the DOT. The covered employee will be returned to duty and will be compensated for time or benefits lost as a result of being placed on an unpaid leave of absence.

The request by a covered employee for an analysis of the split specimen will not delay the removal of the covered employee from his/her safety-sensitive position.

Breath Alcohol Testing Procedures

All breath specimens must be collected through the use of an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a Conforming Products List (CPL) for such devices. The breath alcohol tests will be conducted by a trained breath alcohol technician (BAT) at a site that provides visual and aural privacy to the covered employee being tested to the greatest extent practicable. Prior to specimen collection, the covered employee and the BAT must complete, and sign a breath alcohol testing form indicating that the covered employee is present and providing a breath specimen.

The BAT will conduct an initial screening test, requiring the covered employee to blow forcefully into a disposable mouthpiece, attached to the EBT, for at least six seconds or until an adequate amount of breath has been obtained. Following the initial screening test, the BAT will show the covered employee the result displayed on the EBT, or the printed result.

If the result of the initial screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be conducted. The confirmation test will be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial screening test. The covered employee must remain in the presence of the BAT during the waiting period. The confirmation test will be conducted using the same procedures as the initial screening test. A new mouthpiece will be used. Before the confirmation test is administered, the BAT will conduct an air blank test on the EBT. If a BAT other than the one who conducted the screening test is to conduct the confirmation test, the new BAT and the covered employee will be required to sign and date a new breath alcohol testing form.

If the results of the initial screening test and the confirmation test are different, the confirmation test result will be deemed to be the final result.

Following the completion of a breath alcohol test, the BAT and the covered employee will be required to sign and date the breath alcohol testing form certifying that the results shown belong to the covered employee being tested. Failure to sign the form may constitute refusal.

The BAT will be responsible for transmitting all test results to the City in a confidential manner.

If a covered employee attempts and fails to provide an adequate amount of breath, the BAT will note this on the alcohol testing form and notify the City. The covered



employee will be required to submit to a medical evaluation by a physician of the City's choice, concerning the covered employee's medical ability to provide an adequate amount of breath. If no valid medical reason is determined, then the covered employee's inability to provide an adequate amount of breath will be considered to be a refusal to submit to a test.

Breath Alcohol Test Results

If the results of the breath alcohol test are below 0.02, the covered employee may be returned to work immediately.

A confirmed alcohol concentration of 0.04 or greater will be considered a positive breath alcohol test result and a violation of this policy.

Under the City's authority, if the results of the breath alcohol test between 0.02 and 0.039, the covered employee will not be permitted to return to duty and will be placed on administrative leave until the start of his/her next regularly scheduled shift and not less than 24 hours following the test. The employee must have a negative return to duty test before being allowed to return to work. The covered employee may be subject to discipline for violation of other City policies.

If the results of the breath alcohol test are 0.04 or greater, the covered employee will be immediately removed from his/her safety-sensitive position, advised of the resources available to evaluate and resolve problems associated with alcohol misuse, and be referred to a SAP. The covered employee will be placed on a paid leave of absence pending the results of the evaluation by the SAP. Such employee must comply with the SAP recommendations of rehabilitative treatment, outpatient counseling, and all contents of a signed Last Chance Agreement.

A covered employee with a breath alcohol concentration level of 0.02 or greater will be provided transportation to his/her residence. If the covered employee insists on driving, law enforcement will be notified.

Refusal to Submit to a Test

Any covered employee who refuses to submit to a drug or alcohol test must be evaluated by a SAP. A covered employee who refuses to submit to a drug or alcohol test will be placed on a paid leave of absence pending the results of the evaluation by the SAP and may be subject to discipline, up to and including suspension or discharge. A determination of a covered employee's refusal to submit to a test includes:

- Refusal to take the test
- Failure to provide a sample
- Failure to provide a sufficient specimen with no medical information
- Failure to remain at the testing site until the test is complete
- Tampering with or attempting to adulterate the specimen or collection procedure
- Not reporting to the collection site in the time allotted
- Not cooperating with the collection process
- Leaving the scene of an accident without a valid reason before the tests have

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been conducted

- Failure to undergo a medical evaluation as required by an MRO or DER for drug & alcohol testing

IN ANY EVENT, A REFUSAL TO TAKE THE TEST WILL BRING THE SAME CONSEQUENCES AS A POSITIVE RESULT; AND THE EMPLOYEE WILL IMMEDIATELY BE REMOVED FROM ANY SAFETY-SENSITIVE DUTIES.

Discipline

Compliance with the City’s Substance Abuse Policy is a condition of employment for all covered employees. For covered bargaining unit employees, a violation of any part of the City’s Substance Abuse Policy may result in discipline as provided in the collective bargaining agreement. For other covered employees, a violation of any part of the City’s Substance Abuse Policy may result in discipline, up to and including suspension or discharge. Factors that the City may consider regarding the severity of disciplinary action include, but are not necessarily limited to, the covered employee’s conduct that prompted the application of this policy, the covered employee’s work record, the degree of impairment, the potential for consequences arising from the covered employee’s action, and the drug and/or alcohol test results.

Covered employees who are discharged as a result of violating the Substance Abuse Policy will have access to the City’s current EAP. Access to the EAP program will be limited to treatment directly related to the drug and/or alcohol problem, and is available for a time period not to exceed sixty days.

Required Treatment

In the event that a continuing covered employee is referred for treatment by a SAP, said covered employee may be required to satisfactorily complete an approved drug or alcohol treatment program and aftercare as a condition of continuing employment as determined by the SAP.

Work absences for treatment purposes may qualify for available sick leave benefits and/or personal medical leave, provided the covered employee is following the prescribed treatment program. If sick leave and personal medical leave have been exhausted, the covered employee will be placed on a medical leave of absence without pay. Covered employees working under an agreement that they satisfactorily complete an approved program of drug and/or alcohol dependency treatment will be required to submit to follow-up drug and/or alcohol testing to verify continued abstinence from drugs and/or alcohol for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP, with a minimum of six tests during the first 12 months after the covered employee has returned to duty.

Working Conditions

The presence or treatment of a substance abuse problem does not excuse a covered employee from meeting performance, safety, or attendance standards or following other City instructions. In no circumstances may a covered employee invoke protection

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under this policy as a means to avoid disciplinary actions resulting from poor work performance or misconduct at work. A voluntary request for assistance will not shield a covered employee from disciplinary action resulting from on-the-job conduct or work performance. Covered employees remain responsible for their on-the-job conduct and work performance.

Last Chance Agreement

Covered employees who test positive on a drug test, have a confirmed breath alcohol concentration level of 0.04 or greater, or who are referred to drug and/or alcohol treatment that requires them to be away from work, will be required to sign a last chance agreement prior to being permitted to return to his/her safety-sensitive position. The agreement may include, but is not limited to the following requirements:

- A release to work statement from an approved treatment specialist.
- A negative test for drugs and/or alcohol.
- An agreement to follow-up testing.
- A statement of expected work-related behaviors.
- An agreement to follow specified aftercare requirements as determined by the SAP.
- An expressed understanding that violation of the last chance agreement may result in discipline, up to and including suspension or discharge.

The last chance agreement is not a guarantee of continued employment. Covered employees working under a last chance agreement must also follow all other City policies and procedures.

Confidentiality

The City will maintain all records regarding the drug and/or alcohol testing of covered employees in a secure manner so that the disclosure of information to unauthorized persons does not occur. The City will only release information regarding the drug and/or alcohol testing of covered employees to those individuals, and in those circumstances, as specified in the federal regulations.

Additional Information

For additional information regarding this policy or the City’s testing program, contact the Human Resources Director or designee.

Maintenance

The Human Resources Director is responsible for monitoring the application and revision of this policy.

Voluntary Employee Assistance

The City encourages regular employees who feel they may be suffering from problems related to their use of drugs or alcohol to seek treatment from the Employee Assistance Program or medical provider of their choice.

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The City shall cover up to \$500 out-of-pocket expenses not covered by the health insurance program for employees who voluntarily seek treatment before any random or other testing is required by the City.

Over-the-Counter Drugs

If there is a question regarding an employee’s ability to work safely and effectively while using prescription or non-prescription medications, clearance from a qualified physician will be required. The City will continue to retain the right to make final determination concerning an employee’s fitness to perform work.

Definitions

Alcohol - As defined by the FTA, the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

As agreed upon by the City and the Union, alcohol means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol, and capable of being consumed by a human being.

Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Chain of Custody - Procedure to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition. These procedures require that an appropriate drug testing custody form be used at the time of collection to receipt by the laboratory and that upon receipt by the laboratory (an) appropriate chain of custody form(s) account(s) for the sample within the laboratory.

Controlled Substance - As agreed upon by the City and the Union, controlled substance means any drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 USC Sections 811 to 812, as modified under ORS 475.035. The use of the term “precursor” in this subsection does not control and is not controlled by the use of the term “recursor” in ORS 475.940, 475.950, and 475.955. In addition, manufactured drugs recognized by health and law enforcement agencies that are not included in Schedules I through V under the Federal Controlled Substances Act, 21 USC Sections 811 to 812, as modified under ORS 475.035 are considered to be controlled substances.

Medical Review Officer - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program that has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test results together with his/her medical history and any other relevant biomedical

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information.

Over-The-Counter-Drugs/Medications - Drugs and/or medications that is legally available without a prescription.

Performing a Safety-Sensitive Function - A covered employee is considered to be performing a safety-sensitive function and includes any period in which he/she is actually performing, ready to perform, or immediately available to perform such functions.

Prescription Drugs/Medications - Those drugs/medications that are used in the course of medical treatment and have been prescribed and authorized for use by a licensed practitioner/physician or dentist.

Safety-Sensitive Function - Any of the following duties:

- Operating a revenue service vehicle, including when not in revenue service
- Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License
- Controlling dispatch or movement of a revenue service vehicle
- Maintaining a revenue service vehicle or equipment used in revenue service

Safety-Sensitive Positions - A position or job classification that requires the performance of a safety-sensitive function.

Substance Abuse Professional - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

References

21 U.S.C. 802, U.S. Department of Health and Human Services “Mandatory Guidelines for Federal Workplace Drug Testing Program”; Observed Behavior-Reasonable Cause Record Form

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Review and Authorization

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| Supersedes: HR-SF-05-003 01/01/2014 | Created/Amended by/date: MH; 12/19/20117 | Effective Date: 01/01/2018 |
| HR Director: | | City Manager: |

1. Form or worksheet revision related to this document? No Yes

If yes, attach a copy of the revised form or worksheet.

2. Training required? No Yes