

CITY OF BROCKTON
DRUG AND ALCOHOL POLICY

I. GENERAL

N.B.-PART I applies to all employees of the City of Brockton whether or not they are also subject to the requirements of the Omnibus Transportation Employee Testing Act of 1991.

The City of Brockton has a strong commitment to its employees to provide a safe work place and to establish programs promoting high standards of employee health. Consistent with the spirit and intent of this commitment the City of Brockton has established this policy regarding drug and alcohol use or abuse. Quite simply, our goal will continue to be one of establishing and maintaining a work environment that is free from the effects of drug and alcohol use.

Employees of the City of Brockton are visible and active members of the communities where they live and work. They are inescapably identified with the City and are expected to represent it in a responsible and creditable fashion. The vast majority of our employees reflect credit upon themselves and the City of Brockton, which they represent.

While the City of Brockton has no intention of intruding into the private lives of its employees, the City does expect employees to report for work in condition to perform their duties. The City recognizes that employees off-the job as well as on-the job involvement with drugs and alcohol can have an impact on the work place and our ability to accomplish our goal of an alcohol and drug-free environment.

The following is the City of Brockton's policy:

1. The illegal use, sale or possession of narcotics, drugs, or controlled substances while on the job or on City property is an offense warranting discharge. Any illegal substances will be turned over to the appropriate law enforcement agency.
2. Employees who are under the influence of alcohol or narcotics, drugs or controlled substances, either on the job or when reporting for work, or who possess or consume alcohol during work hours, have the potential for interfering with their own, as well as their co-workers' safe and efficient job performance. Consistent with existing City of Brockton practices; such conditions may be proper cause for administrative action up to and including termination of employment.
3. Off-the-job illegal drug activity which could adversely affect an employee's job performance or which could jeopardize the safety of other employees, the public, or City property or equipment is proper cause for administrative or disciplinary action up to and including termination of employment as additionally provided for in the Omnibus Transportation Act of 1991. In deciding what action to take, management will take into consideration the nature of the charges, the employee's present job assignment, the employee's record with the City and other factors relative to the impact of the employee's arrest upon the conduct of City business.

4. Some of the drugs which are illegal under federal, state or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens and/or depressants not prescribed for current personal treatment by a licensed physician.
5. Employees are expected to follow any directions of their health care provider concerning prescription medications, and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.

Any employee, while on City property or during that employee's work shift, including without limitation all breaks and meal periods, who consumes or uses, or is found to have in his or her personal possession, in his or her locker or desk or other such repository, alcohol or drugs, which are not medically authorized, or is found to have used or to be using such alcohol or drugs, will be suspended immediately pending further investigation. If use or possession is substantiated, disciplinary action, up to and including discharge, will be imposed.

Any employee who voluntarily requests assistance in dealing with a personal drug addiction or alcohol problem may participate in the Employee Assistance Program (EAP) without jeopardizing his or her continued employment with the City of Brockton. Because the program is being offered confidentially, an employee may use the program without the City's knowledge. If an employee chooses to notify the City or request assistance from the City regarding an alcohol or drug problem, that notice or request will not jeopardize his or her continued employment, provided the employee stops any and all involvement with the substance being abused, and maintains adequate job performance. While the EAP is a valuable source in dealing with personal problems, participation in the program will not prevent disciplinary action for a violation of this policy.

This statement is to clarify the City of Brockton's operational stance and to provide for prompt effective reaction to any alcohol or drug related situation which has or could have any impact on operations. It does not alter in any way the policy of assisting employees in securing proper treatment or extending the coverage of the health benefits plan as indicated for problem drinking, alcoholism, or other drug dependencies.

II. OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991: TESTING FOR DRUGS AND ALCOHOL

It is the policy of the City of Brockton to comply fully with the Rules issued by the U.S. Department of Transportation under the 1991 Omnibus Transportation Employee Testing Act dealing with the limitations on alcohol and drug use by transportation workers, drug and alcohol testing of such workers and the reporting/record-keeping requirements relative to such testing. The Rules found at 49 C.F.R. s382.100 et seq., apply to all interstate and intrastate truck and motor coach operators, including but not limited to, school bus drivers and all City employees with commercial drivers licenses.

The following conduct is prohibited:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath/blood alcohol content of 0.04 percent (or higher).
2. Use of alcohol within the four (4) hours prior to performing a safety-sensitive function like driving;
3. Use of alcohol on the job;
4. Use of alcohol during the eight (8) hours following an accident;
5. Possession of any medication or food containing alcohol while driving a vehicle;
6. Refusal to take a required test.
7. Use of controlled substances on or off duty unless a doctor has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee's ability to operate a vehicle safely.

III PROCEDURES - Alcohol and Drug Testing Pursuant to 49 C.F.R. s382.100 et seq.

A. Types of Tests The following tests are required:

1. Pre-Placement Testing for Controlled Substances and Alcohol:

All applicants for employment in covered positions are subject to screening for use of alcohol or controlled substances. All applicants who test positive for either drugs or alcohol will not be offered employment with the City of Brockton.

2. Post-Accident: All covered employees shall be tested after accidents involving safety sensitive vehicles where there has been a citation for a moving traffic violation, or there is a fatality even if the driver is not cited for a moving traffic violation. Tests for alcohol use shall be conducted within 2 hours, but in no case more than 8 hours of the accident, while tests for controlled substances shall be conducted within 32 hours of the accident. Employees must refrain from all alcohol and controlled substance use until the test is complete. Employees are obligated to cooperate in such testing or will be deemed to have refused. It is the employee's responsibility to make him/herself available for testing. Generally, the employee will be accompanied to/from the testing site by a City of Brockton employee/supervisor.

3. Reasonable Suspicion: A covered employee shall be tested when a trained supervisor or manager observes behavior, speech, appearance or odor that leads to a reasonable suspicion that the employee has violated Numbers 1-7 of Section II of the guidelines or has been or is using controlled substances without a doctor's prescription. In the case of alcohol use, the observation shall be made during, preceding or after the workday. No such limitations are placed on observations for the impermissible use of controlled substances. Tests for alcohol use shall be conducted within two (2) hours, but in no case more than eight (8) hours, after the observation is

made. If a test cannot be administered, the driver must be removed from performing safety sensitive duties for at least 24 hours.

4. Random: Covered employees shall be tested for the use of alcohol and controlled substances on a random, unannounced basis, just before, during or after performance of safety sensitive functions for alcohol or at any time for controlled substances. Each year, the number of random alcohol tests conducted by the City must equal 25% of all covered employees. Random drug tests conducted by the City must equal at least 50% of all covered employees.

5. Return to Duty and Follow-Up: An employee who has violated the prohibited alcohol or drug standards shall be tested for alcohol and/or drug use prior to his/her return to performing safety sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after an employee returns to duty. The City of Brockton agrees to bear the expense of the six (6) follow-up tests. Follow-up testing may be extended for up to 60 months under extreme circumstances following the return to duty.

B. Conducting Tests

1. Alcohol

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. Refusal of an employee to complete and sign the breath alcohol testing form shall be deemed to be a refusal to test. In addition, blood alcohol testing can be used in reasonable suspicion and post-accident testing where an evidentiary breath-testing device is not available or where an employee is not capable of producing adequate breath.

2. Drugs

Drug testing is conducted by analyzing a driver’s urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen’s security; proper identification and integrity are not compromised.

DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Initially, only the primary specimen is opened and used for urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.

Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.

All drug tests are reviewed and interpreted by a physician designated as Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If MRO determines that the drug use is legitimate, the test will be reported to the City as a negative result.

3. **Refusal to Participate/Tampering**

Any refusal to participate in any of the types of alcohol and or drug tests authorized in this policy will be treated as indicative of a positive result.

If there is any evidence that an employee engaged in sample tampering, such conduct shall be treated as a refusal to participate in testing for purposes of imposing discipline.

C. **Consequences of Alcohol/Drug Misuse**

1. Drivers who have any alcohol concentration (defined as 0.02 or greater) when tested just before or just after performing safety sensitive functions must be removed from performing such duties for 24 hours, and will be sent home with pay or assigned suitable non safety sensitive work if available.

2. Drivers who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol or drug use) must be immediately removed from safety sensitive functions must be evaluated by a substance abuse professional and must undergo a treatment program as defined by the professional.

3. Drivers who wish to continue employment with the City of Brockton must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.

4. Drivers who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result of less than 0.02 and/or a urine drug test which is negative who are then subject to unannounced follow-up tests, may return to work.

5. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy may be subject to discipline up to and including termination. Any action may be subject to the grievance and arbitration procedure.

D. **Information/Training**

1. All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation of Receipt (Attachment A).

2. All supervisory and management personnel in the Department of Public Works must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.

E. **Record Keeping**

1. The City is required to keep detailed records of its alcohol and drug misuse prevention program.

2. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, substance abuse professional, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver's consent.

F. **Pre-Employment References**

1. The City must obtain and review the following information from each employer that the prospective driver worked for, in a safety sensitive position, during the two previous years: information about a test in which employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program,

2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she may not be hired.

3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has consulted with a substance abuse professional, received recommended treatment, and tested negative in a return to duty test.

4. The City of Brockton must provide the same information to subsequent employers of current City employees when provided with a written release.

G. **Questions**

Questions about this policy should be referred to the employee's Department Head and/or the Director of Personnel.

ATTACHMENT A

I, _____ have been provided
with a copy of the City of Brockton's Drug and Alcohol
Policy.

Signature

Date

Witness

Date