



City of **BROCKTON**
Massachusetts
Mayor Robert F. Sullivan

CITY OF BROCKTON
DEPARTMENT OF HUMAN RESOURCES
45 SCHOOL STREET
BROCKTON, MA
(508) 580-7820

Employee Policy Packet

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|---|-------|
| CORI Policy | _____ |
| Domestic Violence Policy | _____ |
| Drug and Alcohol Policy | _____ |
| Employee Assistance Program | _____ |
| Family Medical Leave Policy | _____ |
| MA Pregnant Workers Fairness Act | _____ |
| Nepotism Policy | _____ |
| Sexual Harassment Policy | _____ |

I have read the content, requirements, and expectations of the policies for City of Brockton employees. I have received the following policies and agree to abide by policy guidelines as a condition of my employment and my continuing employment with the City of Brockton.

I understand that if I have questions, at any time, regarding the City of Brockton policies, I will consult with my immediate supervisor or Human Resources.

I also understand, it is my responsibility to read and understand the existing City of Brockton policies and abide by them as a City of Brockton employee.

Please read the above carefully to ensure that you understand before signing this document.

Employee Name (Signature):_____

Employee Name (Print):_____

Date:_____

In receipt, Human Resources designee:_____



**CITY OF BROCKTON
DEPARTMENT OF HUMAN RESOURCES
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POLICY NAME: City of Brockton Criminal Offender Record Information (CORI)
Policy

ISSUING OFFICE: Department of Human Resources

This policy is applicable to the criminal history screening of prospective and current employees, volunteers and interns.

Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for employment or volunteer work, the following practices and procedures will be followed.

A statement related to employee background checks will be included in employment information including job descriptions and postings.

The City of Brockton's pre-employment forms and/or application process will not include any requirement for the applicant to disclose any criminal convictions or pending criminal charges.

The successful candidate for each position must sign the offer letter accepting the position and authorizing a background check, as employment is conditional on the outcome of the check. A background check will not be processed without signed consent by the applicant. If refusal to sign the authorization form, the offer of employment will be rescinded.

I. CONDUCTING CORI SCREENING

CORI checks will only be conducted as authorized by the Department of Criminal Justice Information Services (DCJIS) (formerly the Criminal History Systems Board (CHSB)) and MGL c.6, §172, and only after a CORI Acknowledgement Form has been signed and completed.

If a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours notice that a new CORI check will be conducted.

II. ACCESS TO CORI

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have "need to know". This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. The City of Brockton must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

III. CORI TRAINING



CITY OF BROCKTON
DEPARTMENT OF HUMAN RESOURCES
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An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access CORI at the City of Brockton will review and be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Additionally, all personnel authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

IV. USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any other applicable law or regulations.

V. VERIFYING A SUBJECT'S IDENTITY

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

VI. INQUIRING ABOUT CRIMINAL HISTORY

In connection with any decision regarding employment or volunteer opportunities, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

VII. DETERMINING SUITABILITY

If a determination is made, based on the information as provided in section V of this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- (a) Relevance of the record to the position sought;



CITY OF BROCKTON
DEPARTMENT OF HUMAN RESOURCES
45 School Street • Brockton, MA
Honorable, Mayor Robert F. Sullivan

- (b) The nature of the work to be performed;
- (c) Time since the conviction;
- (d) Age of the candidate at the time of the offense;
- (e) Seriousness and specific circumstances of the offense;
- (f) The number of offenses;
- (g) Whether the applicant has pending charges;
- (h) Any relevant evidence of rehabilitation or lack thereof; and
- (i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

VIII. ADVERSE DECISIONS BASED ON CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy or the CORI record. Subjects shall also be provided a copy of DCJIS' *Information Concerning the Process for Correcting a Criminal Record*.

If the background check includes any results, the Director of Human Resources or designee will make a determination:

If the candidate is suitable for employment, no further action is needed.

If the candidate is unsuitable for the position sought, Human Resources will notify the candidate and the candidate has the opportunity to appeal. *See below*.

NOTE: Human Resources has the right to immediately rescind an offer upon an unsuccessful background check.

IX. Appeal Process

The appeal process is in accordance with the provisions of the Federal Fair Credit Reporting Act (FCRA), Criminal Offender Record Information (CORI) law and the City of Brockton.

Human Resources will notify the department head and Human Resources will initiate the pre-adverse letter directly to the candidate.



CITY OF BROCKTON
DEPARTMENT OF HUMAN RESOURCES
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Honorable, Mayor Robert F. Sullivan

The candidate will receive the entire background report and a summary of their rights to appeal. If the candidate believes that the reported background review information is inaccurate, s/he may appeal the accuracy of the background review information with DCJIS and request a meeting with the Human Resources Director. If the candidate does not appeal and/or prefers not to meet with the Human Resources Director, the employment offer is closed and Human Resources will mail an “adverse action letter,” withdrawing the offer of employment.

All background check information is held by DCJIS and is not printed and can only be reviewed only by designated HR employees.

X. SECONDARY DISSEMINATION LOGS

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of CORI outside the organization, including dissemination at the request of the subject.

CITY OF BROCKTON
POLICY ON DOMESTIC VIOLENCE IN THE WORKPLACE

I. PURPOSE: The City of Brockton is committed to promoting the health and safety of our employees. The purpose of this policy is to heighten awareness of domestic violence and to provide guidance for employees and management to address the occurrence of domestic violence and its effects in the workplace.

II. DEFINITIONS:

- A. Domestic Violence:** A pattern of coercive behavior that is used by one person to gain power and control over another that may include physical violence, sexual, emotional and psychological intimidation, verbal abuse, stalking, and economic control. Domestic Violence occurs between people of all racial, economic, educational, religious backgrounds, in heterosexual and same sex relationships, living together or separately, married or unmarried, in short term or long term relationships. Domestic Violence is a major cause of injury to women, although men also may be also victims of such violence.
- B. BATTERER, PERPETRATOR, OR ABUSER:** The individual who commits an act of violence as defined above.
- C. BATTERERS', INTERVENTION PROGRAMS:** Programs that batterers attend are designed to eliminate violence in intimate relationships, to stop other forms of abusive behavior and to increase victim safety. Programs include, but are not limited to couples, marriage, or family counseling and other anger management courses.
- D. SURVIVOR OR VICTIM:** The individual who is the subject of an act of domestic violence.

III. POLICY:

A. Early Intervention and Education Prevention Strategies

- 1. It is the City of Brockton to use early prevention strategies in order to avoid or minimize the occurrence and effects of domestic violence in the workplace. The City of Brockton will provide available support and assistance to employees who are survivors of domestic violence. This support may include: confidential procedures to enable employees to seek resource and referral information; additional security at the workplace; work schedule adjustments; leave necessary to obtain medical, counseling, or legal assistance and workplace relocation. Appropriate assistance will be provided based on individual need. In all responses to domestic violence, the City of Brockton will respect the confidentiality and autonomy of the adult survivor to direct his or her own life, to the fullest extent of the law.
- 2. The City of Brockton will attempt to maintain, publish, and post in locations of high visibility, such as bulletin boards and break rooms, a list of resources for survivors and perpetrators of domestic violence, including but not limited to: **the national domestic violence hotline number (800) 799-SAFE**, the **employee assistance program**

number (800) 451-1834, the phone number and description of local domestic violence resources, and a list of local batterers' intervention programs.

B. Leave Options for Employees who are Experiencing Threats of Violence

1. At times, an employee may need to be absent from work due to family violence. The length of time should be determined by the individual's situation. This time period shall be determined through collaboration with the employee, their Department Head, the Director of Personnel, and a union representative if applicable.
2. Employees, supervisors, and department heads are encouraged to first explore whether paid options can be arranged which will help the employee cope with a family violence situation before deciding upon a formal unpaid leave of absence. Depending on the circumstances, this may include:
 - Arranging flexible work hours so that the employee can handle legal matters, court appearances, housing, and childcare.
 - Considering sick, vacation, personal leave, compensatory time, or leave without pay, when requests are for relatively short periods.

C. PROCEDURES FOR EMPLOYEES WITH PERFORMANCE ISSUES RELATED TO DOMESTIC VIOLENCE

1. While the employer retains the right to discipline employees for cause, the City of Brockton recognizes that victims of domestic violence may have performance or conduct problems such as chronic absenteeism or inability to concentrate as a result of the violence. When an employee subject to discipline confides that the job performance or conduct problem is caused by domestic violence, a referral for appropriate assistance should be offered to the employee.
2. The Department Head, in collaboration with the employee, Employee Assistance Counselor, Director of Human Resources and union representative should allow a reasonable amount of time for the employee to obtain assistance regarding the domestic violence. Department Heads should be mindful that the effects of domestic violence can be severe and may take extended periods of time to address fully.

D. DISCIPLINARY PROCEDURES FOR EMPLOYEES WHO COMMIT ACTS OF THREATS OF DOMESTIC VIOLENCE

1. The City of Brockton is committed to providing a workplace in which the perpetration of domestic violence is neither tolerated or excused. Any physical assault or threat made by an employee while on City of Brockton work sites, any city building, park, etc. or just the employee's workplace, during work hours, is a serious violation of the City of Brockton policy. This policy applies not only to acts against other employees, but to acts against all other persons, including intimate partners. Employees found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

2. Employees who are convicted of a crime as a result of domestic violence may be subject to corrective or disciplinary action including discharge, when such action affects the work performance of the employee.

IV. GUIDELINES REGARDING ASSISTANCE FOR SURVIVORS AND PERPETRATORS:

A. General Guidelines

The following information is provided to help those employees who are domestic violence survivors obtain the services they desire and to enhance the safety of City workplaces.

1. The City seeks to create a supportive workplace environment in which employees feel comfortable discussing domestic violence and seeking assistance for domestic violence concerns. If an employee discloses that they are a survivor of domestic violence, it is important that the Department Head, Employee Assistance Counselor, Director of Personnel, and union representative respond with the following, so as to avoid victim blaming:
 - ◆ You are not alone.
 - ◆ You are not to blame.
 - ◆ There is help available.
 - ◆ You do not deserve to be treated this way.
2. If a supervisor believes that an employee is in an abusive relationship, but the employee has not disclosed this to their supervisor, the supervisor should address any job performance issues and refer the employee to the Employee Assistance Program and/or community resources.
3. Recognizing the absence of services and support for survivors of domestic violence and that survivors may face threats of violence or death when they attempt to end a violent relationship, supervisors will make efforts to provide a nonjudgmental and supportive environment for the employee which is not dependent on the employee's decisions regarding the relationship.
4. A successful workplace intervention may consist of providing the employee with a non-judgmental place to discuss violence, information to begin accessing resources in the community, or assisting the employee in formulating a plan to increase that employee's safety.

B. GUIDELINES FOR DEPARTMENT HEADS/SUPERVISORS

The following information is provided to assure effective and responsive direction. Department Heads, supervisors, should:

1. Participant in domestic violence training as provided.
2. Be aware of physical or behavioral changes in employees and consult with the Human Resources Department/Employee Assistance Program/supervisor for advice. The Department Head/supervisor is not to diagnose or counsel the employee, but to refer

the employee to appropriate resources. The following behaviors may be associated with domestic violence: chronic absenteeism, inappropriate/excessive clothing, obsession with time, repeated physical injuries, chronic health problems (i.e. chronic pain), isolation, emotional distress, depression, distraction and excessive number of personal calls.

3. Be respectful of employees' personal choices. If the Department Head or supervisor observes signs and symptoms of violence, it is appropriate to convey concern regarding signs and to educate the employee regarding the resources available. It is critical that the Department Head/supervisor respect the employees' privacy and not pressure the employee to disclose any personal information.
4. Be responsive when an employee who is either the survivor or perpetrator of domestic violence asks for help. Immediately contact your Human Resources Department/Employee Assistance Program/Police Department for assistance.
5. Maintain the confidentiality of domestic violence circumstances and any other referrals under this policy to the extent permitted by law. Inform the other employees' of the domestic violence circumstances on a need to know basis only. Wherever possible, give advance notice to the employee who is experiencing domestic violence if you need to inform others about the domestic violence situation.
6. Work with the victim, Human Resources Department, Employee Assistance Program, the Law Department, union representatives, Police Department, and community domestic violence programs, if necessary, to assist the victim to develop a personal workplace safety plan (see Appendix A) and to make a reasonable accommodation of that plan.

When assisting an employee to develop personal workplace safety plan, ask what changes, if any, could be made at the workplace to make them feel safer. Survivors of domestic violence know his or her abusers better than anyone else. When it comes to their own safety, offer to assist them in developing a personal workplace safety plan, but allow them to decide what goes in the final plan. However, if it is determined that other employees or customers are at risk; it is essential to take measures to provide protection for them.

7. Make efforts, if possible, to adjust the survivor/employee's work schedule and or grant leave such as sick, vacation, personal leave, compensatory time, or leave without pay if the employee needs to take time off for medical assistance, legal assistance, court appearances, counseling, relocation, or to make other necessary arrangements to enhance his or her safety. Be sure to follow all applicable personnel policies and procedures, union contract provisions and statutes. This approved leave should not be held against the employee. The employee should maintain communication with their Department Head during their absence.
8. Maintain the confidentiality of the employee's whereabouts.
9. Work with the Human Resources Department and union representatives, if applicable, to relocate employee to an alternate work site, whenever feasible, if employee requests to relocate for safety reasons. If relocation is offered, it should not produce any reduction in pay, status or benefits.

10. Review the safety of parking arrangements. Make sure that parking areas are well lit. Provide security escorts to parked car and priority parking near the building entrance for employees who fear an attack at work.
11. Post information with Human Resources Department approval, about domestic violence in your work area. Also, have information available where employees can obtain it without having to request it or be seen removing it. Some suggestions are: restrooms, lunchrooms or where other employee resource information is located.
12. Comply with all civil protection orders. If both the plaintiff and defendant in a civil protection order are employees of the City of Brockton, Department Heads must work with the Human Resources Department, the Law Department, Employee Assistance counselors and Police Department to ensure that the defendant is relocated to a workplace in which the defendant will have no contact with the plaintiff. If you observe violations of the protection orders, document these violations and call the Police Department and/or contact the Law Department.
13. Respect the employee's boundaries and privacy, even if you disagree with the decisions she/he is making regarding the relationship. A survivor of domestic violence may make numerous attempts to leave her/his batterer. It is often difficult to leave because of financial and childcare responsibilities, or threats of violence.
14. After consultation with the Human Resources Department and the Law Department, take any appropriate corrective or disciplinary action consistent with policy, procedure and collective bargaining agreements up to and including termination, against employees who commit acts of domestic violence at City of Brockton work sites as outlined in the policy or who are convicted of a crime as a result of domestic violence when such action affects the work performance of the employee.
15. Inform subordinates on a periodic basis about the employer's policy and procedures on encouraging work environments free from violence, threats and harassment.

V. OPTIONS AVAILABLE FOR EMPLOYEES:

A. SURVIVORS OF DOMESTIC VIOLENCE:

1. Talk with a trusted co-worker, supervisor, union representative or Department Head about your situation.
2. Contact your Employee Assistance Program Office: (800) 451-1834.
3. Contact the national domestic violence hotline at (800) 799-SAFE, the State Coalition Against Domestic Violence at (617) 248-0822, or the local domestic violence agency at (800) 281-6498.
4. Call the police if you are in immediate danger.
5. Notify your Department Head of the possible need to be absent and find out your leave options. Be clear about your plans to return to work and maintain communications

with your Department Head during your absence. If necessary and available, make alternate arrangements for receiving your paycheck.

6. Submit a recent photograph of the abuser and a copy of your protection order to your Department Head, the Law Department, and the Police Department. This assists your employer in identifying the abuser should he/she appear at your workplace.
7. Work with your Department Head, Police Department, Employee Assistance Program manager, or union representative to develop a safety plan. See appendix A.
8. Obtain assistance for and documentation of any physical and/or mental health consequences of the abuse (including old injuries) from your primary care provider.

B. OPTIONS FOR EMPLOYEES WHO ARE PERPETRATORS OF DOMESTIC VIOLENCE

1. Contact the nearest Employee Assistance Program Office at (800) 451-1834 for confidential consultation and resources.
2. Contact a batterer's intervention program at:
Brockton (508) 894-6980,
EMERGE in Cambridge (617) 547-9879 or
Common Purpose (617) 739-3831

C. OTHER EMPLOYEES WHO HAVE CONCERNS ABOUT DOMESTIC VIOLENCE

1. If you know or believe that a co-worker is a victim of domestic violence, communicate your concerns for her or his safety. Be clear that your role is to help and not to judge. Refer the employee to the Employee Assistance Program (800) 451-1834, a local domestic violence agency (800) 281-6498, or the national domestic violence hotline at (800) 799-SAFE. Maintain the confidentiality of the domestic violence circumstances and any other referrals under this policy to the extent permitted by law. Discuss the employee's situation with Employee Assistance counselor, Human Resources Department or a local domestic violence program for further guidance.
2. Report any threats or violence that you experience or witness to your Department Head, Human Resources Department, Police Department, or Employee Assistance Program.
3. Volunteer at a local domestic violence shelter or organize a workplace drive for domestic violence shelters.

Appendix A

COMPONENTS OF A WORKPLACE SAFETY PLAN

- a. Consider obtaining a civil order for protection and make sure that it is current and on hand at all times. Include the workplace on the order. A copy should be provided to the police, your Department Head, the Director of Human Resources and the Law Department if the abusive partner should come to the work site. Ask co-workers, supervisors and/or Department Heads to call the police if the perpetrator threatens or harasses you at work or violates the civil order for protection in any way.
- b. Consider providing a picture of the perpetrator to your Department Head and/or police.
- c. Consider identifying an emergency contact person should your employer be unable to contact you.
- d. Review the safety of your parking arrangements.
- e. Consider having police escort you to and from your car or public transportation and/or obtaining special parking access.
- f. Consider requesting a change and/or unpredictable rotations of your work schedule, work site, or work assignment if such a change is possible and would enhance your safety at work.
- g. Consider having your telephone calls screened at work.
- h. Consider requesting additional security for your work site. It may be possible to post security near your work site, relocate your workstation to a more secure area, or provide you with a cellular phone for emergency use at work.
- i. Review the safety of your childcare arrangements. If you have a protective order, make sure the provider has a copy.

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.

CITY OF BROCKTON

EMPLOYEE ASSISTANCE PROGRAM

I. Purpose and Goals

The City of Brockton may offer its regular employees and/or their immediate families an Employee Assistance Program, hereafter known as "EAP".

A. The purpose of this program is to encourage all employees experiencing physical illness, mental illness, emotional distress, financial hardship, marital or familial difficulties, substance abuse or addiction or any other concerns, to seek appropriate help. In most cases, identifying the problem and receiving appropriate assistance will lead to successful resolution. The City supports and encourages employees in their efforts to resolve personal or family problems.

When an employee's personal life problems and stress begin to affect his/her job performance or attendance, the matter becomes a justifiable concern of the City.

When an employee's job performance is impaired, normal supervisory assistance will serve as the motivation by which employee's job performance will return to an acceptable level in most cases. In those cases where standard remedial or supervisory assistance does not correct performance problems, outside or personal problems may be the cause.

B. The goals of this program is:

1. to retain valued employees
2. to restore productivity through early identification of personal problems, and
3. to motivate employees to seek help with management problems.

II. The Program

The EAP consists of an outside counseling group retained by the City to provide professional counseling and referral services. Their trained personnel can quickly assess an employee's problem, provide short-term counseling and/or referral and follow-up services until the problem is resolved.

Talking to an EAP counselor is free. Costs occur to the employee only if the counselor recommends professional help. Most professional counseling services will be covered, either partially, or totally, by your existing health insurance.

Information on the EAP will be posted prominently, and will be available in all City buildings, and will be available from Department Heads and the Personnel Department.

All contacts with the Employee Assistance Program are completely confidential. Records are kept at the EAP offices and may not be released without employee's written consent.

The City's concern with life management problems is strictly limited to an employee's job performance. Employees are assured that their job security, future reputation, or promotional opportunities will not be jeopardized by participation in the EAP.

Participation in the EAP is voluntary. In cases where a Department Head has suggested the services of EAP, the employee may elect not to take advantage of it. Where disciplinary action has been initiated, such procedures will continue. Disciplinary action may continue whether or not an employee participates in EAP. If an employee does not take advantage of the EAP, it still remains the employee's responsibility to meet their job requirements. The EAP is meant to be a positive adjunct for employees, not a way to excuse substandard performance.

The City believes an employee's job performance may be affected by the problems or family members. For this reason, the City extends the same offer of assistance to the immediate family of all permanent employees.

Telephone number for the Employee Assistance Program is (800) 451-1834.

CITY OF BROCKTON FAMILY MEDICAL LEAVE POLICY

The Family and Medical Leave Act was enacted in 1993 and amended in 2008 to help employees balance the demands of work and family, and to care for their own and their families' medical problems, without risking their jobs.

This Act provides reasonable unpaid (1) Family and medical leave for the birth of a child and to care for the newborn child; for the placement of a child with the employee for adoption or foster care; for the care of a child, spouse or parent who has a serious health condition; for the employee's own serious health condition; (2) Qualifying Exigency Leave for families of covered members and (3) Military Caregiver Leave.

Under this policy, employees may use paid leave or leave without pay for absences from work due to childbirth, adoption or foster care placement, or a serious health condition of an employee or an employee's spouse, child or parent.

Eligibility

An eligible employee may apply for up to 12 work weeks of FMLA leave under this policy in any 12-month period and to have worked for the employer for at least 1,250 hours over the 12 months before the leave would begin. The 12-month period is measured forward from the date an employee's first FMLA leave period begins. The next 12-month period would begin the next time FMLA leave is taken after completion of the prior 12-month period.

The 12 work weeks of leave do not need to be consecutive. A work week consists of the number of hours an employee is regularly scheduled to work each week. A reduced or intermittent work schedule during the period of FMLA leave may result in an employee receiving FMLA for more than 12 calendar weeks but for the equivalent time. However, it is important to note that an hour of absence that qualifies for coverage under FMLA reduces the employee's available FMLA time by one hour.

After a request for FMLA leave is approved, periods covered by paid leave and leave without pay will be counted toward the 12 work weeks of leave to which an employee is entitled under this policy.

Eligible employees may take unpaid job-protected and benefit-protected leave for any of the following reasons:

- an employee's own serious health condition (including conditions related to pregnancy and childbirth);
- the birth and care of the employee's newborn child (leave must be completed within 12 months of the date of birth);
- placement of a child with the employee for adoption or foster care (leave must be completed within 12 months of the date of placement);

- the serious health condition of the employee's child, parent, spouse, or partner, requiring the employee's participation in care;
Child must be under the age of 18 years of age or incapable of self-care because of a mental or physical disability.
- any qualifying exigency arising out of the fact that the employee's spouse/partner, son, daughter, or parent is a covered military member on active duty or has been notified of an impending call or order to active duty in support of a contingency operation; or
- to care for a covered service member with a serious injury or illness if the employee is the spouse/partner, son, daughter, parent, or next of kin of the service member.

Note: FMLA leave for adoption or foster care placement requested under this policy must be supported by reasonable proof (e.g., documentation from the licensed adoption agency or relevant court documents).

Leave may be taken on an intermittent basis or reduced schedule only when medically necessary. Leaves taken for purposes of birth, adoption or foster care must be taken in continuous periods and within 12 months of the date of birth or placement.

Where a reduced or intermittent work schedule is requested due to planned medical treatment or due to a chronic serious health condition, the tentative date(s) on which treatment is to be given and the approximate duration of treatment and its possible effects on the employee or the circumstances under which the chronic condition will necessitate leave **must** be included in the physician's certification.

NOTE: When both spouses are employed by the City, they are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

NOTE: FMLA leave due to birth, adoption, or foster care placement qualifies for the full 12 work weeks of FMLA coverage, regardless of any period of physical disability. FMLA leave due to a serious health condition is limited to the timeframe indicated by the health care provider on the Medical Certification Form. Therefore, some serious health conditions may not require or be eligible for a FMLA leave of 12 weeks.

An employee who needs to be absent from work beyond the 12 week work period covered by the FMLA (or for an employee who is not covered by this policy), and does not have paid leave available, then he/she may request leave without pay. *Please see your respective collective bargaining agreement or City Ordinance.*

An employee's job is not protected while an employee takes leave without pay not covered by FMLA.

An Act Relative to Parental Leave 2015 (Previous MA Maternity Leave in the Workplace)

The parental leave is now gender neutral, the law applies to all new parents regardless of gender. The leave applies to employees:

- Who has completed an initial three (3) month probationary period.
- On parental leave for the adoption of a child shall be entitled to the same benefits offered to an employee on leave for the birth of a child.

NOTE: Two employees of the City that give birth to or adopt the same child, the two employees are entitled to an aggregate of eight (8) weeks of leave.

Employee must provide at least two (2) weeks' notice of the anticipated date of departure and the employees intention to return (delays are accepted for reasons beyond an employee control).

Notice of Eligibility

When an employee requests FMLA leave, or when the City knows that an employee's leave may be for an FMLA-qualifying reason, Human Resources will notify the employee of the eligibility to take FMLA leave within five (5) business days of receipt, absent extenuating circumstances.

Employee eligibility is determined at the commencement of the first instance of leave for each FMLA-qualifying reason in the applicable 12-month period. All FMLA absences for the same qualifying reason are considered a single leave and employee eligibility as to that reason for leave does not change during the applicable 12-month period.

If the employee is not eligible for FMLA leave, the notice will state at least one reason why the employee is not eligible. Notification of eligibility will be in writing.

Notifications referred to in this section are generated by Human Resources and forwarded to the employee's with a c.c. to the department head (letter only).

Procedure

The employee is required to complete a Medical Certification Form. This form must be **completed and signed by the Health Care Provider**, then forwarded directly to the Human Resources Department. **The form does not require supervisor review or signature.**

Employees are required to give at least thirty (30) days advance notice for leaves that are foreseeable. For unforeseeable leave, the employee must provide notice as soon as is practicable.

Note: If an employee does not provide at least thirty (30) days advance notice, and it was possible and practical to do so, the City may delay the FMLA leave until 30 days after the date that the employee provides the notice.

If the employee request a leave they must provide the required certification within fifteen (15) calendars days if one is requested by the Human Resources Department.

Forms used for obtaining certification:

- [WH-380-E, Certification of Health Care Provider for Employee's Serious Health Condition;](#)

- [WH-380-F, Certification of Health Care Provider for Family Member's Serious Health Condition;](#)
- [WH-384, Certification of Qualifying Exigency for Military Family Leave;](#)
- [WH-385, Certification for Serious Injury or Illness of a Covered Servicemember – for Military Family Leave;](#)
- [WH-385-V, Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave.](#)

Human Resources will review the documents for completeness and adherence to this policy. If the form is not completed correctly or if there is additional information needed, Human Resources will contact the employee in writing.

- A certification is considered incomplete if one or more applicable entries have not been completed.
- A certification is considered insufficient if the information provided is vague, ambiguous, or non-responsive.

Such as:

- Date on which the serious health condition began.
- The probable duration of the condition.
- A brief statement of treatment including appropriate medical facts within the knowledge of the health care provider about the condition.
- If the employee is seeking medical leave for his/her own medical condition, certification should also include a statement that the employee is unable to perform the essential functions of the employee's position.
- For a serious ill family member, the certification should include a statement that the patient requires assistance and that the employee's presence is needed to care for the family member.
- If taking intermittent leave or a reduced leave scheduled for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment and a statement of medical necessity for taking intermittent leave or working on a reduced schedule.

If an employee fails to provide a complete and sufficient certification despite the opportunity to cure the deficiency, the City may deny the employee's request for FMLA leave.

The employee's department shall monitor the day-to-day leave tracking for the employee and promptly notify Human Resources of hours used for FMLA.

Insurance and Benefits

I. Group Health Insurance

An employee shall be entitled to maintain group health insurance coverage on the same basis as if he/she had continued to work for the City. To maintain uninterrupted coverage, the employee will have to continue to pay their share of insurance premium payments.

The payment shall be made either in person or by mail to:
Human Resources Department, 45 School Street, Brockton, MA 02301 by the 15th day of the month.

If the employee's payment is more than 30 days overdue, the coverage will be dropped by the City.

If the employee does not return to work upon expiration of the **FMLA** leave, the employer may seek reimbursement from the employee of the premiums paid for maintaining health coverage during the leave provided that the employee's failure to return is for a reason other than a serious health condition or circumstances beyond the control of the employee.

II. Life Insurance

The City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the City will request that the employee continue to make those payments, along with health care payments.

III. Earned benefits

The employee will not accrue any vacation time, sick leave, holidays, personal leave, floating holidays, clothing allowance, seniority, bereavement leave, or other benefits during any unpaid part of leave.

The use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

After returning from FMLA leave, the employee will receive all accrued and unused vacation time, sick leave, seniority and other benefits for which he/she was eligible prior to start of the leave.

Additional Medical Certification

In the event Human Resources thinks additional information is needed or has reason to doubt the validity of the employee's first medical certification, Human Resources can require an employee to submit to a second medical examination. The second physician shall be designated and paid by the City.

If the second opinion is different from the first certification, the City shall require an employee to be available for a third medical examination. The third physician shall be designated by both the employee and the City, and will be at the City's expense. The third physician's opinion is final and binding on the City and the employee.

The employee's failure to provide certification or recertification reasonably required by the City may result in denial of the employee's request for FMLA leave.

Recertification

The City may, under certain circumstances, request that an employee “recertify” his or her serious health condition or the serious health condition of his or her family member within the same leave year.

The City may request the employee provide a recertification no more often than every 30 days and only when the employee is actually absent or has requested to be absent.

- The employee requests an extension of leave,
- The circumstances described by the previous certification have changed significantly, or
- The employer receives information that casts doubt on the employee’s stated reason for the absence or the continuing validity of the existing medical certification.

The City may ask for the same information in a recertification as that permitted in the initial medical certification. As with the initial certification, in most circumstances, the employee has 15 calendar days after the employer’s request to provide a complete and sufficient recertification. The employee is responsible for paying for the cost of a recertification.

During recertification the City may provide the health care provider with a record of the employee’s absence pattern, such as an attendance record of FMLA leave use, and ask the health care provider if the serious health condition and need for leave is consistent with the absence pattern provided.

The City may request recertification every six months in connection with an absence. If the initial medical certification indicates that the employee will need intermittent or reduced schedule leave for longer than six months, including cases where the serious health condition has no anticipated end, the employer may request a recertification every six months, but only in connection with an absence by the employee.

Return to work

During the period of FMLA leave, the department may require reports from the employee at reasonable intervals (generally 30 calendar days or more) on his/her status and intention to return to work. An employee should notify his/her supervisor in writing if he/she will not be returning from leave as planned. Failure to return to work at the end of the scheduled leave may be considered a voluntary resignation.

A “Work Capacity Form” must be completed when the employee returns to work or when it is determined that the employee will not return to work. The form should be sent directly to Human Resources.

Annual Medical Certification

Where the need for leave for an employee’s or family member’s serious health condition lasts beyond a single leave year, the City requires a new certification in each subsequent FMLA leave year. Because it is a new certification and not a recertification, the City may seek second and

third opinions for these new medical certifications, as well as authenticate or clarify the certification with the health care provider.

Record keeping

All medical documentation, along with a copy of the employee's application for FMLA leave under this policy, will be kept in Human Resources. Medical documentation under this policy is kept separate from employee personnel files and is confidential.

Definitions

Parent:

A biological, adoptive, step or foster father or mother or an individual who stood in loco parentis (a person who is in the position or place of a parent) to an employee when the employee was a child. This term does not include parents “in-law”.

Child:

A son or daughter who is:

- under 18 years of age, or
- is 18 years of age or older and incapable of self-care because of a mental or physical disability

and who is:

- a biological child,
- an adopted child,
- a foster child (a child for whom the employee performs the duties of a parent as if it were the employee’s child),
- a step-child (a child of the employee’s spouse from a former marriage),
- a legal ward (a minor child placed by the court under the care of a guardian), or
- a child of an employee standing in loco parentis

Spouse:

A husband or wife recognized under state law for purposes of marriage in the State in which the marriage was entered into. This definition includes an individual in a same-sex or common law marriage that was entered into in a State that recognizes such marriages. In the case of a marriage entered into outside of any State, the marriage is recognized if the marriage is valid in the place where entered into and could have been entered into in at least one State.

Incapable of Self Care:

The individual requires active assistance or supervision to provide daily self-care in several of the “activities of daily living” (ADLs) or “instrumental activities of daily living” (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one’s grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living including cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephone and directories, using a post office, etc.

Physical or Mental Disability:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual as regulated under 29 CFR part 1630, issued by the Equal Employment Opportunity Commission under the Americans with Disabilities Act (ADA).

Serious Health Condition:

An illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical care facility, or that involves continuing treatment by a health care provider. If inpatient care is not required, absence from work (or school, in the case of a child), or incapacity from normal activities is part of the definition of “serious health condition.”

The period of actual physical disability associated with childbirth is considered a serious health condition and qualifies for Family & Medical Leave, whether as paid or unpaid leave.

Also included in the definition of “serious health condition” are chronic conditions which require periodic treatments, or conditions that may cause episodes of symptoms preventing the employee from reporting for work. Examples of such conditions may include, but are not limited to, most cancers, back conditions requiring extensive therapy or surgery, severe arthritis, severe nervous disorders, Alzheimer’s disease, and kidney disease.

Non-Serious Medical Conditions:

Ordinarily, unless complications arise, the following are examples of conditions that do not meet the definition: common cold, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, cosmetic treatments, etc.

Incapacity:

Inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

Treatment:

Examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical exams, eye exams, or dental examinations. A regimen of continuing treatment includes, for example, a course of prescription medication (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g. oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to the health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FML.

Eligible employees:

Employees who have been employed by the City for: (1) at least 12 months; and (2) at least 1,250 hours during the 12 months before the start of the leave. (NOTE: The required 1,250 hours do not have to be worked during consecutive months. However, the 1,250 hours of work requirement applies to the 12 months immediately preceding the start of the leave.)

Employment Benefits:

All benefits provided by the City to employees including but not limited to; group life insurance, health insurance, annual and sick leave, educational benefits, and retirement contributions.

Family and Medical Leave:

A job-protected leave without pay (or use of an employee's accrued leave with pay) for up to 12 workweeks (or up to 26 weeks for qualified Military leave) during a Leave Plan Year for the reasons specified in this policy in conformance with the federal Family and Medical Leave Act (FMLA) of 1993.

Healthcare Provider:

Healthcare providers include: (1) doctors of medicine or osteopathy who are authorized to practice medicine or surgery (as appropriate) by the state in which the doctors practice; (2) any other person determined by the Secretary of the Department of Labor to be capable of providing health care services; and (3) others capable of providing health care services to include only podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners and nurse-midwives authorized to practice in the state and performing within the scope of their practice as defined under state law. This also includes Christian Scientist practitioners listed with the First Church of Christ, Scientist in Boston, although an employee or family member may be required to submit to a medical examination for a second or third opinion (not treatment) from a non-Christian Science practitioner.

Parent:

Biological parent or individual who stood in place of the parent of the employee and was charged with the duties and responsibilities of the parent.

Qualified Exigency Leave:

Military leave which may be used for such pressing or urgent situations as:

- short-notice deployment (defined as notice of an impending call or order to active duty within seven days of the date of deployment);
- military events and related activities, such as informational briefings, family assistance programs, or official ceremonies and events;
- childcare and school activities, including arranging alternative childcare, caring for children on an immediate, urgent basis, and attending school meetings;
- making financial and legal arrangements, such as executing powers of attorney, obtaining military identification cards, or preparing a will or trust;
- counseling;
- rest and recuperation (that is, to spend time with a military family member who is on short term rest and recuperation leave);
- post-deployment activities, including arrival ceremonies, reintegration events, and issues relating to the death of a military family member; and
- other events arising out of a family member's service that may qualify, as long as the employer and employee agree that it qualifies, and agree on the timing and length of leave to be taken.

Serious Health Condition/Illness:

A period of incapacity of more than three consecutive days that involves: (1) Treatment 2 or more times; or (2) Treatment by a Health Care Professional (HCP) on at least one occasion which results in continuing treatment. The first visit must occur within 7 days. The second visit must occur within 30 days, unless there are extenuating circumstances. If the condition is “chronic”, there must be at least 2 visits to the HCP per year in connection with the chronic medical condition.

Spouse:

Husband or wife as recognized under the laws of the Commonwealth for the purpose of marriage.

MANDATED NOTICE TO CITY OF BROCKTON EMPLOYEES

To: All City Employees
From: Director of Human Resources
Subject: Massachusetts Pregnant Workers Fairness Act

This notice is being sent to inform you that, effective April 1, 2018, Massachusetts has amended current state law against discrimination in employment. M.G.L. c. 151B, §4 forbids discrimination against employees due to pregnancy or conditions related to pregnancy, such as lactation or the need to express breast milk for a nursing child. It also describes employers' obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

Under the Act:

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an "interactive process," and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.
- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer.
- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee's request for or use of a reasonable accommodation

for a pregnancy or pregnancy-related condition.

- As with all reasonable accommodations, medical documentation generally is required. However, an employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk.
- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy.
- Employers must also provide written notice of employees' rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

If you would like to request a reasonable accommodation, or have any questions or concerns about requesting accommodations, please contact the Director of Human Resources at (508) 580-7820 or via email at personnel@cobma.us.

The foregoing is a synopsis of the requirements under the Act, and both employees and employers are encouraged to read the full text of the law available on the General Court's website at:

<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54>.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

Boston Headquarters: One Ashburton Place, Room 601, Boston, MA 02108 | (617) 994-6000

Springfield: 436 Dwight Street, Room 220, Springfield, MA 01103 | (413) 739-2145

Worcester: 484 Main Street, Room 320, Worcester, MA 01608 | (508) 453-9630

New Bedford: 128 Union Street, Suite 206 New Bedford, MA 02740 | (774) 510-5801

www.mass.gov/mcad/

CITY OF BROCKTON NEPOTISM POLICY EFFECTIVE OCTOBER 1, 2011

I. Introduction

It is the policy of the City of Brockton to regulate, restrict or prohibit the employment of relatives when it may have a detrimental effect on supervision and moral, and when it is necessary for proper and efficient operation and delivery of City services. This policy will follow, as a minimum, the standards as set forth in the laws of the Commonwealth of Massachusetts under Massachusetts General Laws Chapter 268A.

II. SCOPE

This policy applies to all full-time and part-time and grant-funded City employees. This policy applies to members of City boards and commissions who have direct, or indirect, authority in hiring, terminating, supervising, or evaluating City employees. Also, this policy applies to present employees who later establish a family member relationship with another City employee.

III. POLICY

The City will generally avoid the hiring, transfer, or promotion of relatives of officials or employees into situations where the possibility of favoritism or a conflict of interest exists, particularly where an employee or official occupies a supervisory position in the chain of command over the position for which the relative would be employed.

The City does not prohibit the hiring, assignment, transfer or promotion of an employee if he/she is the relative of a current employee. A relative of an employee may apply for employment with the City and will be considered if the applicant possesses all the necessary credentials and requirements of the job.

The hiring and promotion of qualified candidates for all Civil Service, both Official Service and Labor Service, within the City will be subject to Chapter 31 of the Massachusetts General Laws and all pertinent collective bargaining requirements.

Employees who become relatives with another employee after their original hire, assignment, transfer or promotion may continue employment as long as there is not an actual conflict of interest or the appearance of a conflict of interest.

IV. DEFINITIONS

- A. Immediate Family- Definition per Massachusetts General Laws Chapter 268A shall include: "the employee and his spouse, and their parents, children, brothers and sisters. For example, an official's brother-in-law would be considered "immediate family" if he were the brother of the official's spouse but not if he were married to the official's sister."
- B. Relative shall include parent (including stepparent or in-law); grandparent (including step-grandparent); child (including in-law) grandchild; brother (including in-law and step or half-brother); sister (including in-law and step or half-sister); uncle; aunt; cousin; niece; nephew; and any other person, whether related or not, who resides in the same household as the employee.

V. PROCEDURES

No City employee, board or commission member shall participate in any capacity in:

- a.) The hiring, termination, or evaluation of a family member nor advocate for his/her appointment, employment, promotion or advancement.
- b.) The creation or development of a city position for which a family member will likely apply.

Individuals who are related by blood or marriage may be permitted to work in the same department provided no direct reporting or management relationship exists. Generally an employee should not work within the "chain of command" of a relative whereby one relative's work responsibilities, salary or career progress could be influenced by the other relative.

Employees who marry while employed are treated in accordance with these guidelines. If a conflict of interest arises as a result of such marriage, one of the employees may be transferred at the earliest practicable time.

VI. DISCLOSURE

Any individual who is a finalist for a position with the City shall complete the attached Disclosure Statement to assure compliance with Massachusetts General Laws Chapter 268A and the City of Brockton's Nepotism Policy.

This policy will not be construed to deprive any person employed on October 1, 2011, the effective date of this policy, or any promotional right in normal career development nor change the existing status of any employee. However the City may modify schedules, shifts, squads or work units to eliminate any potential for conflict under this policy.

This policy supplements the requirements of Massachusetts General Laws, Chapter 268A and this policy. Accordingly, each individual must comply with the requirements of Chapter 268A and this policy.

THE CITY RESERVES THE RIGHT TO MODIFY, REVOKE, SUSPEND OR TERMINATE THIS POLICY, IN WHOLE OR IN PART, AT ANY TIME.

¹ Upon the adoption of this policy, all current employees and officials shall have 30 calendar days to disclose existing familial relationships.

CITY OF BROCKTON

SEXUAL HARASSMENT POLICY

Introduction

It is the policy of the City of Brockton to promote and maintain a workplace that is free from harassment including **sexual harassment**. Sexual harassment in the workplace is unlawful. It constitutes unlawful sex discrimination in violation of Title VII of the Civil Rights Acts of 1964 and Massachusetts General Laws Chapter 151B, Section 1. It is against the law and a violation of City policy for any City employee to sexually harass another employee or a member of the public with whom the employee comes in contact on the job.

Any employee found to have engaged in sexual harassment in violation of this policy is subject to disciplinary action up to and including termination of employment.

The City of Brockton takes allegations of sexual harassment seriously. We will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. The City has provided a procedure by which inappropriate conduct shall be addressed.

Furthermore, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful.

Definition of Sexual Harassment

The legal definition of sexual harassment is broad. The alleged harassing conduct will depend upon the totality of the circumstances including the severity of the conduct and its pervasiveness. There are two different types of sexual harassment.

1) One type, which is often referred to as "**quid pro quo**" harassment, is set forth in Massachusetts General Laws Chapter 151B Section 1. It includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when

- submission or rejection of such advances, request or conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

- submission to or rejection of such conduct by an individual is used as a basis for employment decisions, including hiring, firing, promotions, compensation, etc. affecting that individual.

In other words it is sexual harassment if an employee is told or reasonably led to believe that engaging in sexual conduct will have a positive effect in his or her employment situation or that failure to engage in sexual conduct will have a negative effect on his or her employment status.

2) The other type of sexual harassment, also described in Massachusetts General Laws Chapter 151B Section 1, is "**hostile environment**" sexual harassment, which exists when

- The unwelcome sexual advances, requests or conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, humiliating or sexually offensive working environment.

Among the things that can contribute to a hostile workplace or environment are

- Discussions of individuals employee sexual activities and/or interests
- Magazines, books, posters, etc., that display men or women in various stages of undress or in provocative poses
- Parties or celebrations that feature items or performances of a sexual nature
- Touching or commenting on any traditionally sexual part of a person's body
- Continuing to invite an individual to engage in social or sexual activities after being informed that the individual is not interested
- Continuing to refer to an individual using demeaning or inappropriate language after being asked to stop
- Continuing to touch an individual in a traditionally nonsexual area of the body after being informed that such conduct is not welcome
- Jokes or stories of a sexual nature

- Verbal abuse of a sexual nature; graphic verbal comments about an individuals body; sexually degrading words used to describe an individual

******Whether behavior creates a hostile environment will ultimately turn on the specific facts of the situation**

Sexual harassment can take many forms.

- A man or a woman may be the harasser
- The harassment may be between two individuals of the same sex
- The harasser does not necessarily have to be the victim's supervisor
- The victim does not necessarily have to be the one to whom the remarks or conduct are directed. The victim's ability to work may be adversely affected by an intimidating or hostile working environment created by the behavior between others
- The harasser or the victim may be a member of the public who comes into contact with City employees

All employees need to understand that it is essential to maintain professional, friendly and cooperative working relationships in the workplace.

Sexual remarks, advances, or unwelcome conduct interferes with maintaining those relationships. When such conduct appears to offer a **"quid pro quo"** or creates a **"hostile work environment"**, such conduct is unlawful and will not be tolerated.

Sexual Harassment Complaint Process

Complaint Officers- the City of Brockton has designated the Director of Personnel, City Hall, Personnel Department, 45 School Street, Brockton, MA 02301, (508) 580-7820 and Mayor's Deputy Chief of Staff, City Hall, Mayors Office, 45 School Street, Brockton, MA 02301, (508) 580-7123 as the Complaint Officers. He/she is vested with the authority and responsibility of processing all harassment complaints in accordance with the procedure outlined below

Procedure

1) Any employee of the City who believes that he/she has been subjected to harassment, including sexual harassment, will report the incident to the complaint officer as soon as possible so that it may be addressed promptly.

2) The Complaint Officer will attempt to resolve the problem in a formal and expeditious manner through the following process:

a) The Complaint Officer will confer with the individual who feels he or she was subjected to harassment, the Complainant, to obtain a clear understanding of that individual's statement of facts.

- After meeting with the complainant, the complainant shall put the complaint of harassment in writing.

b) The Complaint Officer will then meet with the alleged harasser in order to obtain his or her response to the complaint.

c) The Complaint Officer may hold as many meetings with the parties as is necessary to obtain factual information.

d) The Complaint officer will also meet with witnesses or other individual's who may have pertinent information.

3) The investigation will be processed in an expeditious manner with a completion time goal of two weeks. Upon completion of the investigation, the complaint officer shall prepare a report outlining the findings and submit said report to the Mayor.

The Complaint officer, to the extent appropriate, will inform the person filing the complaint and the person alleged to have committed the conduct, of the results of the investigation.

If it is determined that inappropriate harassing conduct has been committed by one of the City's employees, the City will take such disciplinary actions as is appropriate under the circumstances.

The **disciplining action** may include an oral warning or reprimand, a written warning or reprimand to be placed in the personnel file, suspension, demotion, termination or a combination of the above.

The report of the investigation and all documentation shall be kept in the Complaint Officers confidential files.

4.) The Complaint Officer will prepare a written summary of the disciplinary action taken by the City. Both the Complainant and the alleged harasser shall receive a copy of the written summary.

If the complaint is substantiated, the summary shall be placed in the personnel file of the harasser.

Parties to the investigation maintain the right to grieve and or arbitrate the results of said investigation.

State and Federal Remedies

In addition to the above procedures, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both the government agencies set forth below.

Using our complaint process does not prohibit you from filing a complaint with these agencies.

*****Each agency has a short time period (statute of limitations) for filing a claim

*****EEOC - 300 Days

*****MCAD - 300 Days

EEOC-The United States Equal Employment
Opportunity Commission
1 Congress Street 10th Floor
Boston, MA 02114
(617) 565-3200

MCAD - The Massachusetts Commission against Discrimination
Boston Office
1 Ashburton Place, Room 601
Boston, MA 02108
(617) 994-6000

Springfield Office
424 Dwight Street, Room 220
Springfield, MA 01103
(413) 739-2145