



City of Columbus  
Department of Human Resources  
77 N. Front Street  
Columbus, Ohio 43215

## *Drug-Free Workplace Policy*

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## 1) Introduction

The City of Columbus and its employees recognize and agree that it is everyone's goal to maintain a safe and secure workplace. Alcohol and/or drugs impair employees' ability to perform their duties in a safe and efficient manner. The purpose of this policy is:

- To provide a safe, secure, effective, and efficient workplace and for the safety of the public by deterring alcohol and/or illegal or inappropriate drug use in the workplace; and,
- To provide a fair and consistent policy to deal with City employees with substance use problems

This effort will be maintained through a program designed to comply with the provisions of the Drug-Free Workplace Act of 1988 and requirements of the Omnibus Transportation Employee Testing Act of 1991.

## 2) Covered Employees

Pre-employment testing for temporary (four hundred and eighty ("480") hour) employees are exempted from this policy. All other city employees and situations are covered by this policy. Provisions of the respective collective bargaining agreements are incorporated for those employees in bargaining units. Employees are responsible for adhering to these procedures without exception.

## 3) Definitions

Breath (or Blood) Alcohol Concentration (BAC)	Refers to the amount of alcohol detected in a test subject's breath or blood. This concentration is reported in terms of grams of alcohol per 210 liters of breath. For blood alcohol content, the concentration is reported in terms of grams of alcohol per 100 millimeters of blood.
CDL Driver or CDL Holder	An employee in a Civil Service classification and/or a person performing safety-sensitive functions that requires possession of a valid commercial motor vehicle operator's license in order to operate a variety of heavy or highly complex, motorized equipment as defined by the Department of Transportation.
CDL Vehicle or Commercial Motor Vehicle (CMV)	Any self-propelled or towed vehicle used on a highway, any roadway or passage which may be available to public transportation at any time, whether on private or public property, in interstate or intrastate commerce, to transport passengers or property when the vehicle: <ul style="list-style-type: none"><li>• Has a gross vehicle weight rating or gross combination weight (including trailers) rating of 10,001 lbs. or more; or,</li><li>• Is designed to transport 16 or more passengers, including the driver; or,</li><li>• Is of any size and is used in the transportation of hazardous materials as determined by the Hazardous Materials Transportation Act, 49 USC 5101, and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR chapter I, subchapter C.</li></ul>
Disabling Damage	Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner, in daylight, after simple repairs. This includes damage to motor vehicles that could have been driven but driving would have caused further damage.

	<p>Disabling Damage <i>excludes</i> the following:</p> <ul style="list-style-type: none"> <li>• Damage that can be remedied temporarily at the scene of the accident without special tools or parts;</li> <li>• Tire disablement without other damage even if no spare tire is available;</li> <li>• Headlamp or taillight damage;</li> <li>• Damage to turn signals, horn, or windshield wipers that make them inoperative.</li> </ul>
Drug and Alcohol Coordinator (DAC)	The designated representative within the Department of Human Resources authorized to take immediate action to remove employees from (or have them removed from) safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DAC receives test results and other communications for the City and provides or coordinates education and training for all covered employees as needed.
Employee Assistance Program (EAP)	A short-term counseling, consultation, coaching, and referral linkage service provided to all City employees, their significant others, and dependents. Services are confidential, as protected by federal and state HIPAA law, as well as by the independent licensure law of the EAP counselors.
Follow-up Test	An employee who has returned to duty after receiving treatment following a positive test result will be subject to unannounced follow-up alcohol and/or drug testing. A minimum of six (6) unannounced tests during the next twelve (12) months will be conducted, and may be more often if ordered by the SAP or collective bargaining agreement. Follow-up tests are subject to direct observation at the collection site.
Medical Review Officer (MRO)	A licensed physician who is qualified to interpret and evaluate test results and other relevant medical information.
Negative Test Result	The test specimen must contain either none of the targeted drug (or its metabolites) or a concentration level that is less than the minimum threshold amount for that drug.
Positive Test Result	Any test result which: <ul style="list-style-type: none"> <li>• Exceeds the federal guidelines, or those levels specified in a collective bargaining agreement that differ from federal guidelines, and is determined positive by a MRO; or</li> <li>• Results from any refusal to test or failure to cooperate by an employee; or</li> <li>• A sample which is adulterated in any way, as determined by the HHS certified laboratory.</li> </ul>
Post-Accident Test	All civilian employees covered by the AFSCME, CWA, and FOP-OLC collective bargaining agreements, MCP and HACP management compensation plans, are subject to post-accident testing after they are involved in a vehicular (motor vehicle) accident.
Pre-Employment Test	This test is performed under the following situations: <ul style="list-style-type: none"> <li>• When a conditional job offer is given, the candidate must submit to a drug test before employment begins.</li> <li>• Before CDL drivers are permitted to operate a CMV on a public road or perform safety-sensitive functions.</li> <li>• When a CDL driver is removed from a random testing pool for more than 30 days, the driver must be tested again before resuming work.</li> </ul>
Random Test	An unannounced test, consistent with the respective collective bargaining

	agreements &/or federal regulations for CDL, FOP-OLC, and sworn Fire and Police employees.
Reasonable Suspicion Test	This test is conducted after an employee is suspected of using or being under the influence of alcohol and/or drugs while at work.
Return-to-Duty Test (RTD)	After a positive test result or a refusal to test, an employee will complete an EAP assessment, a referral assessment, and enter an educational and/or treatment program. At the point where EAP notifies the DAC that the employee is ready to return to work, the employee will be required to take a drug and/or alcohol test and test negative before returning to active duty. Return-to-Duty test are subject to direct observation at the collection site.
Safety-Sensitive Function	Any of the on-duty functions performed by a driver set forth in 49 CFR §395.2
Safety Sensitive Position	A job where the employee holding this position has the responsibility for his/her safety and other people's safety.
Substance Abuse Professional (SAP)	A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning evaluation, treatment, follow-up testing, and after-care.
Trained Supervisor	A supervisor who has completed the 2-hour Drug-Free Safety Program (DFSP) classroom training and is trained to make specific, contemporaneous, articulable observations with respect to the employee's appearance, behavior, speech, and/or body odor to determine whether a reasonable suspicion test is necessary.

#### 4) Prohibited Conduct

Employees are prohibited from:

- Reporting to work or working under the influence of alcohol and/or illegal or inappropriate use of prescription drugs, including medical marijuana;
- Purchasing alcohol or drugs for self or others while on duty; consuming or possessing alcohol anywhere on any City premises, in any City vehicle, or at any time while on duty;
- Possessing or using drug paraphernalia and items used for substance abuse on any City premises or in any City vehicle;
- Illegally possessing, using, selling, purchasing, manufacturing, dispensing or delivering any illegal or prescriptive drug at any time and at any place;
- Misusing and/or abusing any prescription drug; and/or
- Failing to report immediately to their supervisor any duty-related restrictions imposed as a result of prescription or over-the-counter (OTC) medications.

#### 5) Education and Training

The Department of Human Resources will develop an ongoing drug-free awareness training program to inform employees about the dangers of drug abuse in the workplace, how to get help, and further explain this policy. Employees will have access to this policy online and/or in written form. Education about the dangers of substance use will occur annually.

Supervisors shall receive additional training that will focus on the physical, behavioral, speech, and performance signs and symptoms that indicate a substance abuse problem. This training will include how to recognize policy violations, make referrals for testing, and/or EAP assistance. The failure of a supervisor to participate in this training will not render the results of a reasonable suspicion test invalid or inadmissible in any disciplinary action.

## **6) Procedures to Implement the Policy**

All drug and alcohol testing will be administered through the Drug and Alcohol Coordinator (DAC) in the Department of Human Resources, in cooperation with a third-party vendor or vendors selected in compliance with all applicable ordinances, statutes and collective bargaining agreements. All covered employees will be treated in a fair and impartial manner and according to the terms set forth in the respective collective bargaining agreements and/or this policy.

## **7) Use of Prescription Drugs**

An employee who is using therapeutic (i.e., prescription) drugs or over-the-counter (OTC) medications shall use such medication in compliance with instructions from the prescribing doctor, the pharmacist, and/or package instructions. Failure to follow such instructions could indicate the misuse and/or abuse of the medication.

Examples of misuse and/or abuse of prescription drug or OTC medication include, but are not limited to:

- Taking a medication that has been prescribed for someone else; or
- Taking a drug in a higher quantity or in another manner than prescribed; or
- Taking a drug for another purpose other than prescribed; or
- Performing any activities or work that is specifically restricted by the prescriber of the medication or indicated on the medication information provided to the employee.

If an employee is unable to perform job duties as described in the City Work Rules, he/she shall contact their Department of Human Resources representative.

## **8) Types of Tests**

Alcohol and/or drug testing will be conducted under the following circumstances and in accordance with the respective collective bargaining agreements:

### (A) Pre-Employment

Once a conditional offer has been extended, the candidate must successfully pass a pre-employment drug test before beginning any work for the City. The City will decline to extend a final offer of employment to any candidate with a verified positive test result. A candidate with a positive test result will not be considered for any position with the City of Columbus for a period of one year.

Before a current City employee transitions into a safety-sensitive CDL position, the candidate must have a negative pre-employment federal DOT drug test.

### (B) Random

Pursuant to federal law and/or the respective collective bargaining agreements, the City will conduct random drug and/or alcohol testing at unannounced times and dates throughout the calendar year. For the purposes of random testing, City employees will be divided into the following groups (pools):

- IAFF covered employees
- Fire Executives
- FOP covered employees
- Police Executives
- FOP/OLC covered employees

- CDL holders

When an employee is notified of a random test, he/she must cease work as soon as practicable, proceed immediately to the collection site, and arrive for testing within a reasonable period. Collection sites may be fixed or mobile, located either at the work site or at a remote location. All employees must comply with an order to test.

#### (C) Post-Accident

All employees covered by the AFSCME, CWA, and FOP-OLC collective bargaining agreements; the Management Compensation Plan (MCP) and Health Administration Compensation Plan (HACP) are subject to post-accident alcohol and drug testing. Employees who are involved in a vehicular accident while driving a City vehicle or while driving any vehicle conducting City business, unless limited by collective bargaining agreement, shall be required to submit to alcohol and drug testing where any of the following occur:

1. There is a fatality;
2. The driver is cited for a moving traffic violation AND either:
  - a. One or more of the vehicles incurred disabling damage as a result of the accident and required a tow away from the scene;
  - b. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;
3. There is a reasonable suspicion to believe the employee may be under the influence of alcohol and/or drugs;
4. The accident causes damage to property other than a motor vehicle. Notwithstanding, when the investigating supervisor determines immediately after the incident that the accident was not caused by negligence on the part of the employee, then the employee will not be required to submit to post-accident testing.

If medical treatment is required, the DAC will make arrangements to have the employee's specimens obtained after such treatment is received. Employees subject to post-accident testing must refrain from consuming alcohol for eight (8) hours following the accident or until he/she submits to an alcohol test, whichever comes first. The employee must remain available for testing, and if he/she is not, the lack of availability will be considered as a refusal to take the test.

The alcohol test must occur within eight (8) hours, and the drug test must occur within thirty-two (32) hours from the incident. If the alcohol test is not administered within two (2) hours following the accident, the City must document and keep on file the reasons for not performing the test. If the alcohol test is not administered within eight (8) hours following the accident, the City shall cease any effort to administer the test and document the reasons why. If a drug test is not performed within thirty-two (32) hours following the accident, the City shall cease attempts to administer a drug test and maintain on file a record stating the reasons the test was not promptly administered. In addition to the federal DOT drug screening, CDL employees shall be subject to the non-DOT drug testing panel.

This policy will serve as written notice to employees that the results of, or refusal to submit to, any properly ordered tests may affect the employee's eligibility for compensation and benefits from the Bureau of Workers' Compensation (BWC).

#### (D) Reasonable Suspicion

*Defined:* The term, "reasonable suspicion," shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech and/or body odors that would suggest that an

employee may be:

- affected by the use of alcohol;
- consuming or possessing alcohol in violation of City policy or collective bargaining agreement;
- misusing prescription drugs;
- possessing or using illegal drugs;
- possessing or using drug paraphernalia;
- engaging in prohibited conduct as described in the respective collective bargaining agreements, then the City shall require the employee to submit to both alcohol and drug testing.

Determination: The City shall hold harmless any employee or supervisor, who, in good faith, recommends that an employee be tested. For most employees, reasonable suspicion must be based on specific observable behavior which must be documented in writing by at least two (2) witnesses, one of whom must be a supervisor. Certain exceptions exist for the following employees:

- Sworn employee: The chain of command will make the testing determination and will utilize the DAC as a consultant and to arrange the location for testing.
- CDL holder: One trained supervisor making specific, contemporaneous, articulable observations with respect to the CDL employee's appearance, behavior, speech or body odor will be sufficient determination to test a CDL employee. This observation must occur just before, during, or just after the CDL employee performs a safety-sensitive duty. In addition to the federal DOT drug screening, CDL holders shall be subject to the non-DOT drug testing panel.

Procedures. Testing may be requested and performed during all shifts. A member of City management shall transport the employee to the testing site and will remain with the employee throughout the testing process. The employee shall provide a breath sample and a urine specimen. See sections titled "Breathalyzer Testing" and "Drug Testing" for specific procedures regarding insufficient sample or specimen. At the completion of gathering all necessary samples and specimens, the member of City management shall transport the employee home. The employee shall be relieved of duty without pay from the time the employee arrives home until the employee is ordered to return to work.

Union Representation. The employee may consult with a union representative, if available. The unavailability of a union representative will not delay the testing. Refusal or failure to submit to alcohol/drug testing after being properly ordered to do so will result in a positive test and may result in disciplinary action for insubordination.

Results. The reasonable suspicion test results shall be communicated to the employee and his/her appropriate Human Resources representative.

- Negative Test: If the alcohol and/or drug test is negative, the employee will be compensated for the period of leave of absence, unless other work rule violations are proven to occur.
- Positive Test: If the alcohol and/or drug test is positive, the employee may utilize his/her available leave, subject to collective bargaining agreement, upon approval of the Appointing Authority.

#### (E) Return-to-Duty (RTD)

Before returning to work after a positive test result, an employee must take a return to duty (RTD) test and have a negative result. The RTD test will be scheduled at the request of EAP and in conjunction with

the DAC. RTD tests are subject to direct observation at the collection site.

(F) Follow-up

An employee who has returned to duty after receiving treatment following a positive test result will be subject to unannounced follow-up alcohol and/or drug testing. A minimum of six (6) unannounced tests during the next twelve (12) months will be conducted, and may be more often if ordered by the SAP or collective bargaining agreement. For CDL holders, the SAP may determine the follow-up testing schedule for up to five (5) years. Follow-up tests are subject to direct observation at the collection site.

**9) Testing Standards**

The City will contract with a third-party vendor or vendors to provide collection services, laboratory testing and medical review of the test results. The vendor or vendors will utilize only laboratories that are federally certified to do drug testing. Personnel employed by the lab shall be certified as required by federal certification requirements. The facility testing breath samples and collecting specimens shall hold all legally necessary licenses and shall be conducted in a manner that is consistent with federal guidelines. The City and vendor(s) will follow the rules and regulations set forth by the Substance Abuse and Mental Health Services Administration (SAMHSA) a federal department of Health and Human Services (HHS) to conduct alcohol and drug testing. The drug testing cut off levels will be consistent with standards set by federal guidelines, unless otherwise specified by collective bargaining agreement.

**10) Alcohol Testing**

Alcohol tests performed under this policy will be conducted with an evidential breath-testing device (EBT), approved for alcohol testing by the National Highway Traffic Safety Administration (NHTSA). The EBT will be utilized first when an employee is to be tested for both alcohol and drugs, and a urine collection will normally follow the collection of breath.

If the screening test result is at or above the initial BAC cutoff level, the employee will be required to take a confirmation test. This will be administered with an EBT device with the exception of IAFF bargaining members, who will submit a blood sample. Confirmation BAC test results are the final outcome of the test.

Bargaining Unit	Initial BAC Cutoff	Confirmation BAC	Result
<u>Non-CDL</u> AFSCME 1632 AFSCME 2191 CWA 4502	.040	.000 – .039	Negative
		.040 – .059	<ul style="list-style-type: none"> <li>The result is not considered positive, however, the employee may be presumed to be impaired based on the employee's pattern of behaviors, and may face disciplinary action</li> <li>Employee relieved of duty for the remainder of shift</li> <li>May use vacation or compensatory time to cover the absence</li> </ul>
		.060 or higher	Positive
<u>CDL Holders</u> AFSCME 1632 AFSCME 2191 CWA 4502	.020	.000 – .019	Negative
		.020 – .039	<ul style="list-style-type: none"> <li>The result is not considered positive, however, the employee may be presumed to be impaired, based on the employee's pattern of behaviors, and may face disciplinary action</li> <li>Employee immediately removed from any safety-sensitive functions until the start of the next regularly scheduled duty period; but not less than 24 hours following the administration of the test</li> <li>May use vacation or compensatory time to cover the absence</li> </ul>
		.040 or higher	Positive – employee immediately removed from any safety-sensitive functions
MCP HACP FOP-OLC	.040	.000 – .039	Negative
		.040 or higher	Positive
FOP Police MCP	.020	.000 – .019	Negative
		.020 – .039	<ul style="list-style-type: none"> <li>Employee shall be sent home and must use earned leave (i.e. vacation, sick leave or comp time) to account for the missed tour of duty</li> <li>Employees without sufficient leave will be granted leave without pay for the remainder of the tour of duty and not be subject to discipline for such leave</li> </ul>
		.040 or higher	Positive
IAFF* Fire MCP*  *The confirmation test will consist of a blood sample	.020	.000 – .019	Negative
		.020 – .039	<ul style="list-style-type: none"> <li>Employee shall be sent home for the remainder of the shift and must use earned leave (i.e. vacation, sick leave or comp time) to account for the missing work time</li> <li>Employees without sufficient leave will be granted leave without pay for the remainder of the shift and not be subject to discipline for such leave</li> </ul>
		.040 grams per 100 ml of blood and above	Positive

## Shy Lung

Any employee who does not provide a sufficient amount of breath to permit a valid breath test will be instructed to attempt again to provide a sufficient sample. If the employee refuses to attempt, then the test will discontinue and will be considered a refusal to test. If after attempting three (3) times to provide a sufficient sample of breath and an employee is still unable to provide a sufficient amount of breath, then the DAC will be contacted. The DAC will then instruct the employee to obtain an evaluation, within five (5) days, from a licensed physician who is acceptable to the MRO and who has expertise in the medical issues raised by the employee's failure to provide a sufficient sample. The physician must provide a report to the MRO stating that, in his/her medical judgment, an adequate medical basis exists that precludes the employee from providing a sufficient sample of breath. If a medical condition does exist, then the test is cancelled. If a medical condition does not exist, then the test will be considered a refusal to test.

## **11) Drug Testing**

### Drug Panels

The following drugs and drug classes to be tested, as set by federal DOT regulations, the respective collective bargaining agreements, and/or City policy, may include:

- Amphetamines
  - Amphetamine
  - Methamphetamine
  - MDA
  - MDMA (Ecstasy)
- Barbiturates
- Benzodiazepines
- Buprenorphine (Suboxone)
- Cocaine Metabolites
- Marijuana Metabolites (THC)
- Methadone
- Methaqualone (Quaaludes)
- Opioids
  - Codeine
  - Morphine
  - Heroin (6-Acetylmorphine)
  - Hydrocodone
  - Hydromorphone
  - Oxycodone
  - Oxymorphone
- **Expanded Opiates**
  - **Fentanyl**
  - **Meperidine**
  - **Nalbuphine**
  - **Pentazocine**
- Phencyclidine (PCP)
- Propoxyphene

## Specimen Collection

Urine specimens will be collected, stored, and transported in a manner consistent with HHS guidelines. The third-party vendor(s) will follow all HHS guidelines for the chain of custody paperwork. If the chain of custody is broken for any sample, then that test shall be considered a cancelled test and may not be used for any purpose. Cancelled tests will not be counted against the number of tests to be performed annually.

Urine samples will be collected in a private and secure bathroom, unless subject to a direct observed collection. All specimens will be packaged and sealed by the third-party vendor(s) or designee(s), and the seal initialed by the employee to ensure that the specimen is not tampered with in any manner. Specimens are to be tested for adulterants, creatinine and specific gravity values. All specimens will be packaged as split specimens. Split sample tests will be available to the employee, at their own expense, for independent analysis at a HHS certified laboratory if there is a positive test result.

## Direct Observed Collection

A direct observation collection is when a collector at a test site watches the employee urinate into a collection container and checks for prosthetic or other devices designed to carry “clean” urine or urine substitutes in accordance with federal standards. If the collector is not the observer, the collector must instruct the observer about the appropriate procedures for observing the employee in accordance with federal standards. The observer must be the same gender as the employee’s identified gender.

Directly observed collections are required when:

1. The employee attempts to tamper with his or her specimen at the collection site.
  - a. The specimen temperature is outside the acceptable range (90° - 100°);
  - b. The specimen shows signs of tampering ~ unusual color / odor / characteristic; or,
  - c. The collector finds an item in the employee’s pockets or wallet which appears to be brought into the site to contaminate a specimen; or the collector notes suggest tampering.
2. The Medical Review Officer (MRO) orders the direct observation because:
  - a. The employee has no legitimate medical reason for certain atypical laboratory results; or
  - b. The employee’s positive or refusal [adulterated / substituted] test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected).
3. The test is a Follow-Up test or a Return-to-Duty test.

Failure of the employee to permit any part of the direct observation procedure is a refusal to test.

## Monitored Collection

A monitor accompanies the donor into the restroom, and secures the restroom to ensure that no one else can enter during the collection process. The monitor remains in the restroom, but outside the stall, while the donor is providing the specimen. A monitored collection procedure must be used when:

1. The collection is being conducted in a public restroom (e.g., when the collection is done at the worksite), or
2. The restroom used for the collection has a water source that cannot be disabled or secured.

### Adulterated Specimen

An adulterated specimen is defined as a specimen that contains a substance not expected to be present in human urine, or contains a substance to be present but the concentration level is so high that it is not consistent with human urine. In cases where a definite positive or negative result cannot be determined, employees may be required to resubmit a sample under direct observation by the third-party vendor or designee.

### Diluted Specimen

A diluted specimen is defined as a specimen with creatinine and specific gravity values that are lower than expected for human urine. A negative dilute result will be accepted for compliance with this policy. A positive diluted drug test result is always positive.

### Substituted Specimen

A substituted specimen is defined as a specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine. When urine specimens are presented, which are not in an acceptable temperature range (90° - 100°), another specimen will be collected under direct observation by the third-party vendor or designee. Both specimens will be sent to the HHS certified laboratory for analysis.

### Shy Bladder

When an employee does not supply a sufficient amount of urine, the collector will instruct the employee to drink up to forty (40) ounces of fluid in a period not to exceed three (3) hours. In this situation, the first specimen (if in the temperature range and the specimen does not appear to have been tampered) will be discarded.

Any employee who does not provide a sufficient specimen within three (3) hours of the first unsuccessful attempt will be instructed to discontinue the collection and the DAC will be contacted. The DAC will then instruct the employee to obtain an evaluation, within five (5) days, from a licensed physician who is acceptable to the MRO and who has the expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The physician must provide a report to the MRO stating, in his/her medical judgment, an adequate medical basis exists which precluded the employee from providing a sufficient specimen. If a medical condition does exist, then the test is cancelled. If a medical condition does not exist, then the test will be considered a refusal to test.

## **12) Refusal to Test**

No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to duty or follow-up alcohol or drug test. A CDL driver who refuses to submit to such tests, including a pre-employment drug test, shall not perform or continue to perform safety-sensitive functions.

Examples of a refusal to test include, but are not limited to, when an employee:

- Fails to cooperate with any part of the testing process (e.g., refuses to provide a specimen, refuses to display the items in their pockets at the beginning of the collection, disrupts the collection process, or refuses to wash their hands at the beginning of the collection);
- Declines to allow a direct observed collection when required, or fails to follow the observer's instructions related to the direct observed collection;
- Declines to allow a monitored collection when required;

- Declines to continue the collection process when their first specimen has insufficient volume;
- Fails or declines to participate in an alternate specimen collection (e.g., blood draw for IAFF alcohol confirmation test) as directed by the collector;
- Leaves the collection site before completion of the collection (exception for pre-employment tests: if the donor for a pre-employment test leaves the collection site before the collector provides or before the donor selects a specimen collection container, this is not considered a refusal to test. If the donor for a pre-employment test leaves after that step, before the collection is complete, the collector reports a refusal to test.);
- Possesses or wears a prosthetic or other device that could interfere with the drug test;
- Brings materials to the collection site with the intent to adulterate, substitute or dilute their specimen or conduct clearly indicates an attempt to adulterate, substitute or dilute the specimen;
- Admits to the collector that they have adulterated or substituted their specimen.

If an employee refuses a properly ordered test, then the test result will be considered to be positive.

### **13) Medical Review Officer (MRO)**

The Medical Review Officer (MRO) must be a licensed physician who is familiar with characteristics of tests in the facilities conducting the testing. The role of the MRO will be to review and interpret all positive, adulterated, rejected for testing, invalid, and (for urine) substituted test results. The MRO will notify the employee of any positive result and will examine any medical explanations for the positive result. An employee shall cooperate fully and promptly with the MRO. The MRO must review all medical records made available by the employee. This may include a medical history, review of the employee's current prescribed medications, chain of custody and any relevant biomedical factors. After a full review, the MRO may conclude that an apparent positive test is actually a negative test based on the existence of additional reasons. In such a conclusion, the MRO shall report the test result as a negative to the City.

The MRO may verify a test as positive without interviewing the affected employee if more than five (5) days elapse after the MRO first attempts to contact the employee. The MRO will make all reasonable attempts to contact the employee. Once the MRO determines the result of a test to be positive, then he/she will contact the DAC.

### **14) Test Results**

Results from the breath alcohol testing are available immediately at the testing site. Blood alcohol results may take 5 to 7 days to be reported to the City from the third-party vendor. The City typically receives negative drug test results within 24 – 72 hours; however, a positive screen will require further testing that may take a few days up to one week.

#### Definition of Positive Test Result

For purpose of this policy, a positive test result will be any result that:

- Exceeds the federal guidelines or levels provided in the respective collective bargaining agreements, if different than the federal guidelines for the tested substance, and determine positive by a MRO;
- Results from any refusal to test or failure to cooperate by an employee;
- An employee's sample is adulterated in any way, as determined by the certified lab;
- Employee fails to provide adequate breath or urine for testing unless the MRO, in his/her medical judgement, determines that an adequate medical basis exists which precludes the employee from providing a sufficient sample of breath or urine.

If an employee disagrees with the positive drug test result, he/she may request that the sample be retested using a split specimen from the original sample. The request shall be made to the DAC within seventy-two (72) hours after notice of a positive test result. The employee is responsible for the costs associated with the additional test.

#### Procedures After a Positive Test Result

When the DAC receives notice from the MRO or a designee, that an employee has a confirmed positive result, the DAC will institute the following steps:

1. Employees will be relieved of duty by the DAC without pay (unless the employee elects to use available vacation or compensatory time). A Deputy Chief or designee will relieve employees who are part of the FOP bargaining unit. An Assistant Chief or designee will relieve employees who are part of the IAFF bargaining unit.
2. The employee will be referred to the EAP. The EAP will conduct an assessment, make appropriate referrals and will determine when the employee is ready for the return-to-duty test.

CDL holders must complete an evaluation by a Substance Abuse Professional (SAP). The SAP will recommend appropriate education, treatment, follow-up tests and aftercare. A list of SAP contacts will be provided by EAP, whom will also monitor compliance with SAP recommendations. The employee is responsible for the costs associated with the SAP.

FOP bargaining unit employees must cooperate and successfully complete an evaluation for chemical dependency by an individual qualified under 49 C.F.R. Part 382 to be a Substance Abuse Professional (SAP) and provide the City with a copy of the evaluation.

IAFF bargaining unit employees may choose to use an alternate counseling source; however, the EAP and DAC must be kept informed in order to maintain compliance with the Systems Manual and collective bargaining agreement.

3. The employee must take and test negative on a return- to- duty test in order to return to active duty. The employee will be subject to follow-up testing.

#### **15) Monitoring of Employee's Compliance**

For purposes of monitoring an employee's compliance with the Employee Assistance Program (EAP) and any treatment/educational provider, an employee who is ordered to EAP as a result of a positive test result shall be required to sign a release of information form, which will allow the DAC and EAP to communicate. Any communication between the DAC and EAP will be held in the strictest confidence. Should the employee fail to comply with any recommendation of EAP, the employee may be subject to disciplinary action, up to and including discharge.

#### **16) Discipline**

Employees who have not completed the initial probationary period may be terminated for a first positive.

An employee who has completed his/her probationary period shall not be discharged for the first positive test. However, separate concurrent work rule violations may warrant disciplinary action up to and including termination. A second positive test may result in termination.

An employee who voluntarily requests drug or alcohol education and/or treatment shall not be disciplined

in connection with that request if the request is done prior to selection for testing; however, the employee may be subject to disciplinary action for concurrent work rule violations.

An employee who is referred to EAP due to a positive test result will complete any and all recommendations from EAP in a timely fashion, or the employee may be subject to disciplinary action.

### **17) Self-Referral of a Substance Abuse Problem**

Employees with substance abuse concerns are strongly encouraged to seek help before the problem impacts their employment. The City's Employee Assistance Program (EAP) provides confidential free counseling and referral services for all City employees, their family members and significant others. The EAP can address a broad and complex body of issues affecting mental and emotional well-being, such as alcohol and other substance abuse, stress, grief, family and marital problems, depression and financial issues. The EAP main line is 614.645.6894.

An employee who self-reports substance abuse concerns directly to their department, may be subject to compliance monitoring, return-to-duty and follow-up testing. The department will consult with the EAP and DAC for guidance.

Employees will be held accountable for misconduct; any attempt to avoid discipline by self-referring to EAP will not be tolerated.

### **18) Conflicts**

For purposes of interpreting drug testing provisions, it is understood that where the federal law and/or regulations apply and there is a specific conflict with policy and/or collective bargaining agreement, that the federal law or regulations supersede the policy and/or collective bargaining agreements. This does not, however, limit the City's right to test above the federal regulations. Further, should collective bargaining agreements specifically conflict with policy, the collective bargaining agreement supersedes the policy.

#### **GINA DISCLAIMER**

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

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City of Columbus  
Department of  
Human Resources  
77 N. Front Street  
Columbus, Ohio 43215

*Acknowledgment of Receipt*

With my signature below, I am acknowledging receipt of the Drug-Free Workplace Policy for the City of Columbus. I understand that it is my responsibility to read this policy, and to be familiar with its contents. I understand that if I have questions, at any time, regarding the Drug-Free Workplace Policy, I will consult with my immediate supervisor, my Human Resources representative, and/or the Drug & Alcohol Coordinator.

Please sign and return to your division Human Resources representative. Thank you.

Employee Printed: Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_