



# DRUG/ALCOHOL TESTING POLICY AND PROCEDURES

PM-74-03

Section: 74-00, SAFETY/ON-THE-JOB INJURY

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## **I. PURPOSE AND SCOPE**

This policy supplements the Substance Abuse Policy PM-78-03 and sets forth the required procedures for compliance with Public Law 100-690, "The Drug-Free Workplace Act of 1988," and "The Omnibus Transportation Employee Testing Act of 1991" (herein referred to as DOT).

This policy covers all employees in all City Divisions, its Board and Agencies regardless of classification or status, and includes all programs that are paid through or receive Federal grant and/or contract funds.

## **II. POLICY**

The City of Memphis shall require drug/alcohol screening (urine testing, breath analysis, or other appropriate testing procedures) in the following situations:

- A.** As part of the pre-employment or pre-assignment application process.
- B.** For commercial drivers, in compliance with the Department of Transportation (DOT) drug use and alcohol misuse prevention rules.
- C.** As part of the substance abuse rehabilitation plan prescribed by the Employee Assistance Program or authorized providers of treatment. This includes return to duty testing and periodic follow-up testing for a period of four (4) years from the date of the entry into the testing program.
- D.** Upon reasonable suspicion that an employee is either in possession of, using, or under the influence of drugs/alcohol. Documentation shall be detailed in writing concerning the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing and a copy of this documentation shall be given to the employee upon request. Observations which constitute reasonable suspicion should be "objective and articulable"; i.e., facts which can be stated clearly and specifically. Such observations may include, but are not limited to the following:

- 1. Odor of alcoholic beverages;



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2. Erratic behavior or deterioration of personal hygiene;
3. A pattern of excessive absenteeism, abuse of sick leave, on-the-job injuries, or tardiness;
4. An arrest for drug-related or alcohol-related offenses;
5. Argumentative or aggressive behavior toward management and/or co-workers;
6. Drastic reduction in quality and/or quantity of work performed;
7. Unusual physical appearance indicative of disorientation or observed behavior indicating impaired motor skills; and
8. Possession of alcohol or drugs, drug paraphernalia, or alcohol beverage containers at work area or in vehicle.

### E. Non-suspicion, post-accident testing (not limited to motor vehicle accidents), which meets one of the following criteria:

1. Any type of workplace accident which is not explained or which is not reported at the time of its occurrence;
2. Any type of accident involving a fatality;
3. Any motor vehicle accident in which the employee received a citation and there is property damage and/or bodily injury; and
4. An accident or injury which may have been caused by the apparent action or inaction of the employee.

### III. PROCEDURES

Upon determination that an employee should be screened, the employee shall be relieved of duty with pay and ordered to submit to drug/alcohol testing immediately. The Division EAP Coordinator, the Division OJI Coordinator, or the Drug Testing Coordinator will arrange the testing in compliance with the DOT rules, the Drug-Free Workplace Act, the Substance Abuse Policy, Division Policy, and/or the provisions of this policy.

This may include pre-employment, pre-assignment, post-accident, post-injury, reasonable suspicion, follow-up, random, or return-to-duty testing. Testing shall be conducted during, immediately before, or immediately after an employee's scheduled working hours.



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### A. Collection Procedures and Work Status

1. If an employee is chosen for random or periodic follow –up testing, he/she shall remain on duty following the collection process.
2. If an employee is to be tested following an accident which involves an injury, the injured employee shall first be taken to a medical facility for immediate treatment of the injury. Specimens shall be collected at the treating facility or a designated collection site following treatment for the injury. The employee shall return to work upon the release of the treating professional.
3. If a driving employee is to be tested following a motor vehicle accident and is not injured, the driver shall be tested immediately following the accident. He/she may remain on duty pending receipt of the test results, but will not be permitted to drive until negative test results are received. If the driving employee is injured, the employee should first be treated for the injury as outlined above.
4. If the driving employee is tested for reasonable suspicion, he/she shall remain off duty with pay until the test results are received. If the results are negative, the employee shall be returned to duty.
5. If any drug/alcohol test has a positive result or, if it is shown that the employee tampered with the sample, the employee shall be relieved of duty subject to disciplinary action up to and including termination.
6. If an employee is to be allowed to return to work following a positive test result, an assessment must first be arranged by an Employee Assistance Program Counselor. If indicated by a Substance Abuse Professional, the employee must enter into a treatment plan and follow-up testing agreement. The employee shall not be allowed to return to work until a negative test result is obtained and a return-to-duty date is approved by an Employee Assistance Program profession. Failure to obtain a negative test result within an individualized period of time (specified by the Medical Review Officer or the EAP Counselor), will be considered unacceptable and disciplinary action leading to termination will be initiated.



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7. Refusal to submit to substance abuse testing, tampering with the sample, or testing positive shall constitute gross insubordination which will subject the employee to forfeiture of On-the-Job injury benefits and to discipline up to and including termination.

#### IV. PROCESS

The initial screen for drugs shall use an immunoassay. All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS). All testing for drugs will be conducted by a SAMHSA or CAP approved laboratory. The laboratory shall report confirmed positive test results to a Medical Review Officers (MRO).

Upon receipt of an employee's positive test results, the MRO shall notify the employee by phone. If the employee cannot be contacted with ten (10) calendar days after the MRO has made all reasonable efforts to communicate the confirmed results, the results shall be considered verified.

An employee who receives a positive test result may explain the result to the Medical Review Officer within five (5) calendar days of the initial notification. If the employee's explanation is unsatisfactory to the MRO, the MRO will verify the positive test result and report it to Substance Abuse Policy Compliance Coordinator or Division designee.

If an employee wishes to dispute a positive test result, a request for testing the second half of the original collection must be submitted in writing to the MRO within five (5) working days of receiving the initial result. In the absence of such a request, the positive test result shall be considered uncontested. The employee has the right to consult with the MRO for technical information regarding prescription and nonprescription medications.

The City of Memphis shall pay the cost of the initial and confirmation testing which it requires of the employees. The employees shall pay the cost of any additional drug tests not required by the City of Memphis. When retesting of a split-specimen is requested, the party requesting the retest shall pay the cost.



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Alcohol testing shall be conducted by trained Breath Alcohol Technicians (BAT) or by appropriate medical personnel. Any reading above a .02 alcohol level, whether by blood test or breath test, shall constitute a positive alcohol result and the employee will be subject to disciplinary action up to and including termination and possible forfeiture of OJI benefits.

Drug/Alcohol testing results will be held confidential to the extent permitted by law. Positive test results may be used in any administrative or legal proceedings or situations wherein the test results are relevant to employment, including , but not limited to, payment of OJI benefits, disciplinary procedures, grievance and arbitration matters, Civil Service Commission appeals, court proceedings, and/or Unemployment Compensation matters.

## V. RESPONSIBILITY

### A. Management

1. Disseminate this policy to all employees.
2. Carefully follow the procedures and process for employee drug and alcohol testing.
3. Consistently administer the disciplinary process and make management referrals to the Employee Assistance Program when indicated.
4. If applicable, notify the Director of the Human Resources Division or designee of any employee criminal drug statute conviction.
5. Immediately notify the Division EAP Coordinator and/or the Substance Abuse Policy Compliance Coordinator in cases of reasonable suspicion testing or DOT-regulated post-accident testing.
6. Immediately notify the Division OJI Coordinator and/or the office at Risk Management or design in case of post-injury testing.

### B. Employee



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1. Abide by the terms of this policy.
2. Notify your appropriate supervisor of the use of any prescription or non-prescription drug which may in any way impact performance.
3. Contact the Employee Assistance Program for assistance with substance abuse problems.
4. If you have a drug/alcohol test, contact the Medical Review Officer with questions concerning prescription or non-prescription medications you are taking or to request testing of a split-sample.
5. Notify your supervisor of any criminal drug statute conviction.
6. Contact your EAP Coordinator or the Substance Abuse Policy Compliance Office if you have any questions regarding substance abuse testing.

### C. Substance Abuse Policy Compliance Coordinator or Division Drug Testing Coordinator

1. Schedule, monitor, report, and record drug/alcohol testing in compliance with Public Law 100-690, DOT drug use and alcohol misuse prevention rules, Division Policy, and the City's Substance Abuse Policy.
2. Serve as the City's primary liaison with the Employee Assistance Program in matters involving drug use and alcohol misuse.
3. Notify the Office of Risk Management or designee when a post-accident test involving an injury produces a positive result.

### D. Division Employee Assistance Program (EAP)

1. Provide consultation to management within the Division concerning the scheduling of drug/alcohol tests and the result of such tests.



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2. Notify the Substance Abuse Policy Compliance Coordinator of any employee who needs to be added to or dropped from the drug/alcohol testing program.
3. Notify the Substance Abuse Policy Compliance Coordinator when a reasonable suspicion or post-accident screen has been conducted.

### E. Division On-The-Job Injury (OJI) Coordinator

1. Provide consultation to management within the Division concerning the scheduling of post-accident drug/alcohol tests.
2. Notify the Substance Abuse Policy Compliance Coordinator or the Division Drug Testing Coordinator and the Office of Risk Management (or designee) when a post-injury drug/alcohol test has been conducted.

### F. Employee Assistance Program (EAP) Counselor

1. Provide appropriate assessment, counseling, and referral services to employees who seek assistance for substance abuse problems.
2. Provide education and consultation to management concerning intervention and procedures for assisting employees with possible substance abuse problems.
3. Immediately notify the Substance Abuse Policy Compliance Coordinator or the Division EAP Coordinator of known violations of the Substance Abuse Policy or other legal mandates and/or noncompliance with the EAP treatment plan.

## REFERENCE CORRESPONDING POLICIES

- PM-14-01 EMPLOYMENT POLICY AND PROCEDURES
- PM-14-15 MEDICAL EXAMINATIONS
- PM-38-02 GROUNDS FOR DISCIPLINARY ACTION
- PM-42-07 EMPLOYEE ASSISTANCE PROGRAM
- PM-46-08 ON-THE-JOB INJURY/ACCRUED LEAVE BENEFITS
- PM-74-02 ON-THE-JOB INJURY POLICY AND ADMINISTRATIVE PROCEDURES



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- PM-78-01 EMPLOYEE CONDUCT
- PM-78-03 SUBSTANCE ABUSE POLICY