

City of Lawrence
Administrative Policy

SUBJECT Drug and Alcohol Policy		APPLIES TO All Departments and Divisions	
EFFECTIVE DATE December 19, 1994	REVISED DATE None		
APPROVED BY City Manager	TOTAL PAGES 15		POLICY NUMBER AP-11

1.0 **Purpose**

To provide procedures for a drug-free workplace for City of Lawrence employees. This policy is consistent with the provisions of the Drug-Free Workplace Act of 1988, which was signed into law in November, 1988 and the Federal Highway Administration Regulations on Alcohol and Drugs which were issued on February 15, 1994. The intent of the policy is to promote a work environment free from the effects of drugs and alcohol and reduce injuries and fatalities on our streets and highways by:

1. Requiring drug screening for all post offer candidates for full time and part-time regular positions.
2. Promoting drug and alcohol treatment and counseling when employees or members of their families are in need of such services.
3. Providing for a screening of substances when a supervisor has reasonable suspicion that an employee is impaired by drugs or alcohol.
4. Requiring appropriate discipline for employees who violate City policies on the use and/or distribution of controlled substances at the work site.
5. Providing random alcohol/drug testing for drivers required to have a commercial driver's license.
6. Providing follow-up and return-to-duty testing.

2.0 **Definitions**

1. The term "**controlled substances**" as used in this policy, means those substances included in the section of this policy under "Drug Testing Procedures". The term does not include the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.
2. For purposes of this policy, "**reasonable suspicion**" means a belief based on objective fact sufficient to lead a reasonably prudent person to suspect that an employee is impaired due to use of chemical substances or consumption of alcohol.
3. For the purpose of this policy, "**random testing**" means unannounced testing of drivers selected by a scientifically valid method.
4. For the purpose of this policy, "**reportable incident**" is any personal injury or property damage involving a city employee that occurs on or off city property during assigned work hours, and/or any time an employee is using a city vehicle.
5. For the purpose of this policy, "**commercial driver's license**" is a printed certification which gives the individual holder permission to drive a motor vehicle or combination of motor vehicles with a gross weight in excess of 26,000 pounds.
6. For the purpose of this policy, "**Department Director**" is a person responsible for the conduct and performance of the employees in the department or a designated representative of the department.

3.0 **Drug and Alcohol Prohibitions**

The policy prohibits any drug or alcohol use that could affect the performance of City of Lawrence employees, including:

- ☐ An employee must not report for work or remain at work while having an alcohol concentration of .02 or greater.
- ☐ An employee must not be in possession of alcohol or illegal drugs while on duty or operating equipment or a motor vehicle.
- ☐ An employee must not use illegal drugs or alcohol while performing duties.

- ☐ An employee required to take a post-accident alcohol test must not use alcohol for 8 hours following the accident, or until undergoing a post-accident alcohol test, whichever comes first.
- ☐ An employee who refuses to submit to a required alcohol or drug test will not be allowed to perform or continue to perform work duties and will be subject to disciplinary actions.
- ☐ An employee must not report for work or remain at work when using any physician prescribed or over-the-counter drug which adversely affects the ability to safely perform job duties.
- ☐ Employees required to possess commercial driver's licenses must not perform work duties within four hours after using alcohol.

4.0 **Consequences**

The consequences of engaging in conduct prohibited by this policy will be as follows:

- ☐ The offer of employment will be withdrawn for any post offer candidates who test positive for illegal drugs or whose alcohol concentration is 0.04 or greater. The post offer candidates will be prohibited from City of Lawrence employment for one year, unless they provide certified documentation of successful completion of a substance abuse program.
- ☐ The employee will not be allowed to work if any of the prohibitions are violated.
- ☐ The employee will be evaluated by a substance abuse professional (SAP) who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and drug use.
- ☐ If prescribed by a substance abuse professional, the employee will be required to participate in a rehabilitation program as a condition of continued employment.
- ☐ An employee who refuses to submit to a required alcohol or drug test will not be allowed to perform or continue to perform work duties and will be subject to disciplinary actions.
- ☐ Before returning to duty, the employee must undergo a return-to-duty test for:

- a. alcohol, with a result of less than 0.02 if the prohibition involved alcohol; or,
 - b. drugs, with a verified negative result if the prohibition involved drugs.
- If the employee was identified as needing assistance in resolving the problem, the employee must be:
 - a. evaluated by a substance abuse counselor to determine the need for a prescribed rehabilitation program;
 - b. subject to unannounced follow-up alcohol and drug tests upon the employee's return to duty. The number and frequency of the tests will be determined by the substance abuse counselor, but must consist of at least 6 tests during the first 12 months following the return to duty. Follow-up testing may be done for up to 60 months, (5 years).

5.0 **Testing Site**

City employees to be tested for drugs and alcohol, will be transported to Lawrence Occupational Health Services (LOHS), 3510 Clinton Parkway Place, by their supervisor.

6.0 **Post Offer Testing**

Before a post offer candidate not required to have a commercial driver's license performs work duties for the first time, the individual must submit to testing for drugs. The offer of employment will be withdrawn if the test results are positive. Before a post offer candidate required to have a commercial driver's license performs work duties for the first time, or an employee transferring to a job within the City organization requiring a commercial driver's license, the individual must submit to testing for alcohol and drugs. The City of Lawrence will not hire or make the transfer available for an individual that tests positive for alcohol (0.04 or greater) or drugs. The existing employee will be referred to a substance abuse counselor and be subject to return-to-duty and follow up testing.

Employees required to possess commercial driver's licenses will be required to sign a release so that information may be obtained from prior employers on previous

alcohol or drug violations for the past two years. The Human Resources Division will be responsible for initiating this release and completing the background check no later than 14 days after an employee first performs driving duties. If the Human Resources Division cannot obtain this information from a previous employer, this will be documented to show a good faith effort.

If the City of Lawrence learns from a previous employer that an employee tested positive for drugs, had an alcohol test results of 0.04 or greater, or refused to be tested under the Federal Highway Administration Regulations, the employee will not be allowed to perform work duties until the City has evidence the employee has met the return-to-duty requirements. The City must have evidence the employee was evaluated by a substance abuse professional, completed any required counseling, passed a return-to-duty test, and been subject to any required follow-up testing. A post offer test directed by the City can serve as a return-to-duty test under such circumstances.

If a post offer candidate or an employee transferring to a City job requiring a commercial driver's license has an alcohol concentration of between 0.02 and 0.039 the individual will be retested again in 24 hours. If the retest still confirms an alcohol concentration between 0.02 and 0.039, the post offer candidate will not be hired or the transfer will not be made available for the existing employee. Also, the existing employee will be removed from duty for 24 hours.

6.0 **Post Accident Testing**

Each City of Lawrence employee involved in a reportable incident will be tested for drugs and alcohol if:

- ☐ the accident involves a fatality;
- ☐ The employee receives a citation for a moving violation; or,
- ☐ there is reasonable suspicion that the employee may be under the influence of drugs or alcohol.

Post accident alcohol testing must be done within 2 hours of the accident. If it is not done within the 2 hour time frame, the department must document the reason it was not promptly administered.

Post accident drug testing must be done within 4 hours of the accident. If it cannot be done within this time frame, the Department must document the reason for the delay.

Employees must submit to post accident testing. If the employee refuses to be tested, the employee will not be allowed to continue to work and will be subject to disciplinary action up to and including termination.

If an employee is tested by police at the scene of an accident, the test administered by the police will substitute for testing under this policy. At this point the employee will be referred to a substance abuse counselor and will be subject to return-to-duty and follow-up testing.

8.0 **Reasonable Suspicion Testing**

Testing for reasonable suspicion is required of employees if the Department Director has reasonable suspicion to believe the employee's behavior or appearance may indicate alcohol or drug use. The decision must be based on:

- ☐ Specific, clearly stated observation made by a trained supervisor, concerning the appearance, behavior, speech or body odors of the employee; or,
- ☐ Observations made just before, during or just after the performance of work duties.

The reasonable suspicion test should be administered within 4 hours of the observation.

If reasonable suspicion is observed an employee shall not perform work duties until:

- ☐ An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or, if the alcohol concentration is 0.04 or greater the employee must comply with a prescribed rehabilitation program and return-to-duty and follow-up testing
- ☐ The employee has been removed from work duties for 24 hours in the case of an alcohol concentration between 0.02 and 0.039
- ☐ A drug test is administered and the result is negative

The documentation of the employee's behavior must be prepared and signed by the supervisor at the time of the observed behavior. This information will be recorded on an "Observed Behavior Reasonable Suspicion" form. The supervisor will also insure the employee is transported home following "reasonable suspicion" testing.

If an employee is observed for reasonable suspicion and then admits to being under the influence of drugs or alcohol, the employee will undergo testing. The same protocol will be followed as listed under the "Consequences Section" of this policy.

If any illegal drugs or alcohol are discovered during a reasonable suspicion investigation, law enforcement personnel will be called if appropriate.

If an employee has reasonable suspicion that a supervisor is under the influence of drugs or alcohol, their observations should be reported to the Human Resources Division Manager. Employees must identify themselves, and their names will be kept confidential. However, employees names may be released later if the supervisor is disciplined and a grievance or litigation results.

9.0 **Random Testing**

Unannounced random testing for drugs and alcohol will be administered only for employees required to possess commercial driver's license. An employee will only be tested for alcohol just before, during or immediately after performing driving duties. An employee can be tested for drugs at any time while the employee is at work for the City of Lawrence. The employee may be doing clerical or other non-driving duties at the time of notification. The random testing is done on a percentage basis:

- ☐ A minimum of 50% of required CDL holders will be randomly tested for alcohol; and,
- ☐ A minimum of 50% of required CDL holders will be randomly tested for controlled substances.

Selection and Notification of Random Testing

- ☐ Lawrence Occupational Health Services will be using a random number generated computer program which will be tied to a list of driver's names in the Risk Management Office to make the selections. Several extra numbers will be selected by the computer to account for drivers on vacation or sick leave. Each driver will have an equal chance of being tested each time selections are made.
- ☐ The random tests will be unannounced and spread throughout the year.
- ☐ Department Directors will be responsible for ensuring that drivers selected for random tests, are taken immediately to the test site. Employees will be transported to and from the test site by their supervisors.

11.0 **Return-To-Duty Testing**

If an employee violates the alcohol or drug prohibitions and successfully completes a rehabilitation program, a return-to-duty test is required.

- ☐ In the case of an alcohol violation, the employee shall undergo an alcohol test with a concentration of less than 0.02; and,
- ☐ In the case of a drug violation, the employee shall take a drug test with a verified negative result.

12.0 **Follow-up Testing**

The number and frequency of follow-up tests will be determined by the substance abuse professional, but will consist of at least 6 tests during the first 12 months following the employee's return-to-duty. Follow-up testing may be done for up to 60 months. The substance abuse professional (SAP) can terminate the requirement for follow-up testing in excess of the minimum at any time, if it is determined to no longer be necessary.

Follow-up or return-to-duty tests do not need to be confined to the substance involved in the violation.

13.0 **Exemption For Prescribed Medical Treatment**

The use of legally controlled substances as part of a prescribed medical treatment by a licensed physician will not subject an employee to disciplinary action or denial of employment if that treatment will not/does not adversely affect job performance. Prescribed use must be substantiated by a physician's report or statement. If the use of prescribed drugs adversely affects an employee's job performance and/or is detrimental to the public trust or safety of other employees or citizens, it is in the best interest of the employee and the City for the employee to be placed on sick leave or a leave of absence. Leaves of absence will be used in accordance with current policies as stated in the Employee Handbook.

14.0 **Rehabilitation**

Employees who violate the drug and alcohol prohibitions will be required to participate in a rehabilitation program as determined by a substance abuse counselor. The City and the employee will work together for the rehabilitation of the employee utilizing available resources and allowing the employee's use of sick leave

and vacation accruals toward time off for approved, rehabilitative treatment. An employee who does not complete the prescribed rehabilitation program, or who refuses to participate in the rehabilitation program will not be returned to duty and will be subject to appropriate disciplinary action.

15.0 **Employee Assistance Program**

The City of Lawrence views the employee as its most valuable resource and is interested in the health and well-being of its employees. Personal difficulties and problems and anxiety over them can affect an employee's work performance. While some people attempt to deal with such problems on their own, there can be times when professional assistance can be helpful.

The City of Lawrence, in conjunction with the DCCA Center, has designed an employee assistance program to provide information, assessment and referral services to help employees identify problems and develop life-styles that are physically and emotionally healthy. The City of Lawrence encourages identification of problems at the earliest possible stage to motivate employees or their family to seek assistance. All employee referrals and prescribed treatment programs due to violation of alcohol and drug prohibitions under the City's Drug and Alcohol Policy will also be referred to the Employee Assistance Program.

City of Lawrence employees may contact the DCCA Center, 3312 Clinton Parkway, Lawrence, Kansas, 841-4138. The initial consultation is free of charge, subsequent visits are based on a sliding fee scale depending upon income. The employee will be responsible for the cost of any prescribed treatment program.

16.0 **Voluntary Referral**

In cases of voluntary referrals, supervisors will document this admittance on the "Supervisor Alcohol/Drug Test" form and the employee will be referred to the Employee Assistance Program. Before returning to duty, the employee will be subject to evaluation, treatment and return-to-duty and follow-up testing.

17.0 **Pay During Removal From Duty**

During the period that the employee is removed from duty for 24 hours for the alcohol prohibition or for reasonable suspicion testing there will be no pay involved. If the results of the reasonable suspicion testing is negative, the employee will be immediately returned to work with back pay.

The employee will be allowed to use sick leave and vacation accruals toward time off for approved, rehabilitative treatment.

18.0 **Alcohol Testing Procedures**

Random alcohol testing for employees required to possess commercial driver's licenses will be conducted by trained "breath alcohol technicians" at Lawrence Occupational Health Services. An evidential breath testing device (EBT) will be used. The results of the alcohol test displayed or printed out by the EBT will be shown to the employee.

The employee will be required to show positive identification when arriving at the test site. The employee may also request positive identification of the Breath Alcohol Technician or BAT. The BAT will then explain the testing procedure to the employee.

In all cases of alcohol testing, if the results are less than 0.02, the test will be considered negative.

If the results are between 0.02 and 0.039 a confirmation test will be done. If the confirmation test still indicates a result of 0.02 or greater, the employee will be removed from work and not allowed to return for 24 hours. If the confirmation test indicates a result of less than 0.02, the employee will immediately be allowed to return to work duties.

If the alcohol concentration of the employee is 0.04 or greater the employee will be removed from work duties and referred to the Employee Assistance Program.

19.0 **Drug Testing Procedures**

Drug tests will be conducted at Lawrence Occupational Health Services. If Lawrence Occupational Health Services is closed, the supervisor will call 865-0700 and leave a message on the answering service. An on-call employee of LOHS will call the supervisor back to schedule the testing. The test will analyze an employee's urine specimen. The Lawrence Occupational Health Services' employee will be responsible for monitoring, sealing, and labeling the specimen guaranteeing that the security, proper identification and integrity of the test are not compromised.

Each urine sample is subdivided into 2 bottles labeled as "primary" and "split" specimen. Only the primary is opened and used for the urinalysis. The split specimen remains sealed and is stored at the laboratory. If the analysis of the primary specimen indicates the presence of a illegal controlled substance, the employee has 72 hours to request the split specimen be sent to another certified laboratory for analysis. This gives the employee an opportunity for a second opinion. The employee will be responsible for the cost of having the "split

specimen" analyzed and sent to another laboratory if the result comes back positive. If the "split specimen" comes back negative, the employee will be retested immediately. The City will then pay the cost of the "split specimen" analyzation and the retest. The employee will only be allowed to use a laboratory certified by the Substance Abuse and Mental Health Services Agency (SAMHS).

All positive drug screens will be confirmed by the use of a gas chromatography/mass spectrometry (GC/MS).

The drug tests are designed to detect drugs most commonly abused. Listed below are five types of drugs that are identified by the tests:

- Phencyclidine (PCP)
- Amphetamines
- Cocaine/Metabolite
- Marijuana Metabolite
- Opiates

All positive urine samples will be retained by the laboratory for one year, or longer if an appeal or court action is in process.

If the drug screen results are reported as "dilute" as confirmed by the City Medical Director, the post offer candidates or employee will be required to repeat the drug screen. The repeat screening will be unannounced and will be done as soon as possible after the results are received. If the second drug screen is reported as "dilute", the offer of employment will be withdrawn or in the case of an existing employee, the rehabilitation process will be implemented.

The Human Resources Division will be responsible for scheduling the screening of post offer candidates and employees during normal work hours. Department Directors will assume responsibility for scheduling employees for testing when the Human Resources Division is closed.

The City Medical Director will review all drug screenings. For all drug test results for employees that come back from the laboratory as negative, the Medical Director will verify them as negative and report them as negative to the Human Resources Division.

For all drug test results for employees that come back from the laboratory as a suspected positive, the Medical Director will contact the employee to discuss the test results. The Medical Director will discuss with the employee any medical condition or prescribed medication that may have impacted the positive result. If the Medical Director determines that a medical condition or prescribed medication impacted the positive result, the test results will be considered as negative. If a

medical condition or prescribed medication did not impact the positive result the employee will have the opportunity to request that the "split specimen" be analyzed and if not the rehabilitation process will begin.

If the results are confirmed positive by the Medical Director, the Medical Director will notify the Human Resources Division Department. A meeting will be arranged with the employee, Department Director or designee, Substance Abuse Counselor and a representative from the Human Resources Division to begin the rehabilitation process. The meeting will be scheduled by the Human Resources Division and will be held at the DCCA Center, 3312 Clinton Parkway.

The Medical Director may verify a positive test without having communicated with the employee about the results of the test if:

- (1) The employee declines to discuss the results with the Medical Director,
or,
- (2) If within five (5) days after a documented contact by the Human Resources Division instructing the employee to contact the Medical Director, the employee has not done so.

An employee who refuses to submit to required testing will be treated the same as if the employee had tested at 0.04 or greater for alcohol or had a positive screening for drugs. The employee will immediately be removed from work duties and referred to the Employee Assistance Program. The employee will be subject to return-to-duty and follow-up testing. The employee will also be subject to disciplinary actions, up to and including termination.

Any employee removed from driving duties may be temporarily transferred to a non-driving duty at the discretion of the Department Director. If there are no non-driving duties available the employee may use sick leave or vacation during this period.

20.0 **Release of Records**

All Drug and Alcohol Test Results and Records are maintained under strict confidentiality by the City of Lawrence and Lawrence Occupational Health Services. These records will be used for administrative purposes only unless subpoenaed because of legal action. These records will also be kept separate from Personnel Files.

Upon written request the City of Lawrence will release to employees records pertaining to their drug or alcohol tests or other related information.

Records will also be made available in the following instances:

- ☐ To a subsequent employer upon receipt of a written request from the employee, and then in accordance with the request; and,
- ☐ To an identified person as directed by the specific, written consent of the employee.

21.0 **Employee Information**

City of Lawrence employees will be provided information on the use and misuse of alcohol and drugs, the City's Drug and Alcohol Policy and the Employee Assistance Program.

22.0 **Supervisory Training**

Supervisors who will be responsible for making "reasonable suspicion" determinations will undergo 60 minutes of training on alcohol misuse and 60 minutes of training on drug use. This training will cover the physical, behavior, speech and performance indicators of probable alcohol misuse and drug use.

**CITY OF LAWRENCE
EMPLOYEE INFORMATION**

NAME_____

ADDRESS_____

CITY_____ **STATE**_____ **ZIP**_____

BIRTH DATE_____ **SOCIAL SECURITY #**_____

DRIVERS LICENSES#_____ **STATE**_____

PHONE #_____

PERSON TO NOTIFY IN CASE OF EMERGENCY:

NAME_____

PHONE_____ **WORK PHONE**_____

ADDRESS_____

SIGNED_____

DATE_____

**CITY OF LAWRENCE
EMPLOYEE ACKNOWLEDGMENT FORM**

I have in my possession and have read the contents of the City of Lawrence
Drug and Alcohol Policy.

I understand that this policy or any parts of this policy do not constitute a
contract, and that my employment with the City of Lawrence may be
terminated at any time.

Any further questions concerning this policy should be directed to the Human
Resources Division.

SIGNATURE_____

DATE_____

DEPARTMENT_____

DIVISION_____