

City of Waterbury Drug and Alcohol Policy Restated (October, 2018)

Purpose

In compliance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 81)*, the City of Waterbury has a longstanding commitment to provide a safe, quality-oriented and productive work environment consistent with the standards of the community in which the City operates. Alcohol and drug abuse poses a threat to the health and safety of City of Waterbury employees and to the security of the City's equipment and facilities. For these reasons, City of Waterbury is committed to the elimination of drug and alcohol use and abuse in the workplace. This policy applies to City of Waterbury Board of Education employees as well as all other City employees.

Scope

This policy outlines the practice and procedure designed to correct instances of identified alcohol and drug use in the workplace.

This policy applies to all employees of and all applicants for employment with the City of Waterbury and the City of Waterbury, Board of Education. The human resource (HR) department is responsible for policy administration.

Substance Abuse Awareness

Illegal drug use and alcohol and/or marijuana use have many serious adverse health and safety consequences. Information about those consequences and sources of help for drug or alcohol problems is available from the HR department, which has been trained to make referrals and to assist employees with drug or alcohol problems.

NOTE: For purposes of this policy, a controlled substance is defined in accordance with federal law. The use of any substance included in Schedule I of the Controlled Substance Act, including marijuana, whether for nonmedical or "ostensible medical purposes", is considered a violation of the Federal Drug-Free Workplace Program and therefore, constitutes a violation of this policy. Schedule I Controlled Substances, which includes marijuana have no currently recognized medical use under Federal Law. You cannot report to work under the effect of a Schedule I controlled substance. You cannot use a Schedule I controlled substance while on the job. You cannot bring a Schedule I controlled substance to work with you. Schedule II Controlled Substances are those that have been determined to have a high potential for abuse and which may lead to severe psychological or physical dependence. Certificates or recommendations from a health care provider are not recognized as a prescription and does not excuse an employee or candidate from a positive drug test result.

Employee Assistance

City of Waterbury will assist and support employees who voluntarily seek help for such problems before becoming subject to discipline or termination under this or other City of Waterbury policies. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Such employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety-sensitive or require driving, or if they have violated this policy previously. Once a drug test has been scheduled, unless otherwise required by the Family and Medical Leave Act or the Americans with Disabilities

Act, the employee will have forfeited the opportunity to be granted a leave of absence for treatment, and will be subject to possible discipline, up to and including termination.

Employees must report to work fit for duty and free of any adverse effects of illegal drugs, marijuana or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their doctors about the medications' effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor *in writing*. Employees should not, however, disclose to City of Waterbury underlying medical conditions unless directed to do so. If you are prescribed a Schedule II Controlled Substance, you must submit in writing a note to your department head identifying the prescription. If you have any question about whether a prescription that you're taking is a Schedule II controlled substance, please consult your prescriber.

Work Rules

1. Whenever employees are working, operating any City of Waterbury vehicle, not working but are present on City of Waterbury premises or are conducting City-related work offsite, they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug or marijuana (to include possession of drug paraphernalia).
 - b. Being under the influence of alcohol, marijuana or an illegal drug.
 - c. Possessing or consuming any illegal drug, alcohol or marijuana.
2. The presence of any detectable amount of any illegal drug or marijuana in an employee's body system, while performing City business or while in a City facility, is prohibited.
3. City of Waterbury will also not allow employees to perform their duties while taking prescribed drugs that adversely affect their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in the container labeled by a licensed pharmacist or be prepared to produce it if asked.
4. Any employee who is taking prescription medication which may interfere with the effective performance of any of the employee's duties shall disclose such to the Department Head or to the Human Resources Director, together with information concerning the effect of the prescription medication. The City may require that an employee be examined by a physician approved by the City to determine the employee's fitness for duty.
5. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

Required Testing

Pre-employment

All applicants must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.

Reasonable suspicion

Employees are subject to testing based on (but not limited to) observations by any supervisor of apparent workplace use, possession or impairment. HR, Department Head or designee should be consulted before sending an employee for testing. All levels of supervision making this decision must use the Observation Checklist to document specific observations and behaviors that create a reasonable suspicion that the person is under the influence of illegal drugs or alcohol. If the results of the Observation Checklist indicate further action is justified, the manager or supervisor should confront the employee with the documentation and with a union representative present (for all unionized employees) or with another member of management (for all nonunionized employees). *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management and a union rep (if appropriate) must*

escort the employee; the supervisor/manager will make arrangements for the employee to be transported home.

Post-accident

Employees are subject to testing when they cause or contribute to accidents that seriously damage a City of Waterbury vehicle, machinery, equipment or property or result in an injury to themselves or another employee requiring offsite medical attention in which there is a reasonable basis for concluding that drug, alcohol or marijuana use could have contributed to the incident. A circumstance that constitutes probable belief will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including a City of Waterbury forklift, pickup truck, overhead cranes and aerial/man-lifts) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*

Follow-up

Employees who have tested positive, or otherwise violated the City's Drug and Alcohol Policy in any way, are subject to discipline, up to and including termination. Depending on the circumstances and the employee's work history/record, City of Waterbury may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by City of Waterbury for a minimum of one year but not more than two years as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be subject to immediate termination from employment.

Random Drug Testing

Certain safety sensitive positions will be subject to random drug testing. Those positions include, but are not limited to, police officers, firefighters and certain drivers (CDL licensed). Safety sensitive positions are defined by the State of CT DOL. The listing prepared by State is available at the following web link: <https://www.ctdol.state.ct.us/wgwkstnd/highrisk.htm>. The random drug testing procedures governing this process are not set forth in this policy, but rather appear in the collective bargaining agreements applicable to those employees.

Collection and Testing Procedures

The City's collection and testing procedures shall be compliant with any state and federal laws and regulations governing employer sponsored drug and alcohol testing programs.

Consequences

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and will not be allowed to reapply/retest in the future.

Employees who refuse to cooperate in required tests in violation of this policy will be terminated. The first time an employee tests positive for alcohol, marijuana or illegal drug use under this policy, the result will be discipline up to and including termination.

Employees will be paid for time spent in alcohol or drug testing and then suspended pending the results of the drug or alcohol test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a member of management/supervision, a union representative (if requested), and HR. Should the results prove to be negative, the employee will receive back pay for the times/days of suspension.

Confidentiality

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO should be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

Inspections

City of Waterbury reserves the right to inspect all portions of its premises for drugs, marijuana, alcohol or other contraband; affected employees may have union representation involved in this process. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including termination.

Crimes Involving Drugs

City of Waterbury prohibits all employees, including employees performing work from manufacturing, distributing, dispensing, possessing or using an illegal drug, marijuana or alcohol in or on City premises or while conducting City business. City of Waterbury employees are also prohibited from misusing legally prescribed or over-the-counter (OTC) drugs. Law enforcement personnel should be notified, as appropriate, when criminal activity is suspected.

City of Waterbury does not desire to intrude into the private lives of its employees, but recognizes that employees' off-the-job involvement with drugs, marijuana and alcohol may have an impact on the workplace. Therefore, City of Waterbury reserves the right to take appropriate disciplinary action for drug use, sale or distribution while off company premises. All employees who are convicted of, plead guilty to or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to HR within five days. Failure to comply will result in automatic termination. Cooperation in complying may still result in suspension without pay to allow management to review the nature of the charges and the employee's past record with City of Waterbury.

Definitions

"City premises" includes all buildings, offices, facilities, schools, grounds, parking lots, lockers, places and vehicles owned, leased or managed by City of Waterbury or on any site on which the City is conducting business.

"Illegal drug" means a substance whose use or possession is controlled by federal law and its possession or use is prohibited except where Federal law allows the concerned person possession or use pursuant to a valid prescription from a licensed healthcare provider for that substance. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308.)

"Refuse to cooperate" means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to termination.

"Under the influence of alcohol" means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

"Under the influence of drugs or marijuana" means a confirmed positive test result for illegal drug or marijuana use per this policy. In addition, it means the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).

Reasonable Suspicion and Post-Accident Testing Protocol

1. The employee will be advised that City of Waterbury believes that there is reasonable suspicion to believe that he or she is affected by illegal drugs, marijuana or alcohol (or due to the nature of the accident the policy mandates this) and that this test is being offered to confirm or deny this suspicion.
2. The employee will be transported to any one of the City's contracted testing facilities (e.g., health services, prompt care or the emergency department). One member of management or a designated attendant will accompany the employee along with a union representative, if requested by the employee. *Under no circumstances will the employee be allowed to drive himself or herself to the testing facility.*
3. Prior to leaving for the testing facility, supervision/management will contact the testing facility to inform it that a staff member from City of Waterbury will be arriving and will need a drug or alcohol test completed.
4. The employee should be provided water to drink prior to leaving the City premises.
5. The employee should be given reasonable time—not to exceed 15 minutes—to secure photo ID in the company of a City of Waterbury representative.
6. The employee to be tested must present a photo ID (i.e., a driver's license or state ID card) to the testing facility staff before the specimen can be obtained. Ensure that the employee brings the photo ID with him or her when leaving City of Waterbury premises.
7. The employee to be tested must sign a consent form provided by the testing facility. Refusal to sign is addressed under the "Consequences" section of this document.
8. A City of Waterbury representative must sign as a witness to the collection procedure, along with the tested employee.
9. After returning to the City or when leaving the testing facility, the supervisor/manager must make arrangements to transport the person home (unless testing results are immediate). Under no circumstances will the tested employee be allowed to drive himself or herself home.

Note: This policy applies unless otherwise governed by a collective bargaining agreement, departmental procedures or federal or state statutes such as, but not limited to, Federal Motor Carrier Safety Administration (FMCSA) rules and regulations for commercial motor vehicle operators requiring a Commercial Driver's License (CDL).

Enforcement

The HR department is responsible for policy interpretation, administration and enforcement.

* The federal government enacted the "Drug-Free Workplace Act," (41 U.S.C.A. §701 et seq.). This act requires any employer receiving federal funding must certify that it will maintain a drug-free workplace. Among other things, the act requires that a policy be published notifying employees that the unlawful manufacture, distribution, possession, or use of controlled substances is prohibited in the workplace. It also requires that certain actions be taken if this policy is broken.

Dated the _____ day of October, 2018

Neil M. O'Leary, Mayor, City of Waterbury CT

Drug and Alcohol Policy Certificate of Receipt

I hereby certify that I have **been notified** and **have received** a copy of the City of Waterbury and the City of Waterbury, Board of Education Drug and Alcohol Policy, dated October, 2018.

Name (Printed)

Signature

Date

Title

Department/Office/School

Name (Department Head/Administrator)

Employee Identification Number

Date entered into Infor:
