

ADMINISTRATIVE ORDER NUMBER 2-25

SUBJECT: Policy on Drug and Substance Abuse

Responsible Department: Personnel Services

Date Issued: September 1, 2000

Date Revised: December 15, 2015

Approved: *Signature on File*

Purpose

To establish a City-wide policy regarding the misuse or distribution and use of drugs and alcohol for job applicants and on-duty employees in the City of Fresno. This policy is intended to address both illicit and prescription medications that may be used by job applicants and City employees during the course and scope of their employment which may impair judgment and the safe operation of vehicles and machinery.

In addition to the provisions of this policy, employees who are identified as “safety sensitive” by the Federal Department of Transportation are subject to additional rules and regulations. Employees in these categories are subject to the City’s respective policy statements which cover these issues in greater detail. Employees requesting additional information on these policies are directed to 49 CFR Part 655 (FTA) and 49 CFR Part 382 (FMCSA) in association with 49 CFR Part 40. Employees may also contact the Risk Management Division in the Personnel Services Department for assistance.

Policy

The City of Fresno is committed to protecting the health and safety of individual City employees, their co-workers, and the public from the hazards caused by the misuse of drugs and alcohol by its employees.

Application

1. This policy applies to all employees noted above and to all applicants for positions with the City of Fresno. This policy applies to alcohol and to all substances, drugs or medications, legal or illegal, which could impair an employee’s ability to perform the functions of the job effectively and safely.
2. This policy is not intended to apply to emergency services employees who may be exposed to alcohol or other controlled substances during the course of their assigned duties.

Policy Rules

1. An employee shall not work under the influence of any drug, alcohol, or medication that impairs his/her ability to safely and efficiently perform the required duties of the position.
2. An employee shall not purchase, possess, use, sell, furnish, or be under the influence of any illegal drug, alcohol, or controlled substance (as defined in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 801-12) as further defined by 21 CFR 1300.11 through 1300.15) during the course or performance of his/her assigned duties. (Exception: Employees may participate in City sponsored functions, department employee fundraisers, or promotional activities where alcohol may be served or purchased.) Employees who are designated as "safety-sensitive" may be precluded from participating in these activities and are referred to the respective policies mentioned previously in this document.

An employee shall not purchase, possess, use, be under the influence of, sell, or furnish any prescription drug during assigned work hours, while on duty, or while using City equipment unless:

- a. The prescription was issued by authorized medical personnel and the employee follows the prescription instructions.
 - b. The employee has consulted with the prescribing physician as to the possible effects of the drug and shall have informed his or her supervisor if such of use of the drug may affect the employee's ability to perform his or her duties safely.
3. An employee who reports to the job site and advises his/her supervisor of limitations or restrictions resulting from a prescription or over-the-counter drug may be assigned less than the full range of duties at the sole discretion of the supervisor. Employees will not be subject to disciplinary action through compliance with this procedure.
 4. An off-duty employee shall not utilize City employment to facilitate the sale, purchase, or distribution of any illegal drug or controlled substance.
 5. Upon a showing of just cause, a representative(s) of the City may, in the presence of the employee or the employee's representative, or after the employee has been given the opportunity to designate a representative, search all areas and property over which the City maintains joint or full control with the employee. For this reason, employees are discouraged from bringing personal items to work unless such items are necessary to their employment with the City.

6. An employee, within five (5) days, must report to the appointing authority any criminal conviction for drug-related activity in the workplace.
7. Department Directors may promulgate additional rules in accordance with this policy and appropriate to the work requirements and responsibilities of their employees.

Such additional rules shall be subject to Government Code Section 3500 et. Seq. and other applicable laws, rules, and regulations.

Terms / Definitions

1. Drug: An illegal drug, an over-the-counter drug, or a prescription drug.
2. Furnish or Furnished: Does not include furnishing which occurs in the course of legitimate law enforcement activities.
3. Industrial or Vehicle Accident:
 - a. "Industrial Injury" is an injury that arises out of and during the course of an individual's employment.
 - b. "Vehicle Accident" is an occurrence associated with the operation of equipment or a motor vehicle that is owned by, or leased to, the City, including an employee's personal vehicle used for City business.
4. Illegal Drug: A controlled substance, as defined by state or federal law, that has not been obtained in accordance with the regulations promulgated to administer its distribution, or a drug that has not been assigned an FDA number.
5. Over-the-Counter Drug: A drug lawfully available for retail purchase without a prescription.
6. Possess or Possessed: Does not include possession that occurs in the course of legitimate law enforcement activities.
7. Prescription Drug: A drug lawfully available for retail purchase only with a valid prescription which is specifically written for the employee's personal use.
8. Purchase or Purchased: Does not include a purchase that occurs in the course of legitimate law enforcement activities.
9. Reasonable Cause: Reasonable cause shall exist when two supervisors, one of whom shall be from the employee's work unit/division and who is trained in the detection of drug use, articulate and can substantiate in writing specific behavioral, performance, or contemporaneous physical indicators of being under the influence of drugs or alcohol on the job. The objective indicators shall be

recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol. Cause is not reasonable and thus not a basis for testing, if it is based solely on the observations and reports of third parties. The grounds for reasonable cause must be documented by the use of an Incident Report Form (See Appendix II).

10. Using City Equipment: Operating, or assisting in operating, equipment or a motor vehicle that is owned by or leased to the City, including an employee's personal vehicle used for City business.

Prior Notice of Testing Policy

The City shall make available a copy of its Drug Policy to all employees, along with a notice that will contain the following information:

- a. The need for drug and alcohol testing;
- b. The circumstances under which testing may be required;
- c. The procedure for confirming an initial positive test result;
- d. The consequences of a confirmed positive test result;
- e. The consequences of refusing to undergo a drug and alcohol test;
- f. The right to explain a positive test result and the appeal procedures available; and
- g. The availability of drug abuse counseling and referral services.

Identification and Consent Procedures

1. An employee may be required to submit promptly to drug/alcohol testing by a City selected physician or laboratory if:
 - a. The employee sustains an industrial injury and there exists reasonable cause that the employee is impaired or under the influence of drugs and/or alcohol.
 - b. The employee, while using City equipment, is involved in an accident wherein the employee's individual action, or lack thereof, provides reasonable cause that the employee is impaired or under the influence of drugs or alcohol.
 - c. The management or supervisory employee has reasonable cause that the employee is impaired or under the influence of drugs or alcohol in violation of this policy (See Appendix I for guidelines.)

2. If two trained supervisors believe that there is reasonable cause for a drug/alcohol test, the following procedures shall be used:
 - a. The employee shall be immediately informed of the supervisor's suspicions and advised that he/she may have a representative present. This notification procedure shall be documented on the Incident Report Form (Appendix II). The delay in securing such representation shall not exceed one hour from the time the employee was ordered to submit to the drug/alcohol test. The employee shall be permitted a period of time not to exceed 15 minutes in which to confer with the representative upon arrival.
 - b. A supervisor shall document the specific objective factors constituting reasonable cause for the drug/alcohol test on the Incident Report Form.
 - c. The employee will be offered an opportunity to give an explanation of his/her condition, such as reaction to a prescribed drug, fatigue, etc.
 - d. Both supervisors shall sign and date the Incident Report Form.
 - e. The employee shall be provided with a copy of the Incident Report Form upon its proper completion.
3. Before a drug and alcohol test is administered, employees will be asked to sign a consent form authorizing the clinic or laboratory to release the results of the testing to the Risk Management Division. The consent form shall provide space for employees and applicants to indicate current or recent use of prescription or over-the-counter medication.
4. Unless there is an objective reason to believe that the employee has altered a sample or unless modified by agreement of the parties, individuals shall be allowed to provide the required specimen in the privacy of a stall or otherwise partitioned area.
5. A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the City and will be removed from the appropriate eligible list.
6. An employee, who refuses to consent to a drug and alcohol test when reasonable cause of drug or alcohol use in violation of this policy has been identified, is subject to disciplinary action up to and including termination. The reason for the refusal shall be considered in determining the appropriate disciplinary action.

Drug Testing Procedures

1. All testing will be performed by a laboratory licensed by the California Department of Health Services, Laboratory Field Services.

2. Upon being ordered to undergo drug/alcohol testing, the employee shall be given the option of providing a urine or blood specimen for analysis.
3. The collection site shall obtain two samples of blood or urine from the employee. One sample shall be forwarded to the designated laboratory for analysis and one sample shall remain at the collection site. Should the laboratory sample test positive, the employee shall have the opportunity to request that the second, or split sample, be sent to another certified laboratory for analysis. Should the second sample test negative, the test shall be reported as a negative finding. Failure to verify a positive finding on both samples shall result in an unconfirmed test and the results shall be reported as negative. (Note: Applicants/Employees who are tested under the authority of the Federal Department of Transportation are subject to those regulations.)
4. The initial test of a urine specimen shall utilize an immunoassay technique.

The following chart shall be used when screening specimens to determine whether they are negative for the substances listed:

<u>Initial test analyte</u>	<u>Initial test cutoff concentration</u>	<u>Confirmatory test analyte</u>	<u>Confirmatory test cutoff concentration</u>
Marijuana metabolites	50 ng/mL	THCA ¹	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoylecgonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine ²	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines ³			
AMP/MAMP ⁴	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine ⁵	250 ng/mL
MDMA ⁶	500 ng/mL	MDMA	250 ng/mL
		MDA ⁷	250 ng/mL
		MDEA ⁸	250 ng/mL

Table 1 - Substances and Their Detection Levels in Urine Specimens

¹Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA)

²Morphine is the target analyte for codeine/morphine testing

³Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff

⁴Methamphetamine is the target analyte for amphetamine/methamphetamine testing

⁵To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL

⁶Methylenedioxymethamphetamine (MDMA)

⁷Methylenedioxyamphetamine (MDA)

⁸Methylenedioxyethylamphetamine (MDEA)

5. All specimens identified as positive on the initial test shall be confirmed utilizing the gas chromatography/mass spectrometry (GC/MS) technique. All information shall be by quantitative analysis.

Blood samples will be quantitatively analyzed to determine the presence of the following substances:

SUBSTANCE	TEST LEVEL
Amphetamines	
Amphetamines	1000 ng/ml
Methamphetamines	300 ng/ml
Cocaine	300 ng/ml
Opiates	
Codeine	300 ng/ml
Morphine	2000 ng/ml
Phencyclidene	25 ng/ml
Marijuana	50 ng/ml
Ethyl Alcohol	.08%

Table 2 - Substances and Their Detection Levels in Blood Specimens

Note:

- a. The above substances and test levels are subject to change as advances in technology or other conditions warrant identification of the substance at other concentrations.
 - b. The City shall provide notice to all bargaining units of any change, modification, deletion, or addition to the above list of substances.
6. If the testing procedures confirm a positive result, the employee or applicant shall be notified of the results in writing by the Personnel Services Director or designee.

7. An employee or job applicant whose confirmation test results are positive shall be allowed to have a portion of the sample assayed by a confirmation test performed independently by a laboratory of the employee's or applicant's choice at the employee's or applicant's expense, provided that the laboratory chosen by the employee or applicant is licensed by the California Department of Health Services, Laboratory Field Services.
8. All specimens confirmed positive shall be retained and placed in properly secured long-term frozen storage for a minimum of one year by the laboratory contracted by the City, and made available for retest as part of any administrative proceedings.
9. All information from an employee's or applicant's drug and alcohol test is confidential for purposes other than determining whether the City policy has been violated. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed. The record of unconfirmed positive test results shall be destroyed by the testing laboratory.

Consequences for Violating the Rules and Provisions of This Policy

1. Applicants: Job applicants will be denied employment with the City if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive drug test result.
2. Employees: If an employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including termination. Among factors to be considered in determining the appropriate disciplinary response include the nature and requirements of the work, length of employment, current job performance, and the history of past disciplinary actions.
3. Employees reasonably believed to be under the influence of alcohol or drugs shall be prohibited from engaging in further work and shall not be allowed to operate or utilize any City equipment. Employees found in violation of a direct order issued by a supervisor in implementing this policy are subject to disciplinary action up to and including termination.
4. If the results of the testing are negative, then the employee shall be made whole for all lost time, not including unscheduled overtime.

Employee Training

The City of Fresno will establish a Drug Free Awareness program which will inform employees about (1) the dangers of alcohol and drug abuse in the workplace; (2) the City's policy on drug and alcohol abuse; (3) the availability of treatment and counseling

for employees who voluntarily seek such assistance; and (4) the sanctions the City will impose for violations of its Drug and Substance Use Policy.

Supervisory Training

The City shall develop a program of training to assist supervisory personnel in identifying drug and alcohol use among employees. Such training shall assist supervisors in identifying factors that constitute reasonable cause for drug testing and shall include a detailed explanation of the City's Drug and Substance Use Policy.

Employee Assistance Program

An employee who engages in drug/alcohol abuse is encouraged to participate in the Employee Assistance Program; however, such participation shall not relieve an employee of the obligation to follow the policy rules regarding drug/alcohol use. An employee Assistance Program counselor shall not disclose information on drug/alcohol abuse received from an employee, except for the compilation of anonymous statistical reports.

Consequences for Violating the Rules and Provisions of This Policy

1. If you are ordered to provide a urine or blood specimen for drug and/or alcohol testing purposes, you may refuse. Such refusal shall constitute insubordination and subject you to disciplinary action up to and including termination from City employment.
2. If you take the drug test and have confirmed positive test result, you are subject to disciplinary action up to and including termination.
3. If you have a confirmed positive test result, you may have the test repeated in an approved laboratory of your own selection .
4. If the results of your initial drug test, as ordered by the City, are negative, you shall be credited for all lost time.
5. If you are reasonably believed to be under the influence of alcohol or drugs, you shall not be allowed to continue working in any City capacity. Law enforcement authorities will be alerted should you drive a vehicle while impaired by alcohol or drugs.

MANAGEMENT GUIDELINE FOR DRUG/ ALCOHOL ABUSE TESTING

Managers and supervisor may request that an employee submit to a drug and/or alcohol analysis when there are factors constituting reasonable cause that indicates an employee is intoxicated or under the influence of drugs or alcohol.

Any of the following objective factors may constitute reasonable cause:

1. Incoherent or slurred speech, disorientation, or inattention.
2. Odor of alcohol on breath .
3. Staggering gait, disorientation, or balance problem.
4. Red, watery eyes with dilated or constricted pupils
5. Dry mouth with frequent swallowing or lip wetting
6. Hand tremors.
7. High energy, agitate, talkative, paranoid, or bizarre behavior.
8. Drowsiness or detachment from physical and/or emotional pain.

Any manager or supervisor requiring an employee to submit to a drug and/or alcohol analysis should document, in writing, the facts constituting reasonable cause that the employee in question is intoxicated or under the influence of drugs and/or alcohol.

INCIDENT REPORT FORM

Employee Involved:		Date of Incident	
		Time of Incident:	
Employee's Job Position/Assignment:			
Has employee been notified of his/her right to union representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Time:		Employee Initials:	
Witnesses to Incident:			
What Was Observed:			
Employee's Explanation:			
Action Recommended:			
Action Taken:			
1. Signature		2. Signature	
Title:		Title	
Date:		Time:	
Action Taken			