




City of Olympia Administrative Guidelines

GUIDELINE #22	
Drug and Alcohol Policy – CDL Holders	
EFFECTIVE DATE: January 1, 1995	PREPARED BY: Human Resources Department
REVISED: February 1, 2007	APPROVED BY:
SUPERSEDED:	 Steven R. Hall City Manager

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22 Drug and Alcohol Policy – CDL Holders

22.1. PURPOSE: To state the City of Olympia's policy regarding drug and alcohol testing and to establish compliance with the Federal Highway Administration regulations requiring drug and alcohol testing for Commercial Driver's License holders.

22.2. REFERENCE: Omnibus Transportation Employee Testing Act of 1991; Department of Transportation Drug and Alcohol Testing Procedures, 49 CFR Part 40; Federal Highway Administration Regulations, Controlled Substances and Alcohol Use and Testing, effective February 15, 1994 49 CFR Part 382. See also: Alcohol and Controlled Substance Abuse Program and Procedures; applicable bargaining agreements.

22.3. APPLICATION: This Administrative Guideline applies to all employees of the City who are required to have and maintain a Commercial Driver's License in order to perform the duties of the job. The Commercial Driver's License requirement applies to vehicles in the following categories:

- a. All single vehicles having a weight rating of 26,001 or more pounds; or
- b. All trailers with a manufacturer's weight rating of 10,001 pounds or more; or
- c. A vehicle having a gross combination weight of 26,001 or more pounds; or
- d. A vehicle designed to transport 16 or more passengers, including the driver; or
- e. A vehicle which is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Federal Hazardous Materials Regulations.18B.4

Departments are encouraged to adopt additional guidelines regarding substance abuse to meet the operational needs of the department so long as they are consistent with the provisions of this Administrative Guideline.

22.4. POLICY: It is the policy and intent of the City of Olympia to maintain a safe and healthy working environment, to ensure efficient and safe public services, and to comply with all applicable laws and regulations governing substance abuse and testing programs.

22.4.1. PROHIBITED CONDUCT: The City of Olympia is concerned about the adverse effect alcohol and drug abuse may have on safety and job performance. The City recognizes alcohol and drug abuse as treatable illnesses and affirms a commitment to respond to these illnesses through referral to treatment and rehabilitation to the extent possible. However, the City affirms its policy that the following are strictly prohibited:

- a. Reporting to work under the influence of alcohol or drugs.
 1. Indicated by a positive test for drugs, or
 2. Breath alcohol test resulting in an alcohol level of .04 or higher, or
 3. Observed physical evidence of impairment.
- b. The unlawful use, possession, manufacture, distribution, dispensing, transfer or trafficking of alcohol or drugs, and their paraphernalia in any amount or any manner, on City premises or in City vehicles at any time (whether or not conducting City business) anywhere (including off City property).

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- c. The use, in any way, of City property, or the employee’s position within the City, to make or traffic alcohol or drugs.
- d. Any other use, possession or trafficking of alcohol or drugs in a manner which is detrimental to the interest of the City, creates a safety concern, or unduly interferes with job performance.

Any employee found in violation of the above stated prohibitions will be subject to disciplinary action including immediate discharge.

22.5. GUIDELINES: The City will maintain a program designed to prevent accidents and injuries resulting from the misuse of alcohol or drugs by drivers of commercial motor vehicles. This program will educate employees about the adverse affects of substance abuse, and provide supervisors with information and procedures to recognize and deal with substance abuse in the workplace. The program will contain mandatory alcohol and drug testing for holders of a Commercial Driver's License in compliance with Federal regulations.

22.5.1. EMPLOYEE ASSISTANCE PROGRAM: Employees who are concerned about their alcohol and/or drug use are strongly encouraged to voluntarily seek assistance. The Employee Assistance Program (EAP) is available, at no cost, as a resource for all benefit-eligible employees and their families. The EAP is available for assessment, referral to treatment, and follow-up. An employee of the City of Olympia wishing confidential assistance for a possible alcohol or drug problem can call the EAP office at 1-800-777-4114 and arrange for an appointment with a counselor. All EAP contacts are held in strict confidence unless the employee requests, through specific written release of information, that the department director, supervisor, union or other party(s) be notified. The employee can schedule the appointment on his/her own time without informing anyone in the department.

- a. **Mandatory EAP Referrals:** Employees who test positive for alcohol or drugs will be required, as a condition of employment, to seek assistance from the EAP and to carry out any treatment plan resulting from this referral. Employees required to seek such assistance will be required to sign a written release of information in order for the City to be appropriately informed of the employee’s compliance and progress in any recommended treatment plan.
- b. **City Time:** Employees may schedule EAP appointments on City time. An employee may use the EAP on City time for up to three (3) visits per year with supervisor’s prior approval for scheduling purposes. It is not necessary to let the supervisor know the purpose of the EAP visit(s).
- c. **Leave Requests:** If an employee requires leave time for substance abuse treatment, the employee may follow established personnel policy concerning sick leave use. If the employee requests that the purpose of the sick leave not be disclosed to his/her immediate supervisor, the doctor’s medical slip can be processed directly through the Human Resources Department. Confidentiality regarding the reason for the leave will be maintained when advising the supervisor of the employee’s time away.
- d. **Health Insurance:** Health insurance coverage applies to substance abuse treatment within the terms of individual policies. The employee assumes financial responsibility for all services, which are not covered by insurance.

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22.5.2. GRANTS AND FEDERAL FUNDS: A department which receives direct funding or grant(s) from a federal agency must ensure that each employee in the department, or effected operating division, receives a copy of this policy and signs a statement to the effect that it has been received. Such statements should be placed in the employee’s central personnel file. Any employee in a department or operating division receiving federal funds convicted of violations of any criminal drug statute occurring in the work place must notify his/her department director within five (5) days after such a conviction. The department is responsible for notifying the federal funding agency within ten (10) days after receiving notice from the employee. The City is then responsible for taking appropriate personnel action against the employee up to and including discharge; or requiring the employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program within 30 days of receiving notice of the conviction from the employee.

22.5.3. REQUIREMENTS: Employees required to possess a Commercial Driver's License to perform the duties of the job will be provided with a copy of procedures required under this policy prior to being scheduled for alcohol and drug testing. In addition, at any time an employee is required to perform an alcohol or drug test under this policy, the employee will be notified prior to testing that the testing procedures are required by Federal regulation, specifically, 49 CFR Part 382, Controlled Substances and Alcohol Use and Testing.

22.5.4. TRAINING: Prevention of alcohol and drug abuse among employees will be addressed through ongoing educational programs available to all City employees. The Human Resources Department is responsible for arranging periodic training relating to drug and alcohol abuse through the EAP.

- a. Employee Training and Education:** The City will provide training and education for covered employees including, but not limited to the provisions of this policy, consequences of prohibited behaviors, testing requirements and procedures, and effects of alcohol and drug use on an individual’s health and work environment.
- b. Supervisory Training and Education:** The City will provide supervisors and managers responsible to determine reasonable suspicion of alcohol or drug use, training and education of the provisions of this policy and related procedures, and additional training regarding performance indicators of probable misuse of drugs.

22.5.5. RESPONSIBILITY:

- a. Human Resources Director:** It is the Director’s responsibility to promulgate and administer this policy, in compliance with applicable City of Olympia Administrative Guidelines for Personnel Administration and Federal regulations. The Director is responsible to designate a contact person or persons to answer questions regarding the policy and related materials and procedures.
- b. Supervisor’s Responsibility:** It is the responsibility of supervisors at every level to encourage employees to use the EAP when deteriorating or unsatisfactory job performance does not respond to usual supervisory actions or when a specific on-the-job incident is cause for concern. A supervisor should not attempt to diagnose an employee’s problem. The supervisor’s role is to address job performance. A supervisor who refers an employee to the EAP should relate job performance concerns to the EAP Counselor. The EAP is also available as a resource for supervisors who need assistance in dealing with difficult employee problems.

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If a supervisor has reasonable suspicion that an employee is under the influence of alcohol or drugs when reporting for work or during the work shift, the supervisor shall verify the employee's condition. If a supervisor observes behaviors that indicate an employee may be under the influence of alcohol or drugs, where practical, without causing harm to the employee or others, the supervisor will seek the opinion of at least one additional supervisor.

The supervisor is responsible to remove an employee from duty where reasonable suspicion of influence or impairment is verified. A supervisor will not allow an employee believed to be under the influence of alcohol or drugs to operate equipment or drive a vehicle until the employee has been determined to be able to do so safely. A reasonable effort to prevent the employee from driving a personal vehicle will be made.

- c. **Employee Responsibility.** It is the employee's responsibility to report to work on-time, everyday, willing and able to perform the full duties of the job and to demonstrate satisfactory job performance.

22.5.6. PROHIBITED SUBSTANCES:

- a. Drugs are defined as those substances whose dissemination is regulated by law, including but not limited to narcotics, depressants, stimulants, hallucinogens, cannabis and alcohol. The drugs include controlled substances as defined in RCW 69.50.101.
- b. The use of, or being under the influence of any prescription drug (whether or not the employee has a current valid prescription) or over-the-counter drug which may impair job performance and/or safety is also prohibited at work.
- c. Employees who are using a prescription drug while operating a covered vehicle are required to provide written notice from their attending physician regarding the effects of the substance and the employee's ability to safely operate the vehicle. In order to remain on duty, the physician must be able to state that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle. If this is not provided, the employee may be removed from duty.

22.5.7. PRESCRIPTION DRUG USE: The use of legal drugs that are prescribed by licensed physicians for a specific medical purpose is not prohibited. However, such drugs can and often do have a direct impact on the performance, judgment and/or coordination of the employee and may adversely affect the employee's job performance and the employee's ability to work in a safe and efficient manner. This is particularly true in safety-sensitive assignments involving the operation of motor vehicles and other moving equipment. Therefore, an employee for whom a licensed physician or dentist prescribes a drug must advise the supervisor immediately, or before the beginning of work in order that an evaluation can be made of the impact, if any, on the safe and efficient operation of City vehicles or equipment. Detection of a drug will be presumed to be in violation of this policy unless the employee advises the Supervisor of its medicinal use in advance. The Supervisor must immediately advise the Department Director of such use by the employee. If the employee is taking prescription drugs, the prescription must be in the employee's name.

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22.5.8. REQUIRED TESTING:

- a. **Pre-Employment Testing:** All individuals who are required to possess a Commercial Driver's License to perform the job duties must pass a drug test as a post-offer condition of employment. The offer of employment is contingent upon passing the entire test. The employment offer will be withdrawn from a candidate who fails the test. A drug test will be administered after the conditional offer of employment is made and/or before the first day an employee reports to work. Applicants will be given advance notice of the required drug testing in all employment opportunity announcements and in the offer letter. Pre-employment alcohol tests will be administered prior to the first time an individual operates a covered vehicle, and immediately upon reporting for duty the first day of offered employment.

Applicants who have not obtained their Commercial Driver's License prior to, or by their start date, may be granted permission to obtain their required licensure within their probationary period; this will be considered as an extension of the hiring process. These applicants/employees will be required to submit to a pre-employment test process (drug and alcohol) once they have successfully obtained their CDL. If such employee were to fail either of the pre-employment tests, s/he will be subject to discharge (or discharged, consistent with how we would treat an applicant who fails either one of the pre-employment tests) due to being unable to meet the requirements of the position. Employees will not be allowed to pass their probationary period until they have met all licensure requirements, in addition to any requirements set forth by the applicable supervisor.

An employee who transfers, demotes, or promotes into a position that requires a Commercial Driver's License will be subject to the pre-employment testing process once they have successfully obtained their CDL. If s/he were to fail either pre-employment test, the employee would be subject to discipline up to and including discharge or demotion/reversion back to his/her previously-held position. An employee in this situation will not be allowed to pass their probationary period until they have met all licensure requirements, in addition to any requirements set forth by the applicable supervisor.

- b. **Reasonable Suspicion:** When a supervisor or manager reasonably suspects that an employee may be under the influence of alcohol or drugs, the employee shall be required to submit to a drug test, blood alcohol test, and/or physical examination. A supervisor may determine that there is reasonable suspicion that an employee may be under the influence of alcohol or drugs. The decision by the supervisor or manager to require a test must be based on current and specific observations, such as appearance, behavior, speech, or body odors of an employee. Observations will be documented as provided in this policy. Reasonable suspicion shall exist before requiring the employee to take a drug test, blood alcohol test, and/or physical examination. No employee will remain on duty requiring the operation of a covered vehicle while under the influence of alcohol or drugs, as shown by the behavioral, speech and/or performance indicators.

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1. **Observations:** Reasonable suspicion could include a combination of various factors such as slurred speech, red eyes, dilated pupils, incoherence, unsteadiness on feet, smell of alcohol or marijuana emanating from the body, inability to carry on a rational conversation, increased carelessness, erratic behavior, inability to perform the job, repeated unexplained workplace accidents or near misses, attendance concerns, or other unexplained behavioral changes.
 2. **Documentation:** Reasonable suspicion shall exist before requesting the employee take a drug screening test, blood alcohol test, and/or physical examination. Behavioral observations will be documented in writing. A copy of this document will be provided to the employee upon request. **(See Admin Guideline Appendix E for a sample of the Supervisor Observation Form.)**
- c. **Post-Accident:** Employees may be required to test for alcohol or drugs if they are involved in an accident involving a City vehicle or equipment, or use of personal vehicle while conducting City business. Employees, who are injured on the job, and require immediate medical attention by a medical professional, even if a vehicle or equipment was not involved, may be required to test for alcohol or drugs at the discretion of the supervisor.
1. **Definition of Accident:** A test shall be required when the following occurs:
 - a. A fatality; or
 - b. An injury treated away from the scene; or
 - c. The driver receives a citation under state or local law; or
 - d. One or more vehicles involved in the accident incurring disabling damage and must be transported away from the accident scene by a tow truck or another vehicle; or
 - e. Damage estimated at \$500 or more.
 - f. An on-the-job injury that requires immediate medical attention by a medical professional, with reasonable suspicion, at the discretion of the supervisor.
 2. **Procedure:** Following such accident, the employee will be taken in for testing as soon as practicable. An employee who is subject to post-accident testing shall remain readily available for such testing and will not take any action to interfere with testing or the results of testing. Additionally, an employee required to take a post-accident test will not use alcohol for eight hours following the accident, or until a post-accident test is given, whichever comes first. Employees who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this policy. An employee who refuses testing and has been involved in a fatal accident is subject to disqualification provisions as required by Federal and/or State law. The City will provide covered employees with post-accident testing information, procedures and instructions prior to driving a covered vehicle. This information will be carried in each vehicle where employees are subject to this policy.

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Nothing in this section will be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the purpose of obtaining emergency assistance or to obtain necessary emergency medical care.

- d. **Random Testing:** Random testing for alcohol and drug use will be conducted in compliance with Federal regulations on any employee of the City required to possess a Commercial Driver's License to operate a covered vehicle in the performance of .the job duties. The selection process for random testing will be through a scientifically valid method. Procedures for random testing, including timing, frequency, number of employees to be tested, selection of employees to be tested, and test sites will be determined by the City. All employees in the relevant pool of persons subject to random testing will have an equal chance of being selected in each random test conducted.
- e. **Return to Duty Testing:** An employee who has been tested under this policy and who receives a positive result for alcohol or drugs, who has refused to take a substance test, or has been tested due to reasonable suspicion, will be removed from duty and will be required to pass a drug test and breath alcohol test prior to returning to duty. Any violation of the provisions of this policy may result in a mandatory test prior to returning to duty.
- f. **Follow-Up Testing:** An employee who is participating in an assistance program to resolve problems associated with alcohol and/or drug misuse is subject to unannounced follow-up alcohol and/or drug testing as directed by a Substance Abuse Professional (SAP). The number and frequency of follow-up testing will be determined by the SAP, but will consist of at least six tests in the first 12 months following the employee's return to driving duty. The period of follow-up testing will not exceed 60 months for each incident.

22.5.9. FITNESS FOR DUTY: Fitness for duty will be determined by testing for the presence of alcohol or drugs. Tests may include urinalysis, breath alcohol, blood tests, and, if necessary, physical examination by a licensed medical care professional. Tests are considered as work time, are paid for by the City, and are part of an employee's job responsibilities.

a. Conduct:

- 1. An employee will not possess or use alcohol or drugs while on duty or while operating a covered vehicle.
- 2. An employee will not operate a commercial motor vehicle within four hours after using alcohol. An on-call employee who consumes alcohol within four hours of being called in will acknowledge the use of alcohol and will not report for duty.
- 3. A return to duty test following a positive alcohol test may not exceed an alcohol concentration of 0.02.

b. Drug Tests:

- 1. The employee will be relieved from duty requiring driving or operation of a commercial motor vehicle and placed on suspension with pay until a clear determination can be made as to the presence or level of drugs in the employee's system. The employee may be allowed to remain on duty

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performing non-safety sensitive duties at the supervisor's discretion. The employee will not be allowed to drive to the clinic, back to work, or home. Drug test results are usually reported to the City within 24 hours.

2. An employee will not report for duty or remain on duty requiring the performance of duties covered under this policy if the employee tests positive for drugs.

c. **Breath and Alcohol Tests:**

1. Breath alcohol test results are available immediately. A breath alcohol test resulting in an alcohol concentration of .04 or higher is grounds for immediate removal from duty. The employee will remain on suspension with pay until the status of the tests and the circumstances surrounding the impairment are determined.
2. An employee will not report for duty or remain on duty requiring the performance of duties covered under this policy while having an alcohol concentration of 0.04 or greater.

- d. **Positive Tests:** Tests that are found to be positive will be verified by a Medical Review Officer (positive drug test) or certified clinician (positive alcohol test).

The City has sole discretion to determine whether the employee is fit to return to duty.

22.5.10.

DISCIPLINE/TREATMENT:

- a. **Positive Results:** If tests determine the employee is under the influence of alcohol or drugs, as indicated by a positive test for drugs, breath alcohol test resulting in an alcohol level of .04 or higher, or there is observed physical evidence of impairment, or the employee is determined to have engaged in any of the prohibited conduct as outlined in section 21.4, the supervisor, the Department Director and the Human Resources Director will determine the appropriate level of disciplinary action. Violations of this policy will be grounds for disciplinary action, up to and including termination.

An employee will not be returned to the workplace until a release is provided by the employee's physician or by a certified Substance Abuse Professional (SAP), which may require the employee to participate in rehabilitation or treatment prior to being released to return to duty.

The employee may elect to voluntarily participate in an evaluation by a SAP and further comply with any treatment or rehabilitation program advised by the SAP. This voluntary participation will be considered when a disciplinary decision is being evaluated. Complying with the treatment or care prescribed by a SAP should not be construed as an alternative to discipline, which may include discharge. Employees who are not released to return to duty by a SAP will be ineligible to perform safety sensitive duties and may no longer be qualified to perform the duties of their position.

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- b. Negative Results:** If tests determine the employee is not under the influence of alcohol or drugs on the job, the employee will be returned to work without loss of pay or benefits. Where appropriate, a signed physician's release may be required before returning the employee to work. If further time loss due to illness results, time-off should be charged to sick leave in the normal manner. If the behavior which led to the initial investigation is not due to substance abuse but continues to hinder performance, the supervisor may require the employee to undergo further medical evaluation.
- c. Refusal to Test:** Refusal to take the test or sign the release of information may result in disciplinary action up to and including discharge. An employee required to submit to alcohol or drug testing will be informed that refusal to test or sign the release of information may result in disciplinary action.
- d. Confidentiality:** The City recognizes employee concerns about personal privacy. Confidentiality is an essential element of any testing program. If alcohol or drug testing procedures are required, they will be performed in a manner which protects the privacy of the individual to the extent possible. Any employee violating this confidentiality will be subject to serious disciplinary action.

22.5.11.

RECORDS RETENTION, ACCESS AND REPORTING:

- a.** The City of Olympia will comply with Federal documentation and reporting requirements regarding the alcohol and substance abuse testing program. Records will be maintained in controlled access, secure files in the Human Resources Department. The Human Resources Department is responsible to disclose and report information to Federal agencies as required.
- b.** No records containing driver information required by this policy will be released except as provided as follows:
 - 1.** Upon written request of the employee.
 - 2.** Upon written authorization of the employee, records will be disclosed to a subsequent employer subject to use as specified by the employee.
 - 3.** Upon specific, written authorization by the employee, records will be released to an identified person, for use only as specified by the employee.
 - 4.** Records may be disclosed to a decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee, including, but not limited to, a worker's compensation, unemployment compensation or other proceeding relating to a benefit sought by the driver.

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