

CITY OF PORTLAND GENERAL EMPLOYEES DRUG & ALCOHOL POLICY

Adopted by Ordinance 166997
September 29, 1993

A. GENERAL

The City of Portland recognizes illegal drug use and excessive use of legal drugs and alcohol as a threat to the public welfare and the health, safety and productivity of the employees of the City.

The City of Portland has a strong commitment to its employees to provide a safe work environment and promotes high standards of employee fitness. Consistent with the intent of this commitment, the City established this policy regarding drug and alcohol abuse. The City's goal is to establish and maintain a work environment that is free from the effects of drug and alcohol abuse.

While the City of Portland has no intention of interfering with the private lives of its employees, the City expects its employees to report to work in a condition to perform their duties in a safe, effective and efficient manner.

It is the goal of this policy to prevent substance abuse and rehabilitate rather than terminate the employment of workers.

However, all persons covered by this policy should be aware that violations of the policy will result in discipline, up to and including termination, or in not being hired.

B. COVERED EMPLOYEES

This policy covers all City of Portland employees in the classified service, excluding sworn members of the Portland Fire and Portland Police bureaus who are covered by separate bureau level drug and alcohol policies, and also covers applicants for certain classified positions.

The policy, with the exception of section I and J, also covers all temporary and seasonal employees outside the classified service.

C. DEFINITIONS

1. For the purpose of this policy "Managers and Supervisors" shall refer to all Nonrepresented Supervisory employees and Police Captains and Lieutenants.
2. The "City" is the City of Portland and its Bureaus.
3. The "Bureau" is the particular City bureau in which the employee involved works.
4. A "Prescription medication" is a medication for which an employee has a valid prescription from a qualified physician.
5. "Drugs", as used in this policy, are all illegal drugs.

D. RULES

1. No employee shall:
 - a. Unlawfully manufacture, distribute, dispense, possess or use a controlled substance in the workplace;
 - b. Report for duty under the influence of alcohol or drugs;
 - c. Absent him/herself from duty or be unfit to fully perform duties for reasons attributable to, or produced by, indulgence in alcohol, drugs, or the excessive or other improper use of prescription medications.
 - d. Bring or cause to be brought onto City property any alcohol or drugs;

- e. Use any prescription or nonprescription medications which may interfere with the safe and effective performance of duties or operation of City equipment or vehicles, without notifying his or her supervisor prior to beginning work or operating the equipment or vehicle.
 - f. Refuse to respond to questions.
 - g. Refuse to allow a search of all areas and property in which the City maintains joint control with the employee or full control including any City Vehicle.
2. While on duty, operating a City vehicle (on or off duty) or wearing a City uniform, no employee shall:
 - a. Have the odor of alcohol or drugs on their breath;
 - b. Use alcohol or drugs;
 - c. Have their ability to work impaired as a result of the use of alcohol or drugs;
 - d. Possess alcohol or drugs;
 - e. Provide, manufacture, deliver, transfer, offer, or sell alcohol or drugs to any other employee or to any person while on duty;
 3. In the event there is a question regarding an employee's ability to work safely and effectively while using prescription or nonprescription medications, clearance from a qualified physician will be required. The City will continue to retain the right to make the final determination of the fitness of an employee to perform work.

E. SEARCHES

1. AREAS AND PROPERTY IN WHICH THE CITY MAINTAINS JOINT CONTROL OR FULL CONTROL

The City reserves the right to search, without employee consent, all areas and property in which the City maintains joint control or full control. All City vehicles, equipment, offices, desks and lockers are subject to search by management. Searches which are undertaken specifically to investigate violations of this policy shall be conducted in the presence of the employee if practical. If the employee is not available, or if the employee so requests, a reasonable time will be allowed for the Representative to be present before a search is made. The limitations on the City's right to examine City property contained in this paragraph does not apply to property used jointly by more than one (1) employee.

Managers and supervisors shall not physically search employees.

2. AREAS AND PROPERTY NOT JOINTLY CONTROLLED OR FULLY CONTROLLED BY THE CITY

The manager or supervisor shall first ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of violation of this policy.

For DCTU, Recreation and BOEC employees, the manager or supervisor shall contact a union representative and they shall jointly ask the employee to consent to a search of the area where the manager or supervisor believes there is evidence of a violation of this policy. The union representative will encourage the employee to comply with the request.

F. RESPONSIBILITIES OF EMPLOYEES

An employee must:

1. Comply with the rules set out in section D above.
2. Notify his/her supervisor, before beginning work, when taking any prescription or non-prescription medications which may interfere with the safe and effective performance of duties or operation of City equipment.
3. If he/she has any question regarding whether the use of a particular prescription or nonprescription medication is allowed by this policy, consult with the supervisor for approval. Note:(This policy is not intended to prohibit the safe and legal use of prescription and nonprescription medications.)

4. Provide, as soon as possible and no later than within 48 hours of a request, proof of a valid prescription for any medication identified by the employee as the cause of his/her behavior. The prescription must be in the employee's name.
5. Notify the Bureau of any felony drug arrest or conviction.
6. Notify the Bureau of any drug conviction for acts occurring on City premises or on duty.

G. RESPONSIBILITIES OF BUREAUS

1. Notify and provide a copy of this policy to all current and future covered employees.
2. Provide training on the implementation of this policy's procedures to all Managers and Supervisors within the bureau who supervise covered employees.
3. Provide ongoing administration and enforcement of this policy.

H. RESPONSIBILITIES OF MANAGEMENT

1. Managers and supervisors are responsible for consistent enforcement of this policy. Any supervisor who knowingly permits a violation of this policy by employees under his/her direct supervision shall be subject to disciplinary action.
2. Investigate any question which arises about an employee's fitness to work due to use of prescription or nonprescription medications.
3. Investigate any employee who appears to be in violation of this policy.
4. If management conducts an investigatory interview regarding a possible violation of this policy, the employee shall be advised of his/her right to have either an available union representative (if any) or another employee present during the interview.

I. EMPLOYEE ASSISTANCE

The City has established an Employee Assistance Program (EAP) to assist employees with the full range of personal issues including alcohol and drug abuse problems. The EAP provider can evaluate an employee's case and determine the appropriate level and type of treatment, if any.

1. Employees are encouraged to voluntarily seek professional assistance for alcohol and drug abuse with or without contacting management.
2. Employees are encouraged to utilize chemical dependency programs offered under benefit plans.
3. A manager or supervisor who has reason to believe that an employee may have a drug or alcohol problem which is affecting the employee's work performance, can suggest that the employee go to the City's EAP provider for an assessment. Participation in the assessment is not mandatory.
4. Contact between the employee and the EAP provider shall be confidential between the employee and the EAP provider unless otherwise authorized by the employee.

A referral to the City's EAP program is separate from any disciplinary action which may result from the employee's violation of this policy and does not increase the employee's EAP benefits.

J. DISCIPLINE

Disciplinary processes for represented employees shall be carried out in accordance with the applicable collective bargaining agreement. Disciplinary processes for nonrepresented employees shall be carried out in accordance with Personnel Rules. Violation of this policy shall be grounds for discipline, up to and including discharge.

K. TESTING FOR USE OF ALCOHOL OR DRUGS

1. Employees:

- a. Employees may be tested pursuant to the terms of an agreement between an employee, the employee's union representative (if any), and his/her bureau which is designed to address the employee's substance abuse and work behavior problems. (Example: Last Chance Agreement which suspends Disciplinary Proceedings pending successful completion of a program.)
- b. A last chance agreement shall only remain in force for a period not to exceed eighteen (18) months following the employees first date of return to work.

2. Applicants:

Applicants for positions covered by this policy may be tested for drug usage as part of the physical examination process.

- a. Testing of applicants for an examination will occur at the request of a Bureau Manager and concurrence of the Risk Manager, Personnel Director and City Attorney.
- b. Factors to consider when determining which examinations will have pre-employment testing shall be:
 - (1) Working with or operation of vehicles or other machinery.
 - (2) Public safety related work.
 - (3) Work with children.
 - (4) Work around hazardous areas and/or hazardous materials.

3. Testing Procedure:

- a. All drug and alcohol testing will be performed by a laboratory or laboratories selected by the City and certified by the State for drug and alcohol testing.
- b. The laboratory or laboratories shall retain a sample for retesting for a minimum of six (6) months.

4. Results of Pre-employment Drug Analysis

- a. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties, or responsibilities.
- b. If a drug screen is positive at the pre-employment physical, the applicant must provide as soon as possible but no later than within 48 hours of request bona fide verification of a valid prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the prescription medication is one that is likely to impair the applicant's ability to perform essential job functions, the applicant will not be hired.
- c. A positive result for an applicant who is presently a City employee will be forwarded to his/her Supervisor for investigation.

5. Confidentiality

Laboratory reports or test results shall appear in an employee's or applicant's confidential medical file. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee or applicant; (3) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.