



# CITY OF LONG BEACH

## PERSONNEL POLICIES + PROCEDURES

### Policy 1.10

### ALCOHOL AND DRUG USE

Effective Date: July 1, 1990

Last Revision Date: March 1, 2016

#### I. SCOPE

Applicable to all City departments and offices responsible directly to the City Manager. It is also requested that elective offices and other independent offices and departments of the City comply with these procedures in the interest of administrative uniformity.

#### II. POLICY STATEMENT

It is the policy of the City of Long Beach (City) to maintain a safe, lawful, and productive workplace.

#### III. REASON FOR THE POLICY

It is the intent of this policy to deter the use, misuse, and/or abuse of legal or illegal substances that create a threat to the safety of any City employee or member of the public or that adversely affect job performance.

#### IV. DEFINITIONS

##### A. Alcohol

Any alcohol or alcoholic beverage as defined in the California Business and Professional Code Sections 23003 and 23004.

##### B. Conviction for a Criminal Law Violation

A finding of guilt, a no contest plea, or an imposition of sentence or probation by any judicial body for any violation of a criminal statute involving the manufacture, distribution, dispensation, possession, or use of any controlled substance.

##### C. Designated Employer Representative (DER)

An employee authorized to take immediate action to remove employees from (or have them removed from) safety sensitive duties and to make required decisions in the testing and evaluation processes.

##### D. Dilute Specimen

A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

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**E. Driving Under the Influence**

Operating a motor vehicle or equipment while under the influence of legal or illegal substances.

**F. During Work Hours**

All compensated work time.

**G. Foreseeably Interfere**

Any reasonable person should have known that using a drug, medication, alcohol, or any other substance could cause drowsiness, potentially hazardous side effects, or have mind and mood altering properties which could interfere with the employee's safe and effective job performance or operation of City vehicles or equipment.

**H. Foreseeably Subject to Being Called to Duty**

An employee placed on "standby" status, placed "on call" to appear in court, or given notice to return to work the same day.

**I. Illegal Drug**

A legal drug which has not been legally obtained or is being used by an individual for whom it was not prescribed, or is not being used in a manner, combination, or quantity for which it was manufactured, prescribed, or intended. Any controlled substance, drug, narcotic, or immediate precursor which is specified or referenced in any provision of the California Uniform Controlled Substance Act (Division 10 of the Health and Safety Code) which may subject an individual to criminal penalties.

**J. Medical Evaluation**

Assessment by a physician either after a physical examination and/or review submitted medical records as prescribed in this policy.

**K. Medical Marijuana**

Cannabis or marijuana including constituents of cannabis, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), as a physician prescribed form of medicine or herbal therapy. Employees are prohibited from using all forms of marijuana, including medical or synthetic marijuana.

**L. Medical Review Officer (MRO)**

A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug results. A MRO designee is a licensed

physician who is responsible for receiving and reviewing laboratory results in the MRO's absence.

**M. Negative Dilute Test Result**

A drug test result which is negative for drug/drug metabolites but has a specific gravity value lower than expected for human urine.

**N. NIDA**

National Institute on Drug Abuse.

**O. Positive Test**

The result reported by a Department of Health and Human Services-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations and confirmed positive by the MRO or a Refusal to Test as defined in this policy.

**P. Reasonable Suspicion**

A suspicion based on objective facts and reasonable inference drawn from those facts that an employee is under the influence of legal or illegal drugs and/or alcohol so that the employee's ability to perform the functions of the job may be impaired. Examples include, but are not limited to:

1. Slurred speech or bloodshot eyes;
2. Odor of intoxicants on breath or clothing;
3. Unsteady standing, walking, or movement;
4. Substandard performance whether in quantity or quality that cannot be otherwise explained;
5. General unhappiness, mood swings, increased inattentiveness, changes in appearance;
6. Physical altercation;
7. Verbal altercation;
8. A preventable accident generally of a reckless nature while on City time or involving City property or resources;
9. Information from a reliable person with personal knowledge of the drug/alcohol use; and,
10. Actual observation of the possession or use of alcohol or drugs.

**Q. Refusal to Test**

Refusal to test carries the same consequences as a positive drug or alcohol test. The following situations are considered refusals to test:

1. Fail to appear within one hour for any test after being directed to do so by the employer, absent extenuating circumstances as determined by Human Resources;
2. Fail to remain at the testing site until the testing process is complete and the employee is released;
3. Fail to provide a urine specimen for any drug test;
4. When a directly observed collection is required (refer to Section V.H.6.), the employee fails to permit the observation while providing a specimen;
5. Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fail or decline to take a second test the employer or collector has directed the employee to take under circumstances set forth in Section V.H.6 or where the sample was compromised;
7. Fail to undergo a medical evaluation, as directed by the MRO, as part of the verification process;
8. Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); and,
9. Is reported by the MRO as having a verified adulterated or substituted test result or a second negative dilute specimen.

**R. Second Positive Test**

When an employee receives another MRO verified positive test through either the follow-up testing program or a reasonable suspicion test. The Second Positive Test is for an additional incident of testing and not intended as a result of testing a split sample.

**S. Specimen**

A sample of blood, urine, etc., taken for diagnostic evaluation.

**T. Split Sample**

A sample that has been divided into two or more portions representing the same material.

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**U. Substance Abuse Professional (SAP)**

A person who evaluates employees who have violated a drug and alcohol policy and makes recommendations concerning education, treatment, follow-up testing, and after-care.

**V. Workplace**

City work locations or elsewhere during work hours, including contractor worksites, or while in or operating City vehicles or equipment.

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**V. PROCEDURES****A. Application**

Except as otherwise provided in an effective Memoranda of Understanding between the City and a recognized employee association, the terms of this policy applies to all City employees.

Pre-employment candidates will not participate in reasonable suspicion drug testing as they are not City employees. In the case of a pre-employment drug test, the candidate is deemed to have refused to test if the candidate fails to undergo a medical evaluation or leaves before the testing process begins and the pre-employment test is conducted following a contingent offer of employment.

An applicant who fails a pre-employment drug or alcohol test will not be permitted another test until 12 months have passed since the positive test.

If an applicant's test is a negative dilute, the applicant will have 24 hours to retest. The result must not be dilute or the offer of employment will be rescinded.

**B. Employee Notification**

1. All employees shall receive a copy of the City's Alcohol and Drug Use Policy Statement and Conditions of Employment form that is located in the appendix;
2. All employees are required to sign that they have received, read, understand and will abide by the policy and conditions of employment as stated in Section V.C. If an employee refuses to sign, a witness shall sign that the employee refused and was given a copy; and,
3. The original shall be placed in the employee's personnel file and a copy provided to the employee.

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**C. Employee Conditions of Employment**

All employees shall comply with the following conditions of employment.

1. Specifically, employees shall not:
  - a. Consume alcohol
  - b. Be under the influence of alcohol or drugs
  - c. Possess an open container of alcohol
  - d. Unlawfully manufacture, distribute, dispense, possess, alcohol or drugs

The four conditions above apply while:

  - At City work locations or elsewhere during work hours
  - During meal and rest periods
  - In or operating City vehicles or equipment
  - Wearing clothing which identifies the individual as a City employee
  - When foreseeably subject to being called to duty
  - At any time which would interfere with the employee's safe and effective job performance

Exceptions pertaining to alcohol may be allowed while performing an approved police task;

2. Prior to the start of their shift, employees shall notify their supervisor when using prescription medication or any other substance, including over-the-counter medication, which could foreseeably interfere with their safe or effective job performance or operation of City vehicles and/or equipment. At no time shall an employee be obligated to disclose the type of medication being used or the reason for using the medication unless directed by the City's MRO or their designee upon the results of the lab analysis;
3. Employees may be required to take a drug and/or alcohol test if there is a reasonable suspicion of impairment and employee must comply immediately with the order to do so;
4. Except as prohibited by law, employees who enter City work locations shall be subject to inspections, searches, and seizures when there is reasonable suspicion of violation of this policy;
5. Employees who are convicted of any violation of a criminal drug law or driving under the influence must notify their supervisor or department head immediately of such conviction; and,

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6. Employees may be required to comply with additional terms and conditions of employment not specified herein, if required by Federal, State, or City laws and regulations, subject to meet and confer, and/or contract requirements in an applicable MOU. Specifically, when there are any discrepancies or circumstances not addressed in this policy, the Federal Department of Transportation (DOT) guidelines will be followed.

#### D. Violation of Policy

##### 1. First Positive Test

Employees who have a MRO verified positive test for drugs or alcohol or a Refusal to Test shall immediately be suspended for a minimum of 80 hours and will be required to satisfactorily complete a rehabilitation program approved by the Substance Abuse Professional (SAP). Fire Department employees on a platoon work schedule will be suspended for a minimum of 14 calendar days. Failure to satisfactorily complete the recommended program and provide a return-to-work drug or alcohol test with a negative result within 60 calendar days of violating the policy may result in termination of employment.

**Note:** If the employee enters an approved treatment program, he/she is eligible to apply for protected leave time under the California Family Rights Act (CFRA) or Family Medical Leave Act (FMLA). Appropriate request forms must be completed to receive CFRA or FMLA status. FMLA and CFRA will run concurrently with the time the employee is enrolled in the program provided that all required documentation is completed and approved.

##### 2. Second Positive Test

A second positive MRO verified test or a refusal to test will result in termination.

#### E. Self-Identification

1. An employee who voluntarily self discloses a problem with drugs or alcohol must do so before being selected or directed for a test (e.g., reasonable suspicion, follow-up, etc.) and shall be referred to the SAP;
2. The SAP or designee will determine whether the employee is required to enroll in a rehabilitation program. The employee must meet all of the requirements set forth in Section V.I;
3. An employee who is actively involved in a treatment program recognized by the SAP is eligible to apply for protected leave time under CFRA/FMLA; and,

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4. After an employee involved in a treatment program has returned to duty, the employee will be subject to follow-up drug or alcohol testing, and monitored for compliance with the prescribed treatment plan by the SAP for at least one (1) year (or longer if so determined by the SAP).

**F. Substance Abuse Professional (SAP)**

Upon a positive test result or self-disclosure of use of drugs and/or alcohol, the SAP will conduct an initial mandatory evaluation and intake process.

**G. Manager/Supervisor Responsibilities and Guidelines**

1. Supervisors/managers must refer employees who self-disclose use of drugs, alcohol, and/or medication that might affect their ability to perform their job functions to the SAP provided the disclosure occurs prior to the employee being selected or directed for a drug or alcohol test (e.g., reasonable suspicion, follow up); and,
2. Notice of a Drug Conviction for Federal Grant-Funded Employees - The employee's Department Head or designee shall notify the appropriate Federal granting agency within ten (10) calendar days after receiving a drug conviction notice for a Federal grant-funded employee. The convicted employee shall enter and complete a program directed by the MRO or designee and/or, if appropriate, will be subject to disciplinary action, in accordance with Section V.D. This personnel action must be taken within thirty (30) calendar days after the City receives the drug conviction notice for a Federal grant-funded employee.

**H. Drug and Alcohol Testing**

1. In accordance with Federal and State regulations and City Policy, employees will be required to take a drug/alcohol test if there is reasonable suspicion of impairment. At least one supervisor/manager must observe behavior or signs of impairment. This observation(s) must be documented on the Supervisor's Report of Reasonable Suspicion Testing. Before an employee is referred for testing, a second supervisor/manager must concur, absent extenuating circumstances. If a supervisor is unable to obtain concurrence, he/she may contact Long Beach Police Department for a Standard Field Sobriety Test. A supervisor shall drive the employee(s) to the collection site for reasonable suspicion testing;
2. Testing may be required following any type of motor vehicle incident:
  - a. In which unusually careless acts are committed;

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- b. Which involve substandard or unusual performance by the driver;
  - c. In accordance with employee labor agreements, the City's Vehicle Accident Reduction Policy, or
  - d. Based on other indications of alcohol/drug usage, a supervisor shall drive the employee(s) to a collection site for reasonable suspicion testing.
3. To arrange for a drug or alcohol test between 7:30 a.m. and 4:30 p.m., contact the Occupational Health Services Clinic at 562-570-4053. If drug or alcohol testing is required after hours, escort the employee to the City authorized after hours clinic for testing. If necessary, call the Designated Employer Representative (DER) at 562-570-6476 for assistance before requiring an employee to submit to a drug/alcohol test;

Occupational Health Services  
2525 Grand Avenue, Room 183  
Long Beach, CA 90815  
562-570-4053

Care Onsite  
1250 Pacific Avenue  
Long Beach, CA 90813  
562-437-0831  
**Open 24 Hours**

4. Employees are required to submit to either a Breathalyzer test, or provide a urine sample immediately upon arrival at a collection site. If an insufficient amount of urine is provided, employees will be allotted up to forty (40) ounces of water within three hours (or a timeframe consistent with current Federal Guidelines) to provide a sample. Failure to provide a new sample will constitute a refusal to test (See Definitions for Refusal to Test);
5. A MRO must verify all drug test results. Employees will be afforded the opportunity to discuss all prescription and non-prescription drugs they have used with the MRO. Marijuana will not be recognized as a prescription drug. The use of the information on prescription and non-prescription information will be limited to the verification of the employee's drug test results;
6. The City will direct an employee to provide an immediate collection under direct observation with no advance notice if:

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- a. Staff observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
  - b. The temperature on the original specimen was out of range or the original specimen appeared to have been tampered with.
  - c. The laboratory reported to the MRO that a specimen is invalid, and there is not an adequate medical explanation for the result.
  - d. The MRO reported that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed.
  - e. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2mg/dL, but less than or equal to 5mg/dL.
7. An employee whose drug test results are positive may, within 30 days, submit a written request for a retest of the split sample. The retest will be conducted at another NIDA Certified laboratory approved by the City Health Officer. The retest will be conducted at the employee's expense. If the results of the retest are not consistent with the original test, the process shall be considered inconclusive and shall not be used as the basis for subsequent action. The employee will not be reimbursed for the cost of the retest; and,
8. If an employee produces a negative-dilute specimen, he/she must undergo a second test. A second negative-dilute specimen will be considered a refusal to test (see Definitions for Refusal to Test).

**I. Return to Work**

All employees who have been suspended for a positive drug or alcohol test or who have self-disclosed use of drugs and/or alcohol must be certified to return to work by providing a negative drug and/or alcohol test to the MRO. Failure to provide a negative alcohol and/or drug test to the MRO will result in disciplinary action up to and including termination.

In addition to follow-up testing, all employees returning to work following a positive drug or alcohol test or a self-disclosure of a problem with drugs or alcohol, must sign the Return to Work Agreement form.

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An employee returning to work and remaining at work is contingent upon compliance with the SAP's recommended aftercare including follow-up tests. Subsequent follow-up drug/alcohol tests will be required including at least six (6) random tests within the first 12 months following an employee's return to work. Failure to comply at any point prior to completion will result in disciplinary action up to and including termination.

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**VI. REFERENCES**

- Policy Relating to Employee Alcohol and Drug Use, Administrative Regulations 36-3
  - Drug-Free Workplace Act of 1988 (Public Law 00-690, Title V, Subtitle D)
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**VII. APPENDICES**

- Supervisor's Report of Reasonable Suspicion Testing
  - Alcohol & Drug Use Policy Statement & Conditions of Employment
  - Return to Work Agreement Following a City Alcohol or Drug Use Policy Violation
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