



City of Manchester
Human Resources Department
Policy and Procedure

Dept. Policy: Drug and Alcohol Policy

Origination Date: 03/20/2001

Revised: 10/19/2021

The abuse of drugs or alcohol in the workplace may be detrimental to an employee's health, impair an employee's ability to properly perform his or her work, and present a danger to the employee and others. It is the policy of the City of Manchester to provide a work environment that is free from the illegal use and/or abuse of drugs and/or alcohol.

Definitions

A. "Alcohol" shall mean "liquor" or "beverage" as defined by RSA175:1.

B. To "refuse" shall mean:

- 1) To fail to provide an adequate breath or urine sample without a valid medical explanation;
- 2) To fail to sign a testing form or a medical consent form;
- 3) To not make oneself readily available for testing; or
- 4) To engage in any other conduct that obstructs or delays the testing process.

C. "Work hours" shall mean any hours within the basic workday or any other period when an employee is required to perform any other work for the City.

Prohibitions

A. No employee shall:

- 1) Engage in any drug–or alcohol–related conduct during work hours, which is unlawful under federal, state, or local law during work hours;
- 2) Work or report to work under the influence of drugs or alcohol. For the purposes of this prohibition only, "under the influence" shall mean:
 - a) having alcohol concentration as such is defined by RSA 259:3-b, of .04 or greater; or
 - b) having a quantity of drugs in one's system sufficient to meet or exceed the threshold for a positive test under US DOT regulations for holders of commercial driver's licenses.
- 3) Use any drug in a manner or for a purpose, other than as prescribed by a doctor or the manufacturer, which impairs his or her job performance;

- 4) Consume alcohol or possess a container of alcohol with a broken seal during work hours; or
- 5) Refuse to submit to tests.

B. No supervisor shall:

- 1) Having reasonable suspicion that an employee is under the influence of drugs or alcohol or misusing drugs, permit the employee to perform or continue to perform his or her job;
- 2) Permit an employee who is subject to a return-to-duty test to work until the employee successfully completes said test.

C. "Work hours" shall mean any hours within the basic workday or any other period when an employee is required to perform any other work for the City.

Testing

Testing will be in accordance as provided in 49 CFR 382.307 (reasonable suspicion testing). The collection of breath (alcohol) samples and urine (drug) specimens, testing and confirmation procedures shall be conducted in accordance with 49 CFR, Part 40, as it may be amended from time to time by the U.S. Department of Transportation, except that special custody and control forms and alcohol testing forms shall be used.

Pre-employment Testing

All offers of initial employment for safety sensitive and/or contractual positions shall be conditioned upon the successful completion of drug and alcohol testing.

The Human Resources Department shall schedule testing with the City of Manchester provider. The City shall pay costs of pre-employment testing.

Reasonable Suspicion

If a supervisor has personal knowledge of or reasonably trustworthy information of specific facts or circumstances which would reasonably lead him or her to believe that an employee is under the influence of drugs and/or alcohol, that supervisor shall direct that employee to submit to both a drug and alcohol test. Under such circumstances, a supervisor shall:

- 1) Direct the employee to submit to a drug and alcohol test;
- 2) Arrange for transportation for the employee to the testing site;
- 3) Arrange for transportation for the employee to his or her home upon completion of testing;
- 4) Document all the facts and circumstances underlying the supervisor's decision in writing.

Return to Duty and Follow-up Testing Counseling

An employee who tests positive shall be referred to a Substance Abuse Professional (SAP) selected by the City for assessment and shall be required to complete all designated tests and programs to the SAP's satisfaction prior to their eligibility of returning to work. Employees referred to the Substance Abuse Professional (SAP) shall be required to complete return-to-duty and/or follow-up testing as outlined by the SAP.

Confidentiality of Information

The City shall maintain drug and alcohol test results in the Human Resources Department, separate from employee personnel files. Any employee may, upon written request, have access to records relating to his/her drug test. Except upon written consent of the employee, as required by law, or as otherwise provided herein, the City shall not disclose records relating to drug and/or alcohol tests to any third party. The City may disclose and rely upon the records relating to drug and alcohol tests in any lawsuit, grievance or other proceeding challenging the test or the resulting discipline or where the employee's intoxication due to drugs and/or alcohol is a defense to liability. Testing pursuant to this policy is not intended to be used for law enforcement purposes.

Disciplinary Action

Any employee who violates this policy shall be subject to disciplinary action, up to and including termination.

Other Policies Nothing in this policy shall be construed to repeal or limit the terms of any other City policy.

Effective Date This policy shall become effective for all employees upon passage by the Board of Mayor and Aldermen.

DRUG-FREE WORKPLACE POLICY

The City of Manchester believes that illegal drugs have no place in the workplace. Furthermore, the Drug-Free Workplace Act requires federal contractors to certify adoption and implementation of programs to prevent unlawful possession, use or distribution of illicit drugs by employees. For these reasons, the City of Manchester adopts the following regulations.

Prohibited Conduct

The unlawful manufacture, distribution, dispensation, possession or use of controlled substances is prohibited in the City's workplace. Employees working on or under a contract or grant referenced in 41 U.S.C. §§ 701, 702 shall abide by the terms of this policy as a condition of their employment on said contract or grant. An employee who violates any provision of this policy shall be subject to discipline, up to and including termination.

Employee Obligations

All employees shall notify their department head and the City of Manchester Human Resources Director in writing of any criminal drug statute conviction as defined by Federal

Law for a violation occurring no later than 5 days after such conviction.

Employer Obligations

The City of Manchester Human Resources Director shall notify the contracting agency within ten days after receiving notice from an employee or otherwise receiving actual notice of such conviction. The City of Manchester shall within thirty (30) days after receiving notice from an employee of such conviction:

- a. take appropriate action against employee, up to and including termination of employment
- b. at the employee's expense, require employee to participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved for such purposes through the Employee Assistance Program.
- c. The City of Manchester shall provide each employee a copy of this policy and post it prominently throughout the areas where employees work.

Education Program

The City of Manchester Human Resources Director in conjunction with department heads shall establish and implement a program to inform employees about:

- a. the dangers of drug and alcohol abuse;
- b. the City of Manchester's policy of maintaining a drug-free environment;
- c. the availability of drug or alcohol counseling, rehabilitation, and employee assistance programs; and
- d. penalties for violations of this policy. The City of Manchester shall make a good faith effort to continue to maintain a drug-free environment through the implementation of this policy and ensure that all new employees are informed of the policy.