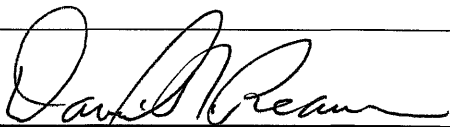


**CITY OF SANTA ANA
ADMINISTRATIVE
POLICIES AND PROCEDURES**


CITY MANAGER'S AUTHORIZATION
October 23, 2002

SUBSTANCE ABUSE POLICY (NON-DOT)

1. PURPOSE

Employees and the City of Santa Ana ("City") have a mutual obligation to ensure a safe and healthy work environment. The purpose of this policy is to ensure that employees understand that it is misconduct and a violation of City policy for an employee to use illegal drugs or report to work impaired as a result of the use of legally prescribed drugs and/or alcohol. Further, this policy will provide procedures for managers/supervisors to follow when an employee is identified as being under the influence of drugs and/or alcohol at work.

This policy is not intended to regulate the off-the-job conduct of City employees in the use of legally prescribed controlled substances or alcohol, as long as such conduct does not impair the ability of the employee to perform his job. This policy is not intended or designed to limit in any way the authority of respective Appointing Authorities to discipline employees for job related offenses involving the use of drugs and or alcohol.

2. POLICY

It is the policy of the City that the use of illegal drugs at any time or the abuse of alcohol and/or legally controlled substances while on duty by public employees is incompatible with continued employment with the City. Employees under the influence of drugs, alcohol or controlled substances during working hours constitute a serious risk to the public, to other employees, and to themselves. Further, the use of illegal substances at any time or the abuse of legally controlled substances and/or alcohol by a City employee while on duty is directly opposed to the Zero Tolerance policy of the City. The City of Santa Ana is a ZERO TOLERANCE entity with regard to the use of illegal substances at any time and/or the abuse of legally controlled substances and/or alcohol while on duty.

Employees who are required to remain on-call are not exempt from this policy. On-call employees shall not use any legally controlled substance and/or alcohol to such an extent that they would be unable to report to work, immediately, if called, during their assigned on-call period, or perform their job safely and competently.

City employees are expected and required to report to work in an appropriate mental and physical condition, unimpaired by drugs or alcohol. Any employee

found using alcohol or any illegal controlled substance, possessing an open container of an alcoholic beverage, or any illegal controlled substance, selling, distributing, or under the influence of an illegal chemical substance, and/or alcohol during work hours or on City property including buildings, parking lots, and vehicles, will be subject to disciplinary action, up to and including termination.

3. EFFECTIVE DATE

This policy shall become effective thirty (30) days following the date of this document.

4. SCOPE OF APPLICATION

This policy shall apply to all full-time employees, as well as part time and temporary employees of the City, and applicants who have received a conditional offer of employment with the City.

5. PROHIBITIONS

A. Alcohol

1. No employee shall report to duty or remain on duty, operate a City vehicle, or perform job duties while under the influence of alcohol. A positive test with a reading of 0.04 concentration or greater shall be deemed a violation of this policy.
2. No supervisor/manager shall allow any employee the manager believes to be under the influence of, or impaired by the use of alcohol to remain on duty, operate a City vehicle, or perform job duties.
3. No employee shall report for duty or operate a City vehicle or perform job duties while under the influence of alcohol nor shall the employee be in possession of an open container containing an alcoholic-beverage during such duty time or on City premises.
4. Supervisors or managers who detect any odor of an alcoholic beverage or observe objective factors, as described in the "Supervisor's Observation Report - Drug / Alcohol Testing Request," shall take appropriate action, including, but not limited to not allowing the employee to perform job duties or operate equipment or vehicles.

B. Legally Controlled Substances

1. No employee shall report for duty, drive a City owned vehicle or equipment, or remain on duty when the employee has used any controlled substance, except when the use is pursuant to a licensed physician or dentist, and the licensed physician or dentist has advised the employee that the substance will not affect his ability to perform his duties.

2. It is the employee's responsibility, when being prescribed any medication and /or controlled substances, to inquire as to the effects of such medication and/or controlled substance on the ability of the employee to perform his job.
3. It is the employee's responsibility to notify his supervisor that he is taking a medication which may impact his ability to perform his job, operate a vehicle or other City equipment.
4. No manager/supervisor possessing knowledge that an employee is under the influence of, or impaired by, a prescribed medication or controlled substance which may impair the employee's ability to perform his job, operate a vehicle or other City equipment, shall permit an employee to drive/operate any City equipment or vehicle until a City-designated physician has determined that the employee can safely perform assigned duties while using such prescribed medications or controlled substances.

C. Police Personnel Exemption

It is not a violation of this policy for Police Personnel to possess illegal drugs or alcohol or use alcohol if it is required while acting in the course of their duties.

6. NOTIFICATION / POSTING REQUIREMENTS

Each City department/agency shall provide a copy of this policy to each of its members and post a copy of this policy in a prominent place, accessible to all employees and applicants. Applicants, upon receiving a conditional offer of employment, shall be provided with a copy of this policy. Additionally, any employee may request another copy of this policy from the Personnel Services Agency.

7. DEFINITIONS

ALCOHOL, as defined in Business and Professions Code section 23003, shall mean "ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced."

ALCOHOLIC BEVERAGE, as defined in Business and Professions Code section 23004, "includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of 1 percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

ALCOHOL TESTING shall mean the testing of the blood alcohol content by a Breathalyzer instrument or blood sample and providing the laboratory analysis thereon.

CONTROLLED SUBSTANCES shall be defined as those substances whose dissemination is controlled by regulation or statute, including but not limited to narcotics, depressants, stimulants, hallucinogens, and cannabis.

DRUG TESTING shall be defined as the collection of a urine specimen by medical personnel and laboratory analysis of that specimen. The initial drug screen will be a form of immunoassay identification with confirmation testing of any positive results with Gas Chromatography/Mass Spectrometry (GS/MS) or other reliable confirmation testing.

IMPAIRED shall be defined as behavior that may limit an employee's ability to safely and/or efficiently perform his/her job duties, or poses a threat to his or her safety or the safety of others or property, or testing has determined prohibited levels of drugs and/or alcohol.

MANAGER/SUPERVISOR in the PD is defined as a Sergeant or above. Only Sergeants, Lieutenants, Captains, or the Chief may order a sworn officer to take a reasonable suspicion drug and/or alcohol test.

MEDICAL REVIEW OFFICER (MRO) is a licensed physician trained and certified to evaluate and interpret drug and alcohol test results.

REASONABLE SUSPICION shall be defined as a belief based upon facts gathered from the totality of the circumstances that would cause a reasonable supervisor to suspect impaired performance or reduced job safety by an employee on the job. Reasonable suspicion is not to be based upon unconfirmed rumors, but shall be based upon individual observations by Supervisors or Managers trained by the City to recognize the symptoms of substance abuse. The supervisor or manager should take into account other possible explanations for observed behavior, such as illness, lack of sleep, fatigue, allergies, and reactions to noxious fumes or smoke. The factors supporting the reasonable suspicion shall be documented and recorded in a manner provided and approved by City Management.

The types of objective facts that may constitute reasonable suspicion may include, but are not limited to:

- Physical symptoms or manifestations of being under the influence/impaired by drugs or alcohol while on duty or on City property (physical appearance, glassy or bloodshot eyes, slurred speech, odor of alcohol or drugs, unsteady gait, poor coordination or reflexes etc.), or the direct observance of such use while on duty or on City property;
- An admission by an employee that he is under the influence of alcohol, controlled substances or illegal drugs;
- Reports of current drug or alcohol use on duty from reliable and credible sources which are independently corroborated.

Based on the specific incident, one, or a combination, of these factors may provide reasonable suspicion that an employee is under the influence of drugs and/or alcohol.

RELIABLE INFORMANT shall be defined as one who has first hand knowledge of an employee's current, on duty alcohol and/or drug problem and who discloses this information to a supervisor.

REFUSAL TO TEST means actions which compromise the testing process.

Examples of these actions include, but are not limited to:

- Refusal to sign or complete forms;
- Alteration of consent, or other forms;
- Failure to provide sufficient breath or urine, without a valid medical explanation;
- Refusal to cooperate with the testing process;
- Adulteration or substitution of the test sample.

UNDER THE INFLUENCE shall be defined as having a positive drug or alcohol test. A positive test is defined as an initial and a confirmation test meeting or exceeding the following levels of the following drugs:

PROHIBITED DRUG	INITIAL TEST CUT-OFF LEVEL	CONFIRMATION TEST CUT-OFF LEVEL
Marijuana	50 ng/ml	15 ng/ml
Cocaine	300 ng/ml	150 ng/ml
Opiates	2,000 ng/ml	2,000 ng/ml
PCP	25 ng/ml	25 ng/ml
Amphetamines	1,000 ng/ml	500 ng/ml
Barbiturates	200 ng/ml	200 ng/ml
Benzodiazapene	100 ng/ml	100 ng/ml
Alcohol	.04 BAL	.04 BAL

VERIFIED POSITIVE TEST shall be defined as a positive drug or alcohol confirmation screen in which the MRO reviews the test result, speaks to the employee, and determines that there is no valid explanation for the positive screen.

8. PROCEDURE FOR REQUIRING DRUG AND ALCOHOL TESTING

The City will direct an employee to submit to drug and/or alcohol testing in the following situations:

A. Pre-Employment Testing

All job applicants shall be tested after receiving a conditional offer of employment. A confirmed positive test result shall result in the withdrawal of a conditional job offer of employment. Refusal to undergo or complete a drug/alcohol test shall be treated the same as a positive test result.

1. No application for employment shall be accepted from an applicant with a positive drug/alcohol test for a year period from the date of the positive test results.
2. All employees who promote and/or transfer into positions which require testing under DOT standards shall be tested in accordance with the guidelines of the DOT Substance Abuse Policy.

B. Reasonable Suspicion Testing

1. Whenever a manager/supervisor identifies an employee whom the supervisor reasonably believes is under the influence of drugs and/or alcohol, the supervisor shall complete a copy of the City of Santa Ana Supervisor's Observation Report Form (Attachment "A") to document the reasons for the manager/supervisor's reasonable suspicion.
2. Reasonable suspicion testing shall be initiated after the circumstances are properly reviewed and agreed upon by at least one management level and one supervisory level employee or two management level employees. However, only one manager/supervisor is necessary to require an employee to submit to drug/alcohol testing if the supervisor observes the individual ingest, smoke, or use a prohibited substance or alcohol.
3. Once the decision is made to test, a copy of the Supervisor's Observation Report shall be immediately forwarded through the manager/supervisor's chain of command to the Director of the City's Personnel Services Agency. Another copy of the Report shall be provided to the testing facility and employee.

C. Testing Process

1. Prior to testing, the employee will be required to sign a drug/alcohol test consent form (Attachment "B"). Failure or refusal to sign the form and to submit to the testing will be considered insubordination with the consequence of termination.

2. The employee shall have the opportunity to notify a Union representative if desired, prior to any tests. The employee may have a representative present at the testing facility; however, there will be no unreasonable delay in conducting the drug and/or alcohol analysis. Exceeding two hours from the time the employee is notified that a test will be conducted will constitute an "unreasonable delay." The refusal of an employee to submit to alcohol/drug testing due to the inability of a representative to be present shall be considered a refusal to test.
3. The employee shall be transported to the designated testing facility by a manager/supervisor. Upon arrival at the testing facility, the employee will be tested. Upon the completion of the test, the sample shall be split into two parts. The first part shall be used for testing and the second shall be retained as a "split sample" in case a second test on the sample is requested by the employee. The supervisor or designated representative of the Department shall wait for the employee to complete the testing process.
4. The employee shall not be permitted to return to work prior to receiving the results of the drug/alcohol test. The manager/supervisor or representative thereof shall make arrangements for safe transportation of the employee to his residence or other location agreed to by the manager/supervisor and the employee. The employee shall be placed on paid administrative leave pending the results of the drug/alcohol test.
5. The Executive Director of Personnel Services (or designee) shall receive and retain the results of all drug and alcohol testing related information, and provide the results to the appropriate department head. The fact that a drug and/or alcohol test has been administered and the results of such test shall be held in confidence and released only on a right to know basis.

9. DRUG OR ALCOHOL TESTING METHODS AND DOCUMENTATION

Collection, storage, transportation, and testing procedures shall be conducted in accordance with rules established by California State Board of Health and any other State and Federal Statutes and regulations regarding drug testing.

A. Drug Testing

1. Collection Site Protocol

A technician or nurse will collect one urine specimen at a time.

2. Applicant/Employee must:

- Present picture identification to the technician or nurse.
- Sign a consent form authorizing the collection site to perform the test and permit release of this medical information to the designated recipient in Personnel at the City of Santa Ana. These forms must be signed in the presence of and witnessed by a representative of the collection site.
- Fill out the applicable portions of the Federal Drug Testing Custody and Control Form and read specimen collection procedures before collection.

Refusal to comply with the above requirements shall constitute a refusal to test and be treated as insubordination with the consequence of termination.

- The employee shall be instructed not to alter his urine specimen with water, soap, cleansing agents or any other material(s) that could adulterate a specimen. He shall also be advised not to flush the toilet or run water until specimen has been given to the collector.
- The employee shall return the specimen to collection site staff. In front of the employee, staff will separate 30 ml. of the specimen into a primary specimen bottle and at least 15 ml. into a secondary bottle (split sample). The secondary bottle shall not be tested initially, but will be held by the lab in case the employee requests a test of the split sample.
- Both bottles shall be shipped with copies of the Federal Drug Testing Custody and Collection Form to a Department of Health and Human Services certified laboratory.

3. Initial Test of Urine

Initial testing shall be performed on the primary sample using an immunoassay test. If results are negative, no further testing will be required, and a report will be provided to the Medical Review Officer (M.R.O.) who is responsible for interpreting and verifying results.

4. Confirmation Test of Urine

If a positive result is obtained on the initial drug test, a confirmation drug test shall be performed. All confirmations shall be made by

quantitative analysis - Gas Chromatography/Mass Spectrometry (GC/MS).

Note: If the test is positive, the split sample shall be kept in frozen storage for one year from the date of its receipt to allow for testing at the employee's request.

5. Informing the Employee of Positive Results

The M.R.O. will receive laboratory results generated under this testing program. The M.R.O. shall be responsible for interpreting the test results in light of the employee's medical history and biomedical information.

The M.R.O. shall inform the employee that a positive test has been indicated and arrange to meet or speak with the employee before finalizing the test result. Nothing shall be placed in the record, or any action taken, until the result is final.

A positive test result will be considered final, if the employee elects not to meet or speak with the M.R.O. or if the M.R.O. determines that there is no legitimate medical explanation for the result.

All final drug test results shall be reported to an authorized representative of the City of Santa Ana Personnel Department.

2. Alcohol Testing

A. Collection Site Protocol

Applicant/Employee must:

- Present picture identification to the Breath Alcohol Technician (BAT).
- Complete and sign the required Alcohol Testing Form.

Refusal to comply with the above requirements shall constitute a refusal to test and be considered insubordination with the consequence of termination.

B. Initial Test of Breath

The BAT, who operates the breathalyzer, will explain the process to the employee. The BAT shall compare the test result shown on the machine with that on the printout. If the test result shows a blood

alcohol level of less than .04, the test is negative. If the test result shows a blood alcohol level of .04 or greater, a confirmation test shall be performed. In such cases, the employee will be asked to wait between 15 and 20 minutes before taking the confirmation test.

C. Confirmation Test of Breath

Before the confirmation test is conducted, the BAT will perform an air blank test to ensure the breathalyzer is calibrated at 0.00. The employee will again be asked to exhale forcefully into the breathalyzer. After the confirmation test, the BAT will again perform the air blank test.

D. Blood Test

If the Confirmation Test of Breath is positive, the employee will have the option of having a blood sample drawn. This sample will be tested for the blood alcohol level.

All alcohol test results shall be reported to the Executive Director of Personnel Services or his designee.

10. FAIR LABOR STANDARDS ACT ("FLSA")

Any test of a current employee must be performed during or immediately before or after the employee's scheduled work period and is deemed as compensable work time as applicable under the FLSA.

11. CONSEQUENCES OF A NEGATIVE TEST

An employee shall suffer no adverse repercussions from a negative drug or alcohol test result. The test shall not be mentioned in a performance evaluation or used in support of current or future disciplinary action.

12. CONSEQUENCES OF A VERIFIED POSITIVE DRUG TEST

The City has a ZERO TOLERANCE policy and will pursue termination for a positive drug test.

13. CONSEQUENCES OF A VERIFIED POSITIVE ALCOHOL TEST

The City has a ZERO TOLERANCE POLICY. For probationary employees, the City will pursue termination.

Because alcohol is a legal drug, in individual circumstances, the Appointing Authority may impose discipline less than termination for a first offense for a non-probationary employee. This discipline may include suspension, demotion, or transfer. Any action taken which is less than termination, shall be conditioned

upon the employee signing a Last Chance Agreement . The details of the Last Chance Agreement shall be determined on a case-by-case basis.

14. SPLIT-SAMPLE TESTS

Any employee who tests positive for prohibited drugs may submit a request in writing to the Personnel Department for the split sample to be tested at a different laboratory. This request must be received within 7 calendar days of the employee's notification of a positive test. The City will pay the costs of this additional testing.

15. REHABILITATION

It is the policy of the City to support employees, who **prior to violating this policy**, inform the City that they have a drug and/or alcohol problem. In such cases, the City offers an Employee Assistance Program (EAP) to assist employees and their families. The EAP provides confidential professional assistance in coping with the stresses of everyday life which include, but are not limited to, such problems as drug and alcohol dependency or abuse. The EAP provides diagnosis, counseling and referral. Treatment offered by the EAP will be coordinated with benefits provided by the employee's health plan. The employee will be responsible for any treatment costs incurred which exceed the initial diagnosis and counseling offered by the EAP.

Additionally, employees who believe they have continuing problems with drugs and/or alcohol are encouraged to apply for Medical Leaves of Absence. Those who qualify may be granted the leave to obtain counseling and/or treatment to resolve the problem in order to return to work. The Personnel Department is available to assist employees in applying for such leaves.

It is important to note that asking for help does not excuse an employee for being under the influence on duty. The purpose of this section is to help employees BEFORE they violate this policy.

The fact that an employee has informed the Department that he has a drug and/or alcohol problem will not effect the ability of the City to impose disciplinary action for any current or future violation of any provision of this policy.

16. CRIMINAL ACTS

Nothing in this policy prevents the City from taking disciplinary action, up to and including termination for the commission of criminal acts, i.e., the current use of illegal substances.

CITY OF SANTA ANA – PERSONNEL DEPARTMENT
SUPERVISOR'S OBSERVATION REPORT – DRUG / ALCOHOL TESTING REQUEST

Supervisors should use this form to document all requests for drug and/or alcohol testing.

Employee's Name _____	Department: _____ Supervisor's Signature _____
Job title _____	
Supervisor's Name _____	
Job Title _____	
Date/Time of Request _____	

Please check all of the following factors that describe the employee's physical characteristics or behavior. Please strike out (~~strike out~~) those that do not apply.

TEMPERAMENT ☐ Withdrawn/Sedated ☐ Boisterous ☐ Uncooperative/Belligerent
 ☐ Bizarre/Irrational/Excitable ☐ Other _____

SPEECH ☐ Rambling/Confused ☐ Slurred ☐ Incomplete Sentences
 ☐ Incoherent ☐ Overly rapid ☐ Other _____

BALANCE/
WALKING ☐ Awkward/Unsteady ☐ Staggering ☐ Cannot walk without help

BREATH / ☐ Alcohol ☐ Chemical Odor ☐ Other _____

SMELLS OF _____

EYES ☐ Very bloodshot ☐ Staring Blankly ☐ Enlarged/Tiny Pupils
 ☐ Eyeballs move erratically, back and forth, up/down, sideways

OTHER SIGNS ☐ Inappropriate Laughter ☐ Fighting ☐ Crying ☐ Vomiting
 ☐ Other Unusual Activity (Please describe briefly.)

Other Unusual Activity (Please describe briefly.)

Briefly describe **your observations** which led to this request for drug testing. Be specific as to the conduct/behavior observed. If more space is needed, use additional page.)

Was the employee involved in an on-the-job accident: ☐ Yes ☐ No

If yes, please describe accident briefly:

Please identify any witnesses to Employee's behavior

Name	Department/Address	Telephone number

Date/Time of Notification to Personnel Services Agency: _____

Person making notification: _____ (Print Name)

Person receiving information: _____ (Print Name)

Was the employee given an opportunity to call a representative? Yes ☐ No ☐ Time: _____

Additional Information:

**City of Santa Ana
Waiver for Drug/Alcohol Testing**

I, _____ (Print name.), hereby authorize the City of Santa Ana's authorized medical facility to obtain a breath and/or urine sample from me as required by the City-Wide Substance Abuse Policy (Non-DOT). I understand that I must accompany a supervisor/manager to the medical facility and produce the requested breath and/or urine sample. **Failure to provide a sample will be considered insubordination with the consequence of termination.**

I understand that an analysis of the breath or urine sample will be conducted by a professional, licensed medical laboratory facility to determine if I am currently under the influence of alcohol or any controlled substance as defined in the Uniformed Controlled substance Act (Division of Health and Safety Code.)

I further authorize the testing laboratory to release the results of these tests to the Executive Director of Personnel (or his designee). I am aware that the City of Santa Ana reserves the right to take disciplinary action against me in the event of positive test results for alcohol or controlled substances absent a valid explanation.

Date	Time	Printed Name	Signature
_____	_____	_____	_____

Witnessed by:

_____	_____	_____
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If the individual to be tested is under eighteen (18) years of age, parent/guardian must approve testing.

Parent/guardian signature:

_____	_____	_____
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Location Sample Obtained:

Sample Obtained by:

Employee representative (if present):
