

**CITY OF OAKLAND
ADMINISTRATIVE INSTRUCTION**



Subject: City of Oakland Policy Regarding
Alcohol and Drug Use

Number: 577

Reference: None

**Effective
Date:** July 1, 1996

Supersedes: AI 577, Dated July 1, 1991

**Responsible
Department:** Office of Personnel
Resource Management

I. Purpose

The City of Oakland has a strong commitment to provide a safe work place for its employees and to promote employee health. The City has developed this policy regarding alcohol and drug use to reinforce this commitment and to comply with Federal law, specifically, the Drug-Free Workplace Act of 1988. Our goal is to establish and maintain a work environment free from adverse affects of alcohol and drug use. Therefore, as a condition of employment (both initial and continuing) each employee (**EXCEPT sworn members of the Police Department who are guided on this matter by police department general orders**) must abide by the terms of this policy.

II. Policy

1. Alcohol and/or non-medically authorized drug use which adversely affects or is likely to affect an employee's job performance or jeopardizes the safety of the employee or other employees, the public or City equipment may result in disciplinary action up to and including termination of employment.

2. If the City has reasonable cause to suspect that an employee is not fit for duty, it may require the employee to submit to a medical examination by the City Physician. It is the City Physician's responsibility to determine after the examination whether the employee is fit or unfit for duty. During the examination, the City Physician may require the employee to provide a blood or urine sample for drug and alcohol screening.

3. Use, possession, manufacture, or transfer (including distribution and dispensation) of illegal drugs while on the job or on City property is prohibited and such conduct may result in disciplinary action up to and including termination of employment. However, the City will consider holding the proposed disciplinary action in abeyance and referring the employee to appropriate counseling or treatment. If the City makes such a

referral, such employee will not be dismissed while actively and successfully participating in such treatment or counseling programs, subject to his/her compliance with City and departmental rules and maintenance of acceptable job performance.

4. Sale of illegal drugs while on the job or on City property will result in termination of employment.

5. Any employee who, while on City business, operates any vehicle or who at any time operates a City vehicle under the influence of an alcoholic beverage or drug that impairs driving ability shall be subject to disciplinary action up to and including termination.

6. Any employee whose on-duty or on-City-property conduct leads to a conviction of any criminal drug statute must notify his or her Department Head of that conviction no later than five days after such conviction. Any employees so convicted will be disciplined and/or, at the City's discretion, required to successfully participate in a drug assistance program or rehabilitation program approved by Federal, State or local health, law enforcement, or other appropriate agencies. For purposes of this provision, the term conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by a judicial body charged with the responsibility to determine violations of Federal or State criminal drug statutes. Failure by an employee to so notify his/her Department Head of such a conviction will itself result in discipline.

7. Employees are encouraged to seek assistance before use of alcohol and/or drugs affect job performance. The City Employee Assistance Program (EAP) is available to help employees and their families with alcohol and/or drug-related problems. Voluntary participation in the Program is treated on a confidential basis. Participation in the Employee Assistance Program does not, however, relieve employees of their responsibility to meet work performance requirements.

**CONFIDENTIAL VOLUNTARY
REQUESTS FOR EMPLOYEE
ASSISTANCE PROGRAM ASSISTANCE
CAN BE MADE BY CALLING 893-0822.**

III. Procedures

In the event a drug screen is required, it will be carried out under the following procedures:

1. The department will transport the employee from the work site to the office of the City Physician.

2. Employees of whom testing is required will receive the Enzyme Multiplied Immunoassay Test (EMIT).

3. If the initial test is positive, a second test will be used to verify results. The second test will consist of either a Gas Chromatography or a Mass Spectrometry.

4. A portion of the specimen will be preserved for confirmatory testing by the employee.

5. The City Physician will follow a controlled chain of custody of test specimens.

6. The department will provide transportation for the employee's return home or to the work site as directed by the City Physician.

7. Any employee who refuses to report promptly to the City Physician as required by his or her supervisor or who refuses to provide the blood or urine specimen as required by the City Physician will be subject to disciplinary action up to and including termination of employment.

8. Any employee whose drug or alcohol test result is confirmed positive by the City Physician may be subject to disciplinary action up to and including termination. Among the factors to be considered in determining the appropriate course of action shall be the employee's work history, length of employment, current job performance, the existence of past disciplinary actions, and the likelihood and appropriateness of rehabilitation.

9. Under ordinary circumstances, the supervisor must complete a performance impairment report (see attachment) prior to sending the employee for a drug screen evaluation.

10. In reasonable cause testing situations, when possible and provided it does not interfere with the sample collection, employee shall be permitted representation during the sample collection process upon request.

IV. EMPLOYEE RESPONSIBILITY

Employees are responsible for maintaining a work environment free from the adverse effects of alcohol and drugs. They are responsible for adhering to City policy regarding alcohol and drug use. Activities involving alcohol and/or drugs which adversely affect an employee's job performance can subject the employee to disciplinary action up to and including termination of employment.

V. SUPERVISORY RESPONSIBILITY

Supervisory employees are expected to be alert for impaired job performance behavior which may be subject to the alcohol and drug policy. Supervisors are responsible for appropriate and prompt action relative to employee who appear to fall within the guidelines of this policy.

In instances of poor employee performance, supervisors are expected to recommend corrective action which may include supervisory referral to the Employee Assistance Program.

When an employee appears to be unfit for duty, the supervisor must have the employee taken to the City Physician's Office for medical evaluation. If the supervisor suspects alcohol or drug use which may make the employee incapable of operating a vehicle, the supervisor is responsible for the employee's safe return home.

Supervisors working in departments which receive federal grant funds who are notified by an employee of a conviction in compliance with Section II, paragraph 6 of this instruction, are required, in accordance with the Drug-Free Workplace Act, to apprise the granting agency of such notification. The agency must be informed in writing within ten (10) calendar days of employee's notice to the department.

VI. DRUG-FREE AWARENESS PROGRAM

The Employee Assistance Program (893-0822) maintains information on drug and alcohol awareness for those employees who desire additional information. Employee needing help in dealing with such problems are encouraged to use the City's Employee Assistance Program and health insurance plans, as appropriate. The Employee Assistance Program is responsible for establishing a drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;
2. The City's policy maintaining a drug-free workplace;
3. Any available drug counseling, rehabilitation and employee assistance programs, and;
4. The penalties that may be imposed upon employees for drug abuse violations.

VII. CONFIDENTIALITY

City management will treat all communications about an employee's alcohol or drug use with the strictest confidentiality. No information obtained by management from an employee regarding employee drug or alcohol use will be made known to any person(s) except to those City agents charged with the responsibility of decision-making to treatment

or discipline or to the City Attorney when legal advice is required.

VIII. DEPARTMENT RESPONSIBILITY

After discussion with Employee Relations, departments are responsible for adopting and communicating departmental procedures required to implement this policy.

Also, departments must designate a management employee who will be responsible for certifying the City's status as a drug-free workplace in cases where such certification is required as part of a federal or state grant application. It should be noted that certifying the City of Oakland as a drug-free workplace does not imply that drug and alcohol abuse does not exist in the City, but rather that the City has committed itself to complying with the Drug-Free Workplace Act of 1988 by taking practical steps to diminish such activities and ameliorate the adverse affects of drugs and alcohol in the workplace.



CRAIG G. KOCIAN
City Manager

Performance Impairment Report

Employee's Name

Employee #

Date

Location

Directions: Before requesting a blood or urine test, employer's representative and two witnesses must complete this form. Attach completed forms to a "Consent Form" signed by the employee to be tested. Please describe the behavior that causes you or witnesses to suspect that job performance is impaired by current drug or alcohol use.

Appearance:

Eyes: (Bloodshot, clear, etc.)

Odor:

Dexterity While Standing or Walking:

Speech:
