



CITY OF REDDING

777 CYPRESS AVENUE, REDDING, CA 96001

P.O. Box 496071, REDDING, CA 96049-6071

May 17, 2019

Dominic McCurtain, IBEW Representative
IBEW Local Union 1245
P.O. Box 2547
Vacaville, CA 95609

RE: Side Letter of Agreement between the City of Redding and IBEW Electric and Maintenance regarding the Revised Alcohol and Drug Abuse Policy

Dear Dominic,

This letter is to confirm the agreement reached between the City of Redding and IBEW Electric and Maintenance units regarding revisions to the City's Alcohol and Drug Abuse Policy.

Attached is the draft revised policy, with revisions indicated by strikethrough and underline.

If the Union concurs with the foregoing, please sign and date the two original letters, return one to me, and keep the other for your records.

Sincerely,

Sheri DeMaagd
Assistant City Manager/Personnel Director

The Union concurs with the above:

Dominic McCurtain, IBEW Representative

5/17/19

Date

CC: City Council
Barry Tippin, City Manager
Shawn Avery, Personnel Manager



CITY OF REDDING
Personnel Policies and Procedures Manual

Section: Miscellaneous

Subject: Alcohol and Drug Abuse Policy

Personnel Director: _____ **Date:** _____

City Manager: _____ **Date:** _____

City Council Resolution No. (if applicable) N/A **Effective Date:** May 4, 1997

I. PURPOSE

The purpose of this policy is to comply with the Drug Free Work Place Act of 1988 as passed by Congress. HR5210 requires that all Federal grant recipients, including cities, establish an anti-drug policy for the work place.

HR5210 requires the City to:

- A. Establish a drug free awareness program for employees.
- B. Publish a notice to all employees specifying that drugs are illegal in the work place and that action will be taken for violations.
- C. Provide each employee directly involved in the performance of a federal grant with a copy of said notice.
- D. Make employment conditional upon compliance with this policy and require the employee to notify the employer within five working days of a conviction due to a drug related offense occurring in the work place.
- E. Notify the applicable granting federal agency within ten days of an employee's conviction due to a drug related offense occurring in the work place.
- F. Sanction employees for violation and/or require participation in a treatment program.
- G. Make a good faith effort to maintain a drug free work place by following the above requirements.

In addition to the fact that such requirements are established by law, a drug free policy is appropriate in that it attempts to ensure that employees are able to perform their duties safely and efficiently. ~~While the City of Redding has no intention of intruding into the private lives of its employees, it does believe that involvement with drugs and alcohol can take its toll on job performance and employee safety. While the City of Redding has no intention of intruding into the private lives of its employees, it does believe that involvement with drugs and alcohol can take its toll on job performance, employee safety and the safety of the public.~~

A key element of this policy is rehabilitation. Employees who believe they have a problem are urged to contact the Personnel Division for referral to community resources.

The key focus of this policy is prevention through educating employees on the dangers of alcohol and drug abuse, and rehabilitation for those who have such problems. Any disciplinary actions will be evaluated on a case-by-case basis, taking into consideration the possibility of rehabilitation if deemed appropriate and shall be used as a last resort after rehabilitation efforts have failed.

II. POLICY

It is City policy that employees shall not be under the influence of alcohol or drugs while on duty, nor

possess alcohol or drugs while on City property, or at work locations, or in uniform, nor shall employees, manufacture, sell or provide drugs or alcohol to any other employee or to any person while such employee is on duty, nor shall any employee have their ability to work impaired as a result of the use of alcohol or drugs when reporting for work.

While use of medically prescribed drugs is not a violation of this policy, failure by the employee to notify his or her supervisor before beginning work when taking medications or drugs which foreseeably interfere with the safe and effective performance of duties or operation of City equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required. Employees are encouraged to inquire of their physician if any prescribed medication will impair their ability to perform, safely and effectively, their assigned duties.

Refusal to submit immediately to an alcohol and/or drug analysis when requested by City management or law enforcement personnel, as a result of reasonable suspicion, may constitute insubordination and may be grounds for discipline up to and including termination.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further City work and shall be detained for a reasonable time until he or she can be safely transported from the work site.

The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled under federal and/or state law.

Higher standards may be promulgated based upon specific job requirements as determined by City management.

III. APPLICATION

This policy applies to all City employees and to all applicants for positions with the City. This policy applies to alcohol and to all substances, drugs or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

IV. EMPLOYEE RESPONSIBILITIES

An employee must:

- A. Not report to work while his or her ability to perform job duties is impaired due to on-duty or off-duty alcohol or drug use.
- B. Not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while on standby duty with pay, or at any time while on City property or in uniform except while off duty on City parks and permitted by Ordinance.
- C. Not directly, or through a third party, sell or provide drugs or alcohol to any person, including any employee while either employee or both employees are on duty.
- D. Submit immediately to an alcohol and/or drug test when reasonable suspicion of alcohol and/or drug use exists on the job and when requested by a responsible City representative.
- E. Notify his or her supervisor before beginning work when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties including operation of City equipment.
- F. Provide within 24 hours of request bona fide verification of a current valid prescription for any

potentially impairing drug or medication identified when a drug screen is positive.

- G. Notify the City of Redding within five working days after being convicted of any drug related offense occurring in the work place.
- H. Notify the appropriate first-line supervisor upon observation of another City employee whose behavior and/or physical characteristics are reasonably suspicious and harmful to himself/herself and/or others.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

- A. Managers and supervisors are responsible for understanding this policy and applying it without bias or prejudice.
- B. Managers and supervisors must avail themselves of training on the employer's role in handling the special problems of employees who suffer from alcohol or drug dependency.
- C. Managers and supervisors may request that an employee submit to a fitness-for-duty examination when there is reasonable suspicion that an employee is impaired, and is unable to perform the job duties required in a safe and efficient manner. When doing so, the manager or supervisor is required to document, in writing, the facts and circumstances leading to the reasonable suspicion that the employee was impaired and could not perform safely on the job. (Note: First-line supervisors should consult with their supervisors, department directors and Personnel Director, and a joint decision should be made as to whether or not the employee should undergo a fitness for duty medical examination.)
- D. When there is a reasonable suspicion that the employee is impaired, the manager or supervisor must ask the employee to remain for a reasonable time until the employee can be safely transported from the work place. If the employee refuses to submit to the fitness-for-duty examination, or attempts to leave before safe transport can be found, the manager or supervisor shall remind the employee of the requirements and disciplinary consequences of this policy.
- E. Managers and supervisors shall notify their department directors or designee, when there is reasonable suspicion that an employee may have illegal drugs in his or her possession. If the department director or designee concurs that there is reasonable suspicion of illegal drug possession, the department director shall notify the appropriate law enforcement agency.
- F. Directors and supervisors must use the reasonable suspicion standards in determining whether a fitness-for-duty examination is warranted. See attached documentation. Examples of what could lead to a reasonable suspicion of impairment are: (1) slurred speech; (2) alcohol odor on breath; (3) unsteady walking and movement; (4) size of pupils and their reaction to light; (5) an accident involving City property; (6) verbal altercation; (7) unusual behavior; (8) possession of alcohol or drugs; and 9) information obtained from a reliable person with personal knowledge. The above is not an exclusive list, but is used for example only.

VI. PHYSICAL EXAMINATION AND DRUG SCREENING PROCEDURES

The drug and/or alcohol screening may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his or her assigned job duties, including but not limited to prescription medications, heroin, cocaine, morphine and its derivatives, methadone, P.C.P., barbiturates, amphetamines, marijuana, and alcohol. The examination may be breath, urine or blood analysis, and will be conducted by a licensed physician in a local medical facility. The drug testing will be conducted by a licensed toxicologist in a laboratory identified as having met all legal requirements for performing such tests.

Results of drug and/or alcohol analysis:

A. Pre-employment Physicals.

All applicants for employment with the City of Redding are subject to drug/alcohol screening during pre-employment physicals.

1. A positive result from a drug and/or alcohol analysis may result in postponement or denial of an applicant's appointment where the applicant's use of alcohol and/or drugs violate requisite job standards or could impede performance of duties or responsibilities.
2. If a drug screen is positive at the pre-employment physical, the applicant must provide bona fide verification of a valid current prescription for the drug identified in the drug screen within 24-hours after being informed of the test results, unless geographical restrictions prevent it. Further, the applicant must provide a prescription in his or her own name. Should geographical restrictions prevent local testing and/or local verification of prescription, these same requirements must be on record as having been confirmed within 24 hours at similarly licensed office(s) at or near the individual's geographic location. The applicant is eliminated from the selection process if the requirements of this paragraph cannot be met.

B. During Fit-for-Duty Examinations.

1. A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.
2. If the drug screen is positive, the employee must provide, within 24-hours of request, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to, and including discharge.
3. If an alcohol or drug test is positive, the manager or supervisor and the Personnel Director shall review the employee's record to make a determination as to the possibility of rehabilitation for the purpose of returning the employee to his or her assignment; or, after following rehabilitation, whether to reassign the employee or precede with disciplinary action, up to and including discharge. totality of the circumstances resulting in the positive alcohol or drug test and, without undermining the possibility of disciplinary action, consider the possibility of rehabilitation for the purpose of returning the employee to his or her assignment or reassignment. A positive test for an illegal drug will be considered impairing to the employee's ability to perform his or her job, and therefore the corrective provisions of this policy will apply.

VII. CONFIDENTIALITY

Laboratory reports or test results shall not appear in the employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder and securely kept under the control of the Personnel Director. Reports of test results may be disclosed to City of Redding management strictly on a need-to-know basis, and to the tested employee upon request. Disclosures without employee (patient) consent may also occur when:

- A. The information is compelled by law or by judicial or administrative process.
- B. The information is to be used in administering an employee benefit plan.
- C. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
- D. The information has been placed at issue in a formal dispute between the employer and the employee.

VIII. APPEAL PROCESS

A. Pre-Employment Physical Testing

Candidates whose test results indicate there are substances present and render them impaired are consequently eliminated from the selection process, and may:

- 1A. Submit a written explanation accompanied by any substantiating documentation (i.e. prescriptions or doctor's or rehabilitation counselor's recommendations) within 48 hours of receiving the results. Written explanation and any attached documents will be reviewed by the doctor in charge of the candidate's examination, and a recommendation will be made to the Personnel Director, whose decision shall be final.
- 2B. Request that the facility that the City of Redding has contracted with re-test the sample. The re-test will be at the applicant's expense. If the results of the re-test contravene the results of the first test, the City of Redding will reimburse the applicant for the cost of the re-test.

The City of Redding maintains the right to request that a third test be conducted using the same sample. In instances where the results of the second test contravene the results of the first, the results of the third test will be the deciding factor.

B. Fit-for-Duty Examinations

Employees whose tests results are positive, and who are consequently facing disciplinary action may:

- 1A. Submit a written explanation, accompanied by any ~~documentations~~ documentation justifying the substance. Prescriptions currently in use must be submitted within 24-hours, but the written explanation accompanied by the prescription and any written recommendations submitted by a doctor or rehabilitation counselor may be submitted within 48-hours of the test results. The doctor conducting the fit-for-duty examination will review the explanation and documentation and make a recommendation to the Personnel Director, who will forward his or her recommendation to the City Manager whose decision will be final.
- 2B. Request a meeting with applicable union representative, supervisor and the Personnel Director to discuss the possibilities of rehabilitation for the purpose of retaining employment with the City of Redding. Each case will be handled on an individual basis. ~~However, the principle of offering rehabilitation as a first resort and disciplinary action as last resort will govern.~~
- 3C. Employees may request a re-test, from the same sample, by the facility with which the City of Redding has contracted. If the re-test results contravene the first test results, the City will reimburse the employee the cost of the re-test.

The City of Redding maintains the right to request that a third test be conducted using the same sample in instances where the results of the second test contravene the results of the first. Results of the third test will combine with those of the first two to form the deciding factor.

IX. SUMMARY

The City will conduct drug and alcohol awareness programs, presented by the Personnel Division. These programs will include prevention and detection methods, with emphasis on maintaining a drug free work place. Additionally, printed material will be given to all employees explaining the dangers of alcohol and drug abuse. All employees will be given a copy of this policy.

City of Redding
Reasonable Suspicion Documentation
Confidential – to be completed by Supervisor

Employee Data

Name: _____ Division: _____ Job Title: _____
Date of Incident: _____ Time Started Work: _____ Location: _____

Check everything you have observed today:

- | | | |
|---|---|--|
| <input type="checkbox"/> Impaired Coordination | <input type="checkbox"/> Inability to sit still | <input type="checkbox"/> Alcohol on breath |
| <input type="checkbox"/> Slow reaction time | <input type="checkbox"/> Unsteady Gait | <input type="checkbox"/> Sweating |
| <input type="checkbox"/> Inattention to personal hygiene | <input type="checkbox"/> Vomiting | <input type="checkbox"/> Chills |
| <input type="checkbox"/> Irritability | <input type="checkbox"/> Bloodshot or | <input type="checkbox"/> Slurred speech |
| <input type="checkbox"/> Excessive talking, walking | <input type="checkbox"/> Glassy eyes | <input type="checkbox"/> Pupils dilated or constricted |
| <input type="checkbox"/> Unusual behavior for this person – describe: _____ | <input type="checkbox"/> Nose irritation | <input type="checkbox"/> Confrontational or violent behavior |
| | <input type="checkbox"/> Inattentive | <input type="checkbox"/> Other – describe: _____ |
| | <input type="checkbox"/> Drowsiness | |

Describe the employee's explanation for physical condition/behavior: _____

Names of who witnessed the employee's condition: _____

Suggested Steps to Document

1. Keep situation confidential.
2. Second supervisor present whenever possible. If not, why not?
3. Union representation?
4. Ask employee if there is anything wrong
5. Tell employee your observations.
6. Did employee admit to recent use of alcohol and/or drugs?
7. Tell employee, "I don't know what is causing these symptoms – it could be alcohol or drugs - it could be that you are very ill."
8. Employee sent for alcohol and drug test.
9. Who took employee to evaluation?
10. If employee resists, inform him/her he/she will be charged with insubordination for refusing to go to evaluation or take the tests.
11. Did employee refuse to go to alcohol or drug test?
12. Did employee refuse to sign consent release or any other test form?
13. Did employee ultimately submit to alcohol and drug test?
14. Did you charge the employee with insubordination if he/she refuses to cooperate?
15. Did you arrange for employee to be driven home after tests?

Documentation

Describe the situation that lead you to believe there was reasonable suspicion. Document the steps taken.

Date of Report: _____ Supervisor preparing report: _____

Name of Second Supervisor: _____

Signature

Name of Union Representative: _____

Department Head: _____

Signature

Testing for Reasonable Suspicion (DOT and Post Accident)

Between 8:00 a.m. and 5:00 p.m., Monday through Friday, call Sheri DeMaagd at 225-4068. Employee should be taken to Compliance Associates, 20279 Engineers Lane, Redding. A qualified technician will perform the testing.