
DRUG & ALCOHOL TESTING POLICIES

for the

CITY OF GLEN COVE



Includes the City of Glen Cove's
Drug and Alcohol Testing Policy,
Drug and Alcohol Free Workplace Policy (Reasonable Suspicion Policy),
Random Drug and Alcohol Testing Policy, and
DOT Drug and Alcohol Testing Policy

Mayor Pamela D. Panzenbeck

March 2022

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Drug and Alcohol Testing

- A. All employees shall be subject to “reasonable suspicion” testing for drug and alcohol use, as outlined in the annexed Drug and Alcohol Free Workplace Policy, which is annexed hereto and made a part hereof.
- B. In addition to the Drug and Alcohol Free Workplace Policy, any Employee who operates any City-owned vehicle shall be subject to the City’s “Random Drug & Alcohol Testing Policy”, which is annexed hereto and made a part hereof.
- C. In addition to the Drug and Alcohol Free Workplace Policy, safety-sensitive employees, defined as “any driver of a commercial vehicle, or any employee who operates a commercial motor vehicle or who repairs, maintains, and/or works in, on or around a commercial motor vehicle, and/or who may perform other DOT-covered safety sensitive functions”, shall be subject to the City’s DOT Drug & Alcohol Testing Policy, which is annexed hereto and made a part hereof.

A violation of any of the provisions of any of the above policies shall result in the penalty or penalties prescribed by such policy. Where an employee’s conduct violates overlapping provisions of one or more of the above policies, the most stringent penalty prescribed shall apply.

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DRUG AND ALCOHOL FREE WORKPLACE POLICY

(Reasonable Suspicion Policy)

1.0 PURPOSE:

In accordance with the Drug-Free Workplace Act of 1988, and other laws, the City of Glen Cove seeks to provide a workplace free of controlled substances (illegal drugs and drugs that have medical uses but are highly addictive) and alcohol use by prohibiting the manufacture, sale, distribution, possession without prescription, and/or use of controlled substances and/or alcohol without a prescription in the workplace. This Policy sets forth prohibited activities and specifies the actions that will be taken against employees for any violation of this Policy.

2.0 APPLICABILITY

This Policy shall apply to all City employees, including full-time, part-time and seasonal employees.

3.0 DEFINITIONS AND WORD USAGE

3.1 Reasonable Suspicion: Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specified person and be based on specific and articulable facts and logical inferences and deductions that can be drawn from those facts. Reasonable suspicion may be based upon, among other matters: observable phenomena, such as direct observation of use and/or the physical symptoms of using or being under the influence of alcohol or other drugs such as, but not limited to, slurred speech, disorientation, bloodshot eyes, smell of alcohol or other drugs, a pattern of abnormal conduct or erratic behavior, conduct or behavior which warrants employer inquiry because of a direct bearing of the mental faculties of the employee on the health and safety of others, action(s) inconsistent with normal conduct or behavior, or information provided either by reliable and credible sources or which is independently corroborated. While the "reasonable suspicion" standard does not lend itself to precise definition or mechanical application, vague, unparticularized, unspecified or rudimentary hunches and intuitive feelings do not meet the standard.

3.2 Workplace: Workplace is defined as the site for the performance of any work done in connection with the City of Glen Cove. This includes city buildings or other city premises, any city owned vehicle, off city property during any city-sponsored or city-approved activity, event, or function.

4.0 PROHIBITED ACTIVITIES

4.1 No employee shall unlawfully manufacture, distribute, dispense, or use, or be under the influence of, any narcotic drug, hallucinogenic drug, amphetamine barbiturate, marijuana or any other controlled substance, on or in the workplace as per the Drug-Free Workplace Act (21 U.S.C. 812) and as further defined by regulation at 21 CFR 1300.11 through 1300.15.

4.2 No employee shall distribute, dispense, use, or be under the influence of alcohol on or in the workplace, while on duty.

4.3 All employees shall notify their supervisor of their conviction of, or plea of *nolo contendere* to, any criminal drug statute violation occurring in the workplace, no later than five (5) calendar days after such conviction.

5.0 REASONABLE SUSPICION

The City may require an employee to immediately submit to a urine and/or blood test where there is reasonable, individualized suspicion of improper drug or alcohol use. Upon request, the City shall provide an employee who is ordered to submit to any such test with a written statement of the basis for the City's reasonable suspicion within seventy-two (72) hours of the request. Prior to ordering any such testing, the City shall provide the Union with reasonable notice of such order, and, wherever practicable, an opportunity to consult with the employee prior thereto.

6.0 TESTING

The City shall use either a hospital, or accredited testing lab, as chosen by the City, for such testing. Additionally, the City shall be responsible for maintaining the identity and integrity of the sample. The passing of urine will not be directly witnessed unless there is reasonable suspicion to believe that the employee may tamper with the testing procedure. Any and all such witnessing shall be done by a party who is the same gender as the employee being tested.

Before an employee's test result will be confirmed positive for alcohol or other drugs, the employee will be given the opportunity to speak with the Medical Review Officer (MRO) and demonstrate that there was a legitimate medical explanation for the positive test results. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the City as negative. If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as a confirmed positive. After MRO verification of a positive result, the employee will have 72 hours to provide a written request for split analysis at a 2nd DHHS certified lab. If the split analysis fails to reconfirm the drug, the result of the test is cancelled.

7.0 REFUSAL TO SUBMIT TO TESTING AND OBSTRUCTION OF TESTING PROCESS

7.1 An employee's refusal to undergo testing will be considered a positive test result. Any action of an employee which clearly obstructs the testing process, or which alters or which attempts to alter test results, shall be considered a positive test result.

7.2 The failure of an employee to:

- (a) follow a directive to report for testing, to contact the City's Substance Abuse Professional, Employee Assistance Program, and/or Medical Review Officer,
- (b) follow completely all instructions of responsible City or Drug and Alcohol testing personnel at the testing site,
- (c) follow completely all instructions of the City's Substance Abuse Professional, Employee Assistance Program or Medical Review Officer,

shall be considered a positive test result, as well as insubordination and grounds for discipline.

8.0 PENALTIES

Any employee who violates the terms of the City of Glen Cove Drug and Alcohol Free Workplace policy shall be subject to discipline and/or be required to satisfactorily participate in a rehabilitation program approved by the City of Glen Cove for alcohol or other drugs. The disciplinary action for a positive testing is as follows:

- (i) First offense: referral to Employee Assistance Program (with confirmation to the City's Designated Employer's Representative of completion of EAP intake and acknowledgement of treatment plan); automatic five- day suspension without pay.
- (ii) Second offense within five years of disposition of first offense: referral to Employee Assistance Program (with confirmation to the City's Designated Employer's Representative of completion of EAP intake and acknowledgement of treatment plan); automatic twenty-day suspension without pay.
- (iii) Third offense within five years of disposition of second offense: immediate suspension pending disciplinary hearing, termination contemplated.

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RANDOM DRUG AND ALCOHOL TESTING POLICY

1.0 PURPOSE:

In order to promote a safe working environment and the safety of the citizens of the City of Glen Cove, the City seeks to prevent the operation of any City-owned vehicle by persons using or under the influence of drugs or alcohol, by instituting the random testing of all City employees who operate City-owned vehicles in the course of their employment. This Policy sets forth prohibited activities and specifies the actions that will be taken against employees for any violation of this Policy.

2.0 APPLICABILITY

This Policy shall apply to all City employees who operate any City-owned vehicles in the course of their employment, including full-time, part-time and seasonal employees.

3.0 PROHIBITED ACTIVITIES

- 3.1 No employee shall use, or be under the influence of, alcohol or drugs, on or in the workplace, while on duty.
- 3.2 No employee shall use, or be under the influence of, alcohol or drugs, while operating a City-owned vehicle.
- 3.3 Employees covered by this Policy must inform the City if said employee is taking medication which may affect his/her ability to safely operate a motor vehicle.

4.0 RANDOM TESTING

The City may require an employee to immediately submit to a urine and/or blood test on a random basis.

5.0 TESTING

Immediately upon notification by the employee's supervisor, the employee shall report as directed to submit a urine sample as directed.

The City shall use either a hospital, or accredited testing lab, as chosen by the City, for such testing. Additionally, the City shall be responsible for maintaining the identity and integrity of the sample. The passing of urine will not be directly witnessed unless there is reasonable suspicion to believe that the employee may tamper with the testing procedure. Any and all such witnessing shall be done by a party who is the same gender as the employee being tested.

Before an employee's test result will be confirmed positive for alcohol or other drugs, the employee will be given the opportunity to speak with the Medical Review Officer (MRO) and demonstrate that there was a legitimate medical explanation for the positive test results. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the City as negative. If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as a confirmed positive. After MRO verification of a positive result, the employee will have 72 hours to provide a written request for split analysis at a 2nd DHHS certified lab. If the split analysis fails to reconfirm the drug, the result of the test is cancelled.

6.0 REFUSAL TO SUBMIT TO TESTING AND OBSTRUCTION OF TESTING PROCESS

- 6.1 An employee's refusal to undergo testing will be considered a positive test result. Any action of an employee which clearly obstructs the testing process, or which alters or which attempts to alter test results, shall be considered a positive test result.
- 6.2 The failure of an employee to
 - (a) follow a directive to report for testing, to contact the City's Substance Abuse Professional, Employee Assistance Program, and/or Medical Review Officer,
 - (b) follow completely all instructions of responsible City or Drug and Alcohol testing personnel at the testing site,
 - (c) follow completely all instructions of the City's Substance Abuse Professional, Employee Assistance Program or Medical Review Officer,shall be considered a positive test result, as well as insubordination and grounds for discipline.

7.0 PENALTIES

Any employee who violates the terms of the City of Glen Cove Drug and Alcohol Free Workplace policy shall be subject to discipline and/or be required to satisfactorily participate in a rehabilitation program approved by the City of Glen Cove for alcohol or other drugs. The disciplinary action for a positive testing is as follows:

- (i) First offense:
 - (a) referral to Employee Assistance Program (with confirmation to the City's Designated Employer's Representative of completion of EAP intake and acknowledgement of treatment plan); and
 - (b) automatic five- day suspension without pay.
- (ii) Second offense within five years of disposition of first offense:
 - (a) referral to Employee Assistance Program (with confirmation to the City's Designated Employer's Representative of completion of EAP intake and acknowledgement of treatment plan); and
 - (b) automatic twenty-day suspension without pay.
- (iii) Third offense within five years of disposition of second offense:
 - (a) immediate suspension pending disciplinary hearing,
 - (b) termination contemplated.

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CITY OF GLEN COVE

DOT DRUG & ALCOHOL TESTING

POLICY

Omnibus Transportation Employees Testing Act of 1991

Administrative Procedure

City of Glen Cove

Personnel Department

1.0 PURPOSE

The U.S. Department of Transportation (hereinafter referred to as the "DOT") has issued regulations (49 CFR parts 40, 382, 391, 392, and 395) (hereinafter referred to as the "Regulations") pursuant to the Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143) (hereinafter referred to as the "Omnibus Act") which govern the use of drugs and alcohol by commercial motor vehicle drivers, and which require the City of Glen Cove (hereinafter referred to as the "City") to conduct mandatory drug alcohol testing of covered drivers at the times and under the conditions described in this Administrative Procedure. The Regulations require testing to begin on January 1, 1995. The City, in agreement with the Glen Cove Civil Service Employees Association Local 882 ("CSEA"), has elected to expand the applicability of these regulations to certain additional covered "safety sensitive employees". The purpose of this Administrative Procedure is to comply with these requirements of, and to implement the above mentioned DOT regulations, as expanded, and City of Glen Cove Resolution No. 6-F adopted 4/14/98.

2.0 APPLICABILITY

2.1 Under the City's Policy, drug and alcohol testing will be conducted on any current and/or prospective "driver" or "safety sensitive employee" who may be required to operate, repair, maintain, or work in, on or around a "commercial motor vehicle" (as these terms are defined in this administrative procedure).

2.2 All applicants for positions with the City as a driver of a commercial motor vehicle or safety sensitive employee (regardless of whether they are new applicants, transfers or employees being promoted) will be notified of the City's drug and alcohol use and testing policy at the time they apply for a covered driver or safety sensitive employee position with the City and that any offer of employment as such a driver or safety sensitive employee will be conditioned on compliance therewith.

3.0 DEFINITIONS

3.1 "Accident" means any occurrence associated with the operation of a commercial vehicle in which there is a fatality, an injury treated away from the scene to damage sufficient to require one or more vehicles to be towed from the scene or where the driver receives a citation under state or local law arising from the accident.

3.2 "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

3.3 "Alcohol concentration (or content)" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under the City's Policy and Administrative Procedure as described herein.

3.4 "Alcohol use" means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

3.5 "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

- (i) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (ii) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (iii) Is designed to transport 16 or more passengers including the driver; or
- (iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

3.6 "Confirmation test" for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For drugs, "confirmation test" means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry [GC/MS] is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine.)

3.7 "Drug" means:

- (i) For this Administrative Procedure, any substance listed on Schedule of Appendix D to Subchapter B of Title 49 of the Code of Federal Regulations or other substance identified schedule 1;
- (ii) drugs for which testing is now or hereafter required under the Omnibus Act, presently cocaine, marijuana, opiates, amphetamines and phencyclidine, referred to in this Administrative Procedure as "listed drugs".

- (iii) prescription and over-the counter medications which are being abused.

3.8 "DHHS" means the U.S. Department of Health and Human Services or any designee of the Secretary of the Department of Health and Human Services.

3.9 "Driver" means any employee who operates a commercial motor vehicle and/or who may perform other DOT-covered safety sensitive functions. This includes, but is not limited to full-time, regularly employed drivers and part-time and seasonal drivers who operate a commercial motor vehicle, or who may perform other DOT-covered safety sensitive functions at the direction of or with the consent of the CITY. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to the CITY to drive a commercial motor vehicle as a new employee or in a promotional situation.

3.10 "Medical Review Officer (MRO)" means a licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and other relevant bio-medical information.

3.11 "On duty time" means all time from the time a driver or safety sensitive employee begins to perform safety-sensitive duties or is required to be in readiness to do so until the time he/she is relieved from such work and all responsibility for performing such work. On-duty time shall also include all time spent traveling to and participating in either a drug or alcohol test when it is pursuant to a random, reasonable suspicion, post-accident or follow-up test as directed by or on behalf of the CITY or pre-duty drug testing to existing employees.

3.12 "Performing a safety-sensitive function". A driver or safety sensitive employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

3.13 "Refuse to submit" (to an alcohol or listed drug test) means that a driver or safety sensitive employee:

- (i) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice or the requirement for breath testing in accordance with the provisions of the CITY's Policy and Administrative Procedure;
- (ii) Fails to provide an adequate urine sample for listed drugs testing without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing in accordance with the provisions of the CITY's Policy and Administrative Procedure; or
- (iii) engages in conduct that clearly obstructs the testing process.

3.14 "Safety-sensitive employee" means any driver or employee who operates a commercial motor vehicle or who repairs, maintains, and/or works in, on or around a commercial motor vehicle, and/or who may perform other DOT-covered safety sensitive functions. This includes, but is not limited to full-time, regularly employed drivers and part-time and seasonal drivers who operate a commercial motor vehicle, or who may perform other DOT-covered safety sensitive functions at the direction of or with the consent of the CITY.

3.15 "Safety-sensitive function" includes:

- (i) All time at or on CITY property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the CITY;
- (ii) All time inspecting equipment as required by 49 CFR SS392.7 and 392.8 or otherwise inspecting, maintaining, servicing, or conditioning any commercial motor vehicle at any time;
- (iii) All time spent driving commercial motor vehicle;
- (iv) All time, in or upon any commercial motor vehicle;
- (v) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle;
- (vi) All time spent performing the driver requirements of 49 CFR §§392.40 and 392.41 relating to accidents; and
- (vii) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

3.15 "Screening test (also known as initial test)". In alcohol testing, it means an analytical procedure to determine whether a driver or safety-sensitive employee may have a prohibited concentration of alcohol in his or her system. In listed drugs testing it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

3.16 "Substance abuse professional (SAP)" means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

4.0 PROHIBITED ACTIVITIES

4.1 This Administrative Procedure hereby expressly prohibits drivers or safety-sensitive employees from:

- (i) reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while the driver has an alcohol concentration of 0.04 or greater;
- (ii) possessing any amount of alcohol (including alcohol found in medications, food, or other alcohol-containing products) while on duty or operating a commercial motor vehicle, unless the alcohol is manifested and transported as part of a shipment;
- (iii) using alcohol at any time while performing any safety-sensitive function;
- (iv) using alcohol within four (4) hours prior to performing any safety-sensitive function;
- (v) using alcohol for eight (8) hours following an accident (as defined in this Administrative Procedure) or until he/she undergoes a post-accident alcohol test, whichever occurs first;
- (vi) refusing to submit to an alcohol or listed drugs test (as defined in this Administrative Procedure);
- (vii) reporting for duty, remaining on duty requiring the performance of safety-sensitive functions when the driver uses any drug except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
- (viii) reporting for duty, remaining on duty requiring the performance of safety-sensitive functions or performing safety-sensitive functions when the driver tests positive for listed drugs.

4.2 Drivers and safety-sensitive employees also must inform the CITY, consistent with existing CITY rules that may require such notification, that the driver or safety-sensitive employee is taking medication which may affect his/her ability to perform safety-sensitive functions.

4.3 Drivers and safety-sensitive employees (excluding applicants for covered driving positions) who violate these prohibitions will be subject to the actions mandated by the DOT as described in this Administrative Procedure. Drivers and safety-sensitive employees who violate these prohibitions may also be subject to disciplinary action by the CITY, up to and including discharge, in a manner consistent with the DOT regulations, the CITY's pre-existing policies, practices, and any applicable laws and the collective bargaining agreement.

5.0 REQUIRED TESTING

5.1 The CITY is required by DOT to conduct tests under the following conditions or times:

- (i) before an applicant for a driver or safety sensitive position is hired or an existing employee seeking to become a driver or safety-sensitive employee performs safety-sensitive functions ("pre-employment/pre-duty" listed drug testing) as described in 49 CFR §382.301;
- (ii) following certain accidents (post-accident testing) as described in 49 CFR §382.303;
- (iii) on a random basis as described in 49 CFR §382.305;
- (iv) for reasonable suspicion as described in 49 CFR §382.307;
- (v) return-to-duty testing after engaging in prohibited conduct as outlined in Section 4.1 of this Administrative Procedures described in 49 CFR §382.309; and
- (vi) follow-up testing as described in 49 CFR §382.311 for individuals in need of assistance in resolving problems associated with alcohol misuse and/or use of listed drugs.

5.2 With respect to Section 5.1 (i) above, any applicant for a covered driving or safety-sensitive position who refuses or fails to execute the acknowledgment that he/she has received and read the CITY's Drug and Alcohol Testing Policy and Administrative Procedure, who refuses or fails to submit to a pre-employment/pre-duty listed drugs test(s) as directed, or who has a positive test result, will not be considered eligible to work as a driver or safety-sensitive employee for the CITY.

6.0 METHODS OF TESTING

6.1 To ensure the integrity and accuracy of each test, all specimen collection, analysis, and laboratory procedures shall be conducted in accordance with DOT's procedural protocols and safeguards, as set forth in Part 40 or Title 49 of the Code of Federal Regulations. This includes, among other things:

- (i) procedures to ensure the correct identity of each driver or safety-sensitive employee at the time of testing;
- (ii) a chain-of-custody procedure to ensure that the driver's or safety-sensitive employee's specimen is not tampered with;
- (iii) the use of trained breath alcohol technicians (BAT) and DOT approved testing devices for conducting alcohol tests;
- (iv) the use of a DHHS-certified laboratory;
- (v) the confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GCMS);
- (vi) the confirmation of an initial positive alcohol screen by a second analysis;
- (vii) the CITY's appointment of a qualified Medical Review Officer (MRO) to review the drug test results before they are reported to the CITY's designated representative.

6.2 The CITY will provide drivers and safety-sensitive employees with written (where practicable) and/or oral instructions specifying where, when and to whom to report for testing before each testing event. The CITY considers all such instructions to be a part of the CITY's Policy and the CITY's Administrative Procedure. Drivers and safety-sensitive employees who refuse or otherwise fail to comply with all such instructions will be considered to have engaged in conduct that clearly obstructs the testing process, which constitutes a refusal to submit, and shall be subject to disciplinary action, up to and including discharge, in a manner consistent with the CITY's pre-existing policies, practices and any applicable laws and the collective bargaining agreement.

7.0 TEST RESULTS

7.1 For Drug Tests

7.1.1 Before a driver's or safety-sensitive employee's test result will be confirmed positive for drugs, the driver or safety-sensitive employee will be given the opportunity to speak with the MRO and demonstrate that there was a legitimate medical explanation for the positive test results. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the CITY as "negative". If the MRO determines that a legitimate medical reason does not exist, the test result be reported to the CITY as a "confirmed positive".

7.1.2 In the event that the test result of a driver's or safety-sensitive employee's primary specimen is confirmed positive, the driver or safety-sensitive employee will be notified and advised that he/she has 72 hours to request that the MRO send his/her secondary specimen to a second, DHHS-approved laboratory for analysis. Pending the outcome of this additional analysis, the driver or safety-sensitive employee will be prohibited from performing any safety-sensitive functions and, when appropriate and practicable, be given temporary alternative assignment.

7.2 For Alcohol Tests

7.2.1 In the event that the driver or safety-sensitive employee provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be reported as a "negative".

7.2.2 In the event that the driver or safety-sensitive employee provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. In the event that the driver or safety-sensitive employee provides an adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the CITY as "negative."

7.2.3 Any driver or safety-sensitive employee whose confirmatory test registers 0.02 or more but less than 0.04 will be prohibited from performing any safety-sensitive function until the driver's or safety-sensitive employee's next regularly-scheduled duty period, but for no less than 24 hours after the test is given. Such a driver or safety-sensitive employee may also be subject to additional disciplinary action by the CITY, up to and including discharge, in a manner consistent with the CITY's pre-existing policies, practices, and any applicable laws and the collective bargaining agreement.

7.2.4 A driver or safety-sensitive employee who, after providing an adequate breath specimen, has a confirmatory test which registers 0.04 or greater will, at a minimum be suspended from performing safety-sensitive functions until the requirement of 49 CFR §382.605 are met, and will be subject to additional disciplinary action by the CITY, up to and including discharge, in a manner consistent with the CITY's pre-existing policies, practices, any applicable collective bargaining agreement.

8.0 CONSEQUENCE FOR ENGAGING IN PROHIBITED ACTIVITIES

8.1 Except as provided in Section 5.2 of this Administrative Procedure involving pre-employment/pre-duty listed drugs testing of applicants, any driver or safety-sensitive employee engaging in conduct prohibited by Section 4.1 of this Administrative Procedure shall be prohibited from performing any safety-sensitive functions until meeting return to work requirements and any referral, evaluation and treatment program prescribed by a SAP as outlined in 49 CFR part 382, subpart F. In addition, such drivers or safety-sensitive employees will be evaluated by a disinterested SAP, who shall determine what assistance, if any, the driver or safety-sensitive employee needs in resolving problems associated with alcohol and/or listed drugs use.

8.2 Except as provided in Section 5.2 of this Administrative Procedure involving pre-employment/pre-duty listed drugs testing of applicants, any driver or safety-sensitive employee engaging in conduct prohibited by Section 4.1 of this Administrative Procedure must satisfy any return-to-duty testing requirements and referral, evaluation and treatment program prescribed by a SAP as outlined in 49 CFR part 382, subpart F, before he/she may be permitted to perform safety-sensitive functions.

8.3 Except as provided in Section 5.2 of this Administrative Procedure involving pre-employment/pre-duty testing of applicants, any driver or safety-sensitive employee engaging in conduct prohibited by Section 4.1 of this Administrative Procedure will be subject to disciplinary action by the CITY, up to and including discharge, in a manner consistent with the CITY's pre-existing policies, practices, and any applicable laws and the collective bargaining agreement. In addition, a driver or safety-sensitive employee whose test result is confirmed positive may also be subjected to penalties imposed by DOT, if any.

8.4 Each driver or safety-sensitive employee who has engaged in conduct prohibited by Section 4.1 shall be advised by the MRO of the resources available to the driver or safety-sensitive employee in evaluating and resolving problems with listed drugs use, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. The CITY's Personnel Department shall direct employees who test positive for alcohol to the SAP, and the employee shall contact the SAP immediately.

8.5 Nothing contained in the CITY's Policy or Administrative Procedure shall constitute a guarantee of work for a driver or safety-sensitive employee who is prohibited from performing safety sensitive functions pursuant to said Policy and Administrative Procedure and federal regulations. Nothing contained in the CITY's Policy or Administrative Procedure shall be considered to supersede any restrictions or conditions concerning the use of leave entitlement during any period when a driver or safety-sensitive employee is prohibited from performing safety sensitive functions and no other work is available.

8.6 Appeal Procedure

8.6.1 Upon a positive alcohol test and/or listed drugs test, a driver or safety-sensitive employee may request an appeal with the Director of Personnel (or his/her designee) and CSEA by submitting written authorization for the Director and CSEA to discuss all aspects of the employee's positive test results with the MRO and/or SAP and for the MRO and/or SAP to release

any and all pertinent information. Such written request must be made immediately after the employee receives notice of a positive test result.

8.6.2 Pending the appeal, no disciplinary action shall be taken provided, however, that DOT-mandated actions (e.g., removal from safety-sensitive functions) shall not be deemed to be "disciplinary action" within the meaning of this rule; provided further that this rule shall not require the CITY to hold disciplinary action in abeyance beyond any applicable statute of limitations.

8.6.3 Following receipt of any employee's notice of appeal, the Director of Personnel shall offer the employee and the CSEA an opportunity to be present during any discussion with the MRO and/or SAP. The employee may elect to be accompanied by a union representative-designated by the unit president. The said meeting is intended to be informal in nature.

8.6.4 During an appeal regarding a positive alcohol or listed drugs test result, the final test result (original or split sample) as confirmed by the MRO, and MRO and/or SAP determination and any other pertinent information that the employee, CSEA or CITY may provide may be considered.

8.6.5 This appeal is a forum to investigate mitigating circumstances only, it does not relieve any party of any responsibility mandated pursuant to the Omnibus Transportation Employee Testing Act and does not give any party the authority to overturn the determination(s) of the MRO and/or SAP.

9.0 REQUIRED COMMUNICATIONS

9.1 No driver or safety-sensitive employee shall perform safety-sensitive functions within four hours after using alcohol. Upon assignment, or an offer of assignment to perform safety-sensitive functions, drivers and safety-sensitive employees must inform the CITY of any use of alcohol within four hours prior to such assignment or offer of assignment.

9.2 A driver or safety-sensitive employee who refuses or fails to comply with section 9.1 of this Administrative Procedure will be considered insubordinate and will be subject to disciplinary action, up to and including discharge, in a manner consistent with the CITY's pre-existing policies, practices, and any applicable collective bargaining agreement. In addition, a driver or safety-sensitive employee who fails to comply with said section 9.1 waives his/her appeal rights under section 8.6 of this Administrative Procedure.

10.0 INFORMATION ON DRUGS AND ALCOHOL

10.1 Each driver and safety-sensitive employee will receive or have available to him/her upon request, the CITY's Drug and Alcohol Testing Educational Material and information concerning:

- (i) the effects of drugs and alcohol on an individual's health, work, and personal life;
- (ii) the signs and symptoms of a drug or alcohol problem; and
- (iii) the available methods of intervention and treatment when a problem does exist.

10.2 All questions concerning the educational materials provided by the CITY, or about the CITY's Policy or Administrative Procedure, should be directed to appropriate person(s) identified on the "Program Contacts" list which accompanies this Administrative Procedure.

11.0 QUALITY ASSURANCE/QUALITY CONTROL

11.1 As provided in 49 CFR part 40, the CITY will submit, or cause to be submitted, three blind performance test specimens for each 100 employee specimens it submits, up to a maximum of 100 blind performance test specimens submitted per quarter. These specimens will be either blank samples (containing no drugs) or two separately labeled portions of a specimen from the same non-covered employee.

11.2 In the event of a false positive error, the CITY shall follow, or cause to be followed, the procedures mandated by 49 CFR §40.31.

12.0 PROGRAM CONFIDENTIALITY

12.1 The results of all individual drug and alcohol tests will be kept in a secure location with controlled access.

12.2 All individual test results will be considered confidential. The release of an individual employee's results will only be given in accordance with an individual employee's written authorization, or as is otherwise required by DOT's regulations, or by other applicable federal or state law.

12.3 The CITY shall:

- (i) maintain records of its alcohol misuse and Drug use prevention programs;
- (ii) prepare, maintain and report a summary of the results of its testing programs; and
- (iii) ensure that access to such records may only be obtained through the methods outlined in the federal Regulations, as provided in 49 CFR part 382, subpart D.

13.0 PROGRAM CONTACTS AND OTHER INFORMATION

13.1 The CITY's Medical Review Officer (MRO) is:

**MRO Express
Dr. Philip Lopez
3501 SW 185th Avenue
Miramar, FL 33029
Phone: (954) 592-3680 Fax: (954) 450-9495**

13.2 The CITY's Substance Abuse Professional (SAP) is:

**Sharon Harris, SAFE
City Hall, Room 204
9 Glen Street
Glen Cove, New York 11542
(516) 676-2859**

13.3 The CITY employee(s) to contact with questions is:

**John Charon, Personnel Officer
City Hall, Room 203
9 Glen Street
Glen Cove, New York 11542
(516) 676-4814**

13.4 CITY of Glen Cove Job Titles Covered By This Policy And Administrative Procedure*:

- (i) Laborers
- (ii) Light Equipment Operators
- (iii) Motor Equipment Operators
- (iv) Bus Drivers
- (v) Automotive Mechanics
- (vi) Working Supervisors
- (vii) Harbor Master
- (viii) Maintenance Mason
- (ix) Recycler
- (x) Traffic Marker
- (xi) Tree Trimmer
- (xii) Welder

*Not all employees in these titles perform safety-sensitive functions – only employees who perform safety-sensitive functions will be subject to testing. Non-safety-sensitive employees are NOT permitted, for any reason, to operate CDL vehicles, or perform safety-sensitive functions, even when they may otherwise lawfully be allowed to do so, such as on moving a commercial vehicle on CITY property.

NOTE: THIS POLICY AND PROCEDURE APPLIES TO ALL EMPLOYEES PERFORMING DOT COVERED SAFETY-SENSITIVE WORK, WHETHER FULL-TIME, PART-TIME, SEASONAL OR TEMPORARY. SOME EMPLOYEES PERFORMING DOT COVERED SAFETY-SENSITIVE WORK MAY NOT BE REQUIRED TO POSSE A CDL, BUT ARE STILL SUBJECT TO THE PROVISIONS OF THIS POLICY AND PROCEDURE. TITLES MAY BE ADDED OR DELETED AS DETERMINED BY THE MAYOR. DEPARTMENT HEADS WITH QUESTIONS REGARDING COVERED TITLES AND POSITIONS SHOULD CONTACT THE DIRECTOR OF PERSONNEL. EMPLOYEES WITH QUESTIONS REGARDING COVERED TITLES AND POSITIONS MAY CONTACT THEIR CSEA UNION REPRESENTATIVE OR THE PERSON(S) LISTED ABOVE.

Employee Acknowledgment -- Employee Copy

IMPORTANT: This form **MUST** be completed and returned to the employee's immediate supervisor, who shall forward it to his/her Department head without delay (job applicants shall forward this form to the Director of Personnel). **THE COMPLETION AND RETURN OF THIS FORM IS A TERM AND CONDITION OF EMPLOYMENT IN A COVERED JOB TITLE OR POSITION.** Refusal and/or failure to complete and/or return this form shall be cause to seek removal of a covered employee from his/her covered job title, or to deny employment in a covered job title to an applicant for a position in a covered job title.

I, the undersigned employee (or job applicant) of the City of Glen Cove, hereby acknowledge that I have been given, and have read, a copy of the City's Policy and Administrative Procedure regarding the Omnibus Transportation Employees Testing Act of 1991 and that I understand the Policy and Administrative Procedure. The bottom of the Policy and each page of the Administrative Procedure contained a date and/or revision number as indicated on the bottom of each page, and all pages were numbered (where applicable) and were included. I have been given an opportunity to ask questions and receive answers regarding the Policy and Administrative Procedure prior to signing this acknowledgment. I hereby authorize previous employers to release information, as required by federal regulation, regarding my employment and required testing and any related treatment. I hereby accept and agree to abide by the terms and conditions set forth in the Policy and Administrative Procedure.

EMPLOYEE COMPLETES THIS PORTION: (Job applicants must complete all information except items 3, 4 and 5, and must return this completed form with their job application)

1- Employee's name: _____

2-Employee's Social Security Number: - - -

3-Employee's Job Title: _____ Salary Grade: _____

4-Employee'sDepartment:

5-Employee's Division:

6-Employee's Signature:

7-Date Signed:

SUPERVISOR (or Director of Personnel) COMPLETES THIS PORTION:

I acknowledge that I received this form from the above described employee.

Name of Supervisor:

Supervisor's Job Title:

1

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Employee Acknowledgment

IMPORTANT: This form **MUST** be completed and returned to the employee's immediate supervisor, who shall forward it to his/her Department head without delay (job applicants shall forward this form to the Director of Personnel). **THE COMPLETION AND RETURN OF THIS FORM 15 A TERM AND CONDITION OF EMPLOYMENT IN A COVERED JOB TITLE OR POSITION.** Refusal and/or failure to complete and/or return this form shall be cause to seek removal of a covered employee from his/her covered job title, or to deny employment in a covered job title to an applicant for a position in a covered job title.

I, the undersigned employee (or job applicant) of the City of Glen Cove, hereby acknowledge that I have been given, and have read, a copy of the City's Policy and Administrative Procedure regarding the Omnibus Transportation Employees Testing Act of 1991 and that I understand the Policy and Administrative Procedure. The bottom of the Policy and each page of the Administrative Procedure contained a date and/or revision number as indicated on the bottom of each page, and all pages were numbered (where applicable) and were included. I have been given an opportunity to ask questions and receive answers regarding the Policy and Administrative Procedure prior to signing this acknowledgment. I hereby authorize previous employers to release information, as required by federal regulation, regarding my employment and required testing and any related treatment. I hereby accept and agree to abide by the terms and conditions set forth in the Policy and Administrative Procedure.

EMPLOYEE COMPLETES THIS PORTION: (Job applicants must complete all information except items 3, 4 and 5, and must return this completed form with their job application)

1- Employee's name: _____
Last Name _____ First Name _____ Initial _____

2-Employee's Social Security Number: _____ - _____ - _____

3-Employee's Job Title: _____ Salary Grade: _____

4-Employee's Department: _____

5-Employee's Division: _____

6-Employee's Signature: _____

7-Date Signed: _____

SUPERVISOR (or Director of Personnel) COMPLETES THIS PORTION:
I acknowledge that I received this form from the above described employee.

Name of Supervisor: _____
(print legibly)
Supervisor's Job Title: _____

Supervisor's Signature: _____ Date: _____

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