

# **Substance Abuse Policy for Non-Union Employees**

## **Section 1 Purpose and Responsibility**

The Drug Program Coordinator shall plan for, implement, administer, coordinate and evaluate the City of Delaware's Substance Abuse Policy, including any testing and education programs developed and shall ensure City of Delaware's compliance with provisions of the federal Drug-Free Workplace Act of 1988 and 49 CFR Parts 40, 382, 391, 392 and 395 and any subsequent amendments for the safety of Delaware City's employees and the general public.

## **Section 2 Scope**

This policy applies to all non-union employees of the City of Delaware.

## **Section 3 Distribution**

This policy is distributed to all Appointing Authorities, Office, Departments, and Employees of the City of Delaware.

## **Section 4 Definitions of Terms**

For purposes of this policy:

- A "Abuse" means:
  - 1 Any use of an illegal drug;
  - 2 Intentional misuse of any over-the-counter drug in cases where such misuse impairs job performance or behavior;
  - 3 Use of any prescription drug in a manner inconsistent with its medically prescribed intended use, or under circumstances where use is not permitted;
  - 4 Use of alcohol where such use impairs job performance or behavior; and
  - 5 Intentional and inappropriate use of any substance, legal or illegal, which impairs job performance or behavior.
- B "Agency" means any office, department, commission, board, institution or facility under the direction of the City of Delaware.
- C "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or any other alcohol defined in 49 CFR §382.107.

- D "Alcohol test" means, evidential breath testing, or non-evidential saliva testing, as defined in 49 CFR Parts 40 and 382, to determine the concentration of alcohol in an employee's system.
- E "Applicant testing" means testing of final applicants for position in City service who appear to have tentatively met all relevant employment criteria but have not been formally offered employment with the City.
- F "Appointing Authority" means the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, institution, or facility.
- G "Chain of Custody" means procedures to account for the integrity of each specimen for testing by tracking its storage from point of collection to final disposition.
- H "Collection Site" means a place designated by the Human Resources Director where individuals present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs or alcohol.
- I "Confirmation Test" means a second test or analytical procedure that identifies the presence of a specific drug or metabolite or provides quantitative data of alcohol concentration. For controlled substances the confirmation method must utilize gas chromatography/mass spectrometry (GC/MS).
- J "Controlled Substance" means those drugs defined in 49 CFR § 382.107 (marijuana, cocaine, opiates, amphetamines, phencyclidine).
- K "Drug" means:
- 1 Any drug which, under the Federal Food, Drug and Cosmetic Act, federal narcotic law, Sections 3715.01 to 3715.72, or Chapter 3719 of the Ohio Revised Code, may be dispensed only upon a prescription;
  - 2 Any drug which contains a Schedule V controlled substance and which is exempt from Chapter 3719 of the Ohio Revised Code, or to which such chapter does not apply; or
  - 3 Any other substance defined in Section 4729.02 of the Ohio Revised Code.
- L "Drug Program Coordinator" means the person responsible for implementing, directing and managing the substance abuse policy within the City. The Drug Program Coordinator serves as the City's principal contact with the testing laboratory and maintains the effective operation of the policy within the City.
- M "Drug Test" means a chemical test administered for the purpose of determining the presence or absence of a controlled substance in a person's bodily fluids.
- N "Employee" means any person in a position subject to appointment, removal, promotion, or reduction by an appointing officer who is paid by warrant of the City.
- O "Employee Assistance Program" means the program through which employees may secure confidential counseling for personal behavior and/or health issues, including assessment of drug and alcohol dependency and rehabilitation.
- P "Follow-up Test" means drug and/or alcohol test requirements for employees referred to a counseling or rehabilitation program, such as those recommended by

or associated with the Employee Assistance Program, who are identified as needing assistance in resolving alcohol misuse and/or controlled substance use problems. Such employees shall undergo unannounced follow-up testing for a time period and frequency stipulated by the Drug Program Coordinator. Such testing also may be in addition to testing which may be imposed as a component of the counseling or rehabilitation program itself.

Q "Illegal Drug" means any controlled substance as defined in this policy, and any drug defined in this policy that is used, possessed or distributed (1) for purposes other than as prescribed or manufactured; or (2) in violation of any federal, state or local law.

R "Initial Test" means a immunoassay screen to determine the presence or absence of controlled substances or their metabolites in specimens, and an analytical procedure to determine alcohol concentration in an employee's body.

S "Laboratory" means a facility authorized under 49 CFR Part 40 to perform testing for drugs or alcohol for employees of any office, department, commission, board, institution or facility of City government.

T "Medical Review Officer" (MRO) means a person who is a licensed physician and a certified MRO with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all confirmed positive test results together with an employee's medical history and other relevant biomedical information.

U "City of Delaware Substance Abuse Policy" means the implementation of drug-free workplace programs to ensure the City of Delaware's compliance with provisions of the federal Drug-Free Workplace Act of 1988, the federal 49 CFR Parts 40, 382, 391, 392, and 395, and/or subsequent amendments.

V "Positive Test Result" means a confirmed drug or alcohol test result which indicates the presence of a controlled substance, or of alcohol, at a level prohibited under the Department of Transportation's ("DOT's") controlled substance and alcohol testing regulations, 49 CFR Parts 40 and 382.

W "Prescription" means a written or oral order for a drug for the use of a particular person given by a practitioner in the course of professional practice and in accordance with the regulations promulgated by federal, state and/or local laws.

X "Reasonable suspicion testing" means alcohol or controlled substance testing based on a belief that an employee is under the influence of, or is using, possessing, or distributing controlled substances or alcohol, or is otherwise in violation of the City's policy. Such a belief may be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

- 1 Observable phenomena, such as direct observation of drug use and/or the appearance, behavior, speech, body odor or physical symptoms or manifestations of using or being under the influence of a drug or alcohol;
- 2 Abnormal conduct or erratic behavior while at work, absenteeism, tardiness, or deterioration in work performance;
- 3 A report of drug use provided by reliable and credible sources;

- 4 Evidence that an individual has tampered with a drug or alcohol test during his/her employment;
  - 5 Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of alcohol and/or other drugs while working, or while on the employer's premises or operating the employer's vehicle, machinery, or equipment;
  - 6 The occurrence of an incident involving an employee's on the job actions which has resulted in the personal injury of any person, or in which property damage has occurred, and any of one (1) through five (5) above apply.
- Y "Specimen" means urine, breath, saliva or blood obtained from the human body.
  - Z "Refusal" means conduct that obstructs or delays compliance with any provision of this policy (including any part of the testing process), failure to provide adequate breath for alcohol testing without a valid medical explanation, or failure to provide an adequate urine sample not due to a genuine inability.
  - AA "Safety sensitive" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for work, and includes the functions listed in 49 CFR § 382.107.
  - AB "Workplace" means a City-owned or utilized premise for official City business or any place where official City business is conducted.

Section 5 Policy.

A. Voluntary Compliance

Employees who -- before committing a violation of this policy -- voluntarily disclose to their employer that they have a drug and alcohol problem, will be offered confidential assistance in contacting counseling and treatment programs and provided information about any available insurance coverage or benefits. Depending on the nature of their problem, their job duties, and work history, such employees may be placed on unpaid leaves of absence, transferred to non-safety-sensitive jobs, and/or otherwise reasonably accommodated as may be required by law. Such employees shall be required to document to the City's satisfaction their successful completion of, or participation in, an appropriate, supervised treatment program. Such employees also may be required to comply with other appropriate conditions of treatment and/or continued employment as the City may determine, including, but not limited to, agreeing to take and pass drug and/or alcohol tests at any time or during a specified period of time as may be requested by City of Delaware.

If, at any time after voluntarily coming forward under this provision, should said employee violate any provision of this policy, he/she will become subject to the disciplinary consequences as defined in this policy .

B. Prohibited Conduct.

The following shall be considered "prohibited conduct" for purposes of this policy:

- No employee shall report for duty or remain on duty while having an alcohol concentration of .04 or greater.
- No employee shall be on duty or operate a motor vehicle while possessing alcohol unless the alcohol is manifested and transported as part of a shipment.
- No employee shall use alcohol while performing safety-sensitive functions.
- No employee shall perform safety-sensitive functions within four (4) hours after using alcohol.
- No employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.
- No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.
- No employee shall report for duty or remain on duty when the employee possesses or uses any controlled substance, except when possession or use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform his/her job and/or operate a motor vehicle.

If an employee engages in prohibited conduct, the employee is not qualified to perform a safety-sensitive position and/or drive a motor vehicle. Such employee shall be immediately removed from service and will be subject to the disciplinary consequences set forth in this policy.

C. Alcohol Testing Techniques and Methods.

The City of Delaware will perform alcohol testing using a device that is on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL) and meets the DOT's testing requirements. This may be a breath testing device or a saliva-based testing device provided through a vendor or agent. The device will be operated by a technician who is certified and trained on the specific device he or she will be operating. If directed to submit to alcohol testing, the employee shall report to the alcohol testing site as notified by the City. The employee shall follow all instructions given by the alcohol technician.

As applicable, any initial test indicating a blood alcohol concentration (BAC) of .02 or greater will be confirmed on an evidential breath testing device (EBT) operated by a breath alcohol technician (BAT). The confirmation test should be performed no sooner than 15 minutes and no later than 30 minutes following the completion of the initial test. In the event the confirmation test indicates a BAC of .02 to .0399, the employee shall be removed from duty for 24 hours or until his/her next scheduled on-duty time, whichever is longer. Employees with tests indicating a BAC of .04 or greater are considered to have engaged in prohibited conduct, which subjects them to the disciplinary consequences set forth in this policy. With respect to timing, all alcohol tests shall be performed just prior to, during, or just after duty.

- 1 All procedures and protocols for collection and testing of an employee's breath or saliva for alcohol shall conform to the methods and procedures set forth in this policy or in DOT regulations.
- 2 Test results shall be reported to the Medical Review Officer (MRO) within twenty-four hours of the testing procedure.
- 3 The employee assistance program shall provide to the Drug Program Coordinator a monthly statistical summary of all alcohol testing information including the number of employees tested and the results of that testing. This information should be forwarded no later than fourteen calendar days after the end of the month covered by the summary.

D. Drug Testing Techniques and Methods.

Drug testing normally will be performed through urinalysis. Urinalysis will test for the presence of drugs and/or metabolites of the following controlled substances: (1) marijuana; (2) cocaine; (3) opiates; (4) amphetamines; and (5) phencyclidine (PCP).

The urinalysis procedure starts with the collection of a urine specimen. Urine specimens will be submitted to a SAMHSA-certified laboratory for testing. As part of the collection process, the specimen provided will be split into two vials: a primary vial and a secondary vial. The SAMHSA-certified laboratory will perform initial screenings on all primary vials. In the event that the primary specimen tests positive, a confirmation test of that specimen will be performed before being reported by the laboratory to the MRO as a positive.

All laboratory results will be reported by the laboratory to a Medical Review Officer (MRO) designated by the City of Delaware. Negative test results shall be reported by the MRO to the City. Before reporting a positive test result to the City, the MRO will attempt to contact the employee to discuss the test result. If the MRO is unable to contact the employee directly, the MRO will contact the City management official designated in advance by the City, who shall, in turn,

contact the employee and direct the employee to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day. In the MRO's sole discretion, a determination will be made whether a result is positive or negative. If, after failing to contact the MRO after 5 days, or if the employee cannot be contacted at all within 30 days, the MRO may verify the test as positive.

Pursuant to DOT regulations, individual test results will be released to the City of Delaware and will be kept strictly confidential unless consent for the release of the test results has been obtained. Any individual who has submitted to drug or alcohol testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.

An individual testing positive may make a request of the MRO to have the secondary vial tested. The secondary vial must be tested by a different SAMHSA-certified lab than tested the primary specimen. The individual making the request for a test of the second specimen must pre-pay all costs associated with the test. The request for testing of a secondary specimen is timely only if it is made to the MRO within 72 hours of the individual being sent notice of a positive test result.

- 1 The initial drug testing protocol for City employees and applicants for City employment shall use an assay technique which SAMHSA requires. The initial cutoff levels and the drug panel for testing shall meet National Institute On Drug Abuse criteria to determine whether specimens are negative for the following five drugs or classes or drugs:

DRUG CLASS	INITIAL TEST LEVEL (ng/ml)
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	300
Phencyclidine	25
Amphetamines	1,000

\*25 ng/ml if immunoassay specific for free morphine.

- 2 These test levels and initial test methods shall be subject to change by the City of Delaware if advances in technology, changes in regulations or other consideration warrant identification of these substances at other concentrations. Initial test methods and test levels for other drugs meeting certification criteria of the National Institute On Drug Abuse shall be added to the testing protocol as deemed necessary by the Drug Program Coordinator.

E. Confirmatory Testing.

- 1 All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed below:

DRUG CLASS	CONFIRMATORY TEST LEVEL (ng/ml)
Marijuana metabolites	15
Cocaine metabolites	150
Opiate: Morphine Codeine	*300 *300
Phencyclidine	25
Amphetamines: Amphetamine Methamphetamine	500 500

- 2 All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value."
- 3 Confirmatory test levels shall be subject to change if advances in technology, changes in regulations, or other considerations warrant identification of these substances at other concentrations. Confirmatory test methods and testing levels for other drugs meeting certification criteria of the National Institute On Drug Abuse shall be added to the testing protocol as deemed necessary by the Drug Program Coordinator.

F. Collection and Handling of Specimens

The testing laboratory and any collection facility with which it is affiliated are responsible for conducting specimen collection and handling for drug and alcohol testing pursuant to 49 CFR Parts 40 and 382 of the federal Department of Transportation's regulations. Employees directed to submit to a drug and/or alcohol test must fully cooperate with the testing process, and comply with all specimen collection and chain of custody procedures and requirements, as a condition of continued employment. Employees who fail or refuse to do so will be subject to the disciplinary consequences set forth in this policy.

G. Reporting of Test Results

- 1 The laboratory shall report test results to the MRO. All test results shall be certified as accurate by the responsible person at the laboratory. Results should not be transmitted by telephone, and transmission by other electronic means (computer, teleprinter or facsimile) shall be permissible. All specimens which test negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific drug or drugs.
- 2 The Medical Review Officer may, at his/her discretion, request that the laboratory provide quantitation of test results. The Medical Review Officer will not normally report quantitation of test results, but will only report whether the test was positive or negative unless prior written approval to provide other information is authorized by the Drug Program Coordinator.
- 3 The employee assistance program shall provide to the Drug Program Coordinator a monthly statistical summary of urinalysis testing information or any other documentation pertaining to the testing process as requested by the Drug Program Coordinator. This information should be forwarded by registered or certified mail no later than fourteen calendar days after the end of the month covered by the summary.

## H. Records and Specimen Retention

- 1 Unless otherwise instructed in writing by the Drug Program Coordinator, all records pertaining to a given specimen should be maintained by the laboratory for a minimum of two years.
- 2 All positive urine specimens shall be routinely retained in frozen storage (-20 degrees C or less) so as to be available for any necessary retest for a period of one year, unless authorized otherwise in writing by the Drug Program Coordinator.

## I. Applicant Testing.

- 1 Every application for employment with the City of Delaware service shall state: "All applicants tentatively selected for this position will be required to submit to urinalysis to test for illegal drug use prior to appointments. An applicant with a positive test shall not be offered employment."
- 2 Each applicant shall be notified that appointment to the position will be contingent upon a negative test result and the City's final overall assessment of the applicant for employment with the City. Failure of the vacancy announcement to contain this statement shall not preclude applicant testing and the City's final overall assessment.
- 3 The Drug Program Coordinator shall direct applicants to the appropriate collection site. The test must be undertaken as soon after notification as possible. A driver/applicant is not required to submit to a urine drug test if (1) the City of Delaware can verify that the driver has participated in a valid drug testing program within the preceding thirty (30) days; (2) while participating in that program, was either tested within the past six (6) months or participated in a random selection program for the previous twelve (12) months; and (3) no prior employer has knowledge that the driver violated any part of the regulations within the last six (6) months.
- 4 Applicants shall be advised of the opportunity to offer an explanation or submit medical documentation of legally prescribed medications which may explain a positive test result. Such information will be reviewed only by the Medical Review Officer in conjunction with his/her determination of the validity of a positive confirmatory test result.
- 5 Any office/department of City government shall decline to extend a final offer of employment to any applicant with a verified positive test result or who refuses to submit to testing. Such applicant will not be reconsidered for City employment for a period of one year.

6 DOT regulations may require that the City of Delaware obtain certain drug and alcohol testing records from employee's previous employers for the previous two years. The City may verify that no prior employer of the employee has records indicating a violations of any DOT rule pertaining to controlled substance or alcohol use within the previous two (2) years. As a condition to employment, the employee shall provide the City with a written authorization for all previous employers within the past two years to release such drug and alcohol testing records.

J. Reasonable Suspicion Testing

1 Where there is reasonable suspicion to believe that an employee, when appearing for duty or on the job, is using, possessing or under in influence of, or that his/her job performance or behavior is impaired by, alcohol or a controlled substance, or if he/she is otherwise exhibiting conduct or behavior that falls within this policy's "reasonable suspicion testing" definition, the employee may be required to submit to drug and/or alcohol testing.

2 As applicable, reasonable suspicion will be assessed by at least.

(1) one supervisor trained in compliance with 49 CFR §382.603;

3 Reasonable suspicion testing shall also include incident-based accident or unsafe practice testing. Such testing may be required of employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to themselves, to others, or overall operations. Such incident-based testing can also be for conditions and situations and according to procedures prescribed in the section below entitled, "Post-Accident Testing."

4 The employee shall be asked to provide the urine sample or submit to a breath or saliva test for alcohol in accordance with criteria delineated in this policy.

5 The City will endeavor to train supervisors and managers properly in accordance with §382.603 to address the abuse of alcohol or other drugs by employees, to recognize facts that give rise to reasonable suspicion, and to document facts and circumstances of a finding of reasonable suspicion as prescribed in this policy. Failure to receive such training shall not, however, invalidate otherwise proper reasonable suspicion testing.

6 Employees shall be given the opportunity to offer an explanation or submit medical documentation of legally prescribed medications or exposure to toxic substances which may explain a positive test result. Such information shall be reviewed only by the Medical Review Officer in conjunction with his/her determination of the

validity of a positive confirmatory test and shall be released to the employer only to explain a test result.

K. Random Testing

- 1 All employees to whom this policy applies are subject to random testing at any time during working hours.
- 2 Employees to be tested will be selected using a computer-based random selection.
- 3 The number of such tests per calendar year shall equal or exceed:
  - (1) 50% for illegal drugs
  - (2) 10% for alcoholof the average number of employment positions covered by this policy and shall be spread throughout the year as determined by the City.
4. No supervisor, official, and/or manager shall have any control over the probability of an individual's selection for random testing. Random selection, by its very nature, may result in employees being selected in successive random selections or selected more than once in a calendar year. Alternatively, some employees may not be selected in a calendar year.
- 5 A City official shall notify an employee when that employee is selected. Once notified, every work-related action the employee takes must lead to a collection. If the employee engages in conduct that does not lead to a collection as soon as possible after notification, such conduct may be considered a refusal to test and will subject the employee to the disciplinary consequences set forth in this policy. However, employees who, for legitimate reasons, are unavailable on the day of their selection shall be returned to the selection pool.
- 6 Employees shall be given the opportunity to offer an explanation or submit medical documentation of legally prescribed medications or exposure to toxic substances which may explain a positive test result. Such information shall be reviewed only by the Medical Review Officer in conjunction with his/her determination of the validity of a positive confirmatory test and shall be released to the employer only to explain a test result.

L. Post-Accident Testing.

An employee must submit to drug and alcohol testing any time he or she is involved in an accident where 1) a fatality is involved; or 2) the employee receives a citation for a moving violation arising from the accident, and any party involved requires immediate treatment for an injury away from the accident scene, or if any vehicle involved incurs "disabling damage" (i.e., must be towed away). Following any accident, the driver must contact the City of Delaware as soon as possible. If the employee previously has been presented with an information card setting forth

certain instructions for post-accident drug and alcohol testing, the employee shall follow the instructions contained on the information card as well as any additional instructions from the City or its representatives.

Any time a post-accident drug or alcohol test is required, it must be performed as soon as possible following the accident. If no alcohol test can be made within eight (8) hours, attempts to perform an alcohol test should cease. If no urine collection can be obtained for purposes of post-accident drug testing within thirty-two (32) hours, attempts to make such collection should cease.

In the event that federal, state, or local officials, following an accident, conduct breath or blood tests for the use of alcohol, and/or urine tests for the use of controlled substances, these tests may meet the requirements of this section, provided the tests conform to applicable federal, state, or local requirements. The City of Delaware may request testing documentation from such officials and/or the persons or entities who performed the collection and testing. If applicable, the City may ask the employee to

of any SAP evaluation or prescribed treatment shall be borne by the employee. Also, the City cannot guarantee or promise a position to the employee if or when he/she regains qualified status.

M. Finding of Employee Alcohol and/or Drug Use and Disciplinary Consequences.

1 Employees who engage in prohibited conduct or otherwise violate any provision of this policy will be immediately removed from driving a motor vehicle or performing any safety-sensitive function. Such employee will also be subject to disciplinary action, up to and including immediate termination, as determined by the City. The severity of the action chosen will depend on the facts and circumstances of each case. In every case where an immediate termination does not occur, the employee will receive a minimum thirty day unpaid suspension from work.

2 An employee may be found in violation of this policy on the basis of any available evidence including, but not limited to:

- a Direct observation;
- b A refusal or failure to comply with any requirement under this policy
- c Evidence obtained on the basis of a co-worker complaint;
- d Evidence obtained from a drug or alcohol-related

- b The employee will be re-tested for alcohol and/or drug use upon completion of his/her evaluation by the SAP and prescribed treatment or the thirty day suspension, whichever is later. In addition the employee will be subject to follow-up tests as part of the employee's rehabilitation. These unannounced tests cannot be less frequent than six in the first twelve months. In no event will the employee be allowed to return to the workplace prior to being evaluated by a SAP and completing any prescribed treatment.
  - c If the employee requests to have the secondary vial tested, and the retest results prove to be negative, such employee's non-paid suspension shall be changed to a paid leave of absence.
  - d In the event that an employee's employment was not terminated in the first occasion of a confirmed positive alcohol or drug test, on any second occasion in which the employee has a confirmed positive alcohol or drug test, the employee will be discharged from his/her position with the City of Delaware
- 5 Any refusal to submit to an alcohol and/or drug test shall be deemed as having a confirmed positive test result as stipulated in paragraph (D) of this section. Refusal to submit to a test will be grounds for refusal to hire driver/applicants.
- 6 Attempts by an employee to alter, substitute, or falsify any specimen provided for drug or alcohol testing shall subject the employee to immediate termination.
- 7 Nothing herein is intended to limit the rights of employees under applicable collective bargaining agreements.

N. Disciplinary Action: Federal Drug-Free Workplace Act of 1988.  
 As required by the Federal Drug-Free Workplace Act of 1988, each employee in an agency receiving federal grant funds shall be required to notify his/her agency head or the agency head's designee, within five calendar days after he/she is convicted of a violation of any federal or state criminal drug statute, provided such conviction arose from an occurrence at the workplace or any location where the employee was working at the time of the incident which led to the conviction. Each agency shall be required to notify any federal agency with which it has a contract or grant, within ten calendar days after receiving notice from the employee, of the fact of such conviction. Any employee's failure to report such a conviction will subject such employee to disciplinary action, up to and including termination. An agency head or his/her designee may send the employee to the employee assistance program for referral and treatment,

or may take appropriate personnel action against such an employee, up to and including termination. Whatever the case, such action shall be taken within thirty calendar days of the employer's notification of the employee's conviction.

O. Appeal of Drug Test Results.

- 1 Employees who have a confirmed positive drug test result may ask to have the secondary vial tested within seventy-two hours of receiving the initial test result. Such requests shall be in writing, signed, and dated, and shall be presented to the immediate supervisor of the employee. The supervisor will immediately (within 24 hours) forward such request to the Drug Program Coordinator. The laboratory performing such a retest shall be certified by the National Institute On Drug Abuse.
- 2 Any such retest shall be at the expense of the employee. In the event that the event retest results prove to be negative, the expense of the retesting will be born by the City of Delaware.
- 3 An employee request for a retest shall not delay the imposition of appropriate disciplinary action or referral to an alcohol and/or drug abuse rehabilitation program.

P. Drug-Free Workplace Training/Education.

- 1 The Drug Program Coordinator shall provide, or arrange to have provided, information and training programs concerning the impact of alcohol and other drug abuse on job performance, as well as information concerning the employee assistance program and any other resources available for employee assistance in dealing with a substance abuse problem.
- 2 All employees shall be furnished a copy of the City's substance abuse policy and testing procedures. The Drug Program Coordinator shall provide educational materials that explain the requirements of § 382.601, consequences of violating the regulations, and the employer's policies and procedures with the respect to meeting these requirements
- 3 All new employees shall be furnished a copy of such document and such procedures at the time of their orientation, but no later than thirty (30) calendar days from the first day of their employment.
- 4 The Drug Program Coordinator shall develop and implement, or arrange to have implemented, a training and education program for supervisors and managers to provide knowledge and skills essential for their recognizing and addressing alcohol and other drug abuse among employees and to facilitate their participation in the implementation and administration of drug and alcohol testing and other drug-free workplace programs within the agency in which they work. The City shall ensure that supervisors

designated to determine whether or not reasonable suspicion exists to require a driver to undergo testing under §382.307, receive at least 60 minutes of training on recognizing alcohol misuse, and receive at least 60 minutes of training on recognizing controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.