

Substance Abuse Program & Policy**1.4.2****PURPOSE**

It is the policy of the City of San José to maintain a safe, healthful and productive work environment for all employees. To that end the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job), which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or tends to undermine public confidence in the City's workforce.

This policy provides guidelines for self-referral and rehabilitation/treatment options for employees that may be experiencing a problem with alcohol and/or drug use and for-cause alcohol and/or drug testing for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of management and employees. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination.

In recognition of the serious duty entrusted to employees of the City, with knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of San José.

APPLICATION**A. Personnel**

- a. Full-time and permanent, benefited part-time employees in the following employee/bargaining units:
 - i. Association of Building, Mechanical and Electrical Inspectors (ABMEI)
 - ii. Association of Engineers and Architects (AEA), IFPTE, Local 21
 - iii. Association of Legal Professionals of San Jose (ALP)
 - iv. Association of Maintenance Supervisory Personnel (AMSP), IFPTE, Local 21
 - v. City Association of Management Personnel (CAMP), IFPTE, Local 21
 - vi. International Association of Firefighters, San Jose Firefighters Local 230 (IAFF)
 - vii. International Brotherhood of Electrical Workers (IBEW), Local 332
 - viii. Municipal Employees' Federation (MEF), AFSCME Local No. 101
 - ix. International Union of Operating Engineers (OE#3), Local No. 3
 - x. San José Police Officers' Association (POA)
 - xi. Executive Management and Professional Employees (Unit 99)
 - xii. All Unrepresented employees
- b. Unbenefited employees are subject to all rules and responsibilities of this policy, exclusive of benefits provided by applicable MOA/Compensation Summary. Please see applicable MOA/Compensation Summary for information regarding benefits.

B. Substances

- a. Alcohol;
- b. Illegal drugs; and

Substance Abuse Program & Policy**1.4.2**

- c. Prescription drugs and other substances which may impair an employee's ability to effectively perform the functions of the job.

POLICY

It is the policy of the City that employees:

- Shall not report to work under the influence of alcohol or drugs or exhibit symptoms of alcohol or drug use;
- While on duty shall not use, possess, sell or provide drugs or alcohol;
- Shall not have the ability to work or be on paid stand-by when impaired as a result of the use of alcohol or drugs.

An employee is required to notify his/her supervisor when any medications or drug he/she is taking could create an unsafe and dangerous situation.

In the event there are questions regarding an employee's ability to safely and effectively perform assigned duties when using such medications or drugs, clearance from the City physician will be required. If an employee is prescribed medication or drugs in relation to a work-related injury or illness, the doctor treating the employee for the work-related injury or illness shall provide the required clearance.

The City has established an Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees could contact their supervisors or the Department of Human Resources for additional information.

Employees reasonably believed to be under the influence of alcohol or drugs, as described under the Management Responsibilities and Guidelines Section, Paragraph B, shall be prevented from engaging in further work and shall be instructed to wait for a reasonable time until a Department designee can transport the employee from the worksite to home or an appropriate medical facility.

Violations of this policy should be grounds for disciplinary action, up to and including termination for serious or repeated infractions. Refusal to submit immediately to an alcohol and/or drug analysis, pursuant to this policy, when requested by management will constitute insubordination, which alone will form a basis for discipline.

RESPONSIBILITIES**Employee Responsibilities:**

- A. Not report to work while his/her ability to perform job duties is impaired due to alcohol or drug use;
- B. Not possess or use, or have the odor of alcohol or drugs on his/her breath during working hours while operating any City vehicle or equipment;

Substance Abuse Program & Policy**1.4.2**

- C. Not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty, or paid stand-by;
- D. Submit immediately to reasonable requests for alcohol and/or drugs analysis when requested by a designee of a Department Director and if in a bargaining unit, may request Union representation;
- E. Notify his/her supervisor, before operating City equipment, when taking any medications or drugs, prescription or non-prescription, which may create an unsafe or dangerous situation for the public or the employee's co-workers, including but not limited to valium, muscle relaxants, and painkillers, and
- F. Provide within 24 hours of request a current valid prescription for any drug or medication identified when a drug screen/analysis is positive. The prescription must be in the employee's name.

Management Responsibilities and Guidelines:

- A. Managers and supervisors are responsible for consistent enforcement of this policy, i.e., that refusal constitutes insubordination that will result in disciplinary action. Any supervisor who knowingly permits a violation of this policy by employees under his/her direct supervision shall be subject to disciplinary action.
- B. A Department Director or designee may request that an employee submit to a drug and/or alcohol analysis when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead a reasonable prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- 1. A pattern of documented abnormal or erratic behavior;
 - 2. Direct observation of drug or alcohol use; or information provided by a reliable and credible source that an employee has engaged in drug or alcohol use, the identity of which source shall be available to the employee and if employee is in a bargaining unit, the bargaining unit;
 - 3. Presence of the mental or physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
 - 4. A work related accident in conjunction with other facts which together support reasonable cause.
- C. Any manager or supervisor should immediately notify another supervisor to meet him/her to observe the employee's behavior prior to directing an employee to submit to a drug and/or alcohol analysis. If the employee is in a bargaining unit and requests Union representation,

Substance Abuse Program & Policy**1.4.2**

the employee will be allowed the opportunity to secure such representation. The process for directing an employee to submit to a drug and/or alcohol test is outlined below (numbers 1 - 7).

Additionally, if an employee believes an employee not under his/her supervision has a problem and should be tested or referred, he/she should contact the **Office of Employee Relations** who will notify the Department Director or designee. Should the Department Director or designee concur that the employee appears to be in violation of the policy, the following procedure shall immediately be applied:

1. The manager or supervisor shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.
2. Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the City's designated Employee Health Services or emergency room where a drug and/or alcohol test will be requested. If the incident occurs at other times when EHS is closed, complete the attached form and contact:

Alliance Occupational Medicine
Phone: (408) 642-4866

Alliance will arrange for the testing to occur at their office located at 2737 Walsh Ave., Santa Clara, CA 95051. After using this service, please notify EHS at the first available opportunity. Alliance is staffed by certified technicians. All test results will be treated as confidential and returned to EHS.

3. Any manager or supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon direction shall remind the employee of the requirements and consequences of this policy. The manager or supervisor should ask the employee to wait a reasonable time until an authorized City representative can transport the employee home.
 4. Managers and supervisors shall not physically search employees.
 5. Managers and supervisors shall notify the Police Department when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession.
 6. Managers and supervisors shall not confiscate, without consent, prescription drugs or medications from an employee who has a prescription.
 7. The employee will be informed of the requirement that he or she undergo testing in a confidential manner, by one of the supervisory employees who made the reasonable suspicion determination.
- D. A manager or supervisor may require an employee to attend an initial screening session with the Employee Assistance Program (EAP) as an alternative to drug or alcohol testing. The employee shall provide proof of attending the initial appointment. Failure to attend or to

Substance Abuse Program & Policy**1.4.2**

provide proof of such attendance may subject the employee to disciplinary action. Actual results of the initial screening shall be subject to disciplinary action. Actual results of the initial screening shall be subject to normal confidentiality provisions. The employee's decision to attend or not attend follow-up sessions shall be voluntary.

- E. Demands for drug or alcohol analysis by supervisors or managers, which are determined to be malicious or vexatious will not be tolerated and will subject the directing individual to disciplinary action.
- F. Results of Drug and/or Alcohol Analysis:
 - 1. Upon a negative result, the employee shall return to work if otherwise fit for duty. All records and documentation shall be preserved.
 - 2. If the test result is positive, the following shall apply:

First Offense

In an effort to encourage the employee to take responsibility for his/her problem, the first violation of this policy will result in a formal, mandatory referral to the **Employee Assistance Program (EAP)**, using the established referral procedures in addition to any disciplinary action the City may impose for violations of this policy. A written record of this referral will be maintained in a restricted confidential employee medical file. **EAP** will assess the employee's need for treatment. An employee declining to be evaluated by **EAP** may be subject to disciplinary action independent of any other misconduct.

Treatment will be offered to the employee on a voluntary basis for a plan approved by the **EAP** for the employee and the City will pay seventy percent (70%) of treatment costs, which are not covered by the employee's health insurance for one treatment program. The employee will pay the remaining thirty percent (30%) of treatment costs.

No disciplinary action will be imposed for refusal of treatment; however, misconduct including being under the influence of drugs and/or alcohol in the workplace and/or while on duty and/or while on standby or any action constituting a violation of this policy will continue to be subject to discipline, subject to applicable due process for City employees.

Second Offense

During an employee's career, a second opportunity for treatment may be offered in the event of a relapse. Discipline, which could result in termination, will be imposed for the second violation of this policy, subject to due process for City employees. If a second treatment program is allowed, the employee will be responsible for the cost. The employee may request a split sample be tested at another facility at City expense to provide a second independent result.

Confidentiality

Substance Abuse Program & Policy**1.4.2**

Laboratory reports or test results, if positive only, shall appear in an employee's confidential medical file. The reports or test results may be disclosed to a Department Director or designee and Human Resources Director on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information has been placed at issue in a formal dispute between the employer and employee, including employee discipline; (2) the information is to be used in administering this program; (3) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

Procedure: Drug Testing

The City of San Jose Drug Testing Procedures contains procedures for handling testing for drugs if the test is conducted by Employee Health Services during normal business hours. Tests required on nights or weekends will be handled in a medical facility determined by the City.

Presence of drugs in the employee's system will be reported as positive in the initial and confirmation test if the amount exceeds the minimum detection levels.

In addition to drug screening, alcohol level will be reported as positive if it is present at greater than or equal to 0.04g.

Substance Abuse Treatment

The City will make substance abuse treatment available to employees in the following way:

1. **Self Referral**
 - A. If an employee believes he or she has a substance abuse problem, he or she may make a confidential appointment with a counselor at **EAP**.
 - B. The counselor will evaluate the case and determine the appropriate level and type of treatment, if any. The **EAP** will approve a plan and facility. These decisions will be made jointly with the individual seeking treatment.
 - C. The counselor will notify the City by an employee code number that treatment and funding is authorized. Claims administration will be handled confidentially as are other health insurance claims.
2. **Formal Referrals**
 - A. If an employee's pattern of work behavior indicates a problem is potentially related to substance abuse, the supervisor may contact the **EAP** and define issues.
 - B. The employee will be advised to go to the **EAP** for evaluation. Any participation in treatment is voluntary.

Substance Abuse Program & Policy

1.4.2

- C. If the employee accepts treatment, the procedures for developing a plan and the payment of bills by the City are the same as for the person who self refers.

3. Positive Drug Test

- A. The first time an employee tests positive on a drug test, the Department Director or designee will contact the EAP and initiate a formal referral. An evaluation by the **EAP** is mandatory. Participation in treatment is voluntary.
- B. The employee will sign a release allowing the **EAP** to advise the City about whether the employee is participating in and cooperating with treatment. No information can be released about the problem or treatment.

4. Settlement of a Proposed Discipline

- A. If an employee has received a Notice of Intended Discipline for misconduct or job performance, either on or off the job, which has a substance abuse component, the City may agree to waive the discipline, if the employee will agree to and successfully comply with a treatment program.
- B. The specific terms of the agreement are determined on a case-by-case basis, including requiring the employee to submit to follow-up random drug and/or alcohol testing for a specified period of time. The intent, however, is not to relieve the employee of responsibility for his/her actions. It is to encourage maximum access to rehabilitation.

5. Funding

The City will pay seventy percent (70%) of treatment costs for a plan approved by the **EAP** for the employee, which are not covered by the employee's health insurance for one treatment program.

The employee will pay the remaining thirty percent (30%) of treatment costs.

Approved:

Approved:

/s/ Jennifer Schembri
Director of Employee Relations

March 13, 2019
Date

Approved for posting:

/s/ Jennifer Maguire
Assistant City Manager

March 13, 2019
Date

Substance Abuse Program & Policy**1.4.2****City of San José
Substance Abuse Program****SCOPE OF SERVICES**

1. Provide case management for chemical dependency problems of employees. This service is to include assessment, referral to high quality treatment facilities, precertification, and post-treatment case management.
2. Provide orientation to the services provided via programs coordinated through the City Training Program.

COMPONENTS**1. Assessment**

Covered employees may be self-referred to **Employee Assistant Program (EAP)** or referred by a supervisor from the City of San José. **EAP** will provide a clinical assessment for the most appropriate level of treatment (See Tracks A, B, C). Treatment options include:

Structured Inpatient Program: Inpatient facilities are licensed by the California Department of Health Services under two ratings:

- CDRH: Chemical Dependency Recovery Hospital located in an acute-care hospital.
- CDRS: Chemical Dependency Recovery Service, which is a free-standing residential facility.

Inpatient treatment may be required when a client has a lengthy history of abuse, is in an advanced stage dependency, has significant associated medical problems, or has little family support. This program would include detoxification waiting period.

Structured Outpatient Program: Outpatient facilities are not currently licensed. This treatment may be appropriate when a client is in the early or middle stages of dependency, is not resistant to treatment, and has family support.

Alcoholics Anonymous and Al-Anon: When chemical dependency is in an early stage, intensive participation in assistance programs, such as Alcoholics Anonymous or Al-Anon, in conjunction with supportive counseling at **EAP** may be appropriate. This approach has proven successful when a client is very strongly motivated to recover and has the support of the family.

2. Referral

Criteria have been developed at **EAP** to assist counselors in making a referral to the most appropriate level of treatment. Counselors are required to document referrals based on this criteria. The Clinical Coordinator reviews all alcohol/drug cases referred to treatment to ensure that the most cost effective recommendations are made. Referrals are made to quality programs to ensure the best chance of success.

3. Pre-certification

Substance Abuse Program & Policy**1.4.2**

Provide required pre-certification for coverage for all chemical dependency treatment. All covered employees requesting treatment should be directed to **EAP** prior to contacting a treatment facility. **EAP** will evaluate and refer the employee to a recommended facility and notify the City of San José of the referral for billing purposes. Should an emergency or a self admission be initiated, **EAP** will evaluate the employee within 48 hours and make a recommendation for continued treatment, and notify the City of San José Human Resources/Benefits Division. The following section outlines the steps **EAP** will take in this process.

4. Case Management

EAP counselors will coordinate the chemical dependency treatment of employees from initiation of treatment for up to one year after treatment. This is a critical component of recovery because treatment programs have little investment in clients once they have left their program. Quality case management can reduce the high risk of relapse and assist employees who have relapsed to resume the recovery process. Case management involves the following activities on the part of **EAP**.

- Act as liaison with the treatment program team and City of San José to monitor progress and facilitate the return to work.
- Participate in the development of a recovery plan with the client, the family and the treatment team.
- Continued counseling with client and family as necessary after discharge from treatment facility for one year.
- Should a relapse occur, provide crisis intervention and assistance in developing a stronger recovery plan to increase the involvement of employer, family, after-care team, etc.
- Provide relapse prevention education and therapy groups as appropriate.

5. Treatment Program

Treatment Program is considered to have the following components:

- Inpatient or outpatient treatment, or a combination of both;
- Treatment aftercare program;
- **EAP** case management for up to a year following treatment.

A treatment program is considered ended when all three of the above have been completed or when an employee terminates participation in any of the components.

Treatment will be covered if it is provided by one of **EAP**'s recommended facilities. If these facilities are not used, coverage will be limited to that normally covered under the employee's medical benefits plan.

Substance Abuse Program & Policy**1.4.2****6. Tracks**

There are three sets of procedures (tracks) for initiating chemical dependency treatment:

TRACK A: Assessment at EAP and Referral to Treatment facility

- A. Client is assessed at **EAP** with a chemical dependency problem requiring treatment. If the counselor is clear that outpatient or inpatient is required, the client may be sent directly to the recommended treatment facility and Step B would be initiated.

If the counselor desires, the client may be sent for additional assessment at a treatment facility. An outpatient assessment counselor may be utilized in these cases, especially if the client falls in a "gray area" regarding type of necessary treatment.

- B. Counselor obtains a release of information to authorize report of participation to the City of San José Human Resources/Benefits Division.
- C. Treatment program is contacted by telephone to notify them that the client is coming and that:
1. Treatment is pre-authorized for a specific number of days and the authorization form is mailed to them.
 2. The program should contact City of San José Human Resources/Benefits Division to confirm eligibility.
- D. Counselor fills out the pre-authorization form within one working day of admission and sends it to:
- a. Treatment facility
 - b. City of San José Human Resources/Benefits Division
 - c. Client (at home address)
- E. Counselor interaction with treatment program during treatment will be as follows:
- Outpatient: Telephone contact weekly for the duration of treatment. If necessary, schedule a meeting with the client and treatment counselor for post-treatment planning.
 - Inpatient: Meet with staff during the first fifteen (15) days of authorized treatment to determine the subsequent treatment course. Ask them to justify inpatient treatment beyond the fifteen (15) authorized days. Generally speaking, we will want to follow the recommendations of the program.
 - Keep in contact on a weekly basis via telephone or letter.
 - Attend discharge planning meeting at facility, and set-up first after-care appointment. Request that staff remind client to contact **EAP** therapist for appointment and that there

Substance Abuse Program & Policy**1.4.2**

are resources available to the employee via employee's bargaining unit, if employee is in a bargaining unit, or the **EAP**.

- F. Provide authorization for alterations or extension of treatment as necessary.
- G. Continue contact a minimum of once a month for the first six months. Monitor the client's progress and participation in aftercare. (**EAP** will verify that the facility has obtained a release of information from the client.) Identify indicators of potential relapse and refer to prevention group if appropriate. Make referrals for additional necessary services; i.e., family counseling, adult and child support groups, etc.
- H. The treatment program will be considered terminated when the client has successfully completed treatment, aftercare, and **EAP** case management, or:
 - a. If the client fails to attend aftercare.
 - No more than 2 unexcused absences.
 - Reasons for non-attendance must be cleared through **EAP** therapist.
 - b. Failure to attend follow-up counseling with **EAP** as agreed upon with their counselor.
- I. Notify City of San José Human Resources/ Benefits Division and the client, in writing, when the "treatment program" is terminated or completed.

TRACK B: Emergency Admission to Treatment Facility

- A. Employee presents to a treatment facility. Facility calls City of San José Human Resources/Benefits Division to determine eligibility and coverage.
- B. City of San José Human Resources/Benefits Division will confirm eligibility and notify the facility that authorization is required through **EAP** beyond the initial 48-hour period of coverage.
- C. **EAP** will visit the treatment facility and assist the client within the 48 hours.
- D. If it is determined the client needs inpatient treatment, and
 - The treatment facility is an **EAP** recommended facility, authorization will be given as outlined in Track A;
 - The treatment facility is not an **EAP** recommended facility, **EAP** will facilitate a transfer to a recommended facility.
- E. If outpatient treatment is recommended and client agrees with the treatment course, **EAP** will facilitate the referral and authorize as indicated in Track A.

TRACK C: Second Treatment

Substance Abuse Program & Policy**1.4.2**

- A. Eligible employees who have relapsed following an initial treatment would not be authorized for a second treatment without assessment by **EAP**. The procedures would be the same as for Track A or Track B, and approval would be based on professional judgment.

RECOMMENDED TREATMENT PROGRAM

Programs are evaluated on the basis of:

- Skill and experience of the staff
- Intensity of treatment model
- Use of group and family therapy
- Inclusion of a strong education component
- Availability of a well-structured aftercare program
- Involvement of the family in all phases of the program

Referrals to specific programs are made on the basis of:

- 1) Quality of program to meet the needs of the employee
- 2) Location in relation to employee, and
- 3) Cost.

EAP will assist in the negotiation of preferred provider rates at the City's request.

The City of San José will provide a head count of all covered employees to **EAP** each month. **EAP** will bill the City of San José each month the contracted rate per covered employee for all case management services. The City of San José will be responsible for the cost of all recommended treatment services for covered employees.