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  - h. Unwarranted negative performance evaluations (impacting promotional opportunities)
  - i. Increased scrutiny of employee's work
  - j. Refusing to restore lost leave time
  - k. Isolation or shunning an employee
4. Complaint Procedure: Any employee who believes that he or she is being retaliated against shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee. Where doing so is not practical, the employee may instead file a complaint with another supervisor, the City Attorney, City Administrator or Mayor.
  5. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and is subject to discipline up to an including termination.
  6. Monitoring to ensure that retaliation does not occur is the responsibility of the chief executive officer, supervisors and the appropriate internal investigative authority.
- d. Covered Individuals:** Individuals covered under this policy include employees and applicants for employment, volunteers, members of the public, elected officials and appointed boards and commissions.
- e. Supervisory Responsibilities:**
1. Each supervisor shall be responsible for preventing prohibited activities as defined above by:
    - a. Monitoring the work environment on a daily basis for signs that harassment or retaliation may be occurring;
    - b. Training and counseling all employees on what constitutes harassment, sexual harassment and retaliation, on the types of behavior prohibited by the City's policy and procedures for reporting and resolving complaints of harassment or retaliation.
    - c. Stopping any observation that may be considered harassment or retaliation, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision; and
    - d. Taking immediate action to prevent retaliation towards the complaining party or witnesses and to eliminate the hostile work environment where there has been a complaint of harassment, pending an investigation. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.
- f. Employee Responsibilities:**
1. Each employee of this agency is responsible for assisting in the prevention of harassment and retaliation through the following acts:
    - a. Refraining from participation in, or encouragement of actions that could be perceived as harassment or retaliation.
    - b. Reporting acts of harassment or retaliation to a supervisor; and
    - c. Encouraging any employee who confides that he or she is being harassed, discriminated or retaliated against to report these acts to a supervisor.
  2. Failure of any employee to carry out the above responsibilities will be considered in any performance evaluation or promotional decisions and may be grounds for discipline.
- g. Complaint Procedures**
1. Any employee encountering harassment or retaliation is encouraged but not required to inform the person that his or her actions are unwelcome and offensive. This initial contact can be either verbal or in writing. The employee is to document all incidents of harassment and retaliation in order to provide the fullest basis for investigation.
  2. Any employee who has unsuccessfully attempted to terminate the harassment or retaliation by means of Section 1 and who believes that he or she is being harassed shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee from further harassment or retaliation, and so that appropriate investigative and disciplinary measures may be initiated. Where doing so is not practical, the employee may instead file a complaint with another supervisor, Human Resources, the City Attorney, City Administrator or Mayor.





employment agency, or joint labor management committee controlling apprenticeship or other training or retraining, including on the job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, ***because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.***

- f. **Unwelcome:** Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome. The conduct may be unwelcome even though the victim voluntarily engages in it to avoid adverse treatment.
- g. **Verbal Harassment:** Sexual innuendoes, degrading or suggestive comments, repeated pressure for dates, jokes of a sexual nature, unwelcome sexual flirtations, degrading words used to describe an individual, obscene and/or graphic descriptions of an individual's body or threats that job, wages, assignments, promotions or working conditions could be affected if the individual does not agree to a suggested sexual relationship.







2. The crisis management team will take the following steps after notification of a threatening or violent situation:
  - a. Meet to discuss the incident and how to proceed.
  - b. Notify the Employee Assistance Program (EAP) representative.
  - c. Assign an Investigator.
  - d. Record the facts related to the incident.
  - e. Produce written findings and recommendations.
  - f. Submit these findings and recommendations to the city administrator for consideration.
3. After the recommendations have been considered and action authorized, the crisis management team is responsible for notifying the employee reporting the incident and his/her manager of the outcome of the investigation and actions authorized, within the line of state and federal privacy laws.
4. The crisis management team is also responsible for maintaining written documentation and investigator notes for a minimum of five (5) years.
5. As necessary, an incident debriefing session involving group or individual discussions will be held to support affected employees within the normal recovery process, usually within 24 to 72 hours following the incident. If an individual discussion is appropriate, the offer of a debriefing will be made and it is the employee's decision to accept or decline that offer.
6. The EAP Representative's role also includes the following:
  - a. Providing advice on the development or modification of policy procedures.
  - b. Participation in training, if recommended.
  - c. Critical incident stress management services.
  - d. Involvement in problem solving, information and referrals.
  - e. Support to any City employee, family members or managers that have sought EAP services.

**f. Hazard Prevention and Control**

1. Worksite analysis for existing or potential hazards for violence and appropriate preventive measures.
2. Engineering measures for physical changes to facilities to control access, including alarms, panic buttons, cameras, lighting, mirrors, secure areas, etc.
3. Administrative control measures and rules to prohibit violence, weapons, harassment, drugs and alcohol, etc.

**III. DEFINITIONS**

**a. Intimidation or Threat:**

1. Implication or expression of intent to inflict physical or emotional harm and/or actions that a reasonable person would perceive as a threat to personal safety or property.
2. Words or actions which cause a person to avoid social contact or to do or refrain from doing an act, including supervisory discipline, by inducing fear.
3. Threatening behaviors include, but are not limited to:
  - a. Non-verbal threats (i.e. glaring, staring with the intent to intimidate, or insulting gestures.
  - b. Mail, facsimile, messages, phone calls, e-mail or any correspondence deemed by a reasonable person to be intimidating, threatening or coercing.
  - c. Intimidating, stalking or coercing fellow employees on or off premises at any time, for any purpose, that in the employer's judgment affects the interest of the City.

**b. Violence:**

1. Any direct, conditional or implied threat, intentional act or other conduct which reasonably arouses fear, hostility, intimidation or the apprehension of harm in its target or witnesses, regardless of the location of such acts.
2. Workplace violence: Includes vandalism or the destruction of property at the worksite belonging to an employee, citizen, vendor or the City. The City property includes all items owned or leased.
3. Weapons: Includes any items which, in the manner it is used or intended to be used is likely to produce death, physical injury or property damage.





**CITY OF MONONA  
ASSAULT/THREAT REPORT**

**EMPLOYEE INFORMATION**

Name:	Telephone Numbers: Work: Home/Cell:
Employee Classification:	Supervisor Name:

**INCIDENT INFORMATION**

Name of Assaulter/Threatener:	Is he/she a City of Monona employee? YES NO
Date of Assault/Threat:	Location of Assault/Threat:

Assault/Threat was from (circle):    Personal Confrontation                      Telephone Conversation                      Other  
Please Explain:

Were there witnesses? Y N If yes, how many?\_\_\_\_\_. Provide information below and attach their statements. Determine if witnesses prefer to remain anonymous due to the concern of retaliation by the aggressor.

**WITNESSES** *(If additional witnesses, provide information on attached sheet of paper.)*

Witness 1 – Name	Telephone Number Work: Home:
Address (street, city, state, zip)	Witness Role (employee, customer)
Witness 2 – Name	Telephone Number: Work: Home:
Address (street, city, state, zip)	Witness Role (employee, customer)

**IF ASSAULTED**, answer the following questions:

1. What started the assault?
2. What did the person say when you were assaulted?
3. What was used to hit/strike/injure you?
4. What injuries did you sustain? Was medical treatment necessary?
5. How did the assault end?
6. How did you leave the assault site?













other employees, except when required by an urgent business matter (see Section C. 1. a. ii. of this policy).

### 3. Personal Use

- a. The City allows limited, occasional, or incidental personal use of its e-mail system during lunch, breaks or immediately before or after work, subject to the following conditions and restrictions:
- b. Personal use must not:
  - i. Involve any prohibited activity (see #4 below);
  - ii. Interfere with the productivity of the employee or his or her co-workers;
  - iii. Consume system resources or storage capacity on an ongoing basis; or
  - iv. Involve large file transfers or otherwise deplete system resources available for business purposes.
- c. Employees should not have any expectations of privacy with respect to personal e-mail sent or received on the City's e-mail system. Employees should delete personal messages as soon as they are read or replied to. Employees should not store copies of the personal messages they have sent. Because e-mail is not private, employees should avoid sending personal messages that are sensitive or confidential.

### 4. Prohibited Activities

- a. Employees are strictly prohibited from sending e-mail or otherwise using the e-mail system in connection with any of the following activities:
  - i. Engaging in personal business or entertainment on City time;
  - ii. Engaging in illegal, fraudulent, or malicious activities;
  - iii. Engaging in the unlawful use of the e-mail system as set forth in Section 947.0125 of the Wisconsin Statutes (Unlawful use of computerized communication systems);
  - iv. Sending or storing offensive, disruptive, obscene, or defamatory material. Materials which are considered offensive include, but are not limited to: any materials which contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, race, creed, color, sex, ancestry, religious or political beliefs, marital status, national origin or disability;
  - v. Annoying or harassing other individuals;
  - vi. Using another individual's account or identity without explicit authorization;
  - vii. Attempting to test, circumvent, or defeat security or auditing systems, without prior authorization;
  - viii. Accessing, retrieving or reading any e-mail messages sent to other individuals, without prior authorization from the City Administrator; or
  - ix. Permitting any unauthorized individual to access the City's e-mail system.

### 5. Confidential Information

- a. All employees are expected and required to protect the City's confidential information. Employees shall not transmit or forward confidential information to outside individuals or companies without the permission of their supervisor and the City's IT Specialist. See #7 Encryption.
- b. The City also requires its employees to use e-mail in a way that respects the confidential and proprietary information of others. Employees are prohibited from copying or distributing copyrighted material - for example, software, database files, documentation, or articles using the e-mail system.

### 6. Record Retention

- a. The same rules which apply to record retention for other City documents apply to e-mail. As a general rule, e-mail is a public record whenever a paper message with the same content would be a public record.
- b. The specific procedures to be followed with respect to the retention of e-mail records is contained in Section 3, E-Mail Record Retention Policy.

7. Encryption: Encrypting e-mail messages or attached files sent, stored, or received on the City's e-mail system is prohibited except where explicitly authorized. Employees are prohibited from using or installing







- b. All time inspecting, servicing or conditioning any commercial motor vehicle;
  - c. All driving time, i.e. all time spent at the driving controls of a commercial motor vehicle in operation;
  - d. All time, other than driving time, in or upon any commercial motor vehicle;
  - e. 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, or in giving or receiving receipts for shipments loaded or unloaded;
  - f. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.
- D. Prevention and Rehabilitation:** The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. The City encourages employees who have an alcohol or other drug problem to seek help to deal with their problem. Help is available through the City's EAP program, provided by Heitzinger & Associates ([www.eapheitzingerandassoc.com](http://www.eapheitzingerandassoc.com)). Employees may call the **24/7 Helpline at 1-800-362-3902, ext. 1310** to speak to a specialist. Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of parts 40 and 382, provided that:
- 1. The employee does not self-identify in order to avoid drug or alcohol testing;
  - 2. The employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety-sensitive function.
- E. Drug and Alcohol Testing:** Participation in the City's Drug and Alcohol Testing Program is a requirement of each employee performing safety-sensitive functions, and therefore, is a condition of employment.
- 1. Testing Records: The City, upon the employee's written consent, will obtain the following information from the DOT-regulated employers during the **two (2)** years prior to the date of application or transfer for all employees seeking to begin performing safety-sensitive functions for the first time: (1) alcohol tests with result of 0.04 or higher alcohol concentration; (2) verified positive drug tests; (3) test refusals (*including verified adulterated or substituted drug test results*); (4) other violations of DOT agency drug and alcohol testing regulations; (5) documentation of the employee's successful completion of DOT return-to-duty requirements for violation of the drug and alcohol regulations. If this cannot be obtained from a previous employer, the documentation will be requested from the employee. An employee will not be permitted to perform safety-sensitive functions if one of the following occurs:
    - a. The above information from previous employers cannot be obtained after 30 days, unless a good-faith effort to obtain this information has been made and documented;
    - b. Information is obtained that the employee has violated a drug and alcohol regulation and has not complied with the return-to-duty requirements of the regulations;
    - c. The employee, upon the City's required request, admits to a refusal or positive test on any pre-employment drug and alcohol test administered during the past two years for safety-sensitive transportation work that the employee did not obtain (until and unless the employee documents successful completion of the return-to-duty process). The employee will not be allowed to perform safety-sensitive functions until the employee documents successful completion of the return-to-duty process.
    - d. Every DOT-regulated employer from which information is requested will receive the employee's written consent to provide the information. A confidential record of the information obtained (*or the City's effort to obtain*) must be maintained for three (3) years from the date of the employee's first safety-sensitive duty performance.
    - e. In situations where the City provides this information confidentially and in writing to another employer, a written record of the released information will be maintained, as well as the date, to whom the information was released, and a summary of the information provided.
  - 2. Testing Conditions
    - a. Reasonable Suspicion: An employee is required to submit to an alcohol or controlled substance test upon a trained (*in accordance with this policy and Section 382.603 requirements*) supervisor's reasonable suspicion to believe that the employee is in violation of this policy. The determination of reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. The

supervisor who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the employee.

Under DOT regulations, alcohol testing is only authorized if observations are made during, just preceding or just after the period of the work day that the employee is required to be in compliance (during, just before or after the employee has performed safety-sensitive functions). However, City policy requires that reasonable suspicion alcohol testing shall be performed at any time during an employee's work day.

Under DOT regulations, the employee will not be permitted to perform safety-sensitive functions until: (1) an alcohol test is administered and the alcohol concentration measures less than 0.02; or (2) 24 hours have elapsed following the determination that there was reasonable suspicion to test the employee. However, City policy requires that an employee will not be returned to work until confirmed test results are obtained.

If an alcohol test is not administered within two (2) hours following the reasonable suspicion determination, the supervisor must prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the reasonable suspicion determination, the supervisor must cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. In addition, the driver will be out of service for 24 hours.

The supervisor who made the observations shall provide a report that contains the observations leading to an alcohol or controlled substances reasonable suspicion test within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

- 1.) Upon the employee's removal from the job site, the supervisor should contact the department head. If contact cannot be made at that time, the supervisor should proceed to the next step of this procedure and make contact with the department head as soon thereafter as possible.
- 2.) The supervisor is to then take the employee to the collection site for drug and/or alcohol testing, and must remain at the site until the test is completed.
- 3.) If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes the reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the test. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.
- 4.) Once the drug and/or alcohol test has been completed the supervisor is to make arrangements for the employee to be taken home. The employee will not be permitted to drive his/her own car home at that time. The employee may have a family member or a friend pick him/her up, or the supervisor may take the employee home.
- 5.) The employee is to be advised not to report to work. The City will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
- 6.) The results of the drug and/or alcohol test will be sent directly to the City Administrator. When the results are obtained, the employee's supervisor and department head will meet with the City Administrator to determine the appropriate course of action to be taken.
- 7.) This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or termination with anyone who does not need to know.
- 8.) Once the test has been completed and the employee has been taken home, the supervisor must submit a written report to the City Administrator outlining in detail what happened and what behavior was observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report is to be done within 24 hours of testing.

- b. Pre-Employment Testing for Controlled Substances: Any individual not currently employed by the City who is applying for a safety-sensitive position or any City employee who is currently not performing safety-sensitive functions but will be moving to a safety-sensitive position shall undergo testing for controlled substances prior to performing safety-sensitive functions. The City must be in receipt of the employee's negative test result from the Medical Review Officer (MRO) or Consortium/Third Party Administrator (C/TPA). Administration of a controlled substance test is not required if the employee has participated in a controlled substances testing program within the previous 30 days:
- **AND** was tested for controlled substances within the past 6 months (*from the date of application with the City*);
  - **OR** participated in the random controlled substances testing program for the previous 12 months (*from the date of application with the City*);
  - **AND** the City ensures that no prior employer of the individual has records of a controlled substances violation within the previous 6 months.

To utilize this exception, the supervisor must obtain and retain the following information from the controlled substances testing program(s) in which the employee participated: (1) Name(s) and address(es) of the program(s); (2) Verification of the employee's participation in the program(s); (3) Verification that the program(s) conform(s) to part 40 of this title; (4) Verification that the employee is qualified under these rules, including that the employee has not refused to be tested for controlled substances; (5) The date the employee was last tested for controlled substances; (6) The results of any tests taken within the previous 6 months and any other violations of controlled substance testing; (7) The above information must be obtained and maintained in accordance with D.O.T. standards at least once every 6 months for employees that are utilized, but not employed more than once a year. If the City cannot verify that an employee is participating in a controlled substances testing program, the City shall conduct a pre-employment controlled substances test.

- c. Post-Accident Testing: As soon as practicable following an accident involving a commercial motor vehicle, the City of Monona shall test each of its surviving driver(s) for alcohol and controlled substances if: (1) the surviving driver(s) were performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; (2) the employee received a citation within 8 hours (for alcohol) or 32 hours (for controlled substances) of the occurrence under State or local law for a moving traffic violation arising from the accident, IF the accident involved: (a) bodily injury to anyone who immediately receives medical treatment away from the accident scene OR (b) one or more vehicles incur disabling damage and require towing.

The alcohol test must be administered as soon as possible, but no later than eight (8) hours following the accident, and the drug test must be administered within thirty-two (32) hours of the accident.

If the alcohol test is not administered within two (2) hours of the accident, the supervisor must still attempt to administer the test and prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight (8) hours or if the drug test is not administered within thirty-two (32) hours of the accident, the supervisor must cease attempts to administer the test(s) and shall state in the record the reasons for not performing the test(s).

An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City of Monona to have refused to submit to testing. However, an employee is not prohibited from obtaining necessary medical attention for injured people following an accident or leaving the scene to obtain assistance or necessary emergency medical care.

The results of a urine or breath alcohol test conducted by a federal, state or local official having independent authority for the test will be considered to meet the requirements for a post-accident test. The test must conform to the applicable federal, state or local testing requirements and must be obtained by the City.

This section does not apply to: (1) an occurrence involving only boarding or alighting from a stationary motor vehicle; or (2) an occurrence involving only the loading or unloading of cargo; or (3) an occurrence in the course of the operation of a passenger car or multi-purpose passenger vehicle unless the vehicle is transporting passengers for hire or hazardous materials of a type and quantity requiring the vehicle to be marked or placarded.

- d. Random Testing: Random drug and alcohol testing may be performed anytime an employee is on duty. The employee selection for testing shall be made by a scientifically valid method and will occur unannounced throughout the calendar year. An employee notified of selection for random alcohol and/or controlled substances testing shall cease to perform safety sensitive functions and proceed to the test site immediately. An employee shall only be tested for alcohol during, just before or just after the performance of safety sensitive functions.

The minimum annual percentage rate, as established by the Federal Motor Carrier Safety Administration (FMCSA), for random testing of employees in safety sensitive positions shall be: (1) 10% for alcohol testing; (2) 50% for controlled substance testing. The testing rates may be adjusted based on analysis of positive drug and alcohol violations rates for the entire industry, as reported annually.

If an employee tests positive for alcohol or controlled substances, the employee will be subject to disciplinary action, up to and including discharge.

- e. Return-to-Duty/Follow-Up Testing: An employee is required to undergo an alcohol and/or drug test prior to returning to duty that requires the performance of a safety-sensitive function, following a violation of this policy and evaluation by a substance abuse professional (SAP). A second SAP evaluation cannot be sought by the City or the employee (40.295), and no one has the authority, with the exception of the SAP who made the initial evaluation, to change the evaluation (40.297). The results of the test must indicate an alcohol concentration of less than 0.02 and/or a negative result for drug use. The City is responsible for deciding whether the employee is returned to duty (not the SAP or MRO) (40.305).

Following successful compliance with a recommendation for education and/or treatment, the employee must submit to the follow-up testing plan established by the SAP, which shall be provided to the DER (40.307(b)). The testing plan will include at a minimum that the employee be subject to six (6) unannounced follow-up tests in the first 12 months of returning to duty requiring performance of a safety sensitive function. Follow-up tests may also be performed during the 48 months of safety-sensitive duty following this first 12-month period, as determined by the SAP. The City may not impose additional testing requirements that go beyond the SAP's follow-up testing plan, and other tests may not be substituted for this testing requirement (i.e. random). A cancelled test does not count as a completed test and must be recollected. The requirements of the follow-up testing plan must remain with the employee through any break in service or subsequent employment.

The City must carry out the SAP's follow up testing requirements, and must ensure that the tests are unannounced with no pattern to their timing, and that the employee is given no advance notice (40.309).

Follow-up testing is separate from and in addition to the regular random testing program. Employees who are subject to the follow-up testing must also remain in the standard random pool and must be tested whenever they are selected, even if this means being tested twice in the same day, week or month.

**F. Test Refusal.** The following behavior constitutes a test refusal for drugs and alcohol (382.107):

1. Failure to appear for the test in the time frame specified by the City, with the exception of pre-employment.
2. Failure to remain at the testing site until the testing process is completed. However, if an employee leaves a pre-employment testing site before the process starts, it is not deemed to be a test refusal.
3. Failure to provide a urine specimen, saliva or breath specimen, as applicable. However, an employee who does not provide a specimen because they have left the testing site before the process starts for a pre-employment test is not deemed to be a test refusal.
4. Failure to provide a sufficient volume of urine or breath without a valid medical explanation for the failure.
5. Failure to undergo a medical examination as part of the verification process. In the case of a pre-employment drug test, the test is deemed to be a refusal only if the pre-employment test is conducted following a contingent offer of employment.
6. Failure to cooperate with any part of the testing process.
7. Failure to permit the observation or monitoring of specimen donation when so required.

















9. Step 5 of the Custody and Control Form (CCF) must be completed by the employee. At this time the employee may also wish to indicate on the back of *their copy* of the CCF any medications that are currently being used, in the event the Medical Review Officer (MRO) contacts the employee to discuss the results of the test. Refusal to sign the form does not constitute a refusal to test, but will be noted by the collector in the remarks section of the CCF.
10. The collector will complete their portion of the CCF and place the specimen bottles and copy one of the CCF inside a leak-resistant plastic pouch in front of the employee.
11. The test results will be confidentially transmitted from the laboratory to the MRO in a timely manner. The MRO will then contact the employee and/or City representative (if necessary) per Part 40.131.
12. If the test result of the primary specimen is positive, the employee may request within 72 hours of receiving the positive test results, that the MRO direct that the split specimen be tested in the same or different Department of Health and Human Services (DHHS) certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.
13. Once the City is notified by the MRO of a verified positive, positive dilute, adulterated, or substituted test result, the City must immediately remove the employee from safety-sensitive job duties and cannot return the employee to safety-sensitive duty until they have successfully completed the return-to-duty process. The employee will also be removed from the safety sensitive position pending the result of the test of a split specimen.
14. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.
15. The employee will be directed to provide another specimen immediately if the City is notified of a cancelled test result for a pre-employment, return-to-duty or follow-up test.
16. In situations where an employee does not provide enough specimen they will be directed to obtain, within 5 days, an evaluation from a licensed physician acceptable to the MRO, who has expertise in the medical issues raised by failing to provide enough specimen.
17. Refusal by an employee to provide an adequate amount of urine or otherwise fail to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including termination.
18. In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.



rules of more than one DOT agency, identified by each agency; (3) number of urine specimens collected by type of test (i.e. pre-employment, random, reasonable suspicion, post-accident); (4) number of positives and negatives verified by an MRO by type of test, and type of controlled substance; (5) number of persons denied a position following a pre-employment verified positive controlled substances test and/or a pre-employment alcohol test that indicates an alcohol concentration of 0.04 or greater; (6) number of employees with tests verified positive by a MRO for multiple controlled substances; (7) number of employees who refused to submit to a required alcohol or controlled substances test, including those who submitted substituted or adulterated specimens; (8) number of supervisors who have received required alcohol and controlled substances training during the reporting period; (9) number of screening alcohol tests, confirmation alcohol tests, confirmation alcohol tests indicating an alcohol concentration of 0.02 or greater but less than 0.04, and confirmation alcohol tests indicating an alcohol concentration of 0.04 or greater, all by type of test; (10) number of employees who were returned to duty (having complied with the recommendations of a substance abuse professional) during this reporting period, who previously had a verified positive controlled substance test result or engaged in prohibited alcohol misuse; (11) number of employees who were administered alcohol and drug tests at the same time, with both a verified positive drug test result and a 0.04 or greater alcohol test result and number of employees who were found to have violated any non-testing prohibitions and any action taken in response to the violation.

- b. Short Summary: The City's annual calendar year summary that contains only negative controlled substance test results, alcohol screening test results of less than 0.02, and does not contain any other violations may prepare a detailed summary containing all of the information specified above, or an "EZ" report that includes the following elements: (1) number of employees subject to this part; (2) number of employees subject to testing under the alcohol misuse or controlled substance use rules of more than one DOT agency, identified by each agency; (3) number of urine specimens collected by type of test (i.e. pre-employment, random, reasonable suspicion, post-accident); (4) number of negatives verified by a MRO by type of test; (5) number of employees who refused to submit to a required alcohol or controlled substances test, including those who submitted substituted or adulterated specimens; (6) number of supervisors who have received required alcohol and controlled substances training during the reporting period; (7) number of screen alcohol tests by type of test; (8) number of employee who were returned to duty (having complied with the recommendations of a substance abuse professional who previously had a verified positive controlled substance test result or engaged in prohibited alcohol misuse).
- c. A City that is subject to more than one DOT agency alcohol or controlled substances rules shall identify each employee covered by the regulations of more than one DOT agency. The identification will be by the total number of covered functions. Prior to conducting any alcohol or controlled substances test on an employee subject to these rules, the City shall determine which DOT agency rule(s) authorizes or requires the test, and direct the results to the appropriate agency.
- d. A C/TPA may prepare annual calendar year summaries and reports on behalf of the City to comply with this requirement. However, each City shall sign and submit such a report and shall remain responsible for the accuracy and timeliness of each report prepared on their behalf.

#### **4. Facilities and Records Access**

- a. Except as required by law or in this section, the City shall not release employee information contained in records required to be maintained by this policy.
- b. An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to their tests. The City shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.
- c. The City shall permit access to all facilities utilized in complying with the drug and alcohol testing requirements to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the City or any employees.
- d. The City will make available copies of all results for alcohol and/or controlled substances testing conducted and any other information pertaining to the City's alcohol misuse and/or controlled substances use prevention program, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the City or any employees.

















