

Town of Duxbury, Massachusetts

OFFICE OF THE BOARD OF SELECTMEN AND TOWN MANAGER



REASONABLE SUSPICION POLICY

*Approved by the Town of Duxbury Board of Selectmen on March 24, 2016,
bargained and revised with DPW Collective Bargaining Unit on February 26, 2016)*

The purpose of this policy is to establish the fact that the Town of Duxbury and its employees have the right to expect a drug free environment in the work place. The main emphasis of the program is not punishment, but counseling and rehabilitation of employees with a problem of alcoholism or drug dependency. An employee who comes to a supervisor and requests a leave of absence from work as a result of an alcohol or drug dependency is entitled to a leave of absence for this reason to seek treatment. This policy covers those circumstances where the employer has first approached the employee with reasonable suspicion of drug and/or alcohol dependency.

Testing shall only be permitted where there is both reason to suspect drug or alcohol use and evidence that this suspected use is affecting job performance. Drug and alcohol testing shall be permitted based upon the reasonable suspicion standard hereinafter provided. Immediate drug and alcohol test sampling shall be permitted, and the results shall be held in confidence subject to the review committee's decision as hereinafter provided.

The Town Manager, or his/her nominee, the department head, or designee in the department head's absence, shall provide a suspected employee, if applicable, with a written report evidencing reasonable suspicion of his/her use of a controlled substance and/or alcohol prior to the proposed test sampling.

The basis for the directive to submit to a drug and alcohol test sample shall be based upon facts sufficient to constitute reasonable suspicion of controlled substance use.

Objective facts that shall be used in evaluating an employee's condition are the following:

1. Balance - normal/questionable
2. Appearance- normal/questionable
3. Speech- clear/slurred/questionable
4. Behavior - cooperative/uncooperative/questionable
5. Body Odor - smell of alcohol or drugs (such as marijuana) on breath or clothes

It is required that the observations of these objective facts by a supervisory employee be documented on the attached form signed by the supervisor, as well as other relevant facts, such as admissions or explanations by the employee concerning his/her condition.

Reasonable suspicion shall be based on information of objective facts obtained by the Town and rational inference(s) which may be drawn from those facts.

The credibility of sources of information whether by tip or information, the degree of corroboration, the results of town inquiry and/or other reasonable factors shall be weighed in determining the presence or absence of reasonable suspicion.

The following are representative but not all inclusive examples of such circumstances:

1. An employee deemed impaired or incapable of performing assigned duties.
2. An employee experiencing questionable vehicle or equipment accidents.
3. An employee exhibiting behavior inconsistent with previous performance.
4. An employee exhibiting irritability, mood swings, nervousness, hyperactivity or hallucinations.
5. An employee who is subject to substantiated allegations of use, possession or sale of drugs.

If a test sampling is being considered by the Town, the following process will be followed.

1. The employee will be escorted by his/her supervisor to the Department Head's or nominee's office. In the event the employee in question is a supervisor then the Department Head or nominee will escort him or her to the Department Head's or nominee's office and another supervisor shall be present.
2. The supervisor, Department Head, or nominee should explain to the employee the basis for the belief that there is reasonable suspicion of use of a controlled substance or alcohol by the employee. The employee should be encouraged to discuss the matter, and asked if he/she is receiving any prescription drug(s) that might account for the behavior or if there is any other physical, mental or medical reason for the behavior. If the employee is receiving prescription drugs, the supervisor will require immediate verification from the employee's physician.
3. The Town Manager will make the final decision to have the person submit to testing, or in his/her absence the two (2) supervisors will jointly decide if testing is necessary.
4. If urine, oral fluid, blood and/or hair testing is necessary, the employee in question shall be escorted by their supervisor, or the supervisor's designee, to the testing site. Or the testing entity's mobile unit may be called to the work location to perform the testing.
5. The collector will take a brief medical history and conduct a physical assessment of the employee. Additionally, the collector will explain the testing protocol to the employee in detail. The test will then be administered, and sample sent out according to the chain of custody procedure of the collector and the testing laboratory.
6. The employee will be driven home and he/she will remain suspended without pay until a final determination is made based upon the test results.
7. After the test results have returned, the employee will be given a copy of the test used, the name and location of the laboratory conducting the test, and the test results in writing with an explanation of what the results mean.

The Employee may initiate a review of the directive to submit a test sample within twenty-four (24) hours of the directive. The directive shall be reviewed by a Review Panel of two (2), town counsel or his/her nominee, and an individual with training in drug/alcohol who shall ordinarily meet within twenty-four (24) hours of the employee's request.

The Review Panel will review evidence brought against the suspected Employee, and only after a majority of the panel votes to uphold the evidence shall testing of the sample be required.

Testing to be performed is to be high quality and highly accurate nature, so as not to subject the employee to the stress and embarrassment of a false positive result.

The parties shall ensure the confidentiality of the testing process and results. Access to information about the tests shall be limited to the Employee, and only members of management with a compelling need for this information.

If drug testing is warranted, an employee may voluntarily participate in a rehabilitation program as a substitute for the drug testing. This circumstance will be considered as a positive alcohol/drug testing result. Said participation is subject to the requirements and obligations of the rehabilitation program as hereinafter provided.

Except as to a grievance that the Review Panel has not followed the procedure outlined above, the decision of the Review Panel to require alcohol and drug testing shall be final and binding. The test sample taken from the Employee shall be secured by the Town physician, the Nurse Practitioner or a Testing Laboratory designated by the Town. Refusal to provide the test sample as directed will be treated as a positive result. If the employee refuses to participate in a rehabilitation program he/she will be terminated from employment.

In the event that the test proves negative, the employee will be paid double time for all regular work hours which the employee lost during this process.

A rehabilitation program shall be mandatory for an employee with a confirmed positive test result, or for any Employee admitting drug usage. Employees who successfully complete a rehabilitation program will not be disciplined, and they may return to their former job if such position exists. Available sick leave may be utilized to accommodate participation in an approved rehabilitation program.

A first positive drug and/or alcohol test will result in an unpaid five (5) day suspension. It is incumbent upon the Employee to submit a rehabilitation proposal to the Town to be reviewed by the physician designated by the Town for approval. It is the intention that such proposal includes a drug rehabilitation clinic, whether on an out-patient or in-patient basis. The Employee may utilize sick days for such in-patient programs. Leaves of absence without pay for up to 12 months will be allowed. The Employee shall be expected to comply with all the requirements and regulations of the substance abuse rehabilitation clinic, and the failure to abide by all such conditions and requirements shall result in termination of employment.

The Employee agrees to submit to random drug and/or urinalysis testing at the discretion of the Town for a period of one (1) year after returning to work. If any test during such time yields a positive result, the Employee shall be immediately terminated from employment. Any second positive drug and/or alcohol test based on reasonable suspicion whether or not occurring within the one (1) year period shall result in termination from employment.

A related consequence of a loss of license for more than ninety (90) days may result in termination from employment at the discretion of the Town Manager.

The Town shall bear all costs of testing and rehabilitation after any available insurance coverage has been pursued and exhausted.

Attached: Reasonable Suspicion of Drug Use or Alcohol Misuse Form



Town of Duxbury
Reasonable Suspicion of Drug Use or Alcohol Misuse Form

Physical Appearance

- | | | |
|---|---|---|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Flushed | <input type="checkbox"/> Constricted Pupils |
| <input type="checkbox"/> Disheveled | <input type="checkbox"/> Profuse Sweating | <input type="checkbox"/> Bloodshot Eyes |
| <input type="checkbox"/> Dry Mouth | <input type="checkbox"/> Runny Nose | <input type="checkbox"/> Dilated Pupils |
| <input type="checkbox"/> Puncture Marks | <input type="checkbox"/> Tremors | <input type="checkbox"/> Drowsy |
| <input type="checkbox"/> Sunglasses Indoors | <input type="checkbox"/> Glassy Eyes | Other _____ |

Behavior

- | | | |
|--|---|---|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Lack of Coordination | <input type="checkbox"/> Agitated |
| <input type="checkbox"/> Erratic | <input type="checkbox"/> Withdrawn/Avoidant | <input type="checkbox"/> Repetitive |
| <input type="checkbox"/> Swaying | <input type="checkbox"/> Sluggish | <input type="checkbox"/> Hypersensitive |
| <input type="checkbox"/> Aggressive | <input type="checkbox"/> Fast Moving | <input type="checkbox"/> Restless |
| <input type="checkbox"/> Exaggerated Movements | <input type="checkbox"/> Tearful | Other _____ |

Speech

- | | | |
|---|-------------------------------------|--|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Silent | <input type="checkbox"/> Unusually Talkative |
| <input type="checkbox"/> Unusually Loud | <input type="checkbox"/> Incoherent | <input type="checkbox"/> Stumbles Over Words |
| <input type="checkbox"/> Unusually Soft | <input type="checkbox"/> Slurred | <input type="checkbox"/> Unusually Slow |
| <input type="checkbox"/> Unusually Fast | <input type="checkbox"/> Rambling | Other _____ |

Body Odor

- ☐ Smell of alcohol on breath or clothes.
- ☐ Smell of marijuana, or drugs, on breath or clothes.
- ☐ Other _____

Comments: _____

Supervisor: _____

Date and Time of Observation: _____

Location: _____

Witnessed by:

AllOne Health/EAP can help, call 1800-451-1834