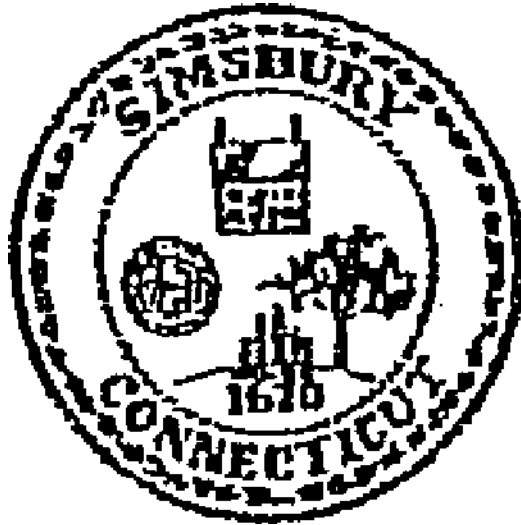


# **TOWN OF SIMSBURY**



## **DRUG AND ALCOHOL-FREE WORKPLACE POLICY**

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## **I. PURPOSE**

In accordance with the Drug-Free Workplace Act of 1988, which may be amended from time to time, the Town of Simsbury prohibits the use, possession, sale, trade, manufacturing, and/or offer for sale of alcohol, illegal drugs or intoxicants, or misuse of controlled substances as defined in C.G.S. § 21a-240 while conducting business for the Town and/or conducting business on the Town's property. Any person who engages in such conduct will be subject to discipline up to and including immediate termination.

## **II. EFFECTIVE DATE**

This policy shall be effective immediately and shall remain in effect until revised or rescinded.

## **III. APPLICABILITY**

This Policy covers all persons who conduct business for the Town and/or conduct business on the Town's property, and applies at all times when individuals are engaged in activities or functions for and/or on behalf of the Town.

## **IV. POLICY**

Employees and volunteers are prohibited from using, selling, manufacturing, receiving, distributing, dispensing or possessing any illegal drug.

No person may be under the influence of drugs or alcohol while on duty. "On duty" includes all working hours, as well as meal periods, break periods and on-call hours, regardless of whether the person is on town-premises, and all hours when the person represents the Town of Simsbury in any capacity.

The abuse of prescription or over-the-counter (OTC) drugs is also prohibited.

Possessing any illegal drug or drug paraphernalia in a locker, desk, automobile or other repository on Town premises is prohibited.

## **V. RESPONSIBILITIES OF EMPLOYEES, SUPERVISORS, AND MANAGERS**

**A. Fitness for Duty.** Employees/volunteers are not to report to work or be subject to duty while their ability to perform job duties is impaired due to use of alcohol or other drugs and controlled substances. If a person reports to duty and there is a reasonable suspicion that they are impaired, the person will be removed from duty and/or subject to a drug and/or alcohol test as appropriate.

**B. Notification of Criminal Drug Violation in the Workplace.** Any employee/volunteer who is convicted of a criminal drug violation or who submits a plea of guilty or plea of "nolo contendere" for a violation occurring on the Town's premises or in any location where the employee/volunteer is performing work or engaged in activities for the Town must notify the

Town Manager's Office in writing within five calendar days of the conviction or guilty plea. The Town will take appropriate action within 30 days of notification; such action may include serious disciplinary action including suspension or termination of employment since violations of this policy constitute grave misconduct.

**C. Persons Who Witness Prohibited Conduct in the Workplace.** Any person who witnesses prohibited conduct as defined in this policy or becomes aware of such activity shall immediately report the conduct to their immediate supervisor, department head, or the Town Manager.

The Town strictly forbids retaliation against anyone who reports prohibited conduct or who participate in internal or external investigations of prohibited activity. The Town will not engage in any such retaliation nor will it permit anyone to do so. All employees/volunteers shall report instances of retaliation to their immediate supervisor, department head, or the Town Manager.

Disciplinary action may be imposed if the Town determines that a knowingly false statement of prohibited conduct was made under this policy.

**D. Supervisors and Managers.** Any supervisor or manager who receives information that someone may be engaging in prohibited conduct as defined in this policy or who believes that someone is engaging in said prohibited activity shall immediately report it to the Town Manager. Ignoring such conduct and/or failure to report such conduct in accordance with the requirements of this policy is not acceptable and may subject the supervisor or manager to disciplinary action.

**E. Seeking Help.** To support employees whom believe they have a problem with alcohol, controlled substances, or illegal drugs, the Town:

- Encourages employees to seek help if they are concerned that they or their family member(s) may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Offers all employees and their family members assistance with alcohol and drug problems through the Employee Assistance Program (EAP). When contacting the EAP, employees should identify themselves as a Town employee or family member domiciled in the household of the employee. The EAP provides eligible persons with assessments, short-term problem resolution and referrals at no cost to the employee. Please note, the ultimate financial responsibility for recommended treatment is the responsibility of the employee.

## **VI. INVESTIGATING REPORTS OF PROHIBITED CONDUCT**

The Town takes all reports of prohibited conducted under this policy seriously. All reports will be investigated promptly, impartially and discreetly. Employees have a duty and are obligated to participate in investigations when asked.

Where investigation confirms that prohibited activity has occurred, the Town will take appropriate corrective action. Discipline up to and including discharge from Town service, banning from Town facilities or property, or legal action may be implemented by the Town.

## **VII. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT**

One of the goals of this policy is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences may be serious. Please note, nothing in this policy prohibits the employee from being disciplined or discharged for job performance problems.

**Return-to-Work Agreements.** Following a violation of the drug-free workplace policy, an employee may, in the sole discretion of the Town Manager or his or her designee, be offered an opportunity to participate in rehabilitation. In such cases, the employee must sign and abide by the terms set forth in a Return-to-Work Agreement as a condition of continued employment.

All information received by the Town through the rehabilitation program will be considered confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

## **VIII. FEDERAL AND STATE REGULATIONS**

This policy was developed and will be implemented in accordance with pertinent federal and state statutes and regulations including:

- **Title 49 of the Department of Transportation, Federal Highway Administration, and the regulations thereto provide for Controlled Substance Testing:** This statute and these regulations provide for testing of all applicants and employees who have the potential to operate commercial motor vehicles with a gross vehicle weight rating (GVWR) over 26,000 pounds, transport 16 or more passengers (including the driver) or transport placarded hazardous materials as deemed by the Town of Simsbury.
- **State of Connecticut General Statute §14-261b:** Allows testing of employees who drive vehicles with a GVWR of 10,001 pounds or more but not more than 26,000 pounds, mechanics who repair or service such vehicles or a commercial motor vehicle, as defined in Conn. Gen. Stat. §14- 1, or a forklift operator, driver or mechanic to submit to testing as provided by Federal Law. "Driver" means an employee driver or a

contract driver under contract for ninety days or more in a period of three-hundred sixty-five days.

## **IX. DEFINITIONS**

**Legal Drug** - Prescribed drugs and over-the-counter drugs that have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured.

**Illegal Drugs** - Any drug that: (a) is not legally obtainable; (b) may be legally obtainable, but has not been legally obtained; or (c) is being used in a manner or for a purpose other than as prescribed. The term "illegal drugs" also refers to mind-altering and/or addictive substances that are not sold as drugs or medicines but are used for mind or behavior altering effect.

**Employees** - All workers at the Town of Simsbury, including full and part-time employees, temporary employees, and contractors.

**Safety Sensitive Position** - Any position that requires the performance of physical or supervisory tasks directly affecting operations which, if performed improperly, could result in injury or death to employees or others or could result in significant property damage. A position may also be classified as sensitive if it involves responsibilities requiring a high degree of trust and confidence.

**On Duty** - All working hours, as well as meal periods and break periods, regardless of whether on premises, and all hours when the employee represents the Town in any capacity.

**Town Property** - Work sites, parking lots, vehicles, or offices owned, rented, utilized, or serviced by the Town; or employee-owned or employee-rented vehicles on the property of the Town, and locations where the employee represents the Town in any capacity.

**Under the Influence** - Behaviors of an employee while at work that are inhibited or affected by use of drugs or alcohol.

**Fit for Duty** - Arriving at work able to perform job duties not under the influence of any substances.

**Medical Review Officer (MRO)** - A licensed physician with MRO certification who provides consultation and guidance with regard to drug testing and who is responsible for reviewing laboratory results generated by testing agent.

**Substance Abuse Professional (SAP)** - A licensed physician, a licensed or certified psychologist, a licensed or certified social worker, a licensed or certified employee assistance professional, or alcohol and drug abuse counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission, but not state certified drug and alcohol counselors, who provides a comprehensive assessment and clinical evaluation to

determine if an employee requires assistance to resolve drug and/or alcohol misuse problems. When an SAP determines that an employee does require assistance in this regard, the SAP must recommend a course of treatment that the employee must successfully complete before being allowed to return to work.

**Designated Employer Representative (DER)** - The Town of Simsbury employee assigned the task of maintaining confidential employee files/information on issues of substance abuse in the workplace.

**Refused Drug Test** - Refusing to consent to drug testing, switching or adulterating a specimen, or failure to complete or sign any drug test related form.

**Split Sample Testing** - The urine specimen is collected in a sterile, single-use, sealed container that is divided so that the second or "split specimen" will be tested for the presence of drugs if the test on the first specimen is positive.

**Verified Positive Test Result** - A drug test that was conducted using reliable methodology and produced 2 positive results.

**Employee Assistance Program (EAP)** - A program that provides professional, confidential, counseling service for employees.

## **X. PRESCRIBED/OVER-THE-COUNTER MEDICATIONS**

Employees/volunteers are allowed to have prescribed and over-the-counter medication and/or the use of medication on Town premises so long as they are specifically prescribed for the person by his/her physician (i.e., clearly labeled with the employee's name; the name of the medication and the physician's Federal Drug Enforcement Administration license number) provided the substance is used at the dosage prescribed or authorized and it does not impair the person's ability to perform his or her job or endanger their safety or the safety of others. It is the responsibility of the employee/volunteer to notify their immediate supervisor that they are using a prescription drug that would impact their ability to perform their job duties and to produce documentation of this drug prior to commencing work.

Any prescribed medication brought on Town property must be carried in its original container.

## **XI. INSPECTIONS/SEARCHES**

When the Town of Simsbury has any reason to believe that an individual is violating this policy, that individual can be asked to submit immediately to a search or inspection at any time while on Town property. This may include a search of an individual's person and/or the requirement that the individual make their locker, personal belongings, work station, or vehicles available for inspection. Refusal to consent to a search or inspection when requested by the Town will be regarded as a violation of this policy and is grounds for disciplinary action.

## **XII. TESTING**

Detection will be accomplished through the following categories of drug and alcohol testing as permitted by law:

1. Pre-employment
2. Random Testing
3. Reasonable Suspicion
4. Post-Accident
5. Return-To-Duty
6. Unannounced Follow Up Testing

The Town may test for the following drugs:

- Marijuana
- Cocaine
- Phencyclidine (PCP)
- Opiates
- Amphetamines

Alcohol - Blood Alcohol Concentration (B.A.C.) levels of .02 or greater will preclude an individual from performing a safety-sensitive function as defined by the Federal Motor Carrier Safety Regulations for a period of 24 hours. Levels  $\geq$  .02 are considered positive.

**Employees with B.A.C. levels  $>$  .02 will be provided transportation to their residences by the Town.**

All appropriate supervisory personnel shall be trained to recognize the signs and symptoms of substance abuse.

If the Town has a reasonable suspicion that the employee is under the influence of drugs or alcohol, the Town may request that the employee consent to a test for those substances. Any employee who tests positive as indicated by the test and confirmed by the Medical Review Officer will be subject to disciplinary action up to and including termination. In addition, any employee who refuses such a request shall be subject to disciplinary action up to and including termination.

In the event an Employee tests positive for drugs, the Employee has the right to have the "split" specimen analyzed at a different S.A.M.H.S.A. certified laboratory. If requested, this test will be performed at the Employee's expense. In the event an Employee cannot "void" (shy bladder) after consuming 40 fluid ounces over a 3-hour period, the Employee will be evaluated by a medical doctor to determine if this is a physical problem. If not, the test will be classified as a "refusal" i.e. dealt with as a positive.

Any employee who tests positive for alcohol, B.A.C. of .02 or higher, will be subject to disciplinary action up to and including termination.



At a minimum, no employee shall perform safety-sensitive functions within four (4) hours after consuming alcohol. The Town of Simsbury shall not permit an employee to perform or to continue to perform safety-sensitive functions, while having actual knowledge that a driver has used alcohol within four (4) hours of performing their safety-sensitive function. In the event that an employee cannot perform the breath test, he/she will be evaluated by medical doctor to determine if there is a medical condition that prohibits the employee from performing the breath test. If the doctor determines that there is not an existing medical condition, the test will be classified as a "refusal" i.e. dealt with as a positive.

Any expenses associated with S.A.P. evaluation and/or rehabilitation services resulting from a positive drug or alcohol test will not be paid for by the Town, except as provided for under the group health insurance benefits provided by the Town.

Each employee required to be tested pursuant to this policy must cooperate with the collection procedures. If a person refused to cooperate with the collection process, the collection site person shall inform the designated employer representative and shall document the non-cooperation on the Urine Custody and Control form.

Any person who refuses to cooperate in providing a sample or is found to have, in any way, tampered with or substituted a sample may be terminated.

### **XIII. TESTING METHODOLOGY & RECORD KEEPING**

Drug testing conducted pursuant to this policy will generally be performed via urinalysis. Alcohol tests may be conducted by the use of an initial screen (non-evidentiary test) and if the presence of alcohol is detected, the confirmation test will be conducted on an Evidentiary Breath Testing unit (E.B.T.). In the absence of a non-evidentiary test the screening test will be conducted on an E. B. T. The E. B. T. will be operated by a Breath Alcohol Technician (B.A.T.). All of the above procedures will be consistent with any legal requirements.

1. **Pre-Employment** All final applicants for employment as employees may be required to submit to a drug test and are required to sign a form (see attached) consenting to the drug test and authorizing the release of any drug and/or alcohol test results to the Town of Simsbury.

Any applicant who decides not to consent to testing may withdraw his/her application. No record will be maintained of the declination. Final applicants who test positive for drugs will be rejected for employment. The Town of Simsbury will follow the DOT guidelines as far as how alcohol tests should be administered as well as the confidentiality and integrity of the results and record keeping.

2. **Random Testing For Safety-Sensitive Employees**

#### **A. Safety Sensitive Employees**

All employees as defined in the federally mandated program and Conn. Gen. Stat. §14-261b, will be subject to random drug and alcohol testing. Selection of employees to be tested will

be administered by a third-party company utilizing a validated computerized random selection program. This program ensures that every covered employee has an equal opportunity of being selected at any given time. The annual testing rate for drugs shall be 50% of the total covered employees and 25% for alcohol.

Notification of an employee's selection will not be provided until the employee's tour of duty in which the drug and alcohol test is to be conducted. Immediately upon notification of being randomly selected the employee is to proceed to the collection facility.

There will be two (2) separate pools one of which will be for the federally mandated employees and the other pool will be for the Connecticut General Statutes § 14-261b covered employees.

### **B. Safety-Sensitive Seasonal Employees**

New and returning safety-sensitive seasonal employees may be subject to random testing for illegal drugs. Safety-sensitive seasonal employees shall be required to sign a Letter of Understanding (see Attachment A) indicating their compliance with this policy. Those employees under the age of 18 will be required to have a parent or guardian co-sign the Letter of Understanding.

### **3. Reasonable Suspicion Testing**

Under this type of testing, the employee will be removed from service without pay pending the outcome of the test(s). The employee will be returned to service with back pay if the outcome of the test(s) is negative.

In all cases where an employee is subject to reasonable suspicion testing, an evidentiary report of reasonable suspicion must be promptly completed and signed by a supervisor before the test results are released or within 24 hours of the observed behavior, whichever is earlier.

**Reasonable Suspicion Alcohol** An employee may be required to submit to an alcohol test when the employer has reasonable suspicion to believe that the employee has violated the prohibitions of this policy and the FHWA guidelines subpart "B" concerning alcohol. The employer's determination that reasonable suspicion exists to require the employee to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

**Reasonable Suspicion Controlled Substances** An employee may be required to submit to a controlled substance test when the employer has reasonable suspicion to believe that the employee has violated the prohibitions of this policy and the FHWA guidelines subpart "B" concerning controlled substances. The employer's determination that reasonable suspicion exists to require the employee to undergo a controlled substances test 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 chronic and withdrawal effects of controlled substances.

Reasonable suspicion does not require certainty. Rather, a conclusion is to be based upon objective facts and observations indicative of use of drugs and or alcohol.

The employee will be removed from service without pay for 24 hours if the confirmation alcohol test result is .02 to .039 B.A.C. (an alcohol confirmation test result of .02 or greater is considered a positive by the Town of Simsbury).

If the confirmation alcohol test result is .04 or greater, the employee is deemed to be positive for alcohol and must be removed from their safety sensitive function immediately. The employee is no longer qualified to perform his/her safety sensitive function until evaluated by a SAP who determines that the employee has properly followed any rehabilitation program recommended and takes a Return-To-Duty test a negative result (the cost of the SAP evaluation, rehabilitation services and Return-To-Duty drug test will be paid for by the employee). The employee will be subject to unannounced follow up testing with a minimum of six (6) tests in the first 12 months, which paid for by the Employee.

#### **4. Post-Accident Testing**

Under this type of testing, employees may be removed from service without pay pending the outcome of the test(s). The test(s) must take place within 32 hours of an accident as defined below: The alcohol test should be conducted within 2 hours, but no later than 8 hours after the accident. If the test is not conducted within these parameters, the reason must be documented. The employee will be returned to service with back pay if the outcome of the test(s) is negative. Post-accident drug testing is required of any employee involved in an accident as defined below:

“Accident” means an occurrence associated with the operation of a commercial vehicle, if:

- There is a fatality (Test is mandatory);
- A vehicle is towed from the scene (if the accident and a citation (includes a written warning) is issued to the employee, and
- Medical treatment is administered away from the scene of the accident and a citation (includes a written warning) is issued to the employee.

Except in cases involving fatalities, a test is not required if a citation (includes a written warning) is not issued to the employee.

If an alcohol test required under this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records of tests that could not be completed within eight hours shall be submitted to the FI-IWA in Washington, DC., upon request of the Associate Administrator. If a controlled substances test is required under this section and is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test and shall prepare and maintain on file a record stating the reasons the test was not promptly

administered. Upon request of the Associate Administer, records shall be submitted to the FI-IWA in Washington, D.C.

If the employee has not received a citation (includes a written warning) immediately, the Town of Simsbury representative should follow up with the local law enforcement agency within the first eight hours of the accident via telephone and fax communication to inquire if the Town's driver will be issued a citation (includes a written warning) and document such communications and maintain on file. If the Town representative does not receive a conclusive report from such law enforcement agency, the Town representative should continue the communication follow up until either a final conclusion is determined or 32 hours has elapsed from the time it was determined that the accident could possibly meet the definition of an accident as stated in this section.

#### **5. Return-To-Duty Testing**

After being evaluated by a S.A.P. to determine that the employee has properly followed any rehabilitation treatment/assistance program, any employee who tested positive must have a negative Return-To-Duty drug and/or alcohol test result before returning to work. Employees shall be responsible for the cost of the testing.

#### **6. Unannounced Follow Up Testing**

Upon returning to work (after a negative Return-To-Duty test) the MRO or SAP will schedule unannounced Follow Up tests for up to 60 months. For alcohol at least 6 tests must be conducted in the first 12 months upon reporting to work. Employees shall be responsible for the cost of the testing.

### **XIV. ADMITTING TO SUBSTANCE ABUSE PRIOR TO TESTING**

Subject to any applicable policies and procedures, an employee who admits to Controlled Substance Abuse and/or Alcohol Abuse prior to notification that a drug and or alcohol test is required, may avoid termination on the basis of Drug Abuse or Alcohol Misuse and be allowed the opportunity to reform. Any employee who seeks assistance as stated above must be evaluated by a Substance Abuse Professional (SAP) to determine if assistance is needed. If assistance is needed, the employee shall submit to rehabilitation treatment/assistance as a condition for continued employment with the Town of Simsbury, and the employee further agrees that any such continued employment with the Town is contingent upon successful completion of any rehabilitation treatment/assistance as well as take a return to duty drug or alcohol test and be subjected to unannounced follow up testing, as required by the Employee Assistance Program (EAP). The Town of Simsbury must receive in writing a signed original letter by the SAP of their evaluation and the Town reserves the right to speak with the SAP with regards to their evaluation. Any rehabilitation costs will be paid for by the employee.

### **XV. AMENDMENTS TO POLICY**

The Town of Simsbury reserves the right to amend this policy at any time, at its discretion or in accordance with any applicable law.

**EMPLOYEE ACKNOWLEDGEMENT**

I acknowledge that I have received a copy of Simsbury's Drug and Alcohol Free Workplace policy, that I have read the Policy, and that I understand the Policy.

Name: (please print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment A



933 HOPMEADOW STREET

P.O. BOX 495

SIMSBURY, CONNECTICUT 06070

# *Town of Simsbury*

## **SAFETY-SENSITIVE SEASONAL EMPLOYEES**

### **RANDOM DRUG SCREENING**

### **LETTER OF UNDERSTANDING**

In accordance with the Town of Simsbury Drug and Alcohol-Free Workplace Policy, I voluntarily agree to submit to random drug screenings as part of my employment with the Town of Simsbury. I understand that either refusal to submit to the screening, or failure to pass the test, will result in immediate disciplinary action up to and including termination.

I have also received, read and agreed to comply with the Town of Simsbury Drug and Alcohol-Free Workplace Policy.

Name: (please print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

For applicants under the legal age of eighteen (18), written parental or legal guardian permission is required. Please sign below if you agree to give your permission to have your under-age child submit to random drug screenings as a condition of their employment.

Name of Parent or Legal Guardian (please print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_