

Medina Police Department

Subject: Drug / Alcohol Testing	Policy Number: 4200	Drug / Alcohol Testing 4200
Reference: Personnel Policy, Labor Agreement	Pages: 6	
Personnel: Sworn and Non-Sworn Personnel		
Issue Date: 01-01-2004	Revised Date: 11-17-2020	

4200.1 – RATIONALE

Abuse of drugs and alcohol is a nationwide problem. It affects persons of every age, race, sex, and ethnic group. It poses risks to the health and safety of Employees of the City of Medina and to the public. To reduce those risks, the City and Law Enforcement Labor Services, Inc., representing members of L.E.L.S. Local #36, are jointly adopting this agreement concerning drug and alcohol use affecting the workplace. This agreement establishes standards concerning drug and alcohol use which all Employees must meet. It also establishes a testing procedure to ensure that those standards are met.

This Drug and Alcohol Testing Agreement, hereafter referred to as D.A.T.A., is an addendum to the current Collective Bargaining Agreement.

This D.A.T.A. will conform to the requirements of State Law as set forth in Minnesota Statutes Chapter 181 and the Federal Drug-Free Workplace Act of 1988 and be as follows:

4200.2 - DEFINITIONS.

Alcohol: Refers to ethyl alcohol.

Confirmatory Test" and "Confirmatory Retest": A drug or alcohol test that uses a method of analysis allowed under one of the programs listed in Section 181.953, Subd. 1.

Drug: A controlled substance as defined in Minn. Stat. § 152.01, Subd. 4.

"Drug and Alcohol Testing", "Drug or Alcohol Testing," and "Drug or Alcohol Test": Analysis of a body component sample according to the standards established under one of the programs listed in Minnesota Statute Section 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

Drug Paraphernalia: As set forth in Minnesota Statutes § 152.01, Subd. 18.

Employee: A member of the exclusively recognized bargaining unit.

Employer: The City of Medina acting through its City Council or their designee.

Initial Screening Test: A drug or alcohol test which uses a method of analysis under one of the programs listed in Minnesota Statutes Section 181.953, Subd. 1, to detect the presumptive presence of a drug, drug metabolite, or alcohol in a sample.

Reasonable Suspicion: The basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Positive Test Result: A finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minnesota Statutes, Section 181.953, Subd. 1.

4200.3 - EMPLOYEE REQUIREMENTS

No employee will be under the influence of any drug or alcohol while the employee is working or while the employee is on the employer's premises or wherever the employer's work is being performed or operating the employer's vehicle, machinery, or equipment, except to the extent authorized by a valid medical prescription.

An employee will notify the employer in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. The Employer will notify the appropriate federal agency of such conviction within ten (10) days of receiving notice from the Employee.

4200.4 - DRUG AWARENESS PROGRAM

In the event the City of Medina provides an Employee Assistance Program, participation in this program is voluntary and confidential, except as may be required pursuant to Public Law 100-690, Title V, Subtitle D.

4200.5 - PERSONS SUBJECT TO TESTING

No person will be tested for drugs or alcohol under this agreement without the person's consent. The employer will request or require an individual to undergo drug or alcohol testing only under the circumstances described in this agreement.

4200.6 - CIRCUMSTANCES FOR DRUG OR ALCOHOL TESTING

Reasonable Suspicion Testing

1. The employer may request or require an employee to undergo drug and alcohol testing if there is a reasonable suspicion that the employee:
 - A. Is under the influence of drugs or alcohol while the employee is working, or while the employee is on the employer's premises, or operating the employer's vehicle, machinery, or equipment.

Other Testing

1. The employer may permit an employee who has requested a drug and alcohol test to undergo testing in accordance with the procedures established by this agreement.

4200.7 - REFUSAL TO UNDERGO DRUG OR ALCOHOL TESTING

If an employee refuses to undergo drug or alcohol testing requested or required by the employer, no such test will be given, and the Department Head may recommend to the City Council that the employee be discharged from employment on grounds of insubordination.

4200.8 - REFUSAL ON RELIGIOUS GROUNDS

No employee who refuses to undergo drug or alcohol testing of a blood sample upon religious grounds will be deemed to have refused unless the employee also refuses to undergo drug or alcohol testing of a urine sample.

4200.9 - PROCEDURE FOR TESTING

Before requesting an employee to undergo drug or alcohol testing, the employer will provide the individual with a form on which to (1) acknowledge that the individual has received a copy of, read, and understood the D.A.T.A., and (2) indicate any over-the-counter or prescription medications that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result, and (3) indicate consent to undergo the drug and alcohol testing. The employer will provide the employee with a copy of the D.A.T.A. and the time to review its contents before the employee indicates consent to drug and alcohol testing. The employee has the right to request the presence of Union representation during any step(s) of the drug and alcohol testing procedure.

4200.10 - TEST SAMPLE

The test sample will be obtained in a private setting, and the procedures for taking the sample will ensure privacy to employees to the extent practicable, consistent with preventing tampering with the sample, and may include a witness, and will conform with applicable rules under M.S.A. Section 181.953. No test sample will be taken on the employer's premises and the test sample will not be taken by City of Medina employees.

4200.11 - IDENTIFICATION OF SAMPLES

Each sample will be sealed into a suitable container free of any contamination that could affect test results. The sample will be identified for processing by the licensed testing laboratory.

4200.12 - CHAIN OF CUSTODY

A written record of the chain of custody of the sample which conforms to the rules under M.S.A. Section 181.953 will be maintained. In addition, the written record will include a signature of each person accepting transfer of the sample and the date and time of the transfer.

4200.13 – LABORATORY

All drug and alcohol testing will use the services of a testing laboratory qualifying under Minnesota Statutes Section 181.953; however, no test will be conducted by a testing laboratory owned and/or operated by the City of Medina.

4200.14 - METHODS OF ANALYSIS

The testing laboratory will use methods of analysis and procedures to ensure reliable drug and alcohol testing results, including standards for initial screening tests and confirmatory tests.

4200.15 - RETENTION AND STORAGE

Retention and storage procedures will comply with M.S.A. Section 181.953, and all samples that produced a positive test result will be retained and properly stored for at least six months.

4200.16 - TEST REPORT

The testing laboratory will prepare a written report indicating the drugs, alcohol, or their metabolites tested for the types of tests conducted, and whether the test produced negative or positive test results, and the testing laboratory will disclose that report to the Employer within (3) three working days after obtaining the final test results.

4200.17 - NOTICE OF TEST RESULTS

Within (3) three working days after receipt of the test result report from the testing laboratory, the employer will inform an employee who has undergone drug or alcohol testing in writing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test. The employer will also inform an employee of the following rights pursuant to M.S.A. §181.953:

1. The right to request and receive from the employer a copy of the test result report.
2. The right to request in writing within (5) five working days after notice of a positive test result a confirmatory retest of the original sample at the employee's own expense. If a confirmatory retest is conducted in accordance with M.S.A. 181-953, Sub .9, and by a qualifying laboratory under M.S.A. 181.953, Subd. 1, and the confirmatory retest does not result in a positive test result, the City will reimburse the employee the actual cost of the confirmatory retest in an amount not to exceed \$200.00.

3. The right to submit information to the employer within three (3) working days after a notice of a positive test result to explain that result.
4. The right of an employee for whom a positive test result on a confirmatory test was the first such result on a drug or alcohol test requested by the employer not to be discharged unless the employer has first given the employee an opportunity-to participate in either a drug or alcohol counseling or rehabilitation program. Participation in a counseling or rehabilitation program will be at the employee's own expense or pursuant to coverage under an employee's benefit plan. The employer may determine which type of program is more appropriate for the employee after consultation with a certified chemical-use counselor or a physician trained in the diagnosis and treatment of chemical dependency. The employee may be discharged if s/he has either refused to participate in the counseling or rehabilitation program, or has failed to successfully complete the program. Withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program will be considered evidence that the employee failed to successfully complete the program.
5. The right to be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
6. The right not to be discharged, disciplined, discriminated against, or required to be rehabilitated on the basis of medical history information revealed to the employer concerning the reliability of, or explanation for, a positive test result unless the employee was under an affirmative duty to provide the information before, upon, or after hire.
7. The right to access the information in their personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process including conclusions drawn from and actions taken based on the reports or other acquired information.

4200.18 - ACTION AFTER TEST

The employer will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee solely on the **basis** of a positive test result from an initial screening test that has not been verified by a confirmatory test. Where there has been a positive test result in a confirmatory test and in **any confirmatory** retest, the employer may do the following:

4200.19 - FIRST POSITIVE TEST RESULT

Give the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate. The employer may determine which program is more appropriate after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation in a counseling or rehabilitation program will be at the employee's own expense or pursuant to coverage under the employee's benefit plan. If the employee either refuses to participate in the counseling or rehabilitation program, or fails to successfully complete the program as evidenced by withdrawal from the program before its completion, or by a positive test result on a confirmatory test after completion of the program, the employer may take corrective action, up to and including discharge of the employee from employment.

4200.20 - SUSPENSIONS AND TRANSFERS

Notwithstanding any other provisions herein, the employer may temporarily suspend the tested employee with pay for up to 90 days or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the employer believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public.

4200.21 - DATA PRIVACY

The employer will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another employer or to a third party group or individual, governmental agency, or private organization without the written consent of the employee tested, unless required by law or court order.

4200.21 - RIGHTS OF EMPLOYEES

An employee has a right to offer the employer a written explanation of a positive test result on a confirmatory test within three (3) working days after notice of the positive test result, and has a right to request in writing within five (5) working days after notice of a positive test result a confirmatory retest of the original sample at another licensed testing laboratory at the employee's own expense.

4200.22 - APPEALS PROCEDURE

Employees disciplined pursuant to this D.A.T.A. may elect relief under the terms of the Collective Bargaining Agreement or other remedies provided by applicable State and Federal laws.

4200.23 - GOOD FAITH EFFORT

The City of Medina will make a continuing good faith effort to maintain a drug-free workplace through the implementation of this Drug and Alcohol Testing Agreement.