

**RESOLUTION NO. R-18-02**

**A RESOLUTION AMENDING THE EMPLOYEE HANDBOOK FOR THE CITY OF GLADSTONE, MISSOURI.**

**WHEREAS**, pursuant to Ordinance No. 3.859 and Gladstone City Code section 1.105.640 the City of Gladstone Employee Handbook may be amended from time to time by Resolution; and


**WHEREAS**, amendments to the Handbook have been proposed concerning the Substance Abuse; and

**WHEREAS**, the proposed amendments are in the best interest of the employees of the City and in conformance with applicable law.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**THAT**, the amendments to the personnel policies attached hereto as Exhibit "A" are hereby adopted and incorporated into the Employee Handbook of the City of Gladstone, to be effective January 8, 2018.

**INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 8<sup>th</sup> DAY OF JANUARY 2018.**

  
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R.D. Mallams, Mayor

ATTEST:

  
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Ruth Bocchino, City Clerk



**GENERAL ADMINISTRATION**  
**Human Resources Division Memorandum 18-0121803**

To: Scott Wingerson, City Manager  
From: Charlene Leslie, Human Resources Administrator  
Date: January 3, 2019  
Subject: **Employee Handbook Policy Update: Revised Substance Abuse Policy**

In an effort to enhance safety, prevent opioid abuse and combat the nation's growing opioid epidemic, the Department of Transportation (DOT) announced changes to the current drug testing panel for DOT-regulated employers. Effective January 1, 2018 the City of Gladstone, as required, must include certain opioids (i.e., hydrocodone, hydromorphone, oxycodone and oxycodone) to its drug testing panel of all post-offer/pre-employment, reasonable suspicion and random testing.

For your consideration, attached please find a draft revision to our current policy that incorporates the required changes.

Thank you.

## EXHIBIT 1

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### **SUBSTANCE ABUSE POLICY**

#### **1. Policy Statement**

The City of Gladstone, Missouri is dedicated to providing safe and efficient service to its citizens and a healthy workplace for its employees. The City believes that use of controlled substances and misuse of alcohol by City employees is detrimental to the achievement of these goals.

In order to meet the goals of providing safe and efficient service and a safe and healthy workplace, the City is implementing this policy to prevent alcohol and controlled substance abuse by its employees. This City will not tolerate unauthorized use, abuse, possession or sale of controlled substances or misuse of alcohol by any of its employees, including part-time and seasonal employees. Drug and alcohol testing will be an integral part of the City's program.

#### **2. Purpose**

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable federal regulations governing workplace anti-drug programs.

Pursuant to the Omnibus Transportation Act of 1991, the United States Department of Transportation (DOT) has enacted regulations that mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The DOT has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT previously enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses. This policy incorporates those requirements of safety-sensitive employees and others when so noted.

#### **3. City of Gladstone Safety-Sensitive Employees**

Employees who perform safety-sensitive functions will be subject to random testing. The following is a list of City of Gladstone safety-sensitive positions:

- Any employee required to obtain a Commercial Driver's License (CDL)
- Commissioned Police Officers
- Firefighters/EMS Members
- Communication Officers
- Water Treatment Plant Operators
- Employees who are authorized and required to operate city vehicles, equipment or machinery.
- Swimming Pool/Life Safety employees

#### **4. Application**

This policy applies to all safety-sensitive and non-safety-sensitive employees, paid part-time employees, and seasonal employees, and contractors when they are on City property in an official capacity or when performing any City related business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Meetings and functions, which are primarily social in nature, are not defined as performance in an official capacity for the purpose of this policy. Visitors, vendors, and contractor employees are governed by this policy while on City premises and will not be permitted to conduct City business if found to be in violation of this policy.

#### **5. Employee Drug/Alcohol Education (All Employees)**

Each employee shall be given a copy of the City's policy and such other educational matters as may be deemed appropriate from time to time. All new employees shall receive this information upon hiring. Employees receiving this information shall sign a statement certifying they have received this information and this receipt shall be retained by the Human Resources Division.

Employee Drug and Alcohol Educational materials shall have at least the following content:

The identity of the person(s) designated to answer employee questions about the City's policy and testing programs.

Information explaining the effects of alcohol and drugs on health, work and personal life, the symptoms of alcohol or drug problems and available methods of intervention including confrontation, referral to the employee assistance program (EAP) and discipline.

Information explaining when CDL drivers are subject to Federal Drug and Alcohol testing rules, if applicable.

Explanations of Employee conduct which is prohibited by this policy and the circumstances under which an Employee will be tested.

The drug and alcohol test procedures.

An explanation of when testing is required by State and/or Federal rules.

An explanation of what constitutes a refusal to test.

An explanation of the consequences of violations of this policy.

An explanation of the consequences of having an alcohol concentration greater than 0.02% but less than 0.04%.

Supervisors shall receive, in addition to the general Employee information, training in alcohol misuse and training in drug use. The training shall cover physical, behavioral, speech, and performance indicators of drug use and alcohol use and may also cover the physiological and psychological aspects of addiction, how to detect and document early deterioration of job performance, the issues of drug testing and prevention and educational strategies, including how to implement them.

#### **6. Prohibited Substances**

Prohibited substances addressed by this policy include the following:

Illegally Used Controlled Substances or Drugs: Federal regulations as outlined by the Department of Transportation identify illegal drugs and substances. This includes, but is not limited to: marijuana,

amphetamines, opiates, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the United States Drug Enforcement Administration or the United States Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected should be reported to supervisory personnel and medical advice should be sought, as appropriate, before performing work-related duties.

A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City business is prohibited.

Alcohol: The use of beverages containing alcohol or substances including any medication such that alcohol is present in the body while performing City business is prohibited. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

## **7. Prohibited Conduct**

Manufacture, Trafficking, Possession, and Use: Any employee engaging in manufacture, distribution, dispensing, possession, or use of prohibited substances on City premises, in City vehicles, in uniform, or while on City business will be subject to disciplinary action up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

Intoxication/Under the Influence: Any employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Any employee found to be under the influence of prohibited substances or who fail to pass a drug or alcohol test shall be removed from duty and subject to disciplinary action, up to and/or including termination. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in federal regulations administered by the Department of Transportation.

Alcohol Use: No employee should report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her blood alcohol concentration is 0.04 or greater. No employee shall use alcohol while on duty. No employee shall have used alcohol within four hours of reporting for duty. No employee shall use alcohol during the hours that they are on compensated stand-by. Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination.

## **8. Employee Responsibilities**

An employee must:

- a) Not report to work or be subject to duty while his/her ability to perform job duties is impaired due to alcohol or drug use, on or off duty;
- b) Not possess or use, or have the odor of alcohol or drugs on his/her breath during work hours, on breaks, during meal periods, while on City property in an official capacity, or while operating any City vehicle, or while on compensated stand-by time;

- c) Not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or on compensated stand-by;
- d) Consent to and submit immediately to reasonable requests for alcohol and/or drug analysis when requested by a supervisor, department director, and/or the City Manager or their designee;
- e) Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of job duties or operation of City equipment; and
- f) Provide within twenty-four (24) hours of request a current valid prescription for any drug or medication identified when a drug screen/analysis is positive. The prescription must be in the employee's name.

#### **9. Supervisor Responsibilities and Guidelines**

The City is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action up to and including termination.

Supervisors may request that an employee submit to a drug and/or alcohol analysis when a supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. Reasonable suspicion is a belief based on objective and articulate facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform his/her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- Slurred Speech
- Alcohol on breath
- Inability to walk a straight line
- An accident involving City property
- Physical altercation
- Verbal altercation
- Behavior which is so unusual that it warrants summoning a supervisor or anyone else with authority
- Use or possession of alcohol or drugs
- Information on use or possession of alcohol or drugs provided either by a reliable and credible source or independently corroborated
- Arrest or conviction for a substance abuse offense or being the subject of a criminal investigation into illegal drug possession, use, or trafficking
- Evidence that the employee has previously tampered with a previous drug test

This list is not intended to be all inclusive of conduct, which constitutes reasonable suspicion.

Drug/alcohol tests are required for employees whenever there is a pattern of on-duty accidents/incidents or an accident/incident resulting in severe property damage or bodily injury.

Any supervisor who has a reasonable suspicion that an employee is impaired on the job by alcohol or other substance will, with the approval of the Department Director and the City Manager or his/her designee, immediately arrange for a substance screening. If a screening is required after normal business hours, the supervisor will make direct contact with the facility that has been designated to perform screenings for the City. The following procedures shall be followed:

- a) The supervisor should document in writing the facts constituting reasonable suspicion that the employee in question is impaired on the job by alcohol or other substances.
- b) Any supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the City's designated facility where a drug and/or alcohol analysis will be performed.
- c) Any supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and consequences of this policy. Such continued refusal will constitute grounds for termination.
- d) Supervisors shall not physically search employees.
- e) Supervisors shall notify the Public Safety Department when they have reasonable suspicion to believe that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the City.
- f) Supervisors shall not confiscate, without consent, prescription drugs or medication from an employee.

Supervisors must produce employees for post-accident drug and alcohol testing within two hours of the accident or explain in writing why the employee was not produced. The employee may be given necessary medical treatment and if such treatment prevents normal drug or alcohol testing, the supervisor shall immediately inform the Human Resources Division.

Whenever drug or alcohol tests are required under this policy, supervisors must produce the employee for those tests, and when current impairment is reasonably suspected, the supervisor shall not allow the employee to drive.

Observations supporting a supervisor's reasonable suspicion of drug or alcohol use must be made just before, during or after the employee performs his/her job. These observations must be reduced to writing within 24 hours of the observation.

Whenever drug or alcohol tests are required by this policy and the employee is not tested within eight (8) hours of notice of the need to test, the supervisor shall explain in writing why the test or tests were not performed.

Supervisors are responsible for maintaining the confidentiality of all substance abuse issues.

#### **10. Results of Drug and/or Alcohol Analysis**

Upon a negative result, the employee shall return to work.

If the test result is positive, the employee will then be given the opportunity, at the employee's expense, to have a second screen using a different technique given on the same sample. If the second screen shows a negative result, it will be assumed that the individual is not under the influence of or impaired by alcohol or drugs, and the employee shall return to work. If negative, the City will reimburse the employee for the expense of the second screen.

If all tests indicate a positive result, the following shall apply:

- An employee may be ordered to seek assistance through the Employee Assistance Program. Written notice of referral to the Employee Assistance Program shall be given to the employee. As a condition of continued employment the employee must follow and provide evidence of participation in the rehabilitation program recommended by the Employee Assistance Program. Rehabilitation may consist of, but is not limited to, in-depth counseling and/or hospitalization all of which is at the employee's expense, and
- Formal disciplinary proceedings may be instituted against an employee up to and including termination.

#### 11. Testing for Prohibited Substances

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstance warrant or as required by federal regulations. All employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident. In addition, all employees will be tested prior to and after return-to-duty after failing a drug test and/or after completion of rehabilitation treatment. Those employees who perform safety-sensitive functions as defined in this policy shall also be subject to testing on a random, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in federal regulations administered by the Department of Transportation.

The drugs that will be tested for include marijuana, cocaine, opiates opioids, amphetamines, and phencyclidine. An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in federal regulations administered by the Department of Transportation.

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Tests for alcohol concentration will be conducted utilizing a National Highway Safety Administration (NHTSA)-approved evidential breath-testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. An employee who has a confirmed alcohol concentration greater than 0.02 but less than 0.04 will result in removal from his/her position for twenty-four (24) hours unless a re-test results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy.

Any employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and evaluated by a Substance Abuse Professional (SAP). A positive drug and/or alcohol test will also result in disciplinary action up to and including termination.



The City of Gladstone affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

**Pre-Employment Testing:** All applicants, including part-time and seasonal, shall undergo urine drug testing and breath alcohol testing prior to employment. Receipt by the City of satisfactory test results is required prior to employment and failure of a drug or alcohol test will disqualify an applicant for employment for a period of 120 days. Evidence of the absence of drug and alcohol dependency from a Substance Abuse Professional (SAP) and negative drug and alcohol tests will be required prior to further consideration for employment.

**Reasonable Suspicion Testing:**

All employees may be subject to a fitness for duty evaluation, to include appropriate urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the long or short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to the following:

- Adequate documentation of unsatisfactory work performance or on-the-job behavior.
- Physical signs and symptoms consistent with prohibited substance use.
- Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
- Occurrence of a serious or potentially serious accident that may have been caused by human error.
- Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who repeatedly concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

**Post-Accident Testing:**

Employees will be required to undergo urine and breath testing if they are involved in an accident with a City vehicle that results in a fatality. This includes all employees that are on-duty in the vehicles and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring transportation to a medical treatment facility; and/or one or more vehicles incurs substantial damage, and/or the employee receives a citation under state or local law for a moving traffic violation arising from the accident.

Following an accident, the employee will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. Employees tested under this provision will include not only the operations personnel, but also any other covered employees whose performance could have contributed to the accident.

**Random Testing:**

Employees in safety-sensitive positions will be subjected to random, unannounced testing. Employees will be randomly selected for testing from a pool of employees subject to testing. Each employee will

have an equal chance of being tested more than once. The testing dates and times will be unannounced and will be conducted throughout the year.

Each year, the number of random tests conducted by the City must equal at least 50% of all the safety-sensitive employees or other percentage as required by the federal regulations.

**Return-to-Duty Testing:**

All employees who previously tested positive on a drug or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional before returning to work. Employees will be required to undergo frequent unannounced random urine and breath testing during the period of their re-entry statement of conditions. The Department of Transportation requires at least six (6) tests within the first twelve (12) months and the return-to-duty testing can be as long as sixty months.

**Employee Requested Testing:**

Any employee who questions the results of a required drug test under this policy may request an additional test be conducted. This must be inducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are paid by the employee unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in federal regulations administered by the Department of Transportation. The employee's request for a re-test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee and the split sample remains available.

**12. Medical Review Officer**

The City will employ a Medical Review Officer (MRO) to review the drug test results. The MRO shall be licensed physician with knowledge of drug abuse disorders.

Return to Work; Drug Test: In order to recommend return to work after a positive drug test, the MRO shall ensure the employee has subsequently tested drug free, the employee has been evaluated by a Substance Abuse Professional, and the employee is in compliance with rehabilitation conditions.

- The MRO shall determine whether and when a return to duty recommendation shall be made for an employee who has failed a drug test or refused to be tested and shall determine the schedule for return to work drug testing.
- Only the MRO may review and interpret each positive drug test and after meeting with the employee, report the results to the City.

**13. Substance Abuse Professional**

The City will also employ a Substance Abuse Professional (SAP). The SAP shall be a licensed physician (M.D. or D.O.) or a licensed psychologist, social worker, employee assistance professional or an addiction counselor (certified by MHADACCC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Return to Work; Alcohol Test: In order to recommend return to work after an alcohol test, which indicates a blood alcohol content greater than 0.04%, the SAP must first evaluate the employee to determine whether the employee has an alcohol problem.

If it is determined by the SAP that an employee has an alcohol problem, which requires assistance, the employee shall be subject to counseling, treatment and follow-up alcohol testing as directed by the SAP. Follow-up testing shall only occur just before, during or just after the employee performs City business.

#### 14. Actions Taken in Response to Test Results/Refusal to be Tested

Refusal/What Constitutes Refusal. An employee who refuses to be tested will be treated as having had a positive test. Failure to report to a collection site on a timely basis, sign any required consent form or otherwise fail to fully cooperate with the testing procedure shall be treated as a refusal to be tested. Employees refusing to be tested shall be subject to immediate disciplinary action up to and including termination.

Positive Drug Test. An employee whose drug test result is reported to the City as positive shall be immediately referred to the Substance Abuse Professional for evaluation and may be subject to disciplinary action up to and including termination.

Positive Alcohol Test. An employee whose breath test results in a reading of 0.02-0.039% blood alcohol content shall be removed from duty and not returned to work for at least twenty-four (24) hours, and all hours not worked shall be recorded as uncompensated time. An employee who has a continuing pattern of breath test results between 0.02-0.039% blood alcohol content shall be referred to the Substance Abuse Professional for evaluation and may be subject to disciplinary action up to and including termination.

An employee whose breath test results in a reading of 0.04% blood alcohol content or greater shall be removed from duty and not returned to work for at least twenty-four (24) hours, and all hours not worked shall be recorded as uncompensated time. Additionally, the employee shall be referred to a SAP for evaluation and may be subject to disciplinary action up to and including termination.

Subsequent Positive Test(s). An employee whose drug test result is reported to the City as positive or whose breath test result is 0.04% blood alcohol content or greater and who has previously had positive drug tests or previous breath tests with a result greater than 0.04% blood alcohol content or who has previously been referred to a rehabilitation program under the provisions of this policy shall be subject to disciplinary action up to and including termination.

Rehabilitation. Failure to immediately begin an approved rehabilitation program, successfully complete the program and/or participate in required or recommended after-care may result in disciplinary action up to and including termination. Rehabilitation may consist of, but is not limited to, in-depth counseling and hospitalization and will be paid directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave, vacation leave, and compensatory time to participate in the prescribed rehabilitation program.

City's Right to Discipline. The above notwithstanding, the City has the right to take immediate disciplinary action for a violation of this policy, including termination, based on the severity of the violation.

Federal Highway Administration Consequences. Besides the penalties set out by the City for violations of this policy, the following consequences for those with a CDL are required by FHA rules:

- a) No employee shall drive if they have used a listed drug (marijuana, cocaine, amphetamines, ~~opiates~~ opioids, PCP), and no employee may drive within four hours of using alcohol or at any time when an alcohol test indicates an alcohol concentration of 0.04% or greater.
- b) A driver violating these rules may not return to work until evaluated and released by a SAP, and subsequently tested for alcohol and drugs with negative results.
- c) An employee tested with an alcohol concentration greater than 0.02% and less than 0.04% may not drive or perform other safety sensitive functions for twenty-four (24) hours after the test.

- d) Federal Civil penalties for breach of the federal rules range between \$1,000 to \$10,000 for each offense. Federal criminal penalties for violations of the Federal rules range between \$1 and \$25,000 for each offense or up to 1 year imprisonment for each offense.

**15. Re-Entry Statement of Conditions**

Employees who re-enter the workforce must comply with a re-entry statement of conditions. The statement may include (but is not limited to):

- a) A release to work statement from an approved Substance Abuse Professional.
- b) A negative test for drugs and/or alcohol.
- c) An agreement to unannounced frequent follow-up testing.
- d) A statement of expected work-related behaviors.
- e) An agreement to follow specified after care requirements with the understanding that violation of the re-entry agreement is grounds for termination.

**16. Policy Contact**

Any questions regarding this policy or any other aspect of the drug-free and alcohol-free program should contact the Human Resources Division.