

DRUG FREE  
WORKPLACE POLICY  
MARCH 2016

City of Blackfoot, Idaho



# City of Blackfoot

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## *Drug-Free Workplace Policy*

### **Statement of Purpose:**

To establish a Drug-Free Workplace for the safety and health of City of Blackfoot's employees, customers and the general public; to increase employees' productivity and work quality; enhance a competitive marketplace position; to meet the Department of Transportation (DOT) 49 CFR Parts 40 and 382, et al. mandates and other regulations where applicable.

### **Scope:**

All employees and prospective employees are subject to the conditions and terms of this policy, subject to its limitation. In addition, "CDL holder" employees include all individuals who operate commercial motor vehicles and who are required to obtain a commercial driver's license as part of their job duties.

### **Policy:**

In keeping with City of Blackfoot's objective to provide a safe and healthy work environment, it is this City's policy that:

1. The possession, sale, transfer, attempt to sell or use of prohibited drugs while on the job, on City time, on City property and/or non-City property where work is taking place, or in any other circumstances which might adversely affect City of Blackfoot's operation or safety is strictly prohibited. Any illegal substance and/or paraphernalia that is found in the possession of an employee or on the premises will be turned over to appropriate law enforcement agency and may result in criminal prosecution.
2. Employees will not be permitted to work with a detectable level of prohibited drugs in their system, unless those drugs are specifically prescribed by a licensed physician (or other appropriate healthcare professional) for specific treatment purposes of the employee at that time.
3. Prohibited drugs include both illegal and legal substances, including alcohol or prescription drugs that have not been specifically prescribed and/or used as prescribed by a licensed physician. Appropriate use of prescription drugs that may pose a significant risk of harm to anyone, as a result of the employee's inability to perform the essential functions of his or her job, shall be reported by the employee to his or her supervisor.
4. The basis for determining "under the influence" and/or "detectable level" is, for the purposes of this policy, a positive test result for drugs and/or alcohol. A positive test for alcohol shall be a result of a .02 alcohol concentration or more.

5. All employees must report any drug, alcohol, or traffic related citations or other violations occurring on or off the City's premises while conducting City business also, at any time that a citation is received while driving a City owned vehicle. A report of a citation must be made to City of Blackfoot within the same work period of receiving the citation.
6. When supervisory personnel determine there is reasonable suspicion to believe an employee is under the influence of, or an employee's property contains prohibited drugs and/or paraphernalia by these standards or is otherwise in violation of this policy, the City:
  - a. Retains the right to search City property at any time by an appropriate supervisor or law enforcement official.
  - b. May require that the employee submit to appropriate tests to determine the existence of prohibited substances within his or her system.

### **Violations of this Policy:**

Any of the following situations shall be considered work-related misconduct, resulting in the denial of unemployment benefits, and grounds for disciplinary action, up to and including termination:

1. A confirmed positive test for drugs and/or alcohol. For the purposes of the alcohol test, a positive result shall be .02 alcohol concentration or more.
2. An employee's refusal to provide a sample or submit to testing.
3. An employee adulterates, substitutes, or dilutes a sample.

### **Right Not To Be Tested:**

An employee has the right to refuse to be tested or, to have personal property searched. However, refusal to submit to a search or a physical test is grounds for disciplinary action up to and including termination.

### **Substance Testing:**

To support the objectives of a Drug-Free Workplace, testing for drugs and/or alcohol may, unless otherwise prohibited by applicable law, be done under the following circumstances:

#### **Pre-employment:**

After a conditional offer of employment has been extended to an applicant, he or she must test free of drugs and alcohol as a condition of employment. No applicant will be employed until a negative drug and/or alcohol test is reported to City of Blackfoot.

#### **Post-accident:**

All "CDL holder" employees, in accordance with the DOT requirements of 49 CFR Part 382.303, will be required to submit to both a drug and alcohol test as soon as practicable when the reportable motor vehicle accident involved either: (a) a human fatality, or (b) bodily injury with immediate medical treatment away from the scene, and

a citation is issued to the commercial motor vehicle (CMV) driver, or (c) disabling damage to any motor vehicle requiring tow away, and a citation is issued to the commercial motor vehicle (CMV) driver. A driver subject to post-accident testing must remain available for testing. If the driver does not remain available, this action is considered refusal to submit to testing. A driver will be considered available for testing if he or she leaves the accident scene for verifiable medical treatment of anyone involved in the accident.

City of Blackfoot with reasonable suspicion may test any employee whose performance either contributed to any accident or injury or cannot be completely discounted as a contributing factor to an accident. The option to test responsible employee(s) for drugs and/or alcohol will be based upon the following conditions:

1. If the accident caused injuries resulting in medical treatment being provided by a physician or his or her designee (other than first-aid); or
2. Accidents which are reportable per Idaho Code.

**Reasonable Suspicion:**

Any employee will be required to submit to a drug and/or alcohol test when at least one designated/trained supervisor has reasonable suspicion to believe that an employee is under the influence of prohibited drugs. These beliefs will be based upon specific physical behavior or performance indicators. A second trained supervisor may observe and/or concur to make the decision to test. **The employee will be taken to the collection site and not be allowed to drive after the test.**

**Random:**

City of Blackfoot may require employees that are in testing designated positions (safety-sensitive positions) to submit to a drug and/or alcohol test on a random basis. These random tests will be conducted by selecting employees by chance. DrugFree Idaho, Inc. will make the random selection of employees using a technique that satisfies applicable law (computerized selection process). City of Blackfoot will not conduct any testing prohibited by law. All employees selected by chance will report to a designated collection site immediately when notified that they were selected for a random drug and/or alcohol test.

“CDL holder” employees will report for a random test while performing work duties that are safety sensitive in accordance with the DOT requirements of 49 CFR Part 382.305.

**Return-to-Duty/Follow-up:**

As designated under “Return-to-Duty” section later in this policy.

## **Testing Procedures:**

1. DrugFree Idaho, Inc. is the third-party administrator for City of Blackfoot's Drug-Free Workplace program.
2. All educational/training elements, chain of custody form, sample collection, reporting, testing (at a SAMHSA certified lab), cut-off levels, record keeping, validity, confidentiality, and security for drugs and alcohol tests shall be in accordance with Department of Health and Human Service's (DHHS), Substance Abuse and Mental Health Services Administration (SAMSHA), DOT, and Idaho Code Section 72-1704 and/or other applicable law.
3. DrugFree Idaho, Inc. will designate a Medical Review Officer (MRO), or designee, to interpret, evaluate and monitor the drug testing program and results. The MRO will be a licensed physician with knowledge of drugs, testing methods and drug abuse disorders in accordance with the DOT requirements of 49 CFR Part 40.33.
4. City of Blackfoot and/or physician shall determine the drug testing technique (e.g., urine sample, breath sample, blood sample, or as otherwise provided by law) to be administered for the types of substance being tested for.
5. All individuals who are required to be random or pre-employment tested under the conditions of this policy will report to City of Blackfoot's designated collection site at the requested time.
6. If the test or retest is negative, the MRO or designee reviews the chain of custody form for completeness and accuracy, and then the results are reported to City of Blackfoot.
7. All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques to ensure reliability and accuracy in accordance with the DOT requirements of 49 CFR Part 40.29.

## **Employee Rights and Obligations:**

1. City of Blackfoot shall pay for the costs of initial drug and/or alcohol tests pursuant to this policy.
2. Any time spent by an employee for drug testing shall be considered work time. Job applicants/prospective employees shall not be paid for any time spent for drug and/or alcohol testing.
3. City of Blackfoot shall receive a confirmatory test on all positive results before any type of disciplinary action or termination occurs.
4. If an employee or prospective employee tests positive for drugs or alcohol:
  - a) Prior to notification of City of Blackfoot, the Medical Review Officer shall contact the employee so that he or she may discuss and explain the positive drug test result. It is the employee's obligation to be available to the physician so the situation can be discussed. If the Medical Review Officer is of the opinion that there has been no violation of the policy, no further action will be taken.

- b) City of Blackfoot or its designee will inform the employee, in writing, of the positive test and the substance for which the employee tested positive.
  - c) The employee may request additional testing of the same sample at a mutually agreed-upon laboratory. The employee shall bear the cost of any additional testing. The employee must request in writing such retesting within seven (7) working days from the date of the positive test notification or within 72 hours of notification for a DOT retest.
5. If the retest is negative, City of Blackfoot may:
- a) Reimburse the employee the cost of the retest.
  - b) Compensate the employee for any time suspended without pay.
  - c) Reinstatement the employee with back pay if the employee was terminated solely for the positive test result that is later determined to be negative.
6. Return to Duty: City of Blackfoot has the option of disciplinary action up to and including termination for a positive test for drugs and/or alcohol. When disciplinary action other than termination has been chosen as an option, the employee may return to duty when the following conditions (which may be at the employee's expense) are met:
- a) The employee shall be subject to an evaluation by a substance abuse professional (SAP)/Employee Assistance Program (EAP) who shall determine what assistance and/or education, if any, the employee needs in resolving problems associated with alcohol misuse and/or drug use.
  - b) Any retained employee identified as needing assistance in resolving problems associated with alcohol misuse and/or drug use:
    - i) May be required to follow a rehabilitation program prescribed for resolving problems associated with alcohol misuse and/or drug use, and
    - ii) May be subject to unannounced follow-up alcohol and/or drug testing, and
    - iii) Provide a signed agreement stipulating his or her commitment to the outlined recommendations and/or testing.
  - c) The employee shall undergo a return-to-duty test with a verified negative result. The test shall be performed at the employer's designated collection site, no more than twenty-four (24) hours prior to the employee's return to work.

- d) For “CDL holder” employees, an evaluation by an SAP does not have to be performed when a DOT required alcohol test result shows an alcohol concentration of .02 or greater, but less than .04. The employer will not allow the employee to perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle, until the start of the employee’s next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test.

### **City of Blackfoot Rights and Obligations:**

1. All prospective and current employees will be provided a copy of City of Blackfoot’s Drug-Free Workplace Policy and procedures prior to any testing being administered. All employees, both current and prospective, will be provided with a copy of this policy and indicate by his or her signature that they received this policy. No current or prospective employee will be tested until this information is provided to him or her.
2. Upon receipt of a confirmed positive test for drugs and/or alcohol or refusal to submit to a test, City of Blackfoot may use such test or conduct as a basis for disciplinary action, up to and including termination, or City of Blackfoot may refuse to hire a prospective employee.
3. City of Blackfoot may suspend an employee with or without pay at the time a reasonable suspicion test is conducted and/or upon receipt of a confirmed positive test for drugs and/or alcohol.
4. City of Blackfoot will not permit an employee to operate a motor vehicle or to perform a safety-sensitive job function upon receipt of a confirmed positive drug and/or alcohol test.
5. Upon receipt of a confirmed positive test for drugs or alcohol, City of Blackfoot may require that the current employee utilize the return-to-duty procedures as outlined above as a condition of continued employment or reinstatement.
6. City of Blackfoot intends to maintain all test results in a confidential manner and to make the results available to other parties only upon specific written consent of the individual tested.
7. This policy shall not in any way create a physician-patient relationship with City of Blackfoot and prospective or current employees.
8. If an employee tests positive for drugs or alcohol, such employee shall not be considered disabled by virtue of the test results alone.

City of Blackfoot recognizes drug and alcohol dependency as a serious problem. It is also a health, safety, and security threat to the public activities of the City. Employees who need help in overcoming such dependency are encouraged to contact his or her supervisor and/or available alcohol and drug abuse resources within the community, or the City’s Employee Assistance Program. City of Blackfoot will maintain a list of resources available to assist an employee who may wish to seek assistance. A voluntary, conscious effort to seek such help might not jeopardize employment.