



**City of Calistoga**  
**Personnel Rules & Regulations Manual**

**Adopted by**  
**City Council**  
**February 16, 1993**

**Amended: 03/01/16**  
**Resolution No. 2016-021**

veteran status, religious affiliation, or any other status protected by law, unless there exists a bona fide occupational qualification.

**3.03**

**Harassment Policy and Procedure**

- A. Policy.** The City prohibits harassment by Employees at all levels of the organization against other Employees and/or job applicants. This policy establishes procedures for Employees and job applicants who feel they have been subjected to harassment; to pursue the complaints. An Employee who is determined to have harassed another person while pursuing a City activity, either on or off duty, may be subject to disciplinary action. An Employee found to be retaliating against a complaining Employee or job applicant may be subject to disciplinary action. An Employee found to have submitted a capricious or malicious complaint may be subject to disciplinary action.
- B. Harassment defined:**
1. **Verbal Harassment.** Includes, but is not limited to, derogatory comments communicated to the Employee on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.
  2. **Physical Harassment.** Includes, but is not limited to, assaulting, impeding, or blocking movement, or any physical interference with normal work or movement of the Employee when directed at the Employee on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.
  3. **Visual Forms of Harassment.** Includes, but is not limited to, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of Employee's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.
  4. **Sexual Harassment.** Includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed at an Employee which is presented as a condition upon an employment benefit, unreasonably interferes with an

individual's work performance, or creates a work environment that is offensive to the Employee.

**C. Identification Guidelines.** These guidelines shall be applied by reviewing the totality of the incident or situation in question. Guidelines for identifying harassment behavior are:

1. The behavior is repetitive;
2. The behavior is unwelcome;
3. The behavior is one-sided; and
4. A complaint did not stop the behavior.

**D. Responsibilities**

1. **Managers and Supervisors.** Managers and supervisors, at all levels, are responsible for:
  - a. Explaining the complaint procedures to a complainant;
  - b. Making Employees aware of the City's policy and obtaining additional information on the subject for them;
  - c. Dealing effectively with complaints as they occur;
  - d. Making the Employee aware that the City Manager will be notified of the complaint.
2. **City Manager.** The City Manager shall cause an independent investigation to be conducted of all complaints; maintain a confidential file on all charges of harassment, and draft a report summarizing the investigation and proposing recommendations.
3. **Person Filing Complaint.** The person filing the complaint is encouraged to make attempts, if possible, to inform the person alleged to have violated this policy that the behavior is unwelcome. The person filing the complaint is encouraged to do this, but it is not necessary in order to file a complaint.
4. **Status of Investigation.** The City Manager shall keep the Employee informed of the status of the investigation.

**E. Confidentiality.** All personnel shall maintain confidentiality about complaints in order to protect the parties involved, and information shall not be disclosed other than to assist in the investigation.

**F. Complaint Procedure**

**1. Filing.** An Employee or job applicant who believes he or she has been harassed may file a complaint with any one of the following as may be appropriate:

- a. The immediate Supervisor;
- b. Any Manager or Supervisor within or outside the Department; or
- c. The City Manager.

A complaint shall be signed and should be as specific and as detailed as possible.

**2. Response to a Complaint.** All Employees, supervisors, and managers are expected to treat any complaint immediately, seriously, and confidentially, and to give the investigation top priority.

**G. Investigation Procedure.** Any person receiving a complaint of harassment shall immediately notify the City Manager. The City Manager shall expediently investigate all complaints of harassment. Managers and supervisors shall make available any Employee for interviews and present any documents, of which disclosure is not prohibited by law, that may be required by the investigator.

**H. Investigator's Report.** The City Manager shall submit a report of the findings of the investigation to the person filing the complaint and the person alleged to have violated the harassment policy. Both parties shall be given the opportunity to submit written comments regarding the investigation report to the City Manager.

**I. Final Determination.** After both parties review and comment, the City Manager shall prepare the Final Determination.

**J. Disciplinary Procedure.** After reviewing the facts of the investigation, the Appointing Authority of an Employee found in

violation of this policy may commence appropriate discipline in accordance with the disciplinary procedure.

**3.04 Outside Employment**

- A. Employees may engage in employment outside City employment, provided that:
1. Written approval is obtained in advance from the Employee's Department Head and the City Manager.
  2. The employment does not conflict with the Employee's work schedules, duties, and responsibilities.
  3. The employment does not create a conflict of interest or incompatibility with City employment.
  4. The employment does not create a detrimental effect upon the Employee's work performance with the City.
  5. The employment does not involve conducting business during hours of employment with the City.
  6. The Employee does not use City premises, facilities, or supplies in his/her outside employment.
  7. The City is in no way responsible for the Employee's outside employment.
- B. Self-employment is considered outside employment and must meet the same conditions as other outside employment, with the addition of the restriction that the employment does not involve ownership of a private business that is incompatible with the Employee's position with the City.
- C. A Department Head may, with approval of the City Manager, implement more restrictive measures.

**3.05 Conflicts of Interest**

- A. Employees of the City are prohibited from:
1. Engaging in or having any interest in any business or transaction, or incurring any obligation which conflicts or

"organizational unit" will be determined by the City Manager, or in special circumstances, the City Council.

**3.07**

**Political Activity**

- A. Employees shall not engage in political activity of any kind during working hours. Prohibited activity shall include, but is not limited to, soliciting money, influence, service, or any other thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office, while on the job during working hours. No person shall attempt to coerce, command, or require a person holding, or applying for, any position, office, or employment with the City to influence or give money, service, or other valuable thing to aid, promote, or defeat any political committee, or to aid, promote, or defeat the nomination or election of any person to public office.
- B. The rights of Employees to register and vote as they choose shall not be infringed. Employees may express their opinions on all political subjects without recourse against them.
- C. Subject to the foregoing, any Employee may seek appointment or election to any public position, office, or employment for which qualified.

**3.08**

**Alcohol and Controlled Substance Abuse**

**Purpose**

The City recognizes that behavior resulting from the use of alcohol and/or other drugs may detrimentally affect work performance, safety, security, public confidence in the City's workforce; and can present a risk to Employees and the health and welfare of the citizens of Calistoga.

In recognition of the City's responsibility to maintain a safe, healthful and productive work environment, and each Employee's responsibility to perform work for the public safely, effectively and efficiently, the City will act to eliminate any substance use which increases the risk for accidents, absenteeism, substandard performance, poor Employee morale or damage to the City's reputation. For the purpose of this policy, substance use includes the use or possession of illegal drugs, alcohol or controlled substances, which could impair an Employee's ability to perform his or her job safely, effectively and efficiently.

The City believes that its Employees are its most important asset and that substance use when successfully treated, will enable the affected Employee to return to a satisfactory job performance level.

I. **Policy**

- A. Employees shall not be at work under the influence of alcohol or drugs, shall not use or possess alcohol or illegal drugs while on duty or while on paid stand-by time (except possession and/or use as required in the course of Police Department employment); and shall not sell or provide illegal drugs to any person while on duty or while on paid stand-by time.
- B. The City is committed to eliminating any substance abuse by Employees resulting in increased potential for accidents, absenteeism, reduced productivity, poor Employee morale or damage to the City's reputation. The City will provide a reasonable amount of training and education on substance use to all Employees.
- C. The City prohibits the consumption, ingestion, and use of any alcohol and/or illegal substances while at work, while operating a City vehicle, or while in City uniform.
- D. The City prohibits the consumption, ingestion and use of illegal substances during the lunch period for all Employees because of the high probability that performance will be impaired upon returning to work.
- E. The City discourages the consumption, ingestion and use of alcohol during the lunch period for all Employees because of the high probability that performance may be impaired upon returning to work.
- F. Use of medically prescribed drugs is not a violation of this policy. If an Employee is taking drugs which may interfere with the safe and effective performance of the Employee's duties, the Employee must inform the Employee's Supervisor or the Personnel Department before beginning work.
- G. Employees involved in an on-the-job accident while operating a vehicle or a piece of power equipment may be required to undergo a medical evaluation, which may include drug and/or

alcohol testing, if reasonable suspicion of substance use exists.

- H. Employees who are required to take a mandatory drug test or screening will also be required to authorize in writing the disclosure of the results to the Personnel Department. Failure to do so may result in appropriate disciplinary action up to and including discharge, in accordance with full due process and representation rights.
- I. Employees who refuse to immediately submit to an alcohol and/or drug analysis (based upon reasonable suspicion) when required by Department Head and/or City Manager will constitute insubordination, and may be grounds for discipline up to and including termination. The results of such testing will be kept confidential as otherwise required by law.
- J. Employees who test positive for substance or alcohol use will be placed on leave of absence and will be required to go to the Employee Assistance Program or a rehabilitation program of their choice approved by the City. Use of the Employee Assistance Program does not replace normal disciplinary procedures for unsatisfactory job performance or violation of this policy.
- K. An Employee who tests positive may not return to work until such time as another drug and/or alcohol test is negative or a medical evaluation permits the Employee to return and the Employee agrees to attend a rehabilitation program recommended by the Employee Assistance Program, or a rehabilitation program of the Employee's choice, approved by the City. If the program requires time away from work, the Employee may use accrued benefits (i.e., sick leave, vacation, etc.).

Violation of this condition of employment will result in termination according full due process rights.

- L. Employees who are involved in illegal actions pertaining to the use, sale, purchase, or possession of alcoholic beverages or any controlled substance during the course of City employment may be criminally investigated by the Police Department or other law enforcement agencies.



- M. The City reserves the right to search all areas and property in which the City maintains full or joint control with the Employee for the purpose of detecting alcohol or illegal drugs. The search will be conducted only with the approval of the Department Head and/or City Manager. The City will make a reasonable effort to contact the Employee to have them present while searching the property in question. Areas in which the City maintains full control include, but are not limited to, all City owned properties and buildings and City owned vehicles and equipment. Areas jointly controlled by the City and the Employee include, but are not limited to, desks, lockers, file cabinets, office cabinets and bookshelves, except as otherwise limited by any section of the California Government Code. The City may notify the appropriate law enforcement agency if it is believed that an Employee may have illegal drugs in his or her possession.
- N. This policy does not supersede protections provided by the Public Safety Officers Procedural Bill of Rights Act, Government Code sections 3300-3311.

II. Employee Assistance Program (EAP)

The City will assist Employees and their families who seek help for substance use problems. Employees who are concerned about their alcohol and/or drug use are strongly encouraged to voluntarily seek assistance.

An Employee may schedule an appointment with the EAP representative on City release time with the approval of the Supervisor for one visit per year.

Most health insurance coverage contains substance abuse treatment; however, if the treatment is not covered, the City will assume financial responsibility for the initial treatment.

Supervisors should encourage Employees to use substance abuse treatment when the problem is identified. While the City will be supportive of those who seek help voluntarily, the City will be equally firm in identifying and disciplining those who continue to violate this policy.

III. Employee Responsibilities

- A. An Employee must be able to perform the duties of his/her position.
- B. An Employee must not report to work or be officially subject to duty while his/her ability to perform job duties is impaired due to on or off-duty alcohol or drug use.
- C. An Employee must not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hour, or any paid time, except possession and/or use as required in the course of Police Department employment.
- D. An Employee must not directly or through a third party, sell or provide drugs or alcohol to any person, including any Employee, while either Employee or both Employees are on duty; or officially on call.
- E. An Employee must notify their Supervisor within five days if they are convicted of any workplace drug related crime.
- F. An Employee must submit immediately to a medical evaluation, which may include an alcohol and drug test, when requested by the City Manager based upon reasonable suspicion, or other grounds as per policy.
- G. An Employee must notify his/her Supervisor before beginning work when taking any medications or drugs, prescription or nonprescription, which may interfere with the safe and effective performance of duties or operations of the City equipment.
- H. An Employee must provide within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the Employee's name.

**IV. Supervisory and Management Responsibility**

- A. Managers and supervisors are responsible for reasonable enforcement of this policy.

- B. Managers and supervisors may request that an Employee submit to a medical evaluation by City approved physician, which may include a drug and/or alcohol test, when they have a reasonable suspicion that an Employee is under the influence of drugs or alcohol while on the job.**

**"Reasonable suspicion" is a belief based on objective facts sufficient to suspect that an Employee is under the influence of drugs or alcohol so that the Employee's ability to perform the functions of the job is impaired. For example, any of the following, alone or in combination, may constitute reasonable suspicion:**

- 1. Slurred speech**
- 2. Alcohol odor on breath**
- 3. Unsteady walking and movement**
- 4. An accident involving the City property**
- 5. Physical altercation**
- 6. Verbal altercation**
- 7. Unusual behavior**
- 8. Possession of alcohol or drugs**
- 9. Information obtained from a reliable person with personal knowledge**
- 10. Personal injury to self, co-worker(s) or general public.**

- C. Managers and supervisors should seek a witness, if feasible, to verify reasonable suspicion. The Employee should be approached and given an opportunity to explain the behavior before further action is taken.**

- D. Managers and supervisors who request an Employee submit to a medical evaluation, which may include a drug and/or alcohol test, will document in writing, at the earliest possible opportunity, the facts constituting reasonable suspicion that the Employee is impaired and cannot perform the duties of their job.**

- E. Where there is reasonable suspicion that the Employee is under the influence of alcohol or drugs, managers and supervisors should notify the Department Head or representative and get approval to take the Employee to a site for a medical evaluation, which may include an alcohol and/or drug test, and then to transport the Employee home. Managers and supervisors encountering an Employee who**

refuses an order to submit to a drug and/or alcohol analysis upon request shall remind the Employee of the requirements and disciplinary consequences of this policy.

- F. Managers and supervisors shall not physically search the Employee, nor shall they search the personal possessions of Employees, without the freely given consent of, and in the presence of, the Employee and a responsible third party witness.
- G. Managers and supervisors shall notify their Department Head or designee when they have reasonable suspicion to believe that an Employee may have alcohol and/or illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.
- H. Managers and supervisors must notify the City Manager immediately after an Employee reports that he/she was convicted of any workplace drug crime. The City is required to report convictions of Employees to the Federal government within ten (10) days.
- I. Managers, supervisors, and employees have the responsibility to avail themselves of substance abuse treatment when their deteriorating or unsatisfactory job performance does not respond to usual Supervisor action. A Supervisor should not attempt to diagnose an Employee's problems. The supervisor's role is to monitor job performance.

**V. Drug and/or Alcohol Testing**

- A. A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including termination of employment.
- B. If the drug screen is positive, the Employee must provide, within 24 hours of request, a bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the Employee's name. If the Employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the Employee's

name, or if the Employee has not previously notified his or her supervisor, the Employee will be subject to disciplinary action up to and including discharge.

- C. If an alcohol or drug test is positive for alcohol or drugs, the City shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with the City policies and procedures and due process rights of the Employee.

This policy does not limit the Employees' or the City's rights. Appropriate City representatives will prepare and carry out appropriate disciplinary proceedings in accordance with full due process and representation rights.

D. **Positive Test Results Confirmed**

Confirmation tests will be conducted when drug/alcohol tests report positive results for current Employees tested for reasonable suspicion. Confirmation testing may be conducted for pre-employment applicants on a case-by-case basis.

**VI. Confidentiality**

Laboratory reports or test results shall not appear in an Employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the City Manager. The reports or test results may be disclosed to the City management on a strictly need-to-know basis and to the tested Employee upon request. Disclosures, without Employee consent, may also occur when:

1. The information is compelled by law or by judicial or administrative process.
2. The information has been placed at issue in a formal dispute between the employer and Employee.
3. The information is needed by medical personnel for the diagnosis or treatment of the Employee who is unable to authorize disclosure.

**VII. Federal Requirements**

The Drug-Free Workplace Act of 1988 applies to employers with any Federal grant or with a Federal contract worth more than \$25,000. This regulation applies to the City. The law requires that any Employees convicted of any workplace crimes to notify the employer within five days of the conviction. The City must then notify the granting or contracting Federal agency within ten (10) days of receiving a conviction notice from the Employee. The City must then impose sanctions (up to and including employment termination) against convicted Employees within 30 days or require them to participate in a drug abuse assistance or rehabilitation program approved by an appropriate law enforcement or health agency.

**VIII. Exceptions to this policy**

1. Performance of normal job duties and responsibilities as directed by assignment or detail shall not result in an Employee being in violation of this policy.
2. During special, infrequent occasions, consumption of alcoholic beverages may be allowed on City property, while an Employee is on duty for the City, or while using City equipment, but only upon specific prior written authorization from the City Manager.
3. An Employee who resides on City-owned property is excepted from provisions of this policy for circumstances that would be considered appropriate or legal if his/her residence were on private property.