

Cleveland Public Library

Board Meeting

June 13, 2017

RESOLUTION FOR STAFF NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS

- WHEREAS,** On June 12, 2017, the Laborers International Union of North America, Local 860 (“Local 860”), ratified the tentative Collective Bargaining Agreement (“Contract”) for the period commencing January 1, 2017 and terminating December 31, 2019; and
- WHEREAS,** The Contract includes wage increases for Local 860 in the amount of 2% for 2017 (payable retroactive to December 25, 2016), 2% for 2018, and 2% for 2019; and
- WHEREAS,** The Contract also includes a provision authorizing the Library to require Local 860 Union members to undergo testing for drug and alcohol abuse upon reasonable suspicion, and in the event of an injury or accident where there is reasonable suspicion that drugs or alcohol were a contributing factor or the injury or accident resulted in medical treatment beyond first aid or property damage in excess of \$500.00; and
- WHEREAS,** In recognition of the hard work and service non-bargaining unit employees have invested in the Library, Library Administration would like to extend the wage increases of 2% for 2017, 2018, and 2019, to all non-bargaining unit employees as well; and
- WHEREAS,** The Director of Human Resources also desires to revise the Human Resources Manual to include the same drug and alcohol testing policy contained in Local 860’s Contract, a copy of which is attached and incorporated into this Resolution, making the policy applicable to non-bargaining unit employees as well as to Local 860 members; now therefore be it
- RESOLVED,** That the Executive Director, CEO, the Chief Financial Officer, and the Director of Human Resources are authorized to implement the wage increases set forth in this Resolution for all non-bargaining unit employees; be it further
- RESOLVED** That the Board of Trustees hereby approves the revisions to the Human Resources Manual to include the policy on drug and alcohol testing which shall be applicable to all non-bargaining unit employees, as set forth in the attached Policy, which revisions shall be immediately effective.

HUMAN RESOURCES MANUAL

ALCOHOL AND DRUG ABUSE POLICY APPLICABLE TO NON-BARGAINING UNIT EMPLOYEES

Section 1. Purpose. The Library is concerned about the safety and welfare of employees whose well-being may be detrimentally affected by the abuse of illegal drugs and alcohol. The term “drug” includes cannabis (of which marijuana is a derivative), as well as other controlled substances as defined by the Ohio Revised Code Sections 2925.01 and 3719.01. “Illegal drug usage” includes the use of cannabis or any controlled substance which has not been legally prescribed and/or dispensed, or the abuse of a legally prescribed drug. Abuse of these substances affects work performance and the safety of others. Therefore, the parties support this policy and other reasonable efforts to maintain a drug-free workplace.

Section 2. Testing. Testing for illegal substance abuse may be done on all applicants who qualify for an open position.

Testing will be done on employees after drug/alcohol rehabilitation and at the Library’s discretion. Testing will be done on any employee if a supervisor, after consultation with the Director of Human Resources or designee of the Director of Human Resources, reasonably believes such employee is under the influence of alcohol and/or illegal drugs. Such consultation will be conducted with the Director of Human Resources or designee when such consultation is practicable. Reasonable belief on the part of a supervisor and/or the Director of Human Resources or designee that an employee is under the influence of illegal drugs and/or alcohol includes, but is not limited to, the following:

- A. Observed use, possession, or sale of illegal drugs and/or use, possession, sale, or abuse of alcohol and/or the illegal use or sale of prescription drugs;
- B. Apparent physical state of impairment of motor functions;
- C. Marked changes in personal behavior not attributable to other facts, either over a period of time or on a particular occasion;
- D. Violations of criminal drug law statutes involving the use of illegal drugs, alcohol, or prescription drugs and/or violations of drug statutes; and
- E. Employee involvement in any accident occurring on Library property or in the course of the employee's job duties which may or may not result in personal injury, equipment damage, or damage to the property of the Library, its employees, or patrons.

All testing will be done by a laboratory that meets the same criteria as those established by any federal guidelines for workplace drug testing programs, at the Library's expense. Testing may include, but is not limited to, taking blood or urine samples. The Library will not require employees to submit to random or blanket drug screening.

Upon request of the employee, a split screen or other applicable method of dividing a sample shall be utilized, to enable the employee to take a separate sample or portion of a sample for purposes of a separate test which shall be conducted at the employee's expense.

Section 3. Post-Accident Testing

- A. Employees will be drug/alcohol tested if the following conditions occur (where permitted by applicable law):
 - 1. there is a reasonable degree of possibility that drug and/or alcohol use may have been a contributing factor to the reported injury or accident, and

2. the injury or accident resulted in medical treatment beyond first aid or property damage in any amount greater than \$500.00.

B. Drug testing under this Section will be applied in a neutral fashion, to foster a safe work environment, and only to identify drug/alcohol use in the recent past. All drug testing shall be conducted in Ohio Department of Health licensed or SAMHSA accredited alcohol or drug laboratories.

C. The Employer may test for the presence of alcohol through the collection of urine or testing of breath. All procedures and protocols for testing of an employee's urine for alcohol shall conform to the methods and procedures set forth in federal regulations. Regardless, the Employer shall always be required to collect a split specimen. The threshold concentration level for a positive test will be 0.04 g/dL.

D. The Employer will test for the use of controlled substances or the unlawful use of prescription drugs through the collection of urine, or blood, if the employee is unable to provide a urine sample within two (2) hours. All procedures and protocols for collection and testing of an employee's urine, or blood, if applicable, for controlled substances or the unlawful use of prescription drugs shall conform to the methods and procedures set forth in applicable federal regulations.

Regardless, the Employer shall always be required to collect a split specimen.

Except as noted below, the threshold concentration levels for positive tests will be as follows:

*Marijuana	See below		
Cocaine metabolites	150 ng/mL	Benzoylcegonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine	2000 ng/mL	Codeine	2000 ng/mL

		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines			
AMP/MAMP	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine	250 ng/mL
MDMA			
	500 ng/mL	MDMA	250 ng/mL
		MDA ⁷	250 ng/mL
		MDEA ⁸	250 ng/mL

- E. The term “controlled substance” shall mean any drug included in Schedules I through V, as defined by Section 802(6) of Title 21 of the United States Code [21 U.S.C. 802(6)], (e.g., cocaine, marijuana, valium, morphine) the possession of which is unlawful under Chapter 13 of that title. The term does not include the use of prescribed drugs that have been legally obtained and are being used for the purpose for which they were prescribed unless the employee does not notify the Employer’s privacy officer of his or her prescription for medicinal marijuana.
- F. Testing under this section will not be undertaken to retaliate against employees for reporting workplace injuries.
- G. Once an employee is notified of a post-accident drug and/or alcohol test, the employee must immediately report to the testing facility.
- H. If the post-accident drug and/or alcohol test result is negative, the employees must report back to work immediately following the drug and/or alcohol testing.
- I. Testing Procedures
1. Any employee who is sent for drug and/or alcohol testing must adhere to the following procedures:

- a. Once the employee arrives at the testing facility, he or she must remain within the testing facility department.
 - b. The employee may not leave the testing facility department for any reason.
 - i. The employee may not go to the restroom outside of the testing facility department.
 - ii. The employee may not drink water or any other liquids without direction from a testing facility employee.
 - iii. The employee may not drink any water or other liquids outside of the testing facility.
 - c. If the employee engages in any of the conduct listed in paragraph 1(b) above, this action or action of this type will be considered a refusal to test, and the employee will be subject to discharge.
2. Any employee who refuses a drug and/or alcohol test or produces a sample that is deemed altered or substituted by the testing facility and/or MRO, is subject to discharge.
 3. Employees have two (2) hours to provide a sample. Within these two (2) hours, no more than forty (40) ounces of water is permitted for testing.
 4. The testing facility will notify CPL within one (1) hour if the employee sent for testing is unable to produce a sample.
 5. Employees must present identification at the time of the test. If an employee fails to provide proper identification, this will be considered a refusal to test.

6. Employees must inform the testing facility and or the Medical Review Officer (MRO) of any medications that he or she takes that may alter the test results and/or any medical conditions that may delay testing.
7. The testing facility shall collect a split specimen.

J. Positive Test

1. Any employee whose test result is positive will be relieved from duty and ordered to contact CPL's Director of Human Resources.
2. If a test is positive, an employee shall have the right to require the Employer to test the split specimen for the presence of prohibited levels of unlawful drugs or alcohol. If the split specimen is negative, then the Employer shall conclude the employee tested negative.

Section 4. Disciplinary Action. Admission of substance abuse or test results indicating alcohol and/or illegal drug use will result in the employee being granted disability leave to seek authorized medical treatment and rehabilitation.

Disability leave will be granted for drug and/or alcohol rehabilitation one (1) time only and will be for a maximum of thirty (30) days unless extended by mutual agreement. If an employee completes such rehabilitation and subsequently tests positively for drug and/or alcohol use, the employee will be immediately discharged.

Refusal of an employee to undergo testing for alcohol and/or illegal drugs at the request of the supervisor and/or the Director of Human Resources or designee will result in immediate discharge.

If an employee admits to drug use or intoxication while on the job, or if test results indicate alcohol and/or illegal drug use, but he/she refuses to seek authorized medical treatment, he/she will be discharged.

Any employee found possessing or using illegal drugs and/or alcohol, or purchasing or transferring illegal drugs on Library premises, or while on Library business, will be discharged.

Effective June 13, 2017 by Resolution of the Board of Trustees