The following memorandum of October 5, 1998 from the University Director for Classified Staff Labor Relations, Eric Washington, codifies the University's policy regarding the protocol for Public Safety Personnel seeking voluntary drug treatment and the provisions and procedures to be followed for employees seeking rehabilitation. It is accompanied by the five page Random Drug Testing Policy issued by the University Office of Public Safety which was revised September 23, 1998.

MEMORANDUM

TO: College Personnel Directors
FROM: Eric Washington
RE: Protocol for Public Safety Personnel Seeking Voluntary Drug Treatment

As part of the random drug testing policy for staff in the Public Safety area, provisions have been made for employees who seek rehabilitation. These provisions are as follows:

- Employees must have passed their probationary period to use this policy.
- Employees must come forward and notify the Director of Human Resources or College Personnel Director at their campus before they are notified that they are scheduled for a random test.
- The Director of Human Resources or College Personnel Director must notify the University Director of Personnel and the University Director of Security and Public Safety.
- The employee must take leave without pay for a rehabilitation program with a properly licensed, or certified, provider of not less than 30 days and not more 45 days. This will not be treated as FMLA time off and benefit coverage may require COBRA extension.
- The cost of the program will not be paid by the colleges or the University.
- To be reinstated to duty the employee must provide written proof from the provider of successful completion of the rehabilitation program and submit to a drug test.
The employee will be tested in accordance with the reasonable suspicion drug test rules for two years after their reinstatement. After two years, the employee will be subject to random tests.

Employees who participate in this program waive their right to challenge disciplinary charges based on their failure to pass any drug test after their completion of drug rehabilitation. Employees may be asked to sign a statement confirming this waiver prior to beginning treatment, as a condition of being eligible. Employees may appeal the accuracy of their test in accordance with the random drug policy.

This policy is to be read in conjunction with the random drug policy for the personnel in the Office of Security and Public Safety.

Approved

University Personnel Director
INTRODUCTION

With the exception of existing pre-employment and reasonable suspicion drug testing policies, this policy supersedes all existing drug policies related to CUNY Public Safety Service employees.

All members of The City University of New York Public Safety Service perform a sensitive and critical role in providing for the public safety of the campuses. In keeping with their law enforcement duties, they carry defensive equipment which could be dangerous or deadly if misused. The City University of New York is committed to the proper and efficient performance of that responsibility. Drug abuse on the part of members of the service destroys the proper and efficient performance of that responsibility by undermining the job performance of the abuser and potentially jeopardizing the safety of the college community.

In performing random drug testing, The City University of New York will follow the guidelines set forth in the Omnibus Transportation Employee Testing Act of 1991. Members of the City University of New York Public Safety Service will be subject to a random drug testing procedure to detect abuse. Pursuant to the Act, testing will be for the following drugs and their derivatives:

1. Cocaine
2. Marijuana
3. Amphetamines
4. Opiates
5. Phencyclidine
6. Barbiturates
7. Benzodiazepines
8. Methaqualone

In addition, any drug-controlled substance determined to be illegal by the laws of the State of New York, will also be tested for.

II. PURPOSE

CUNY will randomly test employees of the CUNY Public Safety Service; Directors, Lieutenants, Sergeants, Corporals, Patrol Officers, and Specialists actively serving with peace officer status. In an effort to establish a credible deterrent to illegal drug/controlled substance usage. The University's goal is to ensure that members of the CUNY Public Safety Service do not use illegal drugs or abuse controlled substances and to maintain a high standard of performance in a drug free environment.
III. PROCEDURE

The University Director of Public Safety and/or his designee shall be responsible for the scheduling and administration of random drug tests. The selection of officers to be tested on a random basis shall be accomplished by placing the names of all members of the service in a computer program designed to produce random selection of 25% of the service. The actual selection procedure shall be performed by the University Director of Public Safety and/or his designee.

On the day when members of the Public Safety Service are to be randomly tested, a list of names and employee social security numbers will be generated at random until a sufficient number of officers are available to meet the established guidelines. The Office of the University Director of Public Safety will test at least 25% of all public safety service members in any calendar year utilizing this procedure.

The Office of University Public Safety will notify College Public Safety Directors and/or Managers by phone regarding scheduled drug tests for members of the service who have been randomly selected for drug testing. The College Public Safety Director and/or manager will make the proper entries in the “Drug Test Log” (see attached) and immediately notify the officer who is scheduled to be tested.

The following procedure will be followed:

1. Officers assigned to the day tour (0700 - 1530 hours, 0800 - 1630 hours, etc.) shall report to the designated testing lab site immediately upon notification (or as soon as the lab opens if that is later) unless there exists a defensible absence as listed in section IV of this operations order.

2. Randomly selected officers assigned to the afternoon tour (1400 - 2230, 1500 - 2330, etc.) shall report to the designated testing lab site at 0830 hours on the following day unless there exists a defensible absence as listed in section IV of this operations order (also refer to paragraph VI - overtime).

3. Officers assigned to the midnight tour (2230 - 0700 hours, 2300 - 0730 hours, etc.) shall report to the designated testing site lab immediately following their tour of duty unless there exists a defensible absence excuse as listed in section IV of this operations order (also refer to paragraph VI - overtime).
4. The current designated laboratory is:

Affiliated Physicians, Inc.
5 World Trade Center (Room 367)
New York, New York 10048-0997
Monday - Friday 8:30 A.M. - 4:00 P.M.

The random selection of a member of the CUNY Public Safety Service will not result in that member's name being removed from the list. Thus, due to the random nature of the selection process, officers may be tested more than once in a given year.

The drug testing will be conducted by analyzing an employee's urine sample. The officer will be required to provide a urine sample at the designated laboratory, currently Affiliated Physicians.

The lab technician (collector) will seal and label the urine sample, complete a chain of custody form and prepare the sample and all accompanying documentation for shipment to a drug testing laboratory. The analysis will be performed by a certified laboratory monitored by the U. S. Department of Health and Human Services (DHHS). The sample will remain sealed and stored at the laboratory. If the test proves inconclusive, the officer will be directed to be tested again within 30 days. If the sample is confirmed positive for the presence of illegal drugs/controlled substances, the officer will have 72 hours from the time he is notified by the University Director of Public Safety and or his/her designee to appeal, which may include a request to re-test the same sample at another DHHS certified laboratory for analysis at the officer's expense.

If the results are still positive, for any of the screened drugs, a confirmation test will be performed using gas chromatography/mass spectrometry (GCMS) analysis.

If there still is a positive result, the employee will be interviewed by the designated City University of New York Medical Review Officer to verify whether the positive drug test resulted from unauthorized use of illegal drugs/controlled substances.

When the designated Medical Review Officer determines that the positive test result is from the unauthorized use of an illegal drug/controlled substances, the following will occur:

1. The designated Medical Review Officer will notify the University Director of Public Safety or designee, of the test result.

2. Upon notice of a confirmed positive drug test, the University Personnel Director will be notified by the University Director of Public Safety. The University Personnel Director will then notify the employee's college. The officer will be immediately relieved of duty and subject to disciplinary charges with a recommendation for dismissal from the service in
IV. DEFENSIBLE ABSENCES

Members of the Public Safety Service selected for random drug testing pursuant to this procedure must appear for the scheduled submission unless they are absent from duty on the day of notification due to:

1. Training outside of NYC limits
2. Military Leave
3. Jury Duty
4. On Sick Leave
5. Vacation
6. Regular Day Off
7. Documented Bereavement (in accordance with Blue Collar Contract and/or any applicable University personnel policies and guidelines.)
8. Transportation Failure (as defined in the Blue Collar Contract Article IX Section 13)
9. Severe Weather (closing of test location)

Members of the service must provide written documentation (within 30 days) to the Office of the University Director of Public Safety regarding the aforementioned absences if their names appear on the randomly generated list.

Failure to appear due to any of the above defensible absences will require a re-scheduled drug/controlled substance test, within 45 days of return to duty on a date to be determined by the University Director of Public Safety.
V.

REFUSAL TO COOPERATE

Members of the Public Safety Service MUST report for testing as scheduled and if assigned to the day tour (7x3, 8x4, etc.) within three (3) hours of notification during lab hours of operation. Failure to report or failure to comply with laboratory instructions will be deemed sufficient reason under the Reasonable Drug Suspicion Policy for officers to be tested. This policy will then take precedence over the Random Drug Testing Policy Operations Instruction. In addition, officers refusing to be tested will be subject to disciplinary charges with a recommendation for dismissal from the CUNY Public Safety Service.

At the test site, officers will be required to prepare all forms associated with the testing process. Officers scheduled to be tested will present their New York State driver's license and test authorization form to insure that the correct individual has reported for testing. Failure to adhere or comply with any of the above instructions will be deemed a “Refusal to Cooperate” and as such, the employee will be subject to disciplinary charges.

VI.

OVERTIME

Members of the service working the afternoon tour (1400-2230, 1500-2330, etc.) or midnight tour (2230-0700 hours, 2300-0730 hours, etc.) will be reporting to the designated laboratory on an overtime basis. This overtime expense (not to exceed 4 hours) will be borne by the individual officer's college of assignment.

VII.

CONFIDENTIALITY

All drug testing results and related information will be maintained by the Office of University Public Safety Director and will be designated as HIGHLY CONFIDENTIAL.

Revised September 23, 1998