



ADMINISTRATIVE POLICIES AND PROCEDURES

Policy: Drug-Free Workplace Policy
Creation Date: November 11, 1997
Revision Date: May 17, 2010; May 30, 2015
Prepared By: HR Department
Approved By: City Manager
Legal Review: Elizabeth Ruhmann

POLICY: DRUG FREE WORKPLACE POLICY

- I. **POLICY:** The City of El Paso ("City") has a vital interest in maintaining safe, healthful and efficient working conditions for its employees. Being under the influence of alcohol, or the presence of certain drugs in the body, may pose serious safety and health risks not only to the user but to all those in contact with the user. The purpose of this policy is to provide for a safer environment for all employees and the public. It is intended that this policy will be interpreted and implemented in a manner consistent with all state and federal employment laws and mandates regarding substance abuse in the workplace. The City has a zero-tolerance policy for testing positive for drugs and/or alcohol and for refusing to test, to include any violation of this policy.
- II. **APPLICABILITY:** This policy affects all regular, part-time, temporary, classified, unclassified, and contract employees, and all areas and properties in which the City operates, including city-owned and controlled vehicles and equipment. Uniformed employees covered by a collective bargaining agreement will be subject to any drug and alcohol testing provisions mandated, or policies referenced therein.
- III. **PROHIBITED CONDUCT.** The City explicitly prohibits:
 - A. The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on City premises or while performing work or an assignment on behalf of the City.
 - B. Being impaired or under the influence of legal or illegal drugs or alcohol away from City premises, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk the City's reputation.

- C. Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from City premises, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk the City's reputation.
- D. The presence of any detectable amount of prohibited substances in the employee's system while at work, while on the premises of the City or other worksites, or while on City business. "Prohibited Substances" include illegal drugs, alcohol, prescription drugs not taken in accordance with a prescription given to the employee.
- E. Consumption or possession of alcoholic beverages or drugs in a City-owned or City-controlled vehicle.

IV. DRUG STATUTE CONVICTION: All employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

V. DRUG AND ALCOHOL TESTING: The City of El Paso will conduct drug and/or alcohol testing under any of the following circumstances:

A. PRE-EMPLOYEMENT TESTING

1. All offers for employment for safety-sensitive positions (Police, Fire and other safety-sensitive positions) shall be extended conditional upon the applicant passing a drug test. An applicant shall not be hired into a safety-sensitive position unless the applicant takes a drug test with a verified negative result. A non-safety-sensitive employee shall not be placed, transferred or promoted into a safety-sensitive position until the employee takes a drug test with a verified negative result. Refusal to submit to testing will result in rejection of application or removal from eligible list.
2. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded.
3. When an employee being placed, transferred or promoted from a non-safety sensitive position to a safety-sensitive position submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy and any applicable City or departmental policies.

4. In instances where a safety sensitive employee is on extended leave for a period of 90 days or more, regardless of reason, the employee will be required to take a drug test and have a negative test result prior to the conduct of safety-sensitive job functions.

B. FOR-CAUSE/REASONABLE SUSPICION TESTING

1. The City may ask an employee to submit to a drug and/or alcohol test at any time it feels that the employee may be under the influence of drugs or alcohol.
2. Reasonable suspicion shall mean that there is objective evidence, based upon known specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that would lead a reasonable person to believe that the employee:
 - a. Is under the influence of alcohol or drugs while on duty; or
 - b. Is in possession of or using, transferring, selling or purchasing alcohol or drugs during working hours, including lunch or breaks, or while on City property or in a City vehicle; or
 - c. Has established negative performance patterns, or excessive and unexplained absenteeism or tardiness; or
 - d. Is a public safety employee who has recently illegally possessed, transferred, used or sold a prohibited drug. An employee's admission of abuse of alcohol or use of prohibited drugs to a supervisor in his/her chain of command, an EAP counselor, or a provider of medical services under contract to the City shall constitute reasonable suspicion when the use or abuse could impair job performance and/or safety and the employee is not already a participant in a drug/alcohol treatment program.
3. The City shall be responsible for transporting the employee to the testing site. Supervisors are to avoid placing themselves or others into situations that might endanger the physical safety of those present. The impacted employee shall be placed on leave with pay status in accordance with the City's personnel rules and regulations. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on unpaid leave pending disciplinary action in accordance with this policy and any applicable City or departmental rules and policies. Employee may use Vacation (VAC) or Sick Leave-Personal Day (SPD) Leave, if available.
4. A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation, within 24 hours of the observation or prior to the release of the test results.

5. An employee who submits to a reasonable suspicion drug/alcohol test which is determined to be a positive test result or a refusal to test will be terminated from City employment.

C. POST ACCIDENT TESTING

1. Any employee involved in an on-the-job accident or injury under circumstances that suggest possible use or influence of drugs or alcohol in the accident or injury event may be asked to submit to a drug and/or alcohol test. "Involved in an on-the-job accident or Injury" means not only the one who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way.
2. Employees in safety sensitive positions will be subject to post-accident testing in accordance with departmental policy, as well as any state or federal mandates regarding such testing.
3. An employee who submits a post-accident drug/alcohol test which is determined to be a positive test result or a refusal to test will be terminated from City employment.

D. RANDOM TESTING

1. Employees may be selected at random for drug and/or alcohol testing at any interval determined by the City, or in accordance with the applicable collective bargaining agreements, subject to state and federal laws and regulations.

E. RETURN TO DUTY TESTING

1. All employees who test positive on a drug and/or alcohol test or refuse to test as defined in this policy shall be terminated. However, in the event that an employee returns to duty, the provisions of this section apply. Employees subject to return-to-duty testing may include safety sensitive employees returning from an extended leave of absence, employees returning from a course of rehabilitation/EAP, or other unique situations that justify return-to-duty testing.
2. Employees returning from rehabilitation should be scheduled for testing only when the employee is believed to be drug and alcohol free and there is no risk to public safety.
3. An employee who submits a return-to-duty test which is determined to be a positive test result or a refusal to test will be terminated from City employment.

4. Employees may be required to undergo unannounced drug and alcohol follow-up testing following their return-to-duty, for a duration that is consistent with the employee's situation and recovery process.

NOTE: For tests conducted pursuant to this policy, a confirmation test will be conducted on every positive test result by the medical contractor prior to the laboratory formally notifying the Human Resources Department of a positive test result.

VI. EDUCATION AND TREATMENT

- A. The City will educate and train managers and supervisors identifying problems and symptoms of potentially affected employees based on declining job performance or other indications of possible drug and alcohol use or abuse.
- B. Any employee who requests treatment or is diagnosed by a competent professional as being drug/alcohol dependent, before being identified for testing and subsequently testing positive, will be given the same consideration that is given to all employees with any other kind of disease or medical problem.
- C. The City extends the same benefits and insurance coverage for alcohol and drug dependency as all other medical and health conditions. The employee and/or their insurance provider will pay the cost of any treatment or rehabilitation services.
- D. Information concerning an employee's diagnosis, referral, treatment and medical records will be kept confidential as required by law.
- E. Any employee who has approved medical leave for rehabilitation must be in compliance with all requirements of the rehabilitation program. Any relapse on the job will be considered a violation of this policy and the employee may be terminated.

VII. APPEALS

An employee who is subject to termination or other disciplinary action under this policy may appeal the termination or other disciplinary action pursuant to the provisions of the Civil Service Rules and Regulations.


VIII. RECORDS RELEASE

- A. Drug/Alcohol testing records shall be maintained by the Human Resources Department and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express consent of the tested employee.
- B. Records of a positive drug test result, positive alcohol test result, or a refusal to test shall be released to the employee's department head or designee, and other persons in a need-to-know position.
- C. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test.
- D. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol, including testing records. Employee may not have access to follow-up testing plans, if applicable.

IX. UTILIZATION OF THE POLICY

- A. The City is dedicated to assuring fair and equitable application of this policy. Therefore, department heads/supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any department head or supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy on regard to subordinates, shall be subject to disciplinary action, up to and including termination.
- B. If an employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy, or if an employee refuses a request to submit to testing under this policy, the employee may be subject to appropriate disciplinary action, up to and possibly including termination from employment. In such a case, the employee will be given an opportunity to explain the circumstances proper to any final employment action becoming effective.

APPROVED BY:


FOR _____
TOMAS GONZALEZ, City Manager

DATE: July 14, 2015