

**CITY OF RICHARDSON
INTERDEPARTMENTAL POLICY AND PROCEDURE
DRUG AND ALCOHOL TESTING POLICY FOR DRIVERS OF COMMERCIAL
VEHICLES UNDER AUTHORITY OF U.S. D.O.T AND FMCSA**

INTRODUCTION

As part of the City of Richardson's commitment to safeguard the health of employees, provide a safe workplace, and supply customers with the highest quality service possible, this policy establishes the City's position on the use or abuse of alcohol, drugs and other controlled substances by City employees. This policy is intended to ensure compliance with Department of Transportation (D.O.T.) and Federal Motor Carrier Safety Administration.

PURPOSE

The intent of this policy is to provide clear guidelines and consistent procedures for the implementation and maintenance of a drug and alcohol free workplace; conformance with all applicable State and Federal laws pertaining to a drug and alcohol free workplace; and provide a safe and productive work environment. In order to further this objective, this policy has been established in reference to the manufacture; distribution; dispensing; possession; sale; purchase; use or being under the influence of drugs or alcohol in the workplace. Additionally, this policy defines the guidelines and procedures for drugs and/or alcohol tests related to pre-employment, post-accident, reasonable suspicion, random, voluntary disclosure and return to duty testing.

SCOPE

This policy applies to all employees who are required to obtain and maintain an active Commercial Driver's License as part of the essential duties of the job, while on duty, on call or standby, while representing the City, while wearing a City uniform, in a City vehicle, or on City premises. The State of Texas exempts drivers of emergency vehicles (fire, police) from requirements set forth in this policy. However, drivers of emergency vehicles are required to comply with the Drug and Alcohol Testing Policy for Non-D.O.T. employees and/or departmental policies. It is understood that within this policy any and all references to "employee" or "employees" refer specifically to U.S. Department of Transportation (D.O.T.) covered employees.

DEFINITIONS

Controlled substance (drug) is defined as a drug or substance listed in the Texas and Federal Controlled Substance Acts, the Dangerous Drugs Act, and appropriate chapters of the Texas Health and Safety Code, and includes, but is not limited to: marijuana; cocaine; narcotics; opiates; opium derivatives; inhalants; hallucinogens and any other substance having either a stimulant or depressant effect on the nervous system, such as amphetamines or barbiturates.

Impaired means an employee's diminished capacity to perform the duties of the job.

Under the influence is defined as the condition existing after the voluntary introduction of any amount of alcohol, inhalant, or controlled substance into the employee's body.

Safety Sensitive Functions are defined as any of the following: Operating machinery (i.e. heavy equipment, hazardous tools, etc.) Driving City vehicles a significant amount of the shift to accomplish essential functions of the job; maintenance of vehicles and equipment; transporting people; carrying a weapon as part of the essential job functions; ensuring direct safety and protection of others and property, such as functions provided by police officers, fire fighters and life guards, etc.

POLICY

1. The unlawful manufacture, distribution, dispensing, possession, sale, purchase, use or misuse of alcohol, drugs or a controlled substance on City property or while attending City sponsored functions is prohibited.
2. The unauthorized use or possession of prescription drugs on City premises or while representing the City of Richardson off-premises is prohibited.
3. Employees who violate this policy are subject to appropriate disciplinary action up to and including termination.
4. The City will implement a comprehensive drug and alcohol abuse education program. As part of that program, information regarding the City's Employee Assistant Program (EAP) will be provided to employees.
5. This policy applies to all D.O.T. covered employees of the City of Richardson regardless of rank or position and includes temporary and part-time employees.

EMPLOYEE RESPONSIBILITIES

It is the responsibility of all employees to:

- Report to work during regularly scheduled hours, or on call or standby, free of alcohol, inhalants, or controlled substances.
- If called in to work, declare to the supervisor the use of alcohol or controlled substances, including prescribed or over-the-counter medications that might affect their ability to drive in to work and/or perform. Employees are not obligated to reveal the specific name of the medication to the supervisor. However, employees are required to inform the supervisor if the medication could impact their ability to perform the essential functions of the job.
- It is the employee's responsibility to determine from the physician whether or not the prescribed drug would impair their job performance. When reporting such use, the employee is required to have a written statement from their physician regarding the prescription's effect on the performance of job duties and present this to their supervisor.

- Not use, possess, distribute, dispense, sell, provide, or manufacture any controlled substance, alcohol, inhalant, or performance altering substance (or have such illicit substances in his/her system, or the smell of such on his/her breath) while on duty, on call or standby, while wearing a City uniform, in a City owned vehicle, or on City property.
- Submit immediately to requests under this policy and procedure for alcohol and/or drug testing and analysis when requested by a supervisor.
- Comply with requests from the Medical Review Officer (MRO) by responding within twenty-four (24) hours of requests for a current valid prescription (in the employee's name) for any drug or medication identified when a drug test analysis is positive.
- Report any arrest, conviction, probation, or deferred adjudication for a criminal drug or alcohol offense to his/her supervisor within five (5) calendar days of the occurrence.

SUPERVISOR RESPONSIBILITIES

Supervisors and managers are responsible for consistent enforcement of all policies related to drugs and alcohol. Any supervisor who knowingly permits an employee to violate this policy may be subject to disciplinary action.

Trained supervisors and managers may require an employee to submit to a drug and/or alcohol test when a supervisor or manager has a reasonable suspicion that an employee is under the influence of controlled substances, dangerous drugs, inhalants, or alcohol or after applicable accidents as outlined within this policy and the Non-D.O.T. Drug and Alcohol Policy.

Supervisors must ensure that employees are transported to and from the collection site when a drug or alcohol test is required.

Supervisors must ensure employees are removed from the worksite and not permitted to drive before and after a drug or alcohol test, if reasonable suspicion exists. Employees are not permitted to engage in safety sensitive activities until the results of a reasonable suspicion drug or alcohol test are determined.

Legal prescription drugs and medication shall not be confiscated from an employee without that employee's consent.

When calling employees in to duty supervisors and managers shall document their discussions with those employees who declare the use of alcohol or controlled substances, including prescribed or over-the-counter medications, that might affect their ability to drive in to work and/or perform job functions. The supervisor or manager will then advise those employees not to come in to work.

ALCOHOL AND DRUG TESTING PROCEDURES

All employees recognize that, by continuing employment with the City of Richardson, they have consented to the City's adoption of a drug/alcohol-testing program. Refusal to submit a urine and/or breath screen will be considered a violation of the policy. The employee will be subject to the same disciplinary action enforced when submitting a positive sample. Failure to produce an adequate sample without a valid medical reason or engaging in conduct that clearly obstructs the collection process will be considered a refusal to test.

Privacy interests will be respected during testing processes. There is no need for advance notice for a test of any kind.

Employees will complete a pre-testing consent form each time a test is conducted as part of a drug or alcohol testing procedure. This is in addition to any signed acknowledgement forms which may have been obtained at the time of employment or any other occasion.

DRUG TESTING PROCEDURES

The City of Richardson will utilize a U.S. Department of Health and Human Services (DHHS) approved laboratory in performing urinalysis for drug detection. The laboratory will provide chain-of-custody procedures and documentation necessary to meet federal standards. Specimen collection and chain of custody procedures will ensure that specimen security, proper identification, and integrity are not compromised. A Medical Review Officer (MRO) will provide oversight to trained personnel on the collection and testing of urine samples.

The employee will provide a urine specimen in a location that affords privacy. The collector will seal and label the specimen, initiate a chain of custody document, and prepare the specimen and accompanying paperwork for shipment to the drug testing laboratory. Each urine specimen will be subdivided into two bottles labeled as "primary" and "split" specimens. Both bottles will be sent to a laboratory where only the primary specimen is opened and used for testing while the split remains sealed and is stored for "second opinion" purposes. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee will have 72 hours from the time they are notified by the MRO concerning positive test result to request the split specimen be sent to another DHHS-certified laboratory for a second opinion analysis.

Sample testing procedures conform to scientifically accepted analytical methods and procedures and include confirmation of positive test results by gas chromatography/mass spectrometry (GC/MS). Before the results of a drug test may be used as a basis for any action, an MRO will be employed to determine if the test result is positive due to illicit drugs, or prescribed or over-the-counter drugs or food substances. In the event the MRO determines laboratory analysis found the specimen to be positive, but circumstances leading to the test result were other than illicit drug use, the test will be reported to the City as negative.

The following detection limits (amount of the drug which can be reliably detected by the laboratory) will be used to determine a positive test result:

Initial test analyte	Initial test cutoff	Confirmatory test cutoff concentration
Marijuana metabolites (THCA)	50 ng/mL	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	10 ng/mL.
Phencyclidine	25 ng/mL	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	250 ng/mL. 250 ng/mL.
MDMA/MDA	500 ng/mL	250 ng/mL. 250 ng/mL.

*Nanogram (billionth of a gram) per milliliter. **Source: U. S. Department of Transportation

ALCOHOL TESTING PROCEDURES

Alcohol testing will be conducted at a specimen collection site. The collection site will utilize an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). Two breath tests will be conducted to determine if a person has a prohibited alcohol concentration. If the alcohol concentration is 0.02 or greater on the initial test, a second or confirmation test will be conducted before any action may be taken.

In post-accident testing, the Federal Motor Carriers Safety Administration (FMCSA) permits the use of police alcohol breath tests or blood tests in lieu of a motor carrier test where police or medical personnel will make results available.

TYPES OF TESTING

Drug and/or Alcohol testing may occur in the instances as described below:

Pre-employment Testing

Job applicants will be required to undergo drug testing after a conditional offer of employment has been made and before actually performing job functions for the first time. All positive test results will be confirmed by a GC/MS confirmation test and an MRO. If a positive result occurs, the candidate will not be hired for the position.

Random Drug and Alcohol Testing

Employees who are required to hold a Commercial Driver's License are subject to unannounced random drug and alcohol testing. In accordance with U.S. Department of Transportation regulations, the City of Richardson will randomly test employees in D.O.T. safety-sensitive positions i.e.: positions that require a CDL and in which an employee operates a vehicle that: weighs in excess of 26,001 lbs.; or is designed to transport fifteen or more passengers (not including the driver); or transports hazardous materials that require placarding.

Drug and/or Alcohol testing may be conducted anytime an employee is working for, or engaged in City of Richardson functions based on reasons outlined in this policy or in the Interdepartmental Policy and Procedure, Drug and Alcohol Testing Policy (Non-D.O.T.). Once notified of selection for testing, an employee must be immediately transported to the collection site.

The number of random drug and alcohol tests conducted is determined in accordance with Department of Transportation Regulations and is subject to change each year. Random sample selection (employees and dates for tests) will be conducted through a third party administrator with a statistically valid random selection process.

Reasonable Suspicion Testing

Reasonable suspicion that an employee may be using drugs or alcohol may be cause for drug and/or alcohol testing. Reasonable suspicion exists when a specific contemporaneous event or observation points to recent alcohol or drug use. Specific objective facts must be present and reasonable inferences made, through objective measurable behavior, and documentation of delinquent performance that suggest the employee is impaired on drugs or alcohol. All documentation will be made by a trained supervisor.

If the necessity for drug and/or alcohol testing of an individual is deemed sufficiently important by virtue of documented impairment, then the test(s) may proceed on the basis of "reasonable suspicion". Any employee may be tested for drug or alcohol use based on reasonable suspicion when:

- 1.) An employee is observed on duty by two (2) supervisors trained to recognize the symptoms of drug and/or alcohol abuse, impairment or intoxication. These observations shall be documented by the observers;
- 2.) Employee behavior is recognized and accepted as symptomatic of intoxication or impairment caused by drugs or alcohol, or addiction to or dependence on drugs or alcohol. Symptoms of such impairment could be slurring of speech, dilated or constricted pupils, loss of balance, inability to do ordinary physical tasks, or unusual risk-taking behavior;
- 3.) Employee behavior is not reasonably explained as resulting from causes other than the use of controlled substances (such as fatigue, lack of sleep, side effect of prescription or over-the-counter medications, reaction to noxious fumes or smoke, injury and etc.).

The supervisor or manager and the other witness(es) must document in writing the observed behavior(s) constituting the reasonable suspicion that the employee is impaired by or under the influence of alcohol, inhalants, or controlled substances.

The supervisor or manager should hold a confidential meeting with the employee to discuss the observed behavior(s) which constitute reasonable suspicion. The supervisor should tell the employee that some objective observations have been made, e.g., motor skills appear impaired, and employee's production has decreased, etc., without any observable explanation for the unusual conduct. The supervisor may also ask the employee to demonstrate his/her ability to control motor skills (e.g., walk a straight line, touch nose with tip of finger, etc.). The employee should then be asked if he/she has any explanation for the observed behavior(s). Any explanations offered by the employee will be carefully documented by the supervisor.

Supervisors and managers must notify the department head (or his or her designee) when they have reasonable suspicion that an employee may have illegal substances or alcohol in his or her system. With the consent of the department head (or designee) and the Human Resources Director (or designee), the supervisor or manager will advise the employee that a substance abuse test is required (must be done same day as observation is made), and arrange to have the employee immediately transported to (and from) the testing facility for drug and/or alcohol testing.

The supervisor or manager is also responsible for having the employee removed from the work site by a responsible party after testing is completed.

Note: Under no circumstances will an employee believed to be impaired by or under the influence of alcohol, inhalants, or controlled substances be allowed to drive him/herself away from the workplace.

Refusal to submit to a drug and/or alcohol test is considered the same result as a positive result, and is deemed insubordination and subjects the employee to disciplinary action, up to and including dismissal.

Post-Accident Testing

In the event of an accident, in accordance with D.O.T. regulations, an employee will be tested for drug and alcohol use when:

- 1.) A fatality occurs; or
- 2.) If the employee receives a traffic citation; and
- 3.) Injury occurs sufficient to require medical attention away from the accident site; or
- 4.) Vehicular damage occurs sufficient to require a vehicle be towed from the accident Site

Note: Employees who hold a CDL may be subject to post- accident (non- D.O.T.) testing in accordance with the City's Non-D.O.T. Drug/Alcohol policy if the accident does not include the any of the above, but meets the testing requirements of the Non-D.O.T. Drug/Alcohol Policy.

When the above conditions for Post-Accident Testing exist, a supervisor or other appropriate authority of higher level will order that testing occur. Post -Accident Testing for alcohol must occur within two (2) hours of the accident or documentation must be submitted by the supervisor explaining why the test did not occur within two (2) hours.

Post-Accident Alcohol Testing for alcohol may be conducted for up to eight (8) hours after the accident. If the alcohol test is not conducted within eight (8) hours of the accident, the requirement for Post-Accident Testing for alcohol is extinguished and further documentation explaining the reason(s) the test could not be conducted must be submitted. The time window for Post-Accident Testing for drugs is 32 hours. Similarly, if a Post-Accident Test for drugs is not conducted within 32 hours, documentation explaining why the test was not conducted is required.

The employee may then be returned to work if he/she does not appear injured or otherwise impaired. If deemed unable to return to work, the supervisor will assure the employee is taken from the work site by a responsible person (the employee is not allowed to drive if he/she appears impaired).

VOLUNTARY DISCLOSURE OF A SUBSTANCE ABUSE ISSUE

An employee who voluntarily discloses a substance abuse issue with drugs and/or alcohol to his/her supervisor, prior to notification of required testing or prior to pending disciplinary action for conduct related to drugs and/or alcohol, may be allowed to take medical leave to seek treatment. Alcoholism and other drug addictions are recognized as diseases responsive to proper treatment, and treatment will be an option as long as the employee complies with treatment recommendations. Employee Assistance Program (EAP) services will be made available to assist employees. An employee may not provide a voluntary disclosure upon being notified that he/she must submit to a drug or alcohol test.

If an employee voluntarily discloses a substance abuse issue, he/she will be required to comply with specific requirements set forth below as a condition of continued employment.

1). **Mandatory referral to the City's Employee Assistance Program (EAP)** for substance abuse treatment and/or counseling, as outlined in the City's EAP policy. The employee will be required to undergo a confidential assessment by a counselor from the EAP and adhere to the prescribed treatment set forth by the employee's treatment provider. Referral services will be provided without cost to the employee. The cost of treatment, counseling or rehabilitation resulting from EAP referral will be the responsibility of the employee. In most instances, the employee's medical benefit plan can be used.

2). **Return-to-duty and follow-up testing** is required for employees who voluntarily disclose a substance abuse issue. If an employee is taken off work, a negative return-to-duty test is required before an employee is permitted to return to work. Follow-up testing will be unannounced and at least six tests must be conducted in the first 12 months. Follow-up testing may be extended for up to five (5) years following return to duty as recommended by a substance abuse professional.

If the employee is in a safety sensitive position the employee will be removed from safety sensitive functions until the employee's substance abuse professional notifies Human Resources that he/she is ready to resume the job safely. The employee may use accrued sick leave, accrued vacation time, and/or accrued compensatory time to supplement sick leave if necessary, while undergoing treatment. If no paid leave is available, unpaid leave will be considered. Employees may be eligible for coverage under the Family and Medical Leave Act (FMLA) in accordance with Interdepartmental Policy and Procedures.

If the employee is removed from the job during treatment, the employee's substance abuse professional will notify Human Resources when the employee is ready to return to work. Human Resources will discuss a return-to-work date with the department. Any information received on return to work by departmental supervisors/managers must be provided to the Human Resources Director (or designee) immediately upon receipt. Return to work is contingent upon the employee signing a release (in Human Resources) and submitting to a "return to work" drug/alcohol test arranged by Human Resources. The employee must test negative in order to return. The release also authorizes the City to conduct unannounced tests over a period of up to five (5) years (based on the employee's substance abuse professional).

If the job is one that the employee may continue to perform without posing a threat to self or others, he/she may be better off remaining on the job. The employee's substance abuse provider's recommendation will be taken into consideration on this matter. Based on the substance abuse provider's recommendation, the department head may also choose to temporarily reassign the employee, depending on the needs of the business. If the employee is to remain on the job, Human Resources will obtain a signed release authorizing drug/alcohol testing after completion of this initial treatment (no longer than 30 days), and ongoing unannounced testing for up to a five (5) year period.

All drug/alcohol tests for return to work (post-treatment), and ongoing unannounced tests, will be arranged by Human Resources or the department head. Departments will ensure the employee promptly reports for testing as required. Human Resources will notify the department of the results as soon as they are available.

If, at any time, a drug test shows re-use of illegal substances or alcohol (following conclusion of treatment recommended by the employee's treatment provider) the employee is subject to termination of employment.

POSITIVE TEST RESULTS

A positive urinalysis drug test will be confirmed by a GC/MS test and reviewed by a Medical Review Officer before considered conclusive. Both tests must be positive or the results are considered inconclusive thereby causing a negative test result to be reported to the City.

An interview by the MRO will be conducted to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the employee provides appropriate documentation and the MRO is satisfied with the explanation, the drug test result is reported as negative to the City. Individuals with positive test results for drugs will be notified by the MRO in person or by telephone.

A positive breath test will be confirmed by a second test, conducted by using an Evidential Breath Test (EBT) that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results.

Triplicate copies will be printed by the Breath Alcohol Technician (BAT) for each alcohol confirmation test. Individuals with positive test results for alcohol receive a printed record, as will the City and the collection site.

When alcohol test results show a breath alcohol concentration (BAC) from 0.02 to less than 0.04, the employee will not be allowed to perform safety-sensitive duties for at least eight hours unless they first test below 0.02.

When alcohol test results show a BAC of 0.04 or greater and/or a drug test is confirmed as positive, the employee will be deemed medically unqualified to perform duties and immediately removed from their position until further notice.

The reporting of positive test results to the City will be based only on written results from the laboratory and MRO for drugs, and the breath alcohol technician (BAT) for alcohol.

A record of any conversations or mail receipts will be included in the employee's medical file. Disciplinary action will be based on confirmed test results. When a drug and/or alcohol test is positive, the employee will be referred to a Substance Abuse Professional and/or Employee Assistance Program and placed on administrative leave until further review of the case.

CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT

Any employee suspected of violating this Policy or the Non-D.O.T Drug and Alcohol policy may be placed on administrative leave pending completion of an investigation. If the investigation concludes the employee violated this Policy, the employee will be subject to disciplinary action up to and including termination based on the following:

1. Refusal to submit to a drug and/or alcohol test is considered the same as a positive result, and is considered insubordination and will result in termination of employment.
2. A positive drug test result or an alcohol concentration of greater than 0.04 will result in termination of employment.
3. Testing positive for a prescription drug not specifically prescribed to the employee may result in disciplinary action, up to and including termination of employment.
4. An alcohol concentration of greater than 0.02 but less than 0.04 may result in disciplinary action, up to and including termination of employment.
5. Violators of this policy may be subject to civil and/or criminal penalties.

Note: In cases where conduct does not result in immediate termination of employment, the employee's position, tenure, prior work performance, rehabilitation efforts, evaluation by a Substance Abuse Professional (SAP) and continued compliance will be considered in determining the appropriate level of discipline.

CONFIDENTIALITY

Drug and Alcohol test results may be released only to the employee, Employee Assistance Program, laboratory officials, Medical Review Officer, State Agencies as required and as otherwise required by law. All test results will be kept in a secure location with limited access.

Signed by Dan Johnson on March 21, 2018

Dan Johnson, City Manager

Date

*Originally effective November 1994
Revised June 2010, January 2017, March 2018*