

CITY OF PLANO POLICIES AND PROCEDURES

218.000

Department Name: Human Resources Manual

Procedure: Substance Abuse

Effective Date: 11/01/96

Revision Date(s): 01/04/99, 07/01/03, 04/01/06, 01/01/07, 07/01/07, 04/01/09,
07/01/10, 07/01/11

I. Purpose

The citizens and taxpayers of the City of Plano deserve a City government free from the problems associated with illicit drugs. This requires not only a workplace free from the presence of illicit drugs, but also necessitates a workforce in whose private lives illicit drugs play no part.

The citizens and taxpayers likewise have a right to expect that the City workplace be free from the harmful influences of alcoholic beverages and illegal inhalants. Accordingly, the following is established as the City of Plano Substance Abuse Policy, which shall be applicable to all employees of the City of Plano.

II. Definitions

A. **Illicit drugs** shall mean those substances listed below:

1. Cannabinoid (THC)
2. Amphetamines
3. Opiates
4. Benzodiazepine
5. Methadone
6. Cocaine
7. Barbiturates
8. Propoxyphene
9. Methaqualone
10. Phencyclidine (PCP)

B. **On the Job** is defined as follows:

1. Presence at any place or location during working hours or while on duty, when such presence is at the direction of a supervisor or otherwise for the purpose of conducting City business or performing City functions;
2. Presence in a City-owned or City-leased vehicle at any time; or
3. Presence in a privately owned vehicle which is being used to conduct City business or perform City functions.

C. **Under the influence of illicit drugs** shall mean having present in the body or urine a quantity of an illicit drug sufficient to register a positive result on the drug screen utilized by the City, the testing parameters of which are set forth as follows:

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CUT-OFF LEVELS

<u>Substance</u>	<u>Blood/Urine</u>	
	<u>Breath</u>	<u>Hair</u>
a. Cannabinoid (THC)	100 NG/ML	10 Picograms/10 MG
b. Amphetamines	1000 NG/ML	5 NG/10 MG
c. Opiates	300 NG/ML	5 NG/10 MG
d. Benzodiazepine	300 NG/ML	N/A
e. Methadone	300 NG/ML	N/A
f. Cocaine	300 NG/ML	5 NG/10 MG
g. Barbiturates	300 NG/ML	N/A
h. Propoxyphene	300 NG/ML	N/A
i. Methaqualone	300 NG/ML	N/A
j. Phencyclidine (PCP)	25 NG/ML	3 NG/10 MG

- D. **Under the influence of alcoholic beverages** is defined as follows:
1. Not having the normal use of mental or physical faculties by reason of the introduction of alcohol into the body; or
 2. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 100 milliliters of blood; or
 3. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 210 liters of breath.
- E. **Alcoholic beverages** shall mean alcohol or any other beverage containing more than 1/2 of 1 percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.
- F. **Reasonable suspicion** shall mean a suspicion based upon facts which would lead a reasonably prudent person to believe it likely that the employee in question was under the influence of illicit drugs or alcoholic beverages as defined herein.
- G. **Employee Assistance Program (EAP)** shall mean a substance abuse counseling service or substance abuse agency currently under contract with or utilized by the City of Plano to provide counseling, assistance, referral or related support to City employees suffering from problems related to drug or alcohol abuse.
- H. **Under the influence of illegal inhalants** shall mean not having the normal use of mental or physical faculties by reason of the introduction of illegal inhalants into the body. Illegal inhalants shall include the following:

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1. Volatile chemicals as defined in Chapter 484 of the Texas Health and Safety Code; and
2. Abusable glue or aerosol paint as defined in Chapter 485 of the Texas Health and Safety Code.

III. Policies and Procedures

Policy Sections A through K apply to all employees. However, those City positions which require a commercial driver's license are also subject to specific regulations mandated by the U.S. Department of Transportation (**See:** Section L).

A. Prohibited Conduct

All employees of the City of Plano are hereby prohibited from engaging in the following conduct:

1. **Illicit Drugs** – Using or possessing without a valid prescription, selling or otherwise distributing illicit drugs;
2. **Alcoholic Beverages** – Unless otherwise required by job functions, using, purchasing, possessing, serving, selling or otherwise distributing alcoholic beverages while on the job is strictly prohibited. The term *possessing* shall not apply to bottles or containers which are sealed and located in a nonpassenger compartment of a privately owned vehicle, unless that vehicle is being used for City business for which the City is paying car allowance or mileage reimbursement.
3. **Illegal Inhalants** – Using, possessing, selling or otherwise distributing illegal inhalants is in violation of Chapter 484 or Chapter 485 of the Texas Health and Safety Code.
4. **Reporting for work** or remaining on the job while under the influence of any of the following:
 - a. Illicit drugs,
 - b. Alcoholic beverages, or
 - c. Illegal inhalants.
5. **Over-the counter Medication/Prescription Drugs.** No employee shall report to work or remain on duty when he/she is under the

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influence of any over-the-counter medication or prescription drug that adversely impacts the safety and health of himself/herself and others.

Nothing contained herein is intended to prohibit, limit or restrict the lawful operations of the Police Department of the City of Plano with respect to the subject matter hereof.

Further, nothing contained herein is intended to authorize, permit or condone the possession, sale, distribution or use of any illegal or controlled substance, including, without limitation, any and all "designer drugs." The possession, sale, distribution or use of such illegal or controlled substances may result in disciplinary actions under any and all applicable policies and procedures of the City.

B. Drug Screening/Alcohol Testing

Any time there exists a reasonable suspicion that an employee has violated the provisions of Paragraph III.A. hereof, the City may require the employee to submit to drug or alcohol screening, which may consist of chemical analysis of one or more of the following substances: blood, breath or urine. Failure of the employee to submit to drug or alcohol screening shall be grounds for dismissal. Hair analysis will not be used for reasonable suspicion testing.

C. Substance Abuse Among Current Employees

This section sets forth the procedures for enforcing the provisions of the City of Plano Substance Abuse Policy.

1. **Screening** – Drug screening of an employee for illicit drugs, illegal inhalants or alcoholic beverages will be conducted only upon written authorization by the city manager, a deputy city manager, the department head, or, in their absence, the supervisor to whom the employee is assigned and at least one other person who observed the employee and concurred that drug screening was indicated. A written statement will be required from the persons who observed the employee, describing the specific behavior that necessitated testing. When possible, consultation with the Legal and/or Human Resources departments is recommended prior to testing.

If screening is required after normal business hours, the supervisor should call Concentra Medical Center at 972-578-2212 and ask for the

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“after hours on-call” designee who will refer them to the appropriate medical facility for screening.

2. **Observation** – Observable facts which may provide a basis for "reasonable suspicion" include, but are not limited to, one or more of the following: the odor of alcoholic beverages or other intoxicants, significant confusion or disorientation, slurred speech, erratic behavior, excessive or unexplained tardiness or absenteeism, or an on-the-job accident.
3. **Awareness** – Any employee having knowledge that another employee is in violation of the substance abuse policy is encouraged to report such information to his/her supervisor, department head, division manager, or to the city manager.
4. **Authorization** – If a drug and/or alcohol screening is authorized, the employee will be transported immediately to an appropriate facility and required to provide a blood, breath, urine or hair specimen or sample, as appropriate.
5. **Analysis**
 - a. All urine specimens will be analyzed at a licensed toxicology laboratory or other appropriate facility designated by the City, utilizing an EMIT Assay or similar methodology. If such analysis yields a positive result, a confirmatory analysis will be performed utilizing gas chromatography/mass spectrometry or such other confirmation methodology as would be admissible as evidence in legal proceedings in this state.
 - b. All breath samples will be analyzed by a trained breath alcohol technician. An alcohol concentration of 0.04 or greater is grounds for dismissal. An alcohol concentration of 0.02 or greater, but less than 0.04, may be subject to dismissal; however, at the department head's discretion and based on the individual circumstances, may receive a lesser disciplinary action.
 - c. Blood samples will be taken by a qualified professional and analyzed for blood alcohol concentration. An alcohol concentration of 0.04 or greater is grounds for dismissal. An alcohol concentration of 0.02 or greater, but less than 0.04, may be subject to dismissal; however, at the department head's

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discretion and based on the individual circumstances, the employee may receive a lesser disciplinary action.

d. Hair analysis will be analyzed using radio immuno assay procedures by a licensed laboratory acceptable to the City. A confirmation test using gas chromatograph/mass spectrometry will be used.

6. **Administrative Leave** – Upon providing the specimen or sample, the employee will be placed on administrative leave with pay pending receipt by the City of written results of the drug screening. If the results indicate violation of Paragraph III.A. of the policy, a dismissal action will be initiated in accordance with the City of Plano's disciplinary action procedure.
7. **Proposed Dismissal** – If an employee refuses to provide the requested specimen or sample, a proposed dismissal will be initiated in accordance with the City of Plano's disciplinary action procedure.
8. **Disciplinary Action Procedure** – Violation of Paragraph III.A., III.B. or III.C.7 will result in initiation of a proposed dismissal in accordance with the City of Plano's disciplinary action procedure.
9. **Rehire** – An employee dismissed for violation of this policy will not be eligible for rehire for a period of two years.

Nothing contained herein shall be construed to limit, restrict, modify or condition the investigation by appropriate law enforcement officers of any alleged criminal activity.

D. Hearing

Any employee charged with violating this policy shall be afforded an opportunity to be heard as provided for in the City of Plano's Disciplinary Action Procedure. If, after such hearing, the employee is found to have violated this policy, the employee shall be dismissed.

E. Pre-Employment Screening

All applicants for employment with the City of Plano will be required to submit to pre-employment drug screening prior to hiring. The City of Plano will post public notices that pre-employment drug screening will be required. Only applicants who have completed the interviewing and selection process and

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are still being considered for employment will be required to submit to drug screening. Any job offer that is extended to an applicant will be contingent upon test results that do not indicate a positive result, as specified below.

The pre-employment drug screening will require the applicant to provide a specimen at a City-approved medical facility under standardized drug screening procedures. At the time of the drug screening, each applicant will be informed of the testing procedure and consequences of positive test results. The applicant will be requested to sign a Drug Screening Consent Form acknowledging his/her understanding of the test, authorizing the diagnostic procedure, and releasing the test results to the City. If the applicant is a minor, he/she and his/her parent or legal guardian must also sign a Pre-employment Consent and Release Form. Any applicant who refuses to sign a consent form or who refuses to undergo the drug screening will be ineligible for employment consideration with the City of Plano for two years. A licensed toxicology laboratory will then perform an EMIT Assay analysis of the specimen or a radio immuno assay (RIAH) for hair under controlled conditions by trained personnel.

If the analysis indicates the presence of illicit drugs as defined in the City of Plano's Substance Abuse Policy, a confirmatory test will be performed, utilizing gas chromatography/mass spectrometry or other appropriate equivalent technology. If this second test confirms the positive test result, the applicant will be given the opportunity to provide written proof within five work days that the applicant has a current, valid prescription for the substance in question, failing which, the applicant will be denied employment and disqualified for further consideration for two years.

F. Interdepartmental Promotions and Transfers

Department of Transportation (DOT) drug screening shall be administered for employees who are transferring into positions requiring DOT testing if their previous positions did not require that testing. No other employee applying for another job within the City shall be required to submit to drug screening, except as may be required by statute for certain civil service positions.

G. Employee Amnesty Program

It is the desire of the City to extend a program of amnesty to those employees who voluntarily seek assistance for substance abuse problems.

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1. EAP Availability – Prior to a suspected violation under Sections III.A. or III.B. or request to be tested, any employee may avail himself/herself of the Employee Amnesty Program. In order to do so, the employee must do the following:
 - a. Communicate to his/her immediate supervisor, his/her department head, or Human Resources that he/she is, or may be, suffering from drug, illegal inhalant, or alcohol abuse or addiction;
 - b. Agree and commit in writing to undergo or participate in a program of counseling, treatment or therapy prescribed or recommended by the Employee Assistance Program (Program);
 - c. Execute a release which will authorize any and all doctors, counselors, therapists or other care providers to provide to Human Resources, upon written request, a statement as to whether the employee is fulfilling all the requirements or obligations of his/her Program, whether the Program has been successfully completed, and whether the employee is released to continue work with the City; and
 - d. Agree in writing, upon successful completion of the Program, to submit to random or regularly scheduled drug screening, blood or breath alcohol testing, or both, for a period of not less than six months following completion of the Program. This agreement is a condition of continued employment.
2. Employee Protection – So long as the employee is fulfilling all requirements and obligations of the Program, he/she will not be subject to discipline for violation of the Substance Abuse Policy, unless there is subsequent information evidencing violation of substance abuse policy.

H. Treatment Program Availability

An employee who seeks services by a treatment program other than the City's Employee Assistance Program is encouraged to check with his/her medical carrier to determine the availability and level of coverage for such services. There are a number of drug/alcohol treatment programs available in the Metroplex, with cost dependent upon both the type and amount of care necessary. An employee who wants to know more about the Employee Assistance Program and its services may contact Human Resources or may call the Employee Assistance Program directly.

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I. Random Drug Screening of City Employees

The City may implement a program of random drug screening among all its employees. The program is based on the following:

1. Terms and Conditions

- a. A random drug screening program may be implemented if such screening is made mandatory by the acceptance of a federal or state grant or is otherwise required by any federal or state law or regulation;
- b. A random drug screening program may be implemented for certain sensitive operational areas as designated by the city manager;
- c. Prior to the implementation of random drug screening as provided in Subsections a. and b. above, all affected employees will be given 30 days' notice that the program will be implemented.

2. Limitations and Restrictions – Nothing contained in this section is intended to limit or restrict the right and option of the City in conducting drug or alcohol screening pursuant to the provisions of the Employee Amnesty Program.

J. Records Relating to Drug Screening and Blood or Breath Alcohol Testing

All records relating to drug or alcohol screening results, or relating to participation in the City's Employee Amnesty Program, shall be maintained in a secure location with limited public access. These records shall be accessible only with prior approval of the city manager or a deputy city manager, and will be given only after consultation with the city attorney. If a representative of any other governmental entity or any member of the public requests access to such records, whether pursuant to the Texas Open Records Act or otherwise, the request shall be referred to the office of the city attorney for further consideration.

K. Condition of Employment

Each employee of the City of Plano will be informed of the Substance Abuse Policy set forth in this section and will be required to sign a statement acknowledging that acceptance of the requirements and terms thereof shall be a condition of continued employment with the City.

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L. Additional Alcohol and Drug Testing Pursuant to Department of Transportation Regulations

The Department of Transportation and the Federal Highway Administration require alcohol and drug testing of employees in positions requiring commercial driver's licenses by the State of Texas or a higher authority.

1. Prohibited Alcohol and Drug Use

a. Performance of safety-sensitive functions (those duties requiring a commercial driver's license) is prohibited under the following conditions:

- (1) While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
- (2) While using alcohol; or
- (3) Within four hours after using alcohol.

b. Refusing to submit to an alcohol test within eight hours after an accident is prohibited.

c. Any unauthorized use of marijuana, cocaine, amphetamines, opiates, or phencyclidine. Illicit use of drugs by safety-sensitive drivers is prohibited on or off duty.

2. Alcohol and Drug Tests Required

a. Pre-employment – Department of Transportation (DOT) drug tests are conducted after offers of employment are made, but before actually performing safety-sensitive functions for the first time. A Breath Alcohol Test (BAT) is not required prior to employment. Both DOT drug and breath alcohol tests are required when employees are promoted or transferred from positions not requiring a Commercial Driver's License into positions requiring a Commercial Driver's License.

b. Post-accident – After accidents, both a DOT drug test and a breath alcohol test are conducted on drivers whose performance could have contributed to the accident (as determined by a moving traffic violation citation); for all accidents involving a fatality, whether or not the driver received a moving traffic violation; and when an individual suffers a bodily injury and

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receives immediate treatment away from the scene of the accident.

- c. Reasonable suspicion – Conducted when a trained supervisor or employer official observes behavior or appearance that is characteristic of alcohol and/or drug misuse or abuse. If it is determined that a reasonable suspicion exists, but testing cannot be administered, the driver must be removed from performing safety-sensitive functions for at least 24 hours.

Note: On reasonable-suspicion testing, the department should consult with the Legal and Human Resources departments prior to making the final decision to test.

- d. Random – Conducted on a random, unannounced basis just before, during or just after performance of safety-sensitive functions. Individuals will be randomly selected through use of a valid method. Each year, the number of random breath alcohol tests must equal at least 10 percent of all designated positions. The number of random drug tests must equal at least 50 percent of all designated positions.
- e. Return-to-duty and follow-up – (1) Conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced, and at least six tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. Return-to-duty and follow-up tests are applicable only for those seeking amnesty and, based on individual circumstances, for those who may have had an alcohol concentration of 0.01 or greater, but less than 0.04. (2) Return to duty – A DOT drug test is required anytime a covered employee has not performed a safety sensitive function within a 90-day period, and was not in the random selection pool for that period of time. The reason for the absence is not an excuse for random testing , i.e., illness, vacation, jury duty, leaves of absence, Workers Compensation, Family and Medical Leave (FMLA), etc.
- f. Refusal to test – Refusal to be tested in any of the above circumstances may result in nonselection for an applicant or dismissal for an employee.

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3. Consequences of Alcohol Misuse/Abuse

An alcohol concentration of 0.04 or greater is grounds for dismissal.

Drivers with an alcohol concentration of 0.02 or greater, but less than 0.04, are not permitted to perform safety-sensitive functions for a minimum of 24 hours and may be subject to dismissal. At the department's discretion and based on individual circumstances, the driver may be subject to disciplinary action, in addition to mandatory referral to a substance abuse professional through the City of Plano's Employee Assistance Program. (Additionally, if the driver does not adhere to the treatment plan recommended by the substance abuse professional, the driver may be subject to disciplinary action, including dismissal). In such an event, the driver will be placed on administrative leave without pay while complying with the treatment recommendations of the substance abuse professional. (**Note:** Accrued paid sick leave may be used, if available.) No time off will be appealable under the City of Plano's Disciplinary Action Procedure.

Violations will not be placed on the driver's commercial driver's license records.

4. Alcohol Testing Procedure

Tests will be conducted by a trained breath alcohol technician, using an evidential breath-testing device. A screening test is conducted first. If the alcohol concentration is 0.01 or greater, a second confirmation test will be conducted, the results of which will determine any actions taken. Tests will generally be conducted by a contract medical services provider. Results of alcohol testing will usually be available immediately after the test.

5. Drug Testing Procedure

Drug testing is conducted by analyzing a driver's urine specimen at a laboratory certified and monitored by the Department of Health and Human Services. The City of Plano's contract medical provider will administer the tests and ship the sample overnight to the certified laboratory. Most results are available within 24 hours. "Split" urine specimens provide drivers with an opportunity for a second opinion, if needed.

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Hair analysis testing shall not be performed as part of Subsection III.L. unless authorized by Department of Transportation and Federal Highway Administration or other appropriate body.

6. Drugs Tested For

Department of Transportation requires that the following drugs be tested for:

- a. Marijuana
- b. Cocaine
- c. Amphetamines
- d. Opiates
- e. Phencyclidine

A screening test is performed first. If it is positive for one or more of the drugs listed, then a confirmation test is performed (gas chromatography/mass spectrometry).

7. Results Interpretation

All drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City of Plano.

Note: For all drugs except phencyclidine, there are some limited, legitimate medical uses which may explain a positive test result. For this reason, any positive results are discussed by the MRO and the driver. If use is legitimate, the result will be reported to the City as negative.

8. Consequences of a Positive Drug Test

A positive drug result will be grounds for dismissal. Violations will not be placed on the driver's commercial driver's license record.

9. Confidentiality

Test results may be released only to the driver, employer, substance abuse professional, laboratory officials and medical review officer. They cannot be released to others without the written consent of the driver. All test results will be kept in a secure location with limited access.

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Note: For new employees, the City of Plano is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, positive drug test results and refusals to test within the preceding two years. Refusal to give consent may be considered in the selection decision.

10. Use of Law Enforcement Tests

In post-accident situations, the City of Plano reserves the option to substitute a blood or breath alcohol test and a urine drug test performed by local law enforcement officials, using procedures required by their jurisdictions, providing such test results are received directly from the local jurisdiction or the driver. If the City substitutes a law enforcement based post-accident test, it will take the actions appropriate to the result (as outlined in Subsection L.3. and 8. above).

11. Rehire

Any employee who has had a positive Medical Review Officer (MRO)-confirmed drug test, breath alcohol test results of 0.04 or greater, or refused to test and been terminated from City employment will not be eligible for rehire for a period of two years.

M. City Functions

No City funds will be used for the purchase of alcoholic beverages. Any alcoholic beverages purchased at off-site functions (example: banquets, etc.) must be purchased with personal funds and may not be hosted or supplied by the City, nor may the alcohol service be under the control of the City.

IV. Appendices

None referenced.