

RESOLUTION NO. 6-1991

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY MANAGER TO IMPLEMENT THE SUBSTANCE ABUSE AND TESTING POLICY FOR CITY OF ABILENE EMPLOYEES.

1. WHEREAS, the City of Abilene maintains a firm commitment to provide efficient, reliable services to its citizens and a safe and healthy work environment for its employees; and,
2. WHEREAS, the City of Abilene recognizes that involvement with illegal drugs and/or abuse of alcohol has an adverse impact on the work place and impairs the City's ability to maintain a safe work environment; and,
3. WHEREAS, the City organization is actively involved in City-wide campaigns to eliminate substance abuse; and,
4. WHEREAS, the ultimate goal of this policy is to balance respect for individual privacy with the need to keep a safe, productive, drug-free environment; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

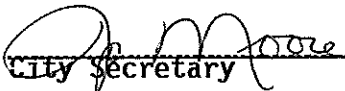
PART 1: That the City Manager is hereby authorized to implement the City of Abilene Substance Abuse and Testing Policy, a copy of which is attached hereto and incorporated herein.

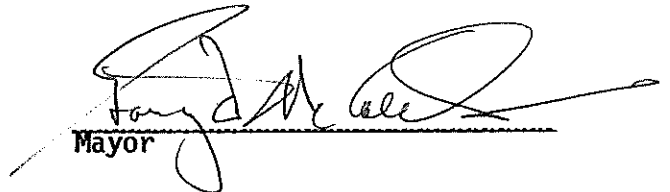
PART 2: That any changes in the attached Substance Abuse and Testing Policy, as may be necessitated to conform with revisions to or amendments to state or federal laws, or to meet changing needs within the municipal organizational structure, shall be effected at the direction of the City Manager.

PART 3: That this resolution shall take effect on March 15, 1991.

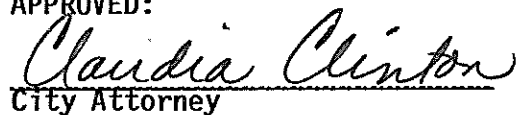
ADOPTED this 28 day of February, 1991.

ATTEST:


City Secretary


Mayor

APPROVED:


City Attorney

CITY OF ABILENE

SUBSTANCE ABUSE AND TESTING POLICY

PURPOSE

The City maintains a firm commitment to provide efficient, reliable services to its citizens and a safe and healthy work environment for its employees. While the vast majority of employees are not involved with illegal drugs, those who are involved in usage or trafficking, on or off the job, have an adverse impact on the work place and impair the City's ability to maintain a safe work environment that is free from the effects of illegal drugs and alcohol. Recognizing that there may be employees who have a drug or alcohol problem, the City is willing to assist in the resolution of that problem and encourages employees to seek help.

The ultimate goal of this policy is to balance respect for individual privacy with the need to keep a safe, productive, drug-free environment.

POLICY

1. The City's policy is to employ a work force free from use of illegal drugs and abuse of alcohol. Any employee determined to be in violation of this policy is subject to disciplinary action, which may include termination, even for the first offense. The Abilene Police Department and other applicable law enforcement agencies shall be notified, as appropriate, where criminal activity is suspected.
2. The illegal use, sale or possession of narcotics, drugs, or controlled substances while on the job or on City property is strictly prohibited, and is cause for disciplinary action, up to and including termination.
3. The use of alcohol while performing assigned duties is prohibited and is cause for disciplinary action, up to and including termination.
4. Illegal drug usage, whether on or off the job, may adversely affect an employee's job performance, jeopardize the safety of other employees, the public, the reliability of the City operations and/or equipment, and is just cause for disciplinary action, up to and including termination of employment.
5. If an employee reports to work in a condition giving his/her supervisors reasonable cause to suspect the influence of alcohol, the employee may be required to submit to a blood and/or urine exam, and if the test reveals that the employee is under the influence of alcohol, the employee will be subject to disciplinary action, up to and including termination of employment.
6. If an employee reports to work in a condition giving his/her supervisors reasonable cause to suspect the influence of drugs or other hallucinogens, the employee may be required to submit to a blood and/or urine exam, and if the test reveals that the

employee has illegal drugs or other hallucinogens in his/her system, the employee will be subject to disciplinary action, up to and including termination of employment.

7. Employees who are "on-call" or who are called back are subject to the provisions of this policy. Department Directors may formulate policies individualized to their divisions. These individual policies must be approved by and on file with the Director of Administrative Services.
8. Any employee who may be undergoing medically prescribed treatment with a controlled substance or over-the-counter medication which may limit the employee's ability to perform on the job must report this treatment to his/her supervisor prior to beginning work. Failure to report this to the supervisor shall be just cause for appropriate disciplinary action. The supervisor shall assure that this information is limited to those persons having a need-to-know.
9. The City is dedicated to assuring fair and equitable application of this Substance Abuse Policy and to upholding the stated standards of confidentiality. Any supervisor/manager who knowingly disregards the requirements of this policy, who is found to deliberately misuse the policy in regard to subordinates, or who violates the confidentiality standards of the policy shall be subject to disciplinary action, up to and including termination.
10. In accordance with the Drug-Free Workplace Act of 1988, employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction. Any employee who fails to do so shall be subject to disciplinary action, up to and including termination.

DEFINITIONS

1. "Legal drug" - includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured.
2. "Illegal drug" - any drug which: (a) is not legally obtainable (Texas Health and Safety Code Section 481); (b) may be legally obtainable but has not been legally obtained; or, (c) is being used in a manner or for a purpose other than as prescribed.
3. "Under the influence" - not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, or a combination of two or more of those substances into the body.
4. "Random test" - unscheduled and unannounced drug and/or alcohol tests.

5. "Safety sensitive position" - equipment operators, heavy equipment operators, persons responsible for maintaining equipment, police officers, firefighters, and employees who dispatch emergency services.
6. "Positive" - is defined as a blood alcohol level of .05 or greater or the limits of detection for drugs in urine as defined by the lab (amphetamines - 1,000 ng/ml, barbiturates - 300 to 3,000 ng/ml, benzodiazepines - 300 ng/ml, cannabinoids - 50 ng/ml, cocaine metabolite - 300 ng/ml, methadone - 300 ng/ml, methaqualone - 300 ng/ml, opiates - 300 ng/ml, phencyclidine (PCP) - 25 ng/ml, propoxyphene - 300 ng/ml).

PROCEDURES

1. Communication, Education, and Training

- A. Communication of the policy to the employees is the responsibility of the Department Directors, Division Managers and other supervisors, and, initially, the Employee Committee and any ad hoc committees which may be convened for the purpose of communicating this policy.
- B. Employees are to be advised of the City's Substance Abuse and Testing Policy in writing, with copies of the entire policy posted on all work site bulletin boards, and copies of the entire policy available to employees on request.
- C. Supervisors will continue to be trained on the following issues:
 - (1) alcohol and drug abuse recognition, symptoms and effects, including methods of visually identifying employees who may be subject to the effects of alcohol and/or drugs;
 - (2) methods of referring employees who might be suffering from personal problems that could signal possible alcohol/drug problems;
 - (3) City policies and procedures related to handling employees who appear to be subject to the effects of alcohol and/or drugs;
 - (4) documenting observations of employees who may be subject to the effects of alcohol or illegal drugs;
 - (5) benefit programs and alternatives available; and
 - (6) safety aspects of alcohol or drug problems.

2. Employee Assistance

- A. It is the City's policy to provide assistance to employees who experience problems, including substance abuse or dependency, which may adversely affect job performance. Employees are encouraged to voluntarily seek assistance in dealing with substance abuse problems. Confidential professional assistance, treatment planning, and rehabilitation services are available, as needed. In an instance where a management referral is made, only the referring supervisor will be aware of the circumstances of the referral.
- B. A request for assistance for a substance abuse problem will not, in itself, be considered grounds for disciplinary action. However, a request for assistance will not prevent the taking of appropriate disciplinary actions for misconduct or performance problems which may be related to substance abuse. In no case will participation in the employee assistance program shield employees who violate this policy from disciplinary action. Employees remain responsible for their on-the-job conduct and work performance, although assistance for substance abuse problems may be handled as a separate but related issue.

3. Alcohol and Drug Testing

A. Pre-employment Testing

- (1) The City will conduct pre-employment screening examinations designed to prevent hiring individuals who use illegal drugs or individuals whose use of legal drugs or alcohol indicates a potential for impaired or unsafe job performance.
- (2) Applicants who test positive for alcohol or illegal drugs or who state on their employment application or medical history, or if any other evidence is produced that they have used illegal drugs, will be denied employment unless evidence of successful rehabilitation is presented.
- (3) Applicants who refuse to take the drug and alcohol test will be denied employment but may reapply when willing to take the test.
- (4) Applicants will not be denied employment solely because of a prior positive test, or admission of prior illegal use, provided they present evidence of successful rehabilitation.
- (5) Applicants may be offered employment contingent upon the results of the alcohol/drug test.
- (6) Prior to employment, applicants will be required, as a condition of employment, to sign a consent to random testing agreement.

- (7) Pre-employment screening will be introduced in two phases. In Phase I (FY90-91) only safety sensitive positions will be involved. In Phase II (FY91-92) all positions will be included.

B. Employee Testing (Reasonable Cause)

- (1) It shall be a condition of continued employment for employees to submit to a drug/alcohol screen when the City has information about an employee's conduct that would cause a reasonable person to believe the employee is demonstrating signs of impairment due to alcohol or illegal drugs, or has used alcohol or illegal drugs on City property. Signs of impairment include difficulty in maintaining balance, slurred speech, erratic or atypical behavior, marked changes in personal behavior that are otherwise unexplainable, and/or deteriorating work performance that is not attributable to any other factors.

The decision to require an employee to submit to an alcohol/drug test will be made by at least two (2) management officials, preferably the Department Director and the Director of Administrative Services. The decision will require input/recommendation of the employee's Division Manager and/or other supervisory personnel (see Attachment A Supervisor's Documentation for Drug Test).

- (2) Employees may be required to submit to an alcohol/drug test when involved in or contributing to a mishap, accident, or injury. Requirements for alcohol/drug testing following such an occurrence are:
 - (a) If a mishap, accident, or injury involves only City employees and property damage, regardless of who owns the property, a request for an alcohol/drug test may be made by the employee's supervisor, Division Manager, Human Resource/Risk Manager, or Safety/Claims Administrator following the procedures outlined in this Section 3B.
 - (b) If a mishap, accident, or injury involves people other than City employees or damage to property other than City property, the Human Resource/Risk Manager or the Safety/Claims Administrator may require the employee to submit to an alcohol/drug test.
- (3) Once the decision has been made to require the employee to submit to a drug/alcohol screen, the employee will be taken by a supervisor to the lab that the City has selected to perform the screen.

(4) Positive Test for Alcohol or Drugs

- (a) First positive test: Unless circumstances warrant termination, the employee is to be placed on an immediate leave of absence and referred to a City-approved alcohol or drug treatment program. After successful completion of the program, the employee will be allowed to return to work, but is subject to unannounced and unscheduled alcohol and/or drug tests for one (1) year following the first positive test.
- (b) Second positive test: If, within one (1) year of the first positive test, the employee tests positive for either alcohol or drugs, the employee will be terminated.

(5) Retests

- (a) An employee who tests positive on an alcohol/drug test may request that the original sample be analyzed again.
- (b) An employee requesting a retest must submit the request in writing to the Director of Administrative Services within three (3) working days of the employee's receipt of the original test results.
- (c) If the retest results in the employee passing the test, the City will reimburse the employee the documented expenses.

(6) Leaves of Absence Following a Positive Test

The leave of absence taken after a positive alcohol or drug test is to be without pay; however, the employee may use accumulated sick leave and/or vacation time. The employee is not eligible for donated time. The leave is to be for a maximum of thirty (30) work days, during which time the employee is required to maintain contact with his/her supervisor to assure that he/she is participating in the City-approved program and continuing treatment. This thirty-day period may be extended only by the written orders of the attending physician, and the extension may not be for more than an additional thirty (30) days.

4. Procedure for Alcohol or Drug Testing

- A. No alcohol test may be administered, urine sample obtained or any drug test conducted on such sample without the written consent of the person being tested.

- B. Prior to the administration of an alcohol test and/or the collection of a urine specimen for drug testing, individuals are to be thoroughly interviewed to determine if there may be any medications (over-the-counter or prescription) or other substances that may have been inhaled, ingested, or injected in the past two weeks which could result in a positive test. That information is to be provided to the testing laboratory.
- C. An employee's refusal to submit to the test; providing false information in connection with a test; or attempts to falsify test results through tampering, contamination, or substitution are viewed as insubordination and shall subject the employee to disciplinary action, up to and including termination.
- D. Collection and shipment of all urine and/or blood samples is to follow strict chain of custody procedures.
- E. The identity of employees who have tested positive is to be limited to those persons having a need-to-know, primarily the Director of Administrative Services, the affected Department Director, and Division Manager.

5. Appeal of Positive Test

- A. In addition to requesting a retest as defined above, when the employee is notified by the Department Director/Division Manager that they have tested positive, the employee will be given an opportunity to provide any reasons he/she may have which would explain the positive alcohol and/or drug test other than the presence of alcohol or illegal drugs.
- B. If the employee provides an explanation acceptable to the Department Director and the Director of Administrative Services that the positive alcohol or drug test result is due to factors other than the presence of alcohol or illegal drugs in the test specimen, the positive test result is to be disregarded and all records of the test result destroyed. All vacation leave, sick leave, or other leave used during the suspension period will be reinstated.
- C. If the employee does not provide an explanation acceptable to the Department Director and the Director of Administrative Services, the appropriate disciplinary actions will be implemented. At that time, the employee may exercise the provisions as established in the City of Abilene Grievance and Complaint Procedure.

NOTE: This policy is a policy of the City of Abilene and may be administered by, interpreted by, and revised/amended by the City Manager.

January, 1991

ATTACHMENT "A"

C O N F I D E N T I A L

SUPERVISOR'S DOCUMENTATION FOR DRUG TEST

NOTE: THIS FORM MUST BE COMPLETED AND SIGNED PRIOR TO ANY DISCUSSION WITH THE EMPLOYEE.

DATE _____

1. Employee _____
Name

Employee No. _____

Job Classification

2. Supervisor _____
Name

Employee No. _____

3. Nature of Work Related incident that causes this recommendation.
- | | |
|---|--|
| <input type="checkbox"/> Fight or Conflict | <input type="checkbox"/> Accident |
| <input type="checkbox"/> Police Report | <input type="checkbox"/> Discovery of Drug Paraphernalia |
| <input type="checkbox"/> Unsafe Actions | <input type="checkbox"/> Absence From Worksite |
| <input type="checkbox"/> Loss of Work Ability | |
| <input type="checkbox"/> Other (Describe) _____ | |

4. Fully describe below the event(s) (a) leading up to the incident/situation, (b) the Work Related incident/situation itself and (c) the results of the incident/situation. Remember, only include things that you observed, not what you think or suspect. Include job related actions, not personal, off-duty actions. Be specific, not vague. Fill out spaces below and attach additional sheets if necessary. Use dates, times, places and names.

5. List names of individuals who witnessed the incident.

Supervisor's Recommendation
For Drug Test (Cont.)

6. Information concerning your observations of the employee's physical actions:

a. Walking/Standing:

- Stumbling Staggering Falling Steady
 Other (Describe) _____

b. Speech:

- Shouting Silent Slurred
 Incoherent Rambling Apparently Normal
 Other (Describe) _____

c. Actions:

- Fighting Hostile Polite Sleepy
 Crying Overly Aggressive Profanity
 Apparently Normal
 Other (Describe) _____

d. Eyes:

- Dilated Pupils (Large) Bloodshot (Red)
 Constricted Pupils (Small) Glassy
 Apparently Normal
 Other (Describe) _____

7. Describe interaction you had with the employee (questions, answers, instructions, etc.) _____

8. Physical evidence (Pills, bottles, broken equipment, etc.). List it, give locations and disposition. Be specific. _____

9. Add any additional information here. _____

Signature of
Reporting Supervisor

Date

Signature of Witness
(If Applicable)

Date

Signature of
Approving Official

Date

Signature of
Approving Official

Date