



Policy #__2019001

Date in Effect: 02/20/2019

Latest Revision: 02/20/2019

Drug and Alcohol Free Workplace Policy

Purpose

In compliance with the Drug-Free Workplace Act of 1988, The City of Findlay (City) has a longstanding commitment to provide a safe, quality-oriented and productive work environment. Alcohol and drug abuse poses a threat to the health and safety of City employees and to the security of equipment and facilities. For these reasons, The City of Findlay is committed to the elimination of drug (including medical marijuana) and alcohol use and abuse in the workplace.

Scope

This policy applies to all employees and all applicants for employment of the City. The Human Resource (HR) Department is responsible for policy administration.

Employee Assistance

The City will assist and support employees who voluntarily seek help for drug or alcohol problems before becoming subject to discipline or termination under this or other City policies. Such employees will be allowed to use accrued paid time off, placed on leaves of absence, referred to treatment providers and otherwise accommodated as required by law. Employees may be required to document that they are successfully following prescribed treatment and to take and pass follow-up tests if they hold jobs that are safety-sensitive or require driving, or if they have violated this policy previously. Once a drug test has been initiated under this policy, unless otherwise required by the Family and Medical Leave Act or the Americans with Disabilities Act, the employee will have forfeited the opportunity to be granted a leave of absence for treatment, and will face possible discipline, up to and including discharge.

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications. Employees must, however, consult with their medical providers about the medications' effect on their fitness for duty and ability to work safely, and they must promptly disclose any work restrictions to their supervisor.

Work Rules

1. Whenever employees are working, are operating any City vehicle, are present on City premises or are conducting company-related work offsite, they are prohibited from:
 - a. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia).
 - b. Being under the influence of alcohol or an illegal drug as defined in this policy.
 - c. Possessing or consuming alcohol.
2. The presence of any detectable amount of any illegal drug, medical marijuana or alcohol in an employee's system, while performing company business or while in a company facility, is prohibited.
3. The City will also not allow employees to perform their duties while taking prescribed drugs that are adversely affecting their ability to safely and effectively perform their job duties. Employees taking a prescribed medication must carry it in a container labeled by a licensed pharmacist or be prepared to produce the container if asked.
4. Any illegal drugs or drug paraphernalia will be turned over to an appropriate law enforcement agency and may result in criminal prosecution.

Required Testing

Pre-employment

Applicants being considered for hire must pass a drug test before beginning work or receiving an offer of employment. Refusal to submit to testing will result in disqualification of further employment consideration.

Reasonable suspicion

Employees are subject to testing based on (but not limited to) observation by a department supervisor or a co-worker of apparent workplace use, possession or impairment. HR, the department head and/or the appropriate supervisor should be consulted before sending an employee for testing. Management must use the Reasonable Suspicion Observation Checklist to document specific observations and behaviors that create a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol. Examples include:

- Odors (smell of alcohol, body odor or urine).
- Movements (unsteady, fidgety, dizzy).
- Eyes (dilated, constricted or watery eyes, or involuntary eye movements).
- Face (flushed, sweating, confused or blank look).
- Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).

- Emotions (argumentative, agitated, irritable, drowsy).
- Actions (yawning, twitching).
- Inactions (sleeping, unconscious, no reaction to questions).

When reasonable suspicion testing is warranted, both management and HR will meet with the employee to explain the observations and the requirement to undergo a drug and/or alcohol test within two hours (if possible). Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment.

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management must transport the employee or arrange for a cab and arrange for the employee to be transported home.

Post-accident

Employees are subject to testing when they cause or contribute to accidents to a City vehicle, machinery, equipment or property or that result in an injury to themselves or another employee requiring offsite medical attention in which there is a reasonable basis for concluding that drug use could have contributed to the incident. Probable belief will be presumed to arise in any instance involving a work-related accident or injury in which an employee who was operating a motorized vehicle (including a City forklift, pickup truck, overhead crane or aerial/man-lift) is found to be responsible for causing the accident. In any of these instances, the investigation and subsequent testing must take place within two hours following the accident, if not sooner. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment

Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management must transport the employee or arrange for a cab and arrange for the employee to be transported home.

Collection and Testing Procedures

Employees subject to alcohol testing will be transported to a City-designated facility and directed to provide breath specimens. Breath specimens will be tested by trained technicians using federally approved breath alcohol testing devices capable of producing printed results that identify the employee. If an employee's breath alcohol concentration (BAC) is .04 or more, a second breath specimen will be tested approximately 20 minutes later. The results of the second test will be determinative. Alcohol tests may, however, be a breath, blood or saliva test, at the City's discretion. For purposes of this policy, test results generated by law enforcement or medical providers may be considered by the City as work rule violations.

Applicants and employees subject to drug testing will be transported to a City-designated testing facility and directed to provide urine specimens. Applicants and employees may provide

specimens in private unless they appear to be submitting altered, adulterated or substitute specimens. Collected specimens will be sent to a federally certified laboratory and tested for evidence of marijuana, cocaine, opiates, amphetamines, PCP, benzodiazepines, methadone, methaqualone and propoxyphane use. (Where indicated, specimens may be tested for other illegal drugs.) The laboratory will screen all specimens and confirm all positive screens. There must be a chain of custody from the time specimens are collected through testing and storage.

The laboratory will transmit all positive drug test results to a medical review officer (MRO) retained by the City, who will offer individuals with positive results a reasonable opportunity to rebut or explain the results. Individuals with positive test results may also ask the MRO to have their split specimen sent to another federally certified laboratory to be tested at the applicant's or the employee's own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test. In no event should a positive test result be communicated to the City until such time that the MRO has confirmed the test to be positive.

Consequences

Applicants who refuse to cooperate in a drug test or who test positive will not be hired and may not be allowed to reapply/retest in the future.

Employees who refuse to cooperate in required tests or who use, possess, buy, sell, manufacture or dispense an illegal drug in violation of this policy will be terminated. If the employee refuses to be tested, yet the company believes he or she is impaired, under no circumstances will the employee be allowed to drive himself or herself home.

Employees who test positive, or otherwise violate this policy, will be subject to discipline, up to and including termination. Depending on the circumstances, the employee's work history/record and any state law requirements, the City may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up drug testing at times and frequencies determined by the City for a minimum of one year but not more than two years as well as a waiver of the right to contest any termination resulting from a subsequent positive test. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be immediately discharged from employment.

Employees will be paid for time spent in alcohol or drug testing and then suspended pending the results of the drug or alcohol test. After the results of the test are received, a date and time will be scheduled to discuss the results of the test; this meeting will include a member of management, a union representative (if appropriate), and HR. Should the results prove to be negative, the employee will receive back pay for the times/days of suspension.

Confidentiality

Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the MRO will be kept confidential to the extent required by law and maintained in secure files separate from normal personnel files. Such records and information may be disclosed among managers and supervisors on a need-to-know basis and may also be disclosed when relevant to a grievance, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

Inspections

The City reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband; affected employees may have union representation involved in this process. All employees, contract employees and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal a drug, alcohol or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline, up to and including discharge.

Crimes Involving Drugs

The City prohibits all employees, including employees performing work under government contracts, from manufacturing, distributing, dispensing, possessing or using an illegal drug in or on company premises or while conducting company business. City employees are also prohibited from misusing legally prescribed or over-the-counter (OTC) drugs. Law enforcement personnel may be notified, as appropriate, when criminal activity is suspected.

The City does not desire to intrude into the private lives of its employees but recognizes that employees' off-the-job involvement with drugs and alcohol may have an impact on the workplace. Therefore, the City reserves the right to take appropriate disciplinary action for drug use, sale or distribution while off company premises. All employees who are convicted of, plead guilty to or are sentenced for a crime involving an illegal drug are required to report the conviction, plea or sentence to HR within five calendar days. Failure to comply will result in automatic discharge. Cooperation in complying may result in suspension without pay to allow management to review the nature of the charges and the employee's past record with the City.

Definitions

"City premises" includes all buildings, offices, facilities, grounds, parking lots, lockers, places and vehicles owned, leased or managed by the City or any site on which the City is conducting business.

"Illegal drug" means a substance whose use or possession is controlled by federal law but that is not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in Schedules I-V of 21 C.F.R. Part 1308.)

"Refuse to cooperate" means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

"Under the influence of alcohol" means an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

"Under the influence of drugs" means a confirmed positive test result for illegal drug use per this policy. In addition, it means the misuse of legal drugs such as: medical marijuana, prescription and possibly OTC drugs; or when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment (containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization).

Medical Marijuana

The City of Findlay will not allow use of Medical Marijuana. The Marijuana Law (Ohio HB 523):

- Does not require employers to accommodate use, possession or distribution of medical marijuana.
- Nothing in the bill prohibits an employer from taking any adverse employment action because of a person's use, possession or distribution of medical marijuana.
- Nothing in the bill permits a person to sue an employer for taking an adverse employment action related to medical marijuana.

Enforcement

The HR director is responsible for policy interpretation, administration and enforcement.

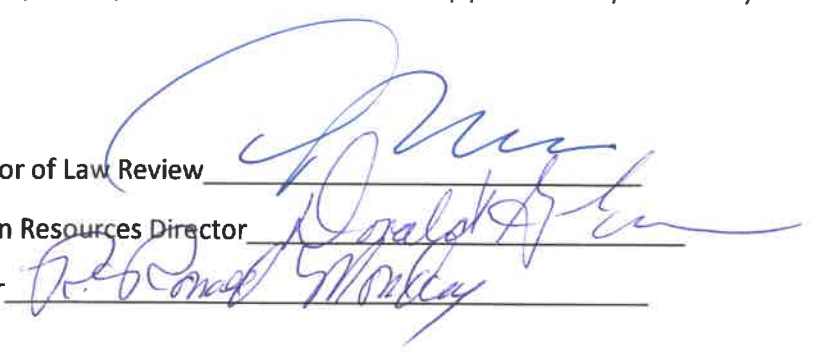
Drug and Alcohol Policy Certificate of Receipt

I hereby certify that I have received a copy of the City of Findlay's Drug and Alcohol Policy.

Director of Law Review _____

Human Resources Director _____

Mayor _____

Handwritten signatures in blue ink. The top signature is for the Director of Law Review, the middle for the Human Resources Director, and the bottom for the Mayor.