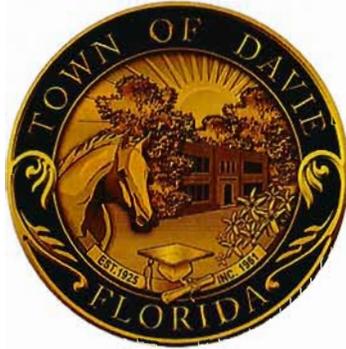


**TOWN OF DAVIE
HUMAN RESOURCES DEPARTMENT**



**DRUG AND ALCOHOL USE/DRUG FREE WORKPLACE
SOP #20-013**

September 19, 2012

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure shall replace the Personnel Rules and Regulations and Policies enacted prior to the effective date of this Operating Procedure.

Revision	Date	Responsible Department	Description of Change
1	May 18, 2011	Human Resources	Initial Release
2	September 19, 2012	Human Resources	Revision

APPROVALS:

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9/24/12

Date

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9-24-12

Date

1-1. POLICY.

Concerned for the health and well-being of Town of Davie employees, this policy declares the Town of Davie as a drug-free workplace. The Town has determined that drugs, including alcohol, taken for non-medical purposes have no place on the job. This policy addresses legal and illegal use of drugs, penalties/repercussion, rehabilitation availability, and conditions for violation. This policy will be in direct compliance with the Drug-Free Workplace Act of 1988.

Taking or being under the influence of any controlled substance or intoxicant, without a prescription, during work time will not be tolerated. It will be prohibited for an employee to unlawfully manufacture, distribute, dispense, possess or use controlled substances in the workplace.

Use of any legally obtained medication to the point where such use adversely affects the employee's job performance is prohibited. Use of alcoholic beverages during working hours or prior to or during the use of a Town of Davie vehicle or equipment is strictly prohibited.

Use **or possession** of any illegal drugs, including those drugs not legally obtained is strictly prohibited and will result in disciplinary action which may include immediate dismissal.

The Town of Davie may require an employee to submit to drug and/or alcohol tests in certain circumstances including but not limited to: Job Applicant Testing, Reasonable Suspicion, Routine Fitness for Duty, Follow-up Testing, or in accordance with any applicable Collective Bargaining Agreement.

1-2. SCOPE.

This operating procedure applies to all employees of the Town of Davie (Town) in the Regular Service (regardless of probationary or other status), as well as all Executive, Part-Time, Seasonal employees, and Volunteers.

1-3. DEFINITIONS.

- a. **Job Applicant Testing.** The Town of Davie may require job applicants who are offered safety-sensitive or special risk positions to submit to a drug test. The Town of Davie will use a refusal to submit to a drug test or positive confirmed drug test results as a basis for refusal to hire the job applicant. The list of classes or positions designated safety-sensitive or special risk is available in the Human Resources Department. Special risk means required as a condition of employment to be certified under Chapter 633 or Chapter 943, F.S. All job announcements for safety-sensitive or special risk positions include a notice that drug testing is required.
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- b. Reasonable Suspicion. The Town of Davie may require an employee to submit to drug testing when there is a reasonable suspicion of drug use. Reasonable suspicion drug testing is only required upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee suspected of drug use. Among other things, such facts and inferences may be based upon: (1) observable phenomena while at work, such as direct observation of drug use or the physical symptoms or manifestations of being under the influence of a drug; (2) abnormal conduct or erratic behavior while at work or a significant deterioration in work performance; (3) a report of drug use, provided by a reliable and credible source, which has been independently corroborated; (4) evidence that an individual has tampered with a drug test, (5) information that an employee has caused, or contributed to, an accident while at work, (6) evidence that the employee has used, possessed, sold, solicited, or transferred drugs while working or on the employer's premises, or while operating the employer's vehicle, machinery, or equipment. Nothing in this provision shall contravene any provision of any collective bargaining agreement.

- c. Routine Fitness for Duty. The Town of Davie may require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group. Supervisors of these individuals are required to submit to a drug test in the same manner.

- d. Follow-up Testing. If an employee in the course of employment enters an EAP for drug related problems, or an alcohol and drug rehabilitation program, the Town of Davie may require the employee to submit to a drug test as a follow-up to such program, and to undergo random drug testing for up to two years thereafter;

1-3. PROCEDURE.

a. Legal Drug or Alcohol Use

1. Definition - For the purposes of this policy legal drugs shall include controlled substances obtained through a valid prescription or uses that are otherwise authorized by law.

 2. Arriving on Town of Davie premises or operating Town of Davie equipment or vehicles under the effect of any legal drug or alcohol which adversely affects the employee's job performance, including the use of prescribed drugs under medical direction is prohibited. When an employee is required to take prescribed drugs that could possibly affect their job performance, the employee should immediately inform their supervisor.
 - (i) Determination of whether a validly prescribed drug will adversely affect the employee's job performance will be coordinated through the employee's
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supervisor, the Human Resources Department and the employee's attending physician.

- (ii) Use of sick leave by the employee is recommended when the physician directs prescription drugs which may affect job performance.
- 3. Use of alcoholic beverages during working hours, or prior to or while operating a Town of Davie vehicle, or while wearing a Town of Davie uniform is prohibited.
- 4. Use of legal medication that has an adverse performance impact, or the use of alcohol on the job, during working hours or while officially representing the Town of Davie, including Town claimed travel time which could jeopardize the safety of other employees, the public or Town facilities/equipment is prohibited.

b. Illegal Drug Use

- 1. Definition - For the purposes of this policy an illegal drug will be defined as a controlled substance included in Schedule I or II, as defined by Section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title and/or a controlled substance named or described in Schedules I through V of the Florida Statutes, Section 893.03. The term illegal drug does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.
- 2. Arriving on Town of Davie premises under the effect of any illegal drug is prohibited.
- 3. Use or possession of illegal drugs will result in disciplinary action that may include dismissal.
- 4. An employee arrested for unlawfully manufacturing, distributing, dispensing, possessing or using illegal drugs will be considered in violation of this policy.

c. Penalties for Violation of Policy

- 1. If the employee unlawfully manufactures, distributes, dispenses, possesses or uses controlled substances in the workplace, he or she is in violation of this policy and is subject to disciplinary action, up to and including dismissal.
 - 2. Violations of this policy will provide disciplinary action practice and procedures that are in addition to the "Disciplinary Process" policy. As with all disciplinary actions, an employee may grieve the action in accordance with the grievance procedure.
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3. Any employee engaging in the misuse of legal drugs or the use of alcohol on Town of Davie premises or during working hours is in violation of this policy and is subject to disciplinary action, up to and including dismissal.
 4. Any employee engaging in the use of illegal drugs on Town of Davie premises or during working hours is in violation of this policy. Contingent upon the nature of the situation or charge(s), the employee's present job assignment, the employee's record with the Town of Davie, the Town's ability to continue to conduct business, and other factors relative to the impact of the employee's arrest; the employee is subject to disciplinary action, up to and including dismissal.
 5. An employee may be required to submit to an alcohol/drug test if reasonable suspicion exists to believe that they are under the influence of alcohol or illegal drugs. Employees who are directed to submit to such test and refuse or fail to do so when asked, will be subject to immediate dismissal. Employees who test positive or non-negative for alcohol or illegal drugs may be referred to the Human Resources Department for assistance in recovery treatment. Employees who refuse such assistance or who fail to follow the treatment outlined for their recovery are subject to dismissal.
- d. Determination of Violation - Any employee may be found in violation of this policy on the basis of any appropriate evidence including, but not limited to:
1. Direct observation;
 2. Evidence obtained from an arrest or criminal conviction;
 3. An employee's voluntary admission.
 4. The result of a random Department of Transportation (DOT) or other drug/alcohol test.
- e. Voluntary Referral/Admission
1. A fundamental purpose of the Town of Davie's Drug-Free Workplace Policy is to assist employees who are seeking drug and/or alcohol use treatment.
 2. For this reason, an employee that voluntarily admits to drug and/or alcohol use will not be disciplined under this policy. Voluntary admission will require that the employee meet the following conditions:
 - (i) Employee voluntarily identifies him/herself as a user of illegal drugs prior to being identified through other means, which includes the announcement of a drug test;
 - (ii) Employee obtains counseling, rehabilitation and/or participation in an employee assistance program;
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(iii) Employee thereafter refrains from using illegal drugs and/or alcohol; and

(iv) Employee signs a Return to Work Agreement and abides by all terms of the agreement.

3. All of the above conditions must be met and coordinated through the Human Resources Department before the employee is considered as voluntary referral/admission. It is the responsibility of the employee to assure that the requirements of voluntary referral/admission are met.

f. Employee Drug Education

1. The Human Resources Department will offer a drug-free awareness program as part of the wellness program for the employees.
2. Drug education should include education and training to all levels of employees beginning with the adoption of this policy and then on a continuing basis through employee orientation, employee communication tools and specific training programs.
3. Education will include, but not be limited to the following outline.

(i) Objectives:

- (a) Types and effects of drugs and alcohol;
- (b) Symptoms of drug use and the effects on performance and conduct;
- (c) Available, relevant treatment, rehabilitation and confidentiality issues.

(ii) Means of education may include:

- (a) Distribution of written material;
- (b) Videotapes;
- (c) Lunchtime forums; and
- (d) Employee drug awareness days.

g. Rehabilitation

1. Employees violating this policy may be required to participate satisfactorily in rehabilitation.
 - (i) Satisfactory participation for the purposes of this policy will be the successful completion of relevant counseling, rehabilitation and/or employee assistance programs, as determined through the Human Resources Department.
 - (ii) Rehabilitation will include an employee refraining from illegal drug use after a first finding or admittance of such use.
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2. The Human Resources Department will direct and coordinate rehabilitation assistance for employees.
3. Employees will be informed about the dangers of drug and/or alcohol abuse in the workplace.
4. Employees will be required to attend available drug and/or alcohol counseling rehabilitation and employee assistance programs.
5. Employees will be informed of the penalties that may be imposed upon them for drug and/or alcohol abuse violations occurring in the workplace, which may be outlined in a Return to Work Agreement.

h. Conditions for Violation

1. Any employee engaged in work for the Town of Davie shall abide by the terms of this policy.
 2. The employee will be responsible for notifying the Town of Davie in writing of any criminal drug statute arrest or conviction immediately.
 3. In accordance with state and federal law as well as the Drug Free Workplace Act, the Town of Davie will comply with any notification requirements for employees convicted of criminal drug violations that occur within the workplace.
 4. Any employee convicted (including a plea of nolo contendere or no contest) of a criminal drug statute violation, which occurred in the workplace, must provide written notice of such conviction or plea to his/her Department Director immediately upon notification.
 5. Employees who violate any aspect of this policy will be subject to discipline, up to and including dismissal. At its discretion, the Town of Davie may require employees who violate this policy to successfully complete a drug or alcohol abuse assistance or rehabilitation program as a condition of continued employment.
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