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4110 EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICIES

4111 **General** [CALEA 31.2.3]

The Tucson Police Department is committed to providing equal opportunity to all applicants for employment and to all employees. Recruitment, hiring, assignment, promotion, compensation, training, discipline, termination, and all other terms, privileges, and conditions of employment shall be administered in a manner that does not discriminate on the basis of race, color, religion, ancestry, sex, gender identity, age, disability, national origin, sexual orientation, familial status, or marital status.

The Department will take action to prevent and correct discriminatory behavior in violation of these policies. Members who engage in prohibited conduct are subject to disciplinary action up to and including termination of employment.

Refer to *City Administrative Directive 2.05-8, Discrimination/Harassment Policy and Mediation/Complaint Procedures* for additional information.

4112 **Compliance** [CALEA 26.1.3]

4112.1 **Discrimination**

Discrimination is defined as making, directly or indirectly, any distinction in applicant selection procedures, or in the terms, conditions or privileges of employment on the basis of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

No employee shall discriminate against any applicant for employment or Department member in any term, privilege, or condition of employment on the basis of protected status. Moreover, discrimination or harassment will not be tolerated from any non-employee including, but not limited to, vendors, contractors, or applicants for employment.

Note however, that in compliance with federal law the City shall require all persons hired for employment to demonstrate their eligibility for employment in the United States prior to starting employment.

4112.2 **Sexual Harassment**

Every employee has the right to work in an environment free from hostile, offensive or intimidating sexual behavior. Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

Submission to such conduct is made, either explicitly or implicitly, a term or condition of a member's employment; or,



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Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such member; or,

Such conduct has the purpose or effect of interfering with a member's work performance, or creating a hostile, intimidating, or offensive working environment.

4112.3 Employees with Disabilities

The City of Tucson is committed to making reasonable accommodations for qualified applicants and employees with disabilities in accordance with state and federal law, and City *Administrative Directives*. Each situation will be handled on a case by case basis. Employees shall contact the Department's Human Resources Division Commander to request information on reasonable accommodation. Additional information may be found in City *Administrative Directive 2.05-2, Reasonable Accommodation of Applicants and Employees with Disabilities*.

4112.4 Confidentiality

To the extent permitted by law or policy, the identity as well as all oral or written contacts between the Human Resources Division, the Office of Internal Affairs, Office of Equal Opportunity Programs, and any employee or applicant for employment concerning this policy and/or its application will be treated as confidential.

4113 Responsibilities [CALEA 26.1.3]

4113.1 Chief of Police

Ultimate responsibility for implementation of these policies is vested in the Chief of Police. The Chief shall ensure that all Equal Employment Opportunity (EEO) policies, and all prohibitions against discrimination, are aggressively implemented throughout the Department by all levels of management.

4113.2 Human Resources Division Commander [CALEA 31.2.3]

The Human Resources Division (HRD) Commander is responsible for monitoring the Department's EEO programs and ensuring Department compliance with all relevant federal and state laws, City ordinances, and Department policies and rules in hiring and other personnel practices. The HRD Commander will report to the Administrative Services Bureau Commander, but will have direct access to the Chief of Police on EEO matters.

Other responsibilities include:

- Advising the Chief of Police, Department Commanders, managers and supervisors on EEO matters.
- Informing the Chief of Police on progress in the employment and utilization of minorities and women.



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- Maintaining liaison with the City Manager's Office, City Human Resources, the City Attorney's Office, and employee organizations.
- Tabulating and maintaining work force data and outcomes of selection processes for transfers, promotions, and new hires. The agency's employment policies, practices, and procedures will be analyzed annually to ensure that currently acceptable standards are being maintained.
- Participating in the development and implementation of training and educational programs for supervisors.

4113.3 Commanders

Commanders are required to ensure that personnel practices within their organizational entities are in full compliance with all federal and state laws, City ordinances, and Department *General Orders* governing non-discrimination. Specifically, Commanders are to ensure that all their employees who supervise, promote, assign, recruit, interview, train, evaluate, or discipline other employees utilize only job related standards in their personnel actions and contribute to the attainment of Department EEO principles. In addition, Commanders are to personally monitor and evaluate the personnel actions of subordinate supervisors to ensure compliance with EEO laws.

Commanders are required to take immediate corrective action to prevent discriminatory behavior from continuing or recurring. Failure to take prompt appropriate action may subject the Commander to disciplinary action, up to and including termination of employment.

When made aware of a potential or current EEO problem or complaint, Commanders shall:

- Take immediate corrective action when necessary.
- Notify the OIA to determine whether an investigation is necessary.
- Cooperate with the OIA and the Office of Equal Opportunity Programs in any investigation and/or resolution of the problem or complaint.

4113.4 Supervisors

Supervisors shall be responsible for encouraging employee support for equal employment opportunity by demonstrating commitment to EEO in the following ways:

- Becoming thoroughly familiar with the Department's prohibitions against discrimination, and acquainting subordinate personnel with these guidelines.
- Promoting a positive attitude when discussing these policies with other staff.
- Requiring all subordinate personnel to demonstrate respect for the diversity of their coworkers and members of the community.
- Taking immediate corrective action when any violations of EEO law are observed or reported. Supervisors shall notify their chain of command in writing of all potential or current EEO violations, so that immediate action can be taken to remedy the situation.
- Ensuring compliance of subordinate personnel with all EEO laws and regulations.



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Supervisors are required to take immediate corrective action to prevent discriminatory behavior from continuing or recurring. Failure to take prompt appropriate action may subject the supervisor to disciplinary action, up to and including termination of employment.

4113.5 All Department Members [CALEA 26.1.3]

Every employee of the Police Department, including unpaid members, is responsible for creating and maintaining a professional working environment free from harassment and discrimination. Employees shall:

- Demonstrate sensitivity to and respect for differences arising from membership in a protected class.
- Comply with all equal employment laws, City policy and *General Orders*.
- Confront disrespectful or discriminatory behavior when they see it.
- Notify their chains of command (or the HRD or OIA Commanders) of any EEO violations that they experience or observe.

4114 Prohibited Conduct [CALEA 26.1.3]

4114.1 General

The following is conduct that is specifically prohibited under the Department EEO policies. This list is in addition to other prohibitions already covered in *General Orders* and includes, but does not limit, conduct for which disciplinary action may be taken.

4114.2 Requirement to Cooperate in EEO Investigations

All employees are required to fully cooperate in any investigation of an EEO violation.

4114.3 Workplace Bias

Expressing bias in the workplace, including any behavior that is potentially offensive to any employee on the basis of his or her protected status is prohibited. Examples include, but are not limited to:

- Using degrading words, offensive slang labels or names, or profanity describing a person's protected status.
- Sexually suggestive, obscene or lewd jokes or comments, or jokes or comments about a person's protected status.
- Posting or display of inappropriate posters or jokes in the workplace.

4114.4 Sexual Harassment in the Workplace

Examples of conduct that may be deemed sexual harassment and is prohibited in the workplace include, but are not limited to:



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- Sexually suggestive, obscene, or lewd comments or invitation.
- Gender related labels such as “honey,” “sweetie,” “cutie,” “boy,” and “girl.”
- Asking for sexual favors and implying there will be economic or employment benefits.
- Leering, ogling, or drawing attention to a person’s body.
- Unwanted sexual advances.
- Introduction into the workplace of pornographic pictures or written material, except in the course of official police investigations.

4114.5 Retaliation Prohibited

Retaliation is an adverse employment action taken against an employee as a result of opposing an unlawful discriminatory practice, or filing a charge of discrimination, testifying, assisting, or participating in any manner in an equal opportunity investigation, proceeding, or hearing.

Retaliation is prohibited conduct, and, if engaged in, may result in disciplinary action, up to and including termination of employment.

4115 Discrimination Complaint Procedure [CALEA 26.1.3]

4115.1 General

Employees who believe they have been treated unfairly in any employment practice because of their race, color, religion, ancestry, sex, gender identity, age, disability, national origin, sexual orientation, familial or marital status may file a complaint. Also, employees who believe they have been retaliated against because they filed an EEO complaint, challenged a discriminatory behavior, participated in any way with these procedures, or served as a witness may file a complaint.

4115.2 Confidentiality Required

All matters pertaining to EEO issues are highly confidential. All participants in a report or investigation are strictly prohibited from discussing the matter outside of formal channels. Information concerning such issues will be disseminated on a need-to-know basis only. Such confidentiality, however, in no way diminishes the necessity of keeping the Chief of Police informed.

4115.3 Reporting

Any employee may report EEO issues. Sources of information include the HRD Commander, the OIA Commander or designee, Legal Advisor’s Office, and the City Office of Equal Opportunity Programs.

4115.4 Time Periods for Filing Complaints

Complaints must be filed with the City’s Office of Equal Employment Opportunity Programs within 90 calendar days of the alleged infraction of these policies.



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4115.5 Withdrawal of Complaints

Members filing EEO complaints may withdraw the complaint or any part thereof, at any time, by contacting the City's Office of Equal Employment Opportunity Programs. Despite the withdrawal request, however, the City still has an obligation to investigate the allegation.

4115.6 Procedure for Filing Complaints [CALEA 26.1.3, 31.2.3]

Upon receiving a complaint of a violation of the EEO policies, the Chain of Command shall immediately notify the Office of Internal Affairs. The OIA shall promptly determine if discrimination, harassment or retaliation has taken place and shall determine if the complaint should be forwarded to the Office of Equal Opportunity Programs. If the conduct has adversely affected the complaining member, the Department will attempt to correct the impact.

Due to their potential seriousness EEO complaints must be fully investigated. The Office of Internal Affairs shall maintain a close working relationship with the City's Office of Equal Opportunity Programs office during the investigative process.

OIA shall maintain a summary file documenting each complaint received, all responses to complaints received, actions taken, and any other relevant information memorializing complaints and their resolution.

4115.7 Written Complaints

Employees or applicants for employment who feel they have been discriminated against or subjected to harassment or retaliation may file a written complaint with the City's Office of Equal Opportunity Programs by completing a *City of Tucson Office of Equal Opportunity Programs Discrimination Complaint Questionnaire* form. This form is available online or at the OEOP office.

4116 Investigation and Disposition [CALEA 26.1.3]

4116.1 General

Complaints involving allegations of discrimination, harassment or retaliation shall be investigated by the City's Office of Equal Opportunity Programs. The OEOP office may coordinate with and utilize the investigative services of the Office of Internal Affairs as appropriate and necessary.

4116.2 Disposition and Notification of Complaints

Upon receipt of a complaint alleging discrimination, harassment or retaliation, the City's Office of Equal Opportunity Programs shall determine within five business days if further investigation is warranted. If the complaint originates within the Office of Internal Affairs and does not appear to warrant further investigation, the Office of Equal Opportunity Programs will notify the Chief of Police.



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If further investigation is warranted, the Chief of Police will be so informed and shall be required to respond to the complaint in the established time frame and format.

If after investigation of a complaint the City's Office of Equal Opportunity Programs determines that there is insufficient evidence to support a finding of unlawful discrimination, harassment or retaliation ("No Cause Finding"), the complaint shall be dismissed, and all parties, including the Chief of Police shall be notified.

If, after investigation of a complaint, the City's Office of Equal Opportunity Programs determines that there is sufficient evidence to support a finding of unlawful discrimination, harassment or retaliation ("Cause Finding") the Chief of Police will be so notified. The Department will then have 20 business days in which to resolve the matter between the complainant and respondent.

If violations of *General Orders* have been identified, the Office of Internal Affairs shall ensure that the appropriate paperwork is generated to allow the Chain of Command to make suitable recommendations for discipline or corrective action.

4116.3 Documentation

The Office of Internal Affairs shall maintain copies of the findings received from the City's Office of Equal Opportunity Programs, together with dispositions and related disciplinary actions. The findings from the Office of Equal Opportunity Programs and any dispositions and/or related disciplinary actions shall be maintained in separate files.

4120 REQUESTS TO FILL POSITIONS

TPD Divisions requesting to fill a vacant classified position must send a justification memorandum through the Chain of Command to the Human Resources Division Commander. The justification memorandum must include the position needed to hire, the number needed, the incumbent or new hire needed and the projected hire date. Upon receipt the HRD Commander will verify the existence of vacancy. All hiring processes are coordinated through TPD Human Resources. Refer also *General Order 4150* for additional information.

4121 Processing for Vacancies

Depending on the nature and type of vacancy for a classified position, the following selection methods are available to Division seeking to fill openings.

- A non-competitive promotion of an employee currently working within the Department.
- A non-competitive promotion of an employee currently employed in another Department. (Civil Service Commission Rules and Regulations require that the City Human Resources Department post these promotional opportunities.)
- A competitive promotional process in accordance with the Civil Service Commission Rules coordinated and administered by the City Human Resources Department. This results in the establishment of an eligibility list.



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- A competitive recruitment process open to the general public in accordance with the Civil Service Commission Rules. This results in the establishment of a six-month eligibility list. Requests may be made to extend such lists in six-month increments up to a period of two years.

Commanders needing to fill vacancies shall coordinate their process with the Human Resources Division. The affected division remains responsible for providing any needed justification for filling positions.

4122 Recruiting Unit [CALEA 31.1.1]

The Recruiting Unit in the Human Resources Division has the responsibility of seeking out qualified individuals to apply and test for all sworn and selected non-sworn positions.

Recruiting methods include attending local and state wide career fairs; community college and university business fairs; all minority and women's sponsored events and speaking engagements; monthly law enforcement workshops; out-of-state testing; mailers to colleges that include Criminal Justice programs; job postings on law enforcement web sites; a toll-free recruiting number; television interview programs and a bonus referral program. The Recruiting Unit shall also monitor all aspects of the Department's job postings on the Department website, including gathering names of interested applicants and assisting in answering employment inquiries.

4130 APPOINTMENT

All positions in the hiring process must remain in accordance with the following appointments. These guidelines are consistent with various City *Administrative Directives* and Civil Service Commission Rules.

- **Probationary and Permanent Appointments**
In making both original and promotional probationary and/or permanent appointments, the Chief of Police shall appoint the number of eligibles from among those certified in accordance with the method of certification.
- **Temporary Appointments**
The duration of a temporary appointment shall be limited to the period of need, not in excess of six months. The Human Resources Director may waive the time restriction due to extenuating circumstances, but in no event shall the temporary assignment exceed two years. Temporary appointments or promotion may not be counted as part of a probationary period.
- **Provisional appointments**
Provisional appointments are used where there is an urgent need to fill a position until an eligibility list is created. The provisional appointment may not last more than six months and the person is prohibited from further provisional appointments within a three-year period from the effective date of the first provisional appointment.



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- **Emergency Appointments**
Emergency appointments are made whenever there is a state of emergency requiring the immediate service of one or more persons. An emergency appointment shall not exceed ten working days unless approved by the Human Resources Department Director.
- **Intermittent Appointments**
In the absence of an eligible list for permanent appointments to a particular position, an appointing authority may request that the Civil Service Commission, through the City Human Resources Director, certify from an eligible list for intermittent appointment to the same position.
- **Grant Funded Positions**
Persons initially hired for a position that is funded by a grant from a public or private source shall acknowledge in writing that the provisions have been read and understood that their employment will cease at the termination of the grant regardless of seniority or reemployment rights. Upon completion of the grant, the employee may be transferred, promoted or demoted into a non-grant-funded position. This provision does not apply to permanent City employees assigned or promoted to a grant funded position.
- **Assignment Positions**
An assignment position is a position that includes:
 - Executive duties and responsibilities;
 - Unusual hazard in the performance of assigned duties and responsibilities;
 - Service in the position of a Police Officer Trainee, Lead Police Officer, and others by City Directive.
- **Part Time Positions**
Working 20 or more hours, but less than forty hours per week.
- **Full-Time Positions**
Working 40 hours or more per week.

4131 **Probationary Periods** [CALEA 32.2.10; 34.1.7]

All City employees, except as listed below, shall complete a probationary period of one year from the date of hire or promotion into a new classification. The following positions shall have a probationary period of 18-months.

Police Officer (including lateral entry/certified officers)
Hazardous Devices Technician
Public Safety Dispatcher
Police Service Operator

Newly hired personnel who fail to satisfactorily complete their probationary period shall be terminated. Employees who are rated as "Below Standards" on their end-of-probation evaluations shall be terminated.



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Personnel who fail to satisfactorily complete a probationary period for a promotion will be demoted to their last permanent classification.

4131.1 Extending Probationary Periods

Any employee who for more than three consecutive weeks during the probationary period is on authorized leave (except Military Leave) or is at work but unable to perform all duties of their position shall have the probationary period extended by the amount of time that they were on leave or not fully performing. Sworn members, who are unable to complete the initial training program but are retained in a paid non-training assignment, shall have the probationary period extended for the amount of time the employee is in the non-training assignment.

Probation may not be extended merely because an employee is not performing up to the level expected for their position. If an employee is not performing at an acceptable level when the end of probation approaches the employee shall be denied permanent status. If a new hire to the position the employee shall be terminated; if promoted into the position the employee shall revert to the last position in which the employee held permanent status. Refer to *Civil Service Rule VII, Probationary Period*, for additional information.

4140 DRUG AND ALCOHOL POLICY

4141 General Policy

The Tucson Police Department, together with the City of Tucson, has established this policy to maintain and ensure a drug- and alcohol-free and safe workplace for all its employees. All employees shall comply with all Federal and State laws pertaining to controlled substances. The City's policy in this area may be found in *City Administrative Directive 2.02-22 – Drug and Alcohol Use: Impaired Employees Physical Evaluations; Applicant Testing*. It is the responsibility of supervisors to consistently enforce the provisions of this section.

4141.1 Presumptive Alcohol Impairment Levels

An on duty employee whose blood, breath or urine when tested contains an alcohol concentration of .04% or above is presumed to be impaired by the use of alcohol. Employees with an alcohol concentration of less than .04% may be considered impaired depending on a consideration of all of the circumstances. This presumption is separate from any criminal liability that may attach to an employee suspected of being under the influence of alcohol or drugs while driving.

4141.2 Available Resources

All employees and supervisors are reminded that the Police Department and the City offer various programs and types of assistance to deal with alcohol abuse. Assistance may be obtained through confidential self-reporting from BSU or the City's Employee Assistance Program at any time.



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4142 Drug and Alcohol Testing

Reasonable suspicion testing shall be administered whenever a supervisor or Commander has reasonable suspicion to believe an on duty employee is impaired or under the influence of alcohol, medication, whether prescribed or not, or illegal drugs or controlled substances. The belief must be based on specific, articulable observations concerning the appearance, behavior, and speech or body odors of the employee. An employee shall also be subject to testing as outlined in this section when articulable information arises indicating that the employee has recently engaged in a violation of the drug and alcohol policy. The Human Resources Division shall be contacted for assistance in arranging all drug and alcohol testing.

4142.1 Testing Procedures

All non-criminal reasonable suspicion based test or tests of breath, blood or urine, or other recognized testing methods, shall be accomplished by the City Physician or other medical facility designated by the City in accordance with appropriate protocols. The employee to be tested shall be accompanied by a supervisor through the completion of the testing process. The choice of testing methodology shall be made by the Department. Testing shall take place at the designated facility available at the time needed. The Human Resources Division shall be contacted for assistance in arranging all testing. For after hours testing, refer to *INFO INDEX* for the current contact information.

Testing involving possible criminal charges shall be conducted in a manner consistent with the appropriate investigative protocols. Such testing will generally be coordinated through the Office of Internal Affairs.

4142.2 Results of Testing

If a tested employee is found to be in violation of the permissible blood alcohol levels or is, in competent medical opinion, impaired or otherwise unable to safely perform normal duties due to the use of medications or other drugs, the employee shall immediately be relieved of duty and placed on leave for the remainder of the shift. The mere presence of illegal drugs or controlled substances revealed in such a test, regardless of any impairment, shall be deemed sufficient to immediately relieve the employee from duty.

An employee who is relieved of duty under these circumstances shall use available leave (sick leave, vacation or compensatory leave) until allowed by the Department to return to duty. If the employee has exhausted all leave balances, they shall be carried as Leave Without Pay.

The supervisor coordinating the testing shall be responsible for notification regarding the testing and any known results to the appropriate chain of command, the Office of Internal Affairs (OIA) and the Human Resources Division. If the use or presence of a substance constitutes a violation of the law, the Office of Internal Affairs shall immediately take the appropriate steps to ensure the integrity of any needed investigative follow-up.



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If the employee is to be relieved from further duty for the remainder of the shift, the supervisor in charge of the testing shall ensure that the employee is safely returned to the employee's residence or other suitable location away from the workplace once all administrative matters have been completed.

Certain types of tests require processing in which the results may not be available for up to 48-hours. In such instances, the Human Resources Division will notify the involved chain of command and OIA as appropriate as soon as the results are received. If the results of the test will not be available due to the need for analysis (such as blood or urine), the decision as to whether or not to allow the employee to return to work will be based upon the recommendations of the City physician examining the involved employee.

If the test administered to the employee does not reveal an impermissible blood alcohol level or levels of medication or the presence of illegal drugs or controlled substances, and the employee is not otherwise impaired or a hazard in the opinion of the City physician, the employee may return to normal duty as deemed appropriate by their supervisor or Commander.

4142.3 Required Documentation

Any time an employee is suspected of being impaired or under the influence as outlined in this section, the supervisor or Commander directing the reasonable suspicion testing shall complete all required documentation. At a minimum, such documentation shall include a *Personnel Report* outlining all circumstances leading to the decision to order the testing. Information on the testing shall be filed in the employee's confidential medical files in HRD as well as OIA as may be appropriate.

4142.4 Follow-up Referrals

Employees who test positive for alcohol while on duty, or are deemed to be on duty while impaired by prescription medications, shall be evaluated by the City's Substance Abuse Professional (SAP) prior to returning to duty or as soon thereafter as possible. In addition the affected employee shall be referred to BSU for a follow-up appointment to assist the employee in returning to duty and in dealing with work related issues that may be identified, as well as making any appropriate follow-up referrals. The referral shall be made by the employee's chain of command as soon as practical following the employee's return to duty.

Employees directed to attend follow-up sessions with the SAP or BSU will be required to provide proof of their attendance to the Department. Such referrals shall be made part of any conditions of continued employment with which the involved employee must comply.

All such referrals are separate and distinct from any other administrative or disciplinary action that may result or arise from the employee's conduct.



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4142.5 Follow-up Testing

When an employee is found to have been in violation of Department policy on alcohol or drugs, including medications, for which the employee is not terminated, the employee shall participate in mandatory, random follow-up testing. The Human Resources Division shall coordinate and arrange all random follow up testing. Each such random test, and its associated result, shall be documented in the employee's confidential medical file.

The requirement for such testing, and any other conditions required in order for the employee to remain employed, including mandated referrals, shall be documented and served upon the employee prior to their return to work. Copies of this documentation shall be retained by HRD in the employee's personnel file.

An employee's failure to submit to testing under these circumstances or to otherwise comply with any requirements of this section or any conditions of continued employment served upon the employee shall result in termination.

4143 Post-Collision Testing

Department members who are involved in an on-duty traffic collision, as a driver shall be tested for the presence of alcohol and controlled substances under the following circumstances:

- The accident involves a fatality, or
- The employee driver receives a citation for a moving violation, or may receive a citation arising from the accident pending the outcome of the investigation, and
 - the accident involves an injury treated away from the scene, or
 - any vehicle is required to be towed from the scene.

A driver who is subject to post-accident testing must remain available, or the Department may consider the driver to have refused testing. The driver subject to post-accident testing shall refrain from consuming alcohol for eight (8) hours following the accident, or until all testing is complete, whichever comes first.

The on-scene supervisor or Commander at the scene is responsible for ensuring that any and all appropriate tests are conducted and that all required documentation is completed.

Testing administered under this section shall be conducted in accordance with the procedure set forth in *General Order 4142*.

4144 Other Testing

4144.1 Random Testing

All Department personnel are subject to quarterly random drug testing during their initial probationary period. This testing is arranged and coordinated by the Human Resources Division. A member's refusal or failure to submit to such testing is grounds for termination.



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4144.2 Unit Assignment Testing

Members assigned to specific units (e.g., CNA) or who must submit to random testing by law (e.g. commercial driver's license holders) shall be tested throughout the year or as required by policy or statute. This testing is arranged and coordinated by the Human Resources Division in accordance with the procedures set forth in *General Order 4142*.

4144.3 Voluntary Testing

In certain circumstances an employee may wish to submit to a voluntary drug or alcohol test. This shall be coordinated through normal channels in the Human Resources Division or, in the case of on-going investigations, through the appropriate investigative detail. In all such cases the employee shall sign a waiver indicating that the testing is voluntary. This waiver shall be returned to HRD for filing.

4145 Violation of Drug and Alcohol Policies

4145.1 Controlled Substances

Any Tucson Police Department employee who, at any time tests positive for, uses, manufactures, has unauthorized possession of, or transfers by sale or gift, any controlled substance shall be terminated. The illegal use, possession or sale of controlled substances by employees on duty or off duty may also result in criminal investigation, arrest, and, in the case of sworn members, loss of peace officer certification.

4145.2 Use or Possession of Medical Marijuana Prohibited

Passage of the Arizona Medical Marijuana Act (AMMA) has not altered Department policy with regard to use or possession of marijuana by Department members. Marijuana remains an illegal, schedule I dangerous drug under the Federal Controlled Substances Act thereby prohibiting Department members from using, possessing or selling marijuana (except when acting as a law enforcement officer), or engaging in any other conduct that would violate the Controlled Substances Act. Members seeking to avail themselves of a privilege available under the AMMA shall consult City Human Resources for procedures to transfer to a non-public safety position within the City.

4145.3 Involvement with Medical Marijuana Dispensaries Prohibited

Department members and their spouses are prohibited from having any ownership interest in, or personal involvement or association with a medical marijuana dispensary, whether as a consumer, owner, agent, cultivator, consultant, or in any other manner except as may be necessary when acting as a law enforcement officer.

4145.3 Alcohol or Other Intoxicants While On Duty

Any Tucson Police Department employee who, at any time while on duty, in or at a City facility or job site, or operating a City vehicle, is impaired by the use of alcohol or other



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intoxicants, and/or has a blood alcohol level of .04% or higher, shall be subject to disciplinary action up to and including termination. The following exceptions apply:

- Authorized recreational or business events, or
- As authorized as a requirement of a work assignment.

Any employee who is found to be in violation of this section while on duty shall receive discipline in conformance with the Discipline Matrix. **A second alcohol or other intoxicant violation shall result in the employee's discharge.** These disciplinary actions are separate from any criminal or civil investigations or sanctions that may arise as a result of an employee's conduct.

Whenever an administrative investigation establishes that a sworn member was intoxicated while on duty, regardless of the resulting discipline, that determination shall be provided to AZPOST in accordance with state rules governing peace officer certification standards.

4145.4 **DUI Offenses While Off Duty**

As members of a law enforcement agency, all employees of the Tucson Police Department are required to obey the law and not engage in conduct that will bring the agency or City into disrepute. Consequently, committing a DUI offense while off duty shall subject employees to discipline up to and including termination as outlined in this section. These disciplinary actions are separate from any criminal or civil investigations or sanctions that may arise as a result of an employee's conduct.

Department members who are arrested for misdemeanor DUI while off duty, whether involving alcohol or drugs, shall be subject to disciplinary action following an administrative investigation as called for in *General Order 3152*. Discipline in such matters shall only arise after the reviewing chain of command establishes that the member was in violation of the law, regardless of the ultimate adjudication of any criminal or civil charges. For such an offense, members shall receive, at the minimum, the presumptive sanction of a 40-hour suspension without pay, for a C Violation type, Level 5 on the Discipline Matrix. A second offense shall result in the presumptive sanction of termination for an E violation type, Level 8 on the Discipline Matrix.

4145.5 **Abuse or Improper Use of Medications While On Duty**

Any Tucson Police Department employee who, at any time while on duty, in or at a City facility or job site, or operating a City vehicle, is impaired by the abuse or misuse of any medications, whether or not prescribed to the employee, shall be subject to disciplinary action up to and including termination, and the follow-up and referral provisions of *General Order 4142.4* and *General Order 4142.5*.

Any employee who, while on duty, is impaired by the abuse or improper use of medications shall receive discipline in conformance with the Discipline Matrix. A second



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instance of an employee being on duty while impaired by the abuse or improper use of medications shall result in the employee's termination. These disciplinary actions are separate from any criminal investigations or sanctions that may arise as a result of an employee's conduct.

Whenever an administrative investigation establishes that a sworn member was impaired while on duty through the abuse or misuse of any medications, regardless of the resulting discipline, AZPOST shall be notified if it appears that the conduct is part of a pattern of abuse of prescribed medications as prohibited in AZPOST rules.

4146 Refusal to Submit to Testing

An employee's refusal to be examined by the City Physician or to be tested as outlined and required in this section will be treated as a positive result and is grounds for termination.

In unusual circumstances in which an employee is not terminated under the preceding provision, an employee's second refusal to be examined or tested shall result in the employee's discharge.

4147 Return to Duty

An employee who is found to be on duty in violation of the Department's drug and alcohol policy shall not be allowed to return to duty until a period of at least 24-hours has elapsed from the time the violation occurred. An employee may be compelled to submit to a test to establish their blood alcohol level or to check for the presence of illegal or controlled substances, or impairment due to medications, prior to returning to duty. Such testing, to be determined by the employee's chain of command, shall be coordinated through the Human Resources Division as outlined in *General Order 4142*.

An employee who has been found in violation of the drug and alcohol policy for which they are not terminated shall be served with written conditions of continued employment outlining their responsibilities and requirements to avoid discharge. At a minimum, these conditions will include follow-up and testing requirements set forth in *General Order 4142.4* and *General Order 4142.5*. Preparation and service of these conditions will be coordinated through HRD.

4148 Use of Medications While On Duty

It is the responsibility of any employee who is taking any medication, whether prescribed or not, which may interfere with the safe and effective performance of duties to notify their supervisor before beginning or responding to work. In such instances the employee shall provide documentation from the treating physician of the substance(s) involved and any limitations this may impose on the employee. This documentation shall be sent to HRD for filing in the employee's confidential medical file. It is the employee's responsibility to advise the Department when the employee is no longer using the medication in question. In recognition of privacy concerns, the Department will not solicit information from an employee regarding medications absent an indication that the employee is impaired by their use or poses a safety hazard. Failure of an employee to advise the Department of circumstances that would pose a hazard to the employee or others, however, may result in discipline.



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It is the responsibility of each employee to monitor their own physical condition and be aware of the affects of any medication the employee may use. Each employee is responsible for ensuring that they are not impaired by any medication usage while on duty.

Generally this will be of greater concern for, but is not limited to, employees who engage in any form of enforcement or tactical duties, operate a City vehicle, machinery or equipment, or engage in other assignments in which they or others may be at risk as a result of side effects of a medication used by the employee. The Human Resources Division should be contacted if any question arises in this regard. Refer also to City Administrative Directive *2.02-22, Drug and Alcohol Use: Impaired Employees Physical Evaluations; Applicant Testing*.

4149 Off Duty Impairment

If it comes to the attention of the Department that an employee has been involved in a situation off duty involving the use of any illegal or controlled substance, or in a criminal matter involving the use of alcohol, or controlled or prescribed substances, the employee shall be subject to follow-up testing, monitoring and/or discipline as the circumstances warrant. The employee may also be referred to the SAP and BSU by the Department to evaluate any work impact of the employee's conduct. These referrals shall be coordinated by the Human Resources Division as appropriate.

4150 GENERAL HIRING PROCESS [CALEA 32.1.1; 32.1.2; 32.1.3]

All hiring processes shall be coordinated through the Human Resources Division to ensure uniformity of evaluation and interpretation. Refer also to *General Orders* 4200 for additional information on Background Investigations as part of the hiring process.

4151 Hiring of Sworn Members

Persons who submit an application for a sworn position, and who meet minimum qualifications, are invited to a Civil Service written examination conducted by the City's Human Resources Department. Applicants passing the examination proceed to a Department pre-screening interview. Applicants who pass the written test and pre-screening interview next attend a physical assessment test. Applicants who successfully complete these testing phases are placed on the Civil Service eligible list. The Department, which then takes control of the process, will next invite applicants to an oral board interview. Persons who successfully pass the interview are then available for continued processing.

The Human Resources Division Commander will assign a number of names from the eligibility list to the Backgrounds Unit to complete an investigation. The number of applicants designated to undergo a background investigation will be dependent upon the projected hiring slots available. Applicants shall also undergo a polygraph examination.

When the Department is prepared to actually select applicants for hire, the Human Resources Division Commander shall assemble a selection meeting to review all information on the available applicants. Those selected from the meeting will be given a conditional offer of employment, contingent upon their successful completion of a medical and psychological evaluation and post-



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offer pre-employment drug screening. If successful, the candidate is given a confirmed start date for employment.

4152 Hiring of Non-Sworn Members

Divisions seeking to hire non-sworn employees shall contact the Human Resources Division for assistance. At a minimum, Divisions must receive permission from a Bureau Commander to fill a vacant non-sworn position. In certain circumstances, particularly if there is a budgetary impact or if a Civil Service list must be created, additional permission must be obtained from the City Manager's Office. This will be coordinated with HRD by the Commander responsible for filling the vacancy.

HRD shall coordinate with City Human Resources in the testing and processing of applicants in accordance with Civil Service rules and policies. The Department may use a variety of test methods in filling these positions, including, but not limited to, written and oral examinations, practical skills testing and individual interviews. The choice of test methodology and the scoring criteria shall be established by the Department in advance of the process to insure fairness.

Upon receipt of the Civil Service eligibility list for a non-sworn position the Background Unit will proceed with polygraph examinations and background investigations as directed by the Human Resources Division Commander. Upon successful completion of this screening, the affected Commander will be notified of who is eligible for hire. That Commander is then responsible for review of all materials and selection of suitable candidates, subject to final approval by the Chief of Police. Persons selected for positions shall be conditionally notified of their selection and of the need for a post-offer pre-employment drug test (see *General Order 4157*). The Human Resources Division shall coordinate these contacts, preparation of appropriate paperwork and scheduling with the affected Commander.

4153 Polygraph Examinations [CALEA 32.2.4; 32.2.5; 32.2.6]

Polygraphs or other tests for the detection of deception shall be administered to all applicants for positions at the Police Department. Polygraph examinations for employment are scheduled and coordinated by the Human Resources Division. Prior to the examination, applicants will be provided with a list of questions in order to detail the scope of the examination.

The Department will select certified examiners to conduct such instruments either in-house or through a private contractor.

The results of such examinations become a permanent part of the confidential background investigative file. Showing deception on the polygraph examination shall not be the sole determinate of disqualification.

4154 Psychological Examinations [CALEA 32.2.8]

Applicants for sworn and some non-sworn positions undergo a post offer pre-employment examination to determine psychological stability and fitness. The examination will be administered by qualified personnel either in-house and/or through a contract vendor after a



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conditional offer of employment has been made to an applicant. The results of all such examinations become a part of the confidential background file.

4155 **Medical Examinations** [CALEA 32.2.7]

Applicants for sworn positions shall undergo a post offer pre-employment physical medical examination per AZPOST standards. The City Physician, or facility designated by the City, will conduct the examination, the results of which remain confidential.

4156 **Retention of Applicant Records** [CALEA 32.1.6; 32.1.7; 32.2.3; 32.2.9]

All applicant files and records, including background files and files on disqualified candidates, are considered confidential. Storage of and access to these files shall be governed by the policies outlined in *General Order 4045*. Access to these files shall be under the control of the Human Resources Division Commander.

4157 **Post-Offer Pre-Employment Drug Testing**

All applicants to the Police Department shall be tested for controlled substances as part of the post-offer pre-employment hiring process. Applicants who fail the test shall not be hired.