

CONCORD FIRE PROTECTION DISTRICT

DRUG-FREE & ALCOHOL-FREE WORKPLACE

1. SCOPE: This policy applies to all members of the CONCORD FIRE PROTECTION DISTRICT, which includes the chief, officers, firefighters (volunteer, paid, regular, and special), and employees.

2. GENERAL:

A. The CONCORD FIRE PROTECTION DISTRICT (CFPD) is committed to providing a healthy and safe environment for its members. The influence of alcohol, use of illegal drugs, and misuse of legal drugs create an impairment that subjects other members, property and the public to risks of injury and/or damages that would not exist in an alcohol and drug free workplace.

B. Members of the CONCORD FIRE PROTECTION DISTRICT who violate these standards are subject to disciplinary action under KRS 75.130, with possible reprimand, dismissal, suspension, or reduction in grade or pay. For the purposes of detecting alcohol and illegal drug use/abuse, drug and/or breath alcohol test (BAT) will be requested. All tests shall be done in accordance with current applicable statutory or case laws to protect each member's constitutional rights. Refusal to submit to a drug test or BAT shall be immediate suspension and disciplinary action requesting dismissal.

C. The CFPD shall retain jurisdiction over all CFPD members. Notwithstanding, the CFPD reserves the right, where administrative procedures fail, to pursue all remedies where deemed appropriate.

D. In meeting its responsibilities to members, the CFPD has an Employee Assistance Program (EAP) which offers assistance to members seeking help for alcohol and/or drug abuse. Once identified, these problems must be addressed. In addition, a list of sources of information for members including: counseling, treatment, and rehabilitation services are provided upon request.

E. It shall be a violation of the CFPD Alcohol and Drug Free Workplace Policy for any member to be convicted of manufacturing, distributing, possessing or using illegal drugs as defined by applicable federal and state laws. The illegal use, distribution, or sale or legally prescribed medication is likewise a violation of this policy.

F. Possession of any alcoholic substance in or on department property and/or being at work with a detectable odor of an alcoholic substance on a member's breath (or other reasonable suspicious behavior, including accidents) which when tested results in a Blood Alcohol Content (BAC) of 0.04% or above, is a violation of this policy. Additionally, all Commercial Drivers reporting to work or driving department owned/leased vehicles with a BAC of 0.02% or above. Members subject to "recall," on any stand-by status or, who are subject to driving, while at work, are further prohibited from driving government owned/leased vehicles with a BAC of 0.02% or above. Also, the use of illegal drugs or misuse of prescribed drugs while in a work status is a violation of this policy. Testing shall conform to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines.

G. All CFPD places of employment, including property and buildings are covered under this policy. The CFPD reserves the right to search District owned property at any time and to search employees' personal property as allowed by law. Notwithstanding, any member while at any function under the auspices CFPD Official Business, regardless of time and/or locality, are subject to this policy.

H. Chief and Command Staff shall be responsible for the administration of and establishing the operational procedures necessary to implement this policy.

I. CFPD shall provide a statement each employee and post in a prominent place at each worksite which:

- (1) notifies each employee that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the workplace;
- (2) identifies methods that may be used by the Fire Protection District to determine if violation by an employee exists as stated in this policy;
- (3) specifies the actions that will be taken against employees for violations of the prohibition as provided in this drug-free;

J. CFPD shall provide each employee at least one (1) hour of initial, and at least thirty (30) minutes refresher each year thereafter, of alcohol and substance abuse education and awareness training which shall include, at a minimum, information concerning:

- (1) Alcohol and drug testing;
- (2) The effects of alcohol and drug use on an individual's health, work, and personal life;
- (3) The disease of alcohol or drug addiction;
- (4) Sign and symptoms of an alcohol or drug problem;
- (5) The role of co-workers and supervisors in addressing alcohol or substance abuse; and
- (6) Referrals to an employee assistance program.

K. CFPD shall provide all supervisory personnel, in addition to the training specified for each employee outlined immediately above, with thirty (30) minutes each of alcohol and substance abuse education and awareness training, which shall include, at a minimum, information on:

- (1) Recognizing the signs of alcohol and substance abuse in the workplace;
- (2) How to document signs of employee alcohol or substance abuse;
- (3) How to refer employees to an employee assistance program or other alcohol and substance abuse treatment; and
- (4) Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol.

L. CFPD shall maintain this drug-free workplace program in compliance with all applicable federal and state laws and regulations.

### 3. DEFINITIONS:

A. Accident - Any unintentional occurrence of events which leads to property damage, physical injury, or death.

B. Actual Physical Control - Term referring to driver's or operator's physical position and capabilities which permit someone to control, manipulate, readily set into motion or operation or utilize vehicles, machinery or equipment.

C. Alcohol - Any ingested substance containing alcohol that can produce a mind or body function alteration.

D. Blood Alcohol Content (BAC) -A scientific metric measurement of alcohol from a specific measured sample of breath expressed percentage form. BREATH: A volume of breath is expressed in terms of grams of alcohol per 210 liters of breath.

E. Blood Alcohol Test (BAT) - A medically acceptable procedure or scientifically approved instrumentation test to determine the content of alcohol in the blood.

F. Chain of Custody - The ability to identify each person/facility that has control of a sample at any given time from the time the sample is taken until a final disposition occurs.

(1) All times at a carrier or shipper plant, terminal facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.

(2) All times inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

(3) All times spent at the driving controls of a commercial motor vehicle.

(4) All times, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).

- (5) All time spent performing the driver requirements associated with an accident.
  
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
  - I. Contract Employees - An independent party working for the CFPD under contract, either expressed or implied, written or oral, to provide services or products.
  
  - J. Miscellaneous Personnel - Any individual who occupies a civil service, non-civil service temporary, part-time or seasonal position.
  
  - K. Drug Paraphernalia - Any item used for administering, packaging or transporting illegal drugs.
  
  - L. Drug Test - Tests scientifically designed and medically approved, that determine the presence of drugs in the body.
  
  - M. Drugs - means a controlled substance as defined in KRS 218A.010(6) and as established in 902 KAR Chapter 55, including: (1) Amphetamines; (2) Cannabanoids (THC); (3) Cocaine; (4) Opiates; (5) Phencyclidine (PCP); (6) Benzodiazepines; (7) Propoxyphene; (8) Methaqualone; (9) Methadone; (10) Barbiturates; (11) Synthetic Narcotics; (12) Illicit Substances as defined in KRS 351.010; (13) Volatile Substances as defined in KRS 217.900(1).
  
  - N. Employee Assistance Program (EAP) means an established program providing
    - (1) Professional assessment of employee personal concern;
    - (2) Confidential and timely services to identify employee alcohol or substance abuse;

(3) Referrals of employees with alcohol or substance abuse for appropriate diagnosis, treatment, and assistance;

(4) Follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.

O. Evidential Breath-Testing Devices (EBTS) - a specifically designed device, approved by the National Highway Traffic Safety Administration (NHTSA), used by a certified breath alcohol technician, following specific breath-testing procedures, in the collection and analysis of breath samples to determine the BAC level.

P. Employee - See Member.

Q. Illegal Drugs - Any chemical substance as defined by federal or state controlled substance statutes (KRS 218A.080) which is illegal to possess, distribute or use unless prescribed by a duly licensed physician or health care worker authorized by law to dispense.

R. Integrity Checks - A fail safe mechanism, built into the urinalysis/urine drug screen, which measures the level of certain elements normally found in the body that become abnormal when a urine sample to be tested is diluted or altered.

S. Medical Staff - Authorized personnel qualified by license or certification to perform medical procedures.

T. Medical Advisory Team (MAT) - A licensed (doctor or doctor of osteopathy) specifically contracted by the CFPD who is responsible for receiving results generated by the authorized and approved CFPD drug and alcohol testing program laboratory. The MAT shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with the member's medical history and any other relevant biomedical information.

U. Member - As defined in 75.100, "member" shall include the chief and all officers, firefighters (including volunteer, paid, regular, and special fire fighters), and all employees of the CONCORD FIRE PROTECTION DISTRICT.

V. Other CFPD Personnel - Any other persons associated with the CFPD.

W. Over-The-Counter Medications - Any chemical substance (defined by federal, state, or local substance statutes) found commercially available without a prescription, which is legal to purchase, possess and use, without medical authorization.

X. Positive Drug Screen - The results of an approved medical or scientific test, properly reviewed and approved by a MAT that reveal the presence of an illegal substance in the human body.

Y. Prescription Drugs - Any chemical substance that must be prescribed by a duly licensed physician or health care worker authorized to dispense controlled substance, that when taken in the manner prescribed, by the persons whose name appears on the original prescription container, is legal.

Z. Reasonable Suspicion - Whether a reasonable, prudent individual, trained in the symptoms of drug or alcohol abuse would believe, based upon observation, that someone was under the influence of drugs or alcohol; or that based on observation or information that drugs and/or alcohol is being used or stored on \_\_\_FPD property.

AA. Substance(s) - As used in this context, a substance is any chemical compound that will adversely alter the mind or body function when entering the body.

BB. Testing Facilities - Any physical area designed to accurately administer scientific and medically approved tests.

CC. Under the Influence - Physical or mental behavior that has been adversely altered or impaired by the introduction of drugs or alcohol into the body.

(1) The presence of any drug or substance in the body that will adversely alter the normal function of the mind or body is deemed to render a member under the influence.

(2) Any member whose BAC is 0.04% or above is considered under the influence.

(3) A member who operates a Commercial Vehicle or performs safety sensitive functions is considered to be "impaired" if any amount of a controlled substance or alcohol is present in the blood, breath, or urine, which results in a BAC of 0.02%, or above and under 0.04%.

DD. Urinalysis/Urine Drug Screen - Urine samples are screened for specified drugs and/or their metabolites utilizing enzyme immunoassay (EIA) using defined cutoffs.

(1) Urine found to be positive by the EIA methodology will be confirmed by gas chromatography mass spectroscopy (GCMS).

(2) All urine drug screens and confirmations are to be conducted by a laboratory recognized and approved by the College of American Pathologists (CAP) or Substance Abuse and Mental Health Services Administration (hereafter referred to as SAMHSA) (Formerly: National Institute of Drug Abuse (NIDA)).

4. PROHIBITED BEHAVIOR: The following behavior and activities are prohibited under this policy.

A. Use, possession, distribution, or sale of alcohol and/or illegal drugs paraphernalia or the unlawful manufacture, distribution, dispensation, possession or use of controlled substances on Fire Department property or within Fire Department vehicles.



B. Being impaired anytime during the work day, including breaks and lunch, as a result of using, on the job or off the job, alcohol, illegal drugs, misusing a legally prescribed drug, over-the-counter medication, or any chemical substance, is prohibited behavior.

C. Being impaired at anytime while in an official "on-call" status: one may be off-duty at home, or officially subject to call back per prior notification.

D. Those "on-call" members who are called back and impaired are forbidden to respond or report to their work site or job, and shall not accept or respond to any assignment or recall, and shall immediately via telephone report their impairment to their supervisor and/or Division Director.

E. Being impaired at any time in a department owned vehicle as a result of using alcohol, an illegal drug, illegal use of a legally prescribed drug, over-the-counter medication, or any chemical substance is prohibited behavior.

F. Pertaining to driving fire apparatus or other emergency equipment or performing safety sensitive functions:

(1) Operating or performing any safety sensitive function with a BAC of 0.02% or above, or while impaired at any level by any drug.

(2) Ingesting any alcoholic substance within eight (8) hours after a Critical Incident.

(3) Use of any drugs within eight (8) hours after a Critical Incident without medical authorization or under medical treatment.

G. Storing in a locker, desk, vehicles, or other places on department premises any illegal drug, drug paraphernalia or alcohol which use or possession of is unauthorized.

H. Refusing to provide a blood, urine, saliva or breath sample for testing when required for cause or for authorized random testing.

I. Switching or altering any submitted specimen for testing.

J. Testing positive for drugs or alcohol.

K. Refusing to complete a medical questionnaire or consent form, or knowingly providing false information on the questionnaire prior to authorized testing for illegal drugs or alcohol.

L. Refusing to complete a laboratory chain of custody form after providing a laboratory specimen for testing.

M. Failure to report to the member's immediate supervisor and/or Division or Operations Chief, the use of any legal drug which may adversely alter the member's behavior, physical or mental ability.

N. Failure to report to the member's immediate supervisor and/or Division or Operations Chief, any summons, charges, issuance of citations, or convictions relating to incidents involving alcohol or drugs.

5. DISCIPLINARY ACTION: All members of CFPD, prior to a "critical. incident," "reasonable cause" and "random" testing, may acknowledge his/her substance abuse by contacting CFPD's EAP provider and enter a certified rehabilitation without disciplinary action,

A. DRUGS: Use of, possession of, or a positive urine drug screen and confirmation of the presence of an illegal drug, shall result in the following:

(1) 1st Offense:

(a) Firefighter Personnel shall be immediately suspected and charges brought seeking dismissal.

Mandatory evaluation by the EAP for drug dependency.

Satisfactory completion of a program for drug abuse counseling and rehabilitation and/or other professional treatment, which has been recommended and approved by the EAP Coordinator.

(2) 2nd Offense: Non-Firefighter Personnel: A second positive urine drug screen and confirmation of the presence of an illegal drug shall result in immediate suspension and disciplinary charges pursuant to KRS 75.130 seeking dismissal from the CONCORD FIRE PROTECTION DISTRICT.

(1) ALL FIREFIGHTER & EMERGENCY SERVICES PERSONNEL

(a) Under The Influence: With a BAC of 0.04% or above: 1st Offense: Any member reporting to work and/or operating or in actual physical control of a government owned/leased vehicle or equipment shall result in immediate suspension and disciplinary charges pursuant to KRS 75.130 seeking dismissal from the CONCORD FIRE PROTECTION DISTRICT.

(b) Impairment: With a BAC of 0.02% but less than 0.04%:

(i) 1st Offense: Shall be recommended for suspension from CFPD duties for 30 calendar days; no pay for scheduled work hours.

Mandatory evaluation by the EAP for alcohol dependency.

Satisfactory completion of a program for alcohol abuse counseling and rehabilitation and/or other professional treatment, which has been recommended and approved by the EAP Coordinator.

(ii) 2nd Offense: Shall result in immediate suspension and disciplinary charges pursuant to KRS 75.130 seeking dismissal from the CONCORD FIRE PROTECTION DISTRICT

(2) ALL OTHER CFPD PERSONNEL

(i) Under the influence:

1st Offense: Any member reporting to work and/or operating or in actual physical control of a government owned/leased vehicle or equipment shall result in immediate suspension and disciplinary charges pursuant to KRS 75.130 seeking dismissal from the CONCORD FIRE PROTECTION DISTRICT.

6. TESTING SAFEGUARDS, TERMINOLOGY AND GUIDELINES: Alcohol and Drug Screening shall be conducted under the following circumstances:

A. DRUG TESTS: An eleven (11) panel urine test will be conducted and shall include analysis for the following substances:

- (1) Amphetamines;
- (2) Cannabanoids/THC;
- (3) Cocaine;
- (4) Opiates;
- (5) Phencyclidine (PCP);
- (6) Benzodiazepines;
- (7) Propoxyphene;
- (8) Methaqualone;
- (9) Methadone;
- (10) Barbiturates; and

(11) Synthetic Narcotics.

B. TESTING SAFEGUARDS - The following procedures conform to SAMHSA drug testing protocol:

(1) Members required to submit to any drug or alcohol testing will sign, prior to testing, the laboratory form consenting to drug or alcohol testing, and to release the results to Medical Advisory Team (MAT).

(2) All drug and alcohol testing made reference to in this policy shall be performed accordance with current federal regulations:

(a) Clinical Testing will be performed by a fully accredited laboratory and not by any member of the CFPD.

(b) Collection and safeguarding of test specimens, with a valid chain of custody shall follow strict chain of custody procedures.

(c) Validation by a second confirmation test and verification of all positive test results by referral to the MAT. All interpretation of drug and alcohol test will be performed by the MAT and not by the testing facility.

(3) Before any action is taken against a member who tests positive, the employee will be given an opportunity to explain the results directly to the MAT.

A. Pre-Employment Screening (PES) - The CFPD will conduct pre-employment and/or pre-membership screening designed to prevent hiring individuals who use illegal drugs or individuals whose use of alcohol indicates a potential for impaired or unsafe job performance. All persons being considered for employment/membership will be required to submit to pre-employment alcohol and/or drug screening as part of the pre-employment process.

Should a primary and secondary test reveal a BAC of 0.04% or above, the attending physician shall suspend the examination, and the physician shall report the findings as "not suitable for membership" to the Chief of the Fire Department.

In addition, a laboratory approved and listed by the SAMHSA will conduct random testing.

B. Reasonable Cause Testing (RCT) - Members will be tested for drugs or alcohol when reasonable suspicion exists to support a belief that the employee is under the influence of drugs or alcohol or that the member's behavior or work performance has been affected by drugs or alcohol. The basis for the decision shall be documented, in writing, by at least two (2) trained supervisors or by professional law enforcement or medical personnel. A determination will be based upon observation and documentation of:

(1) Detection of an alcoholic substance emitting from the member's breath. This shall include a detection of "hang-over" odor.

(2) Observation(s) of the member's speech being unusually slurred, or noticeably different without a proper medical reason being given.

(3) Observation(s) of the member's actions or conduct as being noticeably different or impaired and not consistent with normal conduct and without proper explanation.

(4) Observation(s) of member's appearance, in conjunction with the above, indicates that the member is impaired.

At the request of the Chief, the observed member may be required to submit to an independent blood/breath/urine test to determine if the member is impaired. The requested testing is to be done within two (2) hours but no later than eight (8) hours after the observation. All results of such testing will be delivered immediately to the Chief of the Fire Department.

PLEASE NOTE: THE SUPERVISOR IS RESPONSIBLE FOR FOLLOWING THE ABOVE PROCEDURE AND REQUESTING THAT ANY MEMBER BE TESTED WITHIN THE TIME FRAME OF TWO (2) TO EIGHT (8) HOURS.

C. Post-Critical Incident Testing (PCI) - Any member involved in a single vehicle accident with property damages of \$ 2,500.00 or more; or a work related accident or incident in which there is one (1) or more fatalities; one (1) or more injuries requiring emergency treatment; or property damage of \$ 5,000.00 or more, shall immediately notify their supervisor and will be tested for drug use and blood/breath alcohol presence.

Such testing shall be conducted:

- (1) Within two (2)-hours of the incident. or
- (2) Within two (2)-hours of being released from law enforcement personnel while under:
  - (a) Detainment;
  - (b) Apprehension;
  - (c) Questioning; or
  - (d) Arrest.
- (3) But no later than eight (8)-hours after the incident.

PLEASE NOTE: THE SUPERVISOR IS RESPONSIBLE FOR FOLLOWING THE ABOVE PROCEDURES AND REQUESTING THAT A MEMBER BE TESTED WITHIN THE TIME FRAME OF TWO (2) TO EIGHT (8) HOURS.

D. Testing in Conjunction With A Treatment Program (SPT) Members who are participating in a treatment program will be required to submit to random "spot" drug screening at regular and frequent intervals to assure that such members are remaining drug and alcohol free. The duration of such tests will be determined by the counselors at EAP or MAT, but could last up to 24 months or more, depending on the circumstances. A "return-to-duty" test will be performed on all members participating in this program prior to returning to their job.

Members who have had a confirmed prior positive result for alcohol and/or drugs under this policy and have a subsequent confirmed positive test for alcohol and/or drugs, shall result in immediate suspension and disciplinary charges pursuant to KRS 75.130 seeking dismissal from the CONCORD FIRE PROTECTION DISTRICT.

E. Random Testing (RAN) - Random Testing means the drug tests are unannounced and that through a random selection process all employees have an equal chance of being selected. The following are pools for random selection:

(1) MEMBERS - Members of the Fire District are in a position of public trust. They are members of a highly regulated force that perform dangerous duties. They drive heavy equipment, enter homes of citizens and are involved in highly dangerous activities and emergency "life and death" medical duties and responsibilities.

(2) PREVIOUS POSITIVE TEST - Members who have tested positive from any of the above categories of this section are subject to random testing within this pool.

Members selected for random testing through the use of the random selection procedures specified within this policy shall be subjected to testing of their blood, breath or urine, for the presence of alcohol and/or drugs within their system.

During ANY random testing, if a medical staff member of an approved medical facility detects a member to be under the influence of alcohol or drugs, the member may be required to submit to additional blood or breath testing prior to submission of the urine specimen, for the purpose of establishing their BAC.



Members who have reported to any approved medical facility for testing under this policy and are obviously impaired and have a confirmed BAC test result of 0.02% or above shall be immediately reported by the medical facility to the Chief (or designee) and the MAT.

Confirmed positive test results and the corresponding documentation will be reviewed by the MAT for review and investigation.