

Thurston County Fire Protection District 8

DISTRICT PROCEDURE



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| PPROCEDURE TITLE: | Drug & Alcohol Free Workplace |
| PROCEDURE NUMBER: | 3-06-PR-01 |
| REVISION: | 0 |
| DATE ISSUED/REVISED: | |
| FIRE CHIEF APPROVAL SIGNATURE: | |

I. PURPOSE: This Procedure shall be based upon the currently adopted Policy 3-06 “Drug & Alcohol Free Workplace”.

II. DEFINITIONS: For the purposes of this Policy, the following definitions shall apply:

- A. **ACCIDENT:** Any incident in which a member was involved in that results in injury or harm to the member, other individuals, equipment, or property.
- B. **ADMINISTRATIVE STATUS:** The status a member may be placed into when removed from active duty as a result of drug and alcohol testing; for bargaining unit career employees, it will be considered either “light duty” as per the provisions of the current Collective Bargaining Agreement or “administrative leave” (either paid or unpaid, depending on the circumstances). For non-bargaining unit employees and other members, administrative status places the member off-duty and not subject to Public Safety Position duties and responsibilities.
- C. **DRUG:** means the substances defined under the most current version of 49 Code of Federal Regulations (CFR) Part 40.85 and Part 40.91 or alcohol, the use of which impairs a member's ability to perform a job or duty, or poses a threat to the safety of an individual or others.
- D. **DRUG AND ALCOHOL [SUBSTANCE] ABUSE PROFESSIONAL (SAP):** licensed physician with knowledge of drug and alcohol abuse disorders.
- E. **DRUG TEST:** a blood, breath, hair follicle and/or urinalysis test (as appropriate) for the presence of drugs or alcohol.
- F. **FAILING A DRUG OR ALCOHOL TEST:** a test result, as determined by the District’s MRO, documenting positive evidence of the presence of any alcohol at a level greater than 0.02 in a member's system or the presence of a drug or drug metabolite that is at or above the determined threshold cutoff level. Failing a drug or alcohol test shall be referred to as "testing positive."
- G. **IMPAIRED:** a diminishing or worsening of a member's mental or physical condition, which is the result of using alcohol or drugs.
- H. **MEMBER:** any full-time career, part-time career, volunteer, probationary, temporary or elected person of the District organization.
- I. **MEDICAL REVIEW OFFICER (MRO):** a licensed healthcare professional with knowledge of substance abuse disorders and appropriate medical training as designated by the District.
- J. **ON DUTY:** a member is considered “on duty” whenever the member is being compensated for their time by the District, driving a District vehicle, whenever the member is working (or on-call) for the District and/or conducting District business.
- K. **PASSING A DRUG AND/OR ALCOHOL TEST:** a test result, as determined by the District’s MRO, documenting no evidence of the presence of any alcohol at a level of 0.02 or greater in the member's system, or no presence of a drug or drug metabolite that is at or above the pre-determined threshold cutoff level for initial and confirmatory drug

testing set forth in the most current version of 49 CFR Chapter 40. Determination of THC concentration will comply with RCW 46.04.586 and/or RCW 46.61.506 for presence of delta-9 tetrahydrocannabinol.

- L. **PUBLIC SAFETY POSITION:** any District member in a uniform firefighter or emergency medical services position.
- M. **PROPER MEDICAL AUTHORIZATION:** a prescription or other written approval from a licensed practitioner/physician or dentist for the use of a drug in the course of medical treatment, which must include the name of the substance, the period of authorization, and whether the prescribed drug may impair job performance.
- N. **REASONABLE SUSPICION:** A belief based on objective facts sufficient to lead a reasonable person to suspect that a member is under the influence of drugs or alcohol to the extent that the member's ability to safely and efficiently perform a job or duties is impacted, or poses a threat to the safety of the member or others. Refer to "Appendix D" of this Policy for additional information regarding the determination of "reasonable suspicion".
- O. **SAMHSA:** Substance Abuse and Mental Health Services Administration.
- P. **UNDER THE INFLUENCE ("IMPAIRMENT"):** condition which is the result of using drugs or alcohol, the result of which limits/impacts an individual member's ability to safely and efficiently perform a job or duties, or poses a threat to the safety of the member or others.

III. RESPONSIBILITIES:

- A. **The Board of Fire Commissioners:** The Board of Fire Commissioners is responsible for:
 - i. Adopting this Policy and for establishing a drug and alcohol free workplace in compliance with applicable laws and regulations.
 - ii. Adopting a drug and alcohol awareness information program and associated policies and procedures for the membership.
- B. **Management:** The Fire Chief or designee is responsible for:
 - i. Implementing and enforcing this Policy and applicable procedures.
 - ii. Insuring that all members have access to this Policy and information concerning the impact of the use of drugs and alcohol on job performance.
 - iii. Providing adequate drug and alcohol training for management to allow for the appropriate implementation of this Policy and its procedures including but not limited to training in the detection of drug and alcohol use and the behaviors which may indicate drug or alcohol abuse by a member.
- C. **Members:** Members shall comply with this Policy as a condition of career or volunteer membership. Members are responsible for:
 - i. Not reporting to duty while under the influence of drugs or alcohol.
 - ii. Not using or being under the influence of drugs or alcohol while on duty.
 - iii. Not manufacturing, distributing, dispensing, or possessing any controlled substance while on duty.
 - iv. Fully informing themselves of the content of this Policy and the District's drug and alcohol testing procedures.
 - v. Seeking appropriate assistance with chemical dependency or drug and alcohol abuse problems before such problems result in a violation of this Policy.
 - vi. Cooperating and complying with applicable testing procedures established in this Policy and passing all such tests successfully.

- vii. Any member who is taking a drug or medication, whether or not prescribed by the member's healthcare provider, which may reasonably adversely affect that member's ability to perform work in a safe or productive manner is required to report such use of medication to the member's supervisor and the District Health & Safety Officer (HSO). This includes drugs that are known or advertised as possibly affecting judgment, coordination, or any of the senses, including those that may cause drowsiness or dizziness. Member's using prescription drugs may be required to provide Proper Medical Authorization prior to reporting for duty while taking prescription medications. The HSO in conjunction with the Fire Chief or designee then will determine whether the member can remain on duty and whether any restrictions will be necessary.
- viii. Notifying the member's immediate supervisor of any conviction for violation of a state or federal drug statute no later than five (5) days after such conviction.

IV. TESTING:

- A. **Pre-Employment Testing:** Public Safety Position applicants seeking District membership who have been offered conditional membership (either on a career or voluntary basis) must successfully pass a Drug Test (reference *Appendix A and B*). An applicant who fails the Drug Test will be informed of test results and will not be eligible for membership with the District at that time. An applicant that tested positive may request a re-test in accordance with Section V of this Policy.
- B. **Reasonable Suspicion Testing:** When reasonable suspicion is believed to exist that a member may be under the influence or impaired by drugs or alcohol, and law enforcement is not involved, the following procedure shall be followed:
 - i. If law enforcement is involved, such agency shall be responsible for determining reasonable suspicion.
 - ii. The member shall be informed of reasonable suspicion, removed from assignment (active duty) and placed on Administrative Status pending results of interview and/or testing.
 - iii. Immediate notification of the Fire Chief or designee.
 - iv. A supervisor assigned by the Fire Chief or designee and a witness, at the discretion of the member in question, shall accompany said member at all times during the interviewing and testing procedure.
 - v. If a questionable substance is present, an appropriate sample shall be secured.
 - vi. The supervisor assigned shall, if feasible interview the member to verify that a reasonable suspicion exists.
 - vii. If, after the interview, a reasonable suspicion still exists:
 - a. The member shall be tested as soon as possible, but not more than eight (8) hours after the reasonable suspicion is determined for alcohol or more than thirty-two (32) hours after reasonable suspicion is determined for drugs.
 - b. Members under reasonable suspicion shall refrain from alcohol or drugs until such time as necessary testing can be conducted.
 - c. Members who leave the premises or refuse to partake in the testing process shall be considered to have refused required testing and shall be subject to disciplinary action under Policy 3-07 "Disciplinary Process".
 - d. If reasonable suspicion drug and/or alcohol testing is not administered as noted in Subsection IV.B.vii.a above, the supervisor shall document the reasons why the test was not administered. Such documentation shall be forwarded to the Fire Chief or designee as soon as possible.
 - e. A supervisor shall transport the member to the testing facility and the appropriate testing procedures will be implemented.
 - f. The member will be required to sign a consent form for the testing.

- g. Following the test, a supervisor shall transport the member to the member's residence.
- h. If test results are positive, the time off (for a career employee) will be charged to the their earned/accrued leave bank.
- i. If test results are negative, the time off will be charged to Administrative Status.

viii. If a determination is made that there is no violation or failed test, this process shall be immediately discontinued and all operations returned to original status. Furthermore, all documentation and records of the event shall be placed in a separate secure file and retained for the period of time required by Washington State's record retention laws – after which time the information shall be destroyed in compliance with applicable law.

- C. **Post-Accident Testing:** Members shall be subject to post-accident testing if they are involved in an on-duty accident and are determined to be under reasonable suspicion for impairment, or, as may be otherwise required by law.
- D. **Follow-up/Return to Duty Testing:** As part of a follow-up to counseling or rehabilitation for drug or alcohol use due to a failed drug or alcohol on-duty related test, a member may be required to submit to follow up testing. The following procedure shall be followed:
 - i. If a member has been removed from duty through use of counseling or rehabilitation services, the member will not be permitted to return to duty until the member has a) passed a drug/alcohol test as documented by the SAP, b) has the approval of the appropriate rehabilitation program coordinator and/or MRO and c) complies with the provisions of Policy 3-15 "Emergency Responder Fit for Duty Status" if applicable.
 - ii. Such members may be required by the Fire Chief or designee to undergo frequent drug and/or alcohol testing for a period of time to be determined by the SAP's professional recommendations.
 - iii. The Fire Chief or designee shall review all documentation and ensure strict compliance by the member for all terms for follow-up and return-to-duty testing.
- E. **Post Treatment:** If, after an initial positive test in violation of this Policy, a member again violates this Policy he/she will be subject to the disciplinary process under Policy 3-07 "Disciplinary Process".

V. **METHODOLOGY:**

- A. **General:** To ensure the accuracy and fairness of the testing program, all testing will be conducted according to SAMHSA guidelines where applicable and will, at a minimum include using SAMHSA certified laboratories, chain of custody procedures, and equipment. Testing procedures may include a screening test; a confirmation test; the opportunity for a split sample; review by the MRO, including the opportunity for member who tests positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.
- B. **Positive Test Results.** All positive test results shall first be reviewed by the MRO. The MRO shall review the member's medical history and afford the member with an opportunity to offer any clarifying information that would explain the positive test. If the MRO, after review, determines there is no appropriate explanation for a positive test result, then they should report the test as positive. If they determine there is an explanation for the result then it shall be reported as negative.
- C. **Compliance with Testing:** Any member who refuses to comply with a request for testing from the District, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately pending further investigation. Refusal can include an inability to provide a specimen or breath sample without a valid medical reason or delaying arrival at the collection site. Such refusals will be treated as insubordination and subject to the District's disciplinary process under Policy 3-07 "Disciplinary Process".
- D. **Re-Tests and Observed Tests.** Any member who tests positive for drugs may request, within 72 hours of notification, a test of the split sample, as all specimens are split and the untested portion stored for a period of time. The member must notify the MRO of his/her request and the member will be responsible for the cost of the split

sample test. There are certain situations that may require the member to provide, at the collection site, another urine or breath sample, e.g., when insufficient volume or breath provides an inadequate sample or the technician has reason to suspect tampering with the sample. Under the latter circumstances, a second collection may be under observed conditions.

VI. SEARCH NOTICE AND CONDITIONS:

- A. When a supervisor or the Fire Chief or designee has reasonable suspicion to believe that a member possesses drugs or alcohol in violation of this Policy, the member will be required, at the Fire Chief or designee's direction, to submit to a search of any room, desk, file, locker or other container provided by the District. Members shall have no expectation of privacy in any of the foregoing areas.
- B. Any drugs or alcohol discovered on District premises in violation of this Policy will be confiscated and the Fire Chief or designee will coordinate with appropriate law enforcement officials as necessary. Prior to the search occurring, the member shall be informed of the suspected situation with an explanation of reasonable suspicion at that time.

VII. DISCIPLINARY ACTION:

- A. Violations of this Policy will be grounds for appropriate disciplinary action on a case-by-case basis, up to and including termination as provided for under Policy 3-07 "Disciplinary Process". Additionally, law enforcement authorities will be notified in appropriate situations.

VIII. REPORTING VIOLATIONS:

- A. If any party (member or otherwise) has reasonable suspicion of drugs or alcohol on District property or in District vehicles, or observes or has knowledge of a member who either (1) violates this Policy; or (2) is in a condition which might impair that member's ability to perform job duties or which poses a hazard to the safety and welfare of others, shall promptly report the situation to the Fire Chief or designee. To the degree possible (subject to investigative and legal requirements), the reporting individual's identity will be kept confidential and there shall be no retaliation for such reasonable suspicion reporting.
- B. If any party (member or otherwise) has reasonable suspicion that the Fire Chief or designee is violating this Policy, the member shall report this to the Chair of the Board of Fire Commissioners. To the degree possible (subject to investigative and legal requirements), the reporting individual's identity will be kept confidential and there shall be no retaliation for such reasonable suspicion reporting.

IX. TRAINING & EDUCATION:

- A. The District shall provide supervisors training on an annual basis consistent with the requirements of 49 CFR Part 382.603, regarding recognition of the signs of drug and alcohol use that support reasonable suspicion testing.

X. REHABILITATION PROGRAM:

- A. **Voluntary Request For Rehabilitation:** The District shall not discipline members who voluntarily come forward and ask for assistance to deal with a drug or alcohol problem, prior to the occurrence of any work performance or misconduct issue, solely for making such a request. To that end, no disciplinary action will be taken against a member for making such a request. Prior to returning to duty, the member shall comply with the applicable standards set forth in Policy 3-15 "Emergency Responder Fit for Duty Status".
- B. **Rehabilitation Process:** For any member who tests positive for drugs or alcohol, the District may choose to have that member be medically evaluated, counseled and treated for rehabilitation as recommended by the SAP. Members who complete a rehabilitation program under these circumstances may be required to undergo frequent drug and/or alcohol testing and other such conditions as determined by the SAP. A member may voluntarily enter a rehabilitation program without prior testing. All or a portion of the treatment and rehabilitation may be paid for by the member's health insurance program if available. Career members will be allowed to use their accrued and earned leave for the necessary time off involved in the rehabilitation program unless otherwise provided for in the Collective Bargaining Agreement for bargaining unit career employees. If a member does not have available insurance or have available accrued or earned leave, the District will not be responsible for any costs associated with treatment or loss

of wages from missed work. Prior to returning to duty, the member shall comply with the treatment/rehabilitation terms as determined by the SAP and meet the applicable standards set forth in Policy 3-15 "Emergency Responder Fit for Duty Status".

XI. PRIVACY:

- A. Subject to legal and investigative requirements, confidentiality shall be maintained to the extent possible throughout the testing process. The District shall retain records in its possession relating to the testing process as required by Washington State's record retention laws. Only individuals with a legitimate business reason to know will be made aware of the test results. Such information will not be released to a third party without specific written authorization by the member, or upon court order or valid legal process. The District shall maintain records and reports as required by appropriate government authorities/applicable law.

XII. POLICY COMMITMENT, NOTICE AND TRAINING:

- A. All members shall have reasonable access to this Policy. As part of the District's annual performance review process, (reference Policy 3-30 "Member Performance Evaluations") the member shall acknowledge their understanding of the terms of this Policy. The District shall make training available for members to help prevent drug and alcohol abuse problem situations and appropriately deal with such problems should they occur.

XIII. RIGHT OF APPEAL:

- A. The member has the right to appeal the results of the drug or alcohol tests. To initiate an appeal, the member must fill out and sign the attached "Drug Test Appeal" (*Appendix C*) form within 5 business days of being notified of a positive test result. The appeal process will be conducted without cost to the member. The member will be scheduled to meet with the Fire Chief or designee within 14 calendar days to present the appeal. Following the meeting the Fire Chief (or designee) will provide the member with a written decision on the appeal.

XIV. CONFLICT WITH OTHER LAWS:

- A. This Policy is in no way intended to supersede or waive any constitutional or other rights that the member may be entitled to under Federal, State, or Local laws, rules or regulations.

APPENDIX:

- Appendix A: Pre-membership Drug Testing Consent Form
- Appendix B: Member Drug and Alcohol Testing Consent Form
- Appendix C: Drug Test Appeal Form
- Appendix D: Reasonable Suspicion Checklist

APPENDIX A

THURSTON COUNTY FIRE PROTECTION DISTRICT 8

*APPLICANT CONSENT FORM AND AUTHORIZATION FOR SPECIMEN COLLECTION,
SUBSTANCE TESTING, AND RELEASE OF INFORMATION*

I, _____ as an applicant for a public safety position, voluntarily consent to provide a specimen at the designated drug testing services provider, or any other site designated by Thurston County Fire Protection District 8 (“District”). I understand that the specimen will be tested for the presence of alcohol, drugs or controlled substances prohibited by the District’s drug and alcohol-free workplace policy. I give my consent for the release of such test results to the District's Medical Review Officer, who shall interpret such results for the District’s Fire Chief and/or the Fire Chief's designee. I further authorize the District and its management to use this information as necessary in considering my application for membership. I understand that I may not be allowed to be a member if I test positive for drugs or controlled substances prohibited by District Policy. Upon request, the District shall give me a copy of written test results it receives.

I further acknowledge that the District has made me a conditional offer of employment (or volunteer membership) prior to requiring me to participate in the foregoing testing. I understand the District may revoke my conditional offer of employment (or volunteer membership) if I test positive for drugs or controlled substances in violation of District policy.

Applicant Signature

Date

Witness

Date

APPENDIX B

Thurston County Fire Protection District 8 (“District”) *MEMBER*

CONSENT AND RELEASE FORM FOR DRUG/ALCOHOL TEST PROGRAM

I acknowledge that I have received a copy of, have been duly informed, and understand the District’s drug and alcohol testing policy and procedures. I have been provided with information concerning the impact of the use of alcohol and drugs on job performance. In addition, I have been informed on how the tests are conducted, what the tests can determine, and the consequence of testing positive for drug use. I give my consent to participate in the testing process and for the release of such test results to the District.

I understand that if I voluntarily come forward and ask for assistance to deal with a drug or alcohol problem through the substance abuse program, prior to the occurrence of work performance or misconduct issues, I will not be disciplined by the District for asking for help.

I understand how drug/alcohol tests are collected and further understand that these are medical tests that are conducted under the auspices of the District’s Medical Review Officer (“MRO”). I understand that the MRO will review and interpret any positive test results, and that I will have the opportunity to be interviewed by the MRO to review my status, my medical history, and any relevant biomedical factors prior to the District being informed whether I passed or failed the test. The District will maintain the findings in a confidential manner to the extent possible, subject to legal and investigative requirements. The District will not divulge information relating to the testing process to anyone without a legitimate business need for the information (without my consent).

I understand the District may use the findings and information from my testing process as necessary in a grievance process and/or in legal proceedings/litigation.

I understand that a confirmed positive drug or alcohol test may result in my referral to a drug and alcohol substance abuse professional or serious discipline, up to termination.

Based on the foregoing, I give my consent to the collection/testing of a urine, hair, blood, breath, saliva, and/or other sample (and the analysis thereof) for all of the purposes described in the District’s Drug & Alcohol Free Workplace Policy.

Printed or typed name of member

Signature of member

Date

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REASONABLE SUSPICION CHECKLIST

Documentation Form For a Reasonable Suspicion Behavior Incident

Name and Rank of Employee Completing this Form: _____

Name and Rank of Witness Confirming Observations: _____

Name and Rank of Employee Observed: _____

Date and Time of Observation: _____

Date of Form Completion: _____

Observations

I. Basis of Reasonable Suspicion (Check All That Apply)

- Observed possession of a prohibited substance
- Alcohol or drug odor on breath or body
- Apparent intoxication from drugs or alcohol
- Observed abnormal, erratic, and/or unusual behavior
- Involvement in a motor vehicle accident while operating a vehicle on duty which resulted in a non-minor injury, a medical transport, and/or significant property damage
- Other (please specify): _____

II. Unusual Behavior Observed (Check All That Apply)

- Verbally abusive
- Physically abusive
- Extreme aggressiveness, hostility, and/or agitation
- Impaired judgment
- Significant inattentiveness, listlessness, hyperactivity, mood swings/changes, and/or unresponsiveness
- Other erratic or inappropriate behavior (for example: hallucinations, disorientation, excessive euphoria, confusion, etc.):

Please specify: _____

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Supervisor Review and Signature
(If Feasible, the Reviewing Supervisor Will Not be the Same Person as the Initial Observer)

Reviewing Supervisor's Name and Rank: _____

Date of Supervisor's Review: _____

Name of Subject Employee: _____

Supervisor's Determination – Is there reasonable suspicion to test the subject employee?
(check one):

Yes

No

Supervisor's Confirmation that Employee Signed the Testing Consent and Release Form
(check one):

Yes, the Employee Signed

No, the Employee Refused to Sign

Name of Subject Employee's Union Representative to Whom the Supervisor Provided Notice of the Testing (Also State the Manner and Time in Which the Notification Occurred): _____

Name and Address of the Testing Facility: _____

Name of District Employee/Personnel Who Transported the Subject Employee to the Testing Collection Site: _____

Date and Time of Transportation: _____

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Employee Signature

I understand that:

- 1. I have been referred for a reasonable suspicion drug and/or alcohol test(s) and must report for the test(s) immediately;**
- 2. My failure to take the test(s) may result in disciplinary action, up to and including termination of my employment; and**
- 3. The District will provide me with a separate consent form to sign prior to testing process.**

Employee Printed Name

Employee Signature

Date and Time