



FRESNO COUNTY FIRE

PROTECTION DISTRICT

PAID-CALL FIREFIGHTER POLICY & PROCEDURE HANDBOOK

POLICY NO.: 200-10

SUBJECT: SUBSTANCE ABUSE TESTING PROGRAM

EFFECTIVE DATE: November 1, 2009

REVISION DATE: October 1, 2013

RESPONSIBILITY: Fresno County Fire Protection District
Paid-Call Firefighter

POLICY/PROCEDURE:

PURPOSE:

The purpose of this policy is to help ensure that all FCFPD employees are free from the effects of drug and alcohol abuse.

Nothing discussed in this section will prevent the Fire District from taking adverse action against employees who are convicted for violating the law when it relates to their job or the ability to perform their job, and/or have violated this Policy.

POLICY:

All content herein shall be referred to as the Fresno County Fire Protection District Substance Abuse Policy, as dictated and approved by the Board of Directors of the Fresno County Fire Protection District (FCFPD).

All supervisors and managers in the Fire District will be held personally responsible for actively taking steps to carry out this policy. This includes those who may be designated as rank-and-file but have supervisory responsibilities (e.g., Career Fire Captains).

- A. It is the Fire District's policy that no FCFPD employee who is on duty shall:
1. Use, possess, or be under the influence of illegal or unauthorized drugs or other illegal mind-altering substances; or
 2. Use or be under the influence of alcohol to the extent that would impede the employee's ability to perform his or her duties safely and effectively.
- B. Employees may be subject to drug and alcohol testing, referred to as substance abuse testing, where there is reasonable suspicion that the employee has violated this policy as required by the Federal Drug Free Workplace Act of 1988 and State of California Drug Free Act of 1990, Executive Order Number 930 (Government Code sub-section 8350 et seq.)
- C. In addition to reasonable suspicion testing, employees who are licensed as commercial drivers will also be subject to random testing. Employees may be subject to post-accident testing, return-to-duty testing and follow-up testing as required by Federal Regulations 49 CFR Parts 382, et al, and 49 CFR Part 40 if they meet the following criteria:
1. Are in a position that requires possession of a Commercial Driver's License (CDL); or
 2. Are required to possess a CDL (excluding a Restricted Fire Fighter license) and as part of their duties for the Fire District drive a motor vehicle in the State of California that:
 - a. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating or gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds; or
 - b. Has a gross vehicle weight rating of 26,001 or more pounds; or
 - c. Is designed to transport 16 or more passengers, including the driver; or
 - d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).
- D. An employee who has an alcohol concentration of between 0.02 and 0.04 (Firefighter B license) must be removed from performing safety sensitive duties for 24 hours.
- E. An employee who tests positive for illegal substances or has an alcohol concentration greater than 0.08 (0.04 for Firefighter B license), while on duty, shall be terminated.

- F. No employee shall perform duties which, because of drugs taken under prescription, cannot be performed without posing a threat to the health and safety of the employee or others. Employees must notify their supervisor if they are under the use of prescription medication that may affect their performance and be removed from coverage or response. Failure to do so may result in adverse action.

Procedure

TYPES OF TESTING:

A. Pre-Employment Screening

1. Employees seeking to obtain a position with the FCFPD shall be subject to a pre-employment screening for controlled substances and alcohol. An applicant's failure to satisfactorily pass this screening will result in a rejection for employment with the Fire District. Refusing to submit to a pre-employment screening will be termed a failure of the screening, thereby resulting in a rejection of the individual's application for employment.

B. Reasonable Suspicion

1. Reasonable suspicion is the good faith belief based on specific articulable facts or evidence, observed by a supervisor, that an employee may have violated this policy, and that substance abuse testing could reveal evidence to that violation. For the purposes of this policy, a supervisor is defined as one who leads and directs the work of others, including a CAL FIRE career Captain (FC) or Fire Apparatus Engineer (FAE).
2. The basis for all reasonable suspicion determinations shall be documented as appropriate. This shall include the specific description of the observations on which the determination is based. This documentation shall be completed within 48 hours of the determination and a copy shall be provided to the employee.
3. When reasonably possible, and provided it does not interfere with employee or public safety, reasonable suspicion shall be confirmed by the direct observation of another supervisor or peace officer, as defined under Penal Code Sections 830.1 and 830.2.
4. The supervisor shall contact the Duty Chief and the Fire District Medical Review Officer (MRO) and describe the facts and observations in the case.
5. The supervisor and/or Battalion Chief shall make an appointment with the testing facility and transport the employee to the testing site.

C. Random Testing

1. Employees in positions requiring commercial driver's licenses are subject to controlled substance and alcohol testing on an unannounced and random basis. The selection of drivers to be tested shall be a computer generated random selection. Each driver shall have an equal chance of being tested each time the selection is made.
2. Alcohol tests shall be performed only just before, during, or just after the employee's work day or duty assignment.
3. Before being asked to submit to a random drug and/or alcohol test, the employee shall receive written notice of the request or requirements.

TESTING PROCESS AND STANDARDS:

The Fresno County Fire Protection District (FCFPD) has contracted with Concentra Medical Centers to provide services for the Federal and State drug and alcohol testing program. These services include urine collection for controlled substances, urine collection or breath alcohol testing, and laboratory services for dissemination of all collected samples.

A. Controlled substance testing

1. The testing process will be performed on a urine sample using an immunoassay screening test and gas chromatography/mass spectrometry confirmatory test for positive results.
2. The test results (negative and positive) will be reported back to the District Fire Chief or his/her designee, and/or the MRO of the FCFPD.
3. All reasonable suspicion positive test results will be retested. All confirmed positive samples shall be retained for one (1) year following the test, or until the sample is no longer needed for an appeal proceeding, and/or litigation, which ever is longer. At the employee's request and expense, the sample may again be retested by that laboratory or another laboratory of the employee's choice.

4. For drug testing of commercial drivers under the federal DOT regulations, all urine specimens will be split into two separate containers at the time of collection. An employee who has a confirmed “positive” test result may request that a re-test, using the second portion of their split sample urine specimen be conducted. This request must be made within a 72-hour period after having received the results of the first drug test. If the analysis of the split specimen fails to reconfirm the presence of the drugs or metabolites found in the primary specimen, or if the split specimen is unavailable, inadequate for testing, or un-testable, the District Fire Chief or his/her designee and/or the MRO shall cancel the test and report the cancellation and the reasons for it to the federal Department of Transportation, if appropriate. If the second test confirms the results of the first test, the employee will pay for the costs of the second test. If the second test indicates that the first test results were incorrect, the FCFPD will pay for the second test.

B. Alcohol Testing

1. Alcohol testing under the FCFPD regulations will be by urinalysis.
2. Alcohol testing under the federal DOT regulations will be administered using an Evidential Breath Testing Device (EBT) that is on the Conforming Products List published by the National Highway Traffic Safety Administration (NHTSA). The tests will be performed by a Breath Alcohol Technician (BAT). Positive alcohol test results will be reported immediately to the District Fire Chief or his/her designee, and/or the Fire District MRO.
3. Alcohol testing is authorized only if the observations are made just before, during, or just after the employee’s work day or assignment. If a reasonable suspicion alcohol test is not administered within two (2) hours following observations, the supervisor must provide a written record as to the circumstances which prevented the alcohol test from being administered promptly. If the test is not administered within eight (8) hours, the supervisor will cease attempts to administer the test.

C. Substances to be tested for under the federal DOT regulations shall include the following:

- Cannaboids (Marijuana)
- Cocaine (Benzoyllecgonine)
- Opiates
- Phencyclidine (PCP)
- Amphetamines/Methamphetamines
- Alcohol

In addition to the substances shown above, tests administered under CAL FIRE/FCFPD regulations shall also include:

- Barbiturates
- Benzodiazepines
- Methaqualone

With the approval of the FCFPD Board, FCFPD may test for other controlled substances when it establishes a reasonable basis.

D. Sample Collection/Breath Alcohol Testing

Testing must be conducted in accordance with the agreement between the FCFPD and Concentra Medical Centers. This does not rule out the usage of a local law enforcement agency as an initiator of the B/A testing, as deemed necessary by any supervisor of the CAL FIRE/FCFPD.

E. Test Results

1. If the employee is directed to submit to a drug or alcohol test, FCFPD will notify the employee of the results (negative or positive) within 24 hours of having received the test results from the testing laboratory. To maintain the highest level of confidentiality, FCFPD staff shall contact the employee by the preferred means identified by the employee (e.g., cell phone, etc.), to be followed-up with written confirmation of the test result and the date of notification.
2. If the employee receives notification of a confirmed positive test, he/she will be afforded the opportunity to explain the positive test result. Samples may be retested following the previously listed guidelines.
3. FCFPD staff will make every effort to keep the results of drug and alcohol test confidential. Only persons needing to know test results will have access to them. Test results may be used in conjunction with an appeals process and/or litigation, and as such, test result records will be made available as necessary. Results may be sent to federal and/or state agencies as required by law.

POLICY RESPONSIBILITY:

Board of Directors, Fire Chief, District Administrative Officer, Division Chiefs, Battalion Chiefs, Station Captains, Paid-Call Company Officers, Paid-Call Fire Apparatus Operators, Paid-Call Firefighters.