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| Drug Free Workplace | Related Policies: | |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.* | | |
| Applicable KY Statutes: KRS 304.13-167  Applicable KY Regulations: 803 KAR 25:280 | | |
| OSHA: | | |
| NFPA Standard: | | |
| Date Implemented: | | Review Date: |

1. **Purpose:** The purpose of this policy is to comply with the requirements of KRS 304.13-167 in order to have a drug free workplace.
2. **Policy:** The fire department considers all officers, firefighters and emergency medical personnel to be in safety-sensitive public safety positions. It is the policy of this department to prevent accidents, mishaps, deaths and injuries associated with the misuse of alcohol and the use of drugs. It is the policy of this fire department to:
3. Test employees following certain types of accidents and incidents.
4. Conduct random drug testing as part of its policy to prevent accidents, mishaps, deaths and injuries associated with the misuse of alcohol and the use of drugs.
5. Conduct drug testing based on reasonable cause as part of its policy to prevent accidents, mishaps, deaths and injuries associated with the misuse of alcohol and the use of drugs.
6. **Definitions**
7. **Alcohol****:** Ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, produced from any source or process.
8. **Drug:** A controlled substance as defined in KRS 218A.010(6) and as established in 902 KAR Chapter 55, including:
9. Amphetamines;
10. Cannabanoids/THC;
11. Cocaine;
12. Opiates;
13. Phencyclidine (PCP);
14. Benzodiazepines;
15. Propoxyphene;
16. Methaqualone;
17. Methadone;
18. Barbiturates;
19. Synthetic narcotics;
20. Illicit substances; and
21. Volatile substances as defined by [KRS 217.900](http://web2.westlaw.com/find/default.wl?DB=1000010&DocName=KYSTS217%2E900&FindType=L&AP=&fn=_top&rs=WLW6.05&mt=Kentucky&vr=2.0&sv=Split)(1).
22. **Drug or alcohol rehabilitation program:** A service provider that provides confidential, timely, and expert identification, assessment, treatment, and resolution of employee drug or alcohol abuse.
23. **Drug test** or **test:** A chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures, and protocols established by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), at http://www.workplace.samhsa.gov/.
24. **Employee:** A uniformed member of this department.
25. **Employee Assistance Program (EAP):** An established program providing:
26. Professional assessment of employee personal concerns;
27. Confidential and timely services to identify employee alcohol or substance abuse;
28. Referrals of employees with alcohol or substance abuse for appropriate diagnosis, treatment, and assistance; and
29. Follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.
30. **Illicit substance:** is defined by KRS 351.010(1)(m), means a prescription drug used illegally or in excess of therapeutic levels and also means an illegal drug.
31. **Medical review officer** or **MRO:** A licensed physician with knowledge of substance abuse disorders, laboratory testing, chain of custody, collection procedures, the ability to verify positive, confirmed test results, and the necessary medical training to interpret and evaluate a positive test result in relation to the person’s medical history or any other relevant biomedical information.
32. **Qualified laboratory:** A laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA).
33. **Serious physical injury:** An injury which has a reasonable potential to cause death.
34. **Applicability**
35. All drug or alcohol testing shall be conducted:
36. In accordance with applicable federal and state requirements, as utilized in each part of the testing process; and
37. As required by the Drug-Free Workplace Program under 803 KAR 25:280.
38. **Training and Education**.

1. The department shall provide employees and supervisors with 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:
2. Alcohol and drug testing;
3. The effects of alcohol and drug use on an individual’s health, work, and personal life;
4. The disease of alcohol or drug addiction;
5. Signs and symptoms of an alcohol or drug problem;
6. The role of coworkers and supervisors in addressing alcohol or substance abuse; and
7. Referrals to an employee assistance program; and
8. In addition to the training specified above, supervisors shall be provided with at least thirty (30) minutes each year of alcohol and substance abuse education and awareness training. The training shall include, at a minimum, information on:
9. Recognizing the signs of alcohol and substance abuse in the workplace;
10. How to document signs of employee alcohol or substance abuse;
11. How to refer employees to an employee assistance program or other alcohol and substance abuse treatment; and
12. Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol;
13. **Reasonable Suspicion Testing**
14. Reasonable suspicion testing shall be based on a belief that an employee is using or has used drugs or alcohol in violation of the department’s policy, drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, training, or education. The reasonable suspicion testing shall be based upon:
    1. While at work, direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
    2. While at work, abnormal conduct, erratic behavior, or a significant deterioration in work performance;
    3. A report of drug or alcohol use provided by a reliable and credible source;
    4. Evidence that an individual has tampered with a drug or alcohol test during employment with the current covered employer;
    5. Information that an employee has caused, contributed to, or been involved in an accident while at work; or
    6. Evidence that an employee has used, possessed, sold, solicited, or transferred illegal or illicit drugs or used alcohol while on the covered employer’s premises or while operating the covered employer’s vehicle, machinery, or equipment.
15. **Testing**
16. Job applicants or employees shall be required to submit at the following times:
    1. For urine drug testing:
17. After conditional offer of employment;
18. After being selected using a statistically valid, unannounced random method;
19. Upon reasonable suspicion of prohibited drug use;
20. At follow-up testing at least once per quarter for one (1) year after the employee’s successful completion of an employee assistance program for drug-related problems, or a drug rehabilitation program, or as recommended by the person administering the drug rehabilitation program; and
21. Following an accident on the premises of the employer or in the course of employment for the employer which requires off-site medical attention be given to a person.
22. For breath alcohol testing:
23. After conditional offer of employment;
24. Upon reasonable suspicion of prohibited alcohol use;
25. Following an accident on the premises of the employer or in the course of employment for the employer which requires off-site medical attention be given to a person; and
26. Follow-up testing at least once per quarter for one (1) year after the employee's successful completion of an employee assistance program for alcohol-related problems, or an alcohol rehabilitation program, or as recommended by the person administering the alcohol rehabilitation program;
27. The minimum testing protocol shall include:
    1. A maximum acceptance level of breath alcohol concentration, which shall be a concentration of four-hundredths (0.04); and

**Editor’s Note:** This .04 breath alcohol level is what state law/regulations provide. We do NOT believe this is advisable for fire and EMS workers and urge you to review this requirements with you local attorney. ***We recommend that the above provision read as follows:***

1. *A maximum acceptance level of blood alcohol concentration, which shall be a concentration of two-hundredths (0.02); and*

Please be advised, our recommended change may result is the program not qualifying for the statutory workers compensation discount. Again – please review this with your local attorney.

1. An eleven (11) panel urine test that shall include testing for the following substances:
2. Amphetamines;
3. Cannabanoids/THC;
4. Cocaine;
5. Opiates;
6. Phencyclidine (PCP);
7. Benzodiazepines;
8. Propoxyphene;
9. Methaqualone;
10. Methadone;
11. Barbiturates; and
12. Synthetic narcotics;
13. The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Department of Health and Human Services’ Substance Abuse and Mental Health Administration (SAMHSA), at http://www.workplace.samhsa.gov/;
14. The tests shall be performed by a qualified laboratory;
15. There shall be a medical review of all test results as follows:
16. All test results shall be submitted for medical review by the medical review officer (MRO), who shall consider the medical history of the employee or applicant, as well as other relevant biomedical information.
17. If there is a positive test result, the employee or applicant shall be given an opportunity to report to the MRO the use of any prescription or over-the-counter medication.
18. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO shall certify that the test results do not indicate the unlawful use of alcohol or a controlled substance.
19. If the MRO determines, after appropriate review, that there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or a prohibited drug, the MRO shall refer the individual tested to an employee assistance program and to a personnel or administrative officer for further proceedings in accordance with the department’s drug free workplace policy.
20. Determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures outlined in the U.S. Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA) "Medical Review Officer Manual for Federal Agency Workplace Drug Testing Programs";
21. **Employee Assistance Program**
22. The department provides an Employee Assistance Program as part of its personnel services. The Employee Assistance Program shall provide services regardless of race, color, religion, national origin, disability, sex, or age.
23. EAP records shall be controlled-access to the same extent as other employee medical records possessed by the department.
24. **Confidentiality of Records**
25. Records of drug or alcohol test results, written or otherwise, received by the department shall be confidential communications and shall not be disclosed to any party unless a written release of information is granted and signed by the employee; or the release is ordered by a court of competent jurisdiction.
26. **Consequences for Violation of Drug-Free Workplace Policy**
27. The employer shall allow all employees who receive a positive confirmed test for use of alcohol and/or drugs the opportunity to explain the test results to the appropriate Medical Review Officer prior to taking an adverse action.
28. Violation of the drug-free workplace policy may result in disciplinary action, up to and including termination.
29. **Drug Free Workplace Statement**
30. Each employee shall be provided with a copy of the department’s drug-free workplace statement. The statement shall:
31. Notify employees that the unlawful manufacture, distribution, dispensation, possession or use of alcohol or a controlled or illicit substance is prohibited in the workplace;
32. Identify methods that may be used by the employer to determine if an employee has violated the prohibition; and
33. Specify actions that will be taken against employees for violation of the prohibition.
34. Each employee must acknowledge receipt and understanding of the statement as a condition of employment.