



**POLICY AND PROCEDURE**  
**Montgomery County**  
**Fire and Rescue Service**

**No. 26-08**

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TITLE **SUBSTANCE ABUSE TESTING AND  
REHABILITATION**

**Effective Date**  
**01/27/09**

**1.0 Purpose**

The establishment of a drug and alcohol policy and procedure is designed to provide fire and rescue personnel with:

- (a) a safe and healthy work environment;
- (b) reduced incidence of accidental injury to persons and damage to property;
- (c) reduced absenteeism, tardiness, poor job performance; and
- (d) assistance for rehabilitation for any employee who seeks the Department's help in overcoming any addiction to, dependence upon, or problems with alcohol or drugs.

**2.0 Applicability**

This policy applies to all employees in the Firefighter/Rescuer Occupational Series.

**3.0 Definitions**

- (a) Alcohol or Alcoholic Beverages – Any beverage that has an alcoholic content.
- (b) Chain-of-Custody Procedures – Procedures outlined in Appendix A which define the steps taken to guarantee the applicant's confidentiality and the security of the drug testing process.
- (c) Collection Site – A location, either OMS or a site designated by OMS, where urine samples are collected for testing.
- (d) Confirmed Positive Test Results – The result of an immunoassay screen of an urine sample which indicates the presence of a drug above the laboratory's cut-off levels (as established by the test manufacturer and/or the National Institute of Drug Abuse (NIDA), which has not been prescribed by a licensed health care provider or has not been used for the purpose for which it was prescribed, and is then confirmed by Gas Chromatography/Mass Spectrometry (GC/MS).
- (e) Confirmation Test – Testing by the Gas Chromatography/Mass Spectrometry (GC/MS) technique, used to confirm a positive initial immunoassay technique result.



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(f) Drugs – amphetamines, barbiturates, benzodiazepines, cannabinoids, cocaine, ethanol, methadone, methaqualone, opiates, phencyclidine, or propoxyphene.

(g) EMIT – An acronym for a laboratory test method known as Enzyme Multiplied Immunoassay Test which may be used as an initial drug screening test on a urine sample.

(h) Employee Assistance Program – A program provided by the Montgomery County Government which offers counseling and referral services to employees. Employees may refer themselves or be referred by their supervisors.

(i) Employee – Refers to personnel in the Firefighter/Rescuer Occupational Series.

(j) Employee Medical Examiner – A qualified physician designated by the OMS who shall act as the Medical Review Officer.

(k) False Positive Test Result – A positive test result created by cross reaction with over-the-counter medications, food substances, or prescribed medications.

(l) GC/MS – An acronym for a laboratory test method known as Gas Chromatography/Mass Spectrometry, which may be used to confirm an initial positive drug screening test on a urine sample.

(m) Illegal Drug – Any drug or controlled substance which is illegal to sell, consume, or possess.

(n) IA – A laboratory test method known as Immunoassay which may be used as an initial drug screening test on a urine sample.

(o) Initial Test – Testing by the immunoassay which may be used as an initial drug screening test on a urine sample.

(p) OMS – The Montgomery County Occupational Medical Section.

(q) Post Collision Testing – Substance abuse screening required when an employee is the operator of a vehicle involved in a collision resulting in personal injury or at least \$2500 in property damage.

(r) Prescribed Drug – Any substance prescribed by a licensed health care provider or a specific Department employee.



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(s) Random Testing – Selection of an employee(s) for drug and alcohol testing through the use of a computer generated list of random employee names.

(t) Reasonable Suspicion – The evidentiary standard which must be met before a “for cause” drug test is required of an employee in a public safety position. In order to meet this standard, the Fire Chief or designee must determine, based on specific objective facts and reasonable inferences drawn from these facts, that there is a reasonable basis to suspect that a test would show that the employee has drugs/alcohol in his/her body.

(u) Substance Abuse – The use of illegal drugs or the misuse of prescribed controlled drugs or alcohol.

(v) Supervisor - The officer or acting officer who is the employee’s immediate supervisor in the chain of command.

(w) Test Facility – Independent State-certified, County-contracted, laboratory used by OMS to test urine specimens for the presence of drugs.

#### **4.0 Policy Statement**

(a) The impairment of an employee due to drug abuse constitutes a danger to the employee, fellow employees, and the general public. As a result, the following policy, while safeguarding the employee’s fundamental rights to privacy will be instituted and administered by the County for the purpose of preventing drug and alcohol abuse and rehabilitating employees who are affected by drugs and alcohol. Nothing in this policy shall be constructed to limit management’s authority to properly discipline employees.

(b) The use, manufacture, and/or possession of illegal drugs or the consumption of alcohol while on County, and/or LFRD property is prohibited. The same use, manufacture, and/or possession is prohibited when reporting to or on-duty, when in uniform, or while participating in any emergency and/or training situation.

(c) The use and/or possession of prescription or legal non-prescription drugs which may affect an individual’s performance while on County, and/or LFRD property, without prior approval of the employee’s supervisor, is prohibited.

(d) Personnel must not consume alcoholic beverages within 4 hours of the start of the work shift.

(e) Personnel who are charged with or convicted of a drug/alcohol related offense must report any such charge or conviction to their supervisors within 5 calendar days. Conviction



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includes a plea of *nolo contendere* or any imposition of a sentence for having manufactured, distributed, dispensed, used or possessed any controlled substance, or alcohol.

(f) Educational programs and training on the effects of drug and alcohol use will be provided for all personnel.

(g) Conformance to this policy is required of all employees. Fair and equitable disciplinary action will be applied to all violators of this policy.

(h) The Department will coordinate and cooperate in reasonable rehabilitation programs for those individuals who are attempting to correct a drug and/or alcohol problem.

(i) Where a reasonable suspicion or obvious occurrence exists that an illegal drug is present in the body or that alcohol has been consumed, supervisory personnel may, after consultation with the County Attorney's Office, search any individual's locker, vehicle, or person while on County/corporation property and/or at the scene of an emergency incident.

(j) Alcoholism and drug addiction shall be recognized and treated as diseases. Employees suffering from alcoholism and/or drug addiction shall be offered the opportunity for counseling and rehabilitation through an appropriate County program. Alcohol and drug-related disciplinary problems will not be exclusively dealt with in a punitive fashion.

(k) Urinalysis testing for the presence of drugs must be performed when there is reasonable suspicion of drug abuse, on or off-duty, on the part of the employee.

(l) Urine and/or blood specimens for post collision testing must be collected prior to the end of the shift.

(m) Test samples will be collected by an off-site collection point designated by the Occupational Medical Section (OMS). An appropriate chain-of custody (see Appendix A) will be established and maintained to ensure the validity of test results.

(n) Tests will be conducted by an independent laboratory contracted by the County. This laboratory will be certified by the State of Maryland and the Department of Health and Human Services (DHHS) to conduct work related drug screening.

(o) Quality assurance audits of the test facility shall be conducted initially (prior to contracting) and on a periodic basis. The OMS will conduct blind performance testing and interviews with existing clients. Documentation or current DHHS and Maryland State Certification verifies high-quality assurance standards have been met.



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(p) Neither the testing facility nor the Employee Medical Examiner may disclose to the Department any information revealed by the test which indicates the presence in the urine of a legal, non-prescription drug (other than alcohol) or medically-prescribed drug, unless the employee is unable to establish that the drug was medically prescribed.

(q) To the extent possible, collection of urine specimens shall be performed in a private and respectful manner.

(r) An educational program is included as part of this policy and procedure. The Department intends to educate personnel about the detrimental effects of alcohol and drugs as a major tool in the prevention of abuse. It is hoped that this education will prevent the safety hazards to employees and the public associated with the abuse of alcohol and drugs. The program does not replace or supplant any other requirement of the policy and procedure.

(s) All fire and rescue service personnel, as required by the Fire Chief, must attend and participate in the following programs:

(1) Substance Abuse Policy Training: Reasons for establishment, implementation procedures, assistance available, and ramifications of the policy;

(2) Educational Programs: Recognizing drug and/or alcohol problems, either potential or actual, in yourself and/or others; methods to avoid abuse, hazards presented by the abuse of alcohol and/or drugs, and the availability of peer counseling and assistance. Employee Assistance Program information must be displayed at all duty stations;

(3) Other applicable programs, as determined by the Fire Chief.

(t) Supervisory personnel will be trained to assume responsibility for the implementation and supervision of the policy, to include:

(1) knowledge of the individual's right to privacy and confidentiality in the policy's application;

(2) recognition of suspected and/or obvious drug abuse;

(3) requiring participation in ongoing training and information programs on alcohol abuse and drug abuse;



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- (4) ensuring that all personnel receive and comply with the training as required in this policy;
- (5) knowledge of the disciplinary procedures;
- (6) provisions of appropriate counseling to all suspected abusers; and
- (7) knowledge of the services provided by the Employee Assistance Program.
- (u) Test Requirements.
- (1) Any employee who refuses to submit to a substance test authorized under this policy will be considered insubordinate and will be subject to immediate disciplinary action, up to and including dismissal.
- (v) Reasons for Testing.
- (1) Reasonable Suspicion. The evidentiary standard which must be met before a "for cause" drug test is required of an employee in a public safety position. In order to meet this standard, the Fire Chief or designee must determine, based on specific objective facts and reasonable inferences drawn from these facts, that there is a reasonable basis to suspect that a test would show that the employee has drugs/alcohol in his/her body.
- (A) An employee whose performance falls below the acceptable standard, and who cannot properly or safely perform his/her duties in the judgment of a supervisor may be considered for testing.
- (B) An employee whose conduct and/or appearance have fallen below the acceptable standard, in the judgment of a supervisor, may be considered for testing.
- (2) Collisions:
- (A) An employee who is the operator of a County or LFRD-owned vehicle that is involved in a personal injury collision must be tested immediately after the police authority having jurisdiction over the collision authorize that the operator may leave the scene.
- (B) An employee who is the operator of a County or LFRD owned vehicle that is involved in a property damage collision resulting in at least \$2,500 damage



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must be tested immediately after the police authority having jurisdiction over the accident authorize that the operator may leave the scene.

(C) The Battalion Chief, or designee, at the scene of the collision will authorize testing for collisions involving personal injury or \$2,500 in property damage.

(3) Third Party Report:

(A) Confidential written reports from responsible third parties regarding performance may, after review, provide a reasonable suspicion for testing.

(4) An employee may be drug tested during routine age group physical examinations.

(5) Random Testing

(A) All MCFRS employees in the Firefighter/Rescuer Occupational Series are subject to random testing for drugs and alcohol.

(B) Names of employees will be generated randomly by computer and will be provided to the appropriate supervisor. No more than 25% of the total number of bargaining unit personnel will be tested per fiscal year.

**5.0 Responsibilities**

(a) It is the responsibility of all employees to abstain from using illegal drugs and abusing alcohol.

(b) It is the responsibility of all employees to provide appropriate documentation to their supervisor regarding the use of prescribed drugs and non-prescribed drugs.

(c) It is the responsibility of all employees to abstain from the use of alcohol while on-duty, prior to reporting to duty, and while in uniform. Specific exceptions may be made by the Fire Chief.

(d) Department employees are responsible for reporting abuses of the policy to their supervisor.



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(e) Supervisory personnel are responsible for implementing all aspects of this policy and procedure under the direction of their respective Division Chief.

(f) The Fire Chief, or designee, is responsible for training career supervisors to make damage estimates.

**6.0 Procedure**

(a) When reasonable suspicion exists that an employee may be abusing drugs:

(1) two supervisory employees will consult on the reasonable cause for testing. This may be any combination of the employee's immediate Supervisors, Battalion Chief, Duty Operations Chief, or Division Chief. If the employee's immediate supervisor has concerns regarding the employee's ability to perform, the supervisor will not assign the employee until the problem has been resolved.

(2) the employee designated for testing due to reasonable suspicion will be escorted to the appropriate collection site by at least one supervisor. If the employee has acute signs of impairment, the supervisor must assist the employee to a hospital emergency room for evaluation and treatment. The Employee Assistance Program Office may be contacted for crisis intervention, if necessary.

(b) When an employee is required to submit to a drug and alcohol test, the supervisor must:

(1) ensure that a "Release of Information Form" and "Employee Drug & Alcohol Testing Consent and Notification Form" are completed and signed by the employee and supervisor. A "Medical Questionnaire for Applicants/Employees Subject to Drug/Alcohol Testing" form may also be completed.

(2) contact one of the collection sites listed in Appendix C and provide the required information.

(c) The appropriate documentation will be completed at the collection site and forwarded to the Occupational Medical Section within 72 hours.

(d) The collection site will follow the protocol referred to in Appendix A.

(e) The test sample will be given at one of the primary collection sites designated by the Occupational Medical Section.



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(f) If the initial test is positive, a confirmatory urinalysis test will be conducted on the same sample using the most reliable clinical testing procedure available, presently the Gas Chromatography/Mass Spectrometry (GC/MS) Test.

(g) The confirmatory test report must be sent by the laboratory directly to the Employee Medical Examiner for review to determine whether or not a false positive result occurred, prior to any action being taken against the employee. Test results must not be disclosed to another person or agency for any other purpose, including any administrative, civil, or criminal proceeding, without the written consent of the employee or as authorized by law.

(h) If the confirmatory test is positive the employee will be placed on approved leave and will be allowed to use available sick leave, annual leave, compensatory leave, or leave without pay, pending conclusion of the matter.

(i) After confirmation of the test result, the employee must be provided within 30 calendar days of specimen collection with:

- (1) a copy of the laboratory test indicating the test result;
- (2) a copy of this policy;
- (3) if applicable, written notice of the Department's intent to take disciplinary action, terminate employment, or change conditions of continued employment; and
- (4) notice of the right to request independent testing of the same sample by a different certified laboratory.

(j) The Fire Chief or designee will be notified by the Employee Medical Examiner, in writing, of a confirmed positive or negative result as indicated on the consent form.

(k) An employee may specify another laboratory for confirmatory testing of a positive specimen at his/her own expense. Upon request, OMS will provide the employee with a current list of certified laboratories.

(l) If the supervisor determines that duty performance would continue to be impaired after testing, the employee must be escorted home and/or placed in the custody of a responsible family member (or guardian). If there is no responsible family member and it is determined that the employee is incapacitated, or that the employee could cause injury to him/herself or others, the supervisor must seek assistance on disposition from other agencies.



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(m) Results of testing must be disclosed to the Fire Chief or designee within 24 hours of receipt by OMS. After a "for cause" test, the employee must be placed on sick leave pending test results.

(n) If the test is negative and there are concerns that a health problem may be affecting the employee's performance, the Occupational Medical Section will be asked to assist in appropriate medical evaluation, in accordance with existing personnel regulations for merit system employees.

(o) All laboratory drug testing of collected specimens in accordance with this policy must comply with DOT regulations at 49 CFR Part 40, as amended, which are incorporated into this policy by reference.

**6.1 Follow-up Procedure of Confirmed Positive Test results.**

(a) The laboratory must send confirmed positive test reports by courier to the Employee Medical Examiner. The report must include the results of both the initial screening test and the confirmation test. The laboratory's toxicologist must send a confidential letter to the Employee Medical Examiner certifying the accuracy and reliability of the confirmed positive test results and the laboratory's adherence to chain-of-custody procedures.

(b) If feasible, the Employee Medical Examiner will inform the employee of a confirmed positive test result prior to notifying the Fire Chief, or designee. The employee will have the opportunity to discuss the test results with the Employee Medical Examiner.

(c) The Employee Medical Examiner will review the employee's history and documentation completed at the time of sample collection to learn whether a medication or food substance may have created a false positive result. If the physician suspects a false positive result, the employee must submit documentation of prescribed medication ingested and/or submit to another drug screen.

(d) If the employee has a confirmed positive drug test result, the Employee Medical Examiner will advise the individual of counseling and rehabilitation resources.

(e) The Fire Chief will be notified of a confirmed positive drug test by the Employee Medical Examiner after the employee has been notified.

(f) If an employee has a confirmed positive drug test result and the individual has indicated on the test notification form a desire for retesting at another laboratory, the first laboratory is responsible for transporting the specimen to the second laboratory while maintaining chain-of-custody procedures. The second laboratory will send a report of retesting and



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documentation of chain-of-custody to the Employee Medical Examiner with a copy provided to the employee.

(g) The OMS must provide the employee with a copy of the original laboratory report within 30 days of specimen collection.

(h) Within 30 days of the test, the Department must provide the employee with copies of this procedure; notice of intent to take action; and notice of the right to have an independent test of the sample.

**6.2 Employee Assistance Program**

(a) Employees are urged to use the resources of the Montgomery County Employees Assistance Program when they feel that they have developed an addiction to, dependence upon, or problem with alcohol or drugs, legal or illegal.

(b) Personnel may participate in the EAP either voluntarily, by supervisor intervention or referral, or by intervention and referral by other parties. Participation shall not serve as the sole basis for an action affecting job security or promotional opportunity.

(c) Participation in the EAP does not relieve personnel of the responsibility of satisfactorily meeting job performance standards.

(d) Self-referral confidentiality will be maintained between the individual seeking help and the EAP personnel. Self-referral should be made by calling and scheduling an appointment through the County's contracted EAP. Participants are expected to follow all treatment recommendations provided by the EAP.

(e) Voluntary referral participants who exit the EAP before such exit is recommended by the appropriate treatment staff may be placed in an "Against Medical Advice" status (AMA). OMS will be notified of an "AMA" status. OMS will then notify the Fire Chief or designee. The Fire Chief or designee will advise the participant that he/she will be placed on a random testing schedule for a period of time not to exceed 60 months. Any confirmed positive test or refusal to adhere to this policy on the part of the employee will result in dismissal. Supervisors will not be contacted when a voluntary participant exits the program.

(f) In consultation with OMS, the Fire Chief or designee will assess the job performance of an employee placed on a random testing schedule after a period of time not to exceed 24 months to confirm the need to continue testing.



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(g) Personnel referred to the EAP by their supervisor or the Employee Medical Examiner are required to adhere to treatment and rehabilitation plans, as provided by the EAP staff. Employee progress will be monitored by the Division of Administrative Services.

**6.3 Rehabilitation**

(a) On the first occasion that an employee's urine specimen produces confirmed positive test results, and in consideration of any related negligence or misconduct, the County will provide the employee with the opportunity to participate in an appropriate rehabilitation program. An employee will be afforded a second rehabilitation opportunity, provided there is no additional misconduct problem. Upon successful completion of the program, and upon a medical determination by the Employee Medical Examiner that the employee is fit for duty, the employee will be returned to his regular duty assignment, or the equivalent thereof.

(b) Rehabilitation is the responsibility of the employee. Employees enrolled in a formal treatment program will be granted sick leave at full pay, up to the accrued sick leave. Employees who use all accrued sick leave will be allowed to use annual and compensatory leave, as long as they are in a rehabilitation program. Employees exhausting all leave must be placed in a leave without pay status until rehabilitation is completed.

(c) While participating in a rehabilitation program, the employee must maintain contact with the Fire Chief or designee on a weekly basis through the treatment facility.

(d) Upon successful completion of treatment, as determined by the Employee Medical Examiner, the employee will be returned to active status, without reduction of pay or seniority.

(e) Each employee has the right to challenge any disciplinary action resulting from the administration of this policy in the same manner that he/she may grieve any other management action.

(f) This policy is in no way intended to supersede or waive an employee's Federal, State, or constitutional rights, or any other rights granted to employees under law.

**6.4 Prescribed Drugs and Over the Counter Medications.**

(a) Employees who are taking any prescription drugs on the advice of a licensed health care provider, or non-prescription drugs must report such information to their supervisor.



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(b) The Occupational Medical Section must be consulted to determine the side effects of such drugs, particularly their potential effect on employee performance.

(c) The use of drugs which may have side effects that impair the performance of the employee may require the supervisor to place the employee on an alternate duty assignment or on sick leave.

- 6.5 Employees who violate this policy are subject to disciplinary action, as prescribed in Policy and Procedure #503.
- 6.6 Employees who have referred themselves to the EAP or similar program because of an alcohol or drug problem, in consultation with their supervisor, shall not be subjected to disciplinary action because of the alcohol or drug problem itself, as long as they remain in a rehabilitation program which is monitored by the Employees Assistance Program and/or the Fire Chief or designee.
- 6.7 Any employee who has completed a rehabilitation program will be subjected to a fitness for duty evaluation by the Employee Medical Examiner, and will be subject to drug testing prior to returning to duty and on a random basis within a five year period from the date of release from the rehabilitation program.
- 6.8 Voluntary Referral
- (a) First Voluntary Referral. Any employee who voluntarily reports a problem regarding the use of alcohol and/or drugs to his/her supervisor and requests assistance will be referred to the Employee Assistance Program. Each voluntary referral who is advised to participate in a rehabilitation program by the EAP must enroll in such a program. The EAP must provide updates and program participation information to the employee's supervisor and OMS. Any employee who withdraws from such a rehabilitation program and is determined to be a continued abuser of alcohol and/or drugs is subject to dismissal, in accordance with Policy and Procedure #503.
- (b) Second Voluntary Referral. Any employee who voluntarily reports on a second occasion regarding the use of alcohol and/or drugs to their supervisor and requests assistance will be referred to the Employee Assistance Program. Each voluntary referral who is advised to participate in a rehabilitation program by the EAP must enroll in such a program. The EAP must provide updates and program participation to the employee's supervisor and OMS. Any employee who withdraws from such a rehabilitation program and is determined to be a continued abuser of alcohol and/or drugs is subject to dismissal in accordance with Policy and Procedure #503.



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(c) The Department will only assist with two voluntary requests for rehabilitation. Any employee found to be abusing drugs and/or alcohol after two rehabilitations is subject to dismissal, in accordance with Policy and Procedure #503.

(d) Voluntary Request/Confirmed Offense. Any employee who has been in a rehabilitation program on a voluntary basis and then is determined to have a confirmed positive test screen at a later time is subject to dismissal, in accordance with Policy and Procedure #503.

6.9 All individual drug and alcohol testing records are considered to be confidential and access to these records must be controlled on a need-to-know basis.

7.0 **This Policy Rescinds DFRS Policy No. 809 and Fire Chief’s General Order 07- 01.**

Approved:

2/3/09

Richard R. Bowers, Interim Fire Chief  
Montgomery County Fire and Rescue Service

Date

**ATTACHMENTS**

- 8.0 Appendix A – Chain of Custody Procedure.
- 8.1 Appendix B – Drugs Tested for by Occupational Medical Section.
- 8.2 Employee Drug and Alcohol Testing Consent and Notification Form
- 8.3 Release of Information Form
- 8.4 Medical Questionnaire for Applicants/Employees Subject to Drug/Alcohol Testing.
- 8.5 Specimen Collection Sites and Required Information