

1000.07	<b>Drug Free Workplace Standard Operating Procedure</b>	
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*This procedure is for internal use only and does not enlarge an employee's civil liability in any way. The procedure 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 procedure, 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.*

**Related Policies:** ADM 3.12, Memorandum of Agreement- Employer's Drug and Alcohol Testing (DAT) Policy, Class "E" Rules-ADM 3.11, County of Hawaii Drug Free Policy, County of Hawaii Alcohol Free Policy, County of Hawaii Drug and Alcohol Testing Procedure.

**Applicable HI Statutes:**

**I. PURPOSE**

The purpose of this policy is to comply with the requirements of the Federal Drug Free Workplace Act of 1988 in order to have a drug free workplace. The Hawai'i Department is committed to protecting the safety, health and wellbeing of all personnel and members of the public. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

**II. APPLICABILITY**

This Procedure is applicable to all member of the Hawai'i Fire Department and it shall be the responsibility of all members to comply with and follow these policies and guidelines and comply with the DAT-MOA, Section 63 of the Bargaining 1 Agreement, and the HGEA DTA as applicable.

The drug-free workplace policy is intended to apply whenever personnel are representing or conducting business for the Hawai'i Fire Department. Therefore, this policy applies during all working hours, whenever conducting business or representing the department, while on call, paid standby, while on department property and at department-sponsored events.

All drug or alcohol testing shall be conducted in accordance with applicable federal and state requirements, as utilized in each part of the testing process.

**III. OBJECTIVE**

To maintain standards of conduct in the Hawai'i Fire Department.

**IV. POLICY**

The Hawaii Fire Department considers all officers, firefighters, emergency medical personnel and water safety officers 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. This organization encourages employees to voluntarily seek help with drug and alcohol problems. It is the policy of this fire department to:

1. Test employees following certain types of accidents and incidents.
2. Conduct random drug and alcohol testing as part of its policy to prevent accidents, mishaps, deaths and injuries associated with the misuse of alcohol and the use of drugs.



3. Conduct drug and alcohol 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.
4. Conduct post-accident drug and alcohol testing as part of its policy to prevent accidents, mishaps, deaths and injuries associated with the misuse of alcohol and the use of drugs.

### VI. PROHIBITED BEHAVIOR

1. It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants while on-duty.
2. Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job.
3. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., use personal leave, use sick leave, use vacation leave, obtain a substitution, notify supervisor) to avoid unsafe workplace practices.
4. Personnel shall not report for duty, possess, nor participate in any department activity, after having used alcohol or a controlled substance in excess of the levels established by the respective agreements with the Unions.
5. The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken for violations of this policy and in accordance with the respective agreements with the Unions.

### VII. NOTIFICATIONS OF CONVICTIONS

1. Any uniformed employee who is convicted of a criminal drug violation in the workplace must notify the organization in writing within five (5) calendar days of the conviction.
2. The department will take appropriate disciplinary action within 30 days of notification.
3. When required under any grant or contract, appropriate federal agencies will be notified within ten (10) days.

### VI. TRAINING AND EDUCATION

1. The department shall provide uniformed employees 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:
  - a. Alcohol and drug testing;
  - b. The effects of alcohol and drug use on an individual's health, work, and personal life;
  - c. The disease of alcohol or drug addiction;
  - d. Signs and symptoms of an alcohol or drug problem;

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- e. The role of coworkers and supervisors in addressing alcohol or substance abuse; and
  - f. Referrals to an employee assistance program; and
2. In addition to the training specified above, supervisors that may be required to make a reasonable suspicion determination, shall be provided with two 60-minute classes on Alcohol Misuse and Controlled Substance Abuse training. The training shall include, at a minimum, information on:
- a. Recognizing the signs of alcohol and substance abuse in the workplace;
  - b. How to document signs of employee alcohol or substance abuse;
  - c. How to refer employees to an employee assistance program or other alcohol and substance abuse treatment; and
  - d. Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol.

**VII. DRUG AND ALCOHOL TESTING**

Drug and/or alcohol testing shall be performed pursuant to the department’s policies on:

- 1. Post-Accident/Critical incident
- 2. Reasonable Cause Drug/Alcohol Testing
- 3. Random Drug/Alcohol Testing

**VIII. TESTING PROTOCOLS**

- 1. Job applicants or employees shall be required to submit at the following times:
  - a. For urine drug testing:
    - 1) After conditional offer of employment;
    - 2) After being selected using a statistically valid, unannounced random method;
    - 3) Upon reasonable suspicion of prohibited drug use;
    - 4) At follow-up testing 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
    - 5) Following an accident while operating a personal, subsidized, or government vehicle or apparatus (including a tiller operator, fire boat pilot, helicopter pilot, and rescue craft operator) when involved in an on-duty accident which results in:
      - o a fatality,
      - o injury to any party requiring medical attention away from the scene and/or
      - o damage to any vehicle or apparatus requiring towing from the scene shall be subject to drug and alcohol testing as soon as practicable following the accident.
  - b. For breath alcohol testing:
    - 1) Upon reasonable suspicion of prohibited alcohol use;
    - 2) Following an accident while operating a personal, subsidized, or government vehicle or apparatus (including a tiller operator, fire boat pilot, helicopter pilot, and rescue craft operator) when involved in an on-duty accident which results in:
      - o a fatality,

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- injury to any party requiring medical attention away from the scene and/or
  - damage to any vehicle or apparatus requiring towing from the scene shall be subject to drug and alcohol testing as soon as practicable following the accident.
  - 3) Follow-up testing 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.
2. The minimum testing protocol shall include:
- a. A maximum acceptance level of breath alcohol concentration, which shall be a concentration of two-hundredths (0.02); and
  - b. The controlled substance testing for the following substances:
    - Marijuana metabolites
    - Cocaine metabolites;
    - Phencyclidine (PCP);
    - Opiate metabolites;
    - Amphetamines;
    - MDMA;
    - 6-Acetylmorphine (Heroin metabolites)
3. 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 Transportation regulations, including procedures for chain of custody;
4. The tests shall be performed by a laboratory licensed by the State Department of Health or the U.S. Department of Health and Human Services;
5. There shall be a medical review of all test results as follows:
- a. All controlled substance 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.
  - b. 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.
  - c. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO shall report the test as negative.
  - d. If the MRO determines, after appropriate review, that there is not a medical explanation for the positive test result, the MRO shall report the test as positive.
  - e. Determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures in accordance with the DOT 49 CFR part 40 and the agreements with the Unions.

### IX. Substance Abuse Professional (SAP)

1. Employees who violate this policy will be referred to a Substance Abuse Professional.

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**X. CONFIDENTIALITY OF RECORDS**

Records of drug and alcohol test results, written or otherwise, shall be confidential communications and shall not be disclosed to any party unless a written release is authorized and signed by the employee; or the release is ordered by a court of competent jurisdiction.

**XI. CONSEQUENCES FOR VIOLATION**

1. Violation of the drug-free workplace policy may result in disciplinary action, up to and including termination in accordance with the agreements of the Unions.