

Johnson Creek Fire & EMS Standard Operating Guideline

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SOG Title: 100.10 DRUG/ALCOHOL ABUSE		
Approved by:	Re-evaluation Date: 30 April 2010	Number of Pages: 10

Purpose: To specifically identify that all employees are held to the same standards as full time village employees. There is a zero tolerance policy within the village and the fire & EMS department towards any type of controlled substance/alcohol abuse. All employees found to be in violation of this article will be immediately suspended pending the outcome of the Police and Fire Commission.

Scope: This procedure will apply to all department members and will be used for all applications to which the Johnson Creek Fire & EMS Department responds.

In order to clarify terms in this procedure the following definitions have been included:

None

General: These procedures will apply to all employees involved in any emergency that involves the Johnson Creek Fire & EMS Department.

100.10.01. INTRODUCTION.

The Village is committed to maintaining a safe, healthy and productive workplace. For this reason the Village does not permit its employees to possess, consume or distribute drugs of abuse or alcohol within its facilities or to report to work or perform their duties after ingesting drugs of abuse or alcohol. Violation will result in disciplinary action up to and including discharge.

Substance abuse is a disease, and the Village recognizes that treatment for such abuse is necessary for the personal and professional well-being of employees. Assistance with rehabilitation is provided through Village health insurance coverage.

All final job offers will be contingent upon successfully passing an alcohol and controlled substance test. A positive result will disqualify the candidate from further consideration for the vacancy or eligibility list.

Village employees who are required to have a commercial driver's license must adhere to guidelines specified in the Village Drug and Alcohol Testing Policy.

See "Drug and Alcohol Policy" section of this Personnel Manual for a full description of this policy.

100.10.2. DRUG-FREE WORKPLACE POLICY.

The Village recognizes the importance of maintaining a safe, efficient and healthful workplace, as well as the social responsibility to provide assistance to its employees to the extent possible. Employees are expected to report to work free from the influence of substances that could inhibit their ability to perform their duties. It is Village policy to provide and enforce a drug-free workplace for all of its employees. The Village requires its employees neither use nor be under the influence of alcohol or controlled substance(s) while working. The Village requires and shall enforce a zero tolerance standard in the workplace.

100.10.3. REPORTING OF DRUG CONVICTION.

Under Public Law 100-690, all Village employees are hereby notified the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is strictly prohibited in the workplace. Furthermore, this law makes it a condition of employment that all Village employees abide by the "Drug-Free Workplace Policy" and notify the Village (employee's immediate supervisor or the Village Clerk/Treasurer) of any criminal drug statute conviction for a violation occurring on the workplace no later than five (5) days after such conviction. Within ten (10) days of receiving such notice of conviction, the Village will notify the appropriate federal contracting or granting agency as required. Within thirty (30) days of learning of a workplace drug conviction, the Village will:

Require the employee to satisfactorily participate in a Drug Assistance or Rehabilitation Program approved by the Village or takes appropriate personnel action as identified below.

An employee's failure to abide by the terms of the specified Drug Assistance or Rehabilitation Program will result in disciplinary action up to, and including, dismissal. The actual action taken will be based upon the seriousness of the offense, the employee's past employment record and the employee's willingness to participate in drug abuse assistance or rehabilitation.

100.10.04. PREVENTION AND REHABILITATION.

The goals of this policy are prevention and rehabilitation whenever possible. The Village provides access to drug and alcohol counseling, rehabilitation and the Employee Assistance Program (EAP) for all of its regular employees. The Village's group health insurance provides benefits for rehabilitation services and the Village treats drug addiction as an illness and provides for a leave of absence under the provisions for Medical Leave in this Personnel Manual. The Village also recognizes drug abuse as a potential health and safety problem. Employees needing help to deal with such problems are encouraged to use the EAP and health insurance plans, as appropriate. Conscientious efforts to seek help will not jeopardize an employee's job, and contacts with the EAP initiated only by the employee will not be known nor noted in any personnel record.

100.10.05. LEAVE OF ABSENCE PRIOR TO TESTING.

An employee shall be permitted to take a leave of absence for the purpose of undergoing treatment pursuant to a Drug Assistance or Rehabilitation Program approved by the Village for drug use. The leave of absence must be requested prior to the commission of any act subject to disciplinary action.

Because drug use can seriously jeopardize the health and safety of employees and the public, it is the responsibility of the Village to maintain a drug-free workplace at all times. As part of this effort, the Village will continue to provide access to an Employee Assistance Program for current regular Village employees, will administer appropriate pre-employment drug testing in conjunction with the pre-employment physical examination to assure new Village employees are not drug abusers and will provide training and education to inform employees of the dangers of drug abuse in the workplace. It is the responsibility of all Village employees to abide by the terms of this policy as a condition of employment.

100.10.06. DRUG AND ALCOHOL TESTING.

The Department of Transportation (“DOT”) and Federal Highway Administration (“FHWA”) have issued a rule (49 CFR Parts 40 and 382) requiring alcohol and controlled substance testing of drivers required to have a commercial driver’s license.

These rules include procedures for urine drug testing and breath alcohol testing. The purpose of this policy is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by drivers of commercial motor vehicles. Consequently, the Village has established the following alcohol misuse prevention and anti-drug program, as well as subsequent enforcement of violation for its employees conducting safety-sensitive job functions. Employees should also refer to the “Drug-Free Workplace Policy” which addresses strict enforcement of workplace controlled substance usage.

For purposes of this policy, the Village and the DOT strictly prohibit the use of alcohol and/or controlled substances by its employees and volunteers who are performing, ready to perform, or ceasing to perform the following safety-sensitive job functions: operation of a commercial motor vehicle, repair and maintenance of a commercial motor vehicle, controlling movement of a commercial motor vehicle (i.e., dispatcher), directly supervising employees who perform safety-sensitive job functions.

100.10.07. CONTROLLED SUBSTANCE/ALCOHOL USAGE PROHIBITED.

The unauthorized use of any controlled substance is strictly prohibited in all situations.

Safety-sensitive employees may not consume alcohol:

1. Less than four hours before performing a safety-sensitive function and while performing a safety-sensitive function;

2. After a fatal accident, unless employee has been tested or eight (8) hours have elapsed from the actual time of the accident; or
3. After a non-fatal accident unless employee's involvement can be completely discounted as a contributing factor to the accident, employee has been tested, or eight (8) hours have elapsed from the actual time of the accident.

100.10.08. REQUIRED CONDITIONS OF TESTING.

Refusal to take a required test will result in removal of the employee from his/her duties, which may result in discipline up to, and including discharge. Testing must be conducted in the following situations:

1. Pre-employment: Prior to the first time an employee performs safety-sensitive functions for the department (i.e., new employment, job transfer, etc.), the employee shall be screened for alcohol and controlled substances. A positive result will result in a disqualification from further consideration for the vacancy or eligibility list.
2. Probable Cause
 - Probable cause means suspicion based on specific personal observation by a supervisor or another that can be described regarding appearance, behavior, job performance, speech or breath odor of an employee. It also means receipt of information about an employee's suspected drug use from a reliable source.
 - In a situation where an employee is acting in an impaired manner and/or the supervisor has probable cause to believe the employee is using, in possession of or under the influence of alcohol or drugs, e.g. smells of alcohol, the supervisor should seek a corroborating opinion from another supervisor or the Village Administrator prior to immediately removing the employee from the job.
 - Once the employee has been removed from the job, the supervisor must contact the Clerk/ Treasurer. If contact cannot be made, the supervisor is to proceed through the next step and make contact with the Clerk/Treasurer as soon thereafter as possible.
 - The supervisor is to transport the employee to the collection site for drug testing immediately or no later than two (2) hours of having observed the behavior. The supervisor is to wait with the employee until the breath test has been completed or urine sample has been taken.
 - Once alcohol or drug testing has been completed and a positive test result has been received (0.02 percent or above), the employee will not be permitted to drive his/her own vehicle home at that time. The employee must make alternate arrangements to leave the collection site.

- The employee is to be advised not to report for work, as s/he will be placed on administrative leave without pay. If a blood alcohol test has been administered, the Village will contact the employee once test results are known (normally 24-48 hours) and a decision has been made as to the employee's status.
 - Drug testing results will be sent directly to the Village Clerk/Treasurer. When results are obtained, the employee's supervisor will meet with the Village Administrator to determine the appropriate course of action to be taken. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Supervisors must not discuss the suspected reason for a referral or dismissal with anyone who does not need to know.
 - Once the test has been completed and employee has been sent home, the supervisor must submit a written report to the Village Clerk/Treasurer outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report is to be done within 24 hours of the testing.
3. Random. This test is used to eliminate risks associated with illegal or unauthorized drug and alcohol use. Random alcohol and drug testing will be conducted just before, during or just after an employee's performance of safety-sensitive duties. Employees will be randomly selected for testing from a "pool" of employees subject to testing. Testing dates and times are unannounced and are with unpredictable frequency throughout the year.

In the event an employee tests positive for either alcohol or controlled substances, he/she will be subject to disciplinary action up to and including discharge.

The minimum annual percentage rate for random alcohol and drug testing shall be 25% and 50%, respectively, of the average number of safety-sensitive positions. The FHWA will annually publish the minimum annual percentage rate for random alcohol and drug testing based upon the reported violation rate for the entire commercial vehicle industry. Example: if the Village has 120 employees required to submit to testing, DOT regulations specify that random testing be performed at a rate of 50%, then 60 employees must be tested each year – translating into five employees per month.

Selection of employees for random testing will be administered by Marshfield laboratories using a scientifically valid method. The method will be computer-based random selection matched with employee social security numbers. A monthly list of comprehensive numbers will be generated and forwarded to the Village Clerk/Treasurer in order that the employee's supervisor is contacted for testing arrangements. Under this selection process, each employee will have an equal chance of being tested each time selections are made.

4. Post Accident. As soon as practicable following an accident involving a commercial motor vehicle or an employee injury, the Village shall test an employee driver for alcohol and controlled substances. This testing will be required if:

- The accident involved the loss of human life, or
- The employee receives a citation under State or local law for a moving traffic violation arising from an accident.
- The employee is injured and must seek medical attention at a health care facility.

The alcohol breath test is required to be administered within two (2) hours following the accident, and the drug test to be administered within thirty-two (32) hours of the accident. An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the department to have refused to submit to testing.

5. Return To Duty/Follow-up. This test is used to maintain abstinence and prevent relapse by employees during and after drug treatment. Before an employee returns to duty requiring safety-sensitive job functions after engaging in conduct prohibited in this policy, the driver shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 percent and a verified negative result for controlled substance use. An employee will not be allowed to return to duty without first having been evaluated by the Village EAP provider to determine the employee's fitness-for-duty.

Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the employee is subject to unannounced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse professional. Consequently, the employee will be given at least six (6) random tests during the next year with the possibility of follow-up testing for up to 60 months.

6. Voluntary. Voluntary testing provides opportunity for all employees (management, supervisory, and non-supervisory), not part of the random pool, to demonstrate commitment to the goal of a drug-free workplace.

100.10.09. TEST PROCEDURES.

The Village has entered into an alcohol and drug testing agreement with Watertown Memorial Hospital. Testing will be done on both urine and breath (blood alcohol may be required when necessary). Watertown Memorial Hospital will handle sample collection (in standard collection kits) from 9:00 a.m. until 5:00 p.m. and will handle sample collection during other non-regular business hours. The health provider will be responsible for sending samples to Marshfield Laboratory for screening and assisting in the interpretation of the results. Drug testing is not to be done anywhere but at Watertown Memorial Hospital, unless specifically authorized by the Village Clerk/Treasurer.

100.10.10. BREATH ALCOHOL TESTING PROCEDURES.

Employees will be required to submit to breath testing using an evidential breath-testing ("EBT") device. A State-certified breath alcohol technician ("BAT") will administer an initial screening test, unless the employee tests positive for alcohol, then the BAT will

conduct a confirmation test (the Village will take action based only upon the positive results of the confirmation test, 0.04 percent or greater).

1. When employee enters the collection site, the BAT will require that s/he provide positive identification (i.e., photo I.D. or employer identification).
2. The BAT will explain the test procedure.
3. Employees will be required to complete and sign forms used to document the testing process.
4. Employees will be instructed to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT indicates that an adequate amount of breath has been obtained.
5. If an employee tests positive during the screening test, s/he shall not eat, drink, put any object or substance into their mouth and, to the extent possible, not belch during the 20-minute waiting period before the confirmation test.
6. Employee refusal to complete and sign test forms, provide breath, provide adequate amount of breath or other failure to cooperate with testing process in a way that prevents completion of the test will be considered a disciplinable offense up to and including dismissal.

If a confirmation alcohol test measures 0.04 percent or greater, the Village is required to:

1. Remove the employee from the safety-sensitive position;
2. Refer the employee to the Village EAP for assessment, participation, and a subsequent determination of an alcohol problem; and
3. The employee will subsequently be given at least six random tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039 percent, the employee will be removed from the safety-sensitive position and either be retested or removed for a minimum of 24 hours.

In the event an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee will submit to the examination. The test will be considered enforceable for purposes of this policy, if the testing officer is a qualified BAT and that the EBT that was used for the test has been certified by the State of Wisconsin or Village.

100.10.11. BLOOD ALCOHOL TESTING PROCEDURES.

Blood alcohol testing is authorized only in the following circumstances:

1. When policy rules require a post-accident or reasonable suspicion test, and an EBT is not readily available for either a screening or confirmation test, or if there is an EBT available only for a screening test.
2. When an employee attempts and fails to provide an adequate amount of breath, blood alcohol testing may be used for both screening and confirmation test purposes.

Upon the conclusive finding of a positive (0.04 percent or greater) blood alcohol test result, the employee has seventy-two (72) hours in which to require a test of the split specimen. Pending receipt of the result of the analysis of the split specimen, the employee shall not perform safety-sensitive functions, unless the employee has met conditions set forth in this policy for return to safety-sensitive functions following a test result of 0.04 percent or greater. (For explanation of "split specimen", refer to "Controlled Substances" section below).

100.10.12. CONTROLLED SUBSTANCES TESTING PROCEDURES.

The Village has established its anti-drug program through its "Drug-Free Workplace Policy," which strictly prohibits the unlawful manufacture, distribution, dispensing, possession or unauthorized use of a controlled substance in the workplace. Furthermore, any abnormal manner of behavior that may infer an employee is under the influence of a controlled substance is addressed in the "Probable Cause Testing" section described previously.

For purposes of this policy, the Village will utilize, at a minimum, a five (5)-panel drug screen consisting of the following drugs: tetrahydrocannabinol (marijuana drug), cocaine, amphetamines, opiates (including heroin), and phencyclidine.

Drug testing is conducted by analyzing an employee's urine specimen through a certified testing lab. This procedure will include split specimen. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a lab. Only the "primary" is opened and used for the urinalysis. The "split" specimen bottle remains sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be sent to another certified laboratory for analysis.

In some cases, the employee may be unable to provide urine specimen. After a reasonable waiting period (not to exceed one hour), the supervisor may terminate the testing procedure. The Village will proceed with laboratory testing based upon blood specimen alone.

1. When employee enters the collection site, the employee will be required to provide positive identification (i.e., photo I.D. or employee identification).
2. The employee will be instructed to provide at least 45 ml. of urine under the split sample method of collection. This will be done in a specifically designated "donor" bathroom.

3. The urine sample shall be divided into a primary specimen (30 ml.) and a split specimen (15ml.).
4. If the test result of the primary specimen is positive, the employee may request, within 72 hours, that the Medical Review Officer ("MRO") direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.
5. Removal from performing a safety-sensitive function is not stayed pending the result of the test of the split specimen.
6. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.
7. Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign test form(s) will be regarded as refusal to take the test.
8. Refusal by an employee to complete and sign the test and chain of custody forms, provide urine, provide an adequate amount of urine (per case basis), or otherwise fail to cooperate with testing in a way that prevents the completion of the test will be considered as a disciplinable offense.

As with an alcohol misuse violation, the Village is required to act upon a positive drug test result in the following manner:

1. Remove the employee from the safety-sensitive position. This removal cannot take place until the employee has been allowed to meet or speak with a MRO in order to determine that the positive drug test did not result from the unauthorized use of a controlled substance;
2. Refer the employee to the Village EAP for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made;
3. Employee must be evaluated by a substance abuse professional or MRO and determined to be fit to return to work prior to their release of the employee;
4. Employee must have a negative result on a return-to-duty drug test. Follow-up testing to monitor the employee's continued abstinence from drug use may be required.

Village employees are to notify their supervisor when taking any physician-prescribed medication or therapeutic drug. It is the responsibility of the employee to inform their

physician of the type of safety-sensitive function that they perform in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of their duties or operation of Village equipment.

QUESTIONS: Any employee having questions with respect to the scope of this policy and its

contents may contact the Village Clerk/Treasurer.

100.1013. REPORTING.

- A. Any member who suspects that another member has reported to work/duty under the influence of any controlled substance or alcohol shall immediately report it to any senior staff officer (E.g. Assistant Chief, Deputy Chief, Chief).
- B. At no time shall they try to physically prevent the suspected employee from leaving premises, however they shall make every attempt to keep the member at the station until a senior staff officer has arrived.
- C. Senior Staff Officers are required to take the appropriate actions as outlined above to get testing results.