

STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT
POLICIES & PROCEDURES

ARTICLE: B-6
DIVISION: Personnel Division
DATE: 2/8/01
SUPERSEDES: Project 94 Green Book
TITLE: **Drug and Alcohol Use**

Any employee, upon the request of his chief officer and with the prior approval of the Chief, may be required to undergo a further medical examination at any time after his employment for the purpose of ascertaining that he/she is physically and mentally able to perform the duties of his/her position. Such examinations, when authorized, will be performed by a licensed physician designated by the District. It is not the intent that the examinations allowed under this section be authorized routinely, and they shall be approved only for the reasons which justify the expense thereof to the District.

A. **Purpose**

It is the intention of this policy to eliminate substance abuse and its effects in the work place. While SCFPD has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interest of their fellow workers and the public as well as themselves. The presence and influence of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are inconsistent with this objective. For definable purposes throughout this policy, impair or impairment shall be considered use by an employee of alcohol and/or all substances, drugs, or medication, legal or illegal, which impair an employee's ability, physically and/or mentally to effectively and safely perform the functions and duties of his or her position.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. The District acknowledges that significant psychological and physical alcohol and drug dependency is an illness, and considers pursuit of treatment by the employee the preferable resolution to associated performance problems caused by such dependency. While SCFPD will be supportive of those who seek help voluntarily, the District will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of SCFPD officers and employees. To that end, the District will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job), which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the Districts reputation. All

persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination.

In recognition of the public service responsibilities entrusted to the employees of the District, and that drug and alcohol usage can impair an employee's ability both mentally and physically to perform the duties and functions safely and effectively, the following policy against drug and alcohol impairment is hereby adopted by SCFPD.

B. Policy

It is District policy that employees shall not be impaired by alcohol or drugs, nor possess alcohol or illegal drugs at the assigned work site. Employees shall not sell or provide prescription or illegal drugs or alcohol to any other employee while such employee is on duty. Employees shall not have their ability to work impaired as a result of the use of alcohol or drugs.

It is District policy that no alcoholic beverages are permitted at the assigned work site other than at special events authorized by the Board of Directors.

An employee shall notify his/her supervisor, before beginning work, or during work, when taking prescribed medications or drugs, which the employee has, knowledge or has been medically advised that the prescribed medication could interfere with the safe and effective performance of duties or operation of District equipment. Failure to notify his/her supervisor may result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required by the Chief or his/her designee. Such clearance may be obtained by the employee on district time and at District expense if the employee is directed to obtain the verification prior to commencing his or her assigned duties. Use of District time must be reasonable and no overtime liability shall be incurred. If the physician's release is not obtained or requires modified duty, a good faith attempt will be made to find an alternate work assignment.

The District reserves the right to search, without employee consent, all areas and property in which the District maintains control or joint control with the employee. Controlled and jointly controlled areas include District vehicles, offices, desks, filing cabinets, lockers, etc. Notwithstanding the above, no employee shall have his or her locker, or other space for storage that is owned or leased by the District that may be assigned to him or her searched except in his or her presence, or with his/her consent, or unless a valid search warrant has been obtained, or where he/she has been notified that a search will be conducted. Employee requests to be present during the search shall be honored if the employee is able to return to the work site within one hour of notification of the search. All such searches shall be based upon probable cause to search. Probable cause forming the basis of the search shall be provided to the employee in writing. The written document shall be given to the employee prior to the search or, if that is not possible, within twenty-four hours of the search.

Any applicable privileges or confidentiality of files or documents will be honored by the District. If the district desires to search such documents or records, or the area where such

documents are located, the appropriate process for searches and seizures as defined by California law will be followed. The District may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the District.

Refusal to submit immediately to a medical examination, based upon probable cause of drug or alcohol impairment while on duty, when ordered by the Chief or his/her designee, may constitute insubordination and may be grounds for discipline. For the purpose of this policy, designee shall be defined as the officer assigned the authority to act for the Chief during his/her absence.

Employee reasonably believed to be impaired by alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site.

The District has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors, personnel, or the EAP Counselor for additional information.

The provisions of this policy do not act to limit or restrict in any manner, a law enforcement officer's ability to enforce all appropriate State and Federal laws.

C. **Application**

D. **This policy applies to all employees of SCFPD. This policy applies to alcohol and to all substances, drugs, or medication, legal or illegal, which could impair an employee's ability physically and/or mentally to effectively and safely perform the functions and duties of the employee's position** **Employee Responsibilities**

An employee must:

Compensation for on-call duty and thereby subject to being called, and is not physically and/or mentally able to perform the duties of his/her position. The medical examination may include sampling of urine for purposes of testing for alcohol or drugs.

"Probable cause" is such a state of facts as would lead a supervisor or ordinary care and prudence to believe, or to entertain an honest and strong suspicion that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee is not able to physically and/or mentally perform the duties of his or her position in a proper manner.

- A. The Chief or his/her designee ordering an employee to undergo a medical examination shall document in writing the facts constituting probable cause that the employee in question is intoxicated or impaired by alcohol or drugs, prior to the request for the medical exam.
- B. The Chief or his/her designee encountering an employee who refuses an order to submit to a medical examination pursuant this policy shall remind the employee of the requirements and

- C. The Chief or his/her designee shall not physically search the person of employees, nor shall they search the personal possession of employees without the freely given written consent by the employee, unless such search is authorized by District Ordinance or policy.
- D. Officers shall notify the Chief or his/her designee when there is probable cause to believe that an employee may have illegal drugs or alcohol in his or her possession or in an area not jointly or fully controlled by the District. If the Chief or his/her designee concurs that there is probable cause of illegal drug possession, they shall notify the appropriate parties.
- E. The Chief or his/her designee shall give due consideration to the employee's completion of any generally recognized treatment plan, including that treatment as may be recommended by the Employees Assistance Program when determining whether disciplinary action shall be taken and/or the appropriate level of discipline.

E. Medical Examination and Procedure

The medical examination may test for any substance which could physically and/or mentally impair an employee's ability to effectively and safely perform the functions of his/her job, including but not limited to prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturate, amphetamines, marijuana, other cannabinoids, and other illegal substances defined by State law. An employee shall have the right to representation and the employee shall be informed of the right to representation prior to any meeting to be held for the primary purpose to investigate allegations of drug or alcohol impairment, and/or illegal sales or possession; and if the allegations were subsequently found to be true, formal disciplinary action would result. (Employees may waive the right to representation) Employees shall have the right to a representative being present prior to being medically examined for use based upon probable cause. The representative must be available and present within a reasonable time from the request. A reasonable time being approximately one and one half-hours from notification. The District reserves the right to administer the medical exam within one and one half-hours to the call to the representative, depending upon the circumstances.

A second specimen shall be obtained and maintained by the laboratory facility. Within the forty-five days of receipt of the Notice of Intended action, it shall be the affirmative obligation of the employee or employee organization to request and secure at the employee's or employee organization's expense, a test of the specimen. The employee or the employee organization shall advise the District in writing of the request for testing a second specimen within ten days of making such a request.

Cost of additional test specimens will be born by the requesting party.

F. Results of Medical Examination

A. Alcohol/Drugs Tests

- 1. A positive result from a drug and/or alcohol test obtained during a medical exam may

2. If a drug screen is positive, the employee must provide within two (2) working days of the request, bona fide verification of a valid current prescription for the drug identified in the drug screen. Extension of the time beyond the two working days may be granted upon showing of good cause. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.
3. If an alcohol or drug test is administered during the medical exam and is positive for alcohol or drugs, the District shall conduct an investigation to gather all relevant facts. The decision to discipline or discharge will be carried out in conformance with the District's discipline procedures and policies.

Testing and reporting of test results will follow the guidelines and all subsequent amendments as established by the Department of Health and Human Services as promulgated in Volume 53, No. 69 of the Federal Register and as incorporated herein and made a part of this policy by reference.

G. Confidentiality

Medical or laboratory reports or tests results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Fire Chief. The reports or test results may be disclosed to District management on a strictly need-to-know basis and to the employee upon request. Disclosures, without employee consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (3) the information is to be used in administering an employee benefit plan; (4) the information is needed by medical personnel for the diagnosis or treatment of the employee who is unable to authorize disclosure.

- A. Not report to work or be subject to duty while his/her physical and/or mental ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- B. Not possess impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while subject to duty, on breaks, or at anytime while at the assigned worksite.
- C. Not directly or through a third part sell or provide prescription or illegal drugs or alcohol to any person, including any employee, while either employee or both employees are on duty;
- D. Submit immediately to a medical examination when ordered, in writing, by the Chief or his/her designee when probable cause exists that the employee is either physically and/or mentally unable to perform the duties of his/her position.
- E. Notify his/her supervisor, before beginning work, prior to taking any medically prescribed medications or drugs at work which the employee has knowledge or has been medically advised that the prescribed medication could interfere with the safe and effective performance of duties or operation of District equipment; and
- F. Provide within two (2) working days of request bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screening/test is positive. Extensions of time beyond the two working days may be granted upon the showing of good cause. The prescription must be in the employee's name;

G. Must abide by the regulations of the Federal Drug-Free Workplace Act of 1988. Thus, such employees who are convicted after March 18, 1989 of any criminal drug statute for a violation occurring in the workplace must notify the Operations Chief no later than (5) days after the conviction. Once the District is notified of the conviction, the District must then notify the appropriate federal agency of the conviction. With respect to any employee so convicted, the District will take appropriate personnel action up to and including termination. As a condition of continued employment, the District may require the convicted employee to satisfactorily participate in an approved drug abuse rehabilitation program.

H. **Management Responsibilities and Guidelines**

F. The Chief or his/her designees are responsible for reasonable enforcement of this policy. The Chief or his/her designee may order in writing an employee to submit to a medical examination when the Chief or his/her designee has probable cause that an employee is intoxicated or impaired by drugs or alcohol while on the job or receiving

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