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# SUBSTANCE ABUSE SOG

## SCOPE

This guideline shall apply to all members of the Stoney Point Fire Department (SPFD) and shall be adhered to by all members.

## PURPOSE

The Stoney Point Fire Department 13 & 19 (SPFD 13 & 19) has a vital interest and commitment to protect our employees and the public by providing a safe and healthy working environment. Substance abuse significantly impacts working environments and society as a whole, affecting productivity, safety, security, and medical and legal costs. For these reasons, and to maintain the public's confidence the SPFD 13 & 19 Substance Abuse Policy provides guidance to all employees/volunteers and supervisors to take measures to ensure a drug and alcohol free work place, to prohibit use of alcohol resulting in job performance impairment, and to provide support through the SPFD 13 & 19's Employee Assistance Program and training guidance to all employees/volunteers and supervisors.

The SPFD 13 & 19 recognizes that our member's may experience problems with substance abuse and we highly encourage them to inform their supervisors and management before any positive testing for substance abuse so that support can be provided.

This policy also specifies regulations pursuant to the following federal and state laws and regulations:

- Drug Free Workplace Act of 1988
- 49 CFR Part 655, *Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations*, issued by the Federal Transit Administration (FTA) to establish drug and alcohol prohibitions and testing requirements for safety-sensitive mass transit employees.

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- 49 CFR Part 382, *Controlled Substances and Alcohol Use and Testing*, issued by the Federal Motor Carrier Safety Administration (FMCSA) issued to regulate drug and alcohol abuse by employees who operate commercial motor vehicles.
  - 49 CFR Part 40, *Procedures for Transportation Workplace Drug and Alcohol Testing Programs*, issued by the Department of Transportation (DOT) to establish procedures for alcohol or controlled substance testing conducted for FTA or FMCSA covered employees.
  - N.C. Controlled Substance Examination Regulation Act (N.C. General Statutes, Chapter 95, Article 20)

The SPFD 13 & 19 will comply with the requirements of these regulations and make copies of these regulations available for inspection on request from the Fire Chief.

This policy applies to all members of the SPFD 13 & 19, applicants for employment, and contractors performing work on behalf of the SPFD and shall be enforced without regard to age, race, sex, religion or position within.

To ensure that drugs and alcohol do not enter or affect the SPFD 13 & 19, work place, the SPFD 13 & 19 may observe the actions of employees/volunteers during work time, require member participation in drug and alcohol tests, just before starting duty, while on duty or just after completion of duty and search employer-owned items used by employees (i.e. desks, lockers, SPFD 13 & 19 vehicles) and members should not expect privacy in these containers. Law enforcement officials and SPFD 13 & 19 management will be notified whenever illegal drugs are found during searches.

Chief Officers, Captains and Lieutenants (Supervisors) are responsible to be familiar with the terms of this policy and their responsibilities to educate employees and enforce this policy in an unbiased manner. These responsibilities include the requirement to monitor members for signs of substance abuse, request the appropriate post accident and reasonable suspicion testing, and administer disciplinary actions as appropriate for violations of this policy. Failure by a supervisor to take appropriate actions in support of this policy may result in disciplinary action.

**Any testing or actions taken under this policy will be conducted in a manner to protect the rights of members and applicants.** The SPFD 13 & 19 will take precautions to safeguard the dignity and self-esteem of those tested. All testing records and results will remain confidential and are only releasable to those who have a need to know such information for safety or disciplinary purposes and as necessary to comply with legal requirements.

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If you have any questions regarding this policy, please contact the Fire Chief or the Administrative Assistant & Clerk to the Board of Directors at 910-424-0694, or come directly to the principle office of the SPFD 13 & 19 Corporation located at 7221 Stoney Point Road, Fayetteville, North Carolina 28306-8005.

## **Section 2. Drug and Alcohol Free Workplace**

### **A. Drug Prohibition**

The non-prescriptive use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances (also referred to as drugs) on SPFD 13 & 19 property or work locations, or at any time during working hours is strictly prohibited. For purposes of this policy, work locations include all SPFD 13 & 19 premises and vehicles, as well as customer locations at which employees perform services. (Fire, Medical, Rescue or other Incident and Emergency Scenes)

Also prohibited is the non-prescriptive use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on non-working time to the extent that such actions impair a member's ability to fulfill the responsibilities of his/her job or where such actions bring discredit upon the SPFD 13 & 19.

The use of any controlled substance by members when on duty is prohibited except when prescribed by a physician who has advised the employee that the substance does not adversely affect the member's ability to perform job functions. The use of any prescription or over-the-counter drug or medication that may adversely affect a member's ability to safely perform their job duties is prohibited while on duty. When controlled substances or narcotics are prescribed, members shall notify their assigned supervisor prior to reporting for duty or answering emergency calls under the influence of such medication.

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As specified in Section 3 of this policy, members may be required to submit to drug screening examinations. Any member found to have tested positive for any of the following drugs will be determined to be in violation of the SPFD 13 & 19 Drug Free Workplace policy:

- cocaine
- cannabinoids (THC, marijuana)
- amphetamines (Dexedrine)
- opiates (including heroin, codeine and morphine)
- phencyclidine (PCP)

**A member who refuses to submit to a drug test required pursuant to this policy will be in violation of this policy.** Failing to appear in a reasonable time or remain at a testing site as required, failing to provide a sufficient test sample without adequate medical explanation, failure to undergo a medical evaluation as required, failing to cooperate with any part of the testing process, failure to permit monitoring or direct observation of sample donation and/or submitting an MRO verified adulterated or substituted sample each constitute a refusal to test under the terms of this policy.

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**Members who are charged and/or convicted of controlled substance related violations under state or federal law must inform the duty chief or Fire Chief within five days of such charge or conviction or by your next scheduled duty shift, whichever is less. Failure to notify the duty chief or fire chief in the specified timeframe will result in disciplinary action up to and including dismissal.** Duty Chief's are responsible for notifying the Fire Chief immediately if an employee notifies them of a charge and/or conviction. Failure by a duty chief to notify the fire chief will result in appropriate disciplinary action.

#### **Personnel Action for Violation of Policy**

Any member found to have violated the drug prohibitions specified in this policy will immediately be removed from the performance of duties, placed on suspension without pay and given a Consideration of Dismissal, and referred for evaluation through the Employee Assistance Program. Violations of the drug prohibitions specified in this policy are grounds for dismissal unless evidence can be presented that the testing process is flawed.

Members who come forward and report their substance abuse problem prior to suspicion of substance abuse or selection for testing may be permitted to continue in employment or



membership. Voluntary admission to a substance abuse problem and seeking treatment through a drug-abuse assistance program by a member will be a positive factor in deciding appropriate disciplinary action. A member who comes forward prior to suspicion or selection for testing and is permitted to continue in employment or membership, or to be reemployed following an admission of a substance abuse problem, is required to successfully complete a drug-abuse assistance program and a return-to-duty drug and alcohol screening, and agree to participate in follow-up testing for a period of at least 1 year up to 5 years as a condition of membership with SPFD 13 & 19.

## B. ALCOHOL PROHIBITION

All members are prohibited from using alcohol to the degree that it affects job performance either as a volunteer or paid member of the department. Alcohol includes any alcoholic beverage or substance such as medication, mouthwash, food or candy in which alcohol is present. **A blood alcohol concentration (BAC) of 0.02 or greater shall serve as presumptive evidence of consumption of alcohol on the job or in a time period so recently preceding reporting to work or answering calls so as to presume the member was impaired by alcohol at work.**

SPFD 13 & 19 members are prohibited from:

- CONSUMING ALCOHOL WHILE ON DUTY, WHILE ON CALL FOR DUTY, ON SPFD 13 & 19 PROPERTY, IN A SPFD 13 & 19 VEHICLE, OR WITHIN 4 HOURS PRIOR TO PERFORMING SAFETY SENSITIVE FUNCTIONS
- REPORTING FOR DUTY, OR REMAINING ON DUTY, WHILE HAVING A BLOOD ALCOHOL CONCENTRATION OF 0.02 OR GREATER.
- PERFORMING SAFETY-SENSITIVE FUNCTIONS WITHIN 24 HOURS OF A DETERMINATION OF HAVING AN ALCOHOL CONCENTRATION BETWEEN 0.02 AND 0.039.
- POSSESSING ALCOHOL (INCLUDING MEDICINES CONTAINING ALCOHOL UNLESS PACKAGING SEALS ARE UNBROKEN) WHILE ON DUTY, ON SPFD 13 & 19 PROPERTY, OR IN A SPFD 13 & 19 VEHICLE OR APPARATUS.
- CONSUMING ALCOHOL WITHIN 8 HOURS FOLLOWING AN ACCIDENT UNLESS THE MEMBER HAS ALREADY UNDERGONE A POST-ACCIDENT TEST.

As specified in Section 3 of this policy, members may be required to participate in alcohol testing. A member who refuses to submit to an alcohol test required pursuant to this policy will be in violation of this policy. Failing to appear in a reasonable time or remain at a testing site as required, failing to provide a sufficient test sample without adequate medical explanation, failure to undergo a medical evaluation as required by the MRO or failing to cooperate with any

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part of the testing process each constitute a refusal to test under the terms of this policy. Failure to sign the certification of the ATF is also considered a refusal to test.

### **Personnel Action for Violation of Policy.**

A member found to have violated the alcohol prohibitions specified in this policy will immediately be removed from the performance of duties, placed on suspension without pay, referred for evaluation through the Member/Employee Assistance Program, and be subject to disciplinary action up to and including dismissal. Some factors used in determining the appropriate disciplinary action will be the past performance of the member, the extent that such actions impair a member's ability to fulfill the responsibilities of his/her job, the potential liability to the SPFD 13 & 19 for the member's actions, and/or the impact (potential or actual) that such actions bring discredit upon the SPFD 13 & 19. The decision regarding the appropriate disciplinary action will be made by the Fire Chief.

**Voluntary admission to a substance abuse problem and seeking treatment through a substance abuse assistance program by a member will be a positive factor in deciding appropriate disciplinary action. A member who comes forward and is permitted to continue his/her membership, employment, or to be reemployed following an admission of a substance abuse problem, is required to successfully complete a drug-abuse assistance program and a return-to-duty drug and alcohol screening, and agree to participate in follow-up testing for a period of 1 year up to 5 years as a condition of membership.**

Specific actions are not required under this policy for members tested with BAC levels below 0.02.

### **C. Members/Employee Assistance**

Members who need assistance in dealing with substance abuse or dependency are encouraged to voluntarily seek counseling or treatment through the SPFD 13 & 19 Employee/Member Assistance Program or through any other agency. Voluntary admission to a substance abuse problem by an employee prior to suspicion or positive testing will be a positive factor in deciding appropriate disciplinary action. Participation in an EAP counseling or treatment program will not exempt a member or employee from the consequences of any actions that may have already occurred or from the proper performance of duties.

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The SPFD 13 & 19 EAP also assists in our efforts to ensure an alcohol and drug-free workplace by providing educational materials to supervisors and members on alcohol and drug use issues and assisting supervisors in confronting employee performance and/or conduct problems.

Contact information for the SPFD 13 & 19 EAP provider and referral and other substance abuse treatment referral sources are maintained by the Fire Chief.

### **Section 3. Drug and Alcohol Testing**

**As a condition of membership or employment, all SPFD 13 & 19 members are required to consent to testing for the use of drugs and to testing for the use of alcohol during work hours as specified in this policy.** Applicants for membership or employment are required to consent to testing for the use of drugs as a condition of membership or employment. Procedures for drug and alcohol testing are specified in Section 3 B.

Results of drug and alcohol testing will be handled in a highly confidential manner. The substance abuse testing professional shall report results of testing as provided by law, to the SPFD 13 & 19 Fire Chief who is responsible for these actions. Test results will become a confidential part of the members & employees' personnel file. FTA and FMCSA regulations require the SPFD 13 & 19 to disclose to subsequent employers a positive drug or alcohol test for all covered positions.

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#### **A. Membership Testing Categories**

The circumstances under which members may be required to participate in drug and/or alcohol testing are contingent upon the duties of the position the member holds within the SPFD 13 & 19. The SPFD 13 & 19 has reviewed the actual duties performed by members in all job classifications and has classified jobs into two categories (as defined below) for purposes of drug and alcohol testing. Positions determined to be included in the two categories are listed in Appendix A. All non-listed positions are classified as non-safety sensitive positions.

- **Safety-Sensitive Members** - Members who as a core or essential function of their job operate, inspect, or repair equipment or vehicles, utilize hazardous materials, or whose core duties or responsibilities directly impact the public's or member's health and safety, or the protection of life, property or environment.
- **Non-Safety Sensitive Members** – All Members not included in the previous listed category.

**B. Testing Required****Pre-Placement Testing**

Candidates who receive conditional offers of full time paid employment must successfully complete a pre-placement drug screening prior to initial employment in any SPFD 13 & 19 position. The applicant must report for the pre-placement screening within forty-eight (48) hours of receiving notice to report for screening. An applicant for full time employment who fails a pre-employment drug test or who does not report to a testing site as required following a contingent offer of employment is ineligible for full time paid employment with the SPFD 13 & 19 for a period of one year.

No member may perform covered Safety-Sensitive functions before the SPFD 13 & 19 has received a verified negative drug test result from the Safety Officer.

Candidates for covered Safety Sensitive positions must also provide a written consent to allow any previous employers covered by DOT drug and

**Random Testing**

All Safety-Sensitive members are subject to random testing for alcohol and drugs. The Fire Chief, the Administrative Assistant as well as the appointed Emergency Medical Lieutenant shall maintain testing pools of covered Safety Sensitive employees and with the Fire Chief's direction schedule random employee / membership for testing. Each member / employee shall have an equal chance of being selected each time selections are made. Members selected must proceed immediately to the designated testing facility. All selected members/employees must be escorted.

The testing will be conducted periodically on an unannounced basis as determined by the Fire Chief.

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SPFD 13 & 19 designated Safety Sensitive Employees that have not performed designated safety sensitive duties for a year or more and have not been tested prior within the SPFD 13 & 19 testing requirement will take a pre-employment drug test with a verified negative result before returning to safety sensitive duties. (Military members deploying for combat related purposes are exempt and will be tested during the next periodically unannounced test after return from deployment)

### Post Accident Testing

Immediately following an accident in which a member is involved while operating a SPFD 13 & 19 vehicle, apparatus, motorized equipment, or any vehicle while on SPFD 13 & 19 business, the member is responsible for the following:

1. Notifying their supervisor or management as soon as possible. Management should immediately notify the Chief Officer on call or the Fire Chief.
2. If in a Safety-sensitive position a member of SPFD 13 & 19 will submit to a controlled substances test following any vehicle accident where:

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### Safety-sensitive Members

- A fatality occurs; or
- The performance of the employee cannot be completely discounted as a contributing factor in the accident; or
- The driver receives a citation under state or local law for a moving traffic violation arising from the accident **AND** an individual suffers a bodily injury which requires immediate medical treatment away from the scene; or
- The performance of the employee cannot be completely discounted as a contributing factor in the accident; or
- The driver receives a citation under state or local law for a moving traffic violation arising from the accident **AND** any vehicle involved incurs disabling damage that requires the vehicle to be towed from the scene.



Non-Safety-Sensitive members may only be tested after an accident based on reasonable suspicion standards.

Injured members should seek medical attention first. Responding to individual injury or assisting others who are injured is a higher priority. **Members must be tested for drugs within 32 hours following an accident.** Absent extenuating circumstances, alcohol tests must be conducted within 2 hours of an accident. In no situation, may an alcohol test be conducted after 8 hours following an accident.

A covered employee or volunteer who is subject to post-accident testing who fails to remain readily available for testing - including notifying the SPFD 13 & 19 management staff of his or her location if they leave the scene of the accident prior to submission to testing- will be considered a refusal to test.

If post-accident tests are not performed within the time requirements, the shift supervisor (Lt, Captain or on duty Chief Officer) must prepare a memorandum for record stating the reason a test was not promptly administered. This memorandum must be sent to the Fire Chief. Failure by a supervisor to ensure appropriate test are performed or to document the reason tests were not promptly administered will result in appropriate disciplinary action.

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Under SPFD 13 & 19 authority, any covered member who is involved in an at fault accident and meets the criteria for post accident testing, will be removed from the performance of safety-sensitive functions pending receipt of drug and alcohol test results.

#### Reasonable Suspicion Testing

A reasonable suspicion alcohol and/or drug test may be required of any SPFD 13 & 19 member or applicant when the SPFD 13 & 19, acting through its supervisors, has reason to believe or suspect that a member's ability to safely and efficiently perform his job is impaired. Any request to test must be made on the basis of specific observations of the behavior, speech, appearance or body odor of the employee that must be articulated and submitted to the fire chief.



Factors or observations which will provide sufficient cause to request a reasonable suspicion drug or alcohol test include, but are not limited, to the following:

- Slurred speech
- Impaired movement or coordination with no other readily apparent cause
- Odor of alcohol or illegal drugs on or about the individual or his/her vehicle or worksite
- Confusion, disorientation, marked personality changes, or irrational behavior
- Possession of illegal drugs or paraphernalia
- Possession of alcohol on the person, in a desk or locker or a SPFD 13 & 19 assigned vehicle
- Information of drug use, or on the job alcohol use, provided by a reliable and credible source, or independently corroborated
- Newly discovered evidence that a member or employee tampered with a previous drug or alcohol test
- A pattern of absenteeism or deterioration of work performance that suggests use of drugs or on duty use of alcohol
- Indictment or arrest for possession or sale of illegal drugs
- Involvement in an accident which leads to injury or property damage where the employee's actions suggests use of alcohol or drugs

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Under SPFD 13 & 19 authority, any member who is required to submit to a reasonable suspicion alcohol or drug test will be removed from the performance of safety-sensitive functions pending receipt of test results

#### **Return to Duty and Follow-Up Testing**

Any member who voluntarily admits to having a substance abuse problem or who violates alcohol regulations and is allowed to continue employment must successfully complete an alcohol and drug test before returning to duty. Any covered member must not be returned to duty to perform safety-sensitive functions until the SPFD 13 & 19 receives written confirmation from a substance abuse professional that the member has successfully completed a rehabilitation program and will be subject to random drug and alcohol testing for at least 1 year, but not longer than 5 years. **At a minimum, the employee must be tested six times during the first 12 months**



### **Positive Test Results**

Any member that tests positive for drugs or alcohol is considered in violation of this policy. Upon notification of a positive test result, for alcohol (0.04 or greater), or refusal to test the employee will be immediately removed from performing a safety sensitive function, placed on suspension without pay referred for evaluation through the Employee Assistance Program. Violation of this policy may result in disciplinary action up to and including dismissal.

### **C. Challenges to Test Results**

Members have the right to challenge a confirmed positive test result. All challenges must be made to the fire chief in writing with an explanation of the reason(s) for the challenge. Members will be given 72 hours to request to have the second sample tested at his/her expense at a DHHS Certified laboratory of his/her choice. If the employee chooses to have this done, the second container will be tested by GC/MS only for the positive drug at the laboratory's lowest limit of detection for that drug. If an employee challenges that the testing process is flawed, the SPFD 13 & 19 reserves the right to conduct additional testing.

If the second sample tests negative, or for any reason cannot be re-tested, the test results are reported back to the fire chief as a negative test result and resultant disciplinary action will be retracted.

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## **Section 4. Policy Awareness and Training**

### **Recruitment and Applications for Employment**

The SPFD 13 & 19's commitment to an alcohol and drug-free workplace will be posted and promoted on recruitment bulletins and information. Additionally, applications for employment will require applicant signature and agreement with the following statements:

- I hereby acknowledge and understand that any offer of membership or employment by the SPFD 13 & 19 is contingent upon the completion of a urine drug test that has a verified negative result having no evidence of prohibited drug use. I also agree to abide by the requirements of the SPFD 13 & 19's Substance Abuse Policy, which includes drug and/or alcohol testing during any period of employment.

### **Membership Awareness and Training**

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All new members will be counseled about the conduct expectations and consequences of violations of this policy, about the dangers of drug and alcohol abuse in the workplace and about available drug counseling, rehabilitation and member assistance programs during their initial membership orientation.

Each member will be notified in writing if he or she is to be subject to the stricter testing requirements specified in this policy due to their assigned position being subject to Safety-Sensitive. Initially, it will be mandatory that all members must receive a minimum of one-hour of training on the effects and consequences of prohibited drug and alcohol use on personal health, safety and the work environment. This training will also address the signs and symptoms that may indicate drug use or an alcohol abuse problem. After the initial training for employees, all employees will be required to attend refresher training every two years.

#### **Supervisor and Manager Training**

In addition to the policy awareness and training for all SPFD 13 & 19 members, **every supervisor and chief officer is initially required to undergo at least one additional hour of training on the physical, behavioral and performance indicators of probable drug use and alcohol misuse.** After the initial training, supervisors are required to **attend refresher training every two years.** Attendance at this training is mandatory before a supervisor is authorized to make a determination to require a reasonable suspicion drug or alcohol test by an employee.

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