

Chief Administrative Office	Date of Issue	Expiration Date	No.
POLICY MEMORANDUM	10/6/97	N/A	7
TO: ALL Divisions and Departments		Subject:	
SIGNATURE:		REVISED ALCOHOL AND DRUG FREE WORKPLACE POLICY	
COMMENTS: This is the revised alcohol and drug free workplace policy which is distributed during employee orientation. The revised policy is effective as of May 16, 1996.			

I. **POLICY STATEMENT:** The Lexington-Fayette Urban County Government (LFUCG) is committed to providing a healthy and safe environment for its employees. The influence of alcohol, use of illegal drugs, and misuse of legal drugs create an impairment that subjects fellow employees, property and the public to risks of injury and/or damages that would not exist in an alcohol and drug free workplace.

Under LFUCG ordinances, policies, and procedures, employees who violate these standards of conduct are subject to disciplinary action in accordance with the Uniform Guidelines and Standards of Disciplinary Actions which range from a minimum of suspension without pay to a maximum of termination from LFUCG employment. For the purposes of detecting alcohol and illegal drug use/abuse, drug and/or breath alcohol test (BAT) will be requested. All tests shall be done in accordance with current applicable statutory or case laws to protect each employee's constitutional rights. Refusal to submit to a drug test or BAT shall be immediate grounds for dismissal.

The LFUCG shall retain jurisdiction over all LFUCG employees. Statutes prevail over matters in this policy unless the statutes allow the adoption of stricter standards. Notwithstanding, the LFUCG reserves the right, where administrative procedures fail, to pursue all remedies where deemed appropriate.

In meeting its responsibilities to employees, the LFUCG has an Employee Assistance Program (EAP) which offers assistance to employees seeking help for alcohol and/or drug abuse. Once identified, these problems must be addressed. In addition, lists of sources of information for employees including: counseling, treatment, and rehabilitation services are provided upon request.

It shall be a violation of the LFUCG Alcohol and Drug Free Workplace Policy for any employee to be convicted of manufacturing, distributing, possessing or using illegal drugs as defined by applicable federal and state laws. The illegal use, distribution, or sale of legally prescribed medication is likewise a violation of this policy.

Possession of any alcoholic substance in or on government property and/or being at work with a detectable odor of an alcoholic substance on an employee's breath (or other reasonable suspicious behavior, including accidents) which when tested results in a Blood Alcohol Content (BAC) of 0.04% or above, is a violation of this policy. Additionally, all Commercial Drivers, Detention Personnel, Sworn Police and Fire Personnel, and Communications Personnel, are prohibited from reporting to work or driving government owned/leased vehicles with a BAC of 0.02% or above. Commercial Drivers, Detention Personnel, Sworn Police and Fire Personnel, and Communications Personnel subject to 'recall', on any 'stand-by' status or, who are subject to driving while at work, are further prohibited from driving government owned/leased vehicles with a BAC of 0.02% or above. Also, the use of illegal drugs or misuse of a prescribed drugs while in a work status is a

violation of this policy. Testing shall conform to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines.

All LFUCG places of employment, including property and buildings are covered under this policy. The LFUCG reserves the right to search government owned property at any time and to search employees' personal property as allowed by law. Notwithstanding, any employee while at any function under the auspices of LFUCG Official Business, regardless of time and/or locality, are subject to this policy (except as provided in Section III ()).*

The Director of Human Resources shall be responsible for the administration of and establishing the operational procedures necessary to implement this policy.

- II. **PURPOSE:** *The influence of alcohol, illegal drugs, and misuse of legal drugs creates an impairment that subjects fellow employees, property and the general public to risks of injury and/or damages that would not exist in an alcohol and drug free workplace.*

In order to create and maintain an alcohol and drug free environment this policy will be strictly followed.

- III. **JURISDICTION:** *The LFUCG shall retain jurisdiction over all LFUCG employees. Policies established by the LFUCG shall be in compliance with current laws in order to guarantee and protect the individual's constitutional rights of privacy and due process of law.*

Entities separate from LFUCG, but over which LFUCG has authorized jurisdiction, shall follow LFUCG policies unless such policy is usurped by statute or administrative regulation applicable to that entity (Valley View Ferry Authority). Statutes prevail over matters in this policy unless the statutes allow the adoption of stricter standards.

Situations where searches are conducted, based on reasonable cause, shall be done in an appropriate manner to reflect individual's rights under the 4th amendment to the United States Constitution.

The LFUCG reserves the right, where administrative procedures fail, to pursue all remedies where deemed appropriate.

- IV. **CONDITIONS OF EMPLOYMENT:** *Adherence and compliance to this policy including but not limited to the rules, regulations, policies and procedures will be a condition of employment with the LFUCG. Execution of the Alcohol and Drug Free Workplace Policy Consent Form acknowledging receipt of this policy (see attached (#1)) is a required condition of employment.*

V. SCOPE:**A. Alcohol - Scope and Defined**

Alcohol in the blood can alter the body's senses and prevent the employee from performing the job duties in a safe and productive manner. Therefore, the use of any ingestible alcoholic substance while in or on government property is strictly prohibited.

Reporting to work or having at any time during the work day, a detectable odor of an alcoholic beverage on his/her breath which results in a BAC of 0.04% or above shall violate policy and the offending employee shall be suspended or dismissed.

As mandated by the federal and state laws which regulate the operation of commercial vehicles, those individuals who are required to operate commercial vehicles, or perform safety sensitive functions will be considered under the influence if the amount of alcohol present in the blood, breath or urine, is 0.04% or above. Individuals who are required to operate commercial vehicles, operate heavy or safety sensitive equipment, or perform safety sensitive functions are to be removed from their work for at least one (1) full shift if the amount of alcohol present in the blood, breath or urine, is at least 0.02% but less than 0.04%. All Sworn Personnel and Communications Personnel are to be removed from their duties for 30 calendar days if the amount of alcohol present in the blood, breath, or urine is at least 0.02% but less than 0.04%. Violation of this policy will result in disciplinary action as outlined in the Uniform Guidelines and Standards of Disciplinary Actions, but will be at a minimum of a mandatory 24 consecutive hour suspension without pay following the test.

B. Legal Drugs - Scope and Defined

Prescribed drugs, controlled substance or chemical is any drug or chemical prescribed by a physician or health care worker licensed and authorized to dispense drugs shall be determined legal drugs so long as:

- 1. The prescribed drugs on/in LFUCG property are in the original container with the employee's name, the doctor's name, and prescription identification on the label (KRS 218.210).*
- 2. The prescription drugs shall be taken only as prescribed, in dosage and frequency, and shall be taken only by the person whose name appears on the prescription container.*

Over-the-counter drugs or chemicals or substances legally obtained, not altered, and used for the purpose, and in amounts medically recommended in expressed written instructions of the manufacturer shall be considered legal drugs.

C. Illegal Drugs - Scope and Defined

- 1. Any drug as defined by federal or state controlled substances statutes of which cannot be obtained legally.*

2. *Any drug as defined by federal or state controlled substances statutes of which cannot be obtained legally, without being prescribed by a duly licensed physician or health care worker authorized to dispense drugs.*
3. *Any drug which has been legally obtained by prescription, but which is used or distributed by one whose name does not appear on the prescription container or not used in the prescribed manner by the person whose name appears on the prescription container.*
4. *Any combination of alcohol and legal or illegal drugs will be classified as illegal when the used intent is for misuse or abuse.*

VI. **DEFINITIONS:** *(All definitions are for the purpose of this policy)*

- A. **Accident** - *Any unintentional occurrence of events which leads to property damage, physical injury, or death.*
- B. **Actual Physical Control** - *Term referring to driver's or operator's physical position and capabilities which permit someone to control, manipulate, readily set into motion or operation or utilize vehicles, machinery or equipment.*
- C. **Alcohol** - *Any ingested substance containing alcohol that can produce a mind or body function alteration.*
- D. **Blood Alcohol Content (BAC)** - *A scientific metric measurement of alcohol from a specific measured sample of breath expressed in percentage form. BREATH: A volume of breath expressed in terms of grams of alcohol per 210 liters of breath.*
- E. **Blood Alcohol Test (BAT)** - *A medically acceptable procedure or scientifically approved instrumentation test to determine the content of alcohol in the blood.*
- F. **Chain of Custody** - *The ability to identify each person or facility who has control of a sample at any given time from the time the sample is taken until a final disposition occurs.*
- G. **Commercial Drivers/Commercial Driver's License (CDL)** - *Without exceptions, any person employed by the LFUCG required by federal or state statutes to acquire, possess and maintain a CDL, currently required for drivers operating a motor vehicle which: (1) has a gross combination weight rating (GCWR) in excess of 26,000-pounds (GVWR) provided vehicle towed is in excess of 10,000-pounds (GVWR); (2) has a gross vehicle weight (GVWR) rating in excess of 26,000-pounds (GVWR); (3) is designed to transport sixteen (16) or more passengers used in the transportation (including the driver); or (4) transporting hazardous material(s) for which placarding is required, as required by the Hazardous Materials Transportation Act: Hazardous Material Regulations.*
- H. **CDL Safety Sensitive Function** - *Any of the following activities when performed by a CDL holder, if under the influence of any drug or with a BAC of 0.02% or above, would present or impose a possible or real inherent danger to the person, others, or property. Such on duty functions are:*

1. *All times at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.*
 2. *All times inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.*
 3. *All times spent at the driving controls of a commercial motor vehicle.*
 4. *All times, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).*
 5. *All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.*
 6. *All time spent performing the driver requirements associated with an accident.*
 7. *All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.*
- I. **Contract Employees** - *An independent party working for the LFUCG under contract, either expressed or implied, written or oral, to provide services or products.*
- J. **Detention Personnel** - *Any individual who occupies a civil service, non-civil service, temporary, part-time or seasonal position, including sworn Detention Officers, in the Division of Detention. Please note: An individual who has a CDL and occupies a sworn position in the Division of Detention will be disciplined in accordance with the policy for Detention Personnel, not CDL.*
- K. **Drug Paraphernalia** - *Any item used for administering, packaging or transporting illegal drugs.*
- L. **Drug Test** - *Tests scientifically designed and medically approved, that determine the presence of drugs in the body.*
- M. **Drugs** - *Any chemical substance that adversely alters a mind or body function when entering the body.*
- N. **Evidential Breath-Testing Devices (EBTs)** - *a specifically designed device, approved by the National Highway Traffic Safety Administration (NHTSA), used by a certified breath-alcohol technician, following specific breath-testing procedures, in the collection and analysis of breath samples to determine the BAC level.*

- O. **Employee** - One working for another for wages or salary, who is directed and controlled during working hours by the employer. An independent contractor is not an employee.
- P. **Illegal Drugs** - Any chemical substance as defined by federal or state controlled substance statutes (KRS 218A.080) which is illegal to possess, distribute or use unless prescribed by a duly licensed physician or health care worker authorized by law to dispense.
- Q. **Integrity Checks** - A fail safe mechanism, built into the urinalysis/urine drug screen, which measures the level of certain elements normally found in the body that become abnormal when a urine sample to be tested is diluted or altered.
- R. **Medical Staff** - Authorized personnel qualified by license or certification to perform medical procedures.
- S. **Medical Review Officer (MRO)** - A licensed (doctor or doctor of osteopathy) specifically authorized, appointed and approved by the LFUCG, who is responsible for receiving results generated by the authorized and approved LFUCG drug and alcohol testing program laboratory. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with the employee's medical history and any other relevant biomedical information.
- T. **Other Classified Positions** -
Communications Officer I
Communications Officer II
Communications Shift Supervisor
Communications Shift Manager
- U. **Other LFUCG Personnel** - Any individual who occupies a civil service, non-civil service, temporary, part-time, or seasonal position in the LFUCG.
- V. **Over-The-Counter Medications** - Any chemical substance (defined by federal, state or local substance statutes) found commercially available without a prescription, which is legal to purchase, possess and use, without medical authorization.
- W. **Positive Drug Screen** - The results of an approved medical or scientific test, properly reviewed and approved by a MRO, that reveal the presence of an illegal substance in the human body.
- X. **Prescription Drugs** - Any chemical substance that must be prescribed by a duly licensed physician or health care worker authorized to dispense controlled substances, that when taken in the manner prescribed, by the persons whose name appears on the original prescription container, is legal.
- Y. **Reasonable Suspicion** - Whether a reasonable, prudent individual, trained in the symptoms of drug or alcohol abuse would believe, based upon observation,

that someone was under the influence of drugs or alcohol; or that based on observation or information that drugs and/or alcohol is being used or stored on LFUCG property.

- Z. **Substance(s)** - *As used in this context, a substance is any chemical compound that will adversely alter the mind or body function when entering the body.*
- AA. **Sworn Personnel** - *Any individual who occupies a "sworn" position in the Divisions of Police and Fire & Emergency Services. **Please note: An individual who has a CDL and occupies a sworn position in the Divisions of Police and Fire & Emergency Services will be disciplined in accordance with the policy for Sworn Personnel, not CDL.***
- BB. **Testing facilities** - *Any physical area designed to accurately administer scientific and medically approved tests.*
- CC. **Under the Influence** - *Physical or mental behavior that has been adversely altered or impaired by the introduction of drugs or alcohol into the body.*
- The presence of any drug or substance in the body that will adversely alter the normal function of the mind or body is deemed to render an employee under the influence.*
 - Any employee whose BAC is 0.04% or above is considered under the influence.*
 - An employee who operates a Commercial Vehicle or performs safety sensitive functions is considered to be "impaired" if any amount of a controlled substance or alcohol is present in the blood, breath, or urine which results in a BAC of 0.02% or above and under 0.04%.*
- DD. **Urinalysis/Urine Drug Screen** - *Urine samples are screened for specified drugs and/or their metabolites utilizing enzyme immunoassay (EIA) using defined cutoffs.*
- Those urines found to be positive by the EIA methodology are then confirmed by gas chromatography mass spectroscopy (GCMS).*
 - All urine drug screens and confirmations are to be conducted by a laboratory recognized and approved by the College of American Pathologists (CAP) or Substance Abuse and Mental Health Services Administration (hereafter referred to as SAMHSA) (Formerly: National Institute of Drug Abuse (NIDA)).*
- VII. **EMPLOYEE ASSISTANCE PROGRAM (EAP)**: *Early recognition and treatment of drug or alcohol abuse is important for successful rehabilitation. The LFUCG encourages the earliest possible diagnosis and treatment for substance or alcohol abuse.*

In meeting its responsibility to employees, the LFUCG has established and maintains an EAP which informs employees of the dangers of alcohol and drug abuse and offers

assistance to employees seeking help for alcohol or drug abuse, and the personal and emotional problems associated with abuse.

A. *Employees Who Seek Assistance - PRIOR TO TESTING:*

At any time prior to testing, an employee may acknowledge his or her drug or alcohol abuse and secure a leave of absence to undergo rehabilitation. This program must be approved by the Director of Human Resources as being a certified rehabilitation program.

An admission of substance abuse, including alcohol, will not subject the employee to disciplinary action providing the aforementioned process is followed and the rehabilitation program is successfully completed by the employee.

The employee must enter the program and remain in the program as long as required, based upon the recommendations of the treatment provider (licensed clinical social worker, physician, psychologist, psychiatrist).

After acknowledgment of substance abuse, refusal to commit to an authorized rehabilitation program will be grounds for charges being brought before the Civil Service Commission or the Lexington-Fayette Urban County Council, whichever is appropriate, for dismissal.

Should the employee commit to rehabilitation, a determination will be made by the MRO, the Director of Human Resources and the employee's Division Director as to whether the employee can remain on the job in a current or available substitute duty capacity during rehabilitation, performing duties that pose no risk to fellow employees, property, or the general public or whether the employee must take a leave of absence or sick time during rehabilitation.

Once the employee is authorized to return to work, subsequent testing for continued substance use/abuse will be performed based upon a medical recommendation by the treatment provider.

The LFUCG will, at all times, respect the employee's right of privacy and subsequent tests will only be required with reasonable cause or in the random selection process.

B. *Employees Who Test Positive*

Any employee, except for Sworn Police and Fire personnel, who tests positive the first time for drugs or alcohol and whose test is confirmed by a second independent laboratory test to prevent a false-positive result, will be offered the opportunity to enroll in the EAP in order to begin the rehabilitation process, unless charges are filed for dismissal.

The employee assistance counselor will conduct an assessment and recommend a treatment plan including future random drug tests and, if necessary, a referral to another authorized rehabilitation facility or program.

Refusal to commit to an authorized rehabilitation program, after a confirmed positive drug/alcohol test, will be grounds for dismissal charges being brought

before the Civil Service Commission or the Lexington-Fayette Urban County Council, whichever is appropriate.

Should the employee commit to rehabilitation, a determination will be made by the MRO, the Director of Human Resources and the employee's Division Director as to whether the employee can remain on the job in a current or available substitute duty capacity during rehabilitation, performing duties that pose no risk to fellow employees, property, or the general public or whether the employee must take a leave of absence or sick time during rehabilitation. This decision will be based on objective findings such as advice from the MRO and the availability of alternate job duties or assignments, etc.

Once a rehabilitation program is successfully completed and prior to returning to normal job duties, in addition to spot check screening, a re-entry test will be given. Failure of this test and the secondary confirmation test will cause dismissal proceedings to be commenced immediately before the appropriate disciplining body.

Employees who test positive, regardless of whether or not they enrolled in or completed a rehabilitation program or whether they are assigned to regular or substitute duties, shall be subjected to random or spot check screening for up to 24 months or more thereafter, depending on circumstances. During that period of time employees will be tested frequently to determine if they are in fact remaining drug free. Employees remaining drug free during this period and are required to have random drug screening as a condition of employment, will be placed in the random testing pool, or other testing pool as appropriate.

Should any subsequent test, confirmed by a second laboratory independent test, show a positive result, dismissal proceedings shall be instituted immediately with no opportunity to show cause.

C. CDL Demotions

Employees who lose their CDL as a result of a positive drug/alcohol test shall have an opportunity to demote to a position that does not require a CDL.

Employees who lose their CDL as a result of a positive drug/alcohol test and refuse or are unable to demote due to a lack of an available position shall have charges for dismissal filed with the Civil Service Commission or the Lexington-Fayette Urban County Council, whichever is appropriate.

Any employee demoting to a position not requiring a CDL shall be referred to the EAP for counseling. EAP shall certify, to the extent possible without further drug testing, that the employee is not impaired during work hours.

The employee shall receive, from the supervisor of the position to which the employee has been demoted, a coaching and counseling session that describes the LFUCG policy regarding drug and alcohol use or impairment during work hours. The dangers and penalty for the operation of a LFUCG vehicle while impaired at any level should be included in the coaching and counseling session.

Should the employee in the demoted position demonstrate any evidence of impairment or drug use on the job, the employee's supervisor may request further drug testing and disciplinary action under the Uniform Guidelines and Standards of Disciplinary Actions for LFUCG (the Guidelines).

Nothing in the above shall prohibit the LFUCG from seeking dismissal of the employee as stated in the Guidelines, for operation of a LFUCG vehicle at any level of alcohol or drug impairment.

- D. Leave During Treatment:** *There will be two (2) types of treatment plans for LFUCG employees:*
- 1. In-patient followed by Out-Patient Phase:** *The in-patient phase will be charged as sick leave or other leave in accordance with Sections 21-33,21-34 and other leave ordinances, if such is available. If sick or other leave has been exhausted, their status will be changed to leave of absence without pay.*
 - 2. Out-Patient Phase Only:** *Normally, the employee will return to work at his normal or alternate duties. However, if the EAP Representative recommends other duties during this phase, then provisions will be made.*
- E. Medical Insurance:** *The cost of rehabilitation will be provided by the LFUCG to those employees who are covered by the government's medical insurance, but only to the extent of applicable coverage which exist at the time of any claim. Employees are responsible for all costs not covered by the employee's medical insurance.*
- VIII. PROHIBITED BEHAVIOR:** *The following behavior and activities are prohibited under this policy.*
- A.** *Use, possession, distribution, or sale of alcohol, illegal drugs or drug paraphernalia or the unlawful manufacture, distribution, dispensation, possession or use of controlled substances on government property or within government vehicles.*
 - B.** *Being impaired anytime during the work day, including breaks and lunch, as a result of using, on the job or off the job, alcohol, illegal drugs, misusing a legally prescribed drug, over-the-counter medication, or any chemical substance, is prohibited behavior.*
 - C.** *Being impaired at any time while in an official "on-call" status: one may be off-duty at home, or officially subject to call back per prior notification.*
 - D.** *Those "on-call" employees who are called back and impaired are forbidden to respond or report to their work site or job, and shall not accept or respond to any assignment or recall, and shall immediately via telephone report their impairment to their supervisor and/or Division Director.*

- E. *Being impaired at any time in a government owned vehicle as a result of using alcohol, an illegal drug, illegal use of a legally prescribed drug, over-the-counter medication, or any chemical substance is prohibited behavior.*
- F. *Pertaining to Commercial Vehicles or performing safety sensitive functions:*
1. *Operating or performing any safety sensitive function with a BAC of 0.02% or above, or while impaired at any level by any drug.*
 2. *Ingesting any alcoholic substance within four (4) hours of the time an employee is to report to work or prior to the beginning of "on-call, recall, or stand-by" status time.*
 3. *Ingesting any alcoholic substance within eight (8) hours after a Critical Incident.*
 4. *Use of any drugs within eight (8) hours after a Critical Incident without medical authorization or under medical treatment.*
- G. *Storing in a locker, desk, vehicles, or other places on government premises any illegal drug, drug paraphernalia or alcohol which use or possession is unauthorized.*
- H. *Refusing to provide a blood, urine, saliva or breath sample for testing when required for cause, or for authorized random testing.*
- I. *Switching or altering any submitted specimen for testing.*
- J. *Testing positive for drugs or alcohol.*
- K. *Refusing to complete a medical questionnaire or consent form, or knowingly providing false information on the questionnaire prior to authorized testing for illegal drugs or alcohol.*
- L. *Refusing to complete a laboratory chain of custody form after providing a laboratory specimen for testing.*
- M. *Failure to report to the employee's immediate supervisor and/or Division Director, the use of any legal drug which may adversely alter the employee's behavior, physical or mental ability.*
- N. *Failure to report to the employee's immediate supervisor and/or Division Director, any summons, charges, issuance of citations, or conviction(s) relating to incidents involving alcohol or drugs.*

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EXCEPTION CLAUSE (LFUCG Sponsored/Authorized Activities/Functions):

Possession of alcohol on LFUCG property may be allowed, notwithstanding Subsection A above, only where written authorization to possess, dispense, use or sell legal alcoholic beverages at a specific activity or function has been given. This exception shall not be read to allow employees to use alcoholic beverages in LFUCG vehicles at any time.

IX. **EMPLOYEES' REPORTING RESPONSIBILITIES:**

- A. **LEGAL DRUGS:** *For certain job positions, an employee's use of any legal drug can pose a significant risk to the safety of the employee or others.*

It shall be the sole responsibility of each employee to take over-the-counter medications only after having read, been read or informed of, and complied with the express written directions, including dosage limitations, warnings, and drug interaction precautions, listed on the respective packaging.

Prior to ingesting any prescribed medication or over-the-counter medication, it shall be the sole responsibility of the employee to inquire from the attending physician, pharmacist, or health care provider, if the prescribed medication may limit or impair their ability to perform the duties of his/her position in any way.

Employees who have knowledge or have been informed, that the use of any legal drug may present a safety risk, shall immediately report such drug use to their immediate supervisor and Division Director to determine job related consequences.

Should any legal drug adversely alter the senses of or prevent the employee from performing the job duties in a safe and productive manner, it shall be the responsibility of the employee to notify his/her immediate supervisor and/or Division Director, advising them of the limitations the legal drug poses. Supervisors who are aware of such a situation are to instruct the employee to report performance problems.

The supervisor, in counsel with the Division Director and the Director of Human Resources, shall then determine if the employee can safely and effectively perform the assigned job duties while taking the legal drug. If it is determined that the employee cannot perform the job duties safely and effectively, the employee may be required to take a leave of absence, sick time or assigned other duties to be determined by the Division Director and the Director of Human Resources.

The LFUCG reserves the right to have a government authorized physician review any legal drug usage, including prescription, over-the-counter, or other substances, to determine if the proper dosage or combinations recommended or authorized adversely affect the employee's ability to perform their duties safely and efficiently under the prescribed drug.

In cases of an unexpected adverse reaction to any legal drug while at work, the employee, without delay, shall immediately notify his/her immediate supervisor and Division Director.

All employees who have an unexpected adverse reaction to any legal drug shall, without delay, safely cease operating machinery, vehicles or equipment where continued operation while impaired may be inherently dangerous, and shall immediately notify their immediate supervisor or Division Director.

No supervisor or Division Director may assign, direct, or order an impaired employee to continue operating a vehicle or equipment, or performing a safety sensitive function.

- B. **ALCOHOL/DRUG RELATED ARREST OR SUMMONS:** Employees arrested or summoned for violation of any law or ordinance pertaining to the illegal manufacturing, distribution, dispensation, possession or use of alcohol, legal or illegal drugs, or foreign substances shall immediately report such arrest or summons to their Division Director, who will in turn report same to the Director of Human Resources.

Sworn employees, Detention personnel and employees who drive LFUCG vehicles shall immediately report any arrest or summons for violation of any law relating to the use or possession of alcohol to their Division Director, who shall report same to the Director of Human Resources.

Such employees shall further be obligated to keep their respective Division Director apprised of the court status and final disposition of the case. **Failure to report such violation may be considered grounds for dismissal.**

- X. **REFUSAL TO SUBMIT TO A PROPER REQUEST FOR TESTING:** For the purposes of detecting alcohol and illegal drug use/abuse, drug or breath alcohol test (BAT) will be requested. All tests shall be done in accordance with current applicable statutory or case laws to protect each employee's constitutional rights. Refusal to submit to a drug or BAT shall be immediate grounds for dismissal.
- XI. **TESTING SAFEGUARDS, TERMINOLOGY AND GUIDELINES:** Alcohol and Drug Screening shall be conducted under the following circumstances:

A. DRUG TESTS AND CUT OFF LEVELS

RANDOM TESTING FOR ALL CDL PERSONNEL - as required by DOT (Department of Transportation), will have a **five panel drug test** which tests for:

<u>Drug</u>	<u>Screening Limit</u>	<u>Confirmation Limit</u>
Amphetamines	1000 NG/ML	
Amphetamine		500 NG/ML
Methamphetamine		500 NG/ML
Cannabinoids	50 NG/ML	
Carboxy - THC		15 NG/ML
Cocaine	300 NG/ML	
Benzoyulecgonine		150 NG/ML
Opiates	300 NG/ML	

Codeine		300 NG/ML
Morphine		300 NG/ML
Phencyclidine	25 NG/ML	25 NG/ML

RANDOM TESTING FOR ALL SWORN POLICE, FIRE & EMERGENCY SERVICES, COMMUNICATIONS AND DETENTION PERSONNEL; ALL REASONABLE CAUSE TESTING; AND ALL CRITICAL INCIDENT TESTING - will have a ten panel drug test which tests for:

<u>Drug</u>	<u>Screening Limit</u>	<u>Confirmation Limit</u>
Amphetamines	1000 NG/ML	500 NG/ML
Barbiturates	200 NG/ML	200 NG/ML
Benzodiazepines	200 NG/ML	200 NG/ML
Cannabinoids	100 NG/ML	15 NG/ML
Cocaine	300 NG/ML	150 NG/ML
Methadone	300 NG/ML	300 NG/ML
Methaqualone	300 NG/ML	300 NG/ML
Opiates	300 NG/ML	300 NG/ML
Phencyclidine	25 NG/ML	25 NG/ML
Propoxyphene	300 NG/ML	300 NG/ML

B. TESTING SAFEGUARDS - The following procedures conform to SAMSHA drug testing protocol:

1. Employees required to submit to any drug or alcohol testing will sign, prior to testing, the laboratory form consenting to drug or alcohol testing, and to release the results to the MRO and Division of Human Resources.
2. All drug and alcohol testing made reference to in this policy shall be performed in accordance with current federal regulations:
 - a. Clinical Testing will be performed by a fully accredited laboratory and not by any employee of the LFUCG.
 - b. Collection and safeguarding of test specimens, with a valid chain of custody, shall follow strict chain of custody procedures.
 - c. Validation by a second confirmation test and verification of all positive test results by referral to the MRO. All interpretation of drug and alcohol testing will be performed by the MRO and not by the testing facility.

3. *Before any action is taken against an employee who tests positive, the employee will be given an opportunity to explain the results directly to the MRO.*
4. *All testing is done from specimens collected under highly controlled conditions. Specimen collection procedures published in this policy shall be strictly adhered to, and shall be subject to constant review and possible change for the protection of the employee. These include, but are not limited to, the review and inspection of:*
 - a. *Designated collection sites and procedures.*
 - b. *Security measures and procedures of the collection sites.*
 - c. *Chain of custody documentation procedures and security.*
 - d. *Security measures and procedures for the specimens:*
 - 1) *At the collection site.*
 - 2) *During transportation to the laboratory.*
 - 3) *Storage of specimens at the collection site in lieu of transportation.*
 - e. *Laboratory certifications, ratings, and authorization approval from the SAMHSA.*
 - f. *Security measures and procedures of the laboratory sites.*
 - g. *Laboratory safeguards and procedures for handling specimens.*
 - h. *Laboratory integrity checks and procedures.*
 - i. *Storage of specimens at the laboratory site for future testing and re-testing.*
5. *CDL testing laboratories must be currently certified by the SAMHSA and currently listed with the Commonwealth of Kentucky Department of Health and Human Services.*
6. *The CDL testing for alcohol will be conducted on Evidential Breath Testing devices (EBT) currently approved and listed with the NHTSA. A confirmation test must be performed and administered by a trained or certified breath alcohol technician capable of operating an EBT device which produces a printed record of the test results and is capable of sequential numbering.*
7. *All urine specimens will be submitted to the laboratory for testing.*
8. *Two (2) primary tests may be performed by the laboratory:*

- a. *Initial test-enzyme immunoassay (EIA) method.*
 - b. *Confirmation test - gas chromatography mass spectroscopy (GCMS) method.*
9. *If the initial test (EIA) results are negative, the laboratory will conduct no more testing with the sample and shall report the results as "negative" through the MRO to the Director of Human Resources.*
 10. *If the initial test (EIA) results are positive, in that the drug/alcohol exceed the test standard cutoff levels, the laboratory will conduct a secondary confirmation test from the same specimen by using gas chromatography mass spectrometry (GCMS) techniques.*
 11. *If the confirmation test (GCMS) results are positive, the laboratory will secure, safeguard, and store the specimen for future testing or re-testing.*
 12. *The laboratory will report, in writing, the positive test results to the MRO only for review and/or investigation.*
 13. *The MRO will notify, in writing, the Director of Human Resources of the positive test results.*
 14. *The Division of Human Resources will send a Notification of Positive Results to the employee's Division Director reporting the positive test results and instructing the Division Director to immediately notify the subject employee to report to the MRO within 72 hours of the notification.*
 15. *The employee's Division Director or alternate must, without delay, notify the subject employee and shall note on the Notification of Positive Results, the date and time that the employee was officially notified.*
 16. *Employees must report to the MRO within 72 hours of the notification time specified on the Notification of Positive Results.*
 17. *The MRO will review the positive test results with the employee and request an explanation of or the reason for the presence of the prohibited substance.*
 18. *The employee must request, within that 72 hour limitation, through the MRO, that a split specimen procedure be initiated. Failure to report within the 72 hours or failure to request a split sample testing within that time frame will be grounds for initiating dismissal proceedings.*
 19. *A split sample utilizes the remaining stored 30-ml of the initial specimen, which tested positive, to be tested at a different Department of Health and Human Services certified drug-testing laboratory.*
 20. *If the second portion, which is required to be stored at the initial testing laboratory, is not available or is an insufficient amount for testing, the test*

is then considered negative and no disciplinary actions are to be imposed.

21. *Split sample testing of the original sample will be tested with no cut-off levels. If the split sample results are negative, then no additional testing will be performed and the secondary testing laboratory will notify the MRO, in writing, that the split sample test results were "negative".*
22. *No disciplinary action will be imposed on any employee with a negative test result.*
23. *Positive split sample results will be reported to the MRO, in writing, for review and comparison to the initial testing laboratory findings. The MRO need not notify the employee of the split sample test results.*
24. *Positive split sample results, after review and confirmation will be reported by the MRO, in writing, to the Director of Human Resources.*

- C. **Pre-Employment Screening (PES)** - *The LFUCG will conduct pre-employment screening designed to prevent hiring individuals who use illegal drugs or individuals whose use of alcohol indicates a potential for impaired or unsafe job performance. All persons being considered for employment will be required to submit to pre-employment alcohol and/or drug screening as part of the pre-employment process.*

Should a primary and secondary tests reveal a BAC of 0.04% or above, the attending physician shall suspend the examination and the physician shall report the findings as "not suitable for employment" to the Director of Human Resources.

- D. **CDL Testing** - *All employees who are required to maintain a CDL or those employees who currently possess a CDL or may act as an alternate or back-up driver/operator, shall submit to screening during their Department of Transportation (DOT) physical examination. Employees will be subject to screening throughout the CDL application and issuing process; between renewals; during an upgrade; and in the renewal processes, including physical examinations.*

In addition, random testing will be conducted by a laboratory approved and listed by the SAMHSA.

- E. **Reasonable Cause Testing (RCT)** - *Employees will be tested for drugs or alcohol when reasonable suspicion exists to support a belief that the employee is under the influence of drugs or alcohol or that the employee's behavior or work performance has been affected by drugs or alcohol. The basis for the decision shall be documented, in writing, by at least two (2) trained supervisors or by professional law enforcement or medical personnel. A determination will be based upon observation and documentation of:*

1. *Detection of an alcoholic substance emitting from the employee's breath. This shall include a detection of a "hang-over" odor.*

2. Observation(s) of the employee's speech being unusually slurred, or noticeably different without a proper medical reason being given.
3. Observation(s) of the employee's actions or conduct as being noticeably different or impaired and not consistent with normal conduct and without proper explanation.
4. Observation(s) that the employee's appearance, in conjunction with the above, indicates that the employee is impaired.

At the request of the Division Director or the Director of Human Resources, the observed employee may be required to submit to an independent blood/breath/urine test to determine if the employee is impaired. The requested testing is to be done within two (2) hours but no later than eight (8) hours after the observation. All results of such testing will be delivered immediately to the Director of Human Resources.

PLEASE NOTE: THE SUPERVISOR IS RESPONSIBLE FOR FOLLOWING THE ABOVE PROCEDURES AND REQUESTING THAT AN EMPLOYEE BE TESTED WITHIN THE TIME FRAME OF TWO (2) TO EIGHT (8) HOURS.

- F. **Post-Critical Incident Testing (PCI)** - Any employee involved in a single vehicle accident with property damages of \$2,500.00 or more; or a work related accident or incident in which there is one (1) or more fatalities; one (1) or more injuries requiring emergency treatment; or property damage of \$5,000.00 or more, shall immediately notify their supervisor and will be tested for drug use and blood/breath alcohol presence.

Such testing shall be conducted:

1. Within two (2) hours of the incident, or
2. Within two (2) hours of being released from law enforcement personnel while under:
 - a. Detainment;
 - b. Apprehension;
 - c. Questioning; or
 - d. Arrest.
3. But no later than eight (8) hours after the incident.

PLEASE NOTE: THE SUPERVISOR IS RESPONSIBLE FOR FOLLOWING THE ABOVE PROCEDURES AND REQUESTING THAT AN EMPLOYEE BE TESTED WITHIN THE TIME FRAME OF TWO (2) TO EIGHT (8) HOURS.

- G. **Testing in Conjunction With A Treatment Program (SPT)** - Employees who are participating in a treatment program will be required to submit to random "spot" drug screening at regular and frequent intervals to assure that such employees are remaining drug free. The duration of such tests will be

determined by the counselors at EAP or MRO, but could last up to 24 months or more, depending on the circumstances. A "return-to-duty" test will be performed on all employees participating in this program prior to returning to their job.

Employees who have had a confirmed prior positive result for alcohol and/or drugs and have a subsequent confirmed positive test for alcohol and/or drugs, shall be immediately processed for dismissal without further notice or warning, in accordance with the Uniform Guidelines and Standards of Disciplinary Actions.

H. **Random Testing (RAN)** - Random Testing means that drug tests are unannounced and that through a random selection process all employees have an equal chance of being selected. The following are pools for random selection:

1. **DETENTION:** Employees in Detention are in a position of public trust. They are members of a highly regulated force that perform dangerous duties. They deal with a population, the majority of which are incarcerated for drug or alcohol-related crimes. Drug or alcohol abuse can expose these employees to blackmail and corruption.
2. **SWORN & COMMUNICATIONS PERSONNEL - Division of Fire & Emergency Services:** Employees in Fire & Emergency Services are in a position of public trust. They are members of a highly regulated force that perform dangerous duties. They drive heavy equipment, enter homes of citizens and are involved in highly dangerous activities and emergency "life and death" medical duties and responsibilities.
3. **SWORN & COMMUNICATIONS PERSONNEL - Division of Police:** Employees in Police are in positions of public trust. They perform highly dangerous duties and are members of a highly regulated force. As law-abiding citizens, they enforce drug and alcohol laws, are armed, have powers of arrest, and make "life and death" decisions.
4. **COMMERCIAL DRIVERS:** Previously defined and stated Section "A": "Commercial Drivers/Commercial Driver's License (CDL)": In compliance with the Department of Transportation (DOT), Federal Highway Administration (FHWA), National Highway Traffic Safety Administration (NHTSA), and the Omnibus Transportation Employee Testing Act of 1991, all Commercial Drivers will be randomly tested within this pool.
5. **PREVIOUS POSITIVE TEST:** Employees who have tested positive from any of the above categories within this section are subject to random testing within this pool.

Employees selected for random testing through the use of the random selection procedures specified within this policy shall be subjected to testing of their blood, breath or urine, for the presence of alcohol and/or drugs within their system.

During **ANY** random testing, if a medical staff member of an approved medical facility detects an employee to be under the influence of alcohol or drugs, the employee may be required to submit to additional blood or

breath testing prior to submission of the urine specimen, for the purpose of establishing their BAC.

Employees who have reported to any approved medical facility for testing under this policy and are obviously impaired and have a confirmed BAC test result of 0.02% or above, shall be immediately reported by the medical facility to the Director of Human Resources (or designee) and the MRO.

Confirmed positive test results and the corresponding documentation will be forwarded by the medical facility to the MRO for review and investigation.

XII. **CONFIDENTIALITY:** *Information including test results obtained on individuals as part of this drug and alcohol abuse policy shall be treated confidentially and shall be disclosed only after express written consent is submitted and approved by the LFUCG to those having a legitimate need to know. No tests for medical conditions shall be run on samples provided for drug screening. Any medical condition inadvertently identified by drug screening shall remain confidential and shall not be reported to the LFUCG.*

XIII. **PROCEDURES FOR CONTROL NUMBER ASSIGNMENTS:** *To ensure that the privacy of an employee is being protected, a control number will be assigned by the testing facilities to all submitted urine specimens. These control numbers will be exclusively assigned so as not to afford any room for duplication, which could subject the employee to erred test results. It removes any name from the sample, thereby virtually eliminating any claims of set-ups or targeting. Further, it provides an easy identification base for retrieving information and records for analysis and statistical compilations and reporting.*

The control number, in conjunction with a Confirmation Identification Form, will provide a chain from the submitting employee to the test results, without jeopardizing privacy. These controls will also provide a historical record and accessibility, by use of an employee's number, for determination of possible sanctions.

XIV. **RANDOM SELECTION PROCEDURES:**

A. *The Division of Human Resources shall initiate, maintain, and update computer files containing accurate and weekly checked information containing:*

1. *Employee numbers.*
2. *Employee names.*
3. *Employee SSN's*
4. *Employee's Division.*

B. *The Division of Human Resources, utilizing a computer generated program for random selection, shall generate lists of random numbers from the select pools. The generated lists will be marked in red ink beside every other name to indicate which employees will be tested for alcohol. All generated lists will be verified and signed by the individual who pulled the data. A Letter of Notification, addressed*

from the Director of Human Resources to the Directors of the respective affected divisions, will be printed for each employee selected.

- C. An employee must take a photo identification and the Letter of Notification to the nearest testing facility within two (2) hours of being notified of their random selection.
- D. Employees who are on vacation, off-duty, or on sick or disability leave, shall not be called in from that status. The Division Director or their alternate shall immediately notify the Division of Human Resources of any employee who is unavailable for testing. Such will be documented with an expected date of return.
- E. Within seven (7) hours of the employee's return to duty, the Division of Human Resources will resubmit the Letter of Notification to the appropriate Division Director. The employee shall be instructed to report with a valid official photo identification and the Letter of Notification to the designated testing facility within two (2) hours.

XV. **TESTING FACILITIES:**

Urgent Treatment Center locations:

1498 Boardwalk Drive, Lexington, KY
Hours of Operation - 8:00 a.m. to 8:00 p.m.
(Weekends 8:00 a.m. to 6:00 p.m.)

3174 Custer Drive, Lexington, KY
Hours of Operation - 8:00 a.m. to 8:00 p.m.
(Weekends 8:00 a.m. to 6:00 p.m.)

Employees will report to the facility within the closest proximity of their work site.

XVI. **SEARCHES:**

The Urban County Government reserves the right to conduct searches of Urban County Government owned property including, but not limited to, lockers, desks and government owned/leased vehicles. Employees will be expected to cooperate in conducting the searches.

Searches of employees and employees' personal property located on government property, including automobiles, **will only be conducted upon reasonable suspicion** that the employee is under the influence of illegal drugs or alcohol, or that illegal drugs or alcohol is being kept on personal property, which is located on government property.

- XVII. **DISCIPLINARY ACTION:** All employees of LFUCG who, prior to a "critical incident", "reasonable cause" and "random" testing, may acknowledge his/her substance abuse by contacting UCG's EAP provider and enter a certified rehabilitation without disciplinary action.

DRUGS: Use of, possession of, or a positive urine drug screen and confirmation of the presence of an illegal drug, shall result in the following:

1. **1st Offense**
 - a. *All Sworn Police, Fire & Emergency Services, Communications and Detention Personnel shall be recommended for dismissal.*
 - b. *Non-sworn Personnel may be suspended from duty without pay for a period of up to thirty (30) calendar days, by their immediate supervisor, and up to six (6) months or dismissal, depending on the circumstances.*

Mandatory evaluation by the EAP for drug dependency.

Satisfactory completion of a program for drug abuse counseling and rehabilitation and/or other professional treatment which has been recommended and approved by the EAP Coordinator.

2. **2nd Offense Non-sworn Personnel:** *A second positive urine drug screen and confirmation of the presence of an illegal drug shall be considered grounds for dismissal.*

ALCOHOL:

1. **ALL SWORN POLICE, FIRE & EMERGENCY SERVICES, COMMUNICATIONS AND DETENTION PERSONNEL**

- a. **Under The Influence:** *With a BAC of 0.04% or above:*
1st Offense: *Any employee reporting to work and/or operating or in actual physical control of a government owned/leased vehicle or equipment shall be recommended for dismissal.*
- b. **Impairment:** *With a BAC of 0.02% but less than 0.04%:*
 1. **1st Offense:** *Suspension from LFUCG duties for 30 calendar days; no pay for scheduled work hours.*

Mandatory evaluation by the EAP for alcohol dependency.

Satisfactory completion of a program for alcohol abuse counseling and rehabilitation and/or other professional treatment which has been recommended and approved by the EAP Coordinator.

2. **2nd Offense:** *Shall be recommendations for dismissal by the LFUCG.*

2. **ALL NON-SWORN PERSONNEL WITH CDLs**

- a. **Under The Influence:** *With a BAC of 0.04% or above:*
1st Offense: *Any employee reporting to work and/or operating or in actual physical control of a government owned/leased vehicle or equipment shall be recommended for dismissal.*
- b. **Impairment:** *With a BAC of 0.02% but less than 0.04%:*
 1. **1st Offense:** *Suspension from LFUCG duties for 24 consecutive hours; no pay for scheduled work hours.*

2. **2nd Offense:** Automatic suspension pending review and recommendations for dismissal by the LFUCG.

3. **ALL OTHER LFUCG PERSONNEL**

a. **Under The Influence:**

1st Offense: Any employee reporting to work and/or operating or in actual physical control of a government owned/leased vehicle or equipment shall be recommended for dismissal.

XVIII. **EFFECTIVE DATE:** This policy is effective as of May 16, 1996.

XIX. **CONSENT:** With the issuance of this policy, each employee will receive an orientation concerning the Alcohol and Drug Free Workplace Policy of the Urban County Government and will be required to sign the attached consent form acknowledging that he/she has received said policy and was provided the opportunity to have his/her questions answered.

Revised 4/15/96

ALCOHOL AND DRUG FREE WORKPLACE POLICY ACKNOWLEDGMENT FORM

Employee Name: _____ Employee Number: _____

Division/Department: _____

Position Title: _____

Date: _____

I have received the Lexington-Fayette Urban County Government's Alcohol and Drug Free Workplace Policy and I agree to abide by its terms.

Date

Employee's Signature

Employee's Name Printed

Date

Witness' Signature

Witness' Name Printed