

**All Personnel**

**DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS**

Information Officer

The Board of Education designates the Superintendent as Information Officer for the administration of the Alcohol and Drug Testing Policy.

Application

The District's Drug and Alcohol testing program shall apply to all employees who operate a commercial motor vehicle, including any vehicle designed to transport 16 or more passengers. This includes casual, intermittent or occasional drivers as well as full-time, regularly employed drivers. (49 CFR 382.107)

Definition of "Safety Sensitive Functions" Performed by Employees Subject to Drug and Alcohol Testing

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the District or paid work for any other entity. (49 CFR 382.107, 395.2)

Notice

All drivers subject to testing for controlled substances and alcohol shall be individually notified, in advance and in writing, that they are subject to reasonable suspicion, post-accident, random, return to duty and follow-up testing while on duty. The notice shall state that the only such tests required by the employer are those required by the Federal Highway Administration (FHWA) as set forth in Title 49 of the Code of Federal Regulations, Part 382.

**Reasonable Suspicion Testing**

1. A reasonable suspicion test must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. For suspicion of controlled substance use only, the observations may also include indications of the chronic and withdrawal effects of controlled substances.
2. The observations must be made by a supervisor who has received the required training in identifying indicators of probable alcohol misuse plus the required training in identifying indicators of probable controlled substance use.
3. If the reasonable suspicion observations are made by the immediate supervisor of the driver, they must be confirmed by the direct observation of another supervisor similarly trained.
4. Reasonable suspicion observations must be contemporaneous, i.e., they must be made just before, during or just after the driver's performance of a safety-sensitive duty.
5. Drivers for whom a reasonable suspicion determination has been made will be placed on paid administrative leave pending test results or given an alternate or temporary assignment without loss of pay.

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6. Tests based on reasonable suspicion of alcohol misuse shall be promptly administered. If the test is not given within two hours following the reasonable suspicion determination, the employer shall prepare and maintain on file a statement of the reasons the test was not promptly administered. The driver will be given a copy of this statement. No test based on reasonable suspicion of alcohol misuse will be given that is not within eight hours of the reasonable suspicion determination.
7. A written record of the reasonable suspicion observations, dated and signed by all supervisors making the observations, must be made within 24 hours or before the results of the test are released, whichever is earlier. A copy of this record will be given to the driver when the results of the test are released.
8. No supervisor who makes the reasonable suspicion observations can conduct the test or participate in the collection or chain of custody of any specimen for testing.

**Post-Accident Testing**

1. A post-accident test must be administered following an accident for which the driver received a citation for a moving traffic violation or where there was a loss of human life.
2. No post-accident test for alcohol will be given more than eight hours after the accident. No post-accident test for controlled substances will be given more than 32 hours after the accident. The District shall submit to the DOT a report containing an explanation of the events that resulted in the District's failure to administer the test. The school official who is appointed by the Superintendent to oversee the program shall submit those DOT reports with copies to the Superintendent.
3. Prior to driving, all drivers shall be given necessary post-accident information, procedures and instructions by the employer.
4. A breath or blood alcohol test conducted by a federal, state or local official having independent authority to conduct such test shall fulfill the post-accident alcohol test requirement, provided that the test conforms to applicable legal requirements and are obtained by the District.

**Random Testing**

1. The annual percentage rate for random alcohol testing is 25% of the average number of driver positions. The annual percentage rate for random controlled substance testing is 50% of the average number of driver positions. These rates, which are required by FHWA regulations, will be automatically adjusted to be consistent with changes, if any, in the minimum rates required by these regulations. (See 49 C.F.R. section 382.305, subd., (a).)
2. The pool of persons subject to random testing shall include all persons, including persons not represented by CSEA, who actually drive a commercial motor vehicle for the employer, where a class A or class B license is required, when the random selection occurs. Drivers will not be recalled from approved leaves of absence for the purpose of alcohol or controlled substance testing.
3. The employer may conduct random testing through a consortium with other employers but, in that case, the number of drivers to be tested must be based on the total number of drivers covered by the consortium who are subject to testing. The particular drivers randomly selected must be selected as if all drivers covered by the consortium worked for a single employer.

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4. The selection of drivers for random testing must be solely by chance utilizing a random number table of a computer-based random number generator matched with social security numbers or other accepted random selection process.
5. The random tests shall be unannounced and spread reasonably throughout the year. Each person in the random pool must have an equal chance of selection each time random selections are made, regardless of whether the person was previously tested that year.
6. Drivers shall only be tested either immediately before performing a safety-sensitive function or immediately after performing a safety-sensitive function.

**Testing Procedures**

All tests for alcohol or controlled substances must comply with the requirements for such tests set forth in Title 49 of the Code of Federal Regulations, Part 40. In addition:

1. The immediate supervisor of a driver shall not serve as either a collection site person for controlled substance testing or as a breath alcohol technician for alcohol testing of that driver.
2. All testing shall be conducted in a private setting and, in the case of controlled substance testing, no direct observation of a driver's urination by a collection site person is permitted except for the reasons stated in Title 49 of the Code of Federal Regulations, section 40.25, subdivision (e), and then only by a same gender collection site person who is not employed by the driver's employer.
3. Except for a test requested by a driver for a test of the remainder of a split sample, the testing laboratory for controlled substance testing must be a forensic laboratory certified for such testing by the U. S. Department of Health and Human Services and agreed upon by the parties.
4. Any tests that do not comply with the requirements of this section shall be treated as negative tests.

**Positive Tests**

1. A positive test for alcohol must be a confirmation test by an evidential breath testing device capable of printout and sequential numbering and must show an alcohol concentration of 0.02 grams of alcohol per 210 liters of breath or greater. Such test is positive even if that concentration is caused by prescribed medication.
2. A positive test for controlled substances must be a confirmation test by gas chromatography/mass spectrometry techniques and must show one of the following:
  - a. 15 mg/ml (nanograms per milliliter) of marijuana metabolite;
  - b. 150 mg/ml of cocaine metabolite;
  - c. 300 mg/ml of either morphine or codeine;
  - d. 25 mg/ml of phencyclidine; or
  - e. 500 mg/ml of amphetamine or methamphetamine;

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**Positive Tests** (continued)

and, the medical review officer must conclude that there is no legitimate explanation, such as prescribed medication, for the result.

3. If the primary specimen is negative, the laboratory shall dispose of the split sample. If the primary specimen is positive, the laboratory shall hold the split sample for a year, or longer if a legal challenge is pending, to ensure that it remains available for a second test. If the driver requests a test of the split specimen, the laboratory shall ship the unopened split sample to another DHHS-certified laboratory for analysis. If the split sample fails to confirm the presence of controlled substance, the entire test is canceled.
4. The District shall maintain all records generated by the program in a secure location with controlled access. Controlled substance test results and related records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his or her use of controlled substance, including any records pertaining to his or her controlled substance tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.
5. Records of any controlled substance tests, indicating positive results, documentation of refusals to take required controlled substance tests, and documentation of the driver evaluations and referrals shall be retained for five years.
6. Records related to the collection process and training shall be maintained for two years.
7. Records of negative tests and canceled test results shall be kept for one year.
8. The Superintendent or designee shall submit to the Federal Highway Administration an annual report summarizing the results of the District controlled substance program for each calendar year.
9. The medical review officer shall be a licensed physician with special training in substance abuse disorders, the medical use of prescription drugs and the pharmacology and toxicology of alcohol and controlled substances. The medical review officer shall not be an employee of the driver's employer.
10. The cut-off levels in this section are those required by FHWA regulation. They will be automatically adjusted to be consistent with changes, if any, in the levels specified by those regulations. (See 49 C.F.R. section 40.29, subd. (f).)

**Effects of a Positive Test**

1. If the positive test is an alcohol test showing an alcohol concentration of 0.02 or greater but less than 0.04, the driver will be placed on paid administrative leave for 24 hours or, at the option of the employer, the driver may be assigned to duties that are not safety sensitive for the same time period. The driver shall return to regular duty at the end of this 24-hour period and be subject to follow-up random testing not to exceed 3 times within the following 90 days.
2. For all other positive tests, the driver shall be evaluated by a substance abuse professional, agreed upon by the parties, who shall determine what assistance, if any, is needed to resolve alcohol or controlled substance problems. The driver shall not be returned to safety-sensitive duties until the driver passes a return-to-duty test with an alcohol concentration of less than 0.02 or, in the case of a positive test for controlled substances, until a return-to-duty test indicates a verified negative result for controlled substance use.

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**Effects of a Positive Test (continued)**

3. If the substance abuse professional determines that a rehabilitation program is needed, a driver who had not previously tested positive or utilized a rehabilitation program will be entitled to applicable leave provisions in the contract to receive rehabilitation unless disciplinary procedures are initiated by the District. To the extent not inconsistent with the above provision, the unit member may be assigned to a temporary alternate assignment without loss of pay pending satisfactory completion of the rehabilitation program.
4. Drivers returning to duty after rehabilitation shall be subject to unannounced follow-up testing of at least six tests in the first 12 months of return to duty.
5. If a driver refuses to submit to a test authorized by this article, it shall be deemed that the employee has tested positive.

**Miscellaneous**

1. If the driver tests positive on an initial test, he or she may request a test of the split sample by a second certified laboratory within 72 hours of being notified of the initial result.
2. Drivers will receive their regular pay for time required to take the tests specified in this article. The employer will pay for these tests.
3. The parties agree to treat all test results as confidential medical records.
4. All drivers subject to this article shall receive training on alcohol misuse and controlled substance use. The District will provide opportunity for a reasonable number of CSEA stewards to receive essentially the same training that is provided for supervisors in reasonable suspicion determination.
5. A driver may request CSEA representation in connection with testing under this article provided obtaining such representation does not substantially delay testing.
6. The District may elect to initiate disciplinary procedures upon any positive test.