

Drug and Alcohol Testing for School Bus Drivers/Commercial Vehicle Drivers

A. Purpose and Scope

To provide guidance and direction for administrative personnel regarding drug and alcohol testing for school bus drivers and other employees whose assigned duties require the operation of a commercial vehicle, including any vehicle designed to transport 16 or more passengers, as defined by Title 49 of the Code of Federal Regulations Section 382.107 or a “school transportation vehicle” as defined in Vehicle Code 34520.3. This includes casual, intermittent or occasional drivers as well as full-time, regularly employed drivers.

The Superintendent or designee shall contract for collection and testing services and shall ensure that testing procedures and facilities used for the tests conform with the requirements of the Code of Federal Regulations, Title 49, Part 40.

B. General

Notice

1. Before drug and alcohol tests are performed pursuant to the 49 CFR 382, the District shall inform drivers that the tests are required by these regulations.

The District shall notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his/her employment application.

All drivers subject to this policy and regulation 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 for controlled substances and alcohol while employed by the District.

The District shall notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district shall also tell the driver which controlled substance(s) were verified as positive.

2. All drivers subject to this policy and regulation shall receive educational materials on alcohol misuse and controlled substance use (Code of Federal Regulations, Title 49, Part 382), together with a copy of the District’s policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify all the following:

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- a. The person designated by the District to answer drivers' questions about the materials.
- b. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382.
- c. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382.
- d. Specific information concerning driver conduct that is prohibited by Part 382.
- e. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382.
- f. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and ensure that test results are attributed to the correct driver.
- g. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382.
- h. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences.
- i. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment.
- j. The consequences for drivers found to have an alcohol concentration of .02 or greater but less than .04.
- k. The effects of drugs and alcohol on an individual's health, work and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management.
- l. Other legal requirements, District policies and disciplinary consequences related to the use of alcohol and drugs.

In addition,

- a. all stewards at the drivers' work locations shall receive the same training provided to supervisors for reasonable suspicion determinations.
- b. all drivers shall be notified of the right to have a union representative present throughout the questioning and testing by a Medical Review Officer. If the driver requests union representation, questioning and testing shall be suspended for a period not greater than two (2) hours, during which time a union representative will be made available.

3. If a driver is under the care of a licensed physician and taking a prescription medication that has a significant potential to affect or impair safety and performance of duties, the driver must notify the supervisor before beginning the work shift.

In addition, drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Drivers using such a substance may continue to perform safety-sensitive functions only if the physician has advised the driver that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle.

4. Each driver shall sign a statement certifying that he/she has received a copy of the materials under B1. and B2. above.
5. Suggestions or concerns relating to this policy and regulation should be directed to the Associate Superintendent for Human Resources or the Assistant Superintendent for Business Services.

C. Forms Used and Additional References

District forms available through Human Resources Division.

D. Procedure

Pre-Employment Tests

Tests for controlled substances and alcohol shall normally be conducted before the first time a driver performs any safety-sensitive function for the District.

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; and performing driver requirements related to accidents. (49 CFR 382.107, 395.2)

The tests shall be required of an applicant only after he/she has been offered a position subject to this policy and regulation.

Exceptions may be made for drivers who have had the alcohol test required by law within the previous six months and participated in the drug testing program required by law within the previous 30 days, provided that the District has been able to make all verifications required by law. (49 CFR 382.301)

Pre-employment testing shall also be required of employees returning to work after a layoff period if the employee was removed from the random testing pool. If the employee remains in the random testing pool, additional testing shall not be necessary. (49 CFR 382.301)

Reasonable Suspicion Testing

An alcohol or drug test shall be conducted if a supervisor or district official trained in accordance with law has reasonable suspicion that a driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances. (49 CFR 382.307)

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight hours. (49 CFR 382.307)

A supervisor or district official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier. (49 CFR 382.307)

The Superintendent or designee shall ensure that an employee under reasonable suspicion is transported to the designated collection or testing site.

Return-To Duty Tests

A controlled substance or alcohol test shall be conducted whenever a driver who has violated the district's controlled substance or alcohol prohibition returns to performing safety-sensitive duties. (49 CFR 382.309)

1. Employees whose conduct involved controlled substances cannot return to duty in a safety-sensitive function until the return-to duty controlled substance test produces a verified negative result. (49 CFR 382.605)
2. Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and District standards.

Follow-up Tests

A driver who violates the district's controlled substance or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in

resolving a controlled substance or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law.

Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions. (49 CFR 382.311)

Post-Accident Testing

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life. (49 CFR 382.303)
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident. (49 CFR 382.303)
3. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved a serious medical injury.
4. Whose performance cannot be excluded as a contributing factor based on information available at the time of the accident.

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention. (49 CFR 382.303)

No such driver shall use alcohol for eight hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

If an alcohol test is not administered within two hours of the accident or if a drug test is not administered within 32 hours, the District shall prepare and maintain records explaining why the test was not conducted. Tests shall not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs. (49 CFR 382.303)

Tests conducted by authorized federal, state or local officials shall fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the District. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations. (49 CFR 382.303)

Random Testing

Alcohol and drug tests shall be conducted on a random basis at unannounced times throughout the year. The number of random alcohol and drug tests shall be at least equal to those required by federal regulations. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. (49 CFR 382.305)

Employees off work due to leaves, vacation and layoffs shall be informed that they remain subject to random testing. Employees drawn for such testing shall be notified and tested as soon as practicable after they return to duty.

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 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, (e), and then only by a same gender collection site person who is not employed by the District.
3. The testing laboratory for controlled substance testing must be a laboratory certified for such testing by the U.S. Department of Health and Human Services. A split sample test requested by a driver shall be conducted at a different certified laboratory than the one which conducted the initial test(s).
 - a. Any tests that do not comply with the requirements of paragraph (3) above shall be treated as negative tests.
 - b. A split sample test shall be paid for by the employee. If the test is negative, the District shall reimburse the employee for the cost of the test.

Note: The District will select the Laboratory. The District will formulate a procedure to address any complaints which surface regarding the laboratory. If the District determines that any complaint received from CSEA has validity, and if requested by CSEA, the District will meet with CSEA to evaluate whether a change of Laboratory is warranted.

4. A refusal to submit to an alcohol or controlled substance test means that a driver:
 - a. fails to provide adequate breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirements for breath testing in accordance with the provisions of the District's policy; or
 - b. fails to provide an adequate urine sample for testing without a genuine inability to provide a specimen (as determined by a medical evaluation) after he/she has received notice of the requirements for urine testing in accordance with the provisions of the District's policy; or
 - c. engages in conduct that clearly obstructs the testing process.
5. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the District to have refused to submit to testing. This shall not be construed to require the delay of necessary medical attention for

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injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

6. The consequences of a driver's refusal to submit to an alcohol or controlled substance test required under post-accident, random reasonable suspicion or follow-up testing will be that the District will prohibit the driver from performing or continuing to perform safety-sensitive functions. During the period the driver is prohibited from performing or continuing to perform safety-sensitive functions, he/she will not receive pay.
7. If a driver refuses to submit to controlled substance or alcohol testing, that driver shall be subject disciplinary action in accordance with the District/CSEA collective bargaining agreement.

Positive Tests

1. A positive test for alcohol must be either (1) a confirmation test by an evidential breath testing device capable of printout and sequential numbering and must show an alcohol concentration of 0.01 grams of alcohol per 210 liters of breath or greater; or (2) any other test authorized by Title 49 of the Code of Federal Regulations. Such a test is positive even if that concentration is caused by prescribed medication.
2. The medical review officer will determine if a confirmation test for controlled substance is positive in accordance with Title 49 of the Code of Federal Regulations, part 40, by using a gas chromatography/mass spectrometry technique.
3. No positive test for controlled substances or alcohol, conducted pursuant to this Side Letter, shall be reported to the District until:
 - a. For alcohol and controlled substances:

The medical review officer has made all reasonable efforts to contact the driver (and documented them), on a confidential basis, and attempted to give the driver an opportunity to discuss the test results and the driver's medical history, including medication, in confidence.

- b. For controlled substances:
 - 1) The medical review officer has given the driver, within 72 hours of the driver's notification that the test was positive, an opportunity to request that the remainder of the split sample be tested by a different laboratory, certified by the Department of Health and Human Services;

- 2) The remainder of the split sample has been tested and found to be positive, or no timely request for such a test is made by the driver.
4. If the medical review officer concludes that there is a legitimate medical explanation for the positive test, such as prescription or over-the-counter medication, or a negative result in the test of the remainder of the split sample, the medical review officer must report the test to the District as a negative test.
5. The medical review officer shall be a licensed physician with (1) special knowledge of substance abuse disorders, (2) appropriate medical training to interpret and evaluate an individual's confirmed positive test, and (3) knowledge of 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 District.

Note: The District will select the Medical Review Officer. The District will formulate a procedure to address any complaints which surface regarding the Medical Review Officer. If the District determines that any complaint received from CSEA has validity, and if requested by CSEA, the District will meet with CSEA to evaluate whether a change of Medical Review Officer is warranted.

6. The cut-off levels in this section are those required by Federal regulation.
 - a. They will be automatically adjusted to be consistent with changes, if any, in the levels specified by those regulations. (See 49 CFR 40.29, (f).)
 - b. On the date of this Side Letter, the most relevant cut-off levels are:
 1. 15 ng/ml (nanograms per milliliter) of marijuana metabolite;
 2. 150 ng/ml of cocaine metabolite;
 3. 300 ng/ml of opiate metabolite;
 4. 25 ng/ml of phencyclidine; or
 5. 500 ng/ml of amphetamine or methamphetamine.

Effects of a Positive Test

1. Any driver who tests positive under the testing procedures (random, post accident, reasonable suspicion, return to duty and follow-up tests) will:
 - a. if the positive test is an alcohol test showing an alcohol concentration of 0.01 or greater, but less than 0.04, be placed on unpaid administrative leave for 24 hours or, at the option of the District be assigned to duties that are not safety sensitive for the same time period. Additional discipline will be based upon an assessment of all relevant factors.
 - b. if the positive test is .04 or greater for alcohol, or positive for any controlled substances, they be subject to disciplinary action in accordance with the District/CSEA collective bargaining agreement.

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2. In addition, drivers will also be subject to discipline if:
 - a. they refuse to submit to a test authorized by this policy and regulation;
 - b. they fail to complete rehabilitation recommended by the substance abuse professional which has been approved by the District; or
 - c. they subsequently test positive for alcohol and/or for controlled substances after a return to duty test following completion of rehabilitation.
3. A permanent driver is entitled to all due process rights pursuant to the District/CSEA collective bargaining agreement. A probationary driver, as a continuing part of the selection process, is subject to immediate termination.
4. Subject to the disciplinary provisions of the collective bargaining agreement, the driver shall be evaluated by a substance abuse professional, who shall determine what assistance, if any, is needed to resolve alcohol or controlled substance problems. Any assistance sought by the employee shall be paid for entirety by the employee.
5. With respect to all positive tests, nothing shall prohibit the District from taking adverse personnel actions in accordance with its authority independent from that conferred by 49 CFR part 382 which are consistent with other policies of the District.

Miscellaneous

1. Drivers will receive their regular pay for time required to take tests specified in this policy and regulation. The District will pay for these tests.
2. The parties agree to treat all test results as confidential medical records.

E. Reports Required

1. All records identified pursuant to 49 CFR 382.401 and 382.403 that the district must keep for varying periods of time.
2. Statements signed by Bus Drivers or other employees who are assigned duties requiring operation of commercial vehicles indicating that they have received copies of this policy and regulation.

F. Record Retention

1. All records identified pursuant to 49 CFR 382.401 and 382.403 that the district must keep for varying periods of time.

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2. Statements signed by Bus Drivers or other employees who are assigned duties requiring operation of commercial vehicles indicating that they have received copies of this policy and regulation.
3. Employee drug and alcohol test results and 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/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. (49 CFR 382.405)

G. Drug and Alcohol Clearinghouse

1. District shall not allow an employee subject to controlled substances and alcohol testing under this part to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse as required in 49 CFR 382.701
2. District shall conduct an annual limited query for all current employees' subject to controlled substances and alcohol testing as required in 49 CFR 382.701 to determine if any employee has information existing in the Clearinghouse. Should such limited query reveal that an employee has information existing in the Clearinghouse, District shall conduct a full query within 24 hours of conducting the limited query in accordance with the regulations outlined 49 CFR 382.701-382.727.
3. In accordance with 49 CFR 382.701, when a partial query result shows that there is information in the Clearinghouse for an employee, District shall immediately remove the employee from safety-sensitive functions until a full query on the employee show no prohibition to perform safety sensitive functions.
4. No employee will be allowed to perform safety-sensitive function if the results of the Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.01 or higher; has refused to submit to a test; or an employer has reported actual knowledge, that the driver used alcohol on duty, used alcohol before duty, used alcohol following an accident, or used a controlled substance in violation of 49 CFR 382.11, 382.107, 382.205, 382.207 or 382.213, except where a query of the Clearinghouse demonstrated completion of the SAP evaluation, referral, and education/treatment process set forth in Part 40, subpart O, of title CFR 49.
5. If any information is subsequently entered the Clearinghouse within a 30-day period following the pre-employment query, FMCSA will notify the Employer. Employee shall be removed from safety-sensitive functions while pending results from the clearinghouse that such employee's record contains no prohibitions as defined in 49 CFR 382.701.

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6. District shall not perform any query on an employee without first obtaining that employee's written or electronic consent in accordance with 49 CFR 382.703 as well as all applicable sections as outlined in Title 49 Code of Federal Regulations.
7. District shall report information into the Clearinghouse in accordance with all rules and regulations outlined in 49 CFR 382.705, 382.711, 382.713, 382.715, 382.721, 382.723, 38.727.
8. Employee shall register with the Clearinghouse prior to performing safety sensitive functions with the District as required for the District to run a query in accordance with 49 CFR 382.701. For employees who were already performing safety-sensitive functions prior to the implementation of the rules under 49 CFR 382., may register at any time with the Clearinghouse. Any such employee must immediately register with the Clearinghouse should District receive information from an annual partial query that information appears in the Clearinghouse.

G. Responsible Administrative Unit

Human Resources

Business Services

H. Approved By

The Administrator of the Division.

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List of Laboratories in California and Nevada that have been approved for Urine Drug Testing by the Department of Health and Human Services

Associated Pathologists Laboratories, Inc.
4230 So. Burnham Ave., Suite 250
Las Vegas, Nevada 89119-5412
(702) 733-7866

Sierra Nevada Laboratories, Inc.
888 Willow Street
Reno, Nevada 89502
(800) 648-5472

Centinela Hospital Airport Toxicology
Laboratory
9601 So. Sepulveda Blvd.
Los Angeles, California 90045
(310) 215-6020

SmithKline Beecham Clinical
Laboratories
7600 Tyrone Avenue
Van Nuys, California 91045
(818) 376-2520

National Health Laboratories Inc.
5601 Oberlin Drive, Suite 100
San Diego, California 92121
(619) 455-1221

TOXWORX Laboratories, Inc.
6160 Variel Avenue
Woodland Hills, California 91367
(818) 226-4373

National Toxicology Laboratories, Inc.
1100 California Avenue
Bakersfield, CA 93304
(805) 322-4250

UNILAB
18408 Oxnard Street
Tarzana, California 91356
(818) 343-8191/800-492-0800

Nicols Institute Substance Abuse Testing
7470-A Mission Valley Road
San Diego, California 92108-4406
(619) 686-3200/800-446-4728

PharmChem Laboratories, Inc.
1505-A O'Brien Drive
Menlo Park, California 94025
(415) 328-6200/800-446-5177

Poisonlab, Inc.
7272 Clairemont Mesa Road
San Diego, California 92111
(619) 279-2600/800-882-7272