

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

**R322-1 DRUG AND ALCOHOL TESTING OF EMPLOYEES –
BUS DRIVERS AND OTHER COVERED TRANSPORTATION EMPLOYEES**

I. Definitions

For purposes of this regulation and accompanying Policy and the District's drug and alcohol testing program, **safety sensitive function** means any of the following:

- (i) Driving;
- (ii) the time spent waiting to be dispatched on District property unless the driver has been relieved from duty;
- (iii) inspecting, servicing or conditioning equipment;
- (iv) being in or on a school bus or other commercial motor vehicle
- (v) loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; giving or receiving receipts for a shipment being loaded or unloaded;
- (vi) securing the vehicle and taking all of the other precautionary measures required by DOT's regulations following an accident (49 C.F.R. 392.40 and 392.41);
- (vii) repairing, obtaining assistance, or attending a disabled vehicle.

District business includes, but is not limited to, work performed on or in District property including a District vehicle, and work performed on or in a non-District vehicle being used for conducting District business; the term also includes meal and break times.

Refusing to be tested means any of the following:

- (i) failing to provide an adequate urine specimen for a drug test without a valid medical explanation;
- (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation;
- (iii) failing to submit to a test as directed; or
- (iv) engaging in any conduct which clearly obstructs the testing process.

An alcohol test will be considered **positive** when the alcohol concentration level registers 0.02 or greater.

Under the influence means, with respect to drugs, the presence in an employee's system of any detectable amount of a drug, or its metabolites, and speech, actions or an appearance which lead a supervisor to reasonably suspect that the employee's ability to perform their job safely and effectively has been impaired by drugs.

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

II. Prohibitions

The following employee conduct is prohibited:

- (i) drivers are prohibited from using, being under the influence of, or possessing illegal drugs;
- (ii) drivers are prohibited from using or being under the influence of legal drugs that are being used illegally;
- (iii) drivers are prohibited from using or being under the influence of legal drugs whose use can adversely affect the ability of the driver to perform their job safely;
- (iv) drivers are prohibited from selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs while on District time or property;
- (v) drivers are prohibited from using alcohol within four (4) hours of driving or performing any other safety-sensitive function;
- (vi) drivers are prohibited from using or being under the influence of alcohol at any time while driving or performing any other safety-sensitive function;
- (vii) drivers are prohibited from possessing any amount of alcohol (including possessing medications which contain alcohol) while on duty or driving, unless the alcohol is manifested and being transported as part of the shipment; (viii) testing positive for drugs and/or alcohol;
- (viii) refusing to be tested for drugs and/or alcohol;
- (ix) failing to submit to a drug and/or alcohol test as directed by the District;
- (x) failing to stay in contact with the District and its medical review officer while awaiting the results of a drug test;
- (xi) violating any applicable federal and/or state requirement governing the use of drugs or alcohol;
- (xii) doing anything to obstruct the District's goals with respect to drug and alcohol testing.

A driver who violates these prohibitions will be subject to discharge. In addition, any driver who is convicted by the judicial system of a felony for a drug or alcohol-related matter will be subject to discharge.

III. Tests Required

Testing for DOT affected employees will be conducted under the following circumstances:

- **Pre-employment/pre-duty** - (before a driver applicant is hired or an existing non-DOT employee performs DOT duties). The applicant will be informed to report for a drug and alcohol test and asked to sign a general consent and release to be tested. All offers to hire an applicant or transfer an existing employee to a driving position are contingent upon the applicant/employee signing the consent and release form for drug and alcohol testing; signing the District' authorization form to obtain past drug and alcohol test results from

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

previous employers during the last 2 years; taking the required drug and alcohol test and having negative results on both tests; passing required physical exams; complying with any other conditions or requirement of the District.

- **Post-Accident Testing** - A driver must submit to a post-accident drug and alcohol test as soon as possible after an accident:
 - which involves a fatality.
 - if the driver receives a citation for a moving violation and either a person is injured and receives immediate medical treatment away from the scene or one or more vehicles are damaged and must be transported away from the scene.
 - if a law enforcement official conducts a test at the scene, the driver must inform the District. A refusal to submit to a post-accident test is equal to a positive test result.
- **Random Testing** - Random testing of drivers will be conducted at the 50% rate for drug tests and the 25% rate for alcohol tests. Random testing will be unannounced and drivers must report to the collection site immediately after receiving notice of their selection. Refusal to report to the collection site or submit to the test will be equal to a positive test result.
- **Reasonable Suspicion Testing** - Any affected employee must report to a collection site and provide a specimen if, in the opinion of a District official (who has received training covering the indications of probable drug and/or alcohol abuse), there is reasonable cause to suspect the use of drugs and/or alcohol. Observations must be documented.

Specimen collection for reasonable suspicion testing will take place under the following circumstances:

- When an employee's error appears, on the basis of a preliminary investigation, to have caused an accident, injury, or damage to District or employee property or vehicle(s);
- Based upon appearance, speech, body odor or actions, a supervisor reasonably suspects that the employees' ability to work may be impaired by alcohol and or drugs; or the withdrawal effects of alcohol and/or drugs. Employees who refuse to be tested are subject to discipline up to and including discharge, depending upon the circumstances.

The driver will be escorted to the collection site by an agent of the District and arrangements will be made for the driver to be transported home after the specimen is collected. A driver who is directed to take a reasonable suspicion test will be placed on unpaid suspension pending the test results. If the result is negative the driver will be reimbursed for the time of suspension. A positive test result will result in discharge.

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

- **Return to Duty Testing** - If an employee after a voluntary referral to the EAP is determined to need treatment, the employee must take a return to duty test and have a negative result before returning to their position.
- **Follow-up Testing** - After EAP referral, treatment and a return to duty test, the employee must participate in unannounced testing for 1 year after reinstatement. A minimum of 6 specimens and a maximum of 12 specimens will be collected.

IV. Test Procedures

- A. Split sample urine specimens will be collected at a designated collection site under circumstances according to DOT/FEDERAL regulations (Part 40 of Title 49) designed to prevent sample switching and tampering. Urine specimens will be sealed and sent to the designated NIDA certified laboratory for testing. Detailed records will be kept to prevent misidentification of samples.
- B. The following protocol will apply to all specimen collections:
1. The applicant/employee will provide a urine sample at the assigned collection site at the appointed time.
 2. The applicant/employee will participate in the chain of custody procedures in order to insure accurate collection by:
 - providing photo identification,
 - completing and signing consent, release of information, and Chain of Custody forms,
 - following DOT/FEDERAL during collection procedures in cooperation with the collection site.
 3. Under split specimen procedures, the donor must provide 45 ml. in a specimen container. The collector will pour 30 ml. into one bottle and seal it; the remaining sample of 15 ml. will be sealed in a second bottle. Both bottles will be sent to the laboratory. The bottle with 30 ml. will be the primary specimen and the second bottle will be held by the laboratory and analyzed only after a verified positive by the MRO and the employee requests the analysis within 72 hours of notification by the MRO.
 4. The applicant/employee refuses to provide the specimen for drug testing, the situation will be considered equal to a positive test and the same consequences will apply.
- C. All positive urine screens will be confirmed through GC/MS testing (Gas Chromatography/Mass Spectrometry) before any discipline is imposed or hiring decisions are made.

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

- D. A Medical Review Officer (MRO) will review all DOT regulated drug tests performed by the laboratory. The MRO is to determine whether positive test results indicate illegal drug use or whether other medial explanations could account for the result. The MRO will inform the employee of their findings.

On all "positive" drug screen test results, the MRO will make two attempts on two consecutive days to first contact the applicant/employee and review their findings. If the applicant/employee cannot be reached during the above-mentioned time frame, the District management will be contacted and informed to contact the applicant/employee and have such person make themselves available to be contacted by the MRO to review their findings. If the applicant/employee does not make themselves available to be contacted by the MRO, the consequences to the applicant/employee will be equal to that of a positive test result, which is immediate discharge.

V. Alcohol Tests

All alcohol tests conducted under this regulation require that the driver provide a breath specimen. The driver must provide either a breath or blood specimen, as directed by a law enforcement officer after an accident.

Alcohol tests will be administered using a breath specimen, taken by a breath alcohol technician (BAT) using an approved breath testing devise (EBT), except in cases of on-scene post-accident testing conducted by federal, state, or local officials. Before being tested by the District, each driver will be required to (i) present their personal identification, and (ii) execute a DOT "Breath Alcohol Test Form" provided by the BAT. A driver who refuses to provide their identification, provides a false identification, refuses to execute the DOT "Breath Alcohol Test Form," or who otherwise refuses or fails to cooperate, will be treated as though they had tested positive and will be subject to discharge, in addition to the penalties imposed by DOT. Prior to each alcohol breath test conducted by the District, the BAT will instruct the driver on how the test will be performed.

To protect each driver, the BAT will attach to the testing device an individually sealed mouthpiece in the driver's view. The driver will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained. In the event that a driver is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the driver will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid medical condition does exist, the test result will be reported to the District as "negative." If the physician determines that a valid medical condition does not exist, the result will be reported to the District as a "confirmed positive."

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be recorded as a "negative," and no additional tests will be required at that time. In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. If the confirmatory test registers an alcohol concentration level of 0.02 or greater, it will be considered a positive test. In the event that the driver provides an adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the District as "negative."

VI. Consequences

The consequence of testing positive for drugs and alcohol of either 0.02 or 0.04 is termination. The employee will be provided with EAP referral information at the time of their discharge.

VII. Confidentiality and Privacy

The District will attempt to ensure that all aspects of the testing process are as private and confidential as reasonably practical. Actual test results will be provided to supervisors and managers who have a need to know such information, to the person tested and any person permitted or required by law or regulation to receive such information. Except as required by law, test results will not be disclosed to co-workers, an employee's family, uninvolved supervisors, or law enforcement authorities, without the specific permission of the person tested. The District will, however, inform the police of trafficking in illegal drugs by employees and will turn over to the police any illegal drugs confiscated on District property.

VIII. Discipline for Possessing, Using, Selling, Buying, or Transferring Drugs or Alcohol

Employees caught possessing, using, selling, buying, or transferring drugs or alcohol while at work, on District premises, or while using District vehicles will be terminated and appropriate local law enforcement agencies will be informed. Employees arrested for selling drugs to, or buying them from, another employee will be suspended without pay and if convicted, terminated. Depending on the circumstances, employees arrested for and convicted of other drug offenses may also be terminated.

IX. Voluntary Treatment and Counseling

Employees who request treatment or leaves of absence for treatment will not be subject to discipline; employees may not, however, escape discipline by first requesting such treatment or leaves after being selected for testing or violating District Policies and rules. Such requests for treatment will be kept confidential in accordance with federal and state law.

Lower Merion School District

Policy No.:	322-1
Section:	EMPLOYEES
Title:	DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted:	11/20/95
Date Last Revised:	5/7/21; 4/21/03

Any employee who feels he or she may have a substance abuse problem is urged to contact 877-240-6863. Such employees will not be disciplined or retaliated against.

A. Referral, Evaluation and Treatment

1. Each CDL employee who tests positive for alcohol 0.02 but less than 0.04 shall be advised by the School District of the resources available to the CDL employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

2. Each CDL employee who engages in conduct prohibited in subparagraph F under "Consequences for Covered CDL Employees Engaging in Misuse of Alcohol or Controlled Substances" shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use.

3. Before a CDL employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by subparagraph F under "Consequences for Covered CDL Employees Engaging in Misuse of Alcohol or Controlled Substances," the CDL employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved a controlled substance.

a. In addition, each CDL employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use: (i) shall be evaluated by a substance abuse professional to determine that the CDL employee has properly followed any rehabilitation program prescribed and (ii) shall be subject to unannounced follow-up alcohol and controlled substance tests administered by the School District following the CDL employee's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and consist of at least six tests in the first 12 months following the CDL employee's return to duty. The School District may direct the CDL employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the substance abuse professional determines that return-to-duty and follow-up testing for both alcohol and controlled substance is necessary for that particular CDL employee. Any such testing shall be performed in accordance with the requirement of 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the CDL employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing

Lower Merion School District

Policy No.: 322-1
Section: EMPLOYEES
Title: DRUG AND ALCOHOL TESTING OF EMPLOYEES
Date Adopted: 11/20/95
Date Last Revised: 5/7/21; 4/21/03

at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

4. Evaluation and rehabilitation will be provided by the School District in conjunction with the Employee Assistance Program.

5. The School District shall ensure that a substance abuse professional who determines that a CDL employee requires assistance in resolving problems with alcohol misuse or controlled substances use does not refer the CDL employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a CDL employee for assistance provided through:

- a. a public agency, such as a State, county, or municipality;
- b. the School District or a person under contract to provide treatment for alcohol or controlled substance problems on behalf of the School District;
- c. the sole source of therapeutically appropriate treatment under the CDL employee's health insurance program; or
- d. the sole source of therapeutically appropriate treatment reasonably accessible to the CDL employee.

6. The requirements of this section with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a pre-employment alcohol or controlled substance test or who have a pre-employment alcohol test with a result indicating an alcohol concentration of 0.04 or greater or a controlled substance test with a verified positive test result.

Legal references:

49 U.S.C. §1301, 1434, 2717

49 C.F.R. Parts 40 and 382