

Scope

To ensure a safe and productive work and learning environment at all District schools and facilities, as well as to safeguard District property, the District strictly prohibits the sale, distribution, possession, use, or being under the influence of illegal drugs and/or alcohol on District premises, facilities, or worksites, or while conducting District business or attending any school-related function or activity, on or off school property. District vehicles, whether in use or parked on District premises or worksites, as well as private vehicles parked on District premises or worksites are locations included within this prohibition.

Definitions

The following definitions shall apply:

1. "Alcohol" means alcohol beverages, mixtures, or preparations, including any medication, which contains ethyl alcohol or other low molecular weight alcohols.
2. "Illegal drug" means any controlled substance as defined by the federal or state controlled substances acts.
3. "Legal drug" means a drug prescribed by a licensed physician for an employee, taken in accordance with the physician's instructions, which the physician has advised will not adversely affect the employee's ability to perform work safely.
4. "OTA-covered" means all employees covered by the Omnibus Transportation Employee Testing Act (OTA) and includes all District employees who operate commercial motor vehicles and are subject to commercial driver's license requirements as set forth in DHE(LEGAL).
5. "Safety sensitive" means a position or function in which improper action or failure to take appropriate action could result in irreparable consequences leading to injury or death of the employee or others and/or significant property or environmental damage.
6. "Safety-sensitive function," as applied to an OTA-covered employee, means all time spent engaged in the following tasks:
 - a. Operating the driving controls of a commercial motor vehicle;
 - b. Waiting to be dispatched;
 - c. Inspecting, servicing, or conditioning any commercial motor vehicle;
 - d. Loading or unloading a commercial vehicle, whether supervising, assisting, or attending;

- e. Remaining in readiness to operate a commercial vehicle;
 - f. Giving or receiving receipts for shipments loaded or unloaded;
 - g. Performing the driver requirements associated with an accident; and
 - h. Repairing, obtaining assistance, or remaining in attendance a disabled vehicle.
7. "Other safety-sensitive positions" includes all positions in which an employee performs any of the safety-sensitive functions listed above, with respect to any District-owned motor-driven vehicle or motor-driven equipment. By way of example only, this includes all employees who, in the course and scope of their employment with the District, operate any District-owned motor vehicle or equipment (for the transportation of students or otherwise), or perform maintenance or repair work on such vehicles or equipment.
8. "Under the influence" means being unable or unwilling to perform work in a safe and/or productive manner; being in a physical or mental condition that creates a risk to the safety and well-being of the individual, students, or other employees, the public, or District property; and/or the presence of an illegal drug or alcohol, or the metabolite of an illegal drug, in an employee's system.
9. "Use" means the injection, inhalation, ingestion, or application of a substance to or into a human body.

**Employee
Restrictions**

No employee shall report for duty or remain on duty while under the influence of, or impaired by, alcohol as shown by the behavioral, speech, and performance indicators of alcohol misuse; nor shall the District permit the employee to perform or continue to perform the functions of his or her position after obtaining a test result showing an alcohol concentration of 0.02 or greater. [See DHE(LEGAL)]

No employee shall report for duty or remain on duty while under the influence of, or impaired by, a controlled substance, as shown by the behavioral, speech, and performance indicators of drug use; nor shall the District permit the employee to perform or continue to perform the functions of his or her position until the suspicion is validated or invalidated.

**Safety Sensitive
Positions**

A list of employee positions in which an employee may be required to perform "safety-sensitive" duties or functions as defined in DHE(LOCAL) will be compiled and disseminated to all District

worksite locations. The list of employee positions will be reviewed and updated on an annual basis in consultation with supervisory personnel from departments in which employees performing safety-sensitive duties or functions are employed.

District Contact Person

The Assistant Superintendent of Human Resources is the District contact person for the program and for the company in charge of testing. The Assistant Superintendent for Human Resources or designee will coordinate the program and will answer questions.

Pre-Employment Testing

All applicants for employment in the District who have been offered employment in an OTA-covered or other safety-sensitive position, whether contract or noncontract, including all District employees who operate commercial vehicles and are subject to commercial driver's license requirements as set forth in DHE(LEGAL), shall be required to submit to drug and/or alcohol testing as a condition of employment. A positive test result for drugs and/or alcohol will result in ineligibility for employment in the District.

Current employees applying for transfer to OTA-covered or other safety-sensitive positions shall also undergo drug and/or alcohol testing prior to assuming the duties of the new position.

Process for Random Testing Selection

Employees in OTA covered or other safety sensitive positions shall be subject to random testing. "Random" means that at various times, covered employees will be required to submit to periodic, unannounced drug and alcohol testing. The selection of employees to be randomly tested shall be made by a scientifically valid method to ensure that each employee has an equal chance of being tested each time.

The minimum annual percentage rate for random alcohol testing of OTA-covered employees shall be ten percent of the average number of OTA-covered employees employed by the District. The minimum annual percentage rate for random controlled substance testing of OTA-covered employees shall be 50 percent of the average number of OTA-covered employees employed by the District. The percentage rate for random testing of OTA-covered employees is subject to change or revision as determined by the Federal Highway Administration.

Employees in other safety-sensitive positions shall be subject to random alcohol testing at a minimum percentage rate of ten percent and random controlled substance testing at a minimum annual percentage rate of ten percent of the average number of employees eligible for random testing pursuant to DHE(LOCAL) who are not otherwise OTA-covered.

Random Testing Pool

The random testing pool shall include:

1. All employees who are covered by pre-employment testing and, in addition;
2. All teachers using motor-driven equipment or power hand tools in their assignment (shop, agriculture, drama, etc.);
3. All custodians; and
4. All food service auxiliary employees.

Post-Accident Testing

Reasonable suspicion shall be deemed to exist whenever an employee is involved in an accident while operating a motor-driven vehicle or motor-driven equipment in the course and scope of his or her employment.

Post-accident testing shall take place for any District employee within eight hours of the accident in situations where:

1. The accident involved the loss of human life;
2. The district driver receives a citation and there is bodily injury involved with immediate medical treatment away from the scene; or
3. The district driver receives a citation and there is disabling damage to any motor vehicle requiring tow away.

All work-related accidents involving District-owned equipment and/or vehicles shall be reported immediately to a supervisor. The supervisor shall immediately review the accident and evaluate the necessity for further investigation and/or post-accident testing.

Reasonable Suspicion Report

All employees are required to report to their supervisors when they suspect an employee may be under the influence of drugs or alcohol. All employees, regardless of position, will be subject to reasonable suspicion testing for drugs and/or alcohol.

Supervisors shall complete the supervisor's documentation for drug and alcohol testing reports detailing facts, symptoms, or observations that formed the basis for the determination that reasonable suspicion existed to require the testing of an employee. Supervisory personnel shall be trained to recognize signs of alcohol misuse and/or drug abuse prior to rendering a decision that reasonable suspicion exists to test an employee. Such training shall include information that will help supervisors recognize the conduct and behavior that gives rise to a "reasonable suspicion" of drug and/or alcohol use.

When a supervisor has a reasonable suspicion of drug or alcohol use, the supervisor shall contact the Assistant Superintendent of

Human Resources or his/her designee. The District's determination must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

Testing must be conducted as soon as practicable, but in no event shall testing for alcohol occur more than eight hours after the observations or accident giving rise to the testing; testing for drugs must occur within 32 hours. Necessary medical attention shall not be delayed for the purpose of performing post-accident testing.

Testing Protocols

The following drug and alcohol testing protocols will be followed by the District:

Consent to Drug or Alcohol Testing

1. Any employee requested to submit to drug and/or alcohol testing shall sign a consent form provided by the testing agency prior to the test. Such consent will allow the laboratory to send the results to the District for its use in evaluating the applicant or employee for initial or continued employment. The employee shall be given a copy of the consent, and the original shall be filed in the personnel record of the employee.

Privacy in Screening

2. Employees will be afforded privacy in providing urine samples such that he or she may not be viewed while providing the sample unless the District or its representative has reason to believe the employee will attempt to alter or substitute the sample. Such reasons are limited to those set forth in 49 CFR 40.25, including:

- a. When the employee has presented a urine specimen that falls outside the normal temperature range (32° - 38° C / 90° - 100° F) and the employee declines to provide a measurement of oral body temperature or the employee's oral body temperature varies by more than 1 C / 1.8 F from the temperature of the specimen;
- b. A urine specimen provided by an employee on a previous occasion was determined by the laboratory to have specific gravity of less than 1.003 and a creatinine concentration below .2g/L;
- c. Collection site personnel observe conduct clearly and unequivocally indicating an attempt to substitute or altercate the sample; or
- d. Where the employee has previously been determined to have used a controlled substance without medical authorization and the test is being conducted pursuant to Department of Transportation regulations providing for

follow-up testing upon or after return to service. Employees shall not bring personal items such as briefcases, purses, book bags, or other containers into the testing area. Employees shall also be required to remove all personal effects from their pockets prior to entering the collection site. Other appropriate measures, in accordance with applicable federal and state law and regulations, may also be taken to prevent dilution and/or contamination of samples.

The initial alcohol screening will be by the Evidential Breath Testing (EBT or Breathalyzer) device and shall be conducted at a site selected by the District. The initial and, if needed, confirmatory alcohol screens shall be conducted by a Breath Alcohol Technician (BAT) and will afford the employee as much privacy as is practicable under the particular circumstances. At a minimum, the BAT will ensure that the test results will not be disclosed to unauthorized persons.

Screening Procedure

The following procedures shall be followed by the District in screening applicable applicants and employees for drug abuse or alcohol misuse:

Processing of
Samples

1. Collection of urine samples will be conducted in accordance with 49 CFR part 40, including utilization of a split sample. Upon receipt of the urine sample from the person being screened, the person supervising the screening will test the temperature of the urine and initiate the processing of the sample. The sample will be sealed, and the person supervising the sample will sign the sealed sample. The sample will be labeled with a control number, the date, and the time the specimen was obtained. The seal will be broken only by the individual performing the analysis.
2. All drug tests will be conducted by a laboratory certified by the Department of Health and Human Services (DHHS), also commonly referred to as a "NIDA-certified" laboratory. The laboratory will be instructed to initially perform an immunoassay test known as an "EMIT" screen. If the EMIT screen is positive, the results will be confirmed by a second test utilizing gas chromatography/mass spectrometry (GC/MS).
3. The laboratory shall be instructed to perform only tests relating to the presence of the illegal drugs listed below, and under no circumstances shall the laboratory be permitted to perform additional tests. In instances where the employee has failed to comply with the reporting of legal drugs as provided for by DHE(LOCAL), such drugs will be treated as illegal drugs until

such time as the employee can offer credible evidence of the contrary.

Drugs to be
Screened For

When drug and/or alcohol screening is required, a urinalysis and/or EBT will be given to detect the presence of the drugs listed below. Confirmatory tests will be performed only in the event the initial screen is positive. A positive result means that a specimen has been found to contain the drugs and/or their metabolites in excess of the levels set forth below and has been reviewed and verified by the MRO or a BAT. These screening levels are subject to change by the District as advances in technology or other considerations warrant identification of those substances at other concentrations.

Drug Class	Initial Screen	Confirmatory Screen
Marijuana	50 ng / ml	15 ng / ml
Cocaine	300 ng / ml	150 ng / ml
Opium	300 ng / ml	300 ng / ml
Phencyclidine	25 ng / ml	25 ng / ml
Amphetamines	1,000 ng / ml	500 ng / ml
Alcohol *	.02	.02

* Both the initial screen and confirmatory test for alcohol shall be by use of EBT. If a confirmatory test is necessary, the confirmatory test results shall control for disciplinary purposes.

Reporting of Results

The laboratory will report the results of the test to a medical review officer (MRO). An MRO is a physician, not associated with the laboratory, which has knowledge of substance abuse disorders and has appropriate training to interpret and evaluate a confirmed positive test along with the individual's medical history and related biomedical information.

All information from an employee's drug or alcohol test(s) is confidential, and only those District officials with a specific need to know may be informed of screening results by the MRO or BAT. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee tested or as provided by applicable state and federal laws and regulations.

All records relating to the taking of a drug and/or alcohol screen shall be deemed confidential, unless written authorization has been obtained from the person, except in accordance with applicable

laws and regulations or if the records become the subject of an administrative or judicial proceeding.

Records will be maintained by the human resources department and access to the records shall be limited as set forth herein. Retention and storage of samples and records shall be conducted in accordance with DHHS guidelines for drug and alcohol testing programs and/or Department of Transportation regulations.

**Consequences of a
Confirmed Positive
Test Result**

If an employee receives a confirmed positive breath test for alcohol, the employee being tested may, at his or her option and expense, be taken to a medical facility or laboratory selected and approved by the District for blood analysis. Samples for such blood analysis must be provided within one hour after the BAT verifies the confirmed positive. The samples will be taken in a private examining room by medically trained personnel who are certified to withdraw blood by needle from a person. If the employee opts to undergo blood analysis in such cases, the employee will be suspended pending the results. The results of the blood analysis shall control for disciplinary purposes.

An applicant or employee who has a positive result after an initial drug screening by the EMIT and a confirmatory test using the gas chromatography/mass spectrometry (GC/MS) test, which is then verified by an MRO, the employee may, at his or her own option and expense, opt to have the second portion of his or her split urine sample tested by a second DHHS-certified laboratory. The employee must exercise this option within 72 hours after he or she is informed of the verified positive, or this option is waived. If the employee opts to have the second portion of his or her split urine sample tested, the final results of the second test shall control for disciplinary purposes.

An employee who has a confirmed positive for drugs and/or alcohol will be referred to the Employee Assistance Program (EAP). Referral to EAP will have no effect or bearing on the type or nature of action that may be taken against an employee pursuant to the provisions of policy DHE(LOCAL).

An applicant who has a positive result after an initial drug screening by the EMIT and a confirmatory test using the GC/MC test which is then verified by an MRO, or who tests positive for alcohol, shall not be eligible for employment by the District.

In the event an employee is not terminated after receiving a positive, reasonable suspicion, post-accident, or random test result, such employee must submit to return-to-duty and/or follow-up test-

ing, as set forth in DHE(LOCAL), prior to performing a safety-sensitive function. Such employees must also successfully complete the treatment and/or counseling, if any, recommended by the SAP.

An employee subject to termination for violation of DHE(LEGAL) and (LOCAL) shall have the same rights of hearing and appeal as if disciplined for any other violation of District policy. [See DGBA]

**Use of Prescription
Drugs**

An employee who uses a legal drug, including alcohol, authorized by a licensed physician in accordance with a prescription specifically for that employee's use shall not be considered to have violated this policy unless the employee is actually engaged in the performance of a safety-sensitive function.

An employee engaged in the performance of a safety-sensitive function must:

1. Report all therapeutic drug use, whether prescription or non-prescription, to his or her immediate supervisor or department administrator; and
2. Only report for duty or remain on duty while under the influence of a legal drug if such drug is authorized by a licensed physician in accordance with a prescription specifically for that employee's use and the physician has advised that the drug does not affect the employee's ability to perform work in a safe manner.

Employees should be reminded that the taking of another person's prescribed medication is not an acceptable reason for having a positive test; this is an illegal use of controlled substances and is a felony violation of law.

**Return-to-Duty
Testing**

Any employee who has been off duty as a result of a violation of this policy or as a result of a self-referral for alcohol or drug abuse shall, if permitted to return to work, be required to take a return-to-duty test for alcohol and/or controlled substance abuse. Acceptable results of the test(s) shall be reported before the employee may resume work.

Follow Up Testing

An employee who has been determined to be in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances is subject to unannounced follow-up testing.

Confidentiality

All reports received by the District regarding drug or alcohol testing results shall be maintained by the District as confidential information. Such reports may be used by the District as the basis for a course of action regarding discipline or employment status.

Refusal to Consent to Testing

Refusal to submit a urine, blood, and/or breath sample immediately upon request, or failure to cooperate fully as directed during the testing procedure, shall be considered a violation of this policy. The employee shall be subject to the same disciplinary action as when submitting a positive sample. Failure to produce an adequate sample without a valid medical reason or engaging in conduct that clearly obstructs the collection process, shall be considered a refusal to test.

Consequences of Violation of Policy

Employees found to be in violation of this policy or its administrative regulations shall be subject to the full range of disciplinary action, up to and including termination. The severity of the action chosen will depend on the circumstances of each case and will be consistent with the District's efforts to maintain a drug-free workplace. The District shall initiate disciplinary action against any employee found to use illegal drugs, provided that such action is not required for an employee who, absent notification of an impending test, voluntarily admits to the use of illegal drugs and obtains counseling or rehabilitation, and thereafter refrains from using illegal drugs.

District employees who test positive for alcohol and/or a controlled substance and who are terminated for violating this policy or its administrative regulations are not eligible for reemployment.

An employee who uses a legal drug, including alcohol, authorized by a licensed physician in accordance with a prescription specifically for that employee's use, shall not be considered to have violated this policy unless the employee is actually engaged in the performance of a safety-sensitive function. In order to comply with the terms of this policy, an employee engaged in the performance of a safety-sensitive function must:

1. Report all therapeutic drug use, whether prescription or non-prescription, to his or her immediate supervisor or department administrator.
2. Only report for duty or remain on duty while under the influence of a legal drug if such drug was authorized by a licensed physician in accordance with a prescription specifically for that employee's use and the physician has advised that the drug does not affect the employee's ability to perform work in a safe manner.

Notification of all Criminal Drug Statute Convictions

Pursuant to the federal Drug-Free Workplace Act of 1988, an employee must notify the District in writing of any criminal drug statute conviction for a violation occurring in the workplace, including a plea of nolo contendere, no later than five days after such conviction. In addition, the District requires that an employee so report at

any time the employee has pled guilty or nolo contendere, or has been convicted of a drug offense, regardless of the disposition (i.e., an actual sentence, a suspended sentence, deferred adjudication, probation, or the like) or where the offense occurred.

**Drug and Alcohol
Treatment,
Rehabilitation, and
Education**

The District provides an Employee Assistance Program (EAP) for all employees. District employees may obtain treatment and assistance with drug and alcohol abuse problems through the EAP.