INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating our students to reach their full potential

Series Number **406.3.4AR** Adopted **December 1994** Revised **June 2020**

Title **Drug and Alcohol Testing of Employees Required to Have a Commercial Driver's License (CDL)**

1. **Application and Definitions** – This regulation applies to all employees (known as "safety-sensitive employees" in federal law) whose job duties include operating a commercial motor vehicle and who are required to hold a commercial driver's license (CDL). For the purposes of this regulation, the following definitions will apply:

   1.1 Performance of Safety-Sensitive Duties – An employee who drives a commercial motor vehicle is considered to be performing a safety-sensitive function from the time the employee begins work until the time the employee completes work.

   1.2 Commercial Motor Vehicle – A vehicle or combination of vehicles used to transport passengers or property if the vehicle meets any of the following criteria:

      1.2.1 Has a gross combination weight rating or gross combination weight of 26,001 or more pounds, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or

      1.2.2 Has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; or

      1.2.3 Is designed to transport 16 or more passengers including the driver, or

      1.2.4 Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which requires the vehicle to be placarded.

   1.3 Medical Review Officer (MRO) – A physician who reviews all drug tests and reports them back to the employer.

   1.4 Substance Abuse Professional (SAP) – A licensed physician, certified or licensed psychologist or social worker, or an employee assistance professional who has received additional training on the use of drugs and alcohol and their effect on drivers.

2. **Types of Tests** – District 196 employees required to have a commercial driver's license (CDL) will be subject to the following types of alcohol and drug tests, in accordance with rules from the U.S. Department of Transportation.

   2.1 Pre-employment – Conducted before an applicant is hired or after an applicant is given an offer to hire, but before the person performs functions which require a CDL for the first time, and when a current employee transfers to a position which requires a CDL.

      2.1.1 A person who applies for a job which requires a CDL will be asked to take a pre-employment physical examination and a drug test. Candidates for safety-sensitive positions who fail to pass these pre-employment requirements will not be hired.

2.1.2 Job applicants will be asked to read and sign certain consent and release forms, and are asked to comply with the following guidelines.

2.1.2.1 Show up promptly at the scheduled examination and/or testing time and present a picture identification.

2.1.2.2 Carefully read all forms before signing them, and understand that their signature indicates understanding of the test and its potential results.

2.2 Post-accident – Conducted as soon as possible after an accident involving a commercial motor vehicle if the accident involves the loss of human life or if the employee receives a citation under state or local law for a moving traffic violation arising out of the accident. Relevant employees may be asked to complete District Procedure 406.1.4.2.2P, Post-Accident Testing Procedure for Employees Required to Have a CDL.

2.3 Reasonable suspicion – Conducted when a trained supervisor observes an employee's behavior, appearance, speech or body odor that is characteristic of alcohol misuse or drug use during, just preceding or just after the period of the work day that the employee is performing functions which require a CDL. District Procedure 406.3.4.2.3P, Reasonable Suspicion Observation Form for Employees Required to Have a Commercial Driver's License (CDL), will be used in investigating relevant incidents of reasonable suspicion;

2.4 Random – conducted on a random, unannounced basis just before, during or just after performance of functions which require a CDL, and

2.5 Return-to-duty and follow-up – conducted when an employee who has violated the prohibited alcohol or drug conduct standards returns to performing duties which require a CDL. Follow-up tests are unannounced, at least six must be conducted in the first 12 months after an employee returns to duty and the testing may be extended for up to 60 months following the employee's return to duty. District Procedure 406.3.4.2.5P, Return-to-Duty and Follow-up Testing Checklist for Employees Required to have a Commercial Driver's License (CDL), shall be completed to document the return–to-duty and follow-up testing process.

3. **Testing Methods** – All testing will be conducted by an approved facility.

3.1 Alcohol testing will be done through the use of breath testing using evidential breath testing devices approved by the National Highway Traffic Safety Administration.

3.1.1 A screening test will be conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test.

3.1.2 A second, or confirmation, test will be conducted if the alcohol concentration in the screening test is 0.02 or greater.

3.1.3 The employee and the individual conducting the breath test will complete the alcohol testing form to ensure that the results are properly recorded.

3.2 Drug testing will be done by analyzing an employee's urine specimen. The employee provides a urine specimen in a location that affords privacy, and the "collector" seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory certified by the U.S. Department of Health and Human Services. The specimen is divided into two bottles labeled as a "primary" and a "split" specimen.

3.2.1 Only the primary specimen is opened and used for the urinalysis by the drug testing laboratory. The split specimen bottle remains sealed and is stored at the laboratory.

3.2.2 If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee will be notified of the positive results and will have 72 hours to request the split specimen be sent for analysis to another drug testing laboratory certified by the U.S. Department of Health and Human Services.

3.3 The refusal by an employee to take a required test will be documented by the employee's supervisor, the employee will be forbidden from performing functions which require a CDL and appropriate disciplinary action (up to and including dismissal) will be taken.

4. Response to Results of Alcohol and Drug Tests

4.1 Alcohol

4.1.1 An employee who has any alcohol concentration in their breath when tested just before, during or just after performing a safety-sensitive function will be removed from performing safety-sensitive duties for at least 24 hours.

4.1.2 No employee shall use alcohol while performing safety-sensitive functions. No employee shall perform safety-sensitive functions within four hours after using alcohol. No employee shall report for duty or remain on duty requiring the performance of a safety-sensitive function while having an alcohol concentration of 0.02 or greater. An employee with an alcohol concentration of 0.02 or greater will be immediately removed from functions which require a CDL and upon the application of all required testing procedures and rights, will either be reassigned to duties that do not require a commercial driver's license and/or subject to discipline, including termination from employment.

4.1.3 The district will advise the employee of the resources available to help evaluate and resolve problems associated with misuse of alcohol, including the names, addresses and telephone numbers of substance abuse professionals, counseling centers and treatment programs.

4.1.4 If a breath test cannot be administered to an employee whose behavior or appearance suggests alcohol misuse, in addition to other possible consequences, the employee will be removed from performing duties which require a CDL for at least 24 hours.

4.2 Drugs

4.2.1 An employee who has a positive drug test result will be removed from duty which requires a CDL after the employee has been interviewed by a medical review officer (MRO) and the MRO has determined that the positive drug test resulted from the unauthorized use of a controlled substance. At the discretion of the school district, the employee may either be reassigned to duties that do not require a CDL and/or subject to discipline, including termination from employment.

4.2.2 The district will advise the employee of the resources available to help evaluate and resolve problems associated with misuse of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals, counseling centers and treatment programs.

4.3 Termination

4.3.1 The employee may be terminated if one or more of the following items apply to that employee.

4.3.1.1 The employee has violated any of the prohibitions of this regulation or federal law regarding alcohol or drug use by safety-sensitive employees, including:

4.3.1.1.1 The employee has a confirmed alcohol test result with a concentration of 0.02 or greater;

4.3.1.1.2 The employee has a positive drug test for the unauthorized use of a controlled substance;

4.3.1.2 The employee refuses to be tested; or

4.3.1.3 The employee is disqualified from driving a commercial motor vehicle as a result of the requirements of state or federal law.

5. **Confidentiality**

5.1 Employee alcohol test results and related information will only be released to the district and persons or organizations explicitly authorized by federal law to receive such information in the course of the drug or alcohol testing process, including the substance abuse professional. Any other release of information will only be done with the written consent of the employee, or as required or permitted by federal law.

5.2 Employee drug test results and related information will only be released to the district and persons or organizations explicitly authorized by federal law to receive such information in the course of the drug and alcohol testing process, including the substance abuse professional. Any other release of information will only be done with the written consent of the employee, or as required or permitted by federal law.

5.3 Notwithstanding the above, if an employee initiates a grievance, hearing, lawsuit or other action as a result of a violation of these regulations, or in any civil or criminal action in which the court determines the information to be relevant, the district may release relevant information to the decision-maker. The district may also release information as permitted or required by 49 C.F.R 40.331, including to state or federal agencies exercising regulatory authority.

5.4 Aggregated data in statistical records and reports are maintained by the district and by drug testing laboratories. This data is used to monitor compliance with the rules and to assess the effectiveness of the alcohol and drug testing programs.

6. **Records**

6.1 The district will keep detailed records of the alcohol and drug testing programs. Drug and alcohol records relating to individual employees will be kept for 30 years after retirement or termination. All other records will be kept in accordance with 49 C.F.R 40.333.

6.2 All records will be kept in a secure location with controlled access.

7. **Educational Materials** – The district will provide educational materials to affected employees to meet the requirements of 49 C.F.R. Part 382.601. Each driver shall be required to sign a statement certifying receipt of the educational materials, which shall be maintained by the district. Written notice of the availability of the educational materials shall also be provided to representatives of employee organizations.

References:
- Omnibus Transportation Employee Testing Act of 1991, 49 C.F.R., Parts 382 and 49 C.F.R. Parts 40, et. al., U.S. Department of Transportation
- Minnesota Statute 169A.31, Alcohol-Related School Bus or Head Start Bus Driving