

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION MANDATED DRUG AND ALCOHOL TESTING PROGRAM: 6635

The Superintendent/designee shall establish programs and procedures as mandated by and in accordance with Federal Motor Carrier Safety Administration (FMCSA) controlled substances and alcohol testing rules. In regards to drug and alcohol testing for District drivers, the District shall comply with all Federal, State, and local laws and regulations. If any provisions in District policies or procedures do not comply with Department of Transportation or other governmental laws and regulations, such provisions in policy or procedure shall be superseded by applicable laws or regulations.

Prohibited Alcohol and Controlled Substance-Related Conduct

The following alcohol and controlled substance-related activities are prohibited by the District for drivers required to possess a commercial driver's license (CDL) as part of their job responsibilities. Violations shall result in appropriate corrective action ranging from removal from the performance of safety-sensitive functions up to and including discharge:

1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration in excess of the standard set by the FMSCA, 0.04 or greater.
2. Being on duty or operating a vehicle while in the possession of alcohol.
3. Using alcohol while performing safety-sensitive functions.
4. When required to take a post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
5. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements.
6. Using alcohol within four hours of going on duty, operating or having physical control of a vehicle requiring a CDL to operate.
7. Reporting for duty or remaining on duty when using any controlled substance, except when instructed by a physician who has advised the driver and the District that the substance does not adversely affect the driver's ability to safely operate a vehicle. Drivers are required to inform the District of any therapeutic drug use. The use of any medication that could affect a driver's safe job performance is prohibited while working.
8. Reporting for duty, remaining on duty or driving if tests positive for controlled substances.

Revised or Adopted under Policy Governance – 8/28/12

This policy is also found as Policy – 5202, which was Revised and Adopted under Policy Governance – 10/11/11

Formerly Policy – 5259; Adopted or Previously Revised - 05/11/98

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Testing Requirements

The following identify the occasions on which a driver shall be subject to alcohol or controlled substances testing. The Superintendent/designee is responsible for the development and implementation of procedures for conducting the tests and administering the exemptions consistent with the federal rules.

- 1. Pre-employment testing:** Prior to the first time a driver performs a safety-sensitive function for the District, the driver shall undergo testing for controlled substances. This testing requirement may be waived under FHWA rules for CDL drivers recently employed elsewhere for whom testing records are available from their previous employers.
- 2. Post-accident testing:** Each surviving driver of an accident, as defined by the FHWA, shall be tested for alcohol and controlled substances.
- 3. Random testing:** Annually the District will arrange for the unannounced random alcohol and controlled substances testing of its drivers. Fifty percent (50%) of the District's drivers must be randomly selected for controlled substances testing each year, and 10% of its drivers for alcohol testing (or whatever level of testing is required in a given year by the FMCSA). Alcohol testing under this program shall take place just prior to, during or immediately after the driver engages in a safety-sensitive function for the District.
- 4. Reasonable suspicion testing:** A driver must submit to alcohol or controlled substances testing whenever a trained supervisor has a reasonable suspicion of alcohol misuse or controlled substances use based on specific, contemporaneous and articulable observations concerning the appearance, behavior, speech or bodily odors of the driver. Observations related to using alcohol must be made just prior to, during or immediately after the driver engages in a safety-sensitive function for the District, and the alcohol test must be given within eight hours following the determination of reasonable suspicion.
- 5. Return-to-duty testing:** If a driver is to be returned to performing safety-sensitive functions for the District after violating this policy or the Federal regulations, the driver shall be evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and/or use of controlled substances. If a driver is to be returned to performing safety-sensitive functions for the District following a violation of this policy or the Federal regulations, the driver shall first be evaluated by a SAP to determine that the driver has properly followed any rehabilitation prescribed. Before a driver could be returned to performing safety-sensitive functions for the District following a violation of this policy and/or the Federal regulations, the driver shall undergo a return-to-duty alcohol and/or

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controlled substances test resulting in an alcohol concentration below 0.02 alcohol concentration or the standard set by the FMCSA, or a negative controlled substances test.

6. **Follow-up testing:** Any driver that continues performing safety-sensitive functions for the District, following a determination that the driver requires assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances, shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a SAP. Follow-up alcohol testing shall be conducted only just prior to, during or immediately after the driver performs safety-sensitive functions.

Record Retention and Reporting

The Superintendent/designee is responsible for developing procedures for securely retaining records collected under this policy with controlled access and for the time periods established by the federal regulations. The Superintendent/designee is also responsible for developing procedures for reporting data collected under this policy as required by the Federal regulations.

Education, Training And Referral Services

The Superintendent/designee shall adopt educational materials that explain the requirements of this policy and the Federal program. The educational materials shall be distributed to each driver prior to the start of the testing program and to each driver subsequently hired or transferred into a position covered by this policy. Each driver after receiving a copy of the materials, shall sign a certificate of receipt and the District shall maintain the original of the receipt. The collective bargaining representative of the drivers, if any, shall be notified of the availability of this information. The educational materials shall include:

1. A copy of this policy and subsequent procedures;
2. The name of the person designated to answer questions about the materials;
3. The categories of employees covered by the policy;
4. A description of safety-sensitive functions, so that drivers will know which part of their tasks will be covered by this policy;
5. A specific description of conduct prohibited by this policy and the Federal program;
6. The circumstances under which a driver is subject to testing;

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7. The procedures used in the testing program, especially those that protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver;
8. The requirement that drivers must submit to testing required by this policy and the Federal program, and a description of what constitutes refusal to submit to required testing and the consequences of refusal;
9. The consequences for drivers who violate this policy and the Federal program, including immediate removal from conducting safety-sensitive functions;
10. The consequences for drivers found to have alcohol concentrations between 0.02 and 0.04; and
11. Information about the effects of alcohol and controlled substances on an individual's health, work and personal life and methods of intervening when a problem with alcohol or a controlled substance is suspected, including confrontation, referral to the staff assistance program and referral to management.

Supervisors designated to determine if reasonable suspicion exists that a driver is under the influence of alcohol or controlled substances must have at least sixty minutes of training on alcohol misuse and at least sixty minutes of training on use of controlled substances. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

The employed driver who violates this policy or the Federal regulations shall be informed of resources available for evaluation and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs, and the availability of counseling assistance through the Employee Assistance Program. Participation in the Employee Assistance Program, or other counseling or medical interventions, does not relieve the employee of the responsibility of being drug-free and alcohol-free while at work. Any staff member who violates any aspect of this policy may be subject to disciplinary action, which may include immediate discharge. As a condition of eligibility for reinstatement, an employee may be required to satisfactorily complete a drug rehabilitation or treatment program approved by the District, at the employee's expense. Nothing in this policy shall be construed to guarantee reinstatement of any employee who violates this policy, nor does the school district incur any financial obligation for treatment or rehabilitation ordered as a condition of eligibility for reinstatement.

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Cross References: Administrative Policy – 5201 Drug-Free Schools, Community and Workplace
Administrative Policy – 5203 Employee Assistance Program
Administrative Policy – 5280 Termination of Employment, Probation and Nonrenewal
Administrative Policy – 5281 Disciplinary Action and Discharge

Legal Reference: 49 CFR §§ 382.101 - 382.605
49 CFR § 392.5
49 CFR § 40

Management Resources:

Policy News, February 1999 Bus Drivers Still Tested for Marijuana
Policy News, December 2001 Federal Government Amends Bus Driver Drug Testing Rules