

## **Drug and Alcohol Testing for Bus Drivers**

School bus drivers who operate a motor vehicle requiring a commercial driver's license are subject to a drug and alcohol testing program that fulfills the requirements of the federal regulations.

These district regulations reflect several requirements of the federal drug testing regulations but are not intended in any way to modify or limit the procedures for drug and alcohol testing specifically addressed in federal regulation. District personnel will adhere to the detailed provisions of federal regulation in administering the district's drug and alcohol program.

References to *tests* in these regulations include both drug and alcohol tests unless the context specifies otherwise. The terms *drugs* and *controlled substances* are interchangeable and have the same meaning. *Drugs* refer to marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines).

### **Pre-employment drug tests**

Pre-employment drug testing will be administered to an applicant offered a position in the district prior to the first time the employee performs any safety-sensitive functions for the district. Employment with the district is conditional upon the applicant receiving a negative drug test result.

An employee may be exempt from the pre-employment drug test if the employee has participated in a drug testing program within 30 days prior to the application for employment and while participating in that program either was tested for drugs within the last six months (from the date of application) or participated in a random drug testing program in the previous 12 months, provided that the district has been able to make all verifications required by law.

### **Post-accident tests**

Post-accident alcohol and controlled substance tests will be conducted as soon after an accident as practicable on any employee who:

1. Was performing safety-sensitive functions with respect to the vehicle if the accident involved loss of human life; or

2. Where any person involved in the accident required immediate medical attention away from the scene and the driver received a citation under state or local law for a moving traffic violation arising from the accident; or
3. Where the vehicle required towing from the scene and the driver received a citation for a moving violation.

Post-accident alcohol tests should be administered within two (2) hours following the accident. Where an alcohol test is not administered within two (2) hours following the accident, alcohol testing shall be attempted until eight (8) hours have elapsed since the occurrence of the accident. The district shall maintain records documenting the reasons why the test was not performed within the two (2) hour time limit. If a test has not been performed within eight (8) hours of the accident, attempts to test for alcohol shall cease, but records documenting the reasons for the test's failure shall be maintained by the district.

No driver involved in an accident may use alcohol for eight hours after the accident or until after undergoing a post-accident alcohol test, whichever occurs first.

A controlled substance test following an accident must be administered within thirty-two (32) hours after the accident. If a controlled substance test is not performed within thirty-two (32) hours, further attempts to administer a controlled substance test shall cease and the district shall document and maintain records stating the reasons for the failure to test.

Drivers who do not remain readily available for controlled substance testing for the thirty two (32) hour period and alcohol testing for the two (2) hour period following an accident will be considered to have refused a test, and will be disciplined accordingly as set forth under enforcement.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours after the accident, the district will prepare and maintain records explaining why the test was not conducted.

Tests conducted by authorized federal, state or local officials will 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.

Before any driver operates a commercial motor vehicle, the district will provide post-accident procedures that will make it possible to comply with post-accident testing requirements.

### **Random tests**

Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol will be conducted just before, during or just after the performance of safety-sensitive functions. Random tests for drugs do not have to be conducted in immediate time proximity to performing safety sensitive functions. Once notified of selection for drug testing, an employee must immediately cease performing safety-sensitive functions and proceed directly to a collection site to provide a urine specimen.

Drivers will be selected by a scientifically valid random process, and each driver will have an equal chance of being tested each time a random selection is made regardless of whether the employee has been previously tested through a random test or other required controlled substance or alcohol test. The number of employees selected for random testing will be in accordance with federal regulations.

### **Reasonable suspicion tests**

Tests must be conducted when a properly-trained supervisor or district official has reasonable suspicion that the 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 chronic and withdrawal effects of controlled substances. The district will provide transportation to and from the testing site to all employees required to take a reasonable suspicion controlled substance or alcohol test.

Alcohol tests will be 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. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours.

The observations relating to alcohol testing must be made during, just preceding, or just after the period of the work day the employee is required to be in compliance with the Rule, as outlined under "Prohibited Conduct." An employee may be directed to take a reasonable suspicion alcohol test only while the employee is performing, just before performing or just after performing a safety-sensitive function.

If a reasonable suspicion alcohol test is not performed within two hours of a determination of reasonable suspicion, the district will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will be terminated after eight hours. The employee may not perform a safety-sensitive function once the reasonable suspicion determination has been made until:

1. an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
2. twenty-four (24) hours have elapsed following the reasonable suspicion determination. The district shall not take any further action against an employee who has not taken a reasonable suspicion alcohol test when required, unless the employee's conduct constituted a refusal to submit to an alcohol test, as outlined under Prohibited Conduct.

An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

A supervisor or district official who makes a finding of reasonable suspicion also must make a written record of his observations leading to a reasonable suspicion drug test within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

### **Return-to-duty tests**

A return-to-duty drug or alcohol test will be conducted when a driver who has violated the district's drug or alcohol prohibition returns to performing safety sensitive duties.

Employees whose conduct involved misuse of drugs may not return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol may not 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**

Only under self-reporting will follow up tests be administered.

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

drug or alcohol problem will be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing will be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

## **Records**

Employee drug and alcohol test results and records will be maintained under strict confidentiality and released only in accordance with law. Upon written request, an employee will receive copies of any records pertaining to the driver's use of drugs or alcohol, including any records pertaining to personal drug or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the employee.

## **Notifications**

Each employee will receive educational materials that explain the requirements of the 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 will be notified of the availability of this information. The information will identify:

1. The person designated by the district to answer driver questions about the materials.
2. Categories of drivers who are subject to the drug and alcohol testing requirements.
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear for what period of the work day driver compliance is required.
4. Specific information concerning driver conduct that is prohibited.
5. Circumstances under which a driver will be tested for drugs and/or alcohol.
6. 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 insure that test results are attributed to the correct driver.

7. The requirement that a driver submit to drug and alcohol tests administered in accordance with federal regulations.
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences.
9. Consequences for drivers found to have violated the drug and alcohol prohibitions including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment.
10. Consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.
11. Information concerning the effects of drugs and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a drug or alcohol problem, 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 administrative officials.

Each employee must sign a statement certifying receipt of a copy of the above materials.

The district will inform drivers before drug and alcohol tests are performed.

The district will 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 the employment application.

The district will notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district also will tell the driver which controlled substances were verified as positive.

Employees will inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect the ability to safely operate a commercial motor vehicle.

### **Self reporting**

All employees subject to this policy who believe they may have a problem associated with controlled substance use or alcohol misuse may contact their supervisor to receive information concerning treatment of such problems.

Employees subject to the requirement of this policy who come forward voluntarily for assistance with controlled substance use or alcohol misuse prior to being required to take a controlled substance or alcohol test pursuant to this policy, shall not be subject to dismissal from their employment with the district merely for disclosing their need for assistance.

However, the employee will be removed from performing safety-sensitive functions immediately, placed on approved leave from the district without pay, and will not be allowed to return to safety-sensitive functions until the employee has been evaluated by a substance abuse professional, has complied with any treatment plan recommended by a substance abuse professional, and a determination has been made by a substance abuse professional that the employee may return to the safety-sensitive position. Any rehabilitation required will be at the employee's expense. Only those employees who voluntarily come forward for assistance will be afforded the opportunity for return-to-duty and follow-up testing, as outlined under "Required Testing."

Employees who are not ready to perform safety-sensitive functions, as determined by a substance abuse professional, after a maximum of twelve (12) weeks from the time they first come forward, will be dismissed from their employment with the district. Employees who fail to maintain readiness for at least thirty-six (36) weeks following reinstatement with the district, shall be dismissed from their employment with the district.

### **Enforcement**

Any driver who refuses to submit to post-accident, random, reasonable suspicion or follow-up tests will not be allowed to perform or continue to perform safety-sensitive functions.

An employee who in any other way violates district prohibitions related to drugs and alcohol will receive from the district the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee will be evaluated by a substance abuse professional who will determine what help, if any, the driver needs in resolving such a problem.

Any substance abuse professional who determines that a driver needs assistance will not refer the driver to a private practice, person or organization in which the professional has a financial interest except under circumstances allowed by law.

Before the employee is returned to safety-sensitive duties, if at all, the district must ensure that the employee:

1. Has been evaluated by a substance abuse professional.
2. Has complied with any recommended treatment.
3. Has taken a return-to-duty drug and alcohol test with a result indicating an alcohol concentration level of less than 0.02.
4. Is subject to unannounced follow-up drug and alcohol tests. The number and frequency of such follow-up testing will be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the driver's return to duty.

#### Positive Test Results

When an employee has an alcohol Test result of greater than 0.02, but less than 0.04, the employee will be removed from the performance of a safety-sensitive function and sent home without pay for twenty-four (24) hours. No further action will be taken against the employee based upon this information alone.

Where such results occur multiple times, such occurrences may be treated as unexcused absences, pursuant to district policy.

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance the employee will be removed immediately from safety-sensitive function in accordance with the federal regulations. The employee will be referred to a substance abuse professional for evaluation and determination for need of rehabilitation services. However, employees who have a verified positive test for controlled substances or have a positive test confirming prohibited alcohol concentration will be dismissed from their employment with the district.

The district is not required under federal law requiring drug and alcohol testing to provide rehabilitation, pay for substance abuse treatment or to reinstate the employee.

#### Refusal to be Tested



It is prohibited conduct to refuse to submit to a controlled substance or alcohol test required under this policy. A refusal to submit is defined as follows:

1. Failure to provide adequate breath for alcohol testing without a valid medical explanation after the employee has received notice of the requirement of a breath test in accordance with this policy.
2. Failure to provide adequate urine for a controlled substance test without a valid medical explanation after the employee has received notification of the requirement for urine testing in accordance with this policy.
3. Engaging in conduct that clearly obstructs the testing process.

Any employee who refuses to be tested for alcohol or controlled substances as defined above will be dismissed from their employment with the district.

Approved: November 28, 1998  
Revised: March 2004  
Revised: January 9, 2018