ALCOHOL AND DRUG TESTING POLICY & PROCEDURE FOR CDL DRIVERS


POLICY STATEMENT

The Somers Central School District is dedicated to providing a safe and efficient service to our residents. Moreover, we are dedicated to providing a safe workplace for our employees.

In order to meet this goal, we hereby endorse the Federal Highway Administration substance abuse regulations and in accordance with Department of Transportation regulations, the Somers Central School District ("District") promulgates the following policy on the misuse of alcohol and the use of controlled substances. We will also provide training, education and other assistance to our employees. Any questions concerning either the educational materials that explain the requirements of the alcohol and drug testing regulations and/or the District's policies and procedures with respect to meeting those requirements should be directed to the Assistant Superintendent for Business.

Drug testing, in compliance with DOT regulations, is an integral part of our program. Any violation of this policy, administrative regulations and/or procedures, and applicable federal and state laws by a covered employee shall be grounds for disciplinary action including, but not limited to, fines, suspension, and/or discharge in a manner consistent with District policy, collective bargaining agreements and applicable law.

The terms used in this policy are to be defined consistent with the meanings and definitions of such terms in the regulations.

Who Is Subject To The Alcohol Misuse And Controlled Substance Requirements

This policy applies to all employees who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to have a commercial driver's license ("CDL") as defined by the Department of Transportation Federal Regulations. Such employees include:

1. drivers of buses designed to transport 16 or more passengers, including the driver;
2. drivers of commercial motor vehicles whose manufacturer's rating is 26,001 lbs. or more; or
3. any other employee who may drive a listed vehicle (e.g. a mechanic who performs test drives).

Definition of Safety-Sensitive Functions

For purposes of this policy and the District's drug and alcohol testing program, performing a safety-sensitive function means any of the following and an individual whose work requires that he or she engages in the following activities is subject to testing:
1. All time spent waiting to be dispatched at the District's transportation office, facility or other property, unless the driver has been relieved from duty by the employer.
2. All time spent inspecting, servicing, or conditioning equipment.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
5. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time spent performing the driver requirements associated with an accident.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Employee Assistance Program

The District provides an Employee Assistance Program (EAP) for our District employees and their families. Employees are encouraged to access the EAP for services as needed and as appropriate.

Training

The District provides education and training for drivers, supervisors and District officials about controlled substances and alcohol. The training program will cover the effects of controlled substance use on personal health, safety and the work environment. Manifestations and behavioral changes that may indicate controlled substance use and abuse will also be addressed. Documentation of these training sessions will be maintained.

The Supervisor of Transportation and every other person designated to determine whether reasonable suspicion exists to require an employee to undergo reasonable suspicion testing must receive at least one hour of training on alcohol misuse and at least one additional hour of training on controlled substance use which they will use in making their determinations.

Prohibitions

The following alcohol and controlled substance-related activities are prohibited by the Federal Highway Administration's drug use and alcohol misuse rules for drivers of commercial motor vehicles and New York State law:

1. No driver shall report for duties within six hours of consuming alcohol.
2. No driver shall use alcohol while on duty.
3. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.
4. No driver shall use alcohol for eight hours following an accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
5. No driver shall use controlled substances, except when pursuant to the instruction of a physician who has advised the driver that such use will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
6. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.

TYPES OF TESTS

Drug testing for marijuana, cocaine, opiates, amphetamines and PCP will be performed on wine specimens. Alcohol testing will be performed by means of breath testing devices approved by the National Highway Traffic Safety Administration. Testing procedures will comply with Federal Motor Carrier regulations. Individual test reports will be maintained in each employee's confidential file. However, if the test was triggered by reasonable suspicion and the test result was negative or a split sample was tested and the result was negative, all documentation concerning the reasonable suspicion shall be removed from the employee's personnel file. This does not preclude the District from taking disciplinary action, if appropriate, based on incompetence and/or misconduct.

Types of testing: pre-employment", random, reasonable suspicion, return to duty, follow-up and post-accident. In addition, testing may be done as part of the periodic physical exam.

1. All applicants for employment will submit to testing.
2. Throughout the year, drivers are subject to unannounced testing on a random basis. The total number of random drug tests will equal or exceed 50% of the average number of commercial motor vehicle driver positions for which testing is required. The minimum alcohol testing rate will be 25%. Since drivers are chosen at random throughout the year, each individual driver may not be tested or may be tested once, twice or more in a given year.
3. A driver shall submit to testing, upon reasonable suspicion, when requested to do so by the District. Conduct triggering testing under this part must be directly observed by a supervisor or District official. The supervisor making this determination must have received training in the identification of behavior indicative of use of a controlled substance. Documentation of the driver's conduct shall be prepared and signed by the witness within 24 hours.
4. If a driver who violates this policy is allowed to return to duty, a test will be conducted prior to the performance of a safety-sensitive function. In addition, the driver will be subject to unannounced follow-up testing. The frequency of such tests will be prescribed by a substance abuse professional and will consist of a minimum of six tests in the first 12 months following the driver's return to duty.

*The district has the option whether to require pre-employment alcohol testing as part of district policy. However, pre-employment controlled substance testing is mandatory under federal regulations.*
5. The employer will test for alcohol and drugs as soon as possible after an accident in which:

   a. there has been a fatality; OR
   b. the driver has received a citation for a moving traffic violation related to the accident AND EITHER
      1. there is an injury treated away from the scene of the accident; or
      2. there is a disabled vehicle towed from the scene.

The alcohol test should be performed within two hours of the accident. If not tested within two hours, the driver may be tested for alcohol up to eight hours following the accident. The drug test will be performed within 32 hours of the accident.

**Procedures For Drug Tests**

Drug testing is done by means of urine collection and analysis. The specimen will be collected by trained personnel in accordance with DOT regulations. The specimen is divided into two separate containers (the primary sample and split sample) and sealed in a tamper-evident container and shipped to a NIDA-certified lab for testing. Laboratory tests results are reported to the medical review officer (MRO). Each specimen receives a screening test and, if that test is positive, a confirmation test. Before reporting a positive test to the employer, the MRO will attempt to contact the driver to discuss the test results. If the MRO is unable to contact the driver directly, the MRO will attempt to contact the employer's Drug Program Administrator who will contact the employee. If no legitimate explanation for the positive test is found, the MRO will report the test as positive. If there is a valid explanation for the positive test other than illegal drug use, the MRO will report the test as negative. A test showing the presence of a medication which the employee has used in accordance with a valid prescription will be considered a negative test, unless the employee drove in violation of the physician's order prohibiting driving.

In the event of a positive drug test, the employee has the right to request that the split sample be sent to a different certified lab for testing. This request must be made within 72 hours of the time the driver was informed of the results by the MRO.

**Procedure For Alcohol Tests**

Certified breath alcohol technicians will perform these tests using evidential breath testing (EBT) devices. If the test shows a result less than 0.02, the test is considered negative. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. The confirmation test will be performed fifteen minutes after the initial test and the results of this test determine what actions will be taken.

**Consequences Of A Positive Test**

Drivers who are known to have engaged in prohibited behavior with regard to alcohol misuse or use of controlled substances are subject to disciplinary action and penalties pursuant to District policy and collective bargaining agreements, as well as other sanctions provided for in federal law.
1. Applicants for employment who test positive for drugs will not be hired.
2. Employees who test positive may be required to be evaluated by a substance abuse professional (SAP) and complete any requirements for rehabilitation as set by the District and the SAP.
3. A driver who after providing an adequate breath specimen, has a confirmatory test which registers between 0.02 and 0.04, at a minimum, must be suspended without pay until his/her next regularly scheduled duty period, but for no less than 24 hours and may be subject to additional disciplinary action by the District, up to and including discharge.
4. A driver who tests positive for drugs, or after providing an adequate breath specimen, has a confirmatory test which registers 0.04 or greater will, at a minimum be suspended without pay until his/her next regularly scheduled duty period, but for no less than 24 hours, and will be subject to additional disciplinary action by the District, up to and including discharge. In order to be eligible to return to duty after a positive drug test or an alcohol level of 0.04 or higher, a driver must complete the course of rehabilitation prescribed by the substance abuse professional and undergo a return-to-duty test with a negative result. After returning to work, the driver must continue in an after-care program and be subject to follow-up testing, in accordance with the recommendation of the SAP and consistent with the regulations.

Consequence Of Refusing A Drug Or Alcohol Test

The consequences of refusing a test are the same as testing positive. A refusal to submit to an alcohol or controlled substance test is defined as a driver who:

1. fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
2. fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or
3. engages in conduct that clearly obstructs the testing process.

Confidentiality

All employee drug and alcohol testing will be kept confidential and shall only be revealed without the driver's consent to the employer, a substance abuse professional, drug testing laboratory, medical review officer and any other individual designated by law. Any other release of this information is only with the employee's consent. If an employee initiates a grievance, hearing, lawsuit or other action as a result of a violation of these rules, the employer may release relevant information to the decision maker. If an employee is licensed, documented, or certified by a DOT agency, relevant information may be released to the decision maker in any DOT agency revocation or suspension action to the extent required by law.

Required Notification

Every affected employee shall receive information about the signs, symptoms, and effects of alcohol misuse and controlled substance use as well as a copy of the District's policy and procedures, the consequences of testing positive and who to contact within the District to seek further information and/or assistance.
Each covered employee is required to sign a statement certifying that he/she has received this information. The District shall maintain the original signed certification until the employee's employment is discontinued. The District will provide a copy of the certification to the covered employee upon request.

Penalties

Any employer or driver who violates the requirements of the federal regulations of the Omnibus Transportation Employee Testing Act of 1991 may be subject to civil penalties.

In addition, in accordance with New York State law, a bus driver convicted of driving a school bus with one or more student passengers while impaired by the use of drugs or alcohol will have his/her license revoked for one year and is subject to fines ranging from $500 to $5,000 and/or imprisonment. Any bus driver convicted more than once in 10 years for such crimes will have his/her license revoked for three years and is subject to a fine of $1,000 to $5,000 and/or imprisonment.

49 V.S.C. §521(b)
49 CFR Part 382
49 CFR Part 40
49 CFR §395.20
Vehicle and Traffic Law, §§509-1; 1192; 1193

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