

DRUG AND ALCOHOL ABUSE POLICY FOR SCHOOL BUS DRIVERS

I. Purpose

The District is gravely concerned about alcohol abuse and illegal drug use. Such use and abuse adversely affect work quantity and quality, jeopardize employee health and can create an unacceptably dangerous work environment. Therefore, to promote a safe, healthy and productive work environment, the District intends to implement this substance abuse policy.

The United States Department of Transportation (DOT) has issued regulations which require the District to conduct drug and alcohol testing of drivers.

The District intends to incorporate as its own and fully comply with the DOT drug and alcohol regulations as stated in this policy. In addition, if the DOT regulations are amended, the District will comply with the amended regulations automatically without reissuing this policy.

Alcohol and Drug testing will be conducted on any current and/or prospective driver and/or an employee/prospective employee with a Commercial Drivers License (CDL) who performs safety sensitive functions and operates a vehicle in excess of 26,000 pounds and/or a vehicle designed to carry 16 passengers (including the driver).

II. Definitions

For purpose of this Policy and the District drug and alcohol testing program, “safety-sensitive function” means any of the following:

(i) driving; (ii) the time spent waiting to be dispatched, at a carrier’s or shipper’s terminal, plant facility or other property, unless the driver has been relieved from duty; (iii) inspecting, servicing or conditioning equipment; (iv) being in or on a commercial motor vehicle (except resting in the sleeper berth); (v) loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; giving or receiving receipts for a shipment being loaded or unloaded; (vi) securing the vehicle and taking all of the other precautionary measures required by DOT’s regulations following an accident (49 C.F.R. 392.40 and 392.41); (vii) repairing, obtaining assistance, or attending a disabled vehicle.

For purpose of this Policy and the District drug and alcohol testing program, “District business” includes, but is not limited to, work performed on or in District property including a District vehicle, and work performed on or in a non-District vehicle being used for school district purposes; the term also includes meal and break times.

For purposes of this Policy and the District drug and alcohol testing program, “refusing to be tested” means any of the following: (i) failing to provide an adequate urine specimen for a drug test without a valid medical explanation; (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation; (iii) failing to submit to a test as directed; or (iv) engaging in any conduct which clearly obstructs the testing process.

For purpose of the Policy and the District alcohol testing program, an alcohol test will be considered “positive” when the alcohol concentration level registers 0.02 or greater.

“Under the influence” means, with respect to drugs, the presence in an employee’s system of any detectable amount of a drug, or its metabolites, and speech, actions or an appearance which lead a

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supervisor to reasonably suspect that the employee's ability to perform his or her job safely and effectively has been impaired by drugs.

The term "drugs" includes any and all controlled substances, such as, but not limited to marijuana, cocaine, amphetamines, PCP, opioids. The term "drugs" also includes prescription and over-the-counter medications which are being abused.

III. Prohibitions

The following employee conduct is prohibited: (i) drivers are prohibited from using, being under the influence of, or possessing illegal drugs; (ii) drivers are prohibited from using or being under the influence of legal drugs that are being used illegally; (iii) drivers are prohibited from using or being under the influence of legal drugs whose use can adversely affect the ability of the driver to perform his or her job safely; (iv) drivers are prohibited from selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs while on District time or property; (v) drivers are prohibited from using alcohol within eight (8) hours of driving or performing any other safety-sensitive function; (vi) drivers are prohibited from using or being under the influence of alcohol at any time while driving or performing any other safety-sensitive function; (vii) drivers are prohibited from possessing any amount of alcohol (including possessing medications which contain alcohol) while on duty or driving, unless the alcohol is manifested and being transported as part of the shipment; (viii) testing positive for drugs and/or alcohol; (ix) refusing to be tested for drugs and/or alcohol; (x) failing to submit to a drug and/or alcohol test as directed by the District; (xi) failing to stay in contact with the District and its medical review officer while awaiting the results of a drug test; (xii) violating any applicable federal and/or state requirement governing the use of drugs or alcohol; (xiii) doing anything to obstruct the District goals with respect to drug and alcohol testing.

A driver who violates these prohibitions will be subject to disciplinary action mandated by the DOT. Drivers who violate these prohibitions will also be subject to disciplinary action by the District from a warning up to and including discharge. In addition, any driver who is convicted by the judicial system of a misdemeanor for a drug or alcohol-related matter will be subject to disciplinary action from a warning up to and including termination of employment.

IV. Queries

Effective January 6, 2020 the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse will begin. The Clearinghouse contains information on failed drug or alcohol tests on drivers with commercial driver's licenses (CDL drivers) who are covered by the FMCSA's Drug and Alcohol Program. This also includes drivers with learner's permits.

CDL drivers who are covered by the FMCSA's Drug and Alcohol Program must self-register on the Clearinghouse Website. <https://clearinghouse.fmcsa.dot.gov/register>. The Clearinghouse gives employers, FMCSA, State Driver Licensing and State law enforcement personnel real-time information about CDL driver drug and alcohol program violations, thereby enhancing safety on our nation's roadways. There is no cost for the employee to register.

CDL drivers are to sign consent forms giving permission to the Patchogue Medford School District to pull full and partial queries of these results and annual checks of current employees from the Clearinghouse website for the duration of their employment. (See Appendix A)

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The Patchogue Medford School District is required to pull a limited query for annual checks on current drivers or Ad hoc/periodic check on drivers. Full queries are to be pulled for pre-employment on prospective drivers, or a limited query for returned records found for a queried driver or an Ad Hoc/periodic check on a driver.

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I. Tests Required

Testing for affected district employees will be conducted under the following circumstances:

School Bus Drivers DOT Drug/Federal (Part 40 of Title 49) - (before a driver-applicant is hired or an existing employee performs safety sensitive functions). The applicant will be informed to report for a drug and alcohol test and asked to sign a general consent and release to be tested . All offers to hire an applicant or transfer an existing employee to a driving position are contingent upon the applicant/employee signing the consent and release form for drug and alcohol testing; signing the District's authorization form to obtain past drug and alcohol test results from previous employers during the last 2 years ; taking the required drug and alcohol test and having negative results on both tests; passing required physical exams; complying with any other conditions or requirement of the District.

Post Accident Testing - A driver must submit to a post-accident drug and alcohol test as soon as possible after an accident on or off the job which:

- i. Involves a fatality
- ii. The driver receives a citation for a moving violation and either a person is injured and receives immediate medical treatment away from the scene or one or more vehicles are damaged and must be transported away from the scene.
- iii. If a law enforcement official conducts a test at the scene, the driver must inform the District. A refusal to submit to a post-accident test is equal to a positive test result.

Random Testing - After first year of implementation, random testing of drivers will be conducted at the 50% rate for drug test, and the 25% rate for alcohol test.

Random testing will be unannounced and the driver must report to the collection site immediately after receiving notice of his/her selection. Any driver required to go for a test outside his/her workday will be reimbursed for additional time.

Refusal to report to the collection site or submit to the test will be equal to a positive test result.

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Reasonable Suspicion Testing

Any affected employee must report to a collection site and provide a specimen if, in the opinion of a District official, there is reasonable cause to suspect the use of drugs and/or alcohol. Their observations must be documented.

Specimen collection for reasonable suspicion testing will take place under the following circumstances:

- i. When an employee's error appears, on the basis of a preliminary investigation, to have caused an accident, injury, or damage to District or employee property or vehicle(s);
- ii. Based upon employees' appearance, speech, body odor or actions, a supervisor reasonably suspects that the employees' ability to work may be impaired by alcohol and/or drugs; or the withdrawal effects of alcohol and/or drugs.

Employees who refuse to be tested are subject to discipline up to and including discharge, depending upon the circumstances.

The driver will be escorted to the collection site by an agent of the District and arrangement will be made for them to be transported to his/her home after the specimen is collected.

A driver who is directed to take a reasonable suspicion test will be placed on unpaid suspension pending the test results. If the result is negative the driver will be reimbursed for the time of suspension. A positive test result will result in disciplinary action up to and including termination from the time of suspension.

Return to Duty Testing

After a previous positive test, if the employee is not terminated, the employee must take a return to duty test and have a negative result before he/she can be considered for job assignment.

Follow-up Testing

After a previous positive test, if the employee is not terminated, the employee must participate in unannounced testing for 1 year after reinstatement. A minimum of 6 specimens and a maximum of 12 specimens will be collected.

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Payment For Testing

The cost of all testing will be the responsibility of the District.

II. Test Procedures

- A. Split sample urine specimens will be collected at a designated collection site in a manner which substantially conforms to DOT/FEDERAL regulations (Part 40 of Title 49) designed to prevent sample switching and tampering. Urine specimens will be sealed and sent to the designated NIDA certified laboratory for testing. Detailed records will be kept to prevent misidentification of samples.
- B. The following procedure will apply to all specimen collections:
1. The applicant/employee will provide a urine sample at the assigned collection site at the appointed time.
 2. The applicant/employee will participate in the chain of custody procedures in order to insure accurate collection by:
 - completing and signing consent, release of information; and Chain of Custody forms.
 - following DOT/FEDERAL urine collection procedures in cooperation with the collection site.
 3. Under split specimen procedures, the donor must provide 45 ml. in a specimen container. The collector will pour 30 ml. into one bottle and seal it; the remaining sample of 15 ml. will be sealed in a second bottle. Both bottles will be sent to the laboratory. The bottle with 30 ml. will be the primary specimen. The second bottle will be held by the laboratory and analyzed only after a verified positive by the Medical Review Officer and the employee requests the analysis within 72 hours of notification by the MRO.
 4. If the applicant/employee refuses to provide the specimen for drug testing, such refusal will be considered equal to a positive test and the same consequences will apply.

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- C. All positive urine screens will be confirmed through GC/MS testing (Gas Chromatography/Mass Spectrometry) before any discipline is imposed or hiring decisions are made.
- D. A Medical Review Officer (MRO) will review all DOT regulated drug tests performed by the laboratory. The MRO is to determine whether positive test results indicate illegal drug use or whether other medical explanations could account for the result. The MRO will inform the employee of his findings. Subsequently, the results will be reviewed by the District's physician for review and recommendations.

On all "positive" drug screen test results, the MRO will make two attempts on two consecutive days contact the applicant/employee and review his findings. If the applicant cannot be reached during the above mentioned time frame, the District management will be contacted and asked to contact the applicant/employee and have such person make themselves available to the MRO to review his/her findings. Where the applicants/employees do not make themselves available to be contacted by the MRO, the consequences to the applicants/employees will be equal to that of a positive test result, which is immediate discipline, up to and including termination.

E. **Alcohol Tests**

All alcohol tests conducted under this Policy require that the driver provide a breath specimen. The driver must provide either a breath or blood specimen, as directed by a law enforcement officer after an accident.

Alcohol Test will be administered using a breath specimen, taken by a breath alcohol technician (BAT) using an approved breath testing device (EBT), except in cases of on-scene post-accident testing conducted by federal, state, or local officials.

Before being tested by the District, each driver will be required to (i) present his/her personal identification, and (ii) execute a DOT "Breath Alcohol Test Form" provided by the BAT. A driver who refuses to provide his/her identification, provides a false identification, refuses to execute the DOT "Breath Alcohol Test Form" or who otherwise refuses or fails to cooperate will be treated as though he/she had tested positive and will be subject to disciplinary action, up to and including discharge, in addition to the penalties imposed by the DOT.

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Prior to each alcohol breath test conducted by the District, the BAT will instruct the driver on how the test will be performed.

To protect each driver, the BAT will attach to the testing device an individually-sealed mouthpiece in the driver's view. The driver will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained.

In the event that a driver is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the driver will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid medical condition does exist, the test result will be reported to the District as "negative". If the physician determines that a valid medical condition does not exist, the result will be reported to the District as a "confirmed positive".

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be recorded as a "negative" and no additional tests will be required at that time.

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. In the event that the driver provides adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the District as "negative".

If the driver is not terminated, they must be evaluated by a Substance Abuse Professional (SAP) and follow the suggestions for treatment made by the SAP. Prior to returning to work, the driver must submit to a return to duty test and the results must be negative.

III. Consequences

The consequence of testing positive for drugs is:

Removal from position; and/or

Appropriate penalty consistent with due process of Section 75 of Civil Service Law if appropriate; and/or

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Referral by the district to a drug/alcohol counselor is the sole discretion of the district at the employee's sole expense for an evaluation. If the counselor concludes that the employee has a drug or alcohol problem, the employee shall be required to enter an approved counseling/treatment program, successfully complete the program and consent in writing to the disclosure by the program of its recommendations, and dangers it perceives in connection with the employee's continued performance of his or her job and whether the employee is complying and has successfully completed the program.

The consequence of testing positive for alcohol is:

The district shall prohibit any driver whose confirmatory test registers 0.02 or more but less than 0.04 from performing or from continuing to perform any safety-sensitive function until the driver's 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.

A driver who, 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.

IV. Confidentiality and Privacy

The District will attempt to insure that all aspects of the testing process are as private and confidential as reasonably practical. Actual test results will be provided to supervisors and managers who have a need to know such information, to the person tested, the District's physician, and any person permitted or required by law or regulation to receive such information. Except as required by law, test results will not be disclosed to co-workers, an employee's family, uninvolved supervisors, or law enforcement authorities without the specific permission of the person tested.

The District will, however, inform the police of trafficking in illegal drugs by employees and will turn over any illegal drugs confiscated on District property to the police.

V. Voluntary Treatment and Counseling

Employees who request treatment or leaves of absence for treatment will not be subject to discipline; employees may not, however, escape discipline by first requesting such treatment or leaves after being selected for testing or violating District policies and rules. Such requests for treatment will be kept confidential in accordance with federal and state law.

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Any employee who feels he or she may have a substance abuse problem is urged to contact **the Employee Assistance Hotline at 1-888-734-8217 or The Family Center**. Such employees will not be disciplined or retaliated against. We are interested in a safe workplace, and a healthy and productive workforce, not in punishing employees who come to us for help.

VI. Employee Assistance and Training Program

Every employee will be notified of the District policy at the time of their employment and during the education/training program.

- A. The District will provide an education and training program for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The education program will include the following:
- i. Display and distribution of informational material;
 - ii. Display and distribution of community service agencies and Substance Abuse Professionals (SAP's) providing employee assistance;
 - iii. Display and distribution of the District's policy regarding the use of prohibited drugs.

Employees and supervisory personnel completing such training will determine whether an employee must be drug tested based on reasonable cause. Such training will include at least one 60 minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and an additional 60 minutes on alcohol abuse.

Notwithstanding the foregoing, the failure of an employee or supervisor to participate in or complete such program shall not make such employee or supervisor ineligible to make probable cause determinations as aforesaid.

VII. Discipline for Possessing, Using, Selling, Buying or Transferring Drugs or Alcohol

Employees caught possessing, using, selling, buying, or transferring drugs or alcohol while at work, on District premises, or while using District Vehicles will be terminated.

Employees arrested for selling drugs to, or buying them from another employee will be suspended without pay and if convicted, terminated. Depending on the circumstances, employees arrested for and convicted of other drug offenses may also be terminated.

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VIII. Application of Policy and Regulations to Private Transportation Contractors

All transportation providers shall be required to incorporate this policy and its regulations as their own as a condition of all transportation contracts entered into with the district or with respect to any extensions thereof.

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