

REGULATION - ALCOHOL AND DRUG-TESTING FOR BUS DRIVERS

Any employee in a safety-sensitive position who has and uses a commercial driver's license (CDL) and/or drives a school bus designed to transport 15 or more passengers shall be subject to alcohol and controlled substance testing.

I. Prohibitions

The Supervisor of Transportation, the Assistant Superintendent for Business, or his/her designee shall prohibit an employee from driving a school bus or performing other safety-sensitive duties if:

1. the driver possesses alcohol or drugs, or uses alcohol or drugs while on duty;
2. the driver has used alcohol within four hours or less before duty;
3. the driver has an alcohol concentration of .02 or higher, or tests positive for drugs;
4. the driver has used alcohol within eight hours after being involved in an accident, or before undergoing a post-accident test, if such a test is required.
5. illegal drug use by drivers is prohibited on or off duty;
6. there is a "reasonable suspicion" to believe a driver has engaged in prohibited alcohol or controlled substance use; or
7. the driver refuses to take a required alcohol or drug test

Because even a small amount of alcohol in an employee's system is inconsistent with safety, an employee who tests .02 or greater but less than .04 will be removed from driving and other safety-sensitive duties until the employee has had one visit with a substance abuse professional, has waited until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test, and has received a satisfactory result from a return-to-duty test.

In all cases where an employee has to visit with a substance abuse professional, that professional will be approved by the district.

II. Types of Testing

The Superintendent of Schools and the Supervisor of Transportation shall ensure that the following alcohol and drug tests are implemented.

1. *Pre-employment:* Alcohol and drug tests will be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions.
2. *Post-accident:* Alcohol and drug tests will be conducted if a driver is involved in an accident in which:
 - a. there has been a fatality; or
 - b. the driver has received a citation for a moving violation in connection with the accident; and
 - (1) there is an injury treated away from the scene of the accident, or
 - (2) a disabled vehicle has been towed from the scene
3. *Reasonable suspicion:* Alcohol and/or drug tests will be conducted if the transportation supervisor or other school official who is appropriately trained under the regulations, observes behavior, appearance, speech or body odors that are characteristic of controlled substance or alcohol misuse and therefore has a "reasonable suspicion" that the driver has violated the regulations. Alcohol tests can only be done just before, during or just after the employee drives a school bus or performs other safety-sensitive duties. The supervisor who makes the determination of "reasonable suspicion" cannot do the testing.
4. *Random:* Alcohol and drug tests will be conducted at random for at least the minimum percentage of drivers as recommended by the Federal Highway Authority. Currently, these minimums are 25% for alcohol and 50% for drugs. These tests will be unannounced and spread throughout the calendar year. Random alcohol tests must be done just before, during or just after the employee drives a bus or performs other safety-sensitive duties. However, a random drug test can be conducted at any time.

5. *Return to Duty:* If a driver has engaged in prohibited alcohol use, s/he will be removed from driving duties. The driver will not be permitted to return to these duties until s/he has been evaluated by a substance abuse professional and has complied with any treatment recommendations. Thereafter, a return-to-duty test must be performed with satisfactory results of less than .02 alcohol concentration.
6. *Follow-Up:* If the driver has been referred for alcohol counseling due to a violation of the regulations, unannounced follow-up alcohol testing will be conducted as directed by the substance abuse professional.

At least six (6) tests must be conducted in the first twelve-(12) months following the driver's return to duty. Follow-up testing may be extended for up to sixty (60) months from the date of the driver's return to duty. Follow-up alcohol testing will only be conducted before, during or after the driver has performed his/her driving duties.

III. Testing Procedures

1. Alcohol Testing Procedures

Alcohol testing will be conducted with evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration. The employee and the breath alcohol technician conducting the test must complete the alcohol testing form to ensure that the results are properly recorded.

- (a) Two (2) breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than .02 alcohol concentration is considered a "negative" test.
- (b) If the alcohol concentration is .02 or greater, a second or confirmation test must be conducted. The confirmation test must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results.
- (c) If the confirmation test results indicate an alcohol concentration from .02 to .03999, the employee will be restricted from duty until the employee has waited 24 hours, has met once with the substance abuse professional and receives a satisfactory result from a return-to-duty test.
- (d) If the confirmation test results indicate an alcohol concentration from .04 to .07999 the employee will be removed from all safety sensitive duties and no return to duty will be permitted until the employee has been reviewed by a substance abuse professional, complied with his/her recommendations, and successfully passed required return-to-duty tests. Follow-up tests will also be required.
- (e) For post-accident testing, the results of breath or blood tests conducted by law enforcement officials will be, accepted as long as the testing conforms with federal and state requirements for alcohol testing and the results are made available to the district,
- (f) The district will seek to terminate the employment of employees who test equal to or greater than .08 for alcohol concentration.

2. Drug Testing Procedures

The employee must provide a urine specimen that will be analyzed at a laboratory certified and monitored by the U.S. Dept. of Health and Human Services

- (a) regulations require that each urine specimen be divided one "primary" specimen and one "split" specimen
- (b) All urine specimens are analyzed for the following
 1. Marijuana Marijuana (THC metabolite)
 2. Cocaine
 3. Amphetamines
 4. Opiates (including heroin)
 5. Phencyclidine (PCP)

- (c) If the primary specimen confirms the presence of one or more of these drugs, the employee has seventy-two (72) hours to request that the split specimen be sent to another certified lab for analysis. (Note: The employee must be removed from driving duties at this time; pursuant to the regulations, the driver's removal cannot await the result of split sample). If the test of the split specimen also confirms the presence of one or more of the listed -drugs the employee will pay for the cost of the second test. If the test results are negative for these drugs the district will pay for the second test.
- (d) If the screening test has a drug-positive result, a confirmation test -will then be performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis.
- (e) All drug test results will be reviewed and interpreted by a physician (also called a medical review officer) before they are reported to the district
- (f) If the laboratory reports a positive result to the medical review officer (MRO), the MRO shall interview the employee to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the employee provides appropriate documentation and the MRO determines that it is legitimate medical use of a prohibited drug, the drug test is reported as negative
- (g) The district will seek the termination of the employee if the MRO reports a positive drug test result
- (h) For post-accident testing, the results of urine tests conducted by law enforcement officials will be accepted as long as the testing conforms with federal and state requirements for controlled substance testing and the results are made available to the district

All controlled substance testing shall comply with the requirements of the federal regulations (49 CFR Part 40) including procedures for the proper identification, security and custody of the sample, use of certified laboratories, gas chromatography/mass spectrometry analysis test, assurance that all drug test results are reviewed and interpreted by a physician and confidentiality of employee test records.

2. Refusal to Take Required Alcohol and/or Drug Tests

An employee's refusal to take a required alcohol and/or drug test will be treated as a positive alcohol test result of .04 to .07999. The employee must be evaluated by a substance abuse professional, follow that person's recommendations prior to taking a return-to-duty test and submit to any recommended follow-up testing. Drivers may also be subject to a maximum fine of \$5,000 or other disciplinary consequences for refusing to take a test.

IV. **Consequences**

Alcohol:

In the event that an employee tests positive with a .02 to .03999 alcohol concentration, that employee must have one (1) visit with a substance abuse professional, wait at least twenty-four (24) hours from the time of the test, and receive a satisfactory result from a return-to-duty test before that employee is permitted to return to work. In the event an employee tests twice in the range, the consequence will be the same as for testing positive once in the .04 to .07999 range of concentration.

In the event that an employee tests positive with a .04 to .07999 alcohol concentration, s/he will be immediately removed from driving any school vehicle, and any other safety-related duties, and will not be considered for a return to duty, until s/he:

- (1) has been evaluated by a substance abuse professional
- (2) has complied with any treatment recommendations, and
- (3) has received a satisfactory result from a return-to-duty test

The district will seek to terminate the employment of any employee testing twice in the range of .04 to .07999.

The employee shall also be subject to do follow-up testing.

The district is not required by federal regulations to provide rehabilitation, pay for treatment or reinstate an employee as a driver if the employee has violated the regulations. Any treatment or rehabilitation program will be provided in accordance with district policy and/or collective bargaining agreement.

The district will seek to terminate the employment of any employee testing positive with a level greater than .08 alcohol concentration.

Drugs:

The district will seek to terminate the employment of any employee testing positive for one of the five listed illegal substances.

V. Training

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 controlled substance use which they will use in making their determinations.

VI. Recordkeeping and Reporting

The Transportation Supervisor shall ensure that alcohol and drug testing records are maintained and that annual reports are filed in accordance with the requirements specified in federal regulations. All employee test records will be kept confidential. -

VII. 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.

VIII. Penalties

Drivers can receive a maximum fine of \$5,000 for refusing to take a test. Employers can receive a fine of between \$500 and \$1,000 per count, per driver for every test not done.

IX. Savings Clause

If any provision of this policy or any application of this policy to any employee or group of employees shall be found contrary to law, then such provision or application shall not be deemed valid or subsisting, except to the extent permitted by law, but all other provisions of the policy will continue in full force and effect.

ADOPTED: May 7, 1997