



PERSONNEL

Mandated Drug and Alcohol Testing Program

Definitions:

Accident, for purposes of this policy, is as an incident involving an employee whose job responsibilities require a commercial driver's license (CDL) in which there is either a fatality or the employee received a citation under state or local law for a moving traffic violation arising from the accident.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test (EBT).

Alcohol Use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Breath Alcohol Technician (BAT) is an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

CDL means commercial driver's license.

Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle 1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of 26,001 or more pounds; or 2) has a gross vehicle weight rating of 26,001 or more pounds; or 3) is designed to transport sixteen or more passengers, including the driver; or 4) is of any size used in the transportation of materials found to be hazardous for the purposes of the Hazardous Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

Confirmation Test for alcohol testing means a second test, following a screening test that had a result of 0.02 or greater, which provides quantitative data of alcohol concentration. For controlled substances testing, it means a second analytical procedure to identify the presence of a specific drug or metabolite; the confirmation test must be independent of the screen test and use a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

Driver means any person who is required as part of his or her job responsibilities to possess a valid CDL. For the purpose of pre-employment testing/pre-duty testing only, the term driver includes a prospective employee for a position which required a valid CDL.

Evidential Breath Testing Device (EBT) is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath for alcohol concentration and placed on NHTSA's "Conforming Products List of Evidential Breath Testing Devices" (CPL).

Medical Review Officer (MRO) is a licensed physician (medical doctor or Doctor of Osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Reasonable Suspicion is the belief that the driver has violated the alcohol or controlled substances prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

Refusal to Submit (to an alcohol or controlled substance test) occurs when a driver:

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.
4. Consumes alcohol within eight hours after a defined accident or before being tested, whichever occurs first.

Safety-Sensitive Function, a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function is operating a school bus or other commercial vehicle; it also includes all time repairing, obtaining assistance, or remaining in attendance with a disabled vehicle by employees required to have a CDL as part of their employment.

Screening Test (initial test), in alcohol testing it means an analytical procedure to determine whether a driver may have prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Substance Abuse Professional (SAP) means a licensed physician (MD or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Testing Requirements

The following identify the occasions on which a driver shall be subject to alcohol or controlled substance testing:

1. Pre-employment Drug Tests:

Prior to the first time a driver performs a safety-sensitive function for the district, the driver shall undergo drug testing.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. It includes driving, waiting to be dispatched, inspecting and servicing equipment; supervising, performing or assisting unloading and unloading, repairing or obtaining and waiting for help with disabled vehicle; performing driver requirements related to accidents and performing any other work for the district.

Pre-employment drug tests shall be required of:

- a) an applicant only after he/she has been offered employment in the position, contingent upon the results of the testing.
- b) current employees reassigned to positions requiring a valid CDL.

2. Post-Accident Tests:

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver. Drivers shall make themselves readily available for testing, absent the need for immediate medical attention, or the district may consider the driver to have refused to submit to testing.

Tests conducted by authorized federal, state or local officials will fulfill post-accident testing requirements providing 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.

3. Random Tests:

Tests shall be conducted on a random basis at unannounced times throughout the year. Test for alcohol shall be conducted just prior to, during or just after the performance of safety-sensitive functions. The number of random alcohol tests annually must equal 25% of the average number of driver positions. The number of random drug tests annually must equal 50% of the average number of drivers. The percentages of drivers required to submit to random testing is subject to change based upon changes in the federal regulations. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time the selections are made.

The random tests described above must be conducted throughout the school calendar year, not just at one time. Further, they should not be conducted at the same time each calendar year, and employees should be tested the same day as the tests are announced.

4. Reasonable Suspicion Tests:

A driver must submit to alcohol or controlled substance testing whenever a trained supervisor has a reasonable suspicion of alcohol misuse or controlled substance use based on specific personal observations that the employee representative can describe concerning the appearance, behavior, speech or bodily odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the workday when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines the reasonable suspicion exists. The alcohol tests must be given within eight hours following the determination of reasonable suspicion. If an alcohol test is not administered within two (2) hours of a determination of reasonable suspicion, the district shall prepare and maintain a record of the reasons the tests were not administered promptly.

5. Return to Duty:

If for any reason the district continues to employ a driver who has refused to submit to a required test, has tested positive for alcohol or drugs or has otherwise violated this policy, the district must require return-to-duty and follow-up testing before the driver is returned to or maintained in the performance of safety-sensitive functions.

Employees who violate the district's drug or alcohol prohibitions cannot return to duty in a safety-sensitive function until they undergo an alcohol and a drug test with a result indicating an alcohol concentration of less than 0.02 and/or a controlled substance test indicating a negative result.

6. Follow-up Tests:

An employee who has violated the district's drug or alcohol prohibitions and who has returned to duty after having been assessed by a substance abuse professional (SAP), after completing the recommended treatment and after having passed a return-to-duty assessment may be subject to unannounced follow-up alcohol and/or controlled substance testing.

Prohibited Alcohol and Controlled Substance-Related Conduct:

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 Federal Highway Administration (FHWA).
2. Being on duty or operating a vehicle while the driver possesses alcohol.
3. Using alcohol while performing safety-sensitive functions.

4. Using alcohol within eight hours of an accident or before undergoing a post-accident alcohol tests, whichever comes first.
5. Refusing to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion or follow-up testing requirements.
6. Using alcohol, or being under the influence of alcohol within four hours of going on duty, operating or having physical control of a commercial vehicle.
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 motor vehicle. Drivers are required to inform the district of any therapeutic drug use.
8. Reporting for duty remaining on duty or driving if the driver tests positive for controlled substances.

Consequences:

- a. The driver shall be removed from performing safety-sensitive functions and terminated.
- b. If for any reason the district continues to employ a driver who has committed any of these offenses, the district must require return-to-duty and follow-up testing before the driver is returned to or maintained in the performance of safety-sensitive functions.

Referral, Evaluation and Treatment: When a driver receives a positive alcohol or controlled substances test under this policy or violates the other prohibitions of this policy, the district will provide the driver with information regarding the resources available to the driver for evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. The district is not required to provide any of these services under this policy. Other district policies and provisions in the collective bargaining agreement, if any, may have application to the provision of services.

Test Costs and Compensation: If the district collective bargaining agreement covers testing costs and driver compensation, those provisions take precedence over this procedure.

1. The district will pay for and compensate drivers for their time for the following alcohol and/or initial controlled substances tests: random, reasonable suspicion and post-accident.
2. Drivers will be responsible for taking the following alcohol and/or controlled substances tests on their own time and at their own cost: pre-employment (unless a current employee is being involuntarily transferred to a position requiring a CDL, in which case the district will compensate for the employee's time and pay for the test), return-to-duty, and follow-up.

3. If a driver's initial controlled substances test is positive and the driver requests that the split sample be tested, the second test will be at the employee's expense. If the confirming test is negative, the district will reimburse the employee for the cost of the split sample test.

Record Retention and Confidentiality:

The superintendent, or his/her designee, is responsible for developing procedures for securely retaining records collected under this policy with controlled access and for the time periods established by federal regulations. The superintendent, or his/her designee, is also responsible for developing a procedure for reporting data collected under this policy as required by federal regulations.

Access to Records:

- a. Except as required by law or expressly authorized or required in this section, the district shall not release driver information that is contained in records required to be maintained under these procedures.
- b. A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.
 1. Upon written request, the district shall promptly provide the records requested by the driver.
 2. The district representative shall document the written request and obtain a written verification the records were received by the driver.
- c. The district shall permit access to all facilities utilized in complying with the requirements of this policy and procedures and all related records to the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the district or any of its drivers.
- d. Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Release of such information by the employer receiving the information is permitted only in accordance with the terms of the employee's consent.
- e. The district shall release information regarding a driver's records as directed by the specific, written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.