

Federal Motor Carrier Safety Administration Mandated Drug and Alcohol Testing Program

The superintendent, in conformance with direction established in policy by the Board of Directors, establishes programs and procedures as mandated by and in accordance with Federal Motor Carrier Safety Administration (FMCSA) controlled substances and alcohol testing rules.

In addition to this operational procedure, all applicable federal regulations apply to employees covered by this operational procedure. Regulations vary when dealing with controlled substances and alcohol.

1. Definitions

- 1.1 **Controlled substance** is the meaning assigned by 21 U.S.C. 802 and includes all substances listed on schedules I through V as they may be revised from time to time, such as, but not limited to, marijuana, cocaine, PCP, opiates, and amphetamines.
- 1.2 **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.
- 1.3 **Accident** is defined as an event involving a motor vehicle, which results in either a fatality, an injury requiring immediate medical treatment away from the scene of the accident and the driver's receiving a moving traffic violation or damage which requires one (1) or more of the motor vehicles to be towed from the scene.
- 1.4 **Prohibited alcohol and controlled substance-related conduct:** The following activities are prohibited by the district for employees required to possess a commercial driver's license (CDL) as part of their job responsibilities. Employee conduct of the following type shall result in appropriate corrective action ranging from removal from the performance of safety-sensitive functions up to and including discharge:
 - 1.4.1 reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of .04 or greater;
 - 1.4.2 reporting for duty, or operating a private vehicle on school business, or operating a school district vehicle while the employee possesses alcohol, has an alcohol concentration of .04 or greater, possesses or uses controlled substances, except when the possession or use is pursuant to the instructions of a prescribing authority who has advised the driver the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. The employee shall provide a copy of such prescribing authority instructions to the district. The use of any medication that could affect the driver's safe job performance is prohibited while working;

- 1.4.3 using alcohol or controlled substances while performing safety-sensitive functions. No supervisor having actual knowledge of the above violations shall permit a driver to perform or continue to perform safety-sensitive functions;
- 1.4.4 when required to take a post-accident alcohol test, using alcohol within eight (8) hours following the accident or using alcohol prior to undergoing the post-accident alcohol test, or using alcohol prior to being provided written notice by the district that no testing will be required, whichever comes first;
- 1.4.5 refusing to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, or follow-up testing requirements;
- 1.4.6 failing to inform the district of any therapeutic drug use; and
- 1.4.7 reporting for duty, remaining on duty or driving if the employee tests positive for controlled substances, except when the use is pursuant to the instructions of a physician who has advised the driver the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle, and the employee has, prior to the test, provided the district with a copy of the physician's instructions.

2. Disciplinary Consequences

- 2.1 Employees who violate the prohibitions against use, alcohol concentration, or possession of controlled substances or alcohol as set forth above shall be subject to immediate removal from a safety-sensitive function and/or disciplinary action including termination from employment.
- 2.2 Employees who test between .02 and .04 for alcohol concentration at a minimum shall not be allowed to drive for a period of twenty-four (24) hours following the test result and until the alcohol concentration is less than .02. Employees who test between .02 and .04 may not be disciplined solely on the basis of the test result.

However, employees who test between .02 and .04 may be subject to discipline for job misconduct or unsatisfactory performance occurring prior to the test. Employees who test at .04 or greater must comply with federal regulations for positive results. Employees prohibited by law from driving shall not be paid for time lost because of the use of alcohol.

- 2.3 Refusal to submit to an alcohol or controlled substances test will be treated as a positive finding and may result in disciplinary action including termination from employment.

3. Testing Requirements

The following identify the occasions on which an employee shall be subject to alcohol or controlled substances testing; the superintendent or designee is responsible to take all necessary

action to assure a testing program is consistent with the federal rules.

- 3.1 **Pre-employment testing:** Prior to the first time an employee performs a safety-sensitive function for the district, the employee shall undergo testing for alcohol and controlled substances and shall have received a controlled substances test result from a medical review office indicating a verified negative test results. This testing requirement may be waived under FMCSA rules for CDL drivers recently employed elsewhere for whom testing records are available from their previous employers.
- 3.2 **Post-accident testing:** If the employee involved in an accident is cited by state or local law enforcement for a moving traffic violation, or if the employee is involved in an accident as defined in this policy, or if there is a fatality, or significant property damage as set forth in the definition of accident, the employee shall be tested for alcohol and controlled substances. Testing for alcohol must be within eight (8) hours of the accident, or the district shall cease attempts to administer an alcohol test and shall prepare and maintain a record stating the reasons the test was not properly administered. Testing for controlled substances must be within thirty-two (32) hours of the accident, or the district shall cease attempts to administer a controlled substance test and shall prepare and maintain a record stating the reasons the test was not promptly administered.
- 3.3 **Random testing:** Annually the district will arrange for the unannounced random alcohol and controlled substances testing of its safety-sensitive employees. Fifty percent (50%) of these designated district employees must be randomly selected for controlled substances testing each year, and ten percent (10%) of these designated safety-sensitive employees for alcohol testing (or whatever level of testing is required in a given year by the FMSCA). Alcohol and controlled substances testing under this program shall take place just prior to, during or immediately after the employee engages in a safety-sensitive function for the district.
- 3.4 **Reasonable suspicion testing:** An employee must submit to alcohol or controlled substances testing whenever a trained supervisor has a reasonable suspicion of alcohol misuse or controlled substances use based on specific, contemporaneous and articulable observations concerning the appearance, behavior, speech or bodily odors of the employee. Observations relating to using alcohol must be made just prior to, during, or immediately after the employee engages in a safety-sensitive function for the district.
 - 3.4.1 Alcohol testing shall be administered as soon as possible following the observed conduct set forth above. If an alcohol test is not administered within two (2) hours following the determination made in section 3.4, the district shall prepare and maintain a record stating the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the determination made in section 3.4, the district shall cease attempts to administer the alcohol test and shall state in the record the reasons for not administering the test.

- 3.4.2 A written record shall be made of the observations leading to a controlled substances reasonable suspicion test. This record will be signed by the supervisor or company official who made the observations within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.
- 3.5 **Return-to-duty testing:** An employee returning to perform safety-sensitive functions for the district after violating this policy or the federal regulations shall be evaluated by a substance abuse professional (SAP) from the district-contracted employee assistance program (EAP) provider. The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and the use of controlled substances. The SAP must require educational programs and/or treatment in all such cases. An employee returning to perform safety-sensitive functions for the district following a violation of this policy or the federal regulations shall first be evaluated by a SAP to determine that the employee has properly followed any rehabilitation prescribed. Before the employee can return to perform safety-sensitive functions for the district following a violation of this policy and/or federal regulations, the employee shall undergo a return-to-duty alcohol and/or controlled substances test resulting in an alcohol concentration below the standard set by the FMCSA or a negative controlled substances test.
- 3.6 **Follow-up testing:** Any employee who continues performing safety-sensitive functions for the district, following a violation of the alcohol or controlled substances prohibited conduct, shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a SAP. Follow-up alcohol testing shall be conducted only just prior to, during or immediately after the driver performs safety-sensitive functions, unless a different number and frequency of follow-up alcohol testing is prescribed by the SAP. Follow-up controlled substances testing shall be unannounced, and the number and frequency of such follow-up controlled substances testing shall be as directed by the SAP.-

4. Record Retention and Reporting

The superintendent or designee is responsible for assuring records collected under this policy are subject to controlled access and retained for the time periods established by federal regulations. The superintendent or designee is also responsible for following federal regulations for reporting data collected under this policy.

No driver may possess any prescription medication or report to work while using any prescription, except when he/she is under a prescribing authority's care and the prescribing authority has advised the driver that the substance does not affect his/her ability to operate a commercial motor vehicle. The use of medication that could affect a driver's safe job performance is prohibited while working. The driver shall report to the district human resources representative (who is responsible for maintaining confidential medical files) the use of any prescribed medication and, without identifying the medication, shall provide a certificate from the driver's prescribing authority that the use of the medication will not impair his/her ability to

safely perform his/her duties. If, as a result of testing under this policy, the driver is found to have the presence of controlled substances in the body which is a result of the use of his/her legally prescribed medication that has not been reported, the driver shall be removed from service without pay until it is determined that the use of medication will not impair his/her ability to safely perform assigned duties.

5. Education, Training and Referral Services

The superintendent or designee shall distribute educational materials that explain the requirements of this policy and the federal program. The educational materials shall be distributed to each affected employee prior to the start of the testing program, and to each affected employee subsequently hired or transferred into a position covered by this policy. Each employee, after receiving a copy of the materials, shall sign a certificate of receipt, and the district shall maintain the original of the receipt. The collective bargaining representative of the affected employees, if any, shall be notified of the availability of this information. The educational materials shall include:

- 5.1 a copy of this policy and subsequent procedures;
- 5.2 the name of the person designated to answer questions about the materials;
- 5.3 the categories of employees covered by the policy;
- 5.4 a description of safety-sensitive functions, so that employees will know which part of their tasks will be covered by this policy;
- 5.5 a specific description of conduct prohibited by this policy and the federal program;
- 5.6 the circumstances under which an employee is subject to testing;
- 5.7 the procedures used in the testing program, especially those that protect the employee and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee;
- 5.8 the requirement that employees must submit to testing required by this policy and the federal program, and a description of what constitutes refusal to submit to required testing and the consequences of refusal;
- 5.9 the consequences for employees who violate this policy and the federal program, including immediate removal from conducting a safety-sensitive function;
- 5.10 the consequences for employees found to have alcohol concentrations between 0.02 and 0.04;
- 5.11 the consequences for employees found to have alcohol concentrations of 0.04 or greater; and
- 5.12 information about the effects of alcohol and controlled substances on an individual's health, work and personal life and methods of intervening when a problem with alcohol or controlled substances is suspected, including confrontation, referral to the EAP and referral to management.

6. Supervisor Responsibility

Supervisors designated to determine if reasonable suspicion exists that an employee is under the influence of alcohol or controlled substances must have at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on use of controlled substances. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

7. Employee Notification

The employee who violates this policy or the federal regulations shall be informed of resources available for evaluation and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. Costs incurred by the employees for evaluation and/or rehabilitation are the employee's responsibility.

Cross References:

(cf.: 4313 – Eliminating Tobacco and Alcohol on School Premises)

(cf.: 5255 – Disciplinary Action and Discharge)

(cf.: 5203 – Employee Assistance Program)

Legal References:

49 CFR §§ 382.101 - 382.605

49 CFR § 40

Adoption Date:

950321

000613

030225

090615