

DRUG AND ALCOHOL TESTING FOR HOLDERS OF
COMMERCIAL DRIVERS' LICENSES

I. **PURPOSE**

The purpose of this policy is to provide for the safety and welfare of all students and employees of the District. The use of drugs and alcohol in the workplace creates a substantial risk of harm to self and others. Through the establishment of a standard drug and alcohol testing program, all employees performing safety-sensitive functions and holding commercial drivers' licenses shall be required to submit to drug and alcohol testing.

II. **AUTHORIZATION**

Employers of persons performing safety-sensitive functions and holding commercial drivers' licenses are required to implement a drug and alcohol testing program pursuant to the Omnibus Transportation Employee Testing Act of 1991 (OTETA) regulations of the Federal Highway Administration contained in 49 CFR Parts 40 and 382, et al, and F.S. 234.091, which are hereby adopted by reference.

III. **DEFINITIONS**

A. **Prohibited Substances or Drugs**

Any illegal drug or substance as identified in Schedules I through V or Section 202 of the Controlled Substance Act and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Prescriptions illegally possessed or used are included.

B. **Alcohol Use**

Alcohol use is the consumption, or being under the influence, of any beverage, mixture or preparation including any medication or product containing alcohol.

C. **Covered Employees**

Covered employees include those Board employees who are performing safety-sensitive functions and are required to hold a commercial drivers' license as a condition of employment. Pursuant to 49 C.F.R. 382-107, a driver subject to drug and

alcohol testing is any person who operates a commercial motor vehicle, including casual or intermittent drivers. A vehicle designed to transport sixteen (16) or more passengers including the driver is defined as a commercial motor vehicle. School bus drivers shall be subject to a drug and alcohol testing program that fulfills the requirements of 49 C.F.R. 382. Other persons who drive vehicles designed to transport sixteen (16) or more passengers, including the driver, or operate equipment weighing in excess of 26,000 pounds, are likewise subject to the drug and alcohol testing program. Testing procedures and facilities used for the tests shall conform with the requirements of the Code of Federal Regulations, Title 49, Section 40 *et seq* 49 C.F.R. 40 *et seq*.

IV. APPLICATION

This policy applies to all Board employees who are required to hold a commercial drivers' license as a condition of employment and who perform safety sensitive functions. Any contractor conducting business on District owned or leased property must be in compliance with OTETA 1991 and provide verification to District staff upon request.

V. PROHIBITED CONDUCT

A. Prohibited Substances or Drugs:

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses, or is under the influence, of any controlled substance, except when the use is pursuant to the written instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a vehicle. It shall be the responsibility of the employee to file such written statement with the key contact person, who will forward the statement to the Director of Human Resources and Management Development. More restrictive Federal Highway Administration regulations shall supersede advice of the physician.

B. Alcohol

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having a breath alcohol content of .01 or greater. No driver shall use, or be under the influence, of alcohol while performing safety-sensitive functions. No driver shall perform safety-sensitive functions

after using alcohol.

VI. **TREATMENT AND NOTICE REQUIREMENTS**

A. **Notice to Affected Employees**

The Board will communicate with all covered employees prior to conducting drug and alcohol testing and provide the reasons for conducting said test(s). The Board shall provide to covered employees written notice of the required testing and oral notice at the time of the actual testing.

B. **Education and Training**

The Board shall provide educational materials that explain the requirements of the program and the policies and procedures with respect to meeting the requirements of the drug and alcohol testing program.

C. **Treatment Information**

Each covered employee who engages in prohibited conduct shall be evaluated, at employee expense, by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with use of prohibited drugs or alcohol misuse. Covered employees who test positive for alcohol or drugs shall be subject to disciplinary action up to and including dismissal.

VII. **TESTING AND ANALYSIS**

It is the intent of the Board to comply with all alcohol and controlled substance testing procedures contained in 49 C.F.R. 382, 49 C.F.R. 291, 49 C.F.R. 192 and 49 C.F.R. 395. The Board recognizes the need to protect individual dignity, privacy, and confidentiality in the program. Specimen analysis shall be conducted in a manner to assure a high degree of accuracy and reliability to protect the covered employee and the integrity of the testing process.

The following are conditions under which testing may be conducted as required by Federal Regulations, or when circumstances warrant.

A. **Pre-Employment Testing**

All applicants for employment for positions requiring the

individual to perform safety-sensitive functions and requiring a commercial driver license shall submit to drug and alcohol testing prior to employment except as otherwise specified pursuant to 49 C.F.R. 382.301. Written documentation must be provided by the candidate for employment to substantiate the exception. No covered employee shall be on duty or operate a commercial motor vehicle while the covered employee possesses or is under the influence of drugs or alcohol. Tests shall be conducted before the first time an employee performs any safety-sensitive function for the district. The tests shall be required of an applicant after he/she has been offered the position.

B. Reasonable Suspicion Testing

A supervisor or designee outside the bargaining unit who has been trained in accordance with the requirements of Federal Highway Administration Regulations shall require a covered employee to submit to an alcohol or drug test when there is reasonable suspicion that a covered employee has violated the prohibitions contained in the Federal Highway Administration Regulations.

Reasonable suspicion must be based on documented objective facts and circumstances which are consistent with the long-and short-term effects of alcohol or substance abuse including but not limited to physical signs and symptoms, appearance, behavior, speech and/or body odor.

C. Post-Accident Testing

Alcohol or drug testing will be administered following an accident when the driver was performing a safety-sensitive function and there is a loss of human life; a citation from a law enforcement officer and either a driver or passenger received immediate medical treatment away from the scene of the accident; or one of the vehicles involved was to be towed from the scene of the accident due to operational impairment. Such testing must be conducted within the time limits set forth in Federal Highway Administration Regulations.

D. Random Testing

All covered employees shall be subject to random, unannounced drug and alcohol testing conducted at unannounced times

throughout the year. Covered employees shall be selected by a scientifically valid random process, and each employee shall have an equal chance of being selected for testing each time selections are made. Such employees shall report for testing immediately following notification. Tests for alcohol and drugs shall be conducted just before, during or just after the performance of safety-sensitive functions. The minimum number of random alcohol tests or drug tests shall be determined annually by applicable state and/or federal agencies.

E. Return to Duty Testing

All covered employees who previously tested positive on a drug or alcohol test must submit to a return to duty test and test negative prior to returning to duty, if the covered employee is returned to duty.

F. Follow-up Testing

Unannounced follow-up alcohol and/or controlled substance testing as directed by a substance abuse professional in accordance with Federal Highway Administration Regulations shall occur when it is determined that a covered employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of drugs and it is determined that the covered employee shall be returned to their safety-sensitive position. The number of frequency of follow-up testing shall be determined by the substance abuse professional.

G. Disputed Test Results

Any covered employee who disputes the results of a required drug test set forth in this policy may request that a test of the split sample be conducted. This test may be conducted at the same or at a different testing laboratory. All tests must be conducted by a D.H.H.S. approved laboratory. The cost associated with this test shall be the responsibility of the covered employee. If the results of this split sample test are negative, the covered employee shall be reimbursed by the District.

H. Refusal to Test

Failure of a covered employee to submit to any required drug or alcohol test shall be construed conclusively as a positive test result.

H. Consequence of Positive Test

Any positive test reported to the District by the Medical Review Office, or otherwise, will result in immediate suspension of the employee without pay pending other disciplinary action to the employee, up to and including termination. The District adopts “zero tolerance” for any positive alcohol or drug test.

Positive results under other circumstances will result in disciplinary action consistent with the District's Drug Free Workplace Rule and administrative procedure. Any positive pre-employment test will result in refusal to hire.

I. Americans With Disabilities Act

Under the Americans With Disabilities Act (ADA) the Board prohibits employment discrimination against “qualified individuals with disabilities.”

F.S. 1001.41, 1001.43, 1012.23, 1012.45
49 C.F.R. 382.101 et seq.
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