

Drug and Alcohol Testing for Bus Drivers

In accordance with federal law and regulations, the district shall be responsible for implementing a drug and alcohol testing program for school bus drivers. The purpose of the testing program shall be to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by bus drivers.

Prohibited conduct

Drivers shall be prohibited from any alcohol misuse that could affect performance on the job including use on the job, use during the four hours before driving, having prohibited concentrations of alcohol in their systems while driving and use during eight hours following an accident.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect his or her ability to safely operate a motor vehicle.

Required testing

Drivers shall be subject to pre-employment/pre-duty drug testing and to reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and drug testing pursuant to procedures set out in the federal regulations. These procedures use an evidential breath testing device for alcohol testing. For controlled substances testing, urine specimen collection and testing by a laboratory certified by the U.S. Department of Health and Human Services shall be required.

Pre-employment drug testing shall be administered to an applicant offered a position in the district prior to the first time the driver performs any safety-sensitive function for the district.

Random alcohol testing shall be limited to the time period surrounding the performance of safety-related functions which includes just before or just after the employee performs the safety-related function. Controlled substances testing may be performed at anytime while the driver is at work.

An employee covered by the federal regulations may not refuse to take a required test.

Consequences if testing indicates drug or alcohol misuse

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the employee shall be removed immediately from safety-related functions in accordance with the federal regulations. Before a driver is reinstated, if at all, the driver shall undergo an evaluation by a substance abuse professional, comply with any required rehabilitation and undergo a return-to-duty test with verified test results.

A driver who is prohibited from performing safety-sensitive functions may be assigned to non-safety-sensitive functions until such time as the driver complies with the requirements for returning to duty.

The Board retains the authority consistent with state and federal law to discipline or discharge any employee who is an alcoholic or chemically dependent and whose current use of alcohol or drugs affects the employee's qualifications for and performance of his or her job.

The district is not required under federal law requiring drug and alcohol testing to provide rehabilitation, pay for substance abuse treatment or to reinstate the employee. All employment decisions involving reinstatement, termination or dismissal shall be made in accordance with applicable district policies.

Record retention

The district shall maintain records in compliance with the federal regulations in a secure location with controlled access. With the driver's consent, the district may obtain any of the information concerning drug and alcohol testing from the driver's previous employer. A driver shall be entitled upon written request to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances including information pertaining to alcohol or drug tests.

Records shall be made available to a subsequent employer upon receipt of a written request from a driver only as expressly authorized by the terms of the driver's request.

Other provisions

The district shall take steps to ensure that supervisors receive proper training to administer the drug and alcohol testing program and that employees receive the notifications required by federal regulations.

Adopted by the Board: July 22, 2015

Revised and recoded by the Board: July 17, 2019

LEGAL REFS.: 49 U.S.C. 2717 *et seq.* (*Omnibus Transportation Employee Testing Act of 1991*)
49 C.F.R. Part 40 (*procedures for transportation workplace drug and alcohol testing programs*)
49 C.F.R. Part 382 (*controlled substance and alcohol use and testing*)
49 C.F.R. Part 391 (*qualification of drivers*)
C.R.S. 25-1.5-106 (12)(b) (*possession or use of medical marijuana in or on school grounds or in a school bus is prohibited*)
C.R.S. 42-2-401 *et seq.* (*Commercial Driver's License Act*)

CROSS REFS.:

Board policies:

EL-1, Global Executive Constraint
EL-4, Communication and Counsel to the Board
EL-11, School Safety

File: E-11 (EEAEAA*)

Administrative policies:

EEAEA, School Transportation Vehicle Operator Requirements and Training

GBEC, Alcohol and Drug-Free Workplace

GDQD, Discipline, Suspension and Dismissal of Classified Staff

Drug and Alcohol Testing for Bus Drivers

Drivers who operate a motor vehicle requiring a commercial driver's license are subject to a drug and alcohol testing program that fulfills the requirements of the federal regulations.

These district regulations reflect several requirements of the federal drug testing regulations but are not intended in any way to modify or limit the procedures for drug and alcohol testing specifically addressed in federal regulation. District personnel will adhere to the detailed provisions of federal regulation in administering the district's drug and alcohol program.

References to *tests* in these regulations include both drug and alcohol tests unless the context specifies otherwise. The terms *drugs* and *controlled substances* are interchangeable and have the same meaning and the terms refer to marijuana (THC), cocaine, opioids, phencyclidine (PCP) and amphetamines (including methamphetamines). The term "opioids" includes hydrocodone, hydromorphone, oxycodone, oxymorphone, opium, opiate, or an opium derivative such as morphine, codeine or heroin.

Pre-employment drug tests

Drug tests will be administered before a driver performs any safety-sensitive functions for the district.

The tests will be required of an applicant only after the position has been offered. Employment with the district is conditional upon the applicant receiving a negative drug test result.

An employee may be exempt from the pre-employment drug test if the employee has participated in a drug testing program within 30 days prior to the application for employment and while participating in that program either was tested for drugs within the last six months (from the date of application) or participated in a random drug testing program in the previous 12 months, provided that the district has been able to make all verifications required by law.

Post-accident tests

Alcohol and controlled substance tests will be conducted as soon after an accident as practicable on any driver who:

1. Was performing safety-sensitive functions with respect to the vehicle if the accident involved loss of human life; or
2. Where any person involved in the accident required immediate medical attention away from the scene and the driver received a citation under state or local law for a moving traffic violation arising from the accident; or
3. Where the vehicle required towing from the scene and the driver received a citation for a moving violation.

No driver involved in an accident may use alcohol for eight hours after the accident or until after undergoing a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours after the accident, the district will prepare and maintain records explaining why the test was not conducted.

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

Before any driver operates a commercial motor vehicle, the district will provide post-accident procedures that will make it possible to comply with post-accident testing requirements.

Random tests

Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol will be conducted just before, during or just after the performance of safety-sensitive functions. Random tests for drugs do not have to be conducted in immediate time proximity to performing safety sensitive functions. Once notified of selection for drug testing, a driver must proceed to a collection site to provide a urine specimen.

Drivers will be selected by a scientifically valid random process, and each driver will have an equal chance of being tested each time selections are made. The number of drivers selected for random testing will be in accordance with federal regulations.

Reasonable suspicion tests

Tests must be conducted when a properly trained supervisor or district official has reasonable suspicion that the driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of chronic and withdrawal effects of controlled substances.

Alcohol tests will be 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. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours.

An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

A supervisor or district official who makes a finding of reasonable suspicion also must make a written record of his or her observations leading to a reasonable

suspicion drug test within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

Return-to-duty tests

A drug or alcohol test will be conducted when a driver who has violated the district's drug or alcohol prohibition returns to performing safety sensitive duties.

Employees whose conduct involved misuse of drugs may not return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol may not return to duty in a safety sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and district standards.

Follow-up tests

A driver who violates the district's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem will be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing will be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

Records

Employee drug and alcohol test results and records will be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver will receive copies of any records pertaining to the driver's use of drugs or alcohol, including any records pertaining to personal drug or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

Notifications

Each driver will receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the district's policy and regulations for meeting these requirements. Representatives of employee organizations will be notified of the availability of this information. The information will identify:

1. The person designated by the district to answer driver questions about the materials.
2. Categories of drivers who are subject to the drug and alcohol testing requirements.
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear for what period of the workday driver compliance is required.
4. Specific information concerning driver conduct that is prohibited.

5. Circumstances under which a driver will be tested for drugs and/or alcohol.
6. Procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and ensure that test results are attributed to the correct driver.
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with federal regulations.
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences.
9. Consequences for drivers found to have violated the drug and alcohol prohibitions including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment.
10. Consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.
11. Information concerning the effects of drugs and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a drug or alcohol problem, and available methods of intervening when a drug or alcohol problem is suspected including confrontation, referral to an employee assistance program and/or referral to administrative officials.

Each driver must sign a statement certifying receipt of a copy of the above materials.

The district will inform drivers before drug and alcohol tests are performed.

The district will notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application.

The district will notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district also will tell the driver which controlled substances were verified as positive.

Drivers will inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect the ability to safely operate a commercial motor vehicle.

Enforcement

Any driver who refuses to submit to post-accident, random, reasonable suspicion or follow-up tests will not be allowed to perform or continue to perform safety-sensitive functions.

A driver who in any other way violates district prohibitions related to drugs and alcohol will receive from the district the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee will be evaluated by a substance abuse professional who will determine what help, if any, the driver needs in resolving such a problem.

Any substance abuse professional who determines that a driver needs assistance will not refer the driver to a private practice, person or organization in which the professional has a financial interest except under circumstances allowed by law.

Before the driver is returned to safety-sensitive duties, if at all, the district must ensure that the employee:

1. Has been evaluated by a substance abuse professional.
2. Has complied with any recommended treatment.
3. Has taken a return-to-duty drug and alcohol test with a result indicating an alcohol concentration level of less than 0.02.
4. Is subject to unannounced follow-up drug and alcohol tests. The number and frequency of such follow-up testing will be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the driver's return to duty.

Adopted by the superintendent: July 22, 2015

Revised and recoded by the superintendent: July 17, 2019