

**ALCOHOL AND DRUG ABUSE TESTING POLICY FOR
EMPLOYEES PERFORMING SAFETY-SENSITIVE DUTIES**

I. PURPOSE

It is the intention of this Policy to eliminate substance abuse and its effects involving all employees including those employees whose regular work duties include safety-sensitive duties. While the Board has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and the safety of students and employees. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the best interests of the students, their fellow workers, and the public, as well as themselves. The presence of drugs and alcohol in any amount on the job, and the effects of these substances on employees during the working hours, however slight, are inconsistent with this objective.

Employees who think they may have an alcohol or drug usage problem are urged to seek voluntary confidential counseling and/or rehabilitation through a local certified alcohol or drug assistance program. While the District will be supportive of those who do seek help voluntarily, it will be equally firm in identifying and disciplining those who are substance abusers and do not seek help.

In order to promote the safety of students, and the safety and health of all employees, the Board of Education adopts the drug and alcohol testing policy outlined herein. In recognition of the public service responsibilities entrusted to the employees of the District, and of the fact that drug and alcohol usage can affect a person's ability to perform such duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the Board of Education.

II. APPLICABILITY

This policy applies to all employees including those employees performing safety-sensitive duties who are required to have a commercial driver's license. "Safety Sensitive" employees are those employees who are required to have a commercial driver's license to perform their job duties. Safety-sensitive duties include all on-duty functions performed from the time an employee 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 in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the district or paid work for any other entity.

III. EMPLOYEE ALCOHOL TESTING REQUIREMENTS

A. Prohibitions of Alcohol Misuse

Employees are prohibited from:

1. Possessing, using, dispensing, or selling alcohol while on the job;
2. Using alcohol during the four hours before performing safety-sensitive duties;
3. Having prohibited concentrations of alcohol in their system while performing safety-sensitive duties;
4. Using alcohol during the eight hours following an accident, or until post-accident testing is completed, whichever occurs first; and
5. Refusing to take a required alcohol test.

The District will prohibit an employee having an alcohol concentration of 0.04 or above from performing safety-sensitive duties until he/she has been evaluated by a substance abuse professional, and tests at less than 0.02 for the presence of alcohol. An employee with an alcohol concentration of 0.02 or greater, but less than 0.04, is not permitted to perform safety-sensitive duties for 24 hours. In addition to these requirements, the District has the right to discipline employees for alcohol misuse.

B. Required Tests: Alcohol

1. Post-accident Testing

- (a) As soon as practicable following an accident while working for the District, an employee will be tested for alcohol if:
 - (i) the employee was performing a safety-sensitive duty with the vehicle involved in the accident resulting in the loss of human life; or
 - (ii) bodily injury to the employee and/or another person that requires treatment away from the scene of the accident; or

- (iii) any property damage (to the vehicle itself or any other property) that occurs while the employee is occupying the vehicle; or
 - (iv) the employee receives a citation under a state or local law for a moving traffic violation arising from the accident.
 - (b) Employees shall make themselves readily available for testing, absent the need for immediate medical attention.
 - (c) An employee shall not use alcohol for eight hours after an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
 - (d) When possible, a post-accident alcohol test will be administered within two hours following the accident. An alcohol test will not be administered more than eight hours after the accident.
 - (e) Employees involved in a fatal accident registering an alcohol concentration of 0.02 or greater are at a minimum prohibited from driving for one year and are also subject to disciplinary procedures, including termination.
 - (f) Tests conducted by federal, state or local officials will satisfy the requirements of post-accident testing if:
 - (i) such tests conform to applicable legal requirements; and
 - (ii) the results of the tests are obtained by the District.
- (2) Random Testing
 - (a) Tests for Safety Sensitive employees will be conducted on a random basis at unannounced times throughout the year.
 - (b) Tests for Safety Sensitive employees for alcohol shall be conducted just before, during, or just after the performance of safety-sensitive duties.
 - (c) The number of random alcohol tests for Safety Sensitive employees annually must equal the legally required percentage of employees subject to testing.

- (d) Safety Sensitive employees shall be selected for random testing by a scientifically valid random process, and each employee shall have an equal chance of being tested each time selections are made.

3. Reasonable Suspicion Testing

- (a) All employees may be tested for alcohol misuse at any time, without notice, when a trained supervisor has reasonable suspicion to believe the employee may be under the influence of alcohol or has violated the District's prohibitions against alcohol use.
- (b) A determination that reasonable suspicion exists requiring an alcohol test shall be documented in writing and will be based upon specific, articulable, contemporaneous observations of the appearance, behavior, speech, or body odors of the employee or any other abnormal conduct or erratic behavior that can reasonably be attributed to alcohol use that happen during, just preceding, or just after work; or at the request of a police officer or health care provider. The observations may include indications of the chronic and withdrawal effects of controlled substances.

C. Administration of the Alcohol Test

- 1. The procedure for the administration of any alcohol test will be determined by the District in accordance with the requirements of law.
- 2. The Director of Human Resources shall receive alcohol test results for the District.

IV. EMPLOYEE DRUG TESTING REQUIREMENTS

A. Prohibition

- 1. Employees may not use, possess, sell, manufacture, dispense, or transport controlled substances or report to work with controlled substances in their bodies. This prohibition includes medical marijuana to the extent permitted by law. An employee may not report for work or remain at work when he/she uses any controlled drug or legal drug that was not prescribed for the employee or that is not being taken in accordance with a physician's or health care provider's orders.

2. All employees are required to notify the Director of Human Resources of any drug use if the drug has the potential to impact the employee's ability to safely and effectively perform his/her job duties.

B. Notice to Director of Human Resources of Prescription Drug Use

1. Possession or use of control drugs pursuant to a valid prescription from a physician or health care provider who has informed the employee the substance will not adversely affect his/her ability to perform safety-sensitive duties is not a violation of this policy if:
 - (a) The employee has consulted with his/her physician or health care provider and is assured that the drug use will not adversely affect his/her ability to perform his/her job; or
 - (b) The employee has engaged in the interactive process with the District and is provided with an accommodation so that the employee is able to safely and effectively perform his/her job while using the prescribed medication; and
 - (c) The employee complies with any limitations imposed on the employee's work tasks required because the employee is using the prescription drug; and
 - (d) The employee uses the drugs consistent with the physician or health care provider's orders.
2. Should the employee fail to follow any of these requirements, the prescription drug exception to possession or use of controlled drugs is not applicable.
3. Medical marijuana does not qualify as a legally prescribed drug for purposes of this policy to the extent permitted by law.

C. Required Tests: Drugs

Testing is limited to determine the presence of the five controlled drugs: marijuana, cocaine, opiates (opium and codeine derivatives,) amphetamines and methamphetamines, and phencyclidine (PCP).

The following drug tests will be applicable to employees:

1. Pre-employment/Job Applicant Testing

- (a) Drug testing shall be required of any applicant who has received a conditional offer of employment for a position with safety-sensitive duties.
- (b) The District will not employ anyone who has a positive result from a drug test or who refuses to take the drug test.
- (c) This requirement applies to new hires and persons transferring to a position with safety-sensitive duties.

2. Post-accident Testing

- (a) As soon as practicable following an accident, an employee will be tested for drugs if:
 - (i) the employee was performing a safety-sensitive duty with the vehicle involved in the accident resulting in the loss of human life; or
 - (ii) bodily injury to the employee and/or another person that requires treatment away from the scene of the accident; or
 - (iii) any property damage (to the vehicle itself or any other property) that occurs while the employee is occupying the vehicle; or
 - (iv) the employee received a citation under state or local law for a moving traffic violation arising out of the accident.
- (b) Employees shall make themselves readily available for testing, absent the need for immediate medical attention.
- (c) The drug test will be administered as soon as possible after the accident, but in no case more than thirty-two hours after the accident. An employee who is seriously injured and cannot provide a specimen at the time of the accident is required to authorize the release of hospital documents that would indicate the presence of controlled substances.

- (d) Tests conducted by federal, state or local officials will satisfy the requirement of post-accident testing if:
 - (i) such test conforms to the applicable legal requirements; and
 - (ii) the results of the test are obtained by the District.

3. Random Testing

- (a) Tests for Safety Sensitive employees will be conducted on a random basis at unannounced times throughout the year.
- (b) Tests for Safety Sensitive employees for drugs shall be conducted just before, during, or just after the performance of safety-sensitive duties.
- (c) The number of random drug tests for Safety Sensitive employees conducted annually will equal the legally required percentage of employees subject to testing.
- (d) Safety Sensitive employees shall be selected for random testing by a scientifically valid random process, and each employee shall have an equal chance of being tested each time selections are made.

4. Reasonable Suspicion Testing

- (a) All employees may be tested for drugs at any time, without notice, when a trained supervisor has reasonable suspicion to believe that the employee may be under the influence of drugs or has otherwise violated the District's drug policy.
- (b) A determination that reasonable suspicion exists to require a drug test will be documented in writing and based on facts including the specific, contemporaneous observations of the appearance, behavior, speech or body odors of the employee or any other abnormal conduct or erratic behavior that can reasonably be attributed to drug use that happen during, just preceding, or just after work; arrest and/or conviction of a drug related offense; newly discovered evidence that an employee tampered with a previous drug and/or alcohol test; or at the request of a police officer or health care provider. The observations may include

indications of the chronic and withdrawal effects of controlled drugs.

D. Administration of the Drug Test

1. One or more collection sites where an employee may provide urine specimens for testing will be designated by the District. If the first drug test on the urine sample reveals a positive sample result, the employee, within seventy-two hours of receipt of the results of the first test, may request a second test of the split specimen of the first urine sample.
2. Once a test is verified as positive, the employee will be removed from safety-sensitive or other duties. The results of the split test, if requested by the employee, do not need to be received before the employee is removed from safety-sensitive or other duties.
3. The employee may not again perform safety-sensitive duties until the result of the test of the split specimen has been received.
4. The Director of Human Resources shall receive drug test results for the District.

V. ENFORCEMENT

A. Refusal to Take Required Tests

Any employee who refuses to submit to a post-accident, random, reasonable suspicion, return-to-duty or follow-up test shall not perform or continue to perform safety-sensitive duties. The consequences for a refusal to take a test for all employees are the same as if the employee failed the test. A refusal to take a test includes:

1. the failure to report to an approved site for testing in a timely manner when required;
2. the failure to provide adequate breath or urine for testing without a valid medical reason;
3. the failure to remain readily available for the required test;
4. failure to sign a testing form;

5. leaving the scene of an accident before post-accident testing is performed;
or
6. engaging in conduct that otherwise obstructs delays or interferes with the testing process.

B. Discipline

Employees who test positive for alcohol or drugs or who refuse to take an alcohol or drug test required by this policy, shall be subject to disciplinary action as provided in the applicable Negotiated Agreement governing the employees and/or as set forth in Board policy and Ohio law.

C. Return-To-Duty Tests

1. An alcohol and/or drug test shall be conducted when an employee who has violated the District's alcohol or drug prohibitions returns to performing safety-sensitive duties.
2. Employees whose conduct involved alcohol cannot return to safety-sensitive duties until the return-to-duty alcohol test produces a verified result of less than 0.02 alcohol concentration.
3. Employees whose conduct involved drugs cannot return to safety-sensitive duties until the return-to-duty drug test produces a verified negative result.

D. Follow-up Tests

1. An employee who violates the District's alcohol or drug prohibitions who is not terminated shall be subject to unannounced follow-up testing as directed by the Superintendent in accordance with law.
2. Follow-up alcohol and/or drug testing shall be conducted just before, during or just after the time when the employee is performing safety-sensitive or other duties.

E. Costs

The District will pay all costs of alcohol and drug testing, return-to-duty, and follow-up tests which are not covered by the District's medical insurance plan.

VI. RECORDS

- A. Employee alcohol and drug test results and records shall be confidential and will be released only in accordance with law.
- B. Upon written request, an employee can obtain copies of only records pertaining to his/her use of alcohol or drugs, including any records pertaining to his/her alcohol or drug tests.
- C. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the employee.

VII. ALCOHOL MISUSE AND DRUG USE INFORMATION, TRAINING, AND REFERRAL

- A. The requirements of the alcohol and drug prohibitions and testing requirements as contained in this policy will be made available to employees. This policy will be distributed to each employee performing safety-sensitive duties, and all such employees shall execute a Certificate of Receipt of this Alcohol and Drug Abuse Testing Policy.
- B. Written notice of the availability of this information will be provided to the collective bargaining representative of the employees covered by the policy.
- C. The designated person to answer questions about the alcohol misuse and drug use rules will be the Director of Human Resources.
- D. Any employee who is arrested for or convicted of any criminal drug law while an employee of the District is required to notify the District within five (5) working days of the arrest or conviction.

LEGAL REFS.: 49 C.F.R. §382

Adopted: June 12, 2018