

**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 those employees whose regular work duties include safety sensitive duties. Involvement with drugs and alcohol off the job can take its toll on job performance and the safety of students and employees. 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 the Board of Education’s objectives.

In order to promote the safety of students, and the safety and health of all employees, the Board adopts the drug and alcohol testing policy outlined herein. In recognition of the public service responsibilities entrusted to the employees of the District performing safety-sensitive duties, 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.

II. APPLICABILITY

This policy applies to employees performing safety-sensitive duties who are required to have a commercial driver’s license. 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 or using 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 must 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 the employee for alcohol misuse.

B. Required Tests: Alcohol

The following tests are required pursuant to federal law, 49 U.S.C. §382.

1. Post-accident Testing
 - a. As soon as practicable following an accident, an employee will be tested for alcohol if:
 - (1) the employee was performing a safety-sensitive duty with the vehicle involved in the accident resulting in the loss of human life; or
 - (2) 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:
 - (1) such tests conform to applicable legal requirements and
 - (2) the results of the tests are obtained by the District.

2. Random Testing

- a. Tests will be conducted on a random basis at unannounced times throughout the year.
- b. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive duties.
- c. The number of random alcohol tests annually must equal the legally required percentage of employees subject to testing.
- d. 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. 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 and happen during, just preceding, or just after work. The observations may include indications of the chronic and withdrawal effects of controlled substances.

C. Administration of the Alcohol Test

The procedure for the administration of any alcohol test will be determined by the District in accordance with the requirements of law.

IV. EMPLOYEE DRUG TESTING REQUIREMENTS

A. Prohibition

1. An employee may not report for work or remain at work when he/she uses any unprescribed controlled drug, with the exception of marijuana, which is prohibited regardless of whether it is prescribed (“unprescribed controlled drugs”). Use of unprescribed controlled drugs by employees performing safety-sensitive duties is prohibited on or off duty.
2. An exception to this rule is made for an employee’s use of a drug pursuant to the instruction of a physician. All employees are required to notify their immediate supervisor of any therapeutic drug use and provide a written statement from the physician prescribing the drug.

B. Notice to Supervisor of Prescription Drug Use

1. Possession or use pursuant to a valid prescription from a physician 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 presented a written statement from their physician to his/her direct supervisor, prior to beginning work, stating the name of the prescription drug, effects of the drug on the employee’s behavior, length of time the employee will be using the prescription drug and has received permission from the supervisor to work notwithstanding the prescription;
 - b. The employee complies with any limitations imposed on the employee’s work tasks by the supervisor because of using the prescription drug; and
 - c. The employee’s use does not exceed the prescribed dosages.
2. Should the employee fail to follow any of these requirements, the prescription drug exception to possession or use of unprescribed controlled drugs is not applicable.

C. Required Tests: Drugs

Pursuant to 49 C.F.R. 40.85, testing is limited to determine the presence of the five controlled drugs: marijuana, cocaine, opiates, amphetamines, 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:
 - (1) the employee was performing a safety-sensitive duty with the vehicle involved in the accident resulting in the loss of human life; or
 - (2) 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 must be administered as soon as possible after the accident, but in no case more than 32 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 unprescribed controlled drugs.

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

3. Random Testing

- a. Tests will be conducted on a random basis at unannounced times throughout the year.
- b. Tests for drugs shall be conducted just before, during or just after the performance of safety-sensitive duties.
- c. The number of random drug tests annually must equal the legally required percentage of employees subject to testing.
- d. 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. 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.
- 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 and happen during, just preceding, or just after work. 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 must be removed from safety-sensitive 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 duties.
3. The employee may not again perform safety-sensitive duties until the result of the test of the split specimen has been received.

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 tests shall not perform or continue to perform safety-sensitive duties. The consequences for a refusal to take a test are the same as if the employee failed the test. A refusal to take a test includes:

1. the failure to provide adequate breath or urine for testing without a valid medical reason;
2. engaging in conduct that obstructs the testing process;
3. failure to sign a testing form; and
4. leaving the scene of an accident before post-accident testing is performed.

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 Negotiated Agreement governing employees who are required to have a CDL and/or as set forth in Board policy and Ohio law.

C. Return-To-Duty Tests

1. An alcohol 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 testing shall be conducted just before, during or just after the time when the employee is performing safety-sensitive 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 Superintendent.

LEGAL REFS.: 49 C.F.R. §382

Adopted: April 17, 2018