

Policy-8126

Non-Instructional Operations

Bus Driver Drug and Alcohol Testing Program

This district has an interest in establishing a work environment free from the influence of drugs and alcohol for the benefit of its drivers, students and the public. This policy is adopted to ensure that the district's transportation drivers are free from the effects of drugs and alcohol while at work or on district business. Questions pertaining to this policy will be directed to the superintendent or his or her designee.

DEFINITIONS

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

Alcohol use: The consumption of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

Confirmation test: A second test, following a screening test with a result of point zero two (0.02) or greater, that provides quantitative data of alcohol concentration. For controlled substances testing, confirmation test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or metabolite. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Driver: Any person operating a school bus owned or operated by the district or it's contractor. This includes full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Performing (a safety sensitive function): A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Safety-sensitive function: All time from the time a bus driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at a district/contractor facility or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the district/contractor;
2. All time inspecting equipment as required by federal motor carrier safety regulations or otherwise inspecting, servicing, or conditioning any school bus at any time;
3. All time spent at the driving controls of a school bus in operation;
4. All time repairing, obtaining assistance, or remaining in attendance upon a disabled school bus.

Screening (or initial) test: In drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs. In alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath or saliva specimen.

Refusal to submit to an alcohol or controlled substances test means that a driver:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the district, consistent with applicable federal motor carrier safety regulations, after being directed to do so by the district;
2. Fails to remain at the testing site until the testing process is complete, provided that an employee who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any required drug test, provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver’s provision of a specimen;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;

6. Fails or declines to take a second test the district/contractor or collector has directed the driver to take;
7. Fails to undergo a medical examination of evaluation, as directed by the medical review officer (MRO) as part of the verification process. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
8. Fails to cooperate with any part of the testing process (e.g. refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process; or
9. Is reported by the MRO as having a verified adulterated or substituted test result.

PROHIBITIONS

A bus driver for this district will not:

1. Report to duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of point zero four (0.04) or greater.
2. Be on duty or operate a school bus while in possession of alcohol.
3. Use alcohol while performing safety-sensitive functions.
4. Perform safety-sensitive functions within four (4) hours after using alcohol.
5. Use alcohol for eight (8) hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
6. Refuse to submit to a pre-employment controlled substances test, post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, a return-to-duty alcohol or controlled substances test, or a follow-up alcohol or controlled substances test.
7. Report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances identified in 21 CFR 1308.11 Schedule I. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance, except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance does not adversely affect the driver's ability to safely operate a school bus.

8. Report for duty, remain on duty, or perform a safety-sensitive function if he/she tests positive for controlled substances or has adulterated or substituted a test specimen for controlled substances.

The district will not allow, require, permit or authorize a driver to operate a school bus during any period in which the district determines that a driver is not in compliance with any return-to-duty requirements as may be set forth in this policy or federal motor carrier safety regulations after the occurrence of any of the following events:

1. The driver receives a positive, adulterated, or substitute drug test result;
2. The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration;
3. The driver refused to submit to a test for drugs or alcohol as required herein;
4. The driver used alcohol prior to a post-accident alcohol test in violation of the prohibitions set forth herein; or
5. The district has actual knowledge that a driver has (i) used alcohol while performing safety-sensitive functions; (ii) used alcohol within four (4) hours of performing safety-sensitive functions; or (iii) used a controlled substance.

REQUIRED TESTING

Pre-employment Testing

Prior to the first time a driver performs any safety-sensitive functions, all prospective bus drivers (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions) will undergo testing for alcohol and controlled substances as a condition prior to being used. The test results from the pre-employment testing must show an alcohol concentration of less than point zero four (0.04), and a controlled substances test result indicating a verified negative result before a bus driver will be allowed to operate a school bus. Pre-employment alcohol tests will be conducted according to the procedures set forth herein after the district has made a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.

Prior to any driver performing safety-sensitive functions for the district, the district will ask the driver whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the driver applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two (2) years. If the driver admits that he or she had a positive test or a refusal to test, the district will not permit the driver to perform any safety-sensitive functions until and unless the driver documents successful completion of the return-to-duty process set forth in this policy.

Baseline Testing

This district requires all bus drivers to submit to testing for the presence of alcohol and/or controlled substances within thirty (30) days after the effective date of this policy.

Post-accident Testing

As soon as practicable following an accident involving a school bus, the bus driver operating the bus involved in the accident will be tested for alcohol and controlled substances if:

1. The accident involved the loss of human life;
2. The driver receives a citation within eight (8) hours of the occurrence of the accident (for controlled substance testing, testing will occur if the driver receives a citation within thirty-two (32) hours of the occurrence of the accident) under state or local law for a moving traffic violation arising from the accident, if the accident involved: (i) personal injury to another person who, as a result of the injury, immediately required medical treatment away from the scene of the accident; or (ii) one or more vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The following table summarizes when post-accident testing is required:

Type of accident involved	Citation issued to bus driver	Test must be performed by district
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from scene	YES	YES
	NO	YES
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	YES

A bus driver involved in a work-related accident requiring medical attention will inform his or her supervisor as soon as possible after the accident. Any needed alcohol or controlled substances tests may be promptly conducted in conjunction with his or her medical treatment. A bus driver who is injured in a work-related accident and is unable to provide a specimen for testing will authorize the release of relevant hospital reports or other documentation indicating the presence, or lack of, alcohol or controlled substances at the time of the accident. A driver who is subject to post-accident testing who does not remain readily available for such testing may be deemed by the district to have refused to submit to testing.

A bus driver subject to post-accident testing will remain readily available for such testing or may be deemed by the school district to have refused to submit to testing.

A post-accident test for alcohol will be administered within two (2) hours following the accident if possible. No test for alcohol will be administered after eight (8) hours following the accident. A post-accident controlled substance test will be administered within thirty-two (32) hours following the accident.

If it is determined by the district's administration that a bus driver's accident was caused solely by unsafe conditions or by the actions of a third party, the school district reserves the right to waive post-accident testing unless the accident involved the loss of human life or the bus driver received a citation for a moving traffic violation arising from the accident. Post-accident testing will not be required where (i) the occurrence involves only boarding or alighting from a stationary school bus; or (ii) the occurrence involves only the loading or unloading of cargo from the school bus.

Random Testing

A random test is a test that is unannounced and results in every bus driver having an equal chance of being selected for testing at any given time. The random selection method used by this district will consist of placing all drivers' names into a hat and a name will be pulled out at intervals chosen by the superintendent or his or her designee. Such random testing may result in a driver being tested more than once a year.

The minimum annual percentage rate for random alcohol testing will be ten (10) percent of the average number of bus driver positions. The minimum annual percentage rate for random controlled substances testing will be twenty-five (25) percent of the average number of bus driver positions. The minimum annual percentage rates set forth may change based upon the Federal Motor Carrier Safety Administration's yearly minimum annual percentage rates.

Each bus driver notified that he/she has been selected for random alcohol and/or controlled substances testing will immediately go to the testing site; provided, however, that if the bus driver is performing a safety-sensitive function, other than driving a school bus, at the time of the notification, the driver will cease performing the safety-sensitive function and proceed to the testing site as soon as possible.

A bus driver will only be tested for alcohol while the driver is performing safety-sensitive functions, just before the bus driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

Reasonable Suspicion Testing

A bus driver will be required to submit to an alcohol test and/or a controlled substances test when the district has reasonable suspicion to believe that the bus driver has violated the prohibitions in this policy. The district's determination that reasonable suspicion exists to require the bus driver to undergo an alcohol and/or controlled substances test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the bus driver. For reasonable suspicion controlled substances testing purposes, such observations may include indications of the chronic and withdrawal effects of controlled substances.

Such observations will be made by a supervisor or district official having received a minimum of sixty (60) minutes of training on alcohol misuse and a minimum of sixty (60) minutes of training on controlled substance use. Said training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The individual making the determination that reasonable suspicion exists will not conduct such tests.

A reasonable suspicion alcohol test is authorized only if the observations are made during, just preceding, or just after the period of the workday that the bus driver is required to be in compliance with this policy. A driver may be directed by the district to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

Reasonable suspicion alcohol testing will be performed within two (2) hours following the district's determination that reasonable suspicion exists if possible. A reasonable suspicion alcohol test will not be administered after eight (8) hours following the district's determination that reasonable suspicion exists. The district will maintain records stating the reasons why any tests required by this policy were not promptly administered or not administered. Notwithstanding the absence of a reasonable suspicion alcohol test, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor will the district permit the driver to perform or continue to perform safety-sensitive functions, until: (i) an alcohol test is administered and the driver's alcohol concentration is less than 0.02; or (ii) twenty-four (24) hours have elapsed following the determination by the district that there is reasonable suspicion to believe the driver has violated the prohibitions in this policy concerning the use of alcohol. Except as set forth in this paragraph, no adverse employment action will be taken against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.

The district will make and maintain written records of the observations leading to an alcohol or controlled substances reasonable suspicion test which must be signed by the supervisor of official

who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

Return-to-Duty Testing

The district may require testing as recommended by a qualified substance abuse professional in accordance with federal motor carrier safety regulations and this policy (see Notification of Test Results and Return to Duty, below) for any driver who has violated this policy.

Follow-Up Testing

The district may require follow-up testing as recommended by a qualified substance abuse professional in accordance with federal motor carrier safety regulations and this policy (see Notification of Test Results and Return to Duty, below) for any driver who has violated this policy. In accordance with federal motor carrier safety regulations, the minimum number of follow-up tests is six (6) unannounced tests in the first twelve (12) months of safety-sensitive duty following the driver's return to safety-sensitive functions. Although the district will not impose additional follow-up testing requirements beyond those recommended by the substance abuse professional, the district will determine the dates of any such required testing. The driver will not receive prior notice of any such required follow-up testing. The district will not substitute any other tests (e.g. those carried out under the random drug testing program) conducted on the driver for follow-up testing requirements.

DRUG TESTING PROCEDURES

The drug testing procedures will include, but not be limited to, the following controlled substances:

1. Cocaine;
2. Marijuana;
3. Opiates;
4. Amphetamines; and
5. Phencyclidine.

Urine samples collected under this policy will not be used to conduct any other analysis or test. The collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, and will carefully ensure the modesty and privacy of the driver, and will

avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

If, during the specimen collection process, the collection site person detects an effort by the driver to adulterate or substitute a specimen, a second specimen will be requested. If a second specimen is provided both will be tested. If the driver refuses to provide a second specimen the district will be so informed. Such conduct will be considered equivalent to testing positive and will result in an applicant not being offered employment with the district. A bus driver will have his or her employment with this district terminated in such a circumstance.

The entity or person(s) designated by this district to perform alcohol testing procedures and/or the specimen collection and analysis will strictly follow the Department of Transportation's rules, provide the necessary qualified personnel, protect the integrity of the testing processes, safeguard the validity of the test results, maintain the strict confidentiality of the testing and test results with disclosure only to the employer and the employee, and ensure that those results are attributed to the correct driver.

RETENTION OF RECORDS

The following records will be retained for five (5) years:

1. Records of driver alcohol test results indicating an alcohol concentration of point zero two (0.02) or greater;
2. Records of driver verified positive controlled substances test results;
3. Documentation of refusals to take required alcohol and/or controlled substances tests;
4. Calibration documentation;
5. Driver evaluation and referrals;
6. Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations; and
7. A copy of each annual calendar year summary.

The following records will be retained for three (3) years from the date of a driver's first performance of safety-sensitive functions:

1. Records of information obtained or of the good faith efforts made by the district to obtain alcohol and controlled substances information from a driver's previous employer(s).

2. Records of each query, including driver consents, and all information received in response to each query made to the Commercial Driver's License Drug and Alcohol Clearinghouse.

The following records will be retained for two (2) years:

1. Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

The following records will be retained for one (1) year:

1. Records of negative and canceled controlled substances test results; and
2. Alcohol test results with a concentration of less than point zero two (0.02).

The following records will be retained for an indefinite period:

1. Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers will be maintained by the district while the individual performs the functions which require the training and for two (2) years after ceasing to perform those functions.

CONFIDENTIALITY OF RECORDS

This district will not release bus driver information compiled pursuant to this policy except in the following circumstances:

1. A bus driver, upon written request, is entitled to receive copies of any records pertaining to the driver's use of alcohol or controlled substances, including records of test results. The district will promptly provide any such records to the driver. Access to a driver's record will not be contingent upon payment for records other than those specifically requested.
2. Results of all bus driver alcohol and/or controlled substances testing and any other information pertaining to the district's alcohol misuse and/or controlled substances use prevention program will be provided at the request of the Secretary of Transportation (DOT), any DOT agency, or any State or local officials with regulatory authority over the district or any of its bus drivers.
3. Records may be used in a lawsuit, grievance, worker's compensation claim, unemployment compensation, or other proceeding initiated by or on behalf of a bus driver, and arising from the results of a positive alcohol and/or controlled substance test administered under this policy or a refusal to test (including, but not limited to, adulterated or substituted test results). The district may also disclose information in criminal or civil actions brought by or on behalf of a driver and resulting from a positive drug or alcohol test (including, but not limited to, adulterated or substituted test results).
4. Records will be made available to a subsequent employer or other identified person upon receipt of a written request from a bus driver. The release of information is permitted only in accordance with the terms of an employee's consent.

5. The district will release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's written consent.

PRE-EMPLOYMENT AND ONGOING REQUESTS FOR INFORMATION

Previous Employers

The district is required to request alcohol and controlled substances information from previous employers prior to any driver performing safety-sensitive functions for the district for the first time (i.e. new hires or employees who transfer into a safety-sensitive position). Such requests will be made after obtaining the driver's written consent. Drivers who refuse to provide such written consent will not be permitted to perform any safety-sensitive functions. The information that will be requested from previous employers includes the following:

1. Alcohol tests with a result of 0.04 or higher alcohol concentration;
2. Verified positive drug tests;
3. Refusals to be tested (including verified adulterated or substituted drug test results);
4. Other violations of Department of Transportation agency drug and alcohol testing regulations; and
5. With respect to any driver who violated a DOT drug and alcohol regulation, documentation of the driver's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g. an employer who did not hire an employee who tested positive on a pre-employment test), the district will seek to obtain this information from the driver.

Drug and Alcohol Clearinghouse

The district will not employ a driver subject to alcohol or controlled substances testing under this policy to perform safety-sensitive functions without first conducting a pre-employment query of the Commercial Driver's License Drug and Alcohol Clearinghouse to obtain information about whether the driver has a verified positive, adulterated or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of this policy; or an employer as reported actual knowledge that the

driver used alcohol on duty, before duty or following an accident in violation of this policy, or used a controlled substance in violation of this policy.

The district will first obtain a driver's written or electronic consent to query the Clearinghouse to determine whether a record exists for that driver. The consent must give the district access to the following specific records:

1. A verified positive, adulterated, or substituted controlled substances test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to a test in violation of this policy;
4. An employer's report of actual knowledge of (i) on duty alcohol use; (ii) pre-duty alcohol use; (iii) alcohol use following an accident; and (iv) controlled substances use;
5. A substance abuse professional's report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. An employer's report of completion of follow-up testing.

The district will also conduct an annual query of the Clearinghouse for information for all drivers subject to controlled substance and alcohol testing under this policy to determine whether information exists in the Clearinghouse about those drivers. In lieu of a full query, the district may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement. The limited query will tell the district whether there is information about the individual driver in the Clearinghouse, but will not release that information to the district. Drivers may give consent to the district to conduct limited queries that is effective for more than one (1) year.

If the limited query shows that information exists in the Clearinghouse about the individual driver, the district will conduct a full query within twenty-four (24) hours of conducting the limited query. If the district fails to conduct the query within twenty-four (24) hours, it will not allow the driver to continue to perform safety-sensitive functions until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions. For purposes of this paragraph, prohibitions means that a driver is not permitted to perform any safety-sensitive function because the results of the Clearinghouse query demonstrate that the driver has a verified positive, adulterated or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of this policy; or that an employer has reported actual

knowledge that the driver used alcohol while on duty, before duty or following an accident, or used a controlled substance, in violation of this policy, except where a query of the Clearinghouse demonstrates:

1. That the driver has successfully completed the substance abuse professional evaluation, referral, and education/treatment process as set forth in this policy; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the substance abuse professional; or
2. That, if the driver has not completed all follow-up tests as prescribed by the substance abuse professional in accordance with this policy and specified in the report of the substance abuse professional, the driver has completed the substance abuse professional evaluation, referral and education/treatment process and achieves a negative return-to-duty test result, and the district assumes the responsibility for managing the follow-up testing process associated with the testing violation.

NOTIFICATION OF TEST RESULTS AND RETURN TO DUTY

This district will notify a bus driver of the results of a pre-employment controlled substances test if the bus driver requests the results within sixty (60) calendar days of being notified of the disposition of the employment application.

This district will notify a bus driver of the results of random, reasonable suspicion, and post-accident tests for controlled substances if the test results are verified positive. The employee will also be informed which controlled substance or substances were verified as positive.

In those instances where the medical review officer has been unable to contact the driver to discuss the results of a controlled substances test, the superintendent or designee will make reasonable efforts to contact and discuss the test results with the individual, regardless of employment status. The superintendent or designee will request that the individual contact the medical review officer within twenty-four (24) hours, and will also inform the medical review officer of such notification.

Each driver who has engaged in conduct which violates this policy will be advised of the resources available to the driver in evaluating and resolving the problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

Prior to performing any safety-sensitive functions following a violation of this policy, each driver who engages in conduct which violates this policy will be evaluated by a qualified substance abuse professional, at the driver's own expense, who will determine what assistance, if any, the

employee needs in resolving problems associated with alcohol misuse and controlled substances use. The driver must successfully comply with the substance abuse professional's evaluation recommendations, including regular follow-up testing, counseling or other services, before the district will permit such driver to return to duty. As part of the driver's return-to-duty process, the driver must agree to allow the district to monitor and document the driver's participation in any recommended services. Any driver who fails or refuses to comply with the recommendations of the substance abuse professional is subject to disciplinary action by the district, including termination of employment.

SELF-REFERRAL

All bus drivers employed by this district who may consider themselves alcohol or controlled substances dependent will be encouraged to obtain an evaluation by a licensed substance abuse professional and seek treatment, if so recommended. This district will provide informational assistance in locating professional substance abuse counseling to any driver requesting such assistance.

Bus drivers undergoing alcohol or controlled substances rehabilitation will do so at their own expense (other than those expenses covered by the district's insurance program), on their own time, or during an unpaid leave of absence approved by the district prior to taking the leave.

Any bus driver who demonstrates successful progress or completion of a recommended course of treatment may return to work only after passing an alcohol and/or controlled substances test at the driver's expense. Any such driver will be expected to comply with all aspects of this policy.

POLICY VIOLATION CONSEQUENCES

Any individual who tests positive in the pre-employment test for alcohol (point zero four (0.04) or higher) or controlled substances will not be offered employment with this district. Any bus driver who tests positive for alcohol (point zero four (0.04) or higher) or controlled substances will have his or her employment with this district terminated.

No driver tested under this policy who is found to have an alcohol concentration of point zero two (0.02) or greater, but less than point zero four (0.04), will perform or continue to perform safety-sensitive functions for this district, until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test. No action will be taken under this policy against a driver based solely on test results showing an alcohol concentration less than point zero four (0.04).

The possession, use, purchase, or distribution of alcohol or controlled substances by a bus driver in a district vehicle, on district property, or during work hours is prohibited. Any bus driver who violates this prohibition will have his or her employment with this district terminated.

A bus driver's off-the-job illegal use, manufacture, purchases, possession, or distribution of controlled substances, drug paraphernalia, or illegal use of alcohol resulting in criminal charges against the driver will result in the driver being requested to submit to alcohol and/or controlled substances testing. If the tests are positive, the driver will fall within the provisions of this policy. If a bus driver is convicted of the above-stated offense, the driver will have his or her employment with this district terminated.

Any driver who refuses to be tested, or fails to release or provide information as required by this policy, will have his or her employment with this district terminated.

REPORTING REQUIREMENTS

The district is required by federal motor carrier safety regulations to report the following information about a driver to the Commercial Driver's License Drug and Alcohol Clearinghouse by the close of the third business day following the date on which it obtains such information:

1. An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
2. A negative return-to-duty test result;
3. A refusal to take an alcohol test as defined in this policy;
4. A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) – (4), (a)(6), (a)(8) – (a)(11), or (d)(1), but in the case of a refusal to test where the driver admits to the collector or MRO that he/she adulterated or substituted the specimen, the district may report only those admissions made to the specimen collector; and
5. A report of actual knowledge by the district that the driver used alcohol on duty, before duty, or following an accident, or used controlled substances, in violation of this policy.
6. A report that the driver has successfully completed all follow-up tests as prescribed in the substance abuse professional report.

The information required to be reported must include, as applicable: (i) the reason for the test; (ii) driver's name, date of birth and CDL number and state of issuance; (iii) employer name, address and USDOT number; (iv) date of the test; (v) date the result was reported; and (vi) test result, which must be one of the following: (a) negative (only required for return-to-duty tests); (b) positive; or (c) refusal to take a test.

For each report of a violation, the district must report the following information:

1. Documentation, including but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the driver was directed to appear, or an affidavit providing evidence of such notification;
2. Documentation, including but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the driver was terminated or resigned (if applicable);
3. Documentation, including a certificate of service or other evidence, showing that the district provided the driver with all documentation reported as set forth in this policy.
4. For reports of violation consisting of actual knowledge of alcohol use or controlled substance use, the district will also provide (i) the date the district obtained actual knowledge of the violation; (ii) witnesses to the violation, if any, including contact information; (iii) a description of the violation; (iv) evidence supporting each fact alleged in the description of the violation, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements, correspondence, or other documentation; and (v) a certificate of service or other evidence showing that the district provided the driver with all information reported under this paragraph.

CONCLUSION

The terms of this Transportation Workplace Alcohol and Drug Testing Program are intended to achieve a work environment where bus drivers are free from the effects of alcohol and/or controlled substances. The provisions of this policy may be revised as necessary. This district anticipates that by implementing the provisions of this policy, its drivers will enjoy the benefits of working in a safer and more productive environment.

Further information is available from the superintendent or designee concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem of a driver or a coworker; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

Policy History:

Adopted: June 2019

Legal Reference:

PL 102-43 (The Omnibus Transportation Employee Testing Act of 1991)

49 C.F.R. Parts 40 and 382 (DOT and Federal Motor Carrier Safety Regulations)

Idaho Code §72-1701 *et seq.* (Idaho Private Employer Alcohol and Drug-Free Workplace Act)