

Drug and Alcohol Testing – Transportation Personnel

Section I – Philosophy

The District has a long-standing commitment to maintain the highest standards for driver safety and health. The improper use of alcohol, use of illegal drugs, or unauthorized use of prescription drugs is contrary to these high standards. Therefore, the District will not tolerate the possession or use of alcohol or illegal drugs or unlawful use of prescription drugs by its employees in any job-related context.

Section II – Administrative Information

The District's controlled substance and alcohol testing program meets the requirements of the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA), Controlled Substances and Alcohol Use and Testing Rule, Code of Federal Regulations (CFR), Title 49, Section 382 and Part 40, as amended.

A. Responsibilities

1. District Controlled Substance and Alcohol Program Coordinator: Appendix A contains the name, address, and telephone number of the individual(s) responsible for questions related to the policy or implementation of the policy;
2. Supervisors: Supervisors are responsible for observing the performance and behaviors of employees and observation/documentation of events suggestive of behavior which is prohibited by this part (i.e. controlled substance use and/or alcohol misuse). It is the supervisor's responsibility to determine when testing for controlled substances and/or alcohol is necessary, based on reasonable cause;
3. Employees: Each employee has the responsibility to be knowledgeable of the requirements of the District's controlled substance and alcohol policy and to fully comply with the provisions of the policy.

B. Who is Covered

1. This policy applies to every District employee who is required to have a commercial driver's license as part of his/her job assignment. These employees are governed by the

laws of the Federal Motor Carrier Safety Administration Commercial Driver's License regulations;

2. Any employee holding a Commercial Driver's License (CDL) and who operate District vehicles which transport 16 or more passengers, including the driver, or who operates a District vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more;
3. Any contractor/subcontractor engaged in safety-sensitive activities on behalf of the District.

C. Notification to Employees

Prior to performing a controlled substance or alcohol test under this regulation, the District must notify the CDL employee(s) that the alcohol or controlled substance test is required. All covered employees will be provided with a complete copy of the controlled substance and alcohol policy. Each employee may obtain an additional copy of this policy for his/her review by contacting the District Drug and Alcohol Program Coordinator. Each employee will be required to sign a certificate of receipt certifying he/she has received a copy of the controlled substance and alcohol policy.

Section III – Testing Procedures

A. Specimen Collection Requirements for Controlled Substance and Alcohol Testing

1. All specimen collections for controlled substances and alcohol shall be performed according to the specific guidelines as designated in 49 CFR Part 40. A urine specimen will be collected to test for controlled substances and a breath sample will be collected to test for alcohol.
2. Alcohol tests will be administered on an Evidential Breath Testing Device (EBT) that is on the Conforming Products List published by the National Highway Safety Administration (NHTSA). The tests will be performed by a certified Breath Alcohol Technician (BAT).

B. Substances for Which Testing Must be Conducted

The District will test for evidence of the following substances:

1. Marijuana
2. Cocaine
3. Opiates
4. Phencyclidine (PCP)
5. Amphetamines
6. Alcohol

C. Drug Testing Laboratory

The District shall use a drug testing laboratory certified under Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Work Place Drug Testing Programs; 53 CFR 11970, April 11, 1988, and subsequent amendments.

D. Time Period Testing is Conducted

An employee may be sent to be tested for controlled substances at any time during the employee's workday. Testing for alcohol must take place just before, during, or just after performing a safety sensitive or covered function.

If the test result of the primary specimen is positive, the MRO will notify the employee who may request the split specimen be tested at the employee's expense at a different DHHS certified laboratory. The employee must make the request within seventy-two (72) hours of notification by the MRO. If the result of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the original test results and the cost of the split sample test will be borne by the District.

Upon learning the MRO is attempting to contact the employee, the employee must respond by calling the MRO within twenty-four (24) hours of receipt of notification to call or be in violation of this regulation.

Section IV –Types of Tests Required

A. Pre-Employment Testing

A pre-employment controlled substance and alcohol test must be conducted before the first time an employee performs a safety sensitive function. This also applies to regular employees returning from a leave of thirty (30) calendar days or more who have not been participating in the controlled substance and alcohol program and subject to the random selection process. An employee must also take a pre-employment controlled substance and alcohol test when he/she transfers to a safety sensitive position. A negative test result is required prior to performing covered functions.

B. Random Testing

1. The regulations require that covered employees shall be subject to controlled substance and alcohol testing on an unannounced and random basis. The District shall conduct a number of controlled substance tests according to the following:

- a. The minimum annual percentage rate for random alcohol testing is twenty five (25) percent of the average number of employees covered under District policy.
- b. The minimum annual percentage rate for random drug/substance testing is fifty (50) percent of the employees covered under District policy.

The FMCSA administrator's decision to increase or decrease the minimum annual percentage rate for testing is based on the reported violation rate for the entire industry. This information is drawn from the Alcohol Management Information System Reports.

2. Once the employee has been notified that he/she has been selected for testing, he/she must proceed to the testing site immediately.
3. Alcohol tests will be performed only just before, during, or just after performing a safety sensitive function.
4. The selection of employees for random alcohol and controlled substance testing shall be made by a scientifically valid method such as a number table of a computer based random number generator that matches the employee's social security number, payroll number, or other comparable identifier. Under the selection process used, each employee shall have an equal chance of being tested with each selection made.
5. The District shall ensure that random alcohol and controlled substance tests conducted under this section are unannounced and the dates for administering random alcohol and controlled substance tests are spread reasonably throughout the calendar year.

C. Reasonable Suspicion Testing

Reasonable suspicion testing of an employee is required when there is a reasonable suspicion to believe the employee has violated the prohibitions of this policy (as described in Section V). A supervisor or District official who is trained in detection of the possible symptoms of controlled substance use and/or alcohol abuse shall make the decision to test the employee.

1. Controlled Substances

- a. The determination that reasonable suspicion exists will be based upon specific observations concerning the appearance, behavior, speech, performance indicators, or body odors of the employee(s). The observations may include indications of chronic and/or withdrawal effects of controlled substances.
- b. An employee may be asked to submit to a reasonable suspicion controlled substance test at any time during the work period.

2. Alcohol

- a. The determination that reasonable suspicion exists will be based upon specific observations concerning appearance, behavior, speech, performance indicators, or body odors of the employee.
- b. Alcohol tests for reasonable suspicion must be requested before, during or just after the employee performs a safety sensitive function.
- c. The supervisor who makes the determination to test the employee may not administer the alcohol test. The supervisor or designee shall drive the employee to the District's test site certified under this law.
- d. The employee will not be permitted to return to work to perform safety sensitive functions until:
 1. An alcohol test is administered with the result of less than 0.01% BAC

OR

2. Twenty-four (24) hours have elapsed from the time the determination of reasonable suspicion was made.

3. Supervisor Training

A supervisor who must determine whether an employee shall be tested based on reasonable suspicion must have received training of sixty (60) minutes on alcohol misuse and an additional sixty (60) minutes of training on drug/substance misuse. The training must be specific on physical, behavioral, and performance indicators of controlled substance and alcohol misusers.

D. Post-Accident Testing

1. An employee shall be required to submit to a post-accident alcohol and controlled substance test if he/she was performing a safety sensitive function and is involved in an accident as follows:
 - a. The accident results in a fatality;

OR

- b. The employee receives a citation under state or local law for a moving traffic violation arising from the accident **AND** there is bodily injury resulting in the injured receiving immediate medical treatment away from the scene of the accident;

OR

- c. The employee receives a citation under state or local law for a moving traffic violation arising from the accident **AND** one or more vehicles incurring disabling damage as a result of the accident needs to be towed away from the scene by a tow truck or other motor vehicle.
2. Every effort will be made to administer an Alcohol test within two (2) hours following the accident. If the Alcohol test is not administered within eight (8) hours following the accident, the District shall cease attempts to administer the test.
 3. Every effort will be made to administer a Controlled Substance test within eight (8) hours following the accident. If the Controlled Substance test is not administered within thirty-two (32) hours following the accident, the District shall cease attempts to administer the test.
 4. If the District fails to meet the post-accident testing time lines, the District must prepare and maintain records stating the reason(s) why the test(s) was not promptly administered. Records shall be submitted to FMCSA upon agency request.
 5. Post-accident breath, urine or blood tests completed by local, state or federal officials may fulfill the requirements of this policy.
 6. A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed by the District as refusing to submit to testing. This policy shall not be construed to require the delay of necessary medical attention for injured parties following an accident; prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident; or to obtain necessary emergency medical care.
 7. The District will provide the employee with information on how to comply with post-accident procedures prior to operating a commercial motor vehicle.

Section V – Prohibited Conduct

- A. Refusal to Submit to an Alcohol or Controlled Substance Test

No employee shall refuse to submit to any of the required controlled substance and/or alcohol tests, including post-accident, random, reasonable suspicion or follow up tests. Refusal to submit to an alcohol or controlled substance test means that a driver:

1. Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with this policy;

OR

2. Fails to provide adequate urine for controlled substance testing without a valid medical explanation after he/she has received notice of the requirement of urine testing in accordance with this policy;

OR

3. Leaves the scene of an accident without reason;

OR

4. Engages in conduct that clearly obstructs the testing process.

B. Prohibited Conduct Related to Controlled Substances

1. No employee shall report for duty or remain on duty performing a safety sensitive function when the employee uses a controlled substance, except when the substance is prescribed by a physician, and the physician informs the employee that the substance does not adversely affect the employee's ability to perform the safety sensitive function. The employee is encouraged to report all doctor prescribed drugs used to the District's administrator of the program. Any supervisor who has actual knowledge that an employee has violated this regulation and permits the employee to work will be in violation of this regulation.

2. No employee shall report for duty or remain on duty performing a safety sensitive function after testing positive for a controlled substance.

C. Prohibited Conduct Related to Alcohol

1. No employee shall report to duty or remain on duty requiring the performance of a safety sensitive function with a breath alcohol concentration level of 0.01% or greater. Any supervisor who has actual knowledge that an employee has violated this regulation and permits the employee to work will be in violation of this regulation.

2. No employee shall use alcohol while performing a safety sensitive function.

3. No employee shall possess alcohol while on duty or operating a CMV unless the alcohol is manifested and transported as part of a shipment.
4. No employee shall perform a safety sensitive function within four (4) hours after using alcohol.
5. No employee shall use alcohol within eight (8) hours after an accident or until after an alcohol test has been completed, whichever comes first.

Section VI – Consequences for Prohibited Conduct

Any employee who engages in prohibited conduct as set forth in Section V, shall, upon knowledge of the conduct by the employee's supervisor, be considered in violation of this policy and will subject the employee to disciplinary action up to and including immediate dismissal for a single violation, regardless of the results of subsequent rehabilitation. Such test results will require the employee to be relieved immediately of duties and placed on administrative leave until a determination is made regarding disciplinary action.

Section VII – Refusal to be Tested

An employee's delay in reporting immediately and directly to or refusal to take a drug or alcohol test on a post-accident, reasonable suspicion, return to work, follow-up, or random basis will be considered the same as having a positive result. In such a case, disciplinary action, up to and including immediate dismissal, will proceed as if a violation of this policy had occurred.

Section VIII – Review of Drug Test Results

A. Medical Review Officer (MRO)

1. The MRO shall be a licensed physician with knowledge of substance abuse disorders. The function of the MRO is to review all negative and positive controlled substance test results. The MRO interviews employees who test positive before results are transmitted to the employer. A positive test result does not automatically identify an employee/applicant as having used controlled substances in violation of a DOT regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. The MRO may report to the employer by a communication device, but in all instances, a signed, written notification must be forwarded within three (3) business days of completion of the MRO's review.
2. The role of the MRO is to review and interpret confirmed positive test results obtained through the District testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed

positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

3. The District has contracted with an MRO for the controlled substance testing program in accordance with the requirements of 49 CFR Parts 40 and 382. A listing of the District's MRO(s) which includes their name(s) and address(es) is contained in Appendix A.

B. Release of Results to Other Employers

Information regarding the employee's test results will not be released to other employers without the employee's written consent. All records regarding the employee's controlled substance and alcohol test results are available to the employee.

Section IX – Substance Abuse Professional

The Substance Abuse Professional (SAP) provides information to the employee regarding the following issues:

- A. Effects of alcohol/controlled substance use on an individual's health, work, and personal life.
- B. Signs and symptoms of alcohol misuse or controlled substance abuse.
- C. Methods of intervening when an alcohol or controlled substance problem is suspected.
- D. Counseling and treatment programs available for controlled substance abuse and alcohol misuse.

Section X – Employee Drug and Alcohol Volunteer Rehabilitation Program

Any employee who has engaged in conduct prohibited in Section V, and who, prior to being requested to participate in a drug or alcohol test, voluntarily comes forth with a request for professional help, shall be referred to the District's Employee Assistance Program (EAP). The EAP will assist employees with these problems and will also make referrals to appropriate treatment programs.

Employees voluntarily seeking assistance for a substance abuse problem through the District's EAP or a medical source will not be disciplined as a result of their disclosure or prior drug or alcohol use. Treatment by our EAP or another source will be handled in confidence. However, an employee may not avoid discipline for violation of this policy by participating in a treatment program unless he/she does the following:

- A. Volunteers for such treatment prior to being confronted by a supervisor or law enforcement personnel with the possible violation of this regulation or before being

- involved in an accident or an accident occurred in which his/her conduct created a safety hazard;
- B. Successfully adheres to requirements of and completes the prescribed treatment program;
- C. Does not thereafter engage in conduct violating this regulation regarding use of alcohol, illegal drugs and unauthorized prescriptions drugs.

In the case of employees returning to work after successful completion of a treatment program, the District reserves the right to test for drug and/or alcohol use on a random, periodic basis.

Appendix A – Controlled Substance and Alcohol Program Personnel and Services

- A. District Controlled Substance and Alcohol Program Administrator
Administrator for Transportation
1270 NW 167th Place
Beaverton, OR 97006
(503) 356-4221
- B. Medical Review Officer (MRO)
Current information may found on the Beaverton School District Transportation intranet.
- C. Substance Abuse and Mental Health Services
Current information may found on the Beaverton School District Transportation intranet.
- D. Testing Laboratory
Current information may found on the Beaverton School District Transportation intranet.
- E. Testing Clinic
Current information may found on the Beaverton School District Transportation intranet.

Appendix B – Definitions

For the purposes of this Controlled Substance and Alcohol Policy, the following definitions apply:

- 1. Accident: (390.5) means an occurrence involving a commercial motor vehicle operating on a public roadway which results in:
 - a. A fatality; or
 - b. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - c. One (1) or more vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

2. Commercial Motor Vehicle: means a motor vehicle or combination of vehicles used in commerce to transport passengers or property if the motor vehicle:
 - a. Has gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,001 pounds; or
 - b. Has a gross vehicle weight rating of 26,001 or more pounds; or
 - c. Is designated to transport sixteen (16) or more passengers, including the driver; or
 - d. Is of any size and is used in the transportation of hazardous materials and which require the motor vehicle to be placarded under Hazardous Materials Regulations (49 CFR Part 172, Subpart F).
3. Confirmation Test: means a second alcohol test, following a screening test to detect alcohol in an individual's system that provides quantitative data of alcohol concentration. For controlled substances, confirmation test means a second analytical procedure to identify the presence of a specific drug or metabolite. Confirmatory drug testing is independent of the screen test and uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.
4. Driver: means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with consent of an employer. For the purposes of pre-employment testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.
5. Fail a Controlled Substance Test or Test Positive: means the confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in the driver's or applicant's system.
6. Fail an Alcohol Test or Test Positive: means the driver's blood alcohol level is higher than 0.01%.
7. Illegal Drugs: means any controlled substance or imitation controlled substance whose unauthorized manufacture, distribution, dispensing, possession, or consumption, use or sale is prohibited by federal or state law.
8. Pass a Controlled Substance Test or Test Negative: means initial testing or confirmation testing under DOT procedures does not show evidence of the presence of a prohibited drug in the driver's or applicant's system
9. Pass an Alcohol Test or Test Negative: means the driver's blood alcohol level is 0.01% or less.

10. Performing a Safety Sensitive Function: means a driver is considered to be performing a safety sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety sensitive function.
11. Prohibited Drug: means marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.
12. Refusal to Submit (to an alcohol or controlled substance test): means a driver:
 - a. Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with this policy; or
 - b. Fails to provide adequate urine for controlled substance testing without a valid medical explanation after he/she has received notice of the requirement of urine testing in accordance with this policy; or
 - c. Engages in conduct that clearly obstructs the testing process.
13. Safety Sensitive Function: means any on-duty functions as described in 49 CFR Part 395.2 On-Duty Time. On-duty time means all the time from the time the driver begins to work or is required to be in readiness to work until the time he/she is relieved from work or the responsibility for performing work.
14. SAMHSA (Substance Abuse and Mental Health Services Administration (formerly National Institute on Drug Abuse)): was established by the DHHS in 1986 to regulate laboratories performing analytical tests (drug tests) on human body fluids for employment purposes in the public sector.

Appendix C – Classifications Requiring a Commercial Driver’s License (CDL)

1. Bus Driver
2. Field Coordinator, Safety & Training
3. Maintenance Foreman I (Selected Positions)
4. Maintenance Foreman II (Selected Positions)
5. Maintenance Leader I (Selected Positions)
6. Maintenance Leader II (Selected Positions)
7. Mechanic Specialist
8. School Bus Dispatcher
9. School Bus Router
10. School Bus Repair Technician
11. School Bus Service Technician
12. Transportation Field Assistant
13. Transportation Liaison
14. Transportation Parts Purchasing Specialist
15. Transportation Routing Coordinator
16. Transportation Maintenance Supervisor
17. Transportation Operations Supervisor

Appendix D – Certificate of Receipt

CERTIFICATE OF RECEIPT

CONTROLLED SUBSTANCE ABUSE AND ALCOHOL POLICY

I, _____, have been given a copy of the Beaverton School District’s Controlled Substance and Alcohol Testing Policy.

I understand that if I violate the Prohibited Conduct rules of this policy, I may be terminated from my employment with the District.

Employee’s Printed Name

Employee’s Signature

Witness Signature

Date

Appendix E - REASONABLE SUSPICION INCIDENT REPORT INSTRUCTIONS

Note: Reasonable suspicion for DOT can be observed only by a supervisor who has been trained under the DOT regulations. The regulations (49 CFR 382.603) require two (2) hours of training – one (1) hour of training on drugs; one (1) hour of training on alcohol.

1. DOT does not require a second supervisor to be involved, but if you decide to involve a second supervisor, that person must also have received the required two-hour training according to DOT regulations.
2. Document the incident using the **Reasonable Suspicion Incident Report** below. If a second supervisor is included, he/she should also sign each section of the Incident Checklist.
3. Take the driver to a private location and say something like:

“I have observed you and I am concerned about your [behavior, appearance, ability to perform your job safely]. I have documented what appears to be happening, and I have determined you are not able to operate a vehicle safely. You might have to be tested for drugs and alcohol. Before I make that decision, there are some questions I need to ask you”
4. If you decide the driver should be tested, say:

*“This is a requirement under DOT regulations. If the results are negative, you will be paid for any time lost. If the results are positive, you will be subject to further disciplinary action, up to and including termination. If you **refuse** to be tested, DOT regulations require that we take you out of service. The District’s policy is to treat your refusal as if you tested positive and we will proceed as if a violation of this policy had occurred. Do you understand?”*
5. Call the collection site to inform them you are bringing an employee for a DOT Reasonable Suspicion test. Make sure you know exactly where to go, and ask for any information that you need, such as directions to the entrance, name of the person you should ask for when you arrive, etc.
6. Take the driver to the collection site. **Do not allow the driver to drive.**
7. The collection site will have all the necessary DOT forms for the driver to sign. These forms will accompany the specimen when it is sent to the testing lab.
8. Be sure the collection site understands this is a **DOT Reasonable Suspicion Test**. The collection site personnel will be sure the specimens are properly sealed, labeled and signed off by both the driver and the collection site personnel.
9. The clinic will courier or overnight the sample to the testing laboratory.

10. If the employee is tested for alcohol, you will know the results immediately. If the test is negative, the driver can return to work. If it is above 0.01%, or if a drug test (urine collection) was also conducted, you will have to arrange transportation home for the driver. Again, **do not allow the driver to drive. If the alcohol test was above 0.01%, he/she cannot operate a vehicle. If a drug test was conducted, there is no way to know whether he/she is impaired until the test results are received.**

11. Complete the Incident Report, sign and date it. If you have chosen to involve a second supervisor, ensure they sign and date the report as well. Notify the Administrator for Transportation and the Director of Certified Human Resources immediately.

Appendix F - REASONABLE SUSPICION INCIDENT REPORT

Directions: Supervisor or Manager, please document your observations of the employee’s behavior and indications on this form. You must personally observe the probable indicators of substance and/or alcohol use and note your observations below.

Employee Name: _____ Date: _____

Location of Observations: _____

Time: _____ Name of Observer: _____

Speech

- Slurred, thick
- Slow
- Rapid
- Silent
- Loud
- Hostile
- Talkative
- Incoherent
- Difficulty speaking
- Cursing, inappropriate
- Nonsensical, silly

Eyes

- Bloodshot/Reddened
- Pupils dilated
- Pupils constricted
- Repetitive jerky motion
- Glazed appearance
- Droopy/partially closed
- Tearing, watery
- Unfocused, blank stare

Odor

- Alcohol smell on breath or clothing
- Chemical odor
- Burnt rope odor
- Other odor: _____

Mood

- Hostile/ Angry
- Elated, “up”
- Irritable, agitated
- Anxious
- Combative
- Aggressive
- Violent
- Evasive
- Sad/depressed

Mental

- Poor judgment
- Decreased inhibitions
- Disoriented
- Unpredictable
- Distracted
- Drowsy/sleepy
- Restless
- Suspicious/paranoid
- Withdrawn

Balance

- Slowed
- Normal
- Quickened
- Staggering
- Swaying
- Falling
- Holding on
- Unsteady/uncoordinated
- Clumsy

Movement

- Slowed
- Normal
- Quickened
- Shaking
- Tremors

Appearance

- Flushed
- Sweating
- Cold, clammy
- Disheveled, messy
- Vomit on clothing

Other

- Frequent use of breath mints, gum, mouthwash
- Physical evidence (like liquor bottle, drug paraphernalia)
- Other: _____

I certify that I have had training in the signs & symptoms of substance use and alcohol abuse, and to the best of my judgment reasonable suspicion exists based on the physical and behavior indicators noted above.

Signed: _____ Date: _____

2nd Observer (if used): _____ Date: _____