

REGULATION DRUG TESTING

General Information

Notice to Employees: The superintendent or designee shall, before performing an alcohol or controlled substance test, notify the employee that the test is required.

Alcohol Concentration: No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. A driver testing less than 0.04 but more than 0.02 cannot return to work until at least 24 hours have passed and a new test shows the alcohol concentration has dropped below 0.02.

Behavior or Appearance: No employee shall report to duty requiring the performance of safety-sensitive functions or remain on such duty if exhibiting characteristics through behavior or appearance of alcohol or other controlled substance use.

Alcohol Possession: No employee shall be on duty or operate a school-owned vehicle while the employee possesses alcohol or other controlled substances.

On-Duty Use: No employee shall use alcohol or other controlled substances while performing safety-sensitive functions.

Pre-Duty Use: No employee shall perform safety-sensitive functions within four (4) hours after using alcohol or other controlled substances.

Alcohol Use Following Accidents: No driver who has an accident while performing safety-sensitive functions shall use alcohol for eight (8) hours following the accident, unless the driver has been given a post-accident test.

Test Procedures: Testing may be conducted by the employer, outside contractor, a consortium or any other entity.

1. Alcohol Testing: A Certified Breath Alcohol Technician (BAT) will use evidential breath test devices (Bets) with the following capabilities:
 - a. Printing three copies of each test result.
 - b. Numbering each test consecutively
 - c. Processing an air blank (test of ambient air) with printed record.
 - d. External calibration
 - e. Distinguishing alcohol from acetone at a 0.02 concentration.

2. Controlled Substance Testing: "Drugs" or illegal substances containing the following: Amphetamine/Methamphetamine, Cannabinoids (Marijuana), Cocaine metabolites, Opiates (Heroin, Morphine, or Codeine), PCP (Phencyclidine) will all be screened. A medical technical trained in urine sample collection in an approved location will take samples. Samples will be transported to a HAS (formerly NIA) laboratory to be tested. Results of the test will be given to a Medical Review Officer (MRO) who will determine disposition.

If the district has actual evidential knowledge that an employee is guilty of alcohol concentration above 0.04 or greater, alcohol possession, pre-duty use of alcohol or controlled substances, or demonstrates behavior or appearance of alcohol or other controlled substance use, the district shall not permit the employee to perform or continue to perform the safety-sensitive function.

No employee shall refuse to submit to alcohol or controlled substance post-accident testing, random tests, reasonable suspicion tests, return to duty tests or follow-up tests.

Required Testing

At a minimum the district shall purchase or have access to an evidential breath test device. More invasive testing techniques may be required by the district at no cost to the employee.

Pre-employment and Pre-Duty Testing: Prior to the first time an employee performs safety-sensitive functions, the employee may undergo testing for alcohol/controlled substances. The district may test during the hiring process, just before starting the safety-sensitive function or both.

Post-Accident Testing: As soon as practical during the 8 hours following an accident involving a school-owned vehicle, the district shall test the driver for the presence of alcohol and controlled substances. Post-accident testing will be required if

1. There is a fatality
2. One or more persons requires medical treatment away from the accident scene
3. One of the vehicles must be towed from the scene
4. The driver receives a citation arising from the accident.

If the test is not administered within two (2) hours following the accident, the school district must prepare and maintain on file a record stating why the test was not promptly administered. After eight (8) hours has passed, the district must cease attempts to administer the test and record who the district was unable to administer the test. An employee who is subject to post-accident testing who leaves the scene of an accident without a valid reason prior to submission to such test may be deemed by the district to have refused to submit to testing.

Nothing in this subsection shall be construed to require a delay of necessary medical attention for injured persons or seeking of assistance in responding to the accident. The district shall provide drivers with necessary post-accident information, procedures and instructions prior to the driver operating a vehicle, so that drivers will be able to comply with these requirements.

Random Testing of Employees: The district shall, at various times, randomly select employees subject to random drug testing for an unannounced alcohol testing or controlled substance test. The selection of employees to be testing shall be by a scientifically valid method so that each employee shall have an equal chance of being tested each time testing occurs.

1. The dates for the unannounced testing of randomly selected employees shall be spread reasonably throughout the year.
2. The number of employees to be tested shall equal an annual rate of 50% for controlled substances and 25% for alcohol of the total number of such employees employed by the district or as specified by governing agencies.
3. The district shall require that each employee who is notified of selection for random testing to proceed to the testing site immediately.

Reasonable Suspicion Testing: The district shall require any employee subject to drug testing to submit to an alcohol test or test for controlled substances when the district has reasonable suspicion to believe the employee has violated the prohibitions in this regulation.

1. The district's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the behavior, appearance, speech or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol and/or controlled substance misuse.

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2. Alcohol and/or controlled substance testing is authorized only if the observations are made during or just preceding the period of the work day. The covered employee may be required to undergo reasonable suspicion testing while the employee is working (or while the driver is driving, just before the employee performs his/her

safety sensitive function, or just after he/she has driven.

Return to Duty Testing: The district requires that before an employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by these regulations, the employee shall be suspended without pay and shall undergo a return-to-duty alcohol or controlled substance test and be qualified to resume the safety-sensitive function. Employees who test positive a second time will be terminated.

Follow-up Testing: Following a determination that an employee is in need of assistance in resolving problems associated with alcohol or controlled substance misuse, the district will ensure that the employee is subject to unannounced follow-up alcohol/controlled substance testing as directed by a substance abuse professional.

Maintenance of Records

The district shall maintain records of its alcohol/controlled substance misuse prevention program. The period of retention for these records shall be as follows:

1. Five years:
 - a. Records of employee alcohol/controlled substance tests with positive results
 - b. Documentation of refusals to take required tests
 - c. Calibration tests for EBTs (evidential breath test devices)
 - d. Employee evaluation and referrals.
2. Two years: Records relating to the collection process and training.
3. One year: Records of negative test results.

Reference: Printed materials, Transportation Section, State Department of Education, 1996.