

## **DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS**

School bus drivers shall be subject to a drug and alcohol-testing program that fulfills the requirements of the Federal Code of Federal Regulations. Other persons who drive vehicles designed to transport 16 or more passengers, including the driver, are likewise subject to the drug and alcohol-testing program.

In an effort to comply with federal law by the required compliance date, any testing done under the district's permissive authority before that date shall be conducted in accordance with the procedures set forth in federal regulations.

### **PRE-EMPLOYMENT TEST**

Tests shall be conducted before the first time a driver performs any safety-sensitive function for the district. Any driver who refuses to submit to a pre-employment, post offer test shall not perform safety sensitive functions.

Safety-sensitive functions include on-duty functions performed from the time a driver begins work or is required to be ready to work until he or 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 driving requirements related to accidents; and performing any other work for the district or paid work for any other entity.

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The tests shall be required of an applicant only after he or she has been offered the position.

Exceptions may be made for drivers who have had the alcohol test required by law within the previous six months and participated in the drug-testing program required by law within the previous 30 days, provided that the district has been able to make all verifications required by law.

### **POST-ACCIDENT TESTS**

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident.

No such driver shall use alcohol for eight hours after the accident, or until after he or she undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours, the district shall prepare and maintain records explaining why the tests were not conducted. Tests need not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs.

Tests conducted by authorized federal, state or local officials will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the district. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

### **RANDOM TESTS**

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before; during or just after the performance of safety-sensitive function. Drivers shall be selected by a scientifically valid random process, and each driver shall have equal chance of being tested each time selections are made.

### **REASONABLE SUSPICION TESTS**

Tests shall be conducted when a supervisor or district official trained in accordance with law has a reasonable suspicion that the driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, and speech or body odors. The observations may include indications of the chronic and withdrawal effects of a controlled substance.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the workday when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the

person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight hours.

A supervisor or district official who makes a finding of reasonable suspicion shall also make a written record of his or her observations leading to a reasonable suspicion drug test within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

### **RETURN-TO-DUTY TESTS**

A drug or alcohol test shall be conducted when a driver who has violated the districts' drug or alcohol prohibition returns to work to perform safety-sensitive duties.

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and district standards.

### **FOLLOW-UP TESTS**

A driver who violates the districts' drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

### **RECORDS**

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his or her use of drugs or alcohol, including any records pertaining to his or her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

## **NOTIFICATIONS**

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the districts' policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify:

1. The person designated by the district to answer driver questions about the material;
2. The categories of drivers who are subject to the Code of Federal Regulations;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;
4. Specific information concerning driver's conduct that is prohibited by Part 382;
5. The circumstances under which a driver will be tested for drugs and/or alcohol;
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing process, safeguard the validity of test results and ensure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment;
10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;
11. Information concerning the effects of drugs and alcohol on an individuals' health, work and personal life; signs and symptoms of a drug or alcohol problems (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem and/or referral to management.

Each driver shall sign a statement certifying that he or she has received a copy of the above materials.

Before any driver operates a commercial motor vehicle, the district shall provide him or her with post-accident procedures that will make it possible to comply with post-accident testing requirements.

When tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382, the district shall so inform drivers before drug and alcohol tests are performed.

The district shall notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his or her employment application.

The district shall notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district shall also tell the driver which controlled substance(s) were verified as positive.

Drivers shall inform their supervisors if at any time they are using a controlled substance, which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his or her ability to safely operate a commercial motor vehicle.

## **ENFORCEMENT**

Any driver who refuses to submit to a post-accident, random, reasonable suspicion or follow-up tests shall not perform or continue to perform safety-sensitive functions.

A driver who is tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safety-sensitive functions including driving a commercial motor-vehicle until the start of the driver's next regularly scheduled duty period, but not less than 24 hours after the test was administered.

A driver who in any other way violates district prohibitions related to drugs and alcohol shall receive from the district the names, address, and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private

practice, person or organization in which he or she has a financial interest, except under circumstances allowed by law.

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he or she has properly followed the prescribed rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty.

### **Printable Version**

**Legal** Omnibus Transportation Employee Testing Act of 1991  
**References:** Title 49 CFR Part 382 (Controlled substances and alcohol use and testing)  
Title 49 CFR Part 395 (Hours of service of drivers)  
Title 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs)  
Title 49 US Code §31306 (Alcohol and controlled substances testing)  
**SDCL 32-12A-22 (License endorsements)**  
**SDCL 32-12A-24 (Physical qualifications of school bus drivers)**  
**SDCL 32-12A-25 (Prior convictions information)**  
**SDCL 32-12A-26 (Suspension of license bearing school bus endorsement)**  
**Cross** **GBEC: Use of Alcohol and Other Drugs by Employees - Drug**  
**References:** **Free Workplace**

**1<sup>st</sup> Reading: 11/11/13**