

## **Federal Motor Carrier Safety Administration Mandated Drug and Alcohol Testing Program**

The Board of Directors directs the Superintendent to establish programs and procedures as mandated by the Federal Motor Carrier Safety Administration (FMCSA) controlled substances, including marijuana (cannabis), and alcohol testing rules.

**Prohibited alcohol and controlled substance-related conduct:** The following alcohol and controlled substance-related activities are prohibited by the district for drivers required to possess a commercial driver's license (CDL) as part of their job responsibilities. Violations will result in appropriate corrective action ranging from removal from the performance of safety-sensitive functions up to and including discharge.

- A. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration in excess of the standard set by the FHWA.
- B. Being on duty or operating a vehicle while the driver possesses alcohol.
- C. Using alcohol while performing safety-sensitive functions.
- D. When required to take a post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
- E. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements.
- F. Using alcohol, or being under the influence of alcohol within four hours of going on duty, operating or having physical control of a vehicle requiring a CDL to operate.
- G. Reporting for duty or remaining on duty when using any controlled substance, except when instructed by a physician who has advised the driver and the district that the substance does not adversely affect the driver's ability to safely operate a vehicle. Drivers are required to inform the district of any therapeutic drug use, although not the medication that has been prescribed, and provide a doctor's release stating that the medication will not affect the driver's ability to perform their job safely. The use of any medication that could affect a driver's safe job performance is prohibited while working.
- H. Reporting for duty, remaining on duty or driving if the driver tests positive for controlled substances.

**Testing Requirements:** The following identify the occasions on which a driver shall be subject to alcohol or controlled substances testing, the Superintendent is responsible for the development and implementation of procedures for conducting the tests and administering the exemptions consistent with the federal rules.

- 1. Pre-employment testing: Prior to the first time a driver performs a safety-sensitive function for the district, the driver shall undergo testing for controlled substances. This testing requirement may be waived under FHWA rules for CDL drivers recently employed elsewhere for whom testing records are available from their previous employers
- 2. Post-accident testing: Each driver of an accident, as defined by the FHWA, shall be tested for alcohol and controlled substances.

3. Random testing: Annually the district will arrange for the unannounced random alcohol and controlled substances testing of its drivers. Fifty percent (50%) of the district's drivers must be randomly selected for controlled substances testing each year, and 25% of its drivers for alcohol testing (or whatever level of testing is required in a given year by the FHWA). Alcohol testing under this program shall take place just prior to, during or immediately after the driver engages in a safety-sensitive function for the district.
4. Reasonable suspicion testing: A driver must submit to alcohol or controlled substance testing whenever a trained supervisor has a reasonable suspicion of alcohol misuse or controlled substance use based on specific, contemporaneous and articulable observations concerning the appearance, behavior, speech or bodily odors of the driver. Observations related to using alcohol must be made just prior to, during or immediately after the driver engages in a safety-sensitive function for the district, and the alcohol test must be given within eight hours following the determination of reasonable suspicion.
5. Return-to-duty testing: If a driver is to be returned to performing safety-sensitive functions for the district after violating this policy or the federal regulations, the driver shall be evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and use of controlled substances. If a driver is to be returned to performing safety-sensitive functions for the district following a violation of this policy or the federal regulations, the driver shall first be evaluated by a SAP to determine that the driver has properly followed any rehabilitation proscribed. Before a driver could be returned to performing safety-sensitive functions for the district following a violation of this policy and/or the federal regulations, the driver shall undergo a return-to-duty alcohol and/or controlled substances test resulting in an alcohol concentration of 0.000 or a negative controlled substances test.
6. Follow-up testing: Any driver that continues performing safety-sensitive functions for the district, following a determination that the driver requires assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances, shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a SAP. Follow-up alcohol and/or controlled substance testing shall be conducted only just prior to, during or immediately after the driver performs safety-sensitive functions.

**Record Retention and Reporting:** The Superintendent is responsible for developing procedures for securely retaining records collected under this policy with controlled access and for the time periods established by the federal regulations. The Superintendent is also responsible for developing procedures for reporting data collected under this policy as required by the federal regulations.

**Education, Training and Referral Services:** The Superintendent shall adopt educational materials that explain the requirements of this policy and the federal program. The educational materials shall be distributed to each driver prior to the start of the testing program and to each driver subsequently hired or transferred into a position covered by this policy. Each driver after receiving a copy of the materials, shall sign a certificate of receipt and the district shall maintain the original of the receipt. The collective bargaining representative of the drivers, if any, shall be notified of the availability of this information. The educational materials shall include:

1. A copy of this policy and subsequent procedures;
2. The name of the person designated to answer questions about the materials;
3. The categories of employees covered by the policy;

4. A description of safety-sensitive functions, so that drivers will know which part of their tasks will be covered by this policy;
5. A specific description of conduct prohibited by this policy and the federal program;
6. The circumstances under which a driver is subject to testing;
7. The procedures used in the testing program, especially those that protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver;
8. The requirement that drivers must submit to testing required by this policy and the federal program, and a description of what constitutes refusal to submit to required testing and the consequences of refusal;
9. The consequences for drivers who violate this policy and the federal program, including immediate removal from conducting safety-sensitive functions;
10. The consequences for drivers that test positive for drugs and alcohol; and
11. Information about the effects of alcohol and controlled substances on an individual's health, work and personal life and methods of intervening when a problem with alcohol or a controlled substance is suspected, including confrontation, referral to the staff assistance program and referral to management.

Supervisors designated to determine if reasonable suspicion exists that a driver is under the influence of alcohol or controlled substances must have at least sixty minutes of training on alcohol misuse and at least sixty minutes of training on use of controlled substances. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

#### **Safety Sensitive Drug and Alcohol Test Results:**

The District will follow requirements of the Federal Highway Administration Mandated drug and alcohol Testing Program, Department of Transportation Drug and Alcohol Testing, 49 CFR 382 and 49 CFR Part 40 with the exception of tests results and consequences.

The District will adhere to a zero tolerance policy for both drug and alcohol test results. This will be based upon a BAT result of 0.000 for the confirmation test result or a positive substance test.

Marijuana remains a drug listed in Schedule 1 of the Controlled Substances Act. The Department of Transportation's Drug and Alcohol Testing Regulation 49 CFR Part 40 does not authorize the use of Schedule 1 drugs, including marijuana for any reason.

Any results that do not meet these criteria will be considered professional misconduct in accordance with WAC 392-144-020(12) and shall result in termination.

Cross References:	Board Policy 5201 Board Policy 5202 Board Policy 5203 Board Policy 5281	Drug-Free Schools, Community and Workplace Federal Motor Carrier Safety Administration Mandated Drug and Alcohol Testing Program Staff Assistance Program Disciplinary Action and Discharge
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Legal Reference:	49 CFR § 40	Procedures for transportation workplace drug and alcohol testing programs
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Personnel

49 CFR §§ 382      Controlled substances and alcohol use and testing  
FHAM Federal Highway Administration Drug and Alcohol  
Testing Program DOT Department of Transportation Drug  
and Alcohol Testing and Compliance  
WAC 392-144-020(12) School Bus Driver Qualifications

Management Resources:

*Policy & Legal News*, February 2013

*Policy News*, April 2012

Policy Revisions

Federal Motor Carrier Safety

Administration mandated drug and  
alcohol testing program

Federal Government Amends Bus

Driver Drug Testing Rules

Bus drivers still tested for marijuana

*Policy News*, December 2001

*Policy News*, February 1999

Adoption Date: 04.01.98

Revised: 08.14; 10.16