

DRUG AND ALCOHOL TESTING, EMPLOYEES IN SAFETY-SENSITIVE POSITIONS**I. Scope**

As used in the regulation, an “employee” is defined as any employee of the District required to hold a commercial driver’s license or required to operate a commercial motor vehicle designed to carry 16 or more passengers.

II. Safety-Sensitive Positions

Safety-sensitive positions include all permanent, hourly, and temporary employees subject to required drug and alcohol testing under Federal law. “On duty” time means all time from the time an employee begins work or is required to be in readiness for work, until an employee is relieved from all responsibility of performing work. On duty time also includes any split shift assignment where an employee receives split-shift compensation.

III. Pre-Employment Testing

An applicant for any classification that constitutes a safety-sensitive position as defined in Administrative Regulation 4528.1 shall be tested for controlled substances. Such testing will not be conducted until after the individual has been offered employment. Such testing shall be carried out in compliance with applicable provisions of the California Fair Employment and Housing Act (CFEH) and the Americans with Disabilities Act (ADA).

Any job applicant refusing to take the test or an applicant testing positive for a controlled substance as a result of a pre-employment test will be disqualified from consideration for employment.

IV. Post-Accident Testing

Any employee involved in an accident involving the loss of life or resulting in the employee receiving a citation under State or local law for a moving traffic violation arising from the accident shall be tested:

- A. Alcohol test: Shall be given within two hours of the accident. No test shall be given if the test cannot be administered within eight hours of the accident.
- B. Controlled substance(s) test: Shall be given within 32 hours following the accident. If the test cannot be administered within 32 hours, no controlled substance test shall be administered.

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If a test is not administered, the District shall prepare a file record indicating the reasons. Absent need for immediate medical attention, the employee shall remain readily available for testing or the employee shall be deemed to have refused to submit to testing.

No employee shall use alcohol for eight hours following the accident or until employee undergoes a post-accident alcohol test, whichever occurs first.

Any alcohol or controlled substance test administered following an accident conducted by Federal, State, or local officials (e.g., Highway Patrol or local police/sheriff's department) will fulfill the testing requirements of post-accident testing if the District obtains the results.

V. Random Testing

The District's selected third party shall randomly select employees for alcohol and controlled substance testing during each calendar year in accordance with applicable Federal or State laws. The annual percentage rate for random alcohol testing is 25 percent of the average number of employee positions. The annual percentage rate for random controlled substance testing is 50 percent of the average number of employee positions. The rates, which are required by Federal Highway Administration (FHWA) regulations, will be automatically adjusted to be consistent with changes, if any, in the minimum rates required by the regulations.

The District shall implement a random selection process that is scientifically valid. Under the selection process, each employee working in a position covered by Federal law shall have an equal opportunity of selection each time random selections are made, regardless of whether the person was previously tested that year.

The District shall ensure that the random tests are unannounced and that dates for administering the random tests are spaced reasonably throughout the calendar year. Every safety-sensitive employee notified of selection for random testing shall proceed immediately to the test site.

A covered employee may be tested for alcohol and controlled substances while the employee is in paid status.

VI. Reasonable Suspicion Testing

The District shall require employees in safety-sensitive positions to submit to an alcohol and controlled substance test when the District has reasonable suspicion that the employee has engaged in prohibited misconduct as set forth in the policy. The District's determination that reasonable suspicion exists should be based on specific information or observation concerning the appearance, behavior, speech, or other body signals of the employee. Testing should be conducted within two hours and in no event later than eight hours after determining that there is a reasonable suspicion of the prohibited misconduct.

Because it is legal to purchase non-prescription medicine over the counter, it does not mean medicines are legal or safe to use while driving. Department of Transportation regulations do not permit employees to take anything that can affect the ability to drive. Even if a prescription medicine has been prescribed by a doctor, the medication may contain ingredients which make the employee perform in an unsafe manner. When talking with a doctor, the employee must be sure the doctor knows what kind of work is performed so the doctor can prescribe a medicine that will not affect the ability to drive. At the time of testing, the employee may be asked to inform the staff of any medication being taken.

VII. Transportation

If an employee produces a test result indicating an alcohol concentration equal to or greater than 0.02 or if the applicant or employee produces a verified positive results of a controlled substance test, the District will make every reasonable effort to see that the employee is transported to the employee's residence.

VIII. Prohibited Conduct

No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having engaged in prohibitive conduct for alcohol or a controlled substance.

No employee shall use illegal drugs or alcohol while performing safety-sensitive functions.

No employee shall remain on duty or operate a commercial motor or District vehicle while employee is in possession of alcohol or controlled substances.

No employee shall perform safety-sensitive functions within four hours after using alcohol.

No employee required to take a post-accident alcohol or drug test shall use alcohol for eight hours following the accident or until the employee undergoes a post-accident test, whichever occurs first.

No employee shall report for duty or remain on duty performing safety-sensitive functions when the employee uses any controlled substances, except when the use is pursuant to the instructions of a physician that has advised the employee that the substances do not adversely affect the ability to safely perform the employee's duties.

No employee shall report for duty, remain on duty, or perform a safety-sensitive function if the employee tests positive for alcohol or a controlled substance.

IX. Consequences of Prohibited Conduct

The District reserves the right to impose disciplinary action, in accordance with applicable law, when an employee engages in misconduct prohibited by law and the policy.

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No employee shall perform safety-sensitive functions, including driving a District vehicle, if the employee has engaged in conduct prohibited by this policy.

No employee tested under the policy found to test positive for any of the five controlled substances--amphetamines, cocaine, marijuana, opiates, and phencyclidine (PS)--or to have an alcohol concentration of greater than 0.02 shall perform or continue to perform safety-sensitive functions for the District, including driving a District vehicle.

X. Disciplinary Action

The District reserves the right to impose disciplinary action if and when the employee produces a test result indicating an alcohol concentration equal to or greater than 0.02, if that employee produces a controlled substance test with positive result or if the employee refuses to submit to a test required by the policy.

An applicant for a safety-sensitive position in the District testing positive for alcohol or controlled substance use will not be hired.

An employee testing positive for alcohol equal to or greater than the 0.02 concentration or for controlled substance use or refusing to submit to alcohol and/or controlled substance testing or failing to cooperate in the testing procedures will be presented with the evidence in support of the charge. The employee shall be entitled to meet with the Assistant Superintendent, Human Resources/Designee, and, if the employee is a bargaining unit employee, a representative of the employee to discuss the evidence against the employee. In the conference, the employee will be presented with the evidence and will have an opportunity to respond. The decision of the Assistant Superintendent, Human Resources/Designee, with respect to disciplinary action up to and including dismissal shall be final. The employee shall not be entitled to the due process or hearing procedures contained in Board Policy 4583, Discipline: Classified Service; Board Policy 4583.1, Disciplinary Actions: Classified Service; or Administrative Regulation 4583.11, Disciplinary Action and Appeal: Classified Service, in such cases. Disciplinary action shall be effective upon the decision of the Assistant Superintendent, Human Resources/designee, at the conclusion of the conference.

Current employees not serving in a safety-sensitive position and seeking to transfer to a safety-sensitive position refusing to submit to alcohol and/or controlled substance testing or failing to cooperate in testing procedures will not be eligible for safety-sensitive positions.

XI. Records

The District shall maintain all records as required pursuant to Federal Motor Carrier Safety Regulations (FMCSR) 49 C.F.R. part 382, 401.

Except as required by law, the District shall not release information relating to alcohol and controlled substance testing performed in accordance with the policy and regulation or any records kept as required by law.

The District shall make an employee's record available to a subsequent employer only upon the receipt of a written request from the employee and only to the extent expressly authorized by the terms of the employee's request.

XII. Employee Information

- A. The District shall distribute the policy to every individual employee in a safety-sensitive position prior to the start of alcohol and controlled substance testing. The District shall also distribute the policy to each affected employee hired after the adoption of the policy and to each affected employee transferred into a safety-sensitive position.
- B. The drug and alcohol testing procedures will be distributed and discussed during training sessions with all employees currently in safety-sensitive positions prior to implementation of the policy.

New employees will receive the drug and alcohol testing procedures during the new employee orientation. Transportation Department staff members will provide follow-up training for the new employee.

- C. Human Resources staff members will be responsible for employee notification and distribution of the policy. The Director, Maintenance and Operations, and Director, Transportation, or designee, will answer employee questions.

XIII. Supervisor Training

All designated employees that will determine whether reasonable suspicion exists to require a safety-sensitive employee to undergo testing shall receive at least 60 minutes of training on alcohol misuse and at least an additional 60 minutes of training on controlled substance use.

Legal references: Drug Free Workplace Act of 1988; The Omnibus Transportation Employee Testing Act of 1991

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