

5741 - Drug and Alcohol Testing for School Bus Drivers and Other Safety-Sensitive Employees

2018 5741

Non-Instructional/Business Operations

SUBJECT: DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS AND OTHER SAFETY-SENSITIVE EMPLOYEES

In accordance with federal regulations, employees in safety-sensitive positions as defined in regulations who are required to have and use a commercial driver's license (CDL), are subject to random testing for alcohol, marijuana, cocaine, amphetamines, opioids, and phencyclidine (PCP). The District shall adhere to federal law and regulations requiring the implementation of a drug and alcohol testing program for such employees in safety-sensitive positions.

The District shall either establish and manage its own program, by contract, or through a consortium for the provision of alcohol and drug testing of employees in safety-sensitive positions. Safety-sensitive employees (SSEs), including school bus drivers and other employees, who drive a vehicle which is designed to transport 16 or more passengers (including the driver), shall be subject to this requirement.

Federal regulations require that school bus drivers and other SSEs be tested for alcohol and drugs at the following times:

- a) Drug testing will be conducted after an offer to hire, but before actually performing safety-sensitive functions for the first time. Such pre-employment testing will also be required when employees transfer to a safety-sensitive position.
- b) Safety-sensitive employees are also subject to a random drug and/or alcohol test on an unannounced basis just before, during or just after performance of safety-sensitive functions.
- c) In addition, testing will be ordered if a trained supervisor has a "reasonable suspicion" that an employee has engaged in prohibited use of drugs and/or alcohol.
- d) There will also be post-accident testing conducted after accidents on employees whose performance could have contributed to the accidents.
- e) Finally, return-to-duty and follow-up testing will be conducted when an individual who has violated the prohibited alcohol and/or drug conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return-to-duty.

All employee drug and alcohol testing will be kept confidential and shall only be revealed without the driver's consent to the employer, a substance abuse professional, drug testing laboratory, medical review officer and any other individual designated by law.

The following alcohol and controlled substance-related activities are prohibited by the Federal Highway Administration's drug use and alcohol misuse rules for drivers of commercial motor vehicles and other SSEs:

- a) Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If testing shows an alcohol concentration of 0.02 or greater but less than 0.04, the employee must be removed from performing safety-sensitive activities for 24 hours, but no punitive action will be taken by the employer.
- b) Being on duty or operating a commercial motor vehicle (CMV) while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
- c) Using alcohol while performing safety-sensitive functions.
- d) New York State law prohibits use six hours or less before duty.
- e) 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.
- f) Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion or follow-up testing requirements.
- g) Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the SSE uses any controlled substance. This prohibition does not apply when instructed by a physician who has advised the SSE that the substance does not adversely affect the SSE's ability to safely operate a CMV.
- h) Reporting for duty, remaining on duty or performing a safety-sensitive function, if the SSE tests positive for controlled substances.

Drivers and other SSEs who are known to have engaged in prohibited behavior with regard to alcohol misuse or use of controlled substances are subject to disciplinary action and penalties pursuant to District policy and collective bargaining agreements, as well as the sanctions provided for in federal law. SSEs who have engaged in such prohibited behavior shall not be allowed to perform safety-sensitive functions until they are:

- a) Evaluated by a substance abuse professional (SAP).
- b) Complete any requirements for rehabilitation as set by the District and the SAP.
- c) Pass a return-to-duty test with the result below 0.02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved controlled substance use.
- d) The SSE shall also be subject to unannounced follow-up alcohol and controlled substance testing. The number and frequency of such follow-up testing shall be as directed by the SAP, and consist of at least six tests in the first 12 months.

The Superintendent of Schools shall ensure that each SSE receives a copy of District policy, educational materials that explain the requirements of the alcohol and drug testing regulations, and any regulations and/or procedures developed by the District with respect to meeting those requirements. The Superintendent or his/her designee shall ensure that a copy of these materials is distributed to each

SSE, who shall sign for receipt of all of the above documents, as well as other appropriate personnel, prior to the start of alcohol and controlled substance testing as well as at the beginning of each school year or at the time of hire for any safety-sensitive employees. Representatives of applicable collective bargaining units shall be notified of the availability of this information.

The Superintendent or his/her designee shall arrange for training of all supervisors who may be utilized to determine whether "reasonable suspicion" exists to test a driver for prohibited conduct involving alcohol or controlled substance use/abuse.

Any violation of this policy and/or District procedures, and applicable federal and state laws by a covered employee shall be grounds for disciplinary action including, but not limited to, fines, suspension, and/or discharge in a manner consistent with District policy, collective bargaining agreements and applicable law.

Omnibus Transportation Employee Testing Act of 1991 (Public Law 102-143) 49 USC Sections 31136
and
31306
49 CFR Parts 40, 172, 382, 383, 391, 392 and 395
Vehicle and Traffic Law Section 509-L

Adopted: 4/11/11

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