

Management, Supervisory, Confidential, and Classified Personnel

CONTROLLED SUBSTANCES AND ALCOHOL TESTING PROGRAM

A. EMPLOYEES SUBJECT TO THE TESTING PROGRAM

This policy applies to every employee who, by virtue of driving a commercial motor vehicle in performance of their position within the District, is required to obtain a commercial driver's license (CDL) issued by the State of California in accordance with the standards contained in the Federal Highway Administration (FHWA) regulations, Code of Federal Regulations, Title 49 (49 CFR 383). Such drivers are called safety-sensitive drivers as respects to this policy. If required by their job description and/or job announcement, the safety-sensitive drivers employed by the District are:

- Director of Transportation
- Fleet Maintenance Supervisor
- Heavy Equipment Mechanic
- Fleet Equipment Mechanic
- Automotive Mechanic
- Automotive Mechanic Helper
- Bus Driver
- School Bus Driver Instructor
- Lead Bus Driver
- Lead Mechanic
- Dispatcher
- Senior Transportation Supervisor
- Transportation Supervisor
- Delivery Driver
- Grounds Equipment Operator
- Maintenance II
- Gardener - Groundskeeper
- Groundskeeper
- Lead Gardener - Groundskeeper
- Substitute Bus Driver

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A commercial motor vehicle is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.
2. Has a gross vehicle weight rating of 26,001 or more pounds.
3. Is designed to transport 16 or more passengers, including the driver.
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR 172, subpart F).

B. NOTIFICATIONS

Prior to performing a controlled substance and/or alcohol test under this policy, the District will notify the driver that the alcohol and/or controlled substance test is required by the 49 CFR 382. The District will post this policy and administrative regulations in a prominent location that is readily accessible to all covered drivers. All covered drivers will be provided with a complete copy of this policy. Each driver may obtain, upon request, an additional copy of this policy for review by contacting the District Controlled Substance and Alcohol Program Coordinator (Benefits/Risk Manager). Each driver is required to sign a statement certifying that he/she has received a copy of the controlled substances and alcohol policy.

If requested, the District will inform an applicant of the results of a pre-employment controlled substance and alcohol test within 60 days of being notified of the disposition of his/her employment application.

The District will notify a driver of the results of random, reasonable suspicion and post-accident controlled substances and/or alcohol test if the test results are verified positive. The District will also tell the driver which controlled substance(s) were verified as positive.

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C. TESTING PROCEDURES

Specimen Collection Requirements For Controlled Substances And Alcohol Testing

All specimen collections for controlled substances and alcohol shall be performed according to the specific guidelines as designed in 49 CFR 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

A urine specimen will be collected to test for controlled substances.

Alcohol tests will be administered by collecting a breath sample using an Evidential Breath Testing Device that is on the Conforming Products List published by the National Highway Traffic Safety Administration. The test will be performed by a certified Breath Alcohol Technician.

Controlled Substances Which Must Be Tested

As required by 49 CFR 382, Drug and Alcohol Testing Management Information System Data Collection Form, the District will test for evidence of the following substances:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines
- Methylenedioxymethamphetamine (MDMA) – Ecstasy
- 6-Acetylmorphine (6AM) – Heroin metabolite

Drug Testing Laboratory

The District will use a drug testing laboratory certified under Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 1970, April 11, 1988, and subsequent amendments.

The laboratory shall provide services in accordance with 49 CFR 40 and 382.

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Time Period Testing Is Conducted

A driver may be sent to be tested for controlled substances at any time during the driver's shift. Testing for alcohol must take place just before, during, or just after performing a safety-sensitive function. Performing a safety-sensitive function means a driver is actually performing, ready to perform, or immediately available to perform a safety-sensitive function. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing, or assisting in loading and unloading; repairing and/or waiting for help with a disabled vehicle; and performing driver requirements related to accidents.

D. TYPES OF TESTS REQUIRED

Pre-Employment Testing

A pre-employment controlled substance and alcohol test will be conducted before the first time a driver performs a safety-sensitive function.

A driver must also take a pre-employment controlled substances and alcohol test when he/she transfers to a position which requires a CDL. This also applies to a driver returning from a leave of absence for more than 30 days due to illness, lay-off, injury, or any other reason, and, therefore, has not been subject to the random selection process. A negative test result is required prior to performing safety-sensitive functions.

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

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. (49 CFR 382.303)

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A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed by the District as refusing to submit to testing, absent the need for immediate medical attention. (49 CFR 382.303)

No such driver shall use alcohol for eight hours after the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first. (49 CFR 382.209)

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 test was not conducted. Tests will 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. (49 CFR 382.303)

Random Testing

The regulations require that safety-sensitive drivers shall be subject to controlled substances and alcohol testing on an unannounced and random basis. The District shall conduct a number of controlled substance tests equal to at least 50 percent of all covered drivers and alcohol tests equal to at least 25 percent of all covered drivers each calendar year, spread reasonably over a 12-month period. The selection of drivers to be tested shall be made by a scientifically valid method, such as computer generated random selection, and each driver shall have an equal chance of being tested each time the selections are made.

Once a driver has been notified that he/she has been selected for testing, he/she must be available for testing immediately. Alcohol tests will be performed only just before, during, or just after performing a safety-sensitive function. Should the testing exceed the employee's normal working hours, the employee will be compensated.

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Reasonable Suspicion Testing

Reasonable suspicion testing of a driver is required when a supervisor or District official trained in accordance with law, has reasonable suspicion based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The observations may include indications of the chronic and withdrawal effect of controlled substances.

A driver may be asked to submit to a reasonable suspicion controlled substance test at any time during the work period.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before, or just after the driver performs a safety-sensitive function. The driver will not be permitted to return to duty to perform safety-sensitive functions unless the alcohol test is administered with a result of less than .01. If above .01, the employee will be subject to discipline pursuant to Section F. below, and Chula Vista Elementary School District Governing Board Policy 4218 (Termination of Employment).

E. PROHIBITED CONDUCT STANDARDS

Refusal to Submit To An Alcohol Or Controlled Substance Test

No safety-sensitive driver shall refuse to submit to any of the required substance and/or alcohol tests, including post-accident, random, reasonable suspicion, or follow-up tests. An employee refusing to submit to a required substance and/or alcohol test shall be subject to discipline pursuant to Section F, below, and Chula Vista Elementary School District Governing Board Policy 4218 (Termination of Employment).

Prohibited Conduct Related To Controlled Substances

No safety-sensitive driver shall report for duty or remain on duty when the driver uses a controlled substance, except:

1. The substance is prescribed by a physician.
2. The physician informs the driver that the substance does not adversely affect the driver's ability to perform the safety-sensitive function.

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3. The driver presents written documentation from the physician to the District prior to performing a safety-sensitive function.

Prohibited Conduct Related To Alcohol

No safety-sensitive driver shall:

1. Report to duty with a breath alcohol concentration level of 0.01 or greater.
2. Use alcohol while performing a safety-sensitive function.
3. Possess alcohol while on duty or operating a commercial motor vehicle.
4. Perform a safety-sensitive function within 4 hours after using alcohol.
5. Use alcohol within 8 hours after an accident, or until an alcohol test has been completed, whichever comes first.

F. CONSEQUENCES FOR PROHIBITED CONDUCT

A driver that engages in prohibited conduct as detailed above, shall be removed from performing safety-sensitive functions and placed on administrative leave, pending disciplinary proceedings pursuant to Chula Vista Elementary School District Governing Board Policy 4218 (Termination of Employment).

A driver will not be hired if he/she refuses to submit to a pre-employment controlled substances or alcohol test.

G. REFERRAL, EVALUATION, AND TREATMENT

A driver who tests positive for control substances and/or has a breath alcohol concentration level of .04 or greater, shall be provided resources for evaluating and resolving problems associated with alcohol misuse and controlled substance use. He/she will also be evaluated by a Substance Abuse Professional who will recommend assistance, if necessary, for the driver to resolve problems associated with alcohol misuse and controlled substance use.

Any costs associated with the Substance Abuse Professional are the responsibility of the driver. The District does not assume any liability for these costs.

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H. MEDICAL REVIEW OFFICER

The Medical Review Officer (MRO) shall be a licensed physician with knowledge of substance abuse disorders. The function of the MRO is to review all negative and positive controlled substance test results. The MRO interviews drivers who test positive before results are transmitted to the District. A positive test result does not automatically identify a driver/applicant as having used controlled substances in violation of this policy.

The role of the MRO is to review and interpret confirmed positive test results obtained through the District testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test results. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the result of urine samples that are not obtained or processed in accordance with the Department of Transportation (DOT) regulations.

The District has contracted with an MRO for the controlled substance testing program in accordance with the requirements of 49 CFR 40.33 and 382.

I. SUBSTANCE ABUSE PROFESSIONAL

A Substance Abuse Professional means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counsel (certified by the National Association of Alcoholism and Drug Abuse Counselor Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders. The Substance Abuse Professional provides information to drivers regarding the following:

1. Effect of alcohol/controlled substance use on an individual's health, work, and personal life;
2. Signs and symptoms of an alcohol or controlled substance problem;
3. Methods of intervening when an alcohol or controlled substance problem is suspected; and
4. Counseling and treatment programs available for controlled substances and alcohol misuse.

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J. SUPERVISOR TRAINING

Supervisory personnel responsible for safety-sensitive drivers will receive training under the controlled substance and alcohol policy. The training will include at least one 60-minute period of training of alcohol misuse and at least an additional 60 minutes of training on controlled substance use. The training will cover the specific, contemporaneous physical, behavioral, and performance indicators of probable controlled substance use and alcohol misuse. This training will be for supervisors who may determine whether a driver must be tested for reasonable suspicion.

K. CONFIDENTIALITY

Release of Driver's Test Results

Information regarding the driver's test results will not be released, except to the District, without the driver's written consent, except as noted below:

1. All records regarding the driver's controlled substances and alcohol test results are available to the driver at any time, upon written request to the District. A driver may also, upon written request, have records released to subsequent employers or other individuals identified by the driver.
2. Access to records shall be given to the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the employer or any of its drivers.
3. When required as part of an accident investigation, records regarding the District's administration of post-accident alcohol and controlled substance tests shall be made available to the National Transportation Safety Board.
4. The District may disclose records maintained as part of this policy pertaining to a driver, to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver, and arising from the results of an alcohol and/or controlled substance test administered as per this controlled substances and alcohol policy, or from the District's determination that the driver engaged in prohibited conduct including but not limited to a workers' compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver.

Regulation

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CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California