

DRUG AND ALCOHOL TESTING PROGRAM

It is the policy of the Gibbon Public Schools that it's drivers should be free from drug and alcohol abuse. Consequently, the use of illegal drugs or improper use of alcohol by drivers is prohibited. The overall goal of drug and alcohol testing is to ensure a drug-free and alcohol-free transportation environment and to reduce accidents, injuries and fatalities. The requirements of this policy are in addition to other requirements established by federal and state law and board policy regarding the use of alcohol and drugs. In some instances, those laws or policies may be more restrictive than the requirements set out in this policy.

This school district is required under the provisions of the federal Omnibus Transportation Employee Testing Act of 1991 to implement a drug and alcohol testing program for all persons subject to commercial driver's license requirements. This program includes drug and alcohol testing such drivers for reasons of reasonable suspicion, random, post-accident, return to duty and follow-up and pre-employment drug testing. In addition, the school district is responsible for maintaining appropriate records and notifying drivers of the requirements and consequences of the program.

Implementation Date

The testing program referred to in this policy shall be implemented on January, 1996.

Definitions

For the purpose of this policy, the following terms are defined:

- Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl.
- Driver** - Any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner operated contractors.
- Drug** - Includes any of the following controlled substances: marijuana, cocaine, opiates, amphetamines and Phencyclidine (PCP) .

Medical Review Officer (MRO) - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by a District's drug testing program who meets the qualifications as listed in 49 CFR 40.3.

Regulations - Those regulations promulgated by the Department of Transportation found at 49 CFR part 40, and the regulations promulgated by the Federal Highway Administration found at 49 CFR part 382, as from time to time amended.

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Safety Sensitive Function - Includes all 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 driver requirements related to accidents; and performing any other work for the district or paid work for any other entity.

Substance Abuse Professional - A licensed physician or certified psychologist, social worker, employee assistance professional or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

Alcohol and Drug Prohibitions

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol. No driver shall use alcohol while performing safety-sensitive functions. No driver shall perform safety-sensitive functions within four hours after using alcohol. No driver required to take a post-accident test shall use alcohol for eight hours following the accident or until he or she undergoes a post-accident alcohol test, whichever comes first.

No driver shall report for duty requiring the performance of safety-sensitive functions when the driver uses any drug, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely perform the function. No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for drugs. No driver shall refuse to submit to a drug or alcohol test when provided for under this policy or the regulations.

Pre-Employment Tests

Drug tests shall be conducted in accordance with the regulations before any bus driver is permitted to perform a safety-sensitive function for the District. Testing for newly hired drivers shall be conducted after the offer of employment but before employment commences. Offers of employment are contingent on this test result. A refusal to submit to drug testing and/or refusal to release information as required by the District shall remove the applicant from employment consideration. Such testing will also be required of any employee transferring into a covered position.

Exceptions may be made for drivers who have participated in the drug testing program required by law within the previous 30 days, have been drug tested within the previous six months, or have been in a random program for the previous 12 months, and the previous employer(s) of the driver has no knowledge of a violation within the previous six months, provided that the District has been able to make all verifications required by law.

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Post-Accident Tests

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

1. Was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Receives a citation under state or local law for a moving traffic violation arising from a recordable accident. A recordable accident includes: (a) bodily injury requiring immediate treatment away from the accident scene and (b) disabling damage to one or more vehicles requiring the vehicle to be towed or transported away from the scene of the accident.

Drivers shall make themselves readily available for testing, unless such driver has the need for immediate medical attention.

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 comes first. Alcohol tests must be performed within eight hours following an accident and drug tests within 32 hours. Drivers must follow all post-accident instructions given by the District.

Post-accident testing requirements may be fulfilled by properly administered tests conducted by federal, state and/or local law enforcement officials as long as the results of those tests are provided to the District.

Random Testing

Alcohol and drug testing shall be conducted on a random basis at unannounced times throughout the year in accordance with the federal regulations. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. Drivers will be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made. Random selections shall be spread throughout the year. Drivers who have been told of their random selections shall, from the point of being informed, devote every one of their actions to providing a specimen. Any action that impedes the proper administration of a test shall be considered refusal to test.

Reasonable Suspicion Tests

Any qualified supervisor or District administrator who has reasonable suspicion to believe that a bus driver has violated the alcohol or drug prohibitions of the District shall require the driver to submit to reasonable suspicion testing. A qualified supervisor or administrator must be a person who has been properly trained, in accordance with federal regulations, to make a determination that reasonable suspicion exists. This reasonable suspicion must be based on specific, contemporaneous, articulable

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observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of drugs.

Alcohol testing is authorized for reasonable suspicion only if the required observations are made just before, during or comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines 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, and the District will state in the record the reasons for not administering the test.

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

Return to Duty Tests

An alcohol or drug test shall be conducted when a driver who has violated the District's alcohol or drug prohibition returns to performing safety-sensitive duties.

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

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

Follow-Up Tests

A driver who violates the District's alcohol or drug prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving an alcohol or drug 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.

Refusal to Submit to Tests

No driver shall refuse to submit to any of the tests. An employee will be considered to refuse to submit when he or she fails to provide adequate breath or urine for testing when notified of the need to do so, or when he or she engages in conduct that clearly obstructs the testing process. Such refusal will be treated as if the District received a positive test.

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Testing Procedures

The District shall follow the federal guidelines and standards of the Department of health and Human Services and the Department of Transportation regarding testing and laboratory procedures. This shall include a selection of sites with appropriate trained personnel for alcohol and drug testing, selection of a laboratory certified by the Department of Health and Human Services to conduct drug specimen analysis, and selection of a Medical Review Officer to verify laboratory drug test results. The drug and alcohol testing program of this school district shall provide individual privacy in the collection of specimen samples to the maximum extent possible. The specimen collection procedures and chain of custody shall ensure that specimen security, proper identification and integrity are not compromised.

Enforcement

Employees whose conduct involved alcohol and drug use cannot return-to-duty in a safety-sensitive function until the return-to-duty test procedures yield the required result. 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 until the start of the driver's next regularly scheduled duty period but not less than 24 hours after the test was administered. Further employment actions up to and including termination may be instigated in accordance with the Drug Free Workplace Act of 1988 (P.L. 101 226), other state and federal laws, and District policy. In the event a driver tests positive for drugs, or has a confirmed alcohol concentration of 0.04 or greater, or violates a prohibited conduct, the District does not guarantee that a position will be held open for the driver in the event they become re-qualified.

Rehabilitation

The District shall provide for the identification of a Substance Abuse Professional (SAP) for treatment for those employees who have violated the prohibitions of the regulations. This information shall include the names, addresses and telephone numbers of SAP's and counseling and treatment programs. Any rehabilitation or evaluation sought shall be at the expense of the driver.

Employees' Records

Employees' alcohol and drug test results and records shall be maintained in 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 alcohol or drugs, including any records pertaining to his or her tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. Test records shall be maintained with the separate medical files of each employee.

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District Records and Reports

The District shall maintain records of its alcohol and drug prevention programs as required by federal law.

Notification

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations. The program coordinator shall ensure that all covered employees receive written materials explaining the District's drug and alcohol misuse prevention program requirements including:

1. The identity of the program coordinator, a contact person knowledgeable about the materials, policy, administrative regulations and the Omnibus Act;
2. The categories of employees covered;
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 prohibited conduct;
5. The circumstances under which employees will be tested;
6. Procedures used in the testing process;
7. The requirement that a driver submit to alcohol and drug tests administered in accordance with federal law;
8. An explanation of what constitutes a refusal to submit to a drug and/or alcohol test;
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; and
11. Information on the effects of drug and alcohol misuse on personal life, health and safety in the workplace.

Drivers shall also receive information about legal requirements, District policies and disciplinary consequences related to the use of alcohol and drugs.

Employees shall sign a statement certifying that they have received the materials.

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Before any driver operates a commercial motor vehicle, the District shall provide him or her with post-accident testing requirements.

Before drug and alcohol tests are performed, the District shall inform drivers that the tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after the compliance date specified in law.

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 control substance(s) were verified as positive.

In the event a driver tests positive for a controlled substance, the driver shall have the right to have the split specimen (collected at the same time as the tested specimen) retested provided that the driver provides written notice to the Medical Review Officers (MRO) within 72 hours of being notified of the positive result.

Legal Reference: 49 U.S.C. §§ 5331 et seq. (1994).
42 U.S.C. §§ 12101 (1994).
41 U.S.C. §§ 701-707 (1996).
49 C.F.R. Pt. 40; 382; 391.81-123 (1994).
34 C.F.R. Pt. 85 (1996).

Cross Reference: 410.02 Cert. Empl. Personal Illness, Bereavement or Adopt. Leave
415.02 Support Staff Personal Illness Leave