

BEND-LA PINE SCHOOLS
Administrative School District No. 1
Deschutes County, Oregon
ADMINISTRATIVE REGULATION

Name: Drug & Alcohol Testing – Transportation Personnel
Section: Personnel
Code: GBEDA-AR

Controlled Substances & Alcohol Misuse Program – Transportation Personnel

Overview

The district is committed to the establishment of a drug use and alcohol misuse and testing program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991 (“OTETA”), and the administrative regulations adopted by the U.S. Department of Transportation (DOT) and the Federal Motor Carriers Safety Administration (FMCSA).

Program Coordinator

The superintendent, or designee, will serve as the district’s Designated Employer Representative (DER). The primary job of the DER is to ensure the appropriate and timely removal of an employee from safety-sensitive duties when required by law and district policy. The DER will also ensure that all covered employees receive written materials explaining the district’s program, and will be available to district transportation personnel to answer driver questions about the materials. The DER shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. The district shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

The DER will also make available to all drivers information on the effects of alcohol misuse and controlled substances use on an individual’s health, work, and personal life; the signs and symptoms of an alcohol problem; and available methods of intervening when an alcohol and/or controlled substance problem is suspected.

Covered Employees

In compliance with the administrative regulations adopted by the DOT and the FMCSA, the district’s drug and alcohol misuse prevention and testing program applies to all transportation employees who perform safety-sensitive duties as part of their job. This includes district drivers who operate commercial motor vehicles or who possess a commercial driver’s license as part of their job requirements.

Required Hours of Compliance

District drivers must not consume alcohol while on duty, for eight hours prior to on-duty time, and up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first.

Prohibited Activity

District drivers shall not report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

District drivers shall not report for duty or remain on duty when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a commercial motor vehicle.

Drug and Alcohol Testing of Transportation Personnel

In compliance with federal law and regulations, the district will conduct drug and alcohol tests on covered employees in the following circumstances: pre-employment (for drug use only), post-accident, random, reasonable suspicion of prohibited drug and/or alcohol use, return-to-duty, and follow-up. These circumstances are described in detail below.

Refusal to Submit to Testing

Participation in the district's drug and alcohol testing program is a requirement of each covered transportation employee, and therefore, is a condition of employment. Any driver who refuses to submit to the district's testing program will not be permitted to perform or continue to perform safety-sensitive functions, and may be subject to termination. All offers of employment will be contingent upon an applicant's submission to, and the results from, drug testing. An applicant's refusal to submit to drug and alcohol testing under the circumstances set forth in this regulation will result in the immediate removal of that applicant from consideration for employment.

Other kinds of employee behavior will be deemed by the district to constitute a refusal to submit to testing under this policy. Such behavior includes the inability to provide sufficient quantities of breath, saliva, or urine to be tested without a valid medical explanation; tampering with or attempting to adulterate the testing specimen; interfering with the collection procedure; not immediately reporting to the collection site; failing to remain at the collection site until the collection process is complete; having a test result reported by a medical review officer (MRO) as adulterated or substituted; or leaving the scene of an accident without a valid reason before the tests have been conducted.

Pre-Employment Testing

The district shall conduct pre-employment testing as follows:

1. All offers of employment for positions as identified by Board policy and as required by OTETA will be contingent upon drug test results;
2. Individuals offered employment with the district and employees transferring to positions subject to OTETA contingent on drug testing, must provide written consent mandatory for the release of any prior employer positive drug and failed alcohol testing results, refusals to be tested, other violations of testing regulations and, with respect to any employee who violated drug and alcohol regulations, documentation of the employee's successful completion of return-to-duty requirements (including evaluations by substance abuse professionals (SAP) and follow-up tests) within the preceding two years;
3. The district may obtain and review such drug and alcohol information from previous employers of the past two years before allowing a driver to perform safety-sensitive job duties for the first time. In the event that the district obtains such records after allowing a driver to perform safety-sensitive duties, the district reserves the right to re-evaluate a driver's employment if the records indicate a potential problem with drug or alcohol use;
4. Release of such information may be by telephone, letters or any other method that ensures confidentiality. The district will maintain a written, confidential record of each past employer contacted;
5. The district will not use a driver with a positive drug test or failed alcohol test while employed with a previous employer or who refused to test while under employment with a previous employer unless the driver is in compliance with the SAP's treatment program and OTETA's return-to-duty test requirements;

6. Prior to being directed by the district to a collection site for drug testing, the applicant will be notified that the urine sample collected shall be tested for the presence of drugs;
7. Failure to report to the collection site for testing within the time frame specified by the district shall constitute a refusal to report for testing and result in immediate withdrawal of the employment or transfer offer;
8. Pre-employment drug testing will be paid for by the district;
9. Tests must indicate negative drug test results. Individuals who produce positive drug test results will not be hired or transferred voluntarily or involuntarily to covered positions;
10. Such testing will also be required of covered employees each time an employee returns to work after a layoff period if the employee was removed from the random testing pool. As long as the employee remains in the random testing pool, additional testing or subsequent pre-employment drug testing will not be necessary following a layoff;
11. The district will notify individuals offered employment with the district contingent on drug testing of the results of such testing upon request within 60 days of being notified of the disposition of the employment application;
12. Refusal to submit to drug testing and/or to provide signed permission for the release of past testing information as required by the district shall result in immediate termination from employment or transfer consideration;
13. The individual may request a screening of the split specimen at his/her own expense. All such requests must be received in writing by the district no later than 72 hours following notification to the applicant of the positive test results.

Post-Accident Testing

The District shall conduct post-accident testing as follows:

1. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the district shall test for alcohol for each of its surviving drivers:
 - a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b. Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (1) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
2. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:
 - a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

- b. Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (1) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle
3. Alcohol tests. If a test required by this section is not administered within two hours following the accident, the district shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the district shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.
4. Drug tests. If a test required by this section is not administered within 32 hours following the accident, the district shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.
5. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the district to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
6. The district shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.
7. The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer.
8. The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.
9. Testing Results and Consequences
 - a. Alcohol testing:
 - (1) Drivers receiving a post-accident alcohol test result of an alcohol concentration level of less than 0.02 are not in violation of the DOT alcohol misuse rule but may be subject to other laws, district policies or practices and collective bargaining agreement provisions, if any;
 - (2) Drivers receiving a post-accident alcohol test and found to have an alcohol concentration level of 0.02 or greater will be removed from performing safety-sensitive functions and immediately terminated. The district will provide the driver with a written list of the resources available for evaluating and resolving problems associated with the misuse of alcohol.

b. Drug testing:

- (1) Upon receipt of a negative test result for controlled substances, the district will immediately notify the driver and return the driver to active duty unless other laws, district policies or practices or collective bargaining agreement provisions, if any, apply;
- (2) The district shall notify a driver of the results of post-accident tests for controlled substances conducted under this policy and procedure if the test results are verified positive. The district shall also inform the driver which controlled substance or substances were verified as positive;
- (3) The district shall remove the driver from the safety-sensitive functions and terminate the employment of the driver upon receiving test results which are verified positive. The district will provide the driver with a written list of the resources available for evaluating and resolving problems associated with the use of controlled substances.

Random Testing

The district shall conduct random drug and alcohol testing annually as follows:

1. The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
2. The minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
3. The selection of drivers for random alcohol and controlled substances testing shall be made using a computerized-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. The district shall ensure that all employees shall have an equal chance of being tested each time selections are made. All employees will remain in the pool of drivers for each subsequent period, whether or not they have been chosen for testing in the past. The district may use a service agent to perform random selections.
4. To calculate the total number of covered drivers eligible for random testing throughout the year, the district will add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, will be in the district's random testing pool, and all covered drivers must be in the random pool.
5. The district shall ensure that random alcohol and controlled substances tests are unannounced, and that the dates for testing are spread reasonably throughout the calendar year to avoid predictability and the perception that testing is "done for the year."
6. The district shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the district shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

7. A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
8. Employees off work due to leaves, vacation, or layoffs will be informed that they remain subject to random testing. Employees drawn for such testing will be notified and tested as soon as practicable upon return to duty.
9. Test results and consequences:
 - a. Alcohol tests:
 - (1) Results of alcohol concentration less than 0.02 will be reported to district designee as negative and driver is clear to perform safety-sensitive job functions;
 - (2) Drivers receiving a post-accident alcohol test and found to have an alcohol concentration level of 0.02 or greater will be removed from performing safety-sensitive functions and immediately terminated. The district will provide the driver with a written list of the resources available for evaluating and resolving problems associated with the misuse of alcohol.
 - b. Drug tests:
 - (1) The MRO will notify the district of all controlled substance test results;
 - (2) The district shall notify drivers of the results of random tests for controlled substances conducted under this policy and procedure. If the test results are verified positive, the district shall inform the driver which controlled substance or substances were verified as positive;
 - (3) The district shall remove from safety-sensitive functions and terminate the employment of the driver upon receiving test results which are verified positive;
 - (4) The driver will be provided a written list of resources available for evaluating and resolving problems associated with the use of alcohol and the misuse of controlled substances.

Reasonable Suspicion Testing

1. The district shall require a driver to submit to an alcohol test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning alcohol. The district's determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on specific, contemporaneous, articulable observations of a trained supervisor, as designated by the district, concerning the appearance, behavior, speech or body odors of the driver.
2. The district shall require a driver to submit to a controlled substances test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning controlled substances. The district's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test will be based on specific, contemporaneous, articulable observations of a trained supervisor, as designated by the district, concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
3. Reasonable suspicion will be confirmed by a second trained supervisor, whenever possible, before testing shall be required.
4. Hearsay or second-hand information is not sufficient to require an employee to submit to testing.

5. Alcohol testing is authorized by this section only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
6. If an alcohol test required by this section is not administered within two hours following the determination under paragraph (a) of this section, the district shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered.
7. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (a) of this section, the district shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
8. Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the district permit the driver to perform or continue to perform safety-sensitive functions, until:
 - a. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
 - b. Twenty four hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this part concerning the use of alcohol.(3)
9. Except as provided in paragraph 8 of this section, the district shall not take any adverse employment action under this section against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.
10. A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor(s) who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.
11. Test results and consequences:
 - a. Alcohol tests:
 - (1) Results of alcohol concentration less than 0.02 will be reported to district designee as negative and driver is clear to perform safety-sensitive job functions, unless the driver's behavior and appearance continues to create reasonable concern by district officials that the driver is experiencing a medical or other condition that may compromise the safety of students, other staff members, members of the public, or property;
 - (2) If the results of the driver's alcohol test indicate a blood alcohol concentration of 0.02 or greater, the employee will be removed from safety-sensitive functions and immediately terminated. The employee will be provided a written list of resources available for evaluating and resolving problems associated with the misuse of alcohol.
 - b. Drug tests:
 - (1) The district shall notify a driver of the results of reasonable suspicion testing for controlled substances conducted under this policy and procedure if the test results are verified positive. The district shall also inform the driver which controlled substance or substances were verified as positive;

- (2) A negative test result clears the driver to return to performing safety-sensitive functions, unless the driver's behavior and appearance continues to create reasonable concern by district officials that the driver is experiencing a medical or other condition that may compromise the safety of students, other staff members, members of the public, or property;
- (3) The district shall remove from safety-sensitive functions and terminate the employment of the driver upon receiving test results which are verified positive;
- (4) The employee will be provided a written list of resources available for evaluating and resolving problems associated with the use of controlled substances.

Return to Duty and Follow-Up Testing

If for any reason the district continues to employ a driver who has refused to submit to a required test, has tested positive for alcohol or drugs or has otherwise violated this policy, the district must require return-to-duty and follow-up testing before the driver is returned to or maintained in the performance of safety-sensitive functions.

1. Return to duty testing:
 - a. The district shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function, after engaging in prohibited conduct regarding alcohol misuse, the driver shall undergo a return-to-duty alcohol test indicating a breath alcohol concentration of less than 0.02;
 - b. The district shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function, after engaging in prohibited conduct regarding controlled substance abuse, the driver shall undergo a return-to-duty controlled substance test with a result indicating a verified negative result for controlled substances use.
 - c. The driver must also be evaluated by an substance abuse professional (SAP) and participate in any assistance program prescribed. The district must obtain a written assurance from the SAP that the employee is fit to return to duty.
 - d. The testing must be conducted at a facility designated by the district.
2. Follow-up testing:
 - a. Following a determination by an SAP that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the district shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the SAP;
 - b. Follow-up alcohol testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions or just after the driver has ceased performing safety-sensitive functions.

Other Violations of Policy

The following misconduct is also a violation of this policy, resulting in consequences equal to a positive drug or alcohol test result, including removal from safety-sensitive duties, and termination of employment. If for any reason the district continues to employ a driver who has committed any of these offenses, the district must require return-to-duty and follow-up testing before the driver is returned to or maintained in the performance of safety-sensitive functions.

1. Being on duty or operating a vehicle while the driver possesses alcohol;
2. Using alcohol while performing safety-sensitive functions;

3. Using alcohol within eight hours of an accident or before undergoing a post-accident alcohol test, whichever comes first;
4. Refusing to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion or follow-up testing requirements;
5. Using alcohol or being under the influence of alcohol within eight hours of going on duty, operating or having physical control of a commercial vehicle;
6. 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.

Drug and Alcohol Testing

The district, in cooperation with contracted collection and testing facilities, will follow drug and alcohol testing procedures set forth by the administrative regulations adopted by the DOT and codified at 49 C.F.R. Part 40. All drug and alcohol testing facilities used by the district shall comply with the standards established by the DOT in 49 C.F.R. Part 40.

Drug Testing Procedures

1. The district will test for marijuana, cocaine, opiates, amphetamines and phencyclidine using the split sample method of urine collection. Under split sample procedures, a driver whose urine sample has tested positive for a controlled substance has the option (within 72 hours of being notified by the MRO) of having the other portion of the split sample tested at another laboratory. If the second portion of the sample also tests positive, then the driver is subject to sanctions provided in this policy. If the second portion produces a negative result or for any reason the second portion is not available, the test is considered negative and no sanctions are imposed.
2. The district's designated drug testing laboratory shall have a quality assurance program which encompasses all aspects of the testing process including, but not limited to, specimen acquisition, chain of custody security and reporting of results, initial and confirmatory testing and validation of analytical procedures. Quality assurance procedures shall be designed, implemented and reviewed to monitor the conduct of each step of the process of testing for drugs.
3. The district shall have one or more collection sites or independent medical facilities which have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage and shipping or transportation of urine specimens to a certified drug testing laboratory.
4. The individual will proceed to the restroom accompanied by a staff member. Although the staff member will remain in the restroom, this is not a witnessed collection.
5. The collection site person shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine bottle and on the urine custody and control form can identify the individual from whom the specimen was collected.

6. When an individual arrives at the collection site, the collection site person shall ensure that the individual is positively identified as the employee selected for testing. If the individual requests, the collection site person shall show his/her identification to the employee.
7. If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate district representative to obtain guidance on the action to be taken.
8. The collection site person shall explain the collection process to the individual. The collection site person shall instruct the individual to provide at least 45 milliliters of urine under the split sample method of collection.
9. Drug testing results:
 - a. The laboratory shall report test results to the district's designated MRO within an average of five working days after receipt of the specimen by the laboratory. The laboratory shall report as negative all specimens that are negative on the initial test or negative on the confirmatory test;
 - b. The MRO shall report to the district whether the test is positive or negative and may report the drug(s) for which there was a positive test.
10. Positive drug test results:
 - a. Prior to making a final decision to verify a positive test result for an individual, the MRO shall give the individual the opportunity to discuss the test result with him/her.
 - (1) The MRO shall contact the individual directly on a confidential basis to determine whether the employee wishes to discuss the test results.
 - (2) If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact a designated district management official who shall direct the individual to contact the MRO as soon as possible.
 - (3) If, after making all reasonable efforts, the designated management official is unable to contact the employee, the district may place the employee on unpaid leave until the employee is contacted.
 - b. If an employee is notified of a positive test by the MRO, the individual may request that the MRO direct that the split specimen be tested in a different federal Department of Health and Human Services certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.
 - (1) The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive test result.
 - (2) The result of the test of the split specimen shall be transmitted by the second laboratory to the MRO.
 - (3) The employee will remain on unpaid leave of absence pending the results of the test of the split specimen.
 - c. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation and the reasons for it to the DOT, the district and the employee.
 - d. The MRO may verify a test as positive without having communicated directly with the employee in the following circumstances:
 - (1) The employee expressly declines the opportunity to discuss the test; or
 - (2) The district has contacted the employee and instructed the employee to contact the MRO and more than five days have passed since the date the employee was contacted.

- e. Following verification of a positive test result, the MRO shall refer the case to the designated district official empowered to recommend or take administrative action or both.

Alcohol Testing Procedures

1. Alcohol tests will be administered by trained breath alcohol technicians (BAT) utilizing evidential breath testing devices (EBT). The EBT shall have a quality assurance plan developed by the manufacturer.
2. Alcohol testing will be conducted in a location that affords visual and aural privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing test results.
 - a. All necessary equipment, personnel and materials for breath testing shall be provided at the location where testing is conducted.
 - b. In unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident), a test may be conducted at a location that does not fully meet the requirements in items 1 and 2 above.
3. The individual being tested will be required to provide the BAT positive identification such as a photo ID card or identification by an employer representative. The employee may request the BAT to provide positive identification.
4. The BAT shall explain the testing procedure to the individual and the individual shall be required to sign the breath alcohol testing form. Failure to do so constitutes a refusal to be tested.
5. Alcohol test results shall be handled in the following manner:
 - a. The BAT shall show the individual the test results;
 - b. If the result of the screening test is a breath concentration of less than 0.02, the BAT and the individual being tested shall sign the certificate form. The BAT shall transmit the result of less than 0.02 to the district in a confidential manner promptly after the test administration;
 - c. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be conducted not less than 15 or more than 30 minutes after the completion of the screening test:
 - (1) The BAT will explain the procedures for the confirmation test.
 - (2) The BAT shall show the individual the confirmation test results.
 - (3) The BAT and the individual shall sign the test certification form. If the individual does not sign the certification form, it is not considered a refusal to be tested. The BAT shall note the individual's failure to sign on the certification form.
 - (4) The BAT shall immediately transmit the results of the test to the designated district representative.
 - (5) The district will verify the identity of the BAT providing the information.
 - (6) The BAT shall follow the initial transmission by providing to the district the employer's copy of the breath alcohol testing form.
6. Refusal to test and uncompleted tests:
 - a. Refusal by an employee to complete and initially sign the breath alcohol testing form, to provide an adequate amount of breath or otherwise cooperate with the testing process in a way that

prevents the completion of the test shall be noted by the BAT on the certification form. The testing process shall be terminated and the BAT shall immediately notify the district;

- b. If a screening or confirmation test cannot be completed or if an event occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test, as applicable, using a new breath alcohol testing form.
7. If an individual being tested attempts and fails to provide an adequate amount of breath, the district shall direct the individual to obtain, as soon as practical after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the district concerning the employee's medical ability to provide an adequate amount of breath.
8. If the physician determines a medical condition could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. If the physician is unable to make the determination that a medical condition has, or with a high degree of probability could have, prevented the employee from providing an adequate amount of breath, the employee's conduct will be considered a refusal to take the test. The physician shall provide the district a written statement of the basis for his/her conclusion to the employer.
9. An invalid test shall be deemed negative.

Referral, Evaluation and Treatment

When a driver receives a positive alcohol or controlled substance test under this policy or violates the other prohibitions of this policy, the district will provide the driver with information regarding the resources available to the driver for evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. The district is not required to provide any of these services under this policy. Other district policies and provisions in the collective bargaining agreement, if any, may have application to the provision of services.

Recordkeeping and Confidentiality

The district shall maintain records of its drug and alcohol misuse prevention program as follows:

1. Records related to the collection process:
 - a. Documents relating to the random selection process;
 - b. Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol testing;
 - (1) Documents generated in connection with decisions on post accident testing;
 - (2) Documents verifying the existence of an explanation of the inability of an employee to provide adequate breath or to provide a urine specimen for testing;
2. Records related to a driver's test results, including:
 - a. The district's copy of the alcohol test form, including the test results;
 - b. The district's copy of the controlled substance test chain of custody and control form;
 - c. Documents sent by the Medical Review Officer (MRO) to the district;
 - d. Documents related to the refusal of any employee to submit to a drug and/or alcohol testing;
 - e. Documents presented by a driver to dispute the results of a drug and/or alcohol test administered in connection with the requirements of the Omnibus Act.

3. Records related to evaluations as follows:
 - a. Records pertaining to a determination by a substance abuse professional (SAP) concerning a driver's need for assistance;
 - b. Records concerning a driver's compliance with recommendations of the substance abuse professional.

4. As related to education and training as follows:
 - a. Materials on drug use awareness and alcohol misuse including a copy of the district's policy and administrative regulations on drug use and alcohol misuse and related information;
 - b. Driver's signed receipt of education materials;
 - c. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and/or alcohol testing based on reasonable suspicion;
 - d. Certification that any training conducted in compliance with the Omnibus Act meets all pertinent requirements for such training.

5. Records related to drug testing as follows:
 - a. Agreements with collection site facilities, laboratories, Medical Review Officers (MRO) and consortia as applicable;
 - b. Names and positions of officials and their role in the district's drug and alcohol testing program(s);

6. Records will be retained by the district as follows:
 - a. Five years:
 - (1) Records of employee alcohol testing results with results indicating an alcohol concentration of 0.02 or greater;
 - (2) Records of verified positive drug testing results;
 - (3) Documentation of refusals to take required drug and/or alcohol tests;
 - (4) Employee evaluation and referrals;
 - (5) A copy of each annual calendar year report summary;
 - (6) Equipment calibration documentation as applicable.
 - b. Two years:
 - (1) Records related to the drug and alcohol collection process (except calibration of evidential breath testing devices and training).
 - c. One year:
 - (1) Records of negative and canceled drug testing results.

7. Records will be maintained in a secure location with controlled access to ensure adherence to all standards of confidentiality, including release of testing records and results only to those authorized by the FMCSA rules, as follows:
 - a. Drug and alcohol misuse prevention program records will be maintained at the district office. Records relating to individual employee drug and/or alcohol testing, evaluation and treatment will be maintained separately from the employee's personnel file;
 - b. Employees are entitled upon written request to obtain copies. The district may disclose information in connection with employee benefit proceedings, Department of Transportation agency action against an employee of National Transportation Safety Board safety investigations;

- c. The district shall disclose such information to subsequent employers upon written request from the employee;
- d. The district will provide access to any drug and alcohol collection and/or testing facility maintained by the district.

Reviewed: 3/5/12, 8/2016
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