

Drug and Alcohol Testing - Transportation Personnel

Administrative Regulation

ALCOHOL AND DRUG TESTING FOR COMMERCIAL MOTOR VEHICLE DRIVERS

I. PHILOSOPHY

The Baker School District has a vital interest in maintaining a safe, healthful, and productive environment for its employees and the students under its supervision. The improper use of alcohol or the use of illegal drugs, or the unauthorized use of prescription drugs undermines the quality of job performance, endangers co-workers and students, and brings discredit to the school system. Therefore, the school district will not tolerate the possession or use of alcohol or illegal drugs, or unlawful use of prescription drugs by its employees in any job-related context and is committed to the eradication of such substances from the workplace.

Required standardized tests have been established by the government with the passage of the Omnibus Transportation Employee Testing Act of 1991 for employees who are drivers of commercial motor vehicles. All covered employees are expected to adhere to the following regulation as a condition of their employment with the school district, and any violation of this regulation will subject the employee to discipline, up to and including dismissal from employment for a first offense.

II. REGULATION

Effective January 1, 1996, all District personnel holding commercial drivers licenses, assigned to safety-sensitive positions, who are required to operate District vehicles which transport sixteen (16) or more passengers, including the driver, or who operate a district vehicle with a gross vehicle weight rating (GVWR), or gross combination weight rating (GCWR) of 26,001 lbs. or more, substitute drivers, driver trainers, other designated staff and contractors/subcontractors engaged in safety-sensitive activities on behalf of the District will be subject to pre-employment, random, reasonable suspicion, post accident, return to duty, and follow up testing for alcohol and drugs in accordance with this policy and the Omnibus Transportation Employee Testing Act of 1991.

A covered employee may be tested while performing safety-sensitive functions, just before the employee is supposed to perform safety-sensitive functions, just after the driver has ceased performing safety-sensitive functions, or as otherwise permitted by law.

Employees who are not on an official on-call roster and who are called in to work outside their normal duty hours to perform emergency or unscheduled work will not be disciplined for off-duty consumption of alcohol that results in reporting to duty with alcohol in his or her system so long as the employee first reports that consumption of alcohol to the supervisor making the work request.

III. EMPLOYEE ASSISTANCE

Early recognition and treatment of alcohol and drug abuse are essential to successful rehabilitation. The school district maintains an employee assistance program (EAP) to assist employees with alcohol and drug abuse problems, as well as with other personal problems. Our EAP will assist employees with these problems and will also make referrals to appropriate treatment programs. Employees voluntarily seeking assistance for a substance abuse problem through our EAP or a medical source will not be disciplined as a result of their disclosure or prior drug or alcohol use, and treatment by our EAP or another source will be handled in confidence. However, an employee may not avoid discipline for violation of this regulation by participating in a treatment program unless he or she does the following:

1. Volunteers for such treatment prior to being confronted by a supervisor or law enforcement personnel with the possible violation of this regulation or before being involved in an accident or an accident in which his or her conduct created a safety hazard.
2. Successfully adheres to requirements of and completes the prescribed treatment program.
3. Does not thereafter engage in conduct violating this regulation regarding use of alcohol, illegal drugs, and unauthorized prescription drugs.

In the case of employees returning to work after successful completion of a treatment program, the school district reserves the right to test for drug and/or alcohol use, on a random or periodic basis.

IV. DEFINITIONS

“Commercial Motor Vehicle”: 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; or (2) has a gross vehicle weight rating of 26,001 or more pounds; (3) is of any size and is used in the transportation of hazardous materials requiring placards. This includes all school buses and qualifying vehicles in all departments.

“Confirmation Test”: A second alcohol test, following a screening test to detect alcohol in an individual’s system, that provides quantitative data of alcohol concentration. For controlled substances, confirmation testing means a second analytical procedure to identify the presence of a specific drug or metabolite. Confirmatory drug testing which is independent of the screen test and uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

“Violation”: A second positive test result of controlled substance or verified positive confirmation test of alcohol.

“Driver”: Any person who operates a commercial motor vehicle requiring a commercial drivers license (CDL) or is in a position which requires a CDL as an eligibility criteria because they must drive or be on call and ready to drive if necessary. This includes full time, part time and temporary personnel and includes employees who are driving or are in a state of readiness on call if required to drive. Drivers are subject to drug and alcohol testing under both federal law and Baker School District policy.

“Illegal Drugs”: Any controlled substance, or imitation controlled substance, whose unauthorized manufacture, distribution, dispensing, possession or consumption, use or sale is prohibited by federal or state law.

“Impairing Medication”: A prescription or over-the-counter drug that could impair a driver’s ability to perform their duties safely.

“Medical Review Officer (MRO)”: A licensed physician responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.

“Omnibus Transportation Employees Testing Act of 1991”: The federal law that requires drug and alcohol testing of drivers in various industries. By the authority of this Act, the Office of the Secretary of Transportation, U.S. Department of Transportation (DOT) on February 15, 1994, has published rules requiring employers to test drivers who are required to obtain commercial drivers’ licenses (CDL) for the illegal use of alcohol and controlled substances. Compliance with the law commences January 1, 1995.

“Safety-Sensitive Function”: An employee is performing a safety-sensitive function whenever he/she is engaged in driving a commercial motor vehicle (CDL required) or working in any employment capacity which could affect the safe operation of the vehicle and the safety and welfare of others. This includes any period in which the employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

“Screening Test”: Also known as an initial test. In alcohol testing, an analytical procedure to determine whether an individual has a prohibited concentration of alcohol in his or her system. In controlled substances testing, an immunoassay test on urine specimens to eliminate “negative” specimens from further testing.

“Split Sample Testing”: Division of the urine specimen in controlled substance testing into two separate containers, the primary specimen used for the screening test and the split specimen used if the employee requests a second test after being informed of a verified positive screening test.

“Unauthorized Use of Prescription Drugs”: Use of a drug by anyone other than the person for whom the drug was prescribed, or in any manner that is prohibited by federal or state law.

V. ALCOHOL

- A. Reporting for Duty.** No covered employee shall report for duty or remain on duty while having detectable amounts of alcohol of 0.02 breath alcohol concentration (BAC) or higher in his or her system. Employees will be tested for alcohol using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). Any supervisor who has actual knowledge that an employee has violated this regulation and permits the employee to work will be in violation of this regulation except as stated in section II, paragraph three.
- B. Testing Procedure.** Upon entering the test location, the employee will be asked to provide positive identification with photograph (example - driver's license or employer identification badge) to the breath alcohol technician (BAT). The employee and the BAT will complete the Breath Testing Form distributed at the test site and follow required testing procedures. Providing incomplete information (except a social security number), engaging in conduct that obstructs the testing process or failing to sign the required certifications may be regarded as a refusal to take the alcohol test and may constitute cause for dismissal from employment. At the completion of the screening test, the results will be shown to the employee. If the result of the screening test shows evidence of detectable alcohol concentration, a confirmation test will be performed within specified time limits. If detectable amounts of alcohol of 0.02 (BAC) or higher are verified in the confirmation test, the employee will be in violation of this regulation. An individual with a verified positive confirmation test may not leave the test site without approval from the attending physician or designee.

If a screening or confirmation test cannot be completed, or an event occurs that would invalidate the test, the BAT will conduct a new screening or confirmation test, as applicable. In the event that an employee attempts and fails to provide an adequate amount of breath, the employee will be required to submit to a blood test.

At the conclusion of testing, copies of the Breath Alcohol Testing form will be retained by the testing location, provided to the employee, and transmitted in a confidential manner to the Personnel Department at the District.

VI. CONTROLLED SUBSTANCES

- A. Reporting for Duty.** No covered employee shall report for duty or remain on duty having used controlled substances except: (1) when the use is authorized as prescribed medicine by an attending licensed physician who has advised the employee that the substance does not adversely affect the employee's work performance; and (2) the employee notifies his or her supervisor of the controlled substance use. Any supervisor who has actual knowledge that an employee has used an illegal drug and permits the employee to work will be in violation of this regulation.

A finding that an employee has a positive drug test results when the initial screen test and a confirmation test provide evidence of illegal drugs and/or one or more of the following substances in the system: cocaine, marijuana, opiates, amphetamines and phencyclidine.

In addition to the requirements above, drivers of commercial motor vehicles taking over-the-counter or prescribed medications shall be responsible for knowing the effects of such medication and shall immediately notify the transportation supervisor by completing the *Notification of Taking an Impairing Medication* form if the medication is impairing. They shall not drive or perform other duties under the influence of prescription or over-the-counter drugs that could impair their ability to perform their duties safely. They shall be responsible for not working when under prescribed or over-the-counter medication that might impair their ability to perform their duties safely.

- B. Testing Procedure.** For controlled substances testing, employees report to a specified test location where a urine sample is collected and subject to the split sample testing procedure. If the employee is unable to provide the specified quantity of urine, the employee will be instructed to drink not more than 24 ounces of fluid and wait up to two hours to provide another sample. If a complete sample still cannot be provided, the Medical Review Officer (MRO) will refer the employee for a medical evaluation to determine if the inability to provide a specimen is genuine or constitutes a refusal to test and then report the findings in writing to the Personnel Department. If a driver is on a prescribed medication, then that driver shall inform the laboratory at the time of testing and provide the prescription to them.

Strict chain of custody procedures will be followed as the samples are forwarded to the laboratory. If the primary specimen is verified positive, the MRO will immediately notify the designee in the personnel department and notify the employee who can request that the split specimen be tested at the employee's expense at a different Department of Health and Human Services' certified laboratory. The employee must make the request within 72 hours of notification by the MRO. 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 original test results and the cost of the split sample test will be born by the School District.

Upon learning that the MRO is attempting to contact the employee, the employee must respond by calling the MRO within 24 hours of receipt of notification to call or be in violation of this regulation.

If the employee does not contact the MRO within the 72 hours as required, the employee may present information to the MRO documenting a legitimate explanation for the employee's failure to contact the MRO within the 72 hours. The MRO may determine to honor the employee's request to test the split specimen. The MRO's decision to permit further testing is final. Test results shall be confidential and will be reported directly to the employee, designee in the Personnel Department and upon request, to the U.S. Department of Transportation.

VII. TESTS REQUIRED

- A. Pre-employment/Pre-Duty.** As a condition of employment, before an employee or conditional hire is placed into a position requiring a commercial driver's license, the driver shall be tested for alcohol and controlled substances and must be found to be in compliance with this regulation.

- B. Post Accident.** While on duty, a driver of a commercial motor vehicle who is involved in an accident must be tested for alcohol and controlled substances and found to be in compliance with this regulation if any of the following occurs: (a) there is a fatality, (b) one or more persons requires medical treatment away from the accident scene, (c) one of the vehicles must be towed from the scene, or (d) the driver receives a citation arising from the accident.

Every reasonable effort will be made to administer alcohol tests within two (2) hours of the accident. If an alcohol test has not been performed within eight (8) hours following the accident, or controlled substance testing has not been performed within thirty-two (32) hours following the accident, efforts to test will stop. Supervisors are responsible to provide and forward written documentation to the Personnel Department any time alcohol testing is not performed within two (2) hours, or controlled substance testing is not performed within thirty two (32) hours. Written documentation should include the amount of time taken between the accident and testing and the reason for the delay.

A driver who is subject to post-accident testing shall remain readily available at the accident scene for testing following the accident until he/she undergoes testing or he/she will be deemed to have refused to submit to testing. The only exception to this requirement applies when the driver leaves temporarily to obtain assistance in responding to the accident or to obtain necessary medical care. Without supervisor approval, an employee may not ingest food or drink during the period prior to testing.

Testing conducted by federal, state, or local officials at the scene of the accident having independent authority to conduct tests for alcohol controlled substances shall meet the requirement for post-accident testing. Employees will be required to consent to testing by such officials, and to release the results of such tests to Baker School District.

- C. Random.** Alcohol and controlled substance tests will be conducted periodically on an unannounced basis throughout the calendar year. Covered employees will be randomly identified using a scientifically validated method and notified to report for testing during the work year. Under this selection process, each driver shall have an equal chance of being tested each time selections are made. Employees identified to be tested will report directly and immediately to the test site when notified by their supervisor. Otherwise, refusal to, or delay in, reporting immediately and directly to the test site will be considered a refusal to test and grounds for dismissal. Drivers will be tested just before, during, or just after performing safety-sensitive duties. If a driver is off work due to illness, vacation, leave of absence, layoff, injury or for any other reason, for more than 30 calendar days, his or her name will be removed from the random pool and replaced when the employee returns to duty.

For random alcohol testing, the minimum annual percentage rate shall be 25 percent of all the commercial motor vehicle drivers. For random controlled substances testing, the minimum annual percentage rate shall be 50 percent of all the drivers. This percent may increase or decrease in any given year depending on the violation rate as determined annually by the Federal Highway Administration (FHWA) in accordance with DOT guidelines.

D. Reasonable Suspicion. Upon reasonable suspicion of a violation of this regulation, the covered employee may be tested for alcohol or drugs. Reasonable suspicion may be based upon, but not limited to, the following: specific observation of actual use or possession of alcohol or illegal drugs; physical symptoms of having used those substances such as uncommon speech or body odors; observation of abnormal conduct or erratic behavior; or the receipt of information when the nature of the information suggests that the source was reliable and credible. A supervisor trained or otherwise able to recognize signs of alcohol or drug use, shall make the necessary observations and review information provided regarding the reasonable suspicion that the employee may be in violation of this regulation. If the supervisor determines that reasonable suspicion exists, the employee shall be directed to submit to testing and be transported to the test site by the supervisor or his or her designee. Without supervisor approval, an employee will not ingest food or drink during the period prior to testing.

An employee directed to submit to alcohol or drug testing shall be informed of the reason(s) for the test and the fact that refusal to provide the specimen constitutes failure to obey a direct order and is grounds for dismissal. The supervisor shall document the information communicated to the employee and the evidence which constituted reasonable suspicion within 24 hours of the observed behavior or report of the incident or before the results of the test are released, whichever is earlier. At -the employee's request, a copy of such document will be provided to the employee by the Personnel Department. All testing at a designated medical facility will be administered by an official in accordance with established medical standards. For example, drug testing will be performed using chain of custody procedures along with confirmation testing and other safeguards.

The alcohol test shall not be performed more than eight (8) hours after the determination of reasonable suspicion. Whenever an alcohol test is not administered within the first two (2) hours upon determination of reasonable suspicion, a record will be maintained which documents the reason (s) for the delay and how long the delay lasted.

VIII. RESULTS OF TESTING

A. Consequences of Positive Test Results. A positive controlled substance test or an alcohol test of 0.02 alcohol concentration or greater will be considered a violation of this policy and contract and will subject an employee to disciplinary action up to and including immediate dismissal for a single violation. A positive initial test will, at a minimum, require the covered employee to be relieved immediately of duties and placed on administrative leave until it is determined that a violation has or has not occurred. If it is determined that a violation has not occurred, the employee will be returned to work and the administrative leave will be paid.

Applicants who have received conditional offers of employment and who test positive for alcohol or drugs as described above shall not be employed. Substitute and probationary personnel will be subject to the same disciplinary action as a regular driver. Regardless of employment status, the District will refer persons who test positive to a substance abuse professional approved by the District, at the individual's expense, to determine whether the individual needs assistance resolving problems associated with substance abuse, including referral of the individual for any necessary treatment, at the individual's expense.

- B. Return to Work and Follow-up Testing.** At its discretion, on a case-by-case basis, the District may return to work a covered employee who has attained regular employment status who has previously tested positive, but only at such time as his or her confirmed return-to-work alcohol test results are lower than 0.02 and confirmed return-to-work controlled substance test results are negative.

In cases where the District elects or is ordered to return an employee to work, the employee must be evaluated by a District designated substance abuse professional to determine whether the employee has successfully complied with and completed his or her rehabilitation program. The employee must test negative for controlled substances and test below 0.02 alcohol concentration. The employee will be subject to at least six (6) unannounced follow-up alcohol or controlled substances tests over the following twelve (12) months. The unannounced tests may be breath alcohol, urine samples for controlled substances, or both. Follow-up tests may only be conducted while a covered employee is performing safety-sensitive functions, or just after he or she has ceased performing safety-sensitive functions. In the event the employee is performing a safety-sensitive function when notified, District supervision must ensure that the employee ceases the function, consistent with safety procedures, and reports to the designated testing site as soon as possible.

An alcohol test result of 0.02 or greater and/or a positive drug test result requires the employee to be immediately relieved of safety sensitive duties and placed on leave of absence pending the results of a District investigation and appropriate disciplinary action, up to and including immediate dismissal, and referral to a substance abuse professional for evaluation, at the employee's expense.

All drug tests will be reviewed by a District-designated medical review officer (MRO), prior to a report of the results to the District. If the MRO receives a positive test result from an approved laboratory, the MRO will contact the employee to determine if there is an alternative medical explanation for the positive test results. The MRO will only report positive test results for those tests where an employee does not produce appropriate documentation and the MRO has not found that the employee's use of the prohibited drug is legitimate. The MRO's written report shall contain the information mandated by the OMNIBUS ACT.

- C. Refusing To Be Tested.** An employee's delay in reporting immediately and directly to or refusal to take a drug or alcohol test on a post-accident, pre-employment, reasonable suspicion, return to work, follow-up or random basis will be considered the same as having a positive result. In such a case, disciplinary action, up to and including immediate dismissal, will proceed as if a violation of this policy had occurred.

Failure to produce an adequate alcohol breath sample without a valid medical reason or engaging in conduct that clearly obstructs the collection process will be considered a refusal to test. An employee who leaves the scene of an accident without reason will be deemed to have refused a test and will be disciplined as if a violation of this policy had occurred.

IX. TESTING PROCEDURAL ERRORS

- A. For random testing results only, if a urine specimen is determined to be invalid or unreliable by the clinic of the NIDA certified lab due to circumstances unrelated to the conduct of the employee, the employee will be notified and the results of the test will be considered to be invalid. For other required tests other than random, the employee will be notified and will be required to provide a second specimen.
- B. If a urine specimen is determined to be invalid or unreliable by the clinic or the NIDA certified lab because of circumstances related to the conduct of the employee, a presumption will arise that the employee was incapable of passing the test, and that the rest results would have indicated an adverse level of controlled substances.

X. RECORDS RETENTION AND CONFIDENTIALITY

Test results and medical records are considered confidential, however, they may be released to the District's representatives and approved substance abuse professionals in accordance with the OMNIBUS ACT. Except as provided in the OMNIBUS ACT, release of information is subject to prior consent of the employee or applicant.

Records of testing, including the verification of contracted health agencies who administer tests on the District's behalf, must be retained by the contracted health agency for a period of at least five (5) years.

Records concerning the collection process are to be retained for at least two (2) years and the selection process for at least one (1) year. Records of negative and canceled controlled substance test results and alcohol test results with a concentration of less than 0.02 must be retained for at least one (1) year.

The District will provide the Federal Highway Administration with an annual report summarizing the results of its alcohol and controlled substance program in accordance with the OMNIBUS ACT.

XI. NOTIFICATION AND TRAINING

Every covered employee is expected to be aware of the regulation and its requirements and to abide by the requirements. Department supervisors have the responsibility to ensure that all employees are made aware of this regulation. In addition, department supervisors should schedule a meeting with their respective staffs on an annual basis to review the provisions and requirements of this regulation. All employees in positions requiring a CDL will be provided a copy of this regulation and shall sign a statement certifying receipt of such which will be maintained in the employee's personnel file.

Supervisors of employees in positions requiring a CDL, who are responsible for determining if reasonable suspicion exists, will undergo two one-hour training sessions, one each on substance abuse and on alcohol misuse. Training shall include the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Transportation Personnel

BAKER SCHOOL DISTRICT 5J
Notification of Taking an Impairing Medication

Date of Notice: _____

Name: _____

Medication: _____

Physician: _____

Date(s) unable to
perform * SSFs: _____

Date to resume
performing *SSFs: _____

(*Safety Sensitive Functions)