

Drug And Alcohol Testing For District Drivers

The district's drug and alcohol testing program shall apply to all employees who operate a commercial motor vehicle with a gross weight vehicle rating (GWVR) of 26,000 pounds or higher, including any vehicle designed to transport 16 or more passengers. This includes casual, intermittent or occasional drivers as well as full-time, regularly employed drivers. (49 CFR 382.107)

The Superintendent or designee shall contract for collection and testing services and shall ensure that testing procedures and facilities used for the tests conform with the requirements of the Code of Federal Regulations, Title 49, Part 40.

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Drivers using such a substance may continue to perform safety-sensitive functions only if the physician has advised the driver that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle. (49 CFR 382.213)

Testing procedures and facilities used for the tests shall conform with the requirements of the Code of Federal Regulations, Title 49, Part 40 et seq.

Pre-Employment Tests

A pre-employment drug test shall be required of an applicant only after he/she has been offered the position. Drug tests shall be conducted before the first time a driver performs any safety-sensitive function for the district. (49 CFR 382.301)

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/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. (49 CFR 382.107, 395.2)

Exceptions may be made for drivers who have participated in the drug testing program required by law within the previous 30 days, provided that the district has been able to make all verifications required by law. (49 CFR 382.301)

Pre-employment testing shall also be required of employees returning to work after a layoff period if the employee was removed from the random testing pool. If the employee remains in the random testing pool, additional testing shall not be necessary. (49 CFR 382.301)

Post-Accident Tests

As soon as practicable following an accident involving a district vehicle, the district shall test each driver for drugs and alcohol when:

the accident involves a fatality;

the accident involves a serious injury in which immediate medical treatment is required away from the scene of the accident;

the driver receives a citation under state or local law arising from the accident; or

the information available at the time of the accident indicates the driver's performance may have contributed to the accident.

Alcohol and controlled substance tests shall be conducted as soon after a documentable accident as practicable on any driver who was involved in an accident while operating a district vehicle.

Drivers shall make themselves readily available for 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 after 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 Tests

Alcohol and drug tests shall be conducted on a random basis at unannounced times throughout the year. The number of random alcohol and drug tests shall be at least equal to those required by federal regulations. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. Drivers shall be selected by a scientifically valid random process, and each driver shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Reasonable Suspicion Tests

An alcohol or drug test shall be conducted if a supervisor or district official trained in accordance with law has reasonable suspicion that the driver has violated the district's alcohol or drug prohibitions. This reasonable suspicion must be 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 effects of controlled substances. (49 CFR 382.307)

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines that 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. (49 CFR 382.307)

A supervisor or district official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier. (49 CFR 382.307)

Enforcement

Any driver who refuses to submit to a post-accident, random, reasonable suspicion or follow-up tests shall not perform or continue to perform safety-sensitive functions. (49 CFR 382.211) Drivers who test positive for alcohol or drugs shall be subject to administrative leave without pay pending dismissal.

Drivers who test positive for alcohol or drugs pursuant under 49 CFR 382 shall be subject to dismissal from the district. A driver who voluntarily admits to the use of alcohol or drugs prior to district testing will be provided the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person or organization in which he/she has a financial interest, except under circumstances allowed by law. (49 CFR 382.605)

An employee who by their own admission is identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program.

Any driver who tests positive under the testing procedures (random, post accident and reasonable suspicion tests) as set forth by the district will be placed on administrative leave without pay pending dismissal. An employee dismissed for substance abuse will be allowed up to three months after the termination charges have been delivered to enter the District Employee Assistance Program for substance abuse recovery. This extension will be district paid.

All personnel shall be subject to unannounced follow-up tests after returning to duty. (49 CFR 382.605)

Return-to-Duty Tests

A drug or alcohol test shall be conducted when a driver who has voluntarily sought assistance returns to performing safety-sensitive duties. (49 CFR 382.309)

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result. (49 CFR 382.605)

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that indicates an alcohol concentration of less than .02.

Follow-up Tests

A driver who volunteers that he/she might be in violation of the district's drug or alcohol prohibition and who is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as

directed by the substance abuse professional in accordance with law. Follow-up drug or alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

Maintenance of Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. (49 CFR 382.405)

Notifications

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the district's policy and regulations for meeting these requirements.

Representatives of employee organizations shall be notified of the availability of this information. The information shall identify all of the following:

1. The person designated by the district to answer driver questions about the materials;
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
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 driver conduct that is prohibited by Part 382;
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and ensure that test results are attributed to the correct driver;
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
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. The effects of drugs and alcohol on an individual's health, work and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management. (49 CFR 382.601)

12. Other legal requirements, district policies and disciplinary consequences related to the use of alcohol and drugs

(cf. 4020 - Drug and Alcohol-Free Workplace)

Each driver shall sign a statement certifying that he/she has received a copy of the above materials. (49 CFR 382.601)

Before any driver operates a commercial motor vehicle, the district shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements. (49 CFR 382.303)

Before drug and alcohol tests are performed pursuant to the Code of Federal Regulations, Title 49, Part 382, the district shall inform drivers that the tests are required by these regulations. (49 CFR 382.113)

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/her employment application. (49 CFR 382.411)

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 controlled substance(s) were verified as positive. (49 CFR 382.411)

Regulation FRESNO UNIFIED SCHOOL DISTRICT

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