

## **CONTROLLED SUBSTANCE AND ALCOHOL TESTING FOR EMPLOYEES WITH DRIVING RESPONSIBILITIES**

- 1.0 **General.** The District shall test employees and prospective employees required to hold a commercial driver's license or serving in a safety sensitive position for the presence of drugs and/or alcohol as a condition of hiring or continued employment.
- 2.0 **Applicability.** This policy shall apply to all employees, including part-time, temporary, substitute and contract workers, who are required to hold a Colorado commercial driver's license and who serve in a safety sensitive position as defined herein. This policy also applies to all applicants for employment in such positions, including current District employees seeking to transfer into such positions.
- 3.0 **Prohibited Conduct.** Employees subject to this policy shall not report for duty or remain on duty under the circumstances described below in Sections 4.0 and 5.0 when such duty requires or may require the performance of safety sensitive functions connected to commercial motor vehicles, as defined below.
  - 3.1 A commercial motor vehicle is one which:
    - 3.1.1 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
    - 3.1.2 Has a gross vehicle weight rating of 26,001 or more pounds; or
    - 3.1.3 Is designed to transport 16 or more passengers, including the driver; or
    - 3.1.4 Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.
  - 3.2 The performance of "safety sensitive" functions is defined as all the time a driver is "on duty," as described in 3.3 below, and includes the following functions:
    - 3.2.1 Waiting to be dispatched;
    - 3.2.2 Inspecting, servicing or conditioning any commercial motor vehicle at any time;
    - 3.2.3 All driving time in the course of District business. This includes all time spent at the controls of a commercial motor vehicle in operation;
    - 3.2.4 All time other than driving time spent in or upon any commercial motor vehicle. Thus, an employee who is required to hold a commercial driver's license and is present on a District commercial motor vehicle is subject to the testing requirements of this policy even if the employee is not operating the vehicle if such employee is "on duty," as defined below;
    - 3.2.5 All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending a commercial vehicle being loaded or unloaded while ready to operate such a vehicle, or giving or receiving receipts for shipments loaded or unloaded;
    - 3.2.6 All time spent following an accident involving the injury or death of any person; taking all precautions necessary to prevent further accident, rendering reasonable assistance to those injured, giving information regarding the name and address of the driver and the District, and reporting details of the accident to the District;
    - 3.2.7 All time spent attempting to locate the custodian of an unattended vehicle and/or while placing driver information on an unattended vehicle after an accident where the driver's vehicle struck an unattended vehicle; and,

- 3.2.8 All time repairing, obtaining assistance or remaining in attendance upon a disabled commercial motor vehicle.
- 3.3 Drivers are considered to be "on duty" for the purposes of controlled substance and alcohol testing at all times from the point when a driver begins working, or is required to be ready for work, through the time the driver is relieved from all responsibility for work. A driver is not relieved from all responsibility for work until the driver has left District property. A driver who is on District property for an event unrelated to the performance of safety sensitive functions, such as school sports activities or other after hours functions, is not considered on duty.
- 4.0 **Alcohol-Related Prohibited Conduct.** The following conduct involving alcohol is prohibited:
  - 4.1 Reporting for or remaining on duty while having an alcohol concentration of .04 or greater;
    - 4.1.2 Possessing alcohol while on duty unless the alcohol is manifested and transported as part of an alcohol shipment. This includes medication, either prescribed or "over the counter," that contains alcohol;
    - 4.1.3 Using alcohol while performing safety sensitive functions as defined in ¶3.2 above;
    - 4.1.4 Performing safety sensitive functions, as defined above, within four (4) hours after using alcohol;
    - 4.1.5 Using alcohol within eight (8) hours following an accident unless the driver has already completed the post-accident alcohol testing process.
- 5.0 **Controlled Substance-Related Prohibited Conduct.** The following conduct involving controlled substances is prohibited:
  - 5.1 Reporting for or remaining on duty when the driver uses any controlled substance as defined by state or federal law, including prescription medications, unless the medical exception described below applies. Any employee who uses a controlled substance pursuant to instructions of a physician who has advised such employee that the substances, as prescribed, will not adversely affect the ability to safely operate a commercial motor vehicle, will not be considered to have violated this prohibition if the employee has used the controlled substance in no greater amount than that prescribed by the physician, and if the employee has informed the District of such prescribed use prior to the employee's performance of any safety sensitive function. An employee who believes s/he has a valid medical exception must prepare and return to his/her director a "Controlled Substance Medical Exception Procedure" form attached as Exhibit 1. It is important to note that there is no medical exception for medicine taken or possessed by a driver, whether by prescription or "over the counter," that contains alcohol; and
  - 5.2 Reporting for or remaining on duty where the driver has tested positive for controlled substances.
- 6.0 **Refusals to Submit to Testing.** It is prohibited conduct to refuse to submit to a controlled substance or alcohol test required under this policy. A refusal to submit is defined as follows:
  - 6.1 Failure to provide adequate breath for alcohol testing without a valid medical explanation after the driver has received notice of the requirement of a breath test in accordance with this policy;
  - 6.2 Failure to provide adequate urine for a controlled substance test without a valid medical explanation after the driver has received notification of the requirement for urine testing according to this policy; or

6.3 Engaging in conduct that obstructs the testing process.

7.0 **Reporting by Employees.** The following procedure should be used when an employee suspects controlled substance use or alcohol misuse by a District employee subject to the requirements of this policy/procedure:

7.1 The employee must report the suspicions immediately to his/her director. If the director is not available, the employee should report the suspicions to his/her immediate supervisor, or to the Chief Operating Officer, Chief Human Resources Officer, or General Counsel;

7.2 The reporting employee shall not discuss the suspicions with any other District employee, unless requested to do so by his/her director or other person to whom the employee has reported in connection with section 7.1;

7.3 The director, or other person listed in section 7.1 to whom the report has been made, shall take the necessary steps to contact the employee suspected of having the controlled substance or alcohol problem;

7.4 Failure to follow this procedure may result in discipline, up to and including dismissal.

8.0 **Required Testing.**

8.1 **Pre-employment testing.** Generally, covered employees must submit to alcohol and controlled substance tests prior to the first time a driver performs safety-sensitive functions for the District.

8.2 **Post-Accident Testing.** As soon as practicable following an accident involving a commercial motor vehicle in which an individual was injured or killed, the driver received a citation for a moving traffic violation, or where the vehicle was towed due to damage, controlled substance and alcohol tests are required of any surviving driver who was performing a safety-sensitive function.

8.3 **Random Testing.** Unannounced controlled substance and alcohol tests shall be performed throughout each calendar year.

8.4 **Reasonable Suspicion Testing.** All drivers must submit to an alcohol or controlled substance test when a trained supervisor or official observes behavior or appearance that is characteristic of alcohol misuse or controlled substance use, or otherwise has reasonable suspicion to believe that the driver has engaged in prohibited conduct as defined in Sections 4.0 and 5.0 and their subsections of this policy.

8.5 **Return-to-Duty Tests.** All drivers who have engaged in prohibited conduct related to alcohol as defined by this policy, and who have not been terminated from employment, must undergo a return-to-duty alcohol test and have results of less than .02 concentration. All drivers who have engaged in prohibited conduct related to controlled substances, and who have not been terminated from employment, must undergo a return-to-duty controlled substance test with a verified negative result for controlled substance use prior to returning to duty requiring the performance of a safety-sensitive function.

8.6 **Follow-up Testing.** If a substance abuse professional determines that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances, the driver shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional or the district's director of transportation.

**9.0 Testing Procedures – General.**

9.1 **Distribution of Testing Procedures.** Each department which employs individuals covered under this policy shall distribute copies of “Testing Procedures for Alcohol” (Exhibit A), and “Testing Procedures for Controlled Drugs/Substances” (Exhibit B), to all employees and applicants to whom this policy applies.

9.2 **Test Administration.** To test reliably for the presence of drugs or alcohol, the District shall require urine samples and/or breath tests from employees and prospective employees, and shall require presentation of reliable identification of the person collecting the samples. Reasonable efforts shall be made to keep results confidential. Any drug or alcohol testing shall occur during or immediately after the regular work period of current employees and shall be deemed work time for purposes of compensation and benefits for current employees. The District shall pay the costs of testing, including transportation costs, if the testing of a current employee is conducted at a place other than the work place.

**10.0 Disciplinary Procedures.**

10.1 **Consequences for Self-Reporting.** Employees subject to this policy who believe they may have a problem associated with controlled substance use or alcohol misuse may contact the Employee Assistance Program for information.

10.1.1 Drivers subject to the requirements of this policy who come forward voluntarily for assistance with controlled substance use or alcohol misuse prior to being asked to take a test pursuant to this policy shall not be subject to termination from their employment with the District merely for disclosing their need for assistance. However, the driver shall be removed from performing safety-sensitive functions immediately, and shall not be allowed to return to a safety-sensitive function until the driver has been evaluated by a District-approved substance abuse professional, has complied with any treatment plan recommended by the substance abuse professional, and a determination has been made by the substance abuse professional that the driver may return to the safety-sensitive function. Drivers who voluntarily come forward for assistance shall be subject to return-to-duty and follow-up testing as outlined under “Required Testing.”

Drivers may utilize accrued vacations and sick leave, as well as unpaid Family Medical Leave, pursuant to District policies, up to a maximum of twelve (12) weeks in order to receive treatment for alcohol or controlled substance misuse. Drivers who are not ready to perform safety-sensitive functions after twelve (12) weeks, as determined by the substance abuse professional, shall be terminated from their employment with the District.

10.1.2 **On-Call Emergency Call-In Employees Requirements.** On-call emergency call-in employees who are asked to report to work to perform a safety-sensitive function must notify their supervisor if the employee cannot perform a safety-sensitive function due to controlled substances or alcohol use. The on-call emergency call-in employee will not be subject to discipline as outlined in this policy, but multiple on-call emergency call-in absences may be treated as other absences are treated pursuant to District policy and negotiated agreements.

- 10.2 When a driver has an alcohol test result of greater than .02, but less than .04, the driver shall be removed from the safety-sensitive function for 24 hours, but no further action shall be taken based upon this information alone. Repeated occurrences shall result in termination from employment with the District.
- 10.3 Where a driver has a confirmed alcohol test result equal to or greater than .04, or has a verified positive test result for controlled substance use, the driver shall be removed from the safety-sensitive position immediately and considered for disciplinary action up to and including termination.
- 10.4 A driver who refuses to be tested for alcohol or controlled substance use as defined under 6.0 above or who tampers with or obstructs a test shall also be terminated from his/her employment with the District.
- 11.0 **Confidentiality.** All records maintained by the District pursuant to this policy are confidential. Driver information contained in these records may not be released except as required by law or as expressly authorized or required by law or regulations. Applicable regulations authorize release of driver information to the following individuals or agencies:
  - 11.1 The United States Secretary of Transportation or any Department of Transportation agency;
  - 11.2 State or local officials with regulatory authority over the District or its drivers;
  - 11.3 The National Transportation Safety Board (NTSB) as part of an accident investigation.
  - 11.4 Records specific to the driver may be obtained by the driver or released to a third party upon the driver's written request. The District may charge the driver a reasonable fee for the specific records requested;
  - 11.5 A subsequent employer when requested in writing by the driver. This disclosure is limited to the specific records authorized by the driver's written request;
  - 11.6 The decision-maker in a lawsuit, grievance or other proceeding involving a driver, arising out of a test administered pursuant to this policy or a determination that the driver engaged in prohibited conduct. Such proceedings include, without limitation: workers' compensation, unemployment compensation or other benefit-related proceedings.

## LEGAL REFERENCES:

Federal Motor Carrier Safety Regulations, Parts 382 and 392  
 C.R.S. 42-2-405  
 C.R.S. 42-4-235  
 C.R.S. 22-32-110.7  
 C.C.R. 301-26

## CROSS REFERENCES:

Code: 4200  
 Code: 4210