

AR 4212.42 Drug and Alcohol Testing for School Bus Drivers

The district's drug and alcohol testing program shall apply to all employees who operate a commercial motor vehicle, 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. The district's program shall be designed and administered according to law by the vendor selected by the Board of Trustees as the contractor for transportation management services. (49 CFR 382.107)

The transportation contractor 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)

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

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

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life. (49 CFR 382.303)
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident. (49 CFR 382.303)
3. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved a serious medical injury.

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4. Whose performance cannot be excluded as a contributing factor based on information available at the time of the accident.

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 of the accident or if a drug test is not administered within 32 hours, the transportation contractor shall prepare and maintain records explaining why the test was not conducted with a copy provided to the district. Tests shall not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs. (49 CFR 382.303)

Tests conducted by authorized federal, state or local officials shall 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 by the transportation contractor 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. 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. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. (49 CFR 382.305)

Reasonable Suspicion Tests

An alcohol or drug test shall be conducted if a supervisor or district official and/or transportation contractor representative trained in accordance with law has reasonable suspicion that a 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)

The transportation contractor shall ensure that an employee under reasonable suspicion is transported to the designated collection or testing site.

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Enforcement

Any driver who refuses to submit to a post-accident, random or reasonable suspicion test, or to a follow-up test as described below, shall not perform or continue to perform safety-sensitive functions. (49 CFR 382.211) Therefore, any driver who so refuses shall be immediately suspended and subject to disciplinary action, up to and including dismissal.

A driver who is tested and found to have an alcohol concentration of .02 or greater but less than .04 may not perform or continue to perform safety-sensitive functions including driving a commercial motor vehicle until the start of the driver's next regularly scheduled duty period, but not less than 24 hours after the test was administered. (49 CFR 382.505)

A driver who tests positive for drugs or is found to have an alcohol concentration of .04 or greater shall be subject to disciplinary action up to and including dismissal by the transportation contractor.

A driver who violates prohibitions related to drugs and alcohol shall receive from the transportation contractor 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)

Return-to-Duty

Drivers who have violated the district's drug or alcohol prohibition shall not be returned to performing safety sensitive duties by the transportation contractor. As per the contract with the vendor the Etiwanda School District reserves the right to require the vendor to discontinue service of an employee placed in the Etiwanda School District upon notice.

Maintenance of Records

The transportation contractor shall maintain records of their employees who perform service under the contract with the Etiwanda School District observing strict confidentiality and released only in accordance with law and the contract with the district.

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 and the transportation contractor's policies for meeting these requirements. The information shall identify all of the following: (49 CFR 382.601)

1. The person designated by the transportation contractor to answer drivers' 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.

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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 .02 or greater but less than .04.
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.

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, transportation contractor 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 49 CFR 382, the transportation contractor shall inform drivers that the tests are required by these regulations. (49 CFR 382.113)

The transportation contractor 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 transportation contractor 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)

Board Approved:

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