

MEDFORD AREA PUBLIC SCHOOL DISTRICT

DATE ADOPTED: November 16, 1995

FILE SECTOR: SUPPORT SERVICES

DATE REVISED: February 17, 2005

POLICY TITLE: DRUG AND ALCOHOL TESTING

DATE REVISED: March 21, 2013

FOR BUS DRIVERS

In accordance with federal law and regulations, the Medford Area Public School District (herein referred to as "district") shall be responsible for implementing a drug and alcohol testing program for school bus drivers. The purpose of the testing program shall be to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by bus drivers.

PROHIBITED CONDUCT

Drivers shall be prohibited from any alcohol misuse that could affect performance on the job including use on the job, use during the four hours before driving, having prohibited concentrations of alcohol in their systems while driving and use during eight hours following an accident.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect his/her ability to safely operate a motor vehicle.

REQUIRED TESTING

Drivers shall be subject to pre-employment/pre-duty, reasonable suspicion, random, post-accident, return-to-duty and follow-up drug testing pursuant to procedures set out in the federal regulations. They shall also be subject to reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol testing pursuant to procedures set out in the federal regulations. These procedures use an evidential breath testing device for alcohol testing. For controlled substances testing, urine specimen collection and testing by a laboratory certified by the U.S. Department of Health and Human Services shall be required.

Pre-employment testing shall be administered to an applicant offered a position in the district prior to the first time the driver performs any safety-sensitive function for the district.

Random alcohol testing shall be limited to the time period surrounding the performance of safety-related functions which includes just before, during, or just after the employee performs the safety-related function. Controlled substances testing may be performed at anytime while the driver is at work.

An employee covered by the federal regulations may not refuse to take a required test.

CONSEQUENCES IF TESTING INDICATES DRUG OR ALCOHOL MISUSE

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the employee shall be removed immediately from safety-related functions in accordance with the federal regulations. Before a driver is reinstated, if at all, the driver shall undergo an evaluation by a substance abuse professional, comply with any required rehabilitation and undergo a return-to-duty test with verified test results.

A driver that is under the influence of alcohol will, at a minimum be suspended without pay until their next regular duty period, but for no less than 24 hours, and must undergo a return to duty alcohol test with a result of 0.00. A driver may also be subject to additional disciplinary action by the district, up to and including discharge.

A driver who registers greater than 0.00 or has a verified positive test result for a controlled substance, at a minimum be suspended without pay until their next regular duty period, but for no less than 24 hours, and must undergo a return to duty alcohol or drug test with an acceptable result. In addition, a driver must be released for duty by a Substance Abuse Professional. A driver may also be subject to additional disciplinary action by the district, up to and including discharge.

A driver who is prohibited from performing safety-sensitive functions may be assigned to non-safety-sensitive functions until such time as the driver complies with the requirements for returning to duty.

The board of education retains the authority consistent with state and federal law to discipline or discharge any employee who is alcohol or chemically dependent and whose current use of alcohol or drugs affects the employee's qualifications for and performance of his/her job.

The district is not required under federal law requiring drug and alcohol testing to provide rehabilitation, pay for substance abuse treatment or to reinstate the employee. All employment decisions involving reinstatement, termination or dismissal shall be made in accordance with applicable district policies.

RECORD RETENTION

The district shall maintain records in compliance with the federal regulations in a secure location with controlled access. With the driver's consent, the district may obtain any of the information concerning drug and alcohol testing from the driver's previous employer. A driver shall be entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances including information pertaining to alcohol or drug tests.

Records shall be made available to a subsequent employer upon receipt of a written request from a driver only as expressly authorized by the terms of the driver's request.

OTHER PROVISIONS

The district shall take steps to insure that employees receive the notifications required by federal regulations.

CROSS REFERENCES: EEAEEA-R, GBCBC, & GBCBB

LEGAL REFERENCES: 49 U.S.C. §2717 et seq.(Omnibus Transportation Employee Testing Act of 1991), 49 C.F.R. Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 C.F.R. Part 382 Controlled Substance and Alcohol Use and Testing, 49 C.F.R. Part 391 Qualification of Drivers, and Employee Handbook

Before any driver operates a commercial motor vehicle, the district will provide him with post-accident procedures that will make it possible to comply with post-accident testing requirements.

RANDOM TESTS

Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol will be conducted just before, during, or just after the performance of safety-sensitive functions. Random tests for drugs do not have to be conducted in immediate time proximity to performing safety sensitive functions. Once notified of selection for drug testing, a driver must proceed to a collection site to provide a urine specimen.

Drivers will be selected by a scientifically valid random process, and each driver will have an equal chance of being tested each time selections are made. The number of bus drivers selected for random testing will be in accordance with federal regulations.

REASONABLE SUSPICION TESTS

Tests must be conducted when a properly-trained supervisor or district official 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 indication of chronic and withdrawal effects of controlled substances.

Alcohol tests will be 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. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours.

An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test.

A supervisor or district official who makes a finding of reasonable suspicion also must make a written record of his/her observations leading to a reasonable suspicion drug test within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

RETURN-TO-DUTY TESTS

A drug or alcohol test will be conducted when a driver who has violated the district's drug or alcohol prohibition returns to performing safety-sensitive duties.

Employees whose conduct involved misuse of drugs may not return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result.

Employees whose conduct involved alcohol may not return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and district standards.

FOLLOW-UP TESTS

A driver who violates the district's drug or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem will be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing will be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

RECORDS

Employee drug and alcohol test results and records will be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver will 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 will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

NOTIFICATIONS

Each driver will 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 will be notified of the availability of this information. The information will identify:

1. The person designated by the district to answer driver questions about the materials as the director of transportation.
2. Categories of drivers who are subject to the drug and alcohol testing requirements.
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear for what period of the work day driver compliance is required.
4. Specific information concerning driver conduct that is prohibited.
5. Circumstances under which a driver will be tested for drugs and/or alcohol.
6. 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 insure 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 federal regulations.
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences.
9. Consequences for drivers found to have violated the drug and alcohol prohibitions including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment.
10. Consequences for drivers found to have an alcohol concentration greater than 0.00.
11. Information concerning the effects of drugs and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a drug or alcohol problems, 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 administrative officials.

Each driver must sign a statement certifying that he/she has received a copy of the above materials.

The district will inform drivers before drug and alcohol tests are performed.

The district will notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The district also will tell the driver which controlled substances were verified positive.

Drivers will inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

ENFORCEMENT

Any driver who refuses to submit to post-accident, random, reasonable suspicion or follow-up tests will not be allowed to perform or continue to perform safety-sensitive functions. Such refusals shall be treated as insubordination and regarded as a positive test.

A driver who in any other way violates district prohibitions related to drugs and alcohol will receive from the district 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 will be evaluated by a substance abuse professional who will determine what help, if any, the driver needs in resolving such a problem.

Any substance abuse professional who determines that a driver needs assistance will 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.

Before the driver is returned to safety-sensitive duties, if at all, the district must insure that the employee:

1. Has been evaluated by a substance abuse professional.
2. Has complied with any recommended treatment.
3. Has taken a return-to-duty drug and alcohol test with a result indicating no alcohol concentration level.
4. Is subject to unannounced follow-up drug and alcohol tests. The number and frequency of such follow-up testing will be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the driver's return to duty.

CROSS REFERENCES: EEAEEA-R, GBCBC, & GBCBB

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