

## Drug and Alcohol Testing

The abuse of drugs and alcohol creates a variety of problems in the workplace including increased accidents and injuries, absenteeism, employee morale and productivity and a decline in the quality of services.

Therefore, Eagle County School District adopts a policy for drug and alcohol testing of employees and prospective employees who perform safety sensitive functions in compliance with the Department of Transportation Federal Highway Administration Rule and Eagle County School District.

**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, or who serve in a safety sensitive position. This policy also applies to all applicants for employment in such positions, including current district employees seeking to transfer into such positions.

**Testing situations:** Testing situations shall include: pre-employment drug testing, random selection, post accident, follow-up/return to duty, reasonable suspicion drug and alcohol and initial testing of current employees for drugs.

**Procedures:** The District shall formulate procedures which set forth prohibited conduct; required conduct; required testing; testing procedures; and information concerning administration, employee training, and confidentiality.

**Consequences of Non-Compliance:** A positive test or tampering with a test, or other incidence of non-compliance with these policies or procedures shall be grounds for refusal to hire a prospective employee. Refusal to submit to a post accident test after a fatal accident will disqualify a driver from driving a commercial motor vehicle for one year. Violation of these rules will subject the driver to civil penalties up to \$10,000.00.

**Employee and Applicant Notification and Training:** The District shall provide information and training to all employees subject to the provision of this policy regarding requirements of the policy and related procedures and information regarding controlled substance use and alcohol misuse. The East Transportation Supervisor has been designated as the liaison to answer any questions regarding the requirements of this controlled substance and alcohol testing policy and procedures. Information regarding this policy and related procedures shall also be provided to applicants for employment into safety-sensitive positions, including district employees seeking to transfer into such positions.

### Regulations

All Eagle County School District employees required to possess a commercial vehicle driver's license or who are required to perform safety sensitive functions are subject to the following regulations as a condition of hiring or continued employment.

References to tests in these regulations include both drug and alcohol tests unless the context specifies otherwise. The terms *drugs* and *controlled substances* are interchangeable and have the same meaning. *Drugs* refer to marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines).

**Initial**

All employees who perform safety sensitive functions and possess a commercial driver's license will be required by the District to be screened the same as for pre-employment.

**Pre-employment tests**

Drug tests will be administered before an employee performs any safety sensitive functions for the District.

The tests will be required of an applicant only after he/she has been offered the position. Employment with the District is conditional upon the applicant receiving a negative alcohol and drug test result.

An employee may be exempt from the pre-employment drug test if he has participated in a drug testing program within 30 days prior to the application for employment and while participating in that program was tested for drugs within the last six months (from the date of application) or participated in a random drug testing program in the previous 12 months, provided that the District has been able to make all verifications required by law. A district employee who has been on an extended leave in excess of six months will be subject to a pre-employment test before returning to duty.

**Post-accident tests**

Alcohol and controlled substance tests will be conducted as soon after an accident as practicable on any employee who:

1. Was performing safety-sensitive functions with respect to the vehicle if the accident involved loss of human life; or
2. Where any person involved in the accident required immediate medical attention away from the scene and the driver received a citation under state or local law for a moving traffic violation arising from the accident; or
3. Where the vehicle required towing from the scene and the driver received a citation for a moving violation.

No employee involved in an accident may use alcohol for 8 hours after the accident or until after he/she undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours after the accident, the District will prepare and maintain records explaining why the test was not conducted.

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.

Before any employee operates a commercial motor vehicle, the District will provide him/her 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, an employee must proceed to a collection site to provide a urine specimen or breathalyzer sample.

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

If the employee contests the results of the test and requests a second test, the employee will bear the cost of the second test.

### **Reasonable suspicion tests**

Tests must be conducted when a properly-trained supervisor or district official has reasonable suspicion that the employee has violated the District's alcohol or drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech or body odors. The observations may include patterns of behavior and indications 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 employee 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 8 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 test within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

**Return-to-duty tests**

A drug or alcohol test will be conducted when an employee who has voluntarily come forward for assistance 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 misuse 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**

An employee who voluntarily comes forward for assistance 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 accordance with law. Follow-up alcohol testing will be conducted just before, during or just after the time when the employee 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 the law.

Upon written request, an employee 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 employee.

**Notifications**

Each employee 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.
2. Categories of employees who are subject to the drug and alcohol testing requirements.
3. Sufficient information about the safety-sensitive functions performed by employees to make clear for what period of the work day employee compliance is required.

4. Specific information concerning employee conduct that is prohibited.
5. Circumstances under which an employee 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 employee and the integrity of the testing processes, safeguard the validity of test results and insure that test results are attributed to the correct employee.
7. The requirement that an employee 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 employees found to have violated the drug and alcohol prohibitions including the requirement that the employee be removed immediately from safety-sensitive functions and the procedures for voluntary referral, evaluation and treatment.
10. Consequences for employees found to have an alcohol concentration of 0.02 or greater.
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 problem, 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 employee must sign a statement certifying that he/she has received a copy of the above materials.

The District will inform employees before drug and alcohol tests are performed.

The District will notify an employee of the results of a pre-employment drug test if the employee requests such results with 60 calendar days of being notified of the disposition of his/her employment application.

The District will notify an employee 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 employee which controlled substances were verified as positive.

Employees 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 employee that it will not adversely affect his/her ability to safely operate a commercial motor vehicle.

**Enforcement**

Any CDL driver who refuses to submit to initial, post-accident, random, reasonable suspicion or follow-up tests will be terminated.

All employees subject to this policy/procedure who believe they may have a problem associated with controlled substance use or alcohol misuses 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 employee shall be removed from performing safety-sensitive functions immediately, and shall not be allowed to return to a safety-sensitive function until he/she has been evaluated by the substance abuse professional, and a determination has been made by the substance abuse professional that the employee may return to the safety-sensitive function. Employees who voluntarily come forward for assistance shall be subject to return-to-duty and follow-up testing, as outlined under "required testing."

The following procedures 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:

- A. The employee must report the suspicions immediately to his/her Supervisor. If the Supervisor is not available, the employee should report the suspicions to his/her immediate supervisor;
- B. The reporting employee shall not discuss the suspicions with other district employees, unless requested to do so by his/her Supervisor or other person to whom the employee has reported in connections with paragraph A;
- C. The Supervisor, or other person listed in paragraph A to whom the report has been made shall take the necessary steps to confront the employee suspected of having the controlled substance or alcohol problem, pursuant to the District policy/ procedure.

Failure to follow this procedure is considered a violation of this policy. Discipline up to and including dismissal may be imposed for such violation.

An employee 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. An employee who tests positive will be put on administrative leave, pending appeal, for 72 hours and upon receiving a positive on the split sample will be terminated.

LEGAL REF.: C.R.S. 42-4-234(12)(a)  
C.R.S. 391H  
Omnibus Transportation Employee Testing Act of 1991

CROSS REF.: Drug-Free Workplace

Employee Assistance/Wellness Programs