

**ALCOHOL AND DRUG FREE WORKPLACE
AND EMPLOYEE DRUG AND ALCOHOL TESTING
(for employees other than bus drivers)**

Alcohol and Drug Free Workplace: Student and employee safety is of paramount concern to the Board. Employees under the influence of alcohol, drugs, or controlled substances are a serious risk to themselves and to other employees. The Board hereby commits itself to a continuing good faith effort to maintain a drug-free workplace. The Administration shall provide a copy of this policy to all present and future employees, and each employee of this District is hereby notified that, as a condition of employment, the employee must abide by the terms of this policy.

While on District property or engaged in District activities, employees of the District shall not manufacture, use, possess, sell, distribute, or be under the influence of drugs, controlled dangerous substances, or alcohol (including low-alcohol beer). Any person who has a reasonable belief to suspect that an employee on District property or engaged in District activities may be under the influence of or in possession of controlled dangerous substances or alcohol shall report the belief to the employee's supervisor or the Superintendent. When it is evident that an employee has consumed alcoholic beverages or used illegal drugs off District property and/or before a District activity, the employee shall not be allowed on District property and/or shall not be allowed to participate in District activities. Any employee who violates this policy may be subject to disciplinary action which may include suspension, demotion, dismissal, non-reemployment, or termination.

Each employee shall notify the Superintendent, or the Superintendent's designee, of any criminal drug statute conviction for a violation occurring in or on the premises of this District or while engaged in regular employment. Such notification must be made to the Superintendent, or the Superintendent's designee, no later than five (5) days after conviction. The Superintendent, or the Superintendent's designee, shall provide notice of such violation to the Impact Aid Program, United States Department of Education, or other appropriate government agency within ten (10) days after the Superintendent, or the Superintendent's designee, receives such notification. Within thirty (30) days following receipt of the above notification, the District shall take appropriate disciplinary action which may include termination or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program; provided that nothing herein will preclude the District from taking disciplinary action prior to any such notice when cause exists.

Each employee shall have an opportunity to attend a drug-free awareness program at which employees shall be informed about the dangers of drug abuse in the workplace, available drug counseling, rehabilitation, employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The Board recognizes that employees who have an alcohol/drug abuse problem should be encouraged to seek professional assistance. An employee who requests assistance shall be referred to a treatment facility or agency in the community if such facility or agency is available.

Alcohol and Drug Testing: Drug and alcohol testing of employees may be conducted in accordance with applicable federal and/or state law as set forth in Administrative Regulations. The District shall comply with the Omnibus Transportation Testing Act of 1991, which helps to prevent accidents and injuries resulting from misuse of alcohol and controlled substances by employees who serve in safety-sensitive positions.

I. Testing Employees and Applicants for Employment (Other Than Bus Drivers) for Use of Alcohol and Other Illegal Chemical Substances

This policy will apply to all employees of the District regardless of position, title or seniority except bus drivers. The testing of bus drivers for alcohol or illegal chemical substances is exclusively governed by the District's policy on Alcohol and Drug Testing for Bus Drivers and the federal Omnibus Transportation Act of 1991. Bus drivers whose job assignment involves duties other than and independent of driving a bus shall be subject to this policy with regard to all non-bus driving duties.

Conditional Offer of Employment/Reassignment Testing: The District may require drug and alcohol testing of all new applicants upon a conditional offer of employment. The refusal of a job applicant who has been offered conditional employment to take the test or a positive test may be considered as a basis for not employing the applicant. The District may also request or require an employee who transfers to a different position or job, or who is reassigned to a different position or job, to undergo drug or alcohol testing and may use refusal to take a test or a positive test as a basis for denying a transfer or reassignment. Each case will be reviewed to assure compliance with current regulations of the Americans with Disabilities Act.

For Cause/Reasonable Belief: The District may request or require an employee to undergo drug and/or alcohol testing as set forth below and when the Superintendent or designee has a reasonable belief that the employee has violated these regulations or any other school policy concerning the use of drugs and/or alcohol including, but not limited to, the following circumstances:

1. drugs or alcohol are on or about the employee's person or in the employee's vicinity;
2. conduct on the employee's part suggests impairment or influence of drugs or alcohol;
3. a report of drug or alcohol use while at work or on duty;
4. information that an employee has tampered with drug or alcohol testing at any time;

5. negative performance patterns, or,
6. excessive or unexplained absenteeism or tardiness.

For controlled substances, the observations may also include indications of the chronic use and/or withdrawal effects of controlled substances. These observations or events should be documented. The documentation should include specific, observable facts and reasonable inferences that suggest the employee is experiencing problems related to drug or alcohol use and/or that the employee is using drugs or alcohol.

Post-Accident: District may request or require an employee to undergo drug or alcohol testing if the employee or another person has sustained an injury while at work, or property has been damaged while at work, including damage to equipment. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by the employer, shall be eligible for such compensation.

Random: As determined appropriate by the Board of Education, the District may call members of an employment classification or group of employees to undergo drug or alcohol testing at random and may limit its random testing programs to particular employment classifications or groups, except that the District will require random testing only of employees who:

- a) are police or peace officers, have drug interdiction responsibilities, or are authorized to carry firearms, or
- b) are engaged in activities which directly affect the safety of others, including, but not limited, to school vehicle mechanics.

Post-Rehabilitation: District may request or require an employee to undergo drug or alcohol testing for a period of up to two (2) years commencing with the employee's return to work, following a positive test or following participation in a drug or alcohol dependency treatment program

All employees subject to this drug and alcohol testing policy will be tested for alcohol, and any drugs currently included in the provisions promulgated by the Oklahoma State Board of Health or as required by federal law.

II. Medical Marijuana

Pursuant to Oklahoma law (Okla. Stat. Tit. 63, § 420A et. seq.), unless failure to do so would cause the District to imminently lose a monetary or licensing related benefit under federal law or regulations, the District will not discriminate against an applicant in hiring or take employment action against an employee on the basis of the employee's or applicant's status as a medical marijuana license holder.

Additionally, the District shall not refuse to hire, discipline, discharge, or otherwise penalize an applicant or employee solely on the basis of a positive test for marijuana components or metabolites unless:

1. The applicant or employee is not in possession of a valid medical marijuana license;
2. The licensee possesses, consumes or is under the influence of medical marijuana or medical marijuana product while at the place of employment or during the fulfillment of employment obligations; or
3. The position is one involving safety-sensitive job duties, as set out in this policy.

When permitted, adverse action pursuant to this policy may be taken against an employee or applicant for a positive drug test for marijuana components or metabolites.

As used in this section, a determination of whether an applicant or employee is "under the influence of medical marijuana or medical marijuana product" shall be based on the totality of circumstances. Circumstances that may contribute to a determination that the applicant or employee is under the influence may include, but are not limited to:

1. Observation of any of the conduct or phenomenon described below:
 - a. Odor of marijuana on or around the individual;
 - b. Disorganized thinking;
 - c. Paranoia and/or confusion;
 - d. Bloodshot eyes;
 - e. Increased heart rate;
 - f. Increased appetite; or
 - g. Loss of Coordination and
2. Any circumstance that would permit the school district to engage in "for cause/reasonable belief" drug or alcohol testing of the employee under this policy.

II. Drug Testing Procedures

Drug and alcohol testing standards and procedures of the District shall conform fully with the provisions of the State Board of Health. Testing facilities used by the District shall provide evidence of having met all licensing and/or certification requirements of the State Board of Health including the following:

1. Samples shall be collected and tested only by individuals deemed qualified by the State Board of Health. Such samples may be collected on the premises of the District or at a testing facility.
2. Only samples deemed appropriate by the State Board of Health for drug and alcohol testing shall be collected.

3. The collection of samples shall be performed under reasonable and sanitary conditions.
4. Samples shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen.
5. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no representative, agent, or designee of the District shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
6. Sample collection shall be documented, and the documentation procedures shall include:
 - A. Labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
 - B. An opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information.
7. Sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration.
8. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result through procedures accepted by the State Board of Health, at the cutoff levels as determined by State Board of Health rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by an employer pursuant to Section 12 of 40 O.S. 551, *et seq.*
9. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

III. Testing Results

The following steps will be taken when an employee's test is positive for the presence of drugs or alcohol:

1. The employee will be notified of the results of the test. The applicant or employee has a right to obtain all information and records relating to that individual's testing.
2. The employee will be advised of the outcome of the drug or alcohol screening and will be immediately removed from the current job assignment.
3. The employee will be given a reasonable opportunity for confidential rebuttal of the results.

Further, if the initial drug use test is positive for the presence of an illegal chemical substance or the metabolites thereof, the initial test result will be subject to confirmation by a second and different test of the same sample. The second test will use an equivalent scientifically accepted method of equal or greater accuracy as approved by rules of the State Board of Health, at the cutoff levels determined by Board rules. An applicant for employment will not be denied employment or an employee will not be subject to disciplinary procedures unless the second test is positive for the presence of illegal chemical substances or the metabolites thereof.

In the case of drug use testing, the employee or applicant will have a right to have a second test performed on the same test sample at the expense of the employee or applicant. In the case of alcohol testing, the employee or applicant will have a right to have a second test performed on the same test sample using any scientifically accepted method approved by rules of the State Board of Health, at the cutoff levels determined by Board rules. The request for the second test must be made within twenty-four (24) hours of receiving notice of a positive test in order to challenge the results of a positive test and subject to the approval by the District's testing facility that (a) the facility selected by the applicant or employee for the second test meets the qualifications required for a testing facility under the Oklahoma Standards for Workplace Drug and Alcohol Testing Act and (b) the testing methodology used by the facility selected by the employee or applicant conforms to scientifically accepted analytical methods and procedures, including the cutoff levels, as determined by the State Board of Health. If the re-test reverses the findings of the challenged positive result, then the District will reimburse the applicant or employee for the costs of the re-test. A proper chain of custody shall be maintained at all times in transmitting the sample to and from a second testing facility.

The District will rely on the opinion of the District's testing facility which performed the tests in determining whether the positive test result was produced by other than consumption of alcohol or an illegal chemical substance.

IV. Confidentiality

The District shall maintain the results of any drug/alcohol test in confidentiality to the extent possible. The employee who participates in a drug/alcohol test will be provided an opportunity to review and to obtain copies of any information and records pertaining to the drug/alcohol test.

1. District will maintain all drug and alcohol test results and related information, including, but not limited to, interviews, reports, statements and memoranda, as confidential records, separate from other personnel records. Such records, including the records of the testing facility, shall not be used in any criminal proceeding, or any civil or administrative proceeding, except in those actions taken by the District or in any action involving the individual tests and the District or unless such records are ordered released pursuant to a valid subpoena or other court order.
2. The records described above and maintained by the District shall be the property of the District and, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. The District will not release such records to any person other than the applicant, employee, or the District's review officer, unless the applicant or employee has expressly granted permission in writing, following receipt of the test results, for the District to release such records or pursuant to a valid court order.
3. A testing facility, or any agent, representative or designee of the facility, or any review officer, shall not disclose to the District, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of drugs or alcohol, any information relating to:
 - A. The general health, pregnancy or other physical or mental condition of the applicant or employee; or
 - B. The presence of any drug other than the drugs or their metabolites that the District requested be identified and for which a medically acceptable explanation of the positive result, other than the use of drugs, has not been forthcoming from the applicant or employee.

Provided, however, a testing facility shall release the results of the drug or alcohol test, and any analysis and information related thereto, to the individual tested upon his/her request.

V. Other Provisions

Drug/alcohol tests required pursuant to this policy will be conducted during, prior to, or immediately after the regular work period for current employees and shall be deemed work time for purposes of compensation and benefits for current employees.

District shall pay all costs of testing for drugs or alcohol including any school requested confirmation tests and the costs of transportation to the drug/alcohol test site. Any individual who requests a retest of a sample in order to challenge the results of a positive test shall pay all costs of the retest, unless the retest reverses the findings of the challenged positive test in which case the District shall reimburse the individual for the costs of the retest.

A copy of this policy shall be posted in a prominent employee access area and shall be provided to each job applicant upon the applicant's receipt of a conditional offer of employment. Any employee or applicant for employment who refuses to undergo drug or alcohol testing conducted in accordance with Board policy and these regulations may be disciplined up to and including termination of employment. An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for unemployment compensation.

EMPLOYEE ALCOHOL AND/ OR DRUG TESTING: BUS DRIVERS

I. Alcohol and Drug Testing of Drivers

In an effort to prevent accidents resulting from the use of alcohol or controlled substances, the District requires drivers of commercial motor vehicles to undergo testing for drugs and/or alcohol in accordance with District policy and administrative regulations. This policy is intended to comply with the District's mandatory obligations under regulations issued by the United States Department of Transportation ("DOT"). To the extent this policy conflicts with the regulations issued by DOT, the DOT regulations will control. All affected employees will receive a copy of this regulation prior to any drug and/or alcohol testing.

II. Definitions

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

"Alcohol concentration" means the number of grams of alcohol (for example: 0.04) in 210 liters of expired deep lung air.

"Alcohol confirmation test" means a subsequent test using an EBT (a breath testing device), following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

"Alcohol screening device" ("ASD") means a breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration and placed on a conforming products list for such devices.

"Alcohol use" means the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

"BAT" means a qualified breath alcohol technician.

"Blind specimen" means a specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

"Cancelled test" means a drug or alcohol test that has a problem identified and cannot be or has not been corrected. A cancelled test is neither a positive nor a negative test.

"CDL" means commercial driver's license.

“Collection site” means a place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

“Confirmatory drug test” means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

“Confirmed drug test” means a confirmatory drug test result received by an MRO from a laboratory.

“Controlled substance” means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), opiates, or a metabolite of any of these substances.

“Designated employer representative” (“DER”) means an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer.

“Dilute specimen” means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

“Driver” means: (i) a District employee who is required to have a CDL to perform the employee's duties; (ii) employees of independent contractors who are required to have CDLs; (iii) owner-operators; (iv) leased drivers; and (v) occasional drivers.

“EBT” means an evidential breath testing device on the National Highway Traffic Safety Administration's Conforming Products List for Evidential Breath Measurement Devices for the evidential testing of breath at the .02 and .04 alcohol concentrations.

“Federal Act” means the Omnibus Transportation Testing Act of 1991 and the regulations issued by the United States Department of Transportation pursuant to that Act.

“Oklahoma Act” means the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.

“Initial drug test” means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

“Initial validity test” means the first test used to determine if a specimen is adulterated, diluted, or substituted.

“Invalid drug test” means the result for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

“Medical review officer” (“MRO”) means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

“Safety-sensitive function” means from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

“Screening Test Technician” (“STT”) means a person who instructs and assists employees in the alcohol testing process and operates an ASD.

“Service agent” means any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements.

“Split specimen” means a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

“Stand-down” means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed a verified test.

“Substance Abuse Professional” (“SAP”) means a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

“Substituted specimen” means a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

“Verified test” means a drug test result or validity testing result from a United States Department of Health and Human Services certified laboratory that has undergone review and final determination by the MRO.

III. Compliance

Drivers are prohibited from using, possessing, or being under the influence of illegal drugs at all times, and are prohibited from using, possessing, or being under the influence of alcohol on school property or during a school-related activity. Drivers are prohibited from using alcohol within four (4) hours of performing their job functions.

IV. Testing & Consent

The following testing is required of all drivers:

A. Pre-Employment Testing and Consent: A driver must pass an alcohol and controlled substance test prior to performing a safety-sensitive function. The test will be conducted during the hiring process or immediately before the driver first performs a safety-sensitive function.

1. Alcohol Testing

A driver may not commence the performance of duties unless the test shows a concentration of less than 0.04. If the test shows a concentration of between 0.02 and 0.04, no safety-sensitive duties may be performed for at least 24 hours.

A pre-employment alcohol test will not be required if:

- I. The driver has undergone an alcohol test required by the Federal Act within the previous six weeks and tested under 0.04; and
- II. The driver provides evidence that no prior employer of the driver has any record of alcohol misuse by the driver within the previous six months.

2. Controlled Substances

The driver must receive a confirmed negative controlled substance test result from a medical officer, except that no testing is required if:

- I. The driver has participated within the previous thirty (30) days in a drug testing program meeting the requirements of the Federal Act; and
- II. While participating in the program, the driver either (a) was tested for controlled substances within six months prior to the date of employment application or (b) participated in a random controlled substance testing program for the twelve months prior to the date of the employment application; and
- III. The driver provides evidence that no prior employer of the driver has any record of a violation of controlled substance use rules by the driver within the previous six months.

3. Pre-employment Consent

The District shall request the driver's written consent to obtain the following information from DOT-regulated employers who have employed the driver during the two (2) years before the date of the driver's application to a position requiring safety-sensitive duties:

- I. Alcohol tests with a result of 0.04 or higher alcohol concentration;
- II. Verified positive drug tests;
- III. Refusals to be tested (including verified adulterated or substituted drug test results);
- IV. Other violations of DOT agency drug and alcohol testing regulations; and
- V. Documentation of the driver's successful completion of return-to-duty requirements (for those drivers who have violated a drug or alcohol regulation). If the previous employer does not have this documentation, the District shall request the driver produce it.

A driver may not perform safety-sensitive functions if s/he refuses to consent in writing to the release of the above information.

Drivers are responsible for furnishing the District with accurate information regarding their employment history, including accurate identification of all former DOT-regulated employers.

The District shall maintain a written, confidential record of the information obtained or of the good faith efforts made to obtain the information. This record shall be maintained for three years from the date of the driver's first performance of safety-sensitive functions.

Prior to the driver's first performance of safety-sensitive functions, the District shall ask the driver whether s/he has tested positive, or refused to test, on any pre-employment drug or alcohol test (1) administered by a DOT-regulated employer, (2) in connection with a position for which the driver applied, (3) involving the driver's failure to obtain safety-sensitive transportation work, and (4) over the period of two years preceding the date of the employee's application for employment with the District. If the driver admits to a positive test or a refusal to test within the past two years, the District shall not allow the driver to perform safety-sensitive functions until and unless the driver documents successful completion of the return-to-duty process.

4. Consequences Associated with Pre-employment Testing

The District may decline to employ an applicant who fails drug testing, provides false information, or who fails to cooperate with the District in procuring testing and test results. To the extent the applicant has been offered employment or placed in an alternate position pending the receipt of test results, the offer may be withdrawn and alternate employment terminated in accordance with the District's policies and procedures applicable to employee termination.

B. Post-Accident Testing

1. Alcohol

As soon as practical following an accident, an alcohol test will be administered to the following drivers:

- I. Each surviving driver who was performing safety-sensitive functions with respect to the vehicle, if the accident involves loss of life.
- II. Each surviving driver who received a moving traffic violation arising from the accident, if the accident involved:
 - a. bodily injury to any person that necessitated immediate medical treatment away from the scene of the accident; or
 - b. at least one vehicle incurred disabling damage as a result of the accident that required the vehicle to be transported away from the scene by a tow truck or other vehicle.

The test is to be administered within two hours of the accident. If the test is not administered within that time, the driver's supervisor shall cease attempts to administer an alcohol test and shall prepare a written report explaining why a test was not given.

Drivers shall remain readily available for testing. A driver leaving the scene of an accident without a valid reason prior to submission to the test may be deemed to have refused to submit to testing.

A breath or blood alcohol test conducted by a law enforcement agency will be considered to meet these requirements if the test meets the requirements of the Federal Act and the test results are obtained by the District.

2. Controlled Substances

As soon as practical following an accident, a test for controlled substances will be administered to the following drivers:

- I. Each surviving driver who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life.
- II. Each surviving driver who received a moving traffic violation arising from the accident, if the accident involved:
 - a. bodily injury to any person that necessitated immediate medical treatment away from the scene of the accident; or

- b. at least one vehicle incurred disabling damage as a result of the accident that required the vehicle to be transported away from the scene by a tow truck or other vehicle.

The test is to be administered within thirty-two (32) hours of the accident. If no test is made within that time period, then no test will be made and the driver's supervisor will prepare a written report stating the reasons for not administering a prompt test.

Drivers shall remain readily available for testing. A driver leaving the scene of an accident without a valid reason prior to submission to the test may be deemed to have refused to submit to testing.

A urine test for controlled substances administered by a law enforcement agency will be considered to meet these requirements if the test meets the requirements of the Federal Act and the results are obtained by the District.

C. Random Testing

Random alcohol and controlled substances testing of drivers will be conducted throughout the year. Selection of the drivers to be tested will be made by a scientifically valid method, such as random-number table or a computer based random-generator matched with drivers' social security numbers, payroll identification numbers or other comparable identifying numbers. Dates for administering unannounced testing shall be unpredictable and spread reasonably throughout a nine (9) month period.

Drivers are to be tested while performing safety-sensitive functions, just before performing those functions, or just after ceasing those functions. A driver who is notified of selection for random alcohol or controlled substances testing must proceed to the test site immediately, unless the driver is performing a safety-sensitive function other than driving, in which case the driver must cease performing the safety-sensitive function and proceed to the test site as soon as possible.

The minimum annual percentage rate for random alcohol testing will be twenty-five percent (25%) of the average number of driver positions, subject to adjustment of the percentage by the Federal Highway Administration. The minimum annual percentage rate for random testing for controlled substances will be fifty percent (50%) of the average number of driver positions.

D. Reasonable Suspicion Testing

Alcohol and controlled substance testing will be conducted when there is reasonable suspicion to believe that a driver has violated a provision in this policy. Reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Reasonable suspicion for controlled substance use may also

be based on indications of the chronic and withdrawal effects of controlled substances.

Alcohol testing is authorized only if the observations are made during, just preceding or just after the period of the work day that the driver is performing a safety-sensitive function. A written record must be made as to why an alcohol test was not made within two hours following a determination of reasonable suspicion of misuse. No test is to be made if eight hours passed after the determination.

Persons designated to determine whether reasonable suspicion exists shall receive at least sixty (60) minutes of training on performance indicators of probable alcohol misuse. The required observations shall be made by a supervisor who has received training in detecting the symptoms of alcohol/controlled substance misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the alcohol test.

A written record will be made of the observations leading to a controlled substance reasonable suspicion test. The record will be signed by the supervisor who made the observations. The record will be made within twenty-four (24) hours of the observed behavior or before the test results are received, whichever is earlier.

E. Return to Duty Testing

1. Returning after Reasonable Suspicion of Alcohol Abuse Determination

A driver suspected of being under the influence of or impaired by alcohol will not be permitted to perform a safety-sensitive function until: (I) an alcohol test shows a concentration of less than 0.02; or (ii) twenty-four hours have elapsed following a determination that there was reasonable suspicion to believe the driver has violated the rules in this policy against alcohol misuse.

2. Returning after Violation of Prohibitions in this Policy

A driver who has engaged in conduct prohibited by this policy shall not be permitted to perform safety-sensitive functions until s/he first passes a controlled substance test and/or an alcohol test with an alcohol concentration of less than 0.02.

A driver who has violated a provision in this policy cannot again perform any safety-sensitive duties for any employer until and unless the driver completes the SAP evaluation, referral, and education/treatment process.

F. Follow-up Testing

A driver who has been identified by an SAP as needing assistance in resolving problems with alcohol misuse or controlled substance use and who has returned to duty involving the performance of a safety-sensitive function will be subject to a minimum of six unannounced

follow-up alcohol and/or controlled substance tests over the following twelve months.

The SAP is the sole determiner of the number and frequency of follow-up tests, as well as whether the tests will be for drugs, alcohol or both. The SAP can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months. The District must carry out the SAP's follow-up testing requirements.

V. Test Procedures

Testing methodology will comply with the requirements of the Oklahoma Act, except that the requirements of the Federal Act stated in this policy supersede the provisions of the Oklahoma Act. Alcohol testing must be conducted in a location that provides visual and aural privacy to the driver, sufficient to prevent unauthorized persons from seeing or hearing the test

A. Alcohol Testing Procedures

1. Procedures for an Alcohol Screening Test Using an EBT or Non-Evidential Breath ASD

- I. When the driver enters the testing location, the BAT or STT will require the driver to provide positive identification. If the driver requests, the BAT or STT will provide positive identification. The BAT or STT will explain the testing procedure. An individually-sealed mouthpiece is opened in the view of the driver and attached to the EBT. The driver will then blow into the mouthpiece for at least six (6) seconds. If the EBT does not provide a printed result, the BAT or STT will record the test number, date, technician's name, location and test result in a log book. The driver will initial the log book. If the EBT provides a printed result, the result is either: (I) printed on the testing form; or (ii) affixed to the form with tamper-evident tape.
- II. ii. If the screening test result is less than 0.02, the BAT or STT will transmit the result in a confidential manner to the District's DER, who is designated by the Board of Education or Superintendent to receive and handle alcohol test results in a confidential manner.
- III. iii. If the breath test is 0.02 or higher, a confirmation test is required. The confirmation test must be conducted no less than fifteen (15) and no more than thirty (30) minutes after the screening test. Before a confirmation test is given, the BAT must conduct a "blank" test on the EBT to obtain a reading of 0.00. The remainder of the confirmation test is identical to the screening test for EBTs.
- IV. iv. If the confirmation test result is lower than 0.02, nothing further is required of the driver.
- V. v. If the confirmation test result is 0.02 or higher, the driver must sign and date the ATF. The BAT will immediately transmit the result to the DER in a confidential manner.
- VI. vi. Refusal to take a required test has the same consequences as if the driver had tested 0.04 or more.
- VII.

The following constitutes a refusal to take a test: (1) failure to appear for any test within a time required to appear; (2) failure to provide an adequate amount of saliva or breath for testing without a valid medical explanation; (3) failure to cooperate with any part of the testing process; (4) failure to sign the alcohol testing form or ATF certification; (5) failure to remain at the testing site until the testing process is complete, unless the test is a pre-employment test; (6) failure to undergo a medical examination or evaluation due to insufficient breath sampling; (7) leaving the scene of an accident before being tested, except when reasonably necessary to receive medical treatment.

2. Procedure for an Alcohol Screening Test Using Saliva ASD

When the driver enters the testing location, the STT will require the driver to provide positive identification. If the driver requests, the STT will provide positive identification. The STT will explain the testing procedure. The STT will check the expiration date on the device and show it to the driver. An individually wrapped package containing the device will be opened in the presence of the driver, and the driver will be instructed to insert the device into his or her mouth and use it in the manner described by the manufacturer. If the driver chooses not to use the device, the STT must insert the device into the driver's mouth and gather saliva.

B. Controlled Substances Testing Procedures

1. Procedures for Collection of Urine Specimens

- I. All urine collections must be split specimen collections.
- II. The District must direct an immediate urine collection under direct observation with no advance notice to the driver, if:
 - a. the laboratory reported to the Medical Review Officer ("MRO") that a specimen is invalid and the MRO has reported that there is not an adequate medical explanation for the result; or
 - b. the MRO reported that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
- III. The District may direct a collection under direct observation of a driver if the drug test is a return-to-duty test or a follow-up test.
- IV. A driver must receive an explanation of the reasons for a directly observed collection.
- V. If a driver declines to allow a directly observed collection, that driver will be considered to have refused to test.

2. Procedures for Testing of Urine Specimens

i. Testing of urine samples for controlled substances shall be performed by a laboratory certified by the federal Department of Health and Human Services (“DHHS”) under the National Laboratory Certification Program.

- I. Controlled substance testing may only be performed for the following five drugs or classes of drugs: (a) marijuana metabolites, (b) cocaine metabolites, (c) amphetamines, (d) opiate metabolites, and (e) phencyclidine (PCP).
- II. If the driver requests a test of a split specimen, the first laboratory will ship the unopened split specimen to a second DHHS-approved laboratory for testing. If the test of the split specimen fails to confirm the presence of a controlled substance, the entire test is cancelled.
- III. The driver must request a split specimen test verbally or in writing within seventy-two hours of being notified of a verified positive drug test or refusal to test because of adulteration or substitution.
- IV. If a driver does not make a request within seventy-two hours, the driver may present information to the MRO documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the driver from making a timely request.
- V. If a driver makes a timely request for a split specimen test, the District must ensure that the MRO, first laboratory and second laboratory perform the split-specimen testing functions in a timely manner. If necessary, the District must pay for the split specimen testing and seek reimbursement from the driver.
- VI. The MRO will report split specimen test results to the DER and driver.
- VII. The laboratory will report results directly to the MRO. The laboratory will not report the results to anyone else.
- VIII. When the MRO receives a confirmed positive, adulterated, substituted, or invalid test result from the laboratory, the MRO will attempt to contact the driver to determine whether the driver wants to discuss the test result. If the MRO cannot reach the driver after reasonable efforts to do so, the MRO must contact the DER but cannot tell the DER that the driver has a confirmed positive, adulterated, substituted, or invalid test result. The DER must then attempt to contact the driver. If the DER makes contact with the driver, the DER should simply direct the driver to contact the MRO immediately and inform the driver of the consequences of failing to contact the MRO within the next seventy-two hours. If the DER is unable to reach the driver after making three (3) attempts, spaced reasonably, over a twenty-four hour period, then the DER may place the driver on temporary medically unqualified status or medical leave. Documentation must be kept by the DER of any actual and/or attempted contacts with the driver, including the dates and times of the contacts. If the DER is unable to contact the driver within the twenty-four hour period, the DER must leave a message for the driver by voice mail, e-mail or letter

- to contact the MRO and inform the MRO of the date and time of this message.
- IX. Confirmation testing for controlled substances will be performed in accordance with the Oklahoma Act, except when the Oklahoma Act conflicts with Federal law.
 - X. The MRO must verify a confirmed positive test result for marijuana, cocaine, amphetamines, and/or PCP unless the driver presents a legitimate medical explanation for the presence of the drug(s)/metabolite(s) in her or his system.
 - XI. As part of the verification decision, the MRO must conduct a medical interview that includes reviewing the driver's medical history and any other relevant biomedical factors presented by the driver, as well as directing the driver to undergo further medical evaluation.
 - XII. DOT tests must be completely separate from non-DOT tests in all respects, and DOT tests must take priority over non-DOT tests. DOT tests must be completed before a non-DOT test is begun. The results of a DOT test shall not be disregarded or changed based on the results of a non-DOT test.

C. Prohibitions

A driver will not be permitted to report to duty or to remain on duty requiring the performance of a safety-sensitive function if:

- 1. Alcohol**
 - i. The driver has an alcohol concentration of 0.02 or higher as measured on a breath test.
 - ii. The driver displays behavior or appearance characteristics of alcohol misuse.
 - iii. The driver is under the influence of or is impaired by alcohol, as shown by behavioral, speech, and performance indicators of alcohol misuse.
 - iv. The driver possesses alcohol while on duty.
 - v. The driver uses alcohol during duty performance.
 - vi. The driver has used alcohol within the four hours prior to performing duties.
 - vii. The driver has had an accident within the last eight hours and has not taken a breath test showing clearance from prohibited alcohol levels.
 - viii. The driver has refused to take a breath test for alcohol use.
 - ix. The driver is taking any prescription or non-prescription medication containing alcohol, even if the driver has notified the driver's supervisor of the medication use.

D. Controlled Substances

- i. The driver uses any controlled substance, unless the use is pursuant to a physician's written certification stating that the use does not adversely affect the driver's ability to safely operate a motor vehicle.

- ii. A supervisor or administrative employee has actual knowledge that a driver has used a controlled substance.
- iii. The driver has a positive confirmed test for a controlled substance.
- iv. The driver displays behavior or appearance characteristics of controlled substance use.
- v. The driver has refused to take a controlled substance test.

C. Refusal to Test

A driver has refused to take an alcohol or controlled substance test if s/he:

- i. Fails to appear for any test as directed by the District.
- ii. Fails to remain at the testing site until the testing is complete.
- iii. Fails to provide a urine specimen.
- iv. Fails to provide a sufficient amount of urine when there is no adequate medical explanation for the failure.
- v. Fails to permit a directly observed or monitored collection.
- vi. Fails or declines to take a second test the District or collector has directed.
- vii. Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by the DER when the urine sample was insufficient.
- viii. Fails to cooperate with any part of the testing process (e.g. refuses to empty pockets when directed to do so, behaves in a confrontational way that disrupts the collection process).
- ix. Has a verified adulterated or substituted test result.

D. Standing Down Employees

Stand-down is “the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.”

- i. DOT regulations prohibit employers from standing employees down, before the MRO has completed verification of the test result.
- ii. A verified test is a drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.
- iii. The District may assign a driver non-driving duties pending the receipt of a verified test result when the District has reasonable suspicion to believe the employee is impaired.
- iv. When the District does remove an employee from service, following verification of the drug test result, it will do so consistent with the confidentiality requirements, within its control, imposed by law.

E. Referral and Treatment

A driver who violates any of the prohibitions in this policy shall be advised of the resources available to the driver for evaluating and resolving problems associated with the misuse of alcohol or use of controlled substances, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.

A driver who violates any of the prohibitions in this policy must be evaluated by an SAP who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse or controlled substance use. The driver will not be permitted to perform safety-sensitive duties for any employer until and unless he or she completes the SAP evaluation, referral, and education/treatment process.

If the driver is identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use, the driver must be evaluated by an SAP to determine if the driver has properly followed the prescribed rehabilitation program. The driver must be subject to unannounced follow-up alcohol and/or controlled substance tests upon return-to-duty.

The SAP will provide a written report directly to the DER highlighting the SAP's specific recommendations for a course of education and treatment with which the driver must comply prior to returning to the performance of safety-sensitive functions. Neither the driver nor the District shall seek a second SAP's evaluation in order to obtain another recommendation. Only the SAP who made the initial evaluation may modify his or her initial recommendations.

If the SAP recommends that the driver continue treatment, aftercare or support group services after returning to safety-sensitive duties, the District may require the driver to participate in the recommended treatment or services as part of the return-to-duty agreement.

These requirements do not apply to drivers refusing to be tested or drivers having a pre-employment test of 0.04 or more.

The District is not required to return a driver to safety-sensitive duties just because the driver complies with the SAP's recommendations.

F. Maintenance of Records

Upon written request, a driver is entitled to obtain copies of any District records concerning the driver's use of alcohol or controlled substances, including test results.

The District shall not release individual test results or medical information about a driver to third parties without the employee's specific written consent to the release of a particular piece of information to a particular person or organization. Notwithstanding this prohibition, the District may release information pertaining to a driver's drug or alcohol test without the employee's consent in certain legal proceedings.

G. Disciplinary Action

Employees who violate any prohibition in this policy will be subject to disciplinary measures, including employment termination. Likewise, employees whose test results are positive for alcohol or controlled substances are subject to disciplinary actions, including employment termination. The same disciplinary consequences face individuals who provide false information in connection with the testing process or who fail to cooperate with the District's efforts to fulfill its testing obligations.

H. Other Policies

This policy does not supersede any other District policy pertaining to alcohol misuse or controlled substance use by District employees, except to the extent that this policy is specific to drivers performing safety-sensitive functions. To the extent permitted by federal law, this policy is to be interpreted consistent with Oklahoma's Act regarding drug and alcohol testing of personnel.

Disclaimer – This sample policy is intended to comply with applicable laws concerning drug and alcohol testing of school district employees. However, this is a sample policy only, and you are urged to contact your school attorney prior to adoption of this or any policy by the Board of Education.

DRUG-FREE WORKPLACE NOTICE

This District supports the "Drug-free Workplace Act of 1988" (P.L. 100-690) and all employees must individually certify their understanding of the following conditions of employment and this act:

Each employee is hereby notified that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in all workstations in the District. Such action is prohibited by any employee during that employee's work hours or in the performance of any duties for the school system. A controlled substance means a controlled substance in Schedule I–V of Section 2020 of the Controlled Substance Act (21 U.S.C. §812) and as further defined by regulation at 21 C.F.R. 1300.11 through 1300.15.

Employees are further notified that as a condition of their employment, they are required to abide by the terms of District policy and that violation of any requirement in any policy may result in appropriate disciplinary action which may include (a) probation, (b) suspension, and/or (c) termination. Employees may be required to satisfactorily participate in drug abuse assistance or rehabilitation programs as approved for such purposes by a federal, state, or local health, law enforcement, or another appropriate agency. Termination is automatic if the employee is guilty of distribution of the substance.

It shall be the responsibility of the employee to report to the District any and all convictions of a criminal drug statute violation occurring in the workplace no later than five (5) days following such conviction. The District must also notify the federal contracting officer or grant source (if any) within ten (10) days after receiving notification from an employee or otherwise receiving actual notice of such conviction. Appropriate personnel action shall follow such disclosure within thirty (30) days of such notice.

1. Because it is the policy of the Board to promote prevention, a drug-free awareness program shall be provided to inform employees about:
 - a) The dangers of drug abuse in the workplace;
 - b) District policy of maintaining a drug-free workplace;
 - c) Available drug counseling, rehabilitation, and employee assistance programs, and

- d) Penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

It is a requirement of the Board that each current employee receive a copy of this policy and that all new applicants receive a copy of this policy upon a conditional offer of employment. This policy statement shall be published in appropriate documents for proper distribution, and shall be posted at a prominent employee access area.

District must also demonstrate a good faith effort to maintain a drug-free workplace through implementation of paragraphs 1-4, above.

This is to certify that on _____, I received a copy of Policy DG and/or DGA as applicable, pertaining to the Drug-Free Schools and Communities Act of 1989, P.L. 101-226, from the Board.

Employee's Signature