

All Personnel

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program for all district drivers and other employees who hold a commercial driver's license which is necessary to perform duties related to their employment with the district. This program shall be designed to fulfill the requirements of state and federal law.

(cf. 3540 - Transportation)
(cf. 3543 - Transportation Safety and Emergencies)

The district's testing program shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306)

The Superintendent or designee shall contract for testing services and shall ensure that testing contractors and procedures are certified by the U.S. Department of Health and Human Services to conduct drug specimen analysis and to conform to the requirements of federal law.

(cf. 3542 - School Bus Drivers)
(cf. 4020 - Drug and Alcohol-Free Workplace)

No driver may operate a district vehicle when his/her blood alcohol content is found to be .01 percent or greater. A driver shall not consume alcohol while on duty or for four hours prior to on-duty time and up to eight hours following an accident or until he/she undergoes a post-accident test, whichever occurs first. A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses a controlled substance, unless so instructed by a physician. (49 CFR 382.205, 382.207, 382.209; Vehicle Code 34520.3; 13 CCR 1213.1)

Any driver who tests positive for alcohol or drugs or who refuses to submit to a test shall be removed from safety-sensitive functions and may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

(cf. 4117.4 - Dismissal)
(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

BP 4112.42(b)

4212.42

4312.42

All Personnel

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The Superintendent or designee shall ensure that each driver receives an explanation of the federal regulations and the district's policy and procedure in accordance with law. In addition, each driver shall sign a statement certifying that he/she has received a copy of the above materials. Representatives of employee organizations shall be notified of the availability of this information. (49 CFR 382.601)

(cf. 4112.9 - Employee Notifications)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

VEHICLE CODE

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40, Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Controlled substance and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

WEB SITES

California Highway Patrol: <http://www.chp.ca.gov>

U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

Policy

adopted: June 24, 1997

Revised: July 10, 2007

VISALIA UNIFIED SCHOOL DISTRICT

Visalia, California

All Personnel

AR 4112.42(a)

4212.42

**DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND
CONTROLLED SUBSTANCES TESTING**

4312.42

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. (49 C.F.R. 382.107)

The Superintendent or designee 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 382.301)

(cf. 4112.41 - Pre-Employment Drug/Alcohol Testing)

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

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 C.F.R. 382.303)
2. Who receives a citation under state or local law for a moving traffic violation arising from the accident (49 C.F.R. 382.303)
3. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved a serious medical injury
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 C.F.R. 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 C.F.R. 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 district shall prepare and maintain records explaining why the test was not conducted. Tests shall not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs. (49 C.F.R. 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 C.F.R. 382.303)

Random Tests

Alcohol and drug tests shall be conducted 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

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

selections are made. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. (49 C.F.R. 382.305)

Employees off work due to leaves, vacation and layoffs shall be informed that they remain subject to random testing. Employees drawn for such testing shall be notified and tested as soon as practicable after they return to duty.

Reasonable Suspicion Tests

An alcohol or drug test shall be conducted if a supervisor or district official 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 C.F.R. 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 C.F.R. 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 C.F.R. 382.307)

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

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 C.F.R. 382.211) Therefore, any driver who so refuses shall be immediately suspended and subject to disciplinary action, up to and including dismissal.

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

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 C.F.R. 382.505) However, pursuant to 49 CFR 382.505, this does not prohibit an employer with authority independent of Part 382 from taking action otherwise consistent with law. (California law requires removal from duty for .01 or great alcohol concentration.)

A driver who tests positive for drugs or is found to have an alcohol concentration of 0.01 or greater shall be subject to disciplinary action up to and including dismissal.

A driver who violates district prohibitions related to drugs and alcohol shall 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 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 C.F.R. 382.605)

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program. (49 C.F.R. 382.605)

Return-to-Duty Tests

If a driver who has violated the district's drug or alcohol prohibition is returned to performing safety-sensitive duties, a drug or alcohol test shall be conducted. (49 C.F.R. 382.309)

Employees whose conduct involved drugs shall 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 shall not return to duty in a safety-sensitive function until the return-to-duty alcohol test indicates an alcohol concentration of less than .02. (49 C.F.R. 382.605) However, more restrictive or conflicting statutory and regulatory provisions may also apply in addition to the DOT regulations. Under the Drug-Free Workplace Act, for example, school district employees cannot be under the influence of alcohol on school grounds. (Also see AR 4218)

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

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 shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions. (49 C.F.R. 382.311)

Follow-up testing shall consist of at least six tests in the first 12 months following the driver's return to duty. The substance abuse professional may terminate the follow-up testing at any time after the first six tests if he/she determines that testing is no longer needed. Testing shall not occur beyond 60 months from the date of the driver's return to duty. (49 C.F.R. 382.605)

Maintenance of Records

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall 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 shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. (49 C.F.R. 382.405)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

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 for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify all of the following: (49 C.F.R. 382.601)

1. The person designated by the district 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

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

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
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. Drivers found to have an alcohol concentration of 0.01 or greater (13 CCR 1213.1c) shall be subject to disciplinary action up to and including dismissal.
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 C.F.R. 382.601)

(cf. 4159 /4259/4359 - Employee Assistance Programs)

12. Other legal requirements, district policies and disciplinary consequences related to the use of alcohol and drugs.

(cf. 4020 - Drug and Alcohol-Free Workplace)

AR 4112.42(g)
4212.42
4312.42

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

Each driver shall sign a statement certifying that he/she has received a copy of the above materials. (49 C.F.R. 382.601)

(cf. 4112.9 - Employee Notifications)

Before any driver operates a commercial motor vehicle, the district shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements. (49 C.F.R. 382.303)

Before drug and alcohol tests are performed pursuant to the Code of Federal Regulations, Title 49, Part 382, the district shall inform drivers that the tests are required by these regulations. (49 C.F.R. 382.113)

The district 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 C.F.R. 382.411)

The district 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 C.F.R. 382.411)

Discipline of Classified Employees Performing Safety-Sensitive Functions

Drivers will be subject to disciplinary action up to and including dismissal for alcohol or controlled substance abuse if:

1. The driver tests positive during the initial probation period.
2. The driver refuses to submit to a test authorized by this article.
3. The driver tests positive (0.01 or greater) for alcohol or positive for controlled substances.
 - a. Prior to performing a safety-sensitive function, the driver shall provide a negative test result (return-to-duty test) and shall be subject to unannounced follow-up tests with a minimum of 6 tests within the first 12 months and up to 36 months following return to duty.
 - b. The driver test positive (0.01) or greater) for alcohol within 24 months after a return to duty following completion of rehabilitation.

DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND CONTROLLED SUBSTANCES TESTING (continued)

- c. A report of this positive test shall be reported to the DMV within 5 days after receiving notification of test results.
4. The driver fails to complete rehabilitation recommended by the substance abuse professional.

Rehabilitation/Treatment

The cost of any treatment and/or rehabilitation prescribed by the substance abuse professional, beyond the health benefits provided by the driver's bargaining unit agreement, shall be borne by the driver.

The driver may utilize the benefit component of any employee assistance program that the employee may have as an employee of the District. However, the driver shall be responsible for all deductibles, co-payment, limitation, etc., that may apply.

Applicants

Any applicant with a verified positive test for controlled substances or an alcohol test with a result indicating an alcohol concentration of 0.01 or greater, or who refuses to submit to pre-employment tests, is not eligible for employment with this employer.

The applicant is responsible for the costs associated with pre-employment testing.

The applicant, following completion of the probationary period, will be reimbursed by the employer, for the cost of the pre-employment drug and alcohol tests.

The District and CSEA agree to meet to resolve any dispute that may arise from these negotiations concerning alcohol and controlled substance testing for employees performing a safety-sensitive function.

AR 4112.42(i)
4212.42
4312.42

**DRIVERS OF COMMERCIAL MOTOR VEHICLES, ALCOHOL AND
CONTROLLED SUBSTANCES TESTING (continued)**

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

UNITED STATES CODE, TITLE 49

2717 Alcohol and controlled substances testing (Omnibus Transportation Employee Testing Act of 1991)

CODE OF FEDERAL REGULATIONS, TITLE 49

40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs

382 Controlled Substance and Alcohol Use and Testing

395 Hours of Service of Drivers

Regulation

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VISALIA UNIFIED SCHOOL DISTRICT

Visalia, California