



Huntington Beach Union High School District Board Policies and Administrative Regulations

AR 4212.42
Page 1 of 8

All Personnel

Drug and Alcohol Testing for Employees Required to Possess a Commercial Driver's License

Responsibilities

The Director, Classified Personnel, shall act as program coordinator and be responsible for questions related to this policy or its implementation. Administrators shall be responsible for observing performance and behavior as well as documenting events to determine when testing for a drug or alcohol is necessary for reasonable cause. Each district employee governed by this policy has the responsibility to be knowledgeable of and to fully comply with the policy.

Definitions

For the purpose of this policy and regulation, all applicable definitions in the Department of Transportation Drug/Alcohol Testing Program are hereby made applicable to this school district. Driver means any person who operates a commercial motor vehicle including but not limited to full-time, part-time, and substitute employees who operate the commercial vehicle under the direction of the district.

Who Is Covered by the Policy

Every district employee required to possess a commercial driver's license and who operates a commercial motor vehicle as defined in the 49 C.F.R., Section 382 et seq., is subject to this policy.

Notification to Employees Covered by the Policy

The district shall notify each employee affected by this policy that a drug and alcohol test is required, and each employee shall receive a copy of an employee handbook and acknowledge that receipt by signature.

Testing Procedures

All specimen collections for drugs and alcohol shall comply with 49 C.F.R., Part 40, as amended. A urine specimen will be collected to test for drugs. A breath sample will be collected to test for alcohol,

Drug and Alcohol Testing (continued)

Testing Procedures (continued)

using an Evidential Breath Testing Device (EBT), and evaluated by a certified Breath Alcohol Technician (BAT). Any time spent in testing will be considered paid duty time.

Drug Testing Laboratory

The district shall use a testing laboratory certified under the Health and Human Services Guidelines. The immediate supervisor of a driver shall not serve as either a collection site person for controlled substance testing or as a breath alcohol technician for alcohol testing of that driver. All testing shall be conducted in a private setting; and, in the case of controlled substance testing, no direct observation of a driver's urination by a collection site person is permitted except for the reasons stated in the Code of Federal Regulations and then only by a same gender collection site person who is not employed by the driver's employer. Any tests that do not comply with the requirements of the Code of Federal Regulations shall be treated as negative tests.

Positive Tests

A positive test for controlled substances must be a confirmation test by gas chromatography/mass spectrometry techniques and must show cut-off levels in compliance with 49 CFR part 40, as amended.

No positive test for controlled substances shall be reported to the employer until after:

1. The medical review officer has contacted the driver directly, on a confidential basis, and given the driver an opportunity to discuss in confidence the test results and the driver's medical history, including medication;
2. The medical review officer has given the driver, within 72 hours of the driver's notification that the test was positive, an opportunity to request that the remainder of the split sample be treated by a different forensic laboratory, certified by the Department of Health and Human Services; and

Drug and Alcohol Testing (continued)

Positive Tests (continued)

3. The remainder of the split sample has been tested and found to be positive, or no timely request for such a test is made by the driver.

If the medical review officer concludes that there is a legitimate explanation for the positive test, such as prescription or over-the-counter medication or a negative result in the test of the remainder of the split sample, the medical review officer must report the test to the employer as a negative test. The medical review officer shall be a licensed physician with special training in prescription drugs, and the pharmacology and toxicology of alcohol and controlled substances. The medical review officer shall not be an employee of the drivers' employer. The cut-off levels in this section are those required by FHWA (Federal Highway Administration) regulation.

Split samples that are determined to be positive shall be paid for by the employee within ninety (90) days of notification. The employee has the following options for payment of this test:

- a. Remit payment to the district;
- b. Request a payroll deduction.

Types of Testing

1. Pre-Employment Testing

Prior to the first time a driver performs a safety-sensitive function, the driver shall undergo a drug and alcohol test. The test results from the medical review officer must indicate verified negative test results as a condition of employment in a position requiring a commercial driver's license.

2. Random Testing

Drivers shall be subject to drug and alcohol testing on an unannounced and random basis. The number of drug tests conducted shall be equal to 50 percent of the number of covered drivers, and the number of alcohol tests conducted shall be equal to 25 percent of the number of covered drivers spread over a 12-month period of time.

The selection of drivers for random testing must be solely by chance, utilizing a random number table of a computer-based random number generator matched with social security

Drug and Alcohol Testing (continued)

2. Random Testing (continued)

numbers. Each driver shall have an equal chance of being tested each time a test is initiated, regardless of whether the person was previously tested that year. Once the driver is notified of selection, the driver must be available for testing immediately.

Drivers will not be recalled from approved leaves of absence for the purpose of alcohol or controlled substance testing. Employees may be tested just before, during or just after their assigned work shift.

The employer may conduct random testing through a consortium with other employers but, in that case, the number of drivers to be tested must be based on the total number of drivers covered by consortium who are subject to testing. The particular drivers randomly selected must be selected as if all drivers covered by the consortium worked for a single employer.

Consortiums shall be responsible for the submission of blind samples on behalf of their members. This blind-sampling rate submitted by the consortium shall apply to the total number of samples.

3. Reasonable Suspicion Testing

Trained supervisors shall detain an employee when the supervisor reasonably suspects that the employee is under the influence of drugs or alcohol. Supervisors, when possible, shall secure a trained administrator to observe the employee. A supervisor may provide input into the written record. However, the official record shall be reviewed and approved by an administrator, who shall authorize testing if appropriate.

For suspicion of controlled substance use only, the observations may also include indications of the chronic and withdrawal effects of controlled substances. The observations must be made by a supervisor and/or administrator who has received at least 60 minutes of training in identifying indicators of probable alcohol use and 60 minutes of training in identifying controlled substance use.

Reasonable suspicion observations must be made just before, during, or just after the driver's performance of a safety-sensitive duty. Drivers for whom a reasonable suspicion determination has been made will be placed on sick leave pending test results. Drivers shall be transported to test sites and then home under reasonable suspicion testing.

Drug and Alcohol Testing (continued)

3. Reasonable Suspicion Testing (continued)

Tests based on reasonable suspicion of alcohol misuse shall be promptly administered. If the test is not given within two hours following the reasonable suspicion determination, the employer shall prepare and maintain on file a statement of the reasons the test was not promptly administered. The driver will be given a copy of this statement. No test based on reasonable suspicion of alcohol misuse will be given that is not within eight hours of the reasonable suspicion determination.

A written record of the reasonable suspicion observations, dated, and signed by all supervisors and/or administrators making the observations, must be made within 24 hours or before the results of the test are released, whichever is earlier. A copy of this record will be given to the driver when the results of the test are released.

No supervisor who makes the reasonable suspicion observations can conduct the test or participate in the collection or chain of custody of any specimen for testing.

4. Post-Accident Testing

A post-accident drug and alcohol test shall be administered if the accident involves the loss of human life or the driver received a moving traffic citation by state or local authorities as a result of the accident. However, no post-accident test for alcohol will be given more than eight hours after the accident. No post-accident test for controlled substances will be given more than 32 hours after the accident. If either of the tests is not conducted within the defined allowable period, the district shall prepare and maintain a record stating the reasons why the tests were not administered promptly. Post-accident breath, blood or urine tests completed by local, state, or federal officials may fulfill these policy requirements, if their results are available to the district. Prior to driving, all drivers shall be given necessary post-accident information, procedures, and instructions by the employer.

A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed as refusing to submit to such testing. The district shall provide information to the driver on how to comply with the requirement. Post-accident testing obligations should not delay necessary medical attention to the employee nor prevent temporarily leaving the scene to summon assistance to the accident.

Drug and Alcohol Testing (continued)

5. Return to Duty Testing

Drivers who violate the prohibited standards related to drugs and alcohol shall be tested before returning to their safety sensitive function. Test results must verify a negative result for drugs or an alcohol level of less than 0.02.

6. Follow-Up Testing

Drivers who have violated the prohibited standards related to drugs and alcohol shall be subject to unannounced follow-up testing. At least six tests must be conducted in the first twelve months following the employee's return to duty.

Prohibited Conduct

1. No driver shall be permitted to have a breath alcohol concentration of .04 or greater.
2. No driver may use or possess alcohol or prohibited substance while on duty.
3. No driver shall report to duty or remain on duty when the driver uses a drug, except when the substance is prescribed by a licensed physician and the prescribed drug does not adversely affect the employee's ability to perform safety sensitive functions.
4. No driver shall refuse to submit to a required drug or alcohol test, including post-accident, random, reasonable suspicion, or follow-up tests.
5. No driver shall perform a safety sensitive function within four (4) hours after using alcohol.
6. No driver shall use alcohol within eight hours after an accident or until an alcohol test has been completed, whichever comes first.

Consequences for Prohibited Conduct

1. A driver who engages in prohibited conduct detailed in this policy or in 49 C.F.R., Section 382 et seq., shall not remain on duty and shall be transported home.
2. A driver with a breath alcohol concentration of 0.04 or greater may not return to a safety-sensitive function until retested and found to have an alcohol concentration level of less than 0.02 and cleared to work by a substance abuse professional acceptable to the district.

Drug and Alcohol Testing (continued)

Consequences for Prohibited Conduct (continued)

3. The driver shall not be returned to a safety-sensitive position in the case of a positive test for controlled substances until a return-to-duty test indicates a verified negative result for controlled substance use.
4. Drivers who fail drug or alcohol testing shall not be compensated for the hours during which they were prohibited by this policy from performing their duties. When a positive drug test is found to be negative by split sample or other verification, the employee will be compensated for time off duty.
5. If the driver's alcohol concentration is .02 or greater, but less than .04, the employee will not be allowed to perform safety sensitive functions until the next scheduled duty period, provided at least 24 hours has elapsed or a retest shows the alcohol concentration has fallen below .02.
6. Employees who test between .02 and .039 may use sick leave, vacation, or compensatory time.
7. More than one occurrence of a breath alcohol concentration of .02 to .039 or one positive drug test shall result in the driver's referral to a substance abuse professional who shall determine what assistance, if any, is needed to resolve alcohol or controlled substance problems. The driver shall not be returned to safety-sensitive duties until the driver passes a return-to-duty test with an alcohol concentration of less than 0.02.

Referral, Evaluation, and Treatments

1. The district shall advise drivers of the resources available to drivers in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances.
2. Drivers who violate the prohibitions set forth in this policy and administrative procedure shall, as a condition to any return to duty, be evaluated by a substance abuse professional who shall determine assistance needs.
3. The driver shall have access to all alcoholism and drug abuse benefits provided by the district health plan.
4. Sick leave, vacation, and/or compensatory time may be used should a driver choose to self-refer into a program of rehabilitation for alcohol or substance abuse.

Drug and Alcohol Testing (continued)

Confidentiality

1. Information regarding any driver's test results will not be released without the driver's written consent, except as otherwise provided by law.
2. The district may obtain, with the driver's written consent, any records relating to drug and alcohol testing from a previous employer.

Disciplinary Action

Any driver who violates this policy or prohibited standards enumerated in 49 C.F.R., Section 382 et seq., could be subject to disciplinary action up to and including dismissal in accordance with Personnel Commission Rules.

Legal Reference:
