

5.18 Drug and Alcohol Testing of Safety Sensitive Employees

5.18.1 Scope – The Board will conduct employee drug and alcohol testing for employees in safety sensitive positions, and will conduct queries and report violations as required by and in accordance with federal law. Testing will be required for all employees holding a commercial drivers’ license (CDL) or who occupy a safety sensitive position as designated by the Board (“covered employees”).

5.18.2 Prohibited Alcohol and Controlled Substance-Related Conduct – In addition to activities identified in other policies, rules, and procedures, ~~Board~~covered employees are prohibited from the following:

- a. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration in excess of the standard set by the Federal Highway Administration (FHWA);
- b. Being on duty or operating a vehicle while using or possessing alcohol;
- c. Consuming alcohol while performing safety-sensitive functions;
- d. Consuming alcohol within eight (8) hours following an accident for which a post-accident alcohol test is required, or prior to undergoing a post-accident alcohol test, whichever comes first;
- e. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements;
- f. Consuming alcohol or being under the influence of alcohol within eight (8) hours of going on duty, operating, or having physical control of a vehicle;
- g. Reporting for duty or remaining on duty when using any controlled substance, except when instructed by a physician who has advised the driver and the Board that the substance does not adversely impact the performance of any safety-sensitive duty;
- h. Reporting for duty, remaining on duty, or performing safety sensitive functions with controlled substances in the employee’s system.

In the event of a violation of this policy, the employee shall be removed immediately from safety-sensitive duties and shall be subject to such further actions, including disciplinary action up to and including termination, ~~as deemed appropriate by the Superintendent and the Board.~~

5.18.3 Testing Program Authorized – ~~The Superintendent is directed to establish a testing program whereby all~~All covered employees will be tested for the presence

of alcohol and controlled substances. ~~The following tests may be conducted in~~ accordance with applicable law:

- a. *Pre-employment Testing* – Prior to the first time a covered employee performs a safety-sensitive function for the Board, the employee must undergo testing for ~~alcohol and~~ controlled substances.
- b. *Post-accident Testing* – Each surviving driver who is involved in an accident involving a school bus shall submit to alcohol and controlled substance testing as soon as practicable following such accident if such driver:
 - (1) Was performing a safety-sensitive function with respect to such vehicle and the accident involved the loss of human life, or
 - (2) Such driver receives a citation within eight (8) hours of the occurrence under state or local law for a moving traffic violation arising from the accident and the accident involved either:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
 - (ii) One or more motor vehicles incurs disabling damage requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Each such driver shall remain readily available for such testing and if he does not remain so readily available, may be deemed to have refused to submit to testing. Transportation supervisors shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating the school bus, so that drivers will be able to comply with the requirements of this policy.

The tests required by this subsection shall be administered as soon as practicable following the accident. If the alcohol test is not administered within two hours following the accident, the supervisor will prepare and maintain a record stating the reasons. If the alcohol test is not administered

within eight hours, and the controlled substances test within 32 hours, the same record shall be made and further efforts to administer such tests shall cease.

- c. *Random Testing* – The Board will conduct unannounced random alcohol and controlled substance testing of its covered employees.
- d. *Reasonable Suspicion Testing* – A covered employee must submit to alcohol or controlled substance testing whenever there is reasonable suspicion of alcohol misuse or the use of controlled substances based on specific, contemporaneous, and articulable observations concerning the appearance, behavior, speech, or bodily odors of the employee.
- e. *Return-to-Duty Testing* – A covered employee must submit to return-to-work alcohol and/or controlled substance test before being permitted to return to work following a positive alcohol or controlled substance test or other violation of this policy or federal regulations.
- f. *Follow-up Testing* – Any employee who continues performing safety-sensitive functions for the Board, following a determination that the employee requires assistance in resolving problems associated with alcohol misuse or the use of controlled substances, shall be subject to unannounced follow-up alcohol or controlled substance testing as directed by the Board’s substance abuse professional (SAP).

Administration of Program – The Superintendent is authorized to oversee the Board’s testing program, to contract with appropriate providers to implement the program, to develop guidelines, rules and regulations, to implement training programs, to develop and distribute educational materials and appropriate notices to covered employees, and to take such further action as may be required by federal law. (Reference: Omnibus Transportation Employee Testing Act of 1991)

5.18.4 Compliance with Drug & Alcohol Clearinghouse Requirements – In accordance with federal law, covered employees must consent to an appropriate federal Drug & Alcohol Clearinghouse query in order to operate a commercial motor vehicle for the Board. Each covered employee must sign a limited consent for the Board’s designee to conduct a limited Clearinghouse query. Any covered employee who declines to give consent for a limited query will not be permitted to operate a commercial motor vehicle for the Board until such consent is given. Limited queries do not reveal specific information about employees. If a limited query shows that there is information in the Clearinghouse on the covered employee, the covered employee must consent to a full query, which must be conducted immediately. The covered employee will not be permitted to drive or perform safety-sensitive functions until the query results confirm that the employee’s Clearinghouse record contains no prohibitions as defined under the regulations.

Any covered employee whose record reveals such prohibitions will not be permitted to drive or otherwise perform safety-sensitive functions until the covered employee successfully completes the return-to-duty process. Any covered employee's refusal to consent or successfully to complete the return-to-duty process in accordance with federal law will be subject to disciplinary action up to and including termination.

5.18.5 Reports to Clearinghouse: The following information will be reported to the Clearinghouse in accordance with FHWA regulations:

- a. A verified positive, adulterated, or substituted drug test;
- b. An alcohol confirmation test with a concentration of 0.04 or higher;
- c. A refusal to submit to any test required by law, as enumerated above;
- d. The Board's report of actual knowledge as defined by law (i.e., direct observation, information from previous employer(s), or a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances), of:
 - 1) On duty use;
 - 2) Pre-duty use;
 - 3) Alcohol use following an accident;
 - 4) Controlled substance use;
- e. A substance abuse professional's (SAP) (as defined by law) report of successful completion of the return-to-duty process;
- f. A negative return-to-duty test; and
- g. The Board's report of completion of follow-up testing.

[Reference: Omnibus Transportation Employee Testing Act of 1991]