

CLOVIS UNIFIED SCHOOL DISTRICT

PERSONNEL

Certificated, Classified, Administrative and Supervisory

DRUG AND ALCOHOL TESTING FOR EMPLOYEES WITH COMMERCIAL DRIVER'S LICENSES/SCHOOL BUS DRIVERS

A. COVERED POSITIONS

School bus drivers and other employees who drive commercial motor vehicles (referred to herein as “drivers”) are subject to this administrative regulation.

B. DEFINITIONS

1. Drug Testing

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs included in the tests are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates. (49 CFR 40.3, 40.85, 382.107)

2. Alcohol Concentration or Level

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath. For purposes of the DOT alcohol testing program, an alcohol level between 0.02 and 0.04 requires removal of the bus driver for a 24-hour period following the test. An alcohol level of 0.04 or higher requires immediate removal of the driver from performing safety-sensitive functions until the driver has successfully completed the return-to-duty process. (49 CFR 382.107, 382.201, 382.505)

3. Safety-Sensitive Functions

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 the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the vehicle; waiting to be dispatched; inspecting, servicing, or conditioning the vehicle or vehicle equipment; supervising, performing, or assisting in loading and unloading; repairing or obtaining assistance, or remaining in attendance upon a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the District or paid work for any other entity.

4. Citation

A written notice, statement, or allegation issued by a law enforcement officer or other personnel authorized by law to issue citations.

CLOVIS UNIFIED SCHOOL DISTRICT

5. Moving Violation

Any violation of the California Vehicle Code or the equivalent law in another jurisdiction where the driver was operating at the time of issuance of the citation.

6. Reasonable Suspicion

Suspicion based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of a driver.

7. Commercial Motor Vehicle

Any vehicle as defined in Title 49 of the Code of Federal Regulations, section 382.107, including vehicles designed to transport 16 or more passengers, vehicles which have a gross weight rating of 26,001 or more pounds, and vehicles which transport hazardous materials which require placard display.

8. Positive Rate or Result

The percent of tested employees who test positive to either alcohol or drug random testing.

9. Refusal to Submit

As defined in Title 49 of the Code of Federal Regulations, section 382.107, to include when a driver fails to appear for a test, submit to a test, or cooperate with any part of the testing process, after the driver has received notice of the requirement to be tested pursuant to this administrative regulation.

C. DESIGNATED EMPLOYER REPRESENTATIVE

The Superintendent or designee shall identify a designated employer representative and shall provide his/her name and telephone number to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

The designated employer representative shall be responsible for receiving test results and other communications, taking immediate action(s) to remove drivers from safety-sensitive functions, and making other required decisions in the testing and evaluation processes. (49 CFR 40.3)

D. TESTING PROCEDURES

District policies, procedures, regulations, testing procedures, and facilities used for tests shall conform to the requirements of the Code of Federal Regulations, Title 49, Parts 40 and 382.

**CLOVIS UNIFIED
SCHOOL DISTRICT****1. Pre-employment Testing**

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25, from any employer who has employed the driver at any time during the previous two years. In addition, the Superintendent or designee shall ask the driver if he/she tested positive, or refused to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that he/she did not obtain. The driver shall not be permitted to perform safety-sensitive functions if he/she refuses to provide consent to obtain the information from previous employers, the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the District, or the driver or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413)

Upon making a contingent offer of employment to a driver and prior to the first time the driver performs safety-sensitive functions for the District, the Superintendent or designee shall require the driver to undergo testing for drugs and to receive a verified negative test result. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

- a. The driver has participated in a qualified drug testing program within the previous 30 days.
- b. While participating in the program, the driver either was tested within the past six months or participated in a random drug testing program for the previous 12 months.
- c. The Superintendent or designee has contacted the testing program(s) in which the driver has participated and has obtained information about the program and the driver's participation as specified in 49 CFR 382.301.
- d. No prior employer of the driver of whom the District has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605.

2. Post-accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

- a. The accident involved loss of human life.

**CLOVIS UNIFIED
SCHOOL DISTRICT**

- b. The driver receives a citation for a moving violation and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention or assistance in responding to the accident. No such driver shall use alcohol for either eight hours after the accident or until after undergoing a post-accident test, whichever comes first.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

Tests will not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs. Breath and blood tests for alcohol and urine tests for drugs conducted by authorized federal, state, or local officials will fulfill post-accident testing requirements, provided they conform to applicable legal requirements and are obtained by the District.

3. Random Testing

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of commercial and bus drivers are conducted on testing dates reasonably spread throughout the year. Such tests shall be conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

The Superintendent or designee shall ensure that the percentage of District drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

On a random basis, throughout the year, alcohol and drug tests shall be conducted at unannounced times. Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Tests shall be conducted just before, during, or just after the performance of safety-sensitive functions. Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a commercial motor vehicle, then as soon as possible after ceasing that function. (49 CFR 382.305)

**CLOVIS UNIFIED
SCHOOL DISTRICT****4. Reasonable Suspicion Testing**

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Written Record: Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, the Superintendent or designee shall prepare and sign a written record of the observations leading to a reasonable suspicion test. (49 CFR 382.307)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the District shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

5. Return-to-Duty Testing

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a verified negative result and/or the alcohol test shows a concentration of less than 0.02, and meets federal and District standards. (49 CFR 40.305, 382.309)

**CLOVIS UNIFIED
SCHOOL DISTRICT****6. Follow-up Testing Upon Return to Work**

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional testing requirements beyond those included in the follow-up plan shall be imposed on the driver by the District. (49 CFR 40.307 - 40.309, 382.111) Follow-up testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions.

Manner/Type of Testing: Drivers who have returned to work, as described above, shall be subject to unannounced follow-up testing as directed by the substance abuse professional, in accordance with the law. Follow-up testing shall consist of at least six tests in the first 12 months following the driver's return to safety-sensitive functions. The substance abuse professional may terminate the follow-up testing at any time after the first six tests/12 months if they determine that testing is no longer needed. Testing shall not occur beyond 60 months from the date of the driver's return to safety-sensitive functions.

E. RECORDS**1. Confidentiality**

Driver drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law.

2. Copies of Records

Upon written request, a driver shall promptly receive copies of any District records pertaining to the driver's use of drugs or alcohol, including any records pertaining to their 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.

3. Retention of Records

The Superintendent or designee shall maintain records of the District's drug and alcohol testing program in accordance with Title 49 of the Code of Federal Regulations, sections 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with Title 49 of the Code of Federal Regulations, section 382.405.

4. Reporting

In accordance with Title 49 of the Code of Federal Regulations, section 382.403, the District shall prepare and maintain a summary of the results of its alcohol and controlled substances

**CLOVIS UNIFIED
SCHOOL DISTRICT**

testing programs during each previous calendar year when requested by the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the employer or any of its drivers.

E. NOTIFICATIONS BY DISTRICT**1. Educational Materials**

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the District's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.303, 382.113, 382.601)

- a. The identity of the person designated by the District to answer drivers' questions about the materials.
- b. The categories of drivers who are subject to this drug and alcohol testing administrative regulation, Board Policy No. 4112.42, 42112.42, 4312.42, and the Code of Federal Regulations, Title 49, Part 382 (collectively "regulations").
- c. 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 the regulations.
- d. Specific information concerning driver conduct that is prohibited by the regulations.
- e. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing.
- f. 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 the test results, and ensure that those test results are attributed to the correct driver.
- g. The requirement that a driver submit to drug and alcohol tests administered in accordance with the regulations.
- h. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences.
- i. The consequences for drivers found to have violated the drug and alcohol prohibitions, including the circumstances under which drivers will be removed immediately from safety-sensitive functions, and the procedures for education, treatment, and return to duty testing.

CLOVIS UNIFIED SCHOOL DISTRICT

- j. The consequences for drivers found to have a blood alcohol concentration of 0.02 or greater, but less than 0.04 (i.e., removal from safety-sensitive functions for at least 24 hours following the test).
- k. Information concerning 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 co-worker'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.
- l. The requirement that personal information collected and maintained under the regulations shall be reported to the Drug and Alcohol Clearinghouse.

Drivers shall also receive information about legal requirements, District policies, and disciplinary consequences related to the use of alcohol and drugs.

2. Certification by Driver

Each driver shall sign a statement certifying that they have received a copy of the notification materials specified above. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

3. Notice of Post-accident Procedures

Before any driver operates a District commercial motor vehicle, the District shall provide the driver with written notice of post-accident procedures to enable the driver to comply with post-accident testing requirements.

4. Miscellaneous

- a. Notification Before Tests are Performed. Before performing each drug and alcohol test, the District shall inform the driver that the test(s) are given pursuant to this administrative regulation, Board Policy and the Code of Federal Regulations, Title 49, Part 382.
- b. Notification of Pre-employment Drug Test. 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 the driver's employment application.
- c. Notification of Positive Result from Random Test. 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.

**CLOVIS UNIFIED
SCHOOL DISTRICT****F. NOTIFICATIONS BY DRIVER(S)**

Any driver shall inform their supervisor of any therapeutic drug use. Certain controlled substances may be used pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that it will not adversely affect the driver's ability to safely operate a commercial motor vehicle, in accordance with Title 49 of the Code of Federal Regulations, section 382.213.

G. ENFORCEMENT

Any driver who refuses to submit to a post-accident, random, reasonable-suspicion, return-to-work, or follow-up drug or alcohol test shall not perform or continue to perform safety-sensitive functions.

Drivers who test positive for alcohol or drugs may be subject to administrative leave without pay pending dismissal.

A driver who voluntarily admits to the use of alcohol or drugs prior to District testing will be provided assistance in contacting a substance abuse professional. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving the 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 the substance abuse professional has a financial interest, except under circumstances allowed by law. Voluntary admission after being advised of scheduled testing does not exempt the employee from testing.

H. TRAINING

The District shall provide to District officials and supervisors designated to determine whether reasonable suspicion exists training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse (at least 60 minutes) and use of drugs (at least 60 minutes).

Adopted: 12/07/1994

Reviewed: 06/11/2007, 08/13/2009

Amended: 04/27/2005, 08/27/2024 (AR 6315 renumbered as AR 4112.42, 4212.42, 4312.42)

Doc# 43836-7 (07/2024, 06/01/2021)