

TRANSPORTATION EMPLOYEES ALCOHOL AND
CONTROLLED SUBSTANCE TESTING

The Tyler County Board of Education has a vital interest in maintaining a safe, healthy and efficient work environment for its employees. Likewise, it is committed to students, parents and the general public to operate its facilities safely and prudently. Consistent with these interests and according to the regulations promulgated by the United States Department of Transportation, Federal Highway Administration, pursuant to the Omnibus Transportation Employee Testing Act of 1991, the Tyler County Board of Education has adopted and implemented this Transportation Employees Alcohol and Controlled Substance Policy. This policy creates obligations and requirements over and above those articulated by the Drug-free Workplace Policy, and does not supersede or nullify any provision of the Drug-free Workplace Policy.

The purposes of this Transportation Employee Alcohol and Controlled Substance Policy are as follows:

- a) To establish and maintain a healthy and safe working environment for all the employees of the Tyler County Board of Education;
- b) To ensure the reputation of the Tyler County Board of Education and its employees as good, responsible citizens;
- c) To reduce the possibility of accidental injury to persons or property;
- d) To reduce absenteeism, tardiness, and indifferent job performance; and
- e) To allow any affected employee the opportunity to overcome any addiction to, dependence upon, or problem relating to alcohol or controlled substances in accordance with the Tyler County Board of Education's Employee Referral Program (ERP).

Prohibitions Relating to Alcohol

- a) All drivers are prohibited from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- b) All drivers are prohibited from being on duty or operating a commercial motor vehicle while the driver possesses alcohol.
- c) All drivers are prohibited from using alcohol while performing safety-sensitive functions.
- d) All drivers are prohibited from performing safety-sensitive functions within four hours after using alcohol

- e) All drivers required to take a post-accident test are prohibited from using alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

Prohibitions Relating to Controlled Substances

- a) All drivers are prohibited from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except under the following circumstances:
 - 1) the use is pursuant to the instructions of a physician who has advised the driver that the controlled substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle; and
 - 2) The driver has notified the Transportation Director, in advance, of any such therapeutic drug use.
- b) All drivers are prohibited from reporting for duty, remaining on duty or performing a safety-sensitive function, if the driver tests positive for controlled substances.

No driver shall refuse to submit to any required alcohol or controlled substances test. Any driver who refuses to submit to such tests shall be prohibited from performing safety-sensitive functions, and shall be subject to termination.

Compliance with this Policy is a condition of employment with the Board. Any driver who violates any provision of this Policy or whose required alcohol or controlled substances test precludes them from meeting the requirements of this Policy shall be removed from the performance of safety-sensitive functions. In addition, the superintendent shall initiate proceedings to terminate the employment of any driver who violates any provision of this Policy or whose required alcohol or controlled substances test precludes them from meeting the requirements of this Policy.

Other Alcohol-Related Conduct

- a) Any driver tested under the provisions of this Policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 is prohibited from performing or continuing to perform safety-sensitive functions for the Board until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.
- b) Except as provided in the preceding paragraph, the Board shall take no action under this

Policy against a driver based solely on test results showing an alcohol concentration less than 0.04.

Required Alcohol and Controlled Substances Testing

Pre-employment Testing

- a) Prior to the first time a driver performs safety-sensitive functions, the driver shall be required to undergo testing for alcohol and controlled substances.
- b) No driver shall be permitted to perform safety-sensitive functions unless the driver had been administered an alcohol test with a result indicating an alcohol concentration less than 0.04 and has received a controlled substance test result from the medical review officer indicating a verified negative test result.

Post-accident Testing

- a) As soon as practicable following an accident involving a commercial motor vehicle, each surviving driver shall be tested for alcohol and controlled substances if such surviving driver:
 - 1) Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - 2) Receives a citation under state or local law for a moving traffic violation arising from the accident.
- b) If a post-accident alcohol test is not administered within two hours following the accident, the Transportation Director shall prepare and maintain on file a record stating the reasons the test was not properly administered. If a post-accident alcohol test is not administered within eight hours following the accident, the Transportation Director shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.
- c) If a post-accident controlled substance test is not administered within 32 hours following the accident, the Transportation Director shall cease attempts to administer a controlled substance tests and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
- d) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Transportation Director to have refused to submit to testing.
- e) A driver who is subject to post-accident testing shall, as soon as practicable following an accident involving a commercial motor vehicle take the following action: (1) by telephone contact the Drug and Alcohol Testing Vendor, as designated by the Board; (2) report to the designated location for testing; and (3) notify his/her supervisor of the accident.
- f) The results of a breath or blood test for the use of alcohol or a urine test for the use of controlled substances conducted by federal, state or local officials having independent authority for the test shall be considered to meet the requirements of this Policy regarding post-accident testing, provided that such tests conform to applicable federal, state or local requirements and that the results of the tests are obtained by the Board.

Random Testing

- a) Drivers shall be tested for alcohol or controlled substances at various times on an unannounced, random basis.
- b) Consistent with applicable federal regulations (49 C.F.R. 382.305), the minimum annual percentage rate for random alcohol testing shall be 25 percent of the average number of driver positions.
- c) Consistent with applicable federal regulations (49 C.F.R. 382.305), the minimum annual percentage rate for random controlled substance testing shall be 50 percent of the average number of driver positions.
- d) The selection of drivers for random alcohol and controlled substances testing shall be made by the scientifically valid method of a computer-based random number of generator that is matched with drivers' Social Security numbers.
- e) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

Reasonable Suspicion Testing

- a) Drivers shall be required to submit to an alcohol test or a controlled substance test when the Board has reasonable suspicion to believe that the driver has violated the prohibitions of this policy.
- b) The Board's determination that reasonable suspicion exists to require the driver undergo an alcohol or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by the Transportation Director. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
- d) Reasonable suspicion 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 required to be in compliance with this Policy. A driver may be directed by the Board to undergo reasonable suspicion alcohol testing only while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

- e) If a reasonable suspicion alcohol test is not administered within two hours following the observations, the Transportation Director shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight hours following the observations, the Board shall cease attempt to administer an alcohol test and shall prepare and state in the record the reasons for not administering the test.
- f) Notwithstanding the absence of a reasonable suspicion alcohol test, all drivers are prohibited from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall an employer permit the driver to perform or continue to perform safety-sensitive functions, until:
 - 1) An alcohol test is administered and the driver's alcohol concentrations measures less than 0.02; or
 - 2) Twenty-four hours have elapsed following the determination that there is reasonable suspicion to believe that the driver has violated the prohibitions in this Policy concerning the use of alcohol.
- g) Except as provided by sections of this Policy and/or by any independent authority, the Board shall take no action against a driver based solely on the driver's behavior and appearance, with respect to alcohol use in the absence of an alcohol test.
- h) A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor or Board official who made the observations, within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

Return-to-duty Testing

- a) Subject to provisions of this Policy, before a driver returns to duty requiring the performance of safety-sensitive functions after engaging in prohibited conduct, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- b) Before a driver returns to duty requiring the performance of safety-sensitive functions after engaging in prohibited conduct, the driver shall undergo a return-to-duty controlled substances tests with a result indicating a verified negative result for controlled substances use.

Follow-up Testing

- a) Following a determination that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the Board shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a substance abuse professional.

- b) Follow-up alcohol testing, if any, shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

The Board shall maintain records of its alcohol misuse and controlled substance use prevention programs as provided below. Such records shall be maintained in a secure location with controlled access.

- a) The following records shall be maintained for a minimum of five years:
 - 1) Records of driver alcohol test results with results indicating an alcohol concentration of 0.02 or greater;
 - 2) Records of driver verified positive controlled substance test results;
 - 3) Documentation of refusals to take required alcohol and/or controlled substances tests;
 - 4) Calibration documentation;
 - 5) Driver evaluation and referrals; and
 - 6) A copy of each annual calendar year summary.
- b) Records related to the alcohol and controlled substances collection process and training shall be maintained for a minimum of two years.
- c) Records of negative and cancelled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

The Board shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs performed.

Except as required by law of this Policy, the Board shall not release driver information that is contained in records required to be maintained. A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.

The Board must obtain, pursuant to a driver's written consent, any of the information concerning the driver that is maintained under an alcohol and controlled substances testing policy by the driver's previous employers. Such information must be obtained and reviewed by the Board no later than 14 calendar days after the first time a driver performs safety-sensitive functions. The release of any information under this part may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. The Board shall maintain a written, confidential record with respect to each past employer contacted.

The Board shall ensure that persons designated to determine whether reasonable suspicion exists to require a driver to undergo testing shall receive at least 60 minutes of training on alcohol misuse and receive an additional 60 minutes of training on controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

Any driver who has engaged in prohibited conduct shall be provided information regarding the Board's Employee Referral Program.

Any driver who has engaged in prohibited conduct shall be evaluated at the driver's expense by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance use.

Returning to Duty

- a) Before a driver returns to duty requiring the performance of safety-sensitive functions after engaging in prohibited conduct, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved controlled substances.
- b) In addition, each driver identified as needing assistance in resolving problems with alcohol misuse or controlled substances use shall be evaluated by a SAP to determine that the driver has properly followed any rehabilitation program prescribed in the Policy before returning to duty requiring the performance of safety-sensitive functions and shall be subject to unannounced follow-up alcohol and controlled substances tests following the driver's return to duty.

More specifics can be found in the Tyler County Administrative Procedures Manual.

REFERENCE: Department of Transportation, Federal Highway Administration 49 CFR Parts 382, et. al.

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