



Administrative Regulation 4214 Alcohol and Controlled Substance Testing (Employees Licensed to Operate a Commercial Vehicle)

Responsible Office: Office of Human Resources

REGULATION

In order to implement School Board Policy 4214 and Title 49 CFR, Part 382 and Part 40, as outlined by the U.S. Department of Transportation (DOT), Federal Highway Administration (FHWA), this Administrative Regulation has been implemented.

1. Drivers Subject to Alcohol and Controlled Substance Testing

The alcohol and controlled substance testing regulation applies to all school district drivers who are licensed to operate a commercial vehicle that:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds;
- b. has a gross vehicle weight rating of 26,001 or more pounds;
- c. is designed to transport 16 or more passengers; or
- d. is of any size that is used to transport hazardous material which require the vehicle to be placarded under the hazardous materials regulations.

This includes, but is not limited to: Full-time drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to the school district or who operate a commercial motor vehicle at the direction of or with the consent of the school district. This program shall not apply to drivers who are granted a Federal or State waiver (i.e. emergency response vehicles) as outlined in Part 382.103.

2. Safety-Sensitive Functions

A driver shall not use alcohol when performing safety-sensitive functions nor perform safety-sensitive functions within four (4) hours of using alcohol. No employer or appropriate designee having actual knowledge that a driver is using or has used alcohol as stated above shall permit the driver to perform or continue to perform safety-sensitive functions. No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer or appropriate designee having actual knowledge that driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

A driver is performing a safety-sensitive function when:

- a. All times at a school district terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the school district;
- b. All time performing pre-trip inspections, general inspections, servicing or conditioning any commercial motor vehicle at any time;
- c. All time spent at the driving controls of a commercial motor vehicle in operation;
- d. All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a qualified sleeper berth;
- e. All time loading or unloading the vehicle, supervising or assisting the loading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the motor vehicle, or in giving or receiving receipts for shipments loaded and unloaded;
- f. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

3. Prohibited Conduct

The following shall be considered "prohibited conduct" for purposes of this regulation:

- a. As per DOT regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .04 or greater. Pursuant to DOT regulations, no employer having actual knowledge that a driver has an alcohol concentration of .04 or greater, shall permit the driver to perform or continue to perform safety-sensitive functions. However, as per school district policy, no driver shall report for duty or remain on duty while having an alcohol concentration of .02 or greater.
- b. No driver shall use alcohol while performing safety-sensitive functions. The school district, having actual knowledge that a driver is using alcohol while performing safety-sensitive functions, shall not permit the driver to perform or continue to perform safety-sensitive functions.
- c. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. The school district, having actual knowledge that a driver has

used alcohol within four (4) hours, shall not permit a driver to perform or continue to perform safety-sensitive functions.

- d. No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until s/he undergoes a post-accident alcohol test, whichever occurs first.
- e. No driver shall refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, or a follow-up alcohol or controlled substance test.
- f. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when use is pursuant to the instructions of a licensed medical practitioner (Part 382.107) who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. The school district, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform a safety-sensitive function.
- g. No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. The school district, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions.

4. DRIVER VOLUNTARY SELF-IDENTIFICATION PROGRAM

Washoe County School District is supportive of drivers who come forward voluntarily to seek assistance for alcohol misuse or controlled substance use. Drivers who admit to alcohol misuse or controlled substance use will not be subject to the referral, evaluation and treatment requirements as outlined in 49 CFR Part 382 and Part 40 **provided that:** the driver does not self-identify in order to avoid testing under the requirements; the driver makes the admission of alcohol misuse or controlled substance use before performing safety-sensitive functions; and the driver does not perform a safety-sensitive function until Washoe County School District is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements as determined by a qualified Substance Abuse Professional (SAP). The employee must also provide a negative controlled substance test and/or an alcohol test result of less than .02 before participating in a safety-sensitive function. No adverse action will be

taken against a driver making a voluntary admission of alcohol misuse or controlled substance use as long as he/she complies fully with the requirements of the self-identification program.

5. Alcohol and Controlled Substance Testing

Pursuant to regulations promulgated by the Department of Transportation, drivers shall be subject to the following types of alcohol and controlled substance testing: 1) pre-employment testing, 2) reasonable suspicion testing, 3) post-accident testing, 4) random testing, 5) return-to-duty testing, and 6) follow-up testing. Per school district policy, return-to-duty testing and follow-up testing will not be conducted.

a. Pre-Employment Testing

- 1) All applicants for driving positions requiring a license to operate a commercial vehicle, as a condition of employment, upon a contingent offer of employment and before the employee begins his or her employment duties, must submit to a urine controlled substance test and breath alcohol test. The school district will verify that no prior employer of the driver has records indicating a violation of any DOT rule pertaining to controlled substance or alcohol use within the previous two (2) years. Any applicant selected for a position that tests positive to a pre-employment controlled substance or alcohol test will be excluded from employment. Each driver that is absent from work for more than thirty (30) days will be subject to a pre-employment controlled substance and alcohol test.
- 2) Per school district policy, all applicants for driving positions, as a condition of employment, will be required to sign a release of information allowing the school district to access past employer records relating specifically to any record indicating that the driver had a positive alcohol test with a concentration of .04 or greater, positive controlled substance test results or refusals to test within the preceding two (2) years. Applicants will also be required to state on the application if they have had a positive alcohol test with a concentration of .04 or greater, positive controlled substance test, or a refusal to test within the preceding two (2) years. Any record of positive alcohol or controlled substance test or refusal to test will result in not being considered for employment or in a withdrawal of the offer of employment. In compliance with D.O.T. standards, it will be considered a refusal to test if the individual commences the collection process but then leaves before the collections process is complete or takes any action

defined in policy as a refusal to test. Commencing the collection process begins when the individual selects an individually wrapped or sealed collection container from the collection kit materials. At that point, the individual is committed to complete the collection process or it will be considered a refusal to test.

- 3) Pursuant to Washoe County School District policy, if the driver applicant has had a positive **pre-employment** controlled substance test or refused to test during the past two (2) years from the date of the employment application with the Washoe County School District, the applicant will not be hired and the offer of employment will be withdrawn.

b. Reasonable Suspicion Testing

- 1) A driver shall be required to submit to an alcohol and/or controlled substance test when the school district has reasonable suspicion to believe that the driver has violated the prohibitions of the alcohol and controlled substance program. The school district's determination that reasonable suspicion exists to require the driver to undergo testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The required observations for alcohol and/or controlled substance testing shall be made by a supervisor or designated school district employee who is trained in accordance with Part 382.603.
- 2) A driver may be directed by the school district 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. A driver may be directed by the school district to undergo reasonable suspicion controlled substance testing at any time during work hours. The supervisor who makes the determination that reasonable suspicion exists will not conduct the driver's breath alcohol test.
- 3) If a reasonable suspicion alcohol test is not administered within two (2) hours following the determination that the driver was under the influence, the school district shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours, the school district shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

- 4) A written record shall be made of the observations leading to a reasonable suspicion controlled substance test, and signed by the supervisor who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier. While DOT does not require written documentation for reasonable suspicion alcohol testing, it is the policy of the school district to require such documentation as outlined above.

c. Post-Accident Testing

- 1) A driver shall be required to submit to controlled substance and alcohol testing as soon as possible following an occurrence involving a commercial motor vehicle operating on a public road in commerce when the following circumstances exist:
 - i. when a fatality occurs as a result of the accident; or
 - ii. when a driver receives a citation for a moving violation as a result of the accident and the accident involves an injury to anyone which requires immediate medical treatment away from the scene; or
 - iii. when a driver received a citation for a moving violation as a result of the accident and the accident involves disabling damage to any of the vehicles. Disabling damage means one or more vehicles had to be towed away or cannot be driven from the scene.
- 2) The school district will require each driver to complete a post-accident report form that provides instructions to follow in completing any required alcohol and controlled substance test. Drivers are then obligated to follow the instructions and see that the tests are conducted. Any driver subject to post-accident testing who leaves the scene of an accident before a test is administered, other than for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care, or who fails to remain readily available for testing, may be deemed by the school district to have refused to submit to testing.
- 3) In the event that Federal, State or local officials conduct a breath or blood test for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests shall be considered to meet the DOT requirements, provided the tests conform to applicable Federal, State or local requirements. The employee will be required to sign a

release allowing the school district to obtain the test results from such officials.

- 4) In the event a driver is so seriously injured that the driver cannot provide a urine or breath specimen at the time of the accident, the driver must provide necessary authorization for the school district to obtain hospital records or other documents that would indicate whether there were controlled substances or alcohol in the driver's system at the time of the accident.
- 5) If an alcohol test is not administered within two (2) hours following the accident, the school district shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the accident, the school district shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FHWA upon request of their Associate Administrator.
- 6) For safety reasons, a driver required to submit to post-accident testing will be placed on a leave of absence with pay pending receipt of the post-accident testing result.
- 7) If a controlled substance test is not administered within thirty-two (32) hours following the accident, the school district shall cease attempts to administer a controlled substance test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FHWA upon request of their Associate Administrator.

d. Random Testing

- 1) All drivers will be subject to random alcohol and controlled substance testing. The name of the entity contracted by the school district to conduct a random selection system is available to employees through the Alcohol and Drug Testing Program Manager. The selection of drivers for random alcohol and controlled substance testing shall be made from a computer-based random number generator that is matched with the driver's social security number. The random selection system provides an equal chance for each driver to be selected each time random selection occurs. Random selections will be unannounced and spread reasonably throughout the year. Random selection, by its very nature, may result in

drivers being selected in successive selections or more than once in a calendar year. Alternatively, some drivers may not be selected in a calendar year. The school district will controlled substance test, at a minimum, fifty percent (50%) of the average number of driver positions in each calendar year. Random controlled substance testing may be performed at any time while the driver is at work for the employer. The school district will select, at a minimum, ten percent (10%) of the average number of driver positions for random alcohol testing. Random alcohol testing will be limited to the time period surrounding the performance of safety-related functions. A driver will only be tested immediately before, during, or just after the driver has ceased performing such functions. If a driver selected for a random test is not at work on the day designated for random testing, the driver will not be tested. The school district shall prepare and maintain on file a record stating the reasons the random test was not administered. Another driver's name will be selected from the computer-based random pool. If a driver is selected at random, the Alcohol and Drug Testing Program Manager will notify the driver. Once notified, the driver must take action intended to lead to an immediate collection. If the driver engages in conduct which does not lead to a collection as soon as possible after notification, such conduct may be considered a refusal to test.

e. Return-To-Duty Testing

- 1) As per school district policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive controlled substance test or refusing to test will be subject to termination. As a result, the school district will not provide an opportunity for a driver engaged in prohibited conduct to participate in return-to-duty testing. However, the school district is required by the DOT regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements, including return-to-duty testing is found in Appendix A.

f. Follow-Up Testing

- 1) As per school district policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive controlled substance test or refusing to test will be subject to termination. As a result, the school district will not provide an opportunity for a driver engaged in prohibited conduct to participate in follow-up testing. However, the school district is

required by the DOT regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements, including follow-up testing is found in Appendix A.

6. Testing Protocol

a. Alcohol Testing

- 1) Alcohol testing is done by testing breath, because breath is the most easily obtained bodily substance and the results are known within minutes of testing. The testing device is called an Evidential Breath Testing Device (EBT). The EBT is a scientific instrument which determines the concentration of alcohol expressed as "percent by weight." The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A blood alcohol concentration (BAC) of .10 means one-tenth of a gram of alcohol per 210 liters of breath. The EBT will print three (3) copies of each test result and the test results are numbered. When the initial test results shows a reading of .02 BAC or greater, a confirmation test is conducted. Before the confirmation test is conducted. Before the confirmation test, a 15-minute waiting period will occur for the purpose of ensuring that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products does not artificially raise the test result. The confirmation test is done on the same EBT as the first test. When the confirmation result is different from the initial test, the confirmation test result will always be used to determine driver consequences. The driver will be given a copy of the breath alcohol testing form. The EBT will be maintained in accordance with the standards outlined in 49 CFR Part 40, Section 40.55, Quality Assurance Plans for EBT's.

b. Controlled Substance Testing

- 1) The controlled substance testing program required by the regulations is limited to five (5) controlled substance types: 1) Marijuana, 2) Cocaine, 3) Opiates, 4) Amphetamines, and 5) Phencyclidine (PCP).
- 2) As set forth in 49 CFR Part 40, all controlled substance testing is done from urine specimens collected under highly controlled conditions. The driver provides a urine specimen, in a location that affords privacy and the "collector" seals and labels the specimen, completes a chain of custody

document and prepares the specimen and accompanying paperwork for shipment to a controlled substance testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification and integrity are not compromised.

- 3) Driver protection is also built into the testing procedures. In order to meet the Federal requirements, the only laboratories that can be used for testing are those certified by the Federal Government. The initial test of any specimen will be an immunoassay which meets the requirement of the Food and Drug Administration for commercial distribution. All specimens identified as positive will be further confirmed using gas chromatography/mass spectrometry techniques. Before a laboratory is certified to conduct controlled substance testing, it is subject to a rigorous testing and inspection by the Department of Health and Human Services (DHHS). This testing and inspection includes the submission of test samples to the laboratory for analysis during three (3) cycles over a period of three (3) months. If these test samples are correctly analyzed, a team of qualified inspectors conducts an on-site inspection prior to certification of the lab. Continuing evaluation of the performance of certified laboratories by the Department of Health and Human Services includes the submission of performance test specimens every other month and an on-site inspection at least twice a year.

- 4) The laboratory must report test results to the school district's designated Medical Review Officer within an average of five (5) working days after the receipt of the specimen by the laboratory. Test results must be certified accurate. The report must identify the controlled substances, metabolites tested for, whether the results are positive or negative, the specimen identification number assigned to the driver, and the controlled substance testing laboratory specimen identification number. The laboratory must also provide to the school district a monthly statistical summary of urinalysis testing of drivers, which shall not include any personal identity information. The laboratory will retain samples that yield confirmed positive test results for one (1) year in secured frozen storage. Because it is possible that some analytes may deteriorate during storage, the results of the retest are to be reported as confirmation of the original test results if the detected level of the controlled substance is below the DOT established limits and equal to or greater than the sensitivity of the test.

- 5) Per DOT requirement, the approved U.S. Department of Health and Human Services Laboratories to be used by the school district to perform controlled substance testing will be as follows: (Employees will be informed of the controlled substance testing location and primary site for sample collection through the Alcohol and Drug Testing Program Manager.)

7. Collection Sites

- a. The primary site for sample collection is: (Employees will be informed of the controlled substance testing location and primary site for sample collection through the Alcohol and Drug Testing Program Manager.)
- b. Drivers will not be allowed to transport themselves to or from the collection site in the event of a reasonable suspicion test or post-accident test request. The Alcohol and Drug Testing Program Manager will arrange transportation for the driver at all times. The driver shall report immediately to the collection site once properly notified.
- c. The school district will bear the cost for reasonable suspicion testing, post-accident testing, and random testing. The school district will pay the initial cost of pre-employment testing with the understanding that if the driver fails to complete a nine-month probationary period, the cost of the pre-employment test will be deducted from the driver's final paycheck.

8. The Role of the Medical Review Officer

- a. The Medical Review Officer (MRO) is a licensed physician who is knowledgeable in the medical use of prescription controlled substances and the pharmacology and toxicology of illicit controlled substances. The primary responsibility of the MRO is to review and interpret positive test results obtained through the school district's controlled substance testing program. Alcohol testing is not subject to medical review given the evidentiary nature of its results.
- b. In terms of controlled substance testing, it is important to understand that a positive test result does not automatically identify an individual as an illegal controlled substance user. The MRO must evaluate the alternative medical explanations that could account for a positive test result.
- c. The review of a positive test result is initiated immediately upon receipt and is ordinarily completed within two (2) working days after receipt of all information

pertinent to the review. No information about the test result shall be given to the school district during this period. In addition to information provided by the driver, this review will include considerations of chain of custody documents prepared at the time of collection and, in connection with the laboratory, processing of the specimen. In the case of a positive test result for cocaine, marijuana or PCP, for which an acceptable medical explanation for the result is unlikely, the review should be completed on the day of the receipt of the report. This review must also include review of the chain of custody documentation. If the MRO is unable to contact the driver directly, the MRO will contact the school district's Alcohol and Drug Testing Program Manager, who shall in turn contact the driver and direct the driver to contact the MRO. Upon being so directed, the driver shall contact the MRO immediately or, if the MRO is unavailable, at the start of the next business day.

- d. During the review of the laboratory results, the MRO will conduct a medical interview with the driver, review the driver's medical history, or review other biomedical factors. This interview may be conducted by telephone. The MRO must review all medical records that the tested driver submits when a confirmed positive test could have resulted from legally prescribed medication. Prior to making a final decision to verify a positive test result for a driver, the MRO shall give the individual an opportunity to discuss the test result with him/her.
- e. If any questions arise about the accuracy or validity of a positive test result, the MRO should review the laboratory records to determine whether the required procedures were followed. This will require collaboration with the laboratory director, the analysts, and expert consultants. If necessary, the MRO may request the sample be reanalyzed to determine the accuracy of the test result.
- f. The MRO shall not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process with the following exceptions: the MRO may disclose such information to the school district, the DOT or any other Federal safety agency, or a physician responsible for determining the medical qualification of the driver when an applicable DOT regulation permits or requires such disclosure; in the MRO's reasonable medical judgment, the information could result in the driver being determined to be medically unqualified under an applicable DOT agency rule; or in the MRO's reasonable medical judgment, the information indicates that continued performance by the driver of his or her covered function could pose a significant safety risk. Before obtaining medical information from a driver as part of the verification process, the MRO shall inform the driver that the information may be

disclosed to third parties and must also disclose the identity of any parties to whom the information may be disclosed.

- g. At this point, the MRO makes a determination as to whether the result is scientifically sufficient to take further action. However, if the records from the collection site or laboratory raise doubts about the handling of the sample, the MRO may decide the urinary evidence is insufficient and no further actions would be taken. In these cases, the MRO shall note the possible errors in laboratory analysis or chain of custody procedures and shall notify the proper officials.
- h. If it is determined with reasonable certainty that there is a legitimate medical or other reason to account for a positive laboratory test result, the report will be reclassified as a negative test result. The notice to the school district will indicate that the test result was negative. Any medical information obtained by the MRO will be treated as confidential.
- i. If there is no medical or other reason to account for a positive result, the verified positive test result will be disclosed to the school district as required by the program. Any medical information acquired that is not specifically related to illegal controlled substance use will be treated as confidential and not disclosed.
- j. No later than seventy-two (72) hours after receipt of a confirmed positive test result, a driver may submit a written request to the MRO for retesting of the specimen producing the positive test result. The MRO must honor the request. Each driver may have one written request that the sample of the specimen be provided to the original or another DHHS-certified laboratory for testing. Prior to the retest, the driver shall pay the costs of the additional test and all handling and shipping costs. The driver will be reimbursed for such costs if the retest is negative.
- k. In summary, the MRO determines whether there is some reason other than illegal controlled substance use to explain a positive urine controlled substance test. If illegal controlled substance use is verified, the MRO will inform the Alcohol and Drug Testing Program Manager of the identification of the controlled substance found in a positive test. The driver shall then be notified of the results of the random, reasonable suspicion and post-accident controlled substance test if the test results are verified as positive. The driver will also be informed as to which controlled substance(s) were verified as positive.
- l. The school district shall notify a driver applicant of the results of a pre-employment controlled substance test if the driver requests such information

within sixty (60) days of being notified of the disposition of his/her employment application.

- m. The name of the school district's MRO is as follows: (Employees will be informed of the MRO through the Alcohol and Drug Testing Program Manager.)

9. Driver Consent

- a. As per school district policy, a driver's consent to alcohol and controlled substance testing is required as a condition of employment and a driver's refusal to consent will result in termination. Upon request, a driver must properly complete any required forms and releases and promptly provide a sample for alcohol and controlled substance testing. A driver who refuses to test under DOT regulations and this regulation shall not be permitted to perform in a safety-sensitive position. Refusal shall be treated as a positive test for purposes of the regulations and will result in termination, per school district policy.
- b. Consent to testing includes a driver's obligation to fully cooperate.

10. Refusal to Submit to a Test

- a. DOT regulations provide that a driver shall not refuse to submit to a required reasonable suspicion, post-accident, random or follow-up alcohol and/or controlled substance test. Refusal to submit to an alcohol and/or controlled substance test is defined as:
 - 1) failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
 - 2) failure to provide a urine/saliva/breath specimen for alcohol and/or controlled substances testing after he/she has received notice of the requirement for testing.
 - 3) failure to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing;
 - 4) fails or declines to take a second test, following a negative dilute result, when required by the employer.

- 5) fails to undergo an additional medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) who, in this district, is the Alcohol and Drug Testing Program Manager or appropriate others designated by the district, concerning the evaluation as part of "shy bladder" or "insufficient breath" procedures.
 - 6) fails to sign the certification at step 2 of the alcohol testing form (ATF).
 - 7) engaging in conduct that clearly obstructs the testing process; including, but not limited to failure to appear for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete, this includes the failure of an employee to appear for a test when called by their testing consortium; in the case of a directly observed or monitored collection of a controlled substances test, the driver fails to permit the observation or monitoring of the provision of a specimen .
- b. Per school district policy, a driver refusing to submit to a required test will be subject to termination.

11. Consequences of a Positive Test

- a. Per school district policy, any driver that is found to have a BAC of .02 or greater, or that tests positive for a prohibited controlled substance, shall be terminated. At the sole discretion of the school district, a driver that is terminated may be given an opportunity to apply for a driving position once they become medically re-qualified and follow all requirements as outlined in Part 382.605.

12. Alcohol and Drug Testing Program Manager

- a. The school district is concerned that drivers fully understand the requirements of the alcohol and controlled substance testing program. Any questions regarding the program can be directed to the Transportation Director of the Washoe County School District as the Alcohol and Drug Testing Program Manager.

13. Confidentiality of Records

- a. The release of individual alcohol and/or controlled substance test records is permitted only with the specific written consent of the driver with the following exceptions:

- 1) The school district shall make available copies of all results for alcohol and/or controlled substance testing when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the school district or of its drivers.
 - 2) When requested by the National Transportation Safety Board part of an accident investigation, the school district shall disclose information related to the administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.
 - 3) Records shall be made available to a subsequent employer upon receipt of a written request from the driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
 - 4) The school district may disclose information required to be maintained under this part pertaining to a driver, to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver, and arising from the results of an alcohol and/or controlled substance test administered under 49 CFR Part 382 (including, but not limited to a workers' compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver). Effective August 1, 2001, these proceedings have been expanded to include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the controlled substance or alcohol test information sought is relevant to the case and issues an order directing the employer to produce the information. The employer may release the information only with a binding stipulation that the decision maker to whom it is released will make it available only to parties in the proceeding.
- b. Upon written request, a driver shall receive copies of any records pertaining to his/her alcohol and/or controlled substance test results.

14. Release of Alcohol and Controlled Substance Test Information by

Previous Employers

- a. The school district shall obtain, pursuant to a driver's written consent, information on the driver's alcohol tests with a concentration result of .04 or greater, positive controlled substance test results, and refusals to be tested, within the preceding two (2) years, which are maintained by the driver's previous employers. This information cannot be obtained without the driver's written

consent. This information must be obtained and received by the school district no later than thirty (30) calendar days after the first time a driver performs safety-sensitive functions. If it is not feasible to obtain the information prior to the driver performing safety-sensitive functions, the school district will not permit a driver to perform safety-sensitive functions after thirty (30) days without obtaining the information. If the driver stops performing safety-sensitive functions for the school district before expiration of the 30-day period or before the school district has obtained this information, the school district must still obtain these records. The school district will provide to each of the driver's employers within the two (2) preceding years, the driver's specific written authorization for release of the information.

- b. The release of any information under this part may take the form of personal interviews, telephone interview, letters, or any other method of obtaining information that ensures confidentiality. The school district will maintain a written, confidential record with respect to each past employer contacted.

15. Driver Assistance Training Program

- a. The school district shall require designated supervisors and designated school district employees who are assigned the responsibility to determine whether reasonable suspicion exists to require a driver to undergo testing, to receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol and controlled substance misuse.
- b. The school district will ensure all drivers receive information concerning the effects of alcohol and controlled substance use on an individual's health, work and personal life; signs and symptoms of an alcohol or a controlled substance problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substance problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management. Drivers will also receive information on the requirements and procedures for alcohol and controlled substance testing, the consequences of refusing to submit to a controlled substance or alcohol test and the consequences of having a positive controlled substance and alcohol test. The Alcohol and Drug Testing Program Manager will maintain a list of community treatment resources for drivers in need of assistance.

16. Severability

- a. If any part or provision of this policy, or the application thereof to any person or circumstance, should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any part of this provision is restrained by such tribunal pending a final determination as to its validity, the remainder of this policy, or the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect.

17. Reference Document

- a. The school district will develop a reference document detailing specific sections of the regulation, including chain of custody procedures, controlled substance testing levels, maintenance procedures on EBT equipment, and definitions outlined in the DOT regulations. Employees will be provided a copy upon request.

18. Appendix A

As per school district policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive controlled substance test, or refusing to test will be subject to termination.

However, the school district is required by the DOT regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements follows below.

1. Return-to-Duty

- a. Each driver who has engaged in prohibited conduct shall be advised by the school district of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and controlled substance, including the names, addresses, and telephone numbers of substance abuse professionals and treatment programs.
- b. Each driver who engages in prohibited conduct shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance abuse. The substance abuse professional must require

some level of professional assistance in every case as well as recommend at least the minimum number (6) of follow-up tests for each employee who returns to duty following any violation of the rules. Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct, the driver shall undergo a return-to-duty alcohol test with an alcohol concentration of less than .02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved a controlled substance. The driver who returns to duty will also be subject to follow-up testing. Return-to-duty process and follow-up testing requirements continue to apply even if workers change jobs or have a break in service.

2. Follow-Up Testing

- a. Each driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use, the driver shall be evaluated by a substance abuse professional (SAP) to determine that the driver has properly followed any rehabilitation program. The driver shall be subject to unannounced follow-up alcohol and controlled substance tests administered by the school district following the driver's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and consist of at least six (6) tests in the first 12 months following the driver's return to duty. The school district may direct the driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances if the substance professional determines that return to duty and follow up testing is appropriate.

IMPLEMENTATION GUIDELINES & ASSOCIATED DOCUMENTS

1. This regulation reflects the goals of the District's Strategic Plan, Envision WCSD 2015 – Investing in Our Future.
2. This Administrative Regulation complies with Board Policy 4119, Separation of Service.
3. The following Administrative Regulations and Administrative Procedures outline the process(s) the District will follow related to Dismissal:
 - a. Administrative Regulation 4219, Employee Discipline – Support Personnel.
4. This regulation complies with U.S. Title 49 CFR Part 382 and Part 40, D.O.T., F.H.W.A.

REGULATION HISTORY

Date	Revision	Modification
3/14/1995	1.0	Adopted
7/14/1998 9/23/2003	2.0	Revisions