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## **DRUG AND ALCOHOL TESTING PROGRAM BUS DRIVERS (REGULATION)**

The following administrative regulations support the drug and alcohol testing program policy of the board of education. It also establishes and explains the requirements of the district's drug and alcohol testing program required for employees operating school vehicles.

Questions regarding the drug and alcohol testing program policy, these supporting regulations, or the drug and alcohol testing program may be directed to the superintendent, or designee, who will be the school district contact person. The contact person will answer questions from employees and others about the program, receive the test results, receive identification numbers of the drivers and will notify those drivers selected for random testing.

### Definitions

**Air Blank:** A reading by an evidentiary breath testing device (EBT) of ambient air containing no alcohol.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohols.

**Alcohol Concentration (or content):** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicted by an evidentiary breath test under the law.

**Alcohol Use:** The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

**Breath Alcohol Technician:** An individual who instructs and assists drivers in the alcohol testing process and operates an evidentiary breath testing device.

**Canceled or Invalid Test:** In drug testing, it is a drug test that has been declared invalid by a Medical Review Officer or a specimen that has been rejected for testing by a laboratory. In alcohol testing, it is a test that is deemed to be invalid under the law. A canceled drug test or alcohol test is neither a positive nor a negative test.

**Chain of Custody:** Procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, these procedures require that an appropriate drug testing custody form be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate laboratory chain of custody form(s) account(s) for the sample or sample aliquots within the laboratory.

**Collection Site:** A place where drivers present themselves for the purpose of providing body fluid or a tissue sample to be analyzed for specific drugs or breath alcohol concentration.

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**Commercial Motor Vehicle:** A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle 1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of 10,000 or more pounds; or 2) has a gross vehicle weight rating of 26,001 or more pounds; or 3) is designed to transport 16 or more passengers, including the driver; or 4) is of any size used in the transportation of materials found to be hazardous for the purposes of the Hazardous Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials regulations.

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**Confirmation Test:** For alcohol testing, it is a second test following a screening test with a result of 0.02 or greater breath alcohol concentration that provides quantitative data of alcohol concentration. For drug testing, it is a second analytical procedure (GC/MS) to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

**Controlled Substances/Drugs:** Marijuana, cocaine, opiates, amphetamines, phencyclidine.

**Driver:** Any person who operates a school vehicle. This includes, but is not limited to, full-time, regularly employed 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 school vehicle at the direction of or with the consent of the school district. For the purposes of preemployment/pre-duty testing only, the term "driver" includes applicants for drivers of school vehicles positions.

**Initial Test (or Screening Test):** In drug testing, it is an immunoassay screen to eliminate "negative" urine specimens from further consideration. In alcohol testing, it is an analytic procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath specimen.

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a driver's confirmed positive test result together with the driver's medical history and any other relevant bio-medical information.

**Non-suspicion-based Post-accident Testing:** Testing of a driver after an accident without regard to whether there is any reasonable suspicion of drug usage, reasonable cause to believe the driver has been operating the school vehicle while under the influence of drugs, or reasonable cause to believe the driver was at fault in the accident and drug usage may have been a factor.

**Performing a Safety-sensitive Function:** A driver is considered to be performing a safety-sensitive function during any period in which the driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

**Random Selection Process:** When drug tests are unannounced and every driver has an equal chance of being selected for testing.

**Reasonable Suspicion:** When the school district believes the appearance, behavior, speech or body odors of the driver are indicative of the use of drugs or alcohol.

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**Refusal to Test:** When a driver (1) fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of the law, (2) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of the law, or (3) engages in conduct that clearly obstructs the testing process. A refusal to test is treated as a positive drug test result or an alcohol test result of 0.04 or greater breath alcohol concentration.

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**Safety-sensitive Function:** All time from the time when a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety sensitive functions shall include, but are not limited to:

1. All time at the district waiting to be dispatched.
2. All time inspecting equipment or otherwise servicing any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial vehicle in operation.
4. All time in or on a commercial vehicle.
5. All time repairing, obtaining assistance, or remaining in attendance on a disabled vehicle.

**School vehicle:** A vehicle owned, leased, and/or operated at the direction or with the consent of the school district which transports 16 or more persons, including the driver, or weighs over 26,001 pounds and requires the driver to have/possess a commercial driver's license in order to operate the vehicle.

**Split Specimen/Split Sample:** The division of the urine specimen into thirty milliliters in a specimen bottle (the primary sample) and into at least fifteen milliliters in a second specimen bottle (the split sample).

**Stand-down:** Is prohibited by federal regulations and consists of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

**Substance Abuse Professional:** A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders.

**Verified Test:** A drug test or validity testing result from a federally certified laboratory that has undergone review and final determination by the MRO.

### Covered Drivers

1. The following requirements apply for a driver to be covered by the drug and alcohol testing program:

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- A. Drive a vehicle transporting 16 or more persons, including the driver, or drive a vehicle weighing over 26,001 pounds; and
  - B. Require a commercial driver's license to hold the driver position.
2. Covered drivers include:

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- A. Applicants seeking a position as a driver;
  - B. Full-time, regularly employed drivers;
  - C. Casual, intermittent, occasional or substitute drivers (including coaches, teachers, administrators, mechanics, etc.);
  - D. Leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to a school district or who operate a school vehicle at the direction of or with the consent of a school district.
3. Drivers are subject to the drug and alcohol testing program and its requirements throughout the year, including the times when school is not in session or when the driver is on leave.

### **Prohibited Driver Conduct**

- 1. Drivers shall not report to duty or remain on duty with a 0.04 or greater breath alcohol concentration.
- 2. Drivers shall not report for duty or remain on duty when using any drug except when a physician has advised the driver that the drug does not adversely affect the driver's ability to safely operate a school vehicle and the school district is informed in writing of the medication and doctor's opinion.
- 3. Drivers shall not use alcohol at least four hours prior to, or during the performance of, a safety-sensitive function.
- 4. Drivers shall not possess alcohol while on duty. This includes possessing prescriptions and over-the-counter medicines containing alcohol unless the packaging seal is unbroken.
- 5. Drivers required to take a post-accident alcohol test shall not use alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
- 6. Drivers shall not refuse to submit to a drug or alcohol test. A refusal to test is considered a positive test result requiring the driver to undergo a substance abuse evaluation and subjecting the driver to discipline up to and including termination.
- 7. Drivers shall not report for duty or remain on duty performing a safety-sensitive function if the driver has a positive drug test result.

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Alcohol Breath Testing Procedures

1. Driver's breath is tested for alcohol.
2. Evidentiary breath testing devices are used to conduct the screening test and, if necessary, the confirmation alcohol test.

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- A. The screening alcohol breath test determines whether the driver's breath alcohol concentration is less than 0.02.
  1. A screening alcohol test result of less than 0.02 breath alcohol concentration allows the driver to continue to perform a safety-sensitive function.
  2. An initial alcohol test result of 0.02 breath alcohol concentration or greater requires a confirmation test.
- B. The confirmation alcohol breath test determines whether the driver may continue to perform a safety-sensitive function.
  1. A confirmation alcohol test result of less than 0.02 breath alcohol concentration allows the driver to continue to perform a safety-sensitive function.
  2. A confirmation alcohol test result of greater than 0.02 breath alcohol concentration but less than 0.04 breath alcohol concentration requires the driver to cease performing a safety-sensitive function for 24 hours.
  3. A confirmation alcohol test result of 0.04 or greater breath alcohol concentration requires the driver to cease performing a safety-sensitive function and undergo a substance abuse evaluation.
3. Alcohol testing is conducted at collection sites that provide privacy to the driver and contain the necessary equipment, personnel, and materials.
  - A. Alcohol testing is conducted at a designated nonschool district facility unless the situation requires another location.
  - B. In the event privacy cannot be assured, privacy will be provided to the extent practical.
4. Screening alcohol testing steps
  - A. Once the driver is notified to submit to an alcohol test, the driver must complete the alcohol/drug test notification form and proceed immediately to the collection site. Collection site person will contact the superintendent or designated contact person immediately when a driver does not arrive at the specified time. Failure to arrive at the collection site in a timely manner is considered a refusal to test, absent an acceptable excuse.

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B. Upon arrival, the driver must provide a photo identification. Failure of the driver to produce a photo identification is considered insubordination as well as a refusal to test.

C. The testing procedure is explained to the driver by the collection site person.

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D. The collection site person, the breath alcohol technician, and the driver complete and sign the appropriate sections of the alcohol testing form.

1. Refusal of the driver to sign the form prior to the screening alcohol test is considered a refusal to test.
2. The school district is notified immediately of the driver's refusal to sign.

E. The driver forcefully blows into the evidentiary breath testing device mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.

F. The initial test results are shared with the driver.

G. The driver and breath alcohol technician must sign the alcohol testing form following completion of the alcohol test. Failure to sign the form after the alcohol test is not considered a refusal to test. However, in the remarks section of the form, the breath alcohol technician notes the driver's refusal to sign.

H. Screening alcohol test results

1. An alcohol test result of less than 0.02 breath alcohol concentration is reported to the school district in a confidential manner and the driver may continue to perform a safety-sensitive function.
2. An alcohol test result of 0.02 or more breath alcohol concentration requires a confirmation alcohol test between 15 and 20 minutes after the screening test.
3. The breath alcohol technician provides the superintendent, or designated contact person, with a copy of the breath alcohol testing form if written communication was not used to report the test results.

I. Potentially incomplete or invalid breath alcohol tests are repeated with corrected procedures.

J. The breath alcohol test is stopped when the driver fails twice to provide an adequate amount of breath. In that case:

1. A physician analyzes the driver's inability to provide adequate breath.
2. Failure to provide adequate breath is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate breath.

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3. A refusal of the driver to try a second time to provide adequate breath is considered a refusal to test, unless a physician determines the driver is not physically capable of providing adequate breath.

5. Confirmation alcohol testing steps

A. The confirmation alcohol test is done between 15 and 20 minutes after the screening alcohol test whether or not the driver followed the requirements to not eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during the 15-minute waiting period to avoid accumulation of mouth alcohol leading to an artificially high reading.

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B. If a different collection site is used, the driver must be under the observation of the collection site personnel or school district personnel while in transit to the confirmation alcohol testing site or while waiting for the confirmation alcohol test.

C. If a different collection site person is used for the confirmation alcohol test, the driver must again provide photo identification.

D. The testing procedure is explained to the driver by the collection site person.

E. The collection site person, a breath alcohol technician, and the driver complete and sign the appropriate sections of the alcohol testing form.

1. Refusal of the driver to sign the form prior to the confirmation alcohol test is considered a refusal to test.

2. The school district is notified immediately of the refusal to sign.

F. The driver forcefully blows into the evidentiary breath testing device mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.

G. The confirmation alcohol test results, which are the final and official test results, are shared with the driver.

H. The driver and breath alcohol technician must sign the alcohol testing form following completion of the alcohol test. Failure to sign the form after the alcohol test is not considered a refusal to test. However, in the remarks section of the form, the breath alcohol technician notes the driver's refusal to sign.

I. The breath alcohol technician informs the superintendent, or designated contact person, of the results of the test in a confidential manner.

1. An alcohol test result of less than 0.02 breath alcohol concentration is reported to the school district in a confidential manner and the driver may continue to perform a safety-sensitive function.

2. The breath alcohol technician notifies the superintendent, or designated contact person, immediately of confirmation of alcohol test results of 0.02 or more breath alcohol concentration.

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3. The collection site person provides the superintendent, or designated contact person, with a copy of the breath alcohol testing form if written communication was not used to report the test results.

J. Potentially incomplete or invalid breath alcohol tests are repeated with corrected procedures.

K. The breath alcohol test is stopped when the driver fails twice to provide an adequate amount of breath. In that case:

1. A physician analyzes the driver's inability to provide adequate breath.

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2. Failure to provide adequate breath is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate breath.
3. A refusal of the driver to try a second time to provide adequate breath is considered a refusal to test, unless a physician determines the driver is not physically capable of providing adequate breath.

### Drug Testing Procedures

1. Driver's urine is tested for marijuana, cocaine, opiates, amphetamines, phencyclidine, etc.
2. A split specimen urine drug test, often called "split sample test," is used to conduct the drug test.
  - A. A negative drug test result allows the driver to continue to perform a safety-sensitive function.
  - B. A positive drug test result on the primary sample requires the driver to be removed from performing a safety-sensitive function.
  - C. A positive drug test result on the primary sample allows the driver an opportunity to request the split sample be tested by another certified laboratory for the specific drug found in the primary sample. A negative drug test result on the split sample results in a negative drug test result.
  - D. A positive drug test result requires the driver to undergo a substance abuse evaluation.
3. Drivers taking medication at a doctor's direction may perform a safety-sensitive function if the doctor determines there is not an adverse affect on performing a safety-sensitive function and the school district is informed in writing of the medication and doctor's opinion.
4. Drug testing is conducted at collection sites that provide privacy to the driver and where the necessary equipment, personnel, and materials are located.
  - A. Drug testing is conducted at a designated nonschool district facility unless the situation requires another location. Public restrooms can be used as collection sites in exceptional circumstances.
  - B. In the event privacy cannot be assured, privacy is provided to the extent practical. However, direct observation is allowed if:
    1. Reasons exist to believe the driver may alter or substitute the specimen.

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2. The driver presents a specimen with a temperature outside the allowed range and does not provide an oral body temperature or the oral body temperature varies from the specimen provided.
3. The last specimen provided by the driver was determined by the laboratory to not meet specific gravity and urine creatinine concentration criteria.
4. The collection site person observes conduct of the driver to substitute or adulterate the specimen.

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5. The driver has previously been determined to have used a drug without medical authorization and the particular test is for follow-up testing upon or after return to duty.

C. Direct observation is approved by the supervisor of the collection site person or the designated school district representative. Non-medical personnel performing direct observation must be of the same gender as the driver.

5. Drug testing steps

A. Once the driver is notified to submit to a drug test, the driver must complete the alcohol/drug test notification form and proceed immediately to the collection site. The collection site person contacts the superintendent, or designated contact person, immediately when a driver does not arrive at the specified time. Failure to arrive at the collection site in a timely manner is considered a refusal to test, absent an acceptable excuse.

B. Upon arrival, the driver must provide a photo identification. Failure of the driver to produce a photo identification is considered insubordination as well as a refusal to test. The driver may require the collection site person to provide proof of identification.

C. The driver may keep his or her wallet but must remove any unnecessary outer garments, purses, briefcases, and similar items at the request of the collection site person.

D. Immediately prior to providing a urine sample, the driver must wash his or her hands.

E. The driver must then provide 45 milliliters of urine and deliver it immediately to the collection site person.

1. A driver who cannot provide an adequate amount of urine will receive instructions for drinking water and trying again.

2. The drug test is stopped when the driver fails twice to provide an adequate amount of urine.

3. Failure to provide adequate urine is considered a refusal to test unless the physician determines a medical condition caused the failure to provide adequate urine.

F. The specimen is kept in view of the driver and the collection site person.

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G. Upon receipt of the specimen, the collection site person immediately, and in no event later than four minutes from the time of urination, measures the temperature of the specimen.

H. The driver may volunteer to have his or her oral temperature taken to provide evidence against alteration or substitution if there is some question about the temperature of the specimen.

I. The collection site person inspects the specimen for color and other signs of contaminants and notes any unusual findings.

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J. Another specimen is required as soon as possible under direct observation if adulteration or substitution is suspected by the collection site person.

K. The specimen is divided into the primary and the split specimen, sealed, and labeled. The label is initialed by the driver.

L. The driver is required to read and sign the statement on the chain of custody form certifying the specimens are the driver's.

M. The collection site person is required to note on the chain of custody form any unusual behavior or appearance of the driver and any failure to cooperate.

N. The collection site person completes the chain of custody form and the driver signs the form indicating the collection is complete.

O. The specimens are packaged for shipping to the laboratory and are shipped immediately or placed in secure storage until they can be shipped.

### **6. Laboratory**

A. The laboratory used by the school district's drug and alcohol testing program is certified by the U.S. Department of Health and Human Services. Certified laboratories meet the testing procedures, personnel, and record keeping requirements of the law.

B. Upon arrival of the specimen at the laboratory, the split specimen is stored and the primary specimen is tested.

1. A positive drug test result on the initial test of the primary specimen requires a confirmation drug test of the primary specimen.

2. The split specimen is discarded if the primary specimen has a negative drug test result.

### **7. Medical Review Officer (MRO) reviews drug test results**

A. The MRO may release drug testing records of a driver to unauthorized individuals only with the written consent of the driver.

B. The MRO keeps a record of negative drug test results and reports negative drug test results to the school district, usually within two working days.

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C. The primary role of the MRO is to review and interpret positive drug test results to determine whether a legitimate explanation exists for the positive drug test result.

1. After reviewing the chain of custody form and the laboratory drug test results, the MRO contacts the driver to discuss the positive drug test result prior to notifying the school district and to ask whether

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the driver requests a drug test of the split sample. The driver's request for a drug test of the split sample must be made within 72 hours of talking with the MRO.

2. Upon request by the driver, the split specimen is sent to a second certified laboratory for drug testing.
  3. The MRO contacts the superintendent, or designated contact person, for assistance if the driver cannot be reached.
  4. The superintendent, or designated contact person, must confidentially inform the driver to contact the MRO.
  5. Upon contacting the driver, the superintendent, or designated contact person, must inform the MRO that the driver was contacted.
  6. Drivers who cannot be contacted are placed on temporary medically unqualified status, sick leave, other available leave, or unpaid leave of absence.
- D. The MRO may verify a positive drug test without talking to the driver if:
1. The driver declines the opportunity to discuss the positive drug test.
  2. The driver fails to contact the MRO within five days after the superintendent, or designated contact person, has contacted the driver.
  3. MRO verification of positive drug test results under these circumstances can be challenged by the driver if the driver presents the MRO with information documenting a serious illness, injury or other circumstances unavoidably preventing the driver from timely contacting the MRO. The MRO, based on this additional information, may find a legitimate explanation for the positive drug test result and declare the drug test negative.
- E. The driver is notified of the drugs found in a positive drug test result by the MRO, the superintendent, or designated contact person, or by certified mail to the driver's last known address.
- F. The school district receives a written report of the negative and positive drug test results from the MRO.

Substance Abuse Professional

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1. A substance abuse evaluation by a substance abuse professional is required when a driver has:
  - A. A positive drug test;
  - B. A positive alcohol test of 0.04 or greater breath alcohol concentration; or
  - C. Violated the drug and alcohol testing program policy, these supporting regulations, or the law.

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2. The substance abuse evaluation determines what assistance, if any, the driver needs in resolving problems with alcohol misuse and/or drug use.
3. A list of available substance abuse professionals to provide assistance to bus drivers is available through the superintendent, or designated contact person.

### Pre-employment Testing

1. Drivers shall submit to a drug test if a job offer is made. The job offer is contingent upon:
  - A. A negative drug test result; and
  - B. A signed written statement authorizing former employers to release all information on the driver related to drugs and alcohol.

A pre-employment drug test may not need to be administered by the school district if the driver has participated in a drug testing program that meets the requirements of these regulations within the previous 30 days and while participating in that program, either was tested for drugs within the past six months from the date of application with the school district or participated in a random drug testing program for the previous 12 months from the date of application with the school district and the school district ensures that, to the school district's knowledge, no prior employer has records of a violation of the regulations within the previous six months.

If the school district chooses not to administer a pre-employment alcohol and/or drug test, the school district must contact the alcohol and drug testing program in which the driver participates or participated and obtain the following information:

- name and address(es) of the program(s);
- verification that the driver participates or participated in the program(s);
- verification that the program(s) conform(s) to these regulations;
- verification that the driver is qualified under these regulations, including that the driver has not refused to be tested for alcohol or drugs;
- the date the driver was last tested for alcohol or drugs;
- the results of any tests taken within the previous six months and any other violation of the regulations.

For applicants that have had a positive drug or alcohol test, based on information from a prior employer, the pre-employment test can serve as a return-to-duty test.

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2. Prior to allowing a driver to perform a safety-sensitive function, and not later than 14 days after performing a safety-sensitive function, the following information must be obtained about the driver during the preceding two years from the date of the application:

- A. Any alcohol test results of 0.04 or greater breath alcohol concentration;

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- B. Positive drug test results; and
- C. Refusals to be tested.

The school district may obtain any information related to the driver from previous employers as long as the driver consents and the written consent regarding the requested information is presented to the previous employers. If this information is not obtained prior to the performance of a safety-sensitive function, the school district will document why the information was not obtained prior to the performance of the safety-sensitive function. The information may be obtained by the school district by personal interviews, telephone interviews, letter, or other method that ensures confidentiality. The school district will document the information received and will note that the information addresses only whether the driver can perform a safety-sensitive function and does not address the Americans with Disabilities Act considerations of alcohol or drug addiction.

### Random Testing

1. Annually, 25% of the average number of drivers is selected for random alcohol tests and 50% of the average number of drivers is selected for random drug tests.
2. The drivers' identification numbers are selected by a scientific method giving each driver an equal chance to be selected.
3. Random tests are unannounced and spread throughout the year.
4. Drivers selected for random alcohol testing are notified just before, during, or just after performing a safety-sensitive function. The school district will document why some, if any, drivers were selected but not notified (i.e., illness, vacation, etc.).
5. Drivers selected for random drug testing are notified at any time. The school district will document why some, if any, drivers were selected but not notified (i.e., illness, vacation, etc.).
6. Once a driver is notified of being selected for a random test, the driver must proceed immediately to the collection site. However, drivers performing a safety-sensitive function must safely stop and proceed to the collection site as soon as possible.

### Reasonable Suspicion Testing

1. A driver may be required to submit to a reasonable suspicion drug test at any time.

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2. A driver may be required to submit to a reasonable suspicion alcohol test just before, during, or just after the driver performs a safety-sensitive function or just before, during, or just after the time the driver is required to be in compliance with the drug and alcohol testing program policy, these supporting administrative regulations, or the law.

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## **DRUG AND ALCOHOL TESTING PROGRAM, BUS DRIVERS, REGULATION (Cont.)**

- A. A reasonable suspicion alcohol test is performed within two hours and not later than eight hours of determining reasonable suspicion.
  - B. If the alcohol test is not given within two hours, the reasons for the delay must be documented.
  - C. If the alcohol test is not given within eight hours, attempts to test are stopped and the reason for not testing must be documented.
3. A reasonable suspicion test request is made by an employee who received training to determine reasonable suspicion. The reasons for the reasonable suspicion must be documented within 24 hours or prior to the release of the test results. If more than one employee trained to determine reasonable suspicion observed the driver, those employees must also document their reasons.

### Post-accident Testing

1. Drivers are subject to both post-accident drug and alcohol testing as soon as possible after an accident in which:
  - A. The driver received a citation and
    1. Bodily injury occurred to a person who, as a result of the injury, required immediate medical treatment away from the scene of the accident; or
    2. One or more motor vehicles incurred disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle; or
  - B. A fatality occurred.

If a citation is not issued against the driver within eight hours of the accident, no alcohol testing can be done. If the citation is issued prior to 32 hours, a drug test must be given. If the citation is issued too late for either the alcohol or drug test, the circumstances must be documented.
2. Drivers must remain readily available for post-accident testing.
  - A. Drivers who leave the scene or who do not remain readily available are deemed to have refused to test.

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B. Necessary medical treatment cannot and should not be denied to a driver waiting to complete post-accident drug and alcohol tests.

3. Alcohol testing requirements

A. The alcohol test is administered within two hours and not later than eight hours after the accident.

B. The reasons for administering the test later than two hours after the accident must be documented.

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- C. The reasons for not administering the test within eight hours of the accident must be documented.
  - D. Drivers are prohibited from consuming alcohol for eight hours after the accident or until the alcohol test is completed.
- 4. Drug testing requirements
  - A. The drug test is administered as soon as possible and not later than 32 hours after the accident.
  - B. The reasons for not administering the test must be documented.
- 5. Results of drug or alcohol testing conducted by law enforcement officers or other officials on the scene with independent authority to conduct such tests are presumed valid if the testing conforms with the law. The school district must receive a copy of the results to use them.

### Return-to-duty/Follow-up Testing

- 1. Prior to returning to duty after a positive drug test, a positive alcohol test of 0.04 or greater breath alcohol concentration, or other violation of the drug and alcohol testing program policy, these regulations or the law:
  - A. The driver must be reevaluated by a substance abuse professional to determine that the driver has properly followed any treatment program prescribed.
  - B. The driver must submit to the tests required by the substance abuse professional. The substance abuse professional may require a return-to-duty test for drugs, alcohol, or both.
  - C. The return-to-duty test must have a negative drug test result and/or an alcohol test result of less than 0.02 breath alcohol concentration before the driver can return to duty and perform a safety-sensitive function.
- 2. After returning to duty, the driver is subject to a minimum of six unannounced follow-up tests within 12 months for alcohol, drugs, or both, as determined by the substance abuse professional.
  - A. The substance abuse professional can terminate the follow-up testing requirement after the first six tests have been completed or continue the follow-up testing for up to 60 months from the date of the driver's return to duty.

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B. Alcohol follow-up testing is done just before, during, or just after performing a safety-sensitive function.

School District Responsibilities

1. Drivers will be provided with information on the drug and alcohol testing requirements of the drug and alcohol testing program policy, these administrative regulations, and the law, including the driver's obligations. This information may be included in an employee handbook.

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2. Supervisors of drivers or employees designated to determine reasonable suspicion must receive 60 minutes of training on alcohol misuse and 60 minutes of training on drug use. The training must address the physical, behavioral, speech and performance indicators of probable alcohol misuse and drug use.
3. Drivers will be provided with instructions prior to the driver operating a school vehicle to enable the driver to comply with the drug and alcohol testing requirements.
4. Drivers will not be allowed to report to work or perform a safety-sensitive function when the school district has actual knowledge of a driver's drug use, whether or not a drug test was conducted.
5. Drivers will not be allowed to report to work or perform a safety-sensitive function when the school district has actual knowledge of a driver with 0.02 or greater breath alcohol concentration, whether or not an alcohol test was conducted.
6. Through the school district's drug and alcohol testing program service provider, the school district will ensure that the quality assurance plan, developed by the manufacturer and approved by the National Highway Traffic Safety Administration for the evidentiary breath testing device used for alcohol testing of its drivers, describes the inspection, maintenance, and calibration requirements and intervals for the device.
7. Through the school district's drug and alcohol testing program service provider, the district will ensure that the collection site person using an evidentiary breath testing device is a certified breath alcohol technician.

### Consequences of Violating the Drug and Alcohol Testing Program Policy, These Administrative Regulations, or the Law

1. Each violation is dealt with based on the circumstances surrounding the violation. The following consequences may result from a violation:
  - A. Drivers may be disciplined up to and including termination.
  - B. Drivers may not be permitted to perform safety-sensitive functions.
  - C. Drivers may be advised of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol or use of drugs.
  - D. Drivers may be required to undergo a substance abuse evaluation to determine what assistance, if any, the driver needs in resolving problems associated with the misuse of alcohol or use of drugs and be required to follow any recommended substance abuse treatment program.

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E. Prior to returning to duty, the driver is required to have a negative drug and/or alcohol test result and be subject to the follow-up drug and/or alcohol testing determined necessary based on the circumstances surrounding the incident.

F. Drivers refusing to submit to drug and/or alcohol testing are considered insubordinate and are subject to discipline up to and including termination.

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## **DRUG AND ALCOHOL TESTING PROGRAM, BUS DRIVERS, REGULATION (Cont.)**

G. Driver-applicants who refuse to submit to or cooperate with the drug and/or alcohol testing process and requirements shall be disqualified from further consideration.

2. Nothing in the drug and alcohol testing program policy, these administrative regulations, or the law relating to drug and alcohol testing limits, restricts the right of the board or superintendent to discipline, up to and including termination, a driver for conduct which violates the school district's policies, regulations, and procedures.

### Drug and Alcohol Testing Records

1. Drug and alcohol testing records are stored in locked files at limited access locations separate and apart from the driver's general personnel records.

2. The records are released only with the written consent of the driver. Only those records specifically authorized for release may be released. However:

A. Records may be released to appropriate government agencies without a written consent.

B. Records may be released to appropriate school district employees without written consent.

C. The school district may, without written consent, make a driver's drug and alcohol test records available to a decision-maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the driver and arising from the result of an alcohol or drug test under the drug and alcohol testing program policy, these regulations, or the law, or from the school district's determination that the driver violated the drug and alcohol testing program, these regulations, or the law. Such proceedings may include, but are not limited to, workers' compensation, unemployment compensation, or other proceeding related to a benefit being sought by the driver and in wrongful discharge or other termination matters.

3. With a written request, drivers may access and copy their drug and alcohol test records in accordance with the board policy related to employee records. A driver is not denied access to these records for failure to pay fees associated with other records. Drug and alcohol testing and related records shall include at least the following:

drug and alcohol related information obtained from prior employers if the driver was hired after January 1, 1995, for school districts with 50 or more drivers and January 1, 1996, for school districts with less than 50 drivers;

a "sign off" sheet signed by the driver indicating receipt of the drug and alcohol testing program policy and related information and agreeing to participate in the drug and alcohol testing program;

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the chain of custody form for each of the driver's drug tests;  
 the alcohol test form and results for each of the driver's alcohol tests;  
 any accident information related to the driver;  
 MRO report of drug test results;  
 any reasonable suspicion information related to the driver;  
 any substance abuse professional evaluation and treatment information related to the driver; and  
 any other information related to drug and alcohol testing particular to the driver.

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## **DRUG AND ALCOHOL TESTING PROGRAM, BUS DRIVERS, REGULATION (Cont.)**

4. The following records of the school district's drug and alcohol testing programs are maintained for the time period indicated:

A. One year:

1. Records of negative and canceled drug test results and alcohol test results of less than 0.02 breath alcohol concentration.
2. Records related to the drug and alcohol testing process.
3. Records related to a driver's test results.
4. Records related to other violations of the law.
5. Records related to substance abuse evaluations.
6. Records related to education and training.

B. Two years:

Records related to the alcohol and drug collection process, except calibration of evidentiary breath testing devices, and training.

C. Five years:

1. Alcohol test results of 0.02 and greater breath alcohol concentration.
2. Verified positive drug test results.
3. Documentation of refusals to take required alcohol and/or drug tests.
4. Evidentiary breath testing device calibration documentation.
5. Driver substance abuse evaluations and referrals.
6. Annual calendar year summary.