

**4213.10 ALCOHOL AND DRUG TESTING FOR TRANSPORTATION
PERSONNEL OF THE SOUTH CENTRAL NEBRASKA UNIFIED
SCHOOL DISTRICT #5**

~~It shall be the policy of the South Central Nebraska Unified School District #5 that its transportation personnel shall be free from drug and alcohol abuse. Consequently, the use of illegal drugs or improper use of alcohol by transportation personnel is prohibited. The overall goal of drug and alcohol testing is to ensure a drug free and alcohol free transportation environment and to reduce accidents, injuries and fatalities. The requirements of this policy are in addition to other requirements established by federal and state law and board of education policy regarding the use of alcohol and drugs. In some instances, those laws or policies may be more restrictive than the requirements set out in this policy.~~

~~The South Central Nebraska Unified School District #5 is required, under the provisions of the Federal Omnibus Transportation Employee Testing Act of 1991, to implement a drug and alcohol testing program for all persons subject to commercial driver's license requirements. This comprehensive program must include conducting pre employment, reasonable suspicion, random, post accident, return to duty and notifying drivers of the requirements and consequences of the program and maintaining appropriate records.~~

Definitions:

~~For the purpose of this policy, the following are defined:~~

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

~~Driver: Any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent, owner operated drivers.~~

~~Drug: For purposes of this policy, drug includes any of the following controlled substances: marijuana, cocaine, opiates, amphetamines and Phencyclidine.~~

~~Medical Review Officer: A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who meets the qualifications as listed in 49 C.F.R. 40.3.~~

~~Safety Sensitive Function: Includes all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. It includes driving, waiting to be dispatched, inspecting and servicing equipment, supervising, performing or assisting in loading and unloading, repairing or obtaining and waiting for help with~~

~~a disabled vehicle, performing driver requirements related to accidents and performing any other work for the District or paid work for any other entity.~~

~~Substance Abuse Professional: A licensed physician or certified psychologist, social worker, employee assistance professional or certified addiction counselor with knowledge of a clinical experience in the diagnosis and treatment of alcohol and drug related disorders.~~

~~Program Coordinator:~~

~~The South Central Nebraska Unified School District #5 Board of Education shall designate the superintendent of schools or his/her designee as the program coordinator to implement the alcohol and drug testing program of the District within the guidelines of this policy.~~

~~Alcohol and Drug Prohibitions:~~

~~No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions while having an alcohol concentration of 0.04 or greater. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol. No driver shall use alcohol while performing safety sensitive functions. No driver shall perform safety sensitive functions within four hours after using alcohol. No driver required to take a post accident test shall use alcohol for eight hours following the accident or until he/she undergoes a post accident alcohol test (whichever comes first).~~

~~No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely perform the function. No driver shall report for duty or perform a safety sensitive function if the driver tests positive for drugs.~~

~~Pre Employment Tests:~~

~~An alcohol and drug test shall be conducted in accordance with federal regulations before any bus driver is permitted to perform a safety sensitive function for the District. Testing for newly hired drivers shall be conducted after the offer of employment commences. Offers of employment are contingent on these test results. A refusal to submit to drug and alcohol testing and/or refusal to release information as required by the District shall remove the applicant from employment consideration. Such testing will also be required of any employee transferring into a covered position.~~

~~Exceptions may be made for drivers who have had the alcohol test required by law within the previous six months and participated in the drug testing program required by law~~

~~within the previous thirty (30) days, provided that the District has been able to make all verifications required by law.~~

~~Post-Accident Tests:~~

~~Alcohol and drug tests shall be conducted as soon as practicable after an accident on any driver:~~

- ~~1. Who was performing safety sensitive functions with respect to the vehicle, if the vehicle involved loss of life, or~~
- ~~2. Who receives a citation under state or local law for a moving traffic violation arising from a recordable accident. A recordable accident includes:~~
 - ~~a. a fatality,~~
 - ~~b. bodily injury requiring treatment away from the scene,~~
 - ~~c. disabling damage to one or more vehicles requiring the vehicle to be towed or transported away from the scene of the accident.~~

~~Drivers shall make themselves readily available for testing, unless such driver has the need for immediate medical attention. No such driver shall use alcohol for eight hours after the accident or until after he/she undergoes a post accident alcohol test, whichever comes first.~~

~~Post-accident testing requirements may be fulfilled by properly administered tests conducted by federal, state and/or local law enforcement officials as long as the results of those tests are provided to the District.~~

~~Random Testing:~~

~~Alcohol and drug testing shall be conducted on a random basis at unannounced times throughout the year in accordance with federal regulations. Test for alcohol shall be conducted just before, during or just after the performance of safety sensitive functions. Drivers shall be selected by a scientifically valid random process and each driver shall have an equal chance of being tested each time selections are made.~~

~~Reasonable Suspicion Tests:~~

~~Any qualified supervisor or District administrator who has reasonable suspicion to believe that a bus driver has violated the alcohol or drug prohibitions of the district shall require the driver to submit to reasonable suspicion testing. A qualified supervisor or administrator must be a person who has been properly trained, in accordance with federal regulations, to make a determination that reasonable suspicion exists. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The~~

~~observations may include indications of the chronic and withdrawal effects of the drugs.~~

~~Alcohol testing is authorized for reasonable suspicion only if the required observations are made just before, during or just after the period of the work day when the driver's comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the District shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight hours and the District will state in the record the reasons for not administering the test.~~

~~A qualified supervisor or District administrator who makes observations leading to a reasonable suspicion test shall make a written record of his/her observations within twenty four hours of the observed behavior or before the results of the drug test are released, whichever is earlier.~~

~~Return To Duty Tests:~~

~~An alcohol or drug test shall be conducted when a driver who has violated the District's alcohol or drug prohibition returns to performing safety sensitive duties.~~

~~Employees whose conduct involved alcohol cannot return to duty in a safety sensitive function until the return to duty test produces a verified result that meets federal and District standards.~~

~~Employees whose conduct involved drugs cannot return to duty in a safety sensitive function until the return to duty test produces a verified negative result.~~

~~Follow-Up Tests:~~

~~A driver who violates the District's alcohol or drug prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving an alcohol or drug problem shall be subject to unannounced follow up testing as directed by the substance abuse professional in accordance with law. Follow up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety sensitive functions.~~

~~Refusal to Submit to Test:~~

~~No driver shall refuse to submit to any of the tests. An employee will be considered to refuse to submit when he/she fails to provide adequate breath or urine for testing when notified of the need to do so or when he/she engages in conduct that clearly obstructs the testing process. Such refusal will be treated as if the District received a positive test.~~

~~Testing Procedure:~~

~~The South Central Nebraska Unified School District #5 shall follow the federal guidelines and standards of the Department of Health and Human Services regarding testing and laboratory procedures. This shall include a selection of sites with appropriately trained personnel for alcohol and drug testing, selection of a laboratory certified by the Department of Health and Human Services to conduct drug specimen analysis and selection of a Medical Review Officer to verify laboratory drug test results. The drug and alcohol testing program of the South Central Nebraska Unified School District #5 shall provide the individual privacy in the collection of the specimen samples to the maximum extent possible. The specimen collection procedures and chain of custody shall ensure that specimen security, proper identification and integrity are not compromised.~~

~~Enforcement:~~

~~Employees whose conduct involved alcohol and drug use cannot return to duty in a safety sensitive function until the return to duty test produces the required result. A driver who is tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safety sensitive functions until the start of the driver's next regularly scheduled duty period but not less than 24 hours after the test was administered. Further employment actions up to and including termination may be instigated in accordance with the Drug Free Workplace Act of 1988 (P.L. 101-226) and other state and federal laws.~~

~~Rehabilitation:~~

~~The District shall provide for the identification and opportunity for treatment of covered employees who are determined to have used, in violation of federal law or regulations, alcohol or drugs. This information shall include the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.~~

~~Employee Records:~~

~~Employee's alcohol and drug test results and records shall be maintained in strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of alcohol or drugs, including any records pertaining to his/her tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver. Test records shall be maintained with the separate medical files of each employee.~~

~~District Records and Reports:~~

~~The South Central Nebraska Unified School District #5 shall maintain records of its alcohol and drug prevention programs as required by federal law in 49, CFR 382.401.~~

~~Notification:~~

~~Each driver shall receive educational materials that explain the requirements of the Code~~

~~of Federal Regulations Title 49, Part 382, together with a copy of the South Central Nebraska Unified School District #5 Policy "Alcohol and Drug Testing for Transportation Personnel of the South Central Nebraska Unified School District #5." The program coordinator shall ensure that all covered employees receive written materials explaining the District's drug and alcohol misuse prevention program requirements including:~~

- ~~1. the identity of the program coordinator, a contact person knowledgeable about the materials, policy, administrative regulations and the Omnibus Act;~~
- ~~2. the categories of employees covered;~~
- ~~3. sufficient information about the safety sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;~~
- ~~4. specific information concerning prohibited conduct;~~
- ~~5. the circumstances under which employees will be tested;~~
- ~~6. procedures used in the testing process;~~
- ~~7. the requirement that a driver submit to alcohol and drug tests administered in accordance with federal law;~~
- ~~8. an explanation of what constitutes a refusal to submit to a drug and/or alcohol test;~~
- ~~9. the consequences for drivers found to have violated the drug and alcohol prohibitions or Part 382, including the requirement that the driver be removed immediately from safety sensitive functions and the procedures for referral, evaluation and treatment;~~
- ~~10. the consequences for drivers found to have an alcohol concentration of 0.02 or greater, but less than 0.04; and;~~
- ~~11. information of the effects of drug use and alcohol misuse on personal life, health and safety in the workplace.~~

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

~~Employees shall sign a statement certifying that they have received the materials.~~

~~Before any driver operates a commercial vehicle, the District shall provide him/her with post accident procedures that will make it possible to comply with post accident testing requirements.~~

~~Before drug and alcohol tests are performed, the District shall inform drivers that the tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after the compliance date specified by law.~~

~~The District shall notify a driver of the results of a pre-employment drug test if the driver requests such results within sixty (60) calendar days of being notified of the disposition of his/her employment application. The District shall notify a driver of the results of random, reasonable suspicion and post accident drug tests if the test results are verified positive. The District shall also tell the driver which controlled substance(s) were verified as positive.~~

The District may implement procedures, in cooperation with the Department of Transportation, to insure compliance with the Omnibus Transportation Employee Testing Act of 1991, and all regulations and rules promulgated pursuant thereto. Employees in "safety-sensitive" positions, as defined by the Act and regulations promulgated thereunder, including employees whose position requires a commercial driver's license (CDL), will be tested for alcohol and controlled substances as required by law. An employee's refusal to submit to such pre-employment testing, or testing positive, shall disqualify an applicant from employment. Reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing may also be conducted. Employees who test positive will be immediately removed from safety-sensitive positions and may be removed from employment.

POLICY ADOPTED: July 2000
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