

WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT

I.

Board Policies Covering All Employees

**Board Policy No. 4019: DRUG AND ALCOHOL TESTING OF
EMPLOYEES INCLUDING DEPARTMENT
OF TRANSPORTATION (DOT) DRUG AND
ALCOHOL TESTING OF COMMERCIAL
VEHICLE DRIVERS**

1. The Federal Omnibus Transportation Employee Testing Act of 1991 requires that all employees who operate a commercial motor vehicle intrastate or interstate and are subject to the commercial driver's license (CDL) requirements (Drivers) be subject to a drug and alcohol testing program for alcohol and/or controlled substances. The District must comply with all state and federal laws and regulations, including any amendments thereto. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action up to and including termination from employment. This Policy shall be interpreted and applied consistent with applicable law. The District may amend this Policy at any time to maintain conformity with and fulfill the requirements of applicable state and federal laws and regulations as they may be amended from time to time.
2. This Policy applies to every employee (Driver) whose position requires that the employee obtain and maintain a commercial driver's license as a part of the employee's job assignment which is issued by the State of California in accordance with the standards contained in the Federal Highway Administration (FHWA) Regulations, 49 CFR Part 383, and whose duties require the performance of any safety sensitive functions. All Bus drivers and any employee who is licensed, qualified and who does drive a commercial motor vehicle as defined in this Policy for the District are subject to the rules prescribed in this Policy at all times when the Driver begins work, or is required to be in readiness to work until relieved from work and all responsibility for performing work. These drivers include, but may not be limited to, District school bus drivers.
3. Employees who do not drive a commercial motor vehicle for the District shall not be subject to random drug or alcohol testing. Such employees shall be subject to drug or alcohol testing by the District only upon reasonable suspicion and with the consent of the employee.
4. The District will implement a controlled substance and alcohol testing program that meets the requirements of the FHWA Controlled Substances and Alcohol Use and Testing Rule, Code of Federal Regulations, Title 49, Part 382 and other applicable law.
5. Notification to Employees

Prior to performing a controlled substance or alcohol test under this Policy, the District must notify all covered drivers that the alcohol or controlled substance test is required.

The District shall post this Policy in a prominent location readily accessible to all covered drivers. All covered drivers will be provided with a complete copy of this Policy. Each driver may obtain an additional copy of this Policy for his/her review by contacting the District Drug and Alcohol Program Coordinator at his/her work place. Each driver will be required to sign a certificate of receipt certifying that he/she has received a copy of this Policy. This Policy is not intended to interfere with an employee's attempt to seek assistance in addressing alcohol or substance abuse programs that may be available under the District's health insurance plans. However, such assistance does not exempt any employee from the requirements or consequences of this Policy.

6. Responsibilities

1. The Superintendent is designated as the District Controlled Substance and Alcohol Program Coordinator. The Coordinator is responsible for coordinating the implementation of this Policy and for questions related to the Policy or the implementation of this Policy.

2. Supervisors are responsible for observing the performance and behavior of drivers and to observe/document events suggestive of behavior that is prohibited by this Policy (i.e., controlled substance use and/or alcohol misuse). It is the supervisor's responsibility to determine when testing for controlled substances and/or alcohol is necessary, based on reasonable suspicion.

3. Each employee is responsible for: 1) knowing and understanding the requirements of this Policy and for fully complying with and enforcing the intent and provisions of this Policy; 2) completing a drug or alcohol testing procedure when directed by the Superintendent or designee, consistent with applicable law and District policy and procedures; and 3) Acknowledging in writing that he or she has received a copy of this Policy.

4. The Program Administrator for the District's Controlled Substance and Alcohol Program is Pioneers Memorial Hospital.

7. Definitions For purposes of this policy the following definitions apply:

1. Accident: means an occurrence involving a commercial motor vehicle operating on a public or private road which results in one or more of the following:

- (a) Fatality;
- (b) Bodily injury to a person who immediately receives medical treatment away from the scene of the accident as a result of the injury;
- (c) One or more motor vehicles incurring disabling damage as a result of the accident which requires the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The term does not include:

- (a) An occurrence involving only boarding and alighting from a stationary motor vehicle; or
- (b) An occurrence involving only loading or unloading of cargo.

2. Alcohol: Alcohol or alcoholic beverage includes, but is not limited to, an intoxicating agent or alcoholic beverage, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol, or any beverage defined in Sections 23003 and/or 23004 of the Business and Professions Code.

3. Chain of custody: Procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from 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 the time of collection to the time of receipt by the laboratory, and that upon receipt by the laboratory, an appropriate laboratory chain of custody form accounts for the sample or sample portions within the laboratory.

4. Commercial Motor Vehicle: means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (a) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (b) has a gross vehicle weight rating of 26,001 or more pounds; or
- (c) is designed to transport 16 or more passengers, including the driver; or
- (d) is of any size and is used in the transportation of materials found to be hazardous for purposes of the Hazardous Materials Transportation Act and which require the motor vehicles to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F)..

6. Driver: Any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and most independent owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with consent of an employer. For the purpose of preemployment testing only, the term "driver" includes a person applying to an employer to drive a commercial motor vehicle.

7. Highway: Any road, street or way open to public travel whether on private or public property.

8. EBT (or Evidential Breath Testing device): An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, placed on NHTSA's "conforming products list of evidential breath measurement devices" (CPL) and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State programs.

9. Fail a Controlled Substance Test or Test Positive: The confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in the driver's or applicant's system.

10. 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 an individual's confirmed positive test result, together with his or her medical history and any other relevant biomedical information.

11. On-Duty Time: all the time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work or the responsibility of performing work.

12. Pass a Controlled Substance Test or Test Negative: Initial testing or confirmation testing under DOT procedures does not show evidence of the presence of a prohibited drug in the driver's or applicant's system.

13. Pass an Alcohol Test or Test Negative: The driver's alcohol level is .019 or less.

14. Performing Safety Sensitive Function(s): A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

15. Prohibited Drug: Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines or other drug prohibited by applicable law for purposes of this Policy.

16. Reasonable Suspicion: As it relates to this Policy is suspicion based on specific, contemporaneous, articulable observations by a trained supervisor concerning the appearance, behavior, speech, or body odors of the employee.

17. Refusal to Submit: (to an alcohol or controlled substance test). A driver shall be deemed to have refused to submit to an alcohol or controlled substance test if the driver:

- (a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with this Policy;

(b) Fails to provide an adequate urine sample for controlled substances testing without a genuine inability to do so (as determined by a medical evaluation) after he or she has received notice of the requirement of urine testing in accordance with this Policy;

(c) Engages in conduct that clearly obstructs the testing process, including but not limited to, diluting, substitution, or adulterating his/her specimen.

(d) Is subject to post-accident testing and fails to remain readily available for such testing. However, the requirement that the driver remain readily available should not delay necessary medical attention for injured people following an accident or prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident.

18. Safety Sensitive Function: Drivers are deemed to be performing safety sensitive functions when a driver performs any of the on-duty functions as described in 49 CFR part 395.2 or other applicable law. These include, but are not limited to:

(a) All time on District, other public property, or highways waiting to be dispatched unless relieved from duty by the employer;

(b) All time inspecting equipment or servicing or conditioning any commercial motor vehicle at any time;

(c) All driving time which is 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 sleeping berth;

(e) All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(f) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle; and

(g) All time spent providing a breath or urine sample including travel time to and from the collection sight in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by the employer.

19. SAMHSA: The Substance Abuse and Mental Health Services Administration (formerly National Institute on Drug Abuse) was established by the DHHS in 1986 to regulate laboratories performing analytical tests (drug tests) on human body fluids for

employment purposes in the public sector.

20. Substance Abuse Professional (SAP): Licensed physicians; licensed or certified psychologists, social workers and employee assistance professionals; and alcohol and drug abuse counselors certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission who have knowledge of and clinical experience with the diagnosis of alcohol-related disorders.

21. Vat alcohol technician (V AT): An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

8. Testing Procedures

1. Consent Form. Each applicant/employee who is required to provide a urine specimen for drug testing is required to first read and complete a consent for alcohol and/or drug analysis form. When the form is presented to the applicant/employee, he or she must show the clinic technician positive photo identification, such as a driver's license. The applicant/employee's signature on the form should be witnessed by the clinic technician. If the applicant/employee refuses to sign the consent form or provide a urine sample, the examination process is terminated, and such termination shall be reported to the appropriate District authority. See Forms A, D, and C attached to this Policy.

2. Refusal to Consent. Any consent or refusal to submit to the testing shall be in writing. If the employee consents to the testing, the employee shall authorize in writing the release of the medical information. If the employee consents to the testing but refuses to authorize the release of the medical information, disciplinary action will not be taken because of that refusal. Disciplinary action, however, may be taken based on other available evidence. If the employee refuses to release medical information to the District, it will not be used to assist the employee in any decision regarding discipline. See Forms B, E, and F attached to this Policy.

3. Opportunity to List. The employee shall be informed of the opportunity to list all legal drugs (prescription or over-the-counter) on the form (Form G attached) prior to providing a sample. The form shall be placed in a sealed envelope prior to testing. The form shall be maintained by the independent laboratory and/or clinic.

I. Substances for Which Testing Must Be Conducted

The District will test for evidence of the following substances: 1. Marijuana 2. Cocaine 3. Opiates 4. Phencyclidine (PCP) 5. Amphetamines 6. Alcohol 7. Any other substance for which the District may be legally required to test.

J. Timing of Tests

1. Controlled substances test: The driver must be tested for controlled substances as soon

as possible but no later than thirty-two (32) hours after an accident.

2. Alcohol test: The driver must be tested for alcohol as soon as possible but no later than eight (8) hours following an accident. After eight hours have passed, the District shall cease attempts to administer the test and record why the District was unable to administer the test. Every effort should be made to administer the alcohol test within two (2) hours following an accident. If the alcohol test is not administered within two (2) hours, the District must prepare and maintain on file records stating the reasons why the test was not promptly administered. The records must be made available to FHW A upon request.

3. The District will provide the employee with information on how to comply with post-accident procedures prior to operating a commercial motor vehicle.

4. Post-accident breath, urine, or blood tests completed by local, state, or federal officials may fulfill the requirements of this policy.

5. A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed by the District as refusing to submit to testing. Such a refusal is treated as if the driver recorded a test result of 0.04 or greater. However, this requirement should not delay necessary medical attention to injured parties following an accident for the period necessary to obtain assistance in responding to the accident.

K. Specimen Collection Requirements for Controlled Substance and Alcohol Testing

1. All specimen collections for controlled substances and alcohol shall be performed according to the specific guidelines as prescribed in 49 CFR, part 40 and other applicable law. A urine specimen will be collected to test for controlled substances and a breath sample will be collected to test for alcohol.

2. Alcohol tests will be administered on an Evidential Breath Testing Device (EBT) that is on the List published by the National Highway Traffic Safety Administration (NHTSA). The tests will be performed by a certified Breath Alcohol Technician (BAT).

L. Drug Testing Laboratory

1. The District shall use a drug testing laboratory certified under Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970. April 11, 1988, and subsequent amendments; and other applicable law.

2. Time Period Testing is Conducted

An employee may be sent to be tested for controlled substances at any time during the employee's work day. Testing for alcohol must take place just before, during, or just after performing a safety-sensitive or covered function.

3. If the test result of the primary specimen is positive, the employee may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for

presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within 72 hours of the driver having been notified of a verified positive test result. This will be at District expense.

M. Types of Tests Required

1. Preemployment Testing

A preemployment controlled substance test must be conducted before the first time an employee performs a safety-sensitive function. An employee must also take a preemployment controlled substance test when he/she transfers to a safety-sensitive position. A negative test result is required prior to performing covered functions.

2. Post-accident Testing

An driver shall be required to submit to a post-accident controlled substance and alcohol test as soon as possible following an accident and shall remain readily available for such testing if he/she was performing safety-sensitive functions in an accident in which:

- (a) A fatality is involved; or
- (b) The employee receives a citation under state or local law for a moving traffic violation arising from the accident; or
- (c) As a result of an injury the employee immediately receives medical treatment away from the scene of the accident; or
- (d) One (1) or more vehicles incurring damage as a result of the accident must be towed away from the scene by a tow truck or other vehicle.

3. Random Testing

1. The regulations require that covered drivers shall be subject to random controlled substance and alcohol testing at unannounced times and dates spread reasonably throughout the year. The District shall conduct a number of controlled substance tests according to the requirements of the FHWA Administration, as they may be amended. The requirements are currently are as follows:

- (a) The minimum annual percentage rate for random alcohol testing is twenty-five (25) percent of the annual average number of employees covered under District policy.
- (b) The minimum annual percentage rate of random drug/substance testing is fifty (50) percent of the employees covered under District Policy.
- (c) Once the employee has been notified that he/she has been selected for testing, he/she must proceed to the testing site immediately.
- (d) Alcohol tests will be performed only just before, during, or just after

performing a safety-sensitive function.

(e) The selection of employees for random alcohol and controlled substance testing shall be made by a scientifically valid method, such as a number table or a computer-based random number generator that matches the employee's social security number, payroll number or other comparable identifier. Under the selection process used, each employee shall have an equal chance of being tested with each selection made.

(f) The District shall ensure that random alcohol and controlled substance tests conducted under this section are unannounced and the dates for administering random alcohol and controlled substance tests are spread reasonably throughout the calendar year.

d. Return to Duty Testing

1. If any driver or other covered employee violates the directives in this Policy, and the District does not institute proceedings to terminate the Driver's employment, the Driver shall undergo a return-to-duty alcohol or controlled substance test. Such driver or other employee shall not be returned to duty unless the test result indicates an alcohol concentration of less than .09%, or a negative controlled substance test, and shall not be returned to duty until such test(s) produce a verified negative result depending on the nature of the prior positive test. The substance abuse professional will determine if both a drug and an alcohol test are required prior to returning to duty. The driver shall be on leave without pay pending a verified negative result if it is determined that the driver shall be returned to duty. Following a return to duty, the driver shall be subject to unannounced follow-up alcohol and/or controlled substances testing in the number and frequency directed by the substance abuse professional which shall consist of at least six(6) tests in the first twelve (12) months following the Driver's return to duty, but for not more than for a period of 60 months after the Driver returns to duty.

2. Any driver returning from a leave of absence for more than thirty (30) days due to illness, layoff, injury etc., who has not participated in the random controlled substances and alcohol testing program during the thirty (30) day leave of absence period, shall be tested before returning to duty.

N. Reasonable Suspicion Testing

Reasonable suspicion testing of any employee is required when there is reasonable suspicion to believe that the employee is under the influence of drugs or alcohol or has violated the prohibitions of this Policy (as described in paragraph R. A supervisor or District official, who is trained in detection of the possible symptoms of controlled substance use and/or alcohol abuse, shall make the decision to test the employee based on specific, articulable, contemporaneous observations.

1. Controlled Substances

a. The determination that reasonable suspicion exists will be based upon specific observations concerning the appearance, behavior, speech, performance indicators, or body odors of the employee(s). The observations may include indications of chronic and/or withdrawal effects of controlled substances.

b. An employee may be asked to submit to a reasonable suspicion controlled substance test at any time during the work period.

2. Alcohol

a. The determination that reasonable suspicion exists will be based upon specific observations concerning the appearance, behavior, speech, performance indicators, or body odors of the employee.

b. An alcohol test for reasonable suspicion must be requested before, during, or just after the employee performs a safety-sensitive function.

c. The supervisor who makes the determination to test the employee may not administer the alcohol test. The supervisor or designee shall drive the employee to the District's test site certified under this policy.

O. Supervisor Training

A supervisor(s) who must determine whether an employee shall be tested for reasonable suspicion must have received training of at least sixty (60) minutes on alcohol misuse and an additional minimum of sixty (60) minutes of training on drug/substance misuse. The training must be specific on physical, behavioral, and performance indicators of controlled substance and alcohol misusers.

P. Follow-up Testing

Each employee who has been identified by a Substance Abuse Professional ("SAP") as needing assistance in resolving problems with alcohol misuse and who has returned to duty involving the performance of a safety-sensitive function, shall be subject to a minimum of six (6) unannounced, follow-up alcohol tests administered by the employer over the following twelve (12) months. The SAP can direct additional testing during this period or for an additional period up to a maximum of 60 months from the date the employee returns to duty. The SAP can terminate the requirement for follow-up testing in excess of the minimum at any time, if the SAP determines that the testing is no longer necessary.

Q. Return- To-Duty Testing

A drug or alcohol test shall be conducted if and when a driver who has violated the District's drug or alcohol Policy returns to performing safety-sensitive duties. Employees whose conduct involved illegal drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result. Drivers whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and state standards.

R. Prohibited Conduct

1. Refusal to Submit to an Alcohol or Controlled Substance Test

No Driver shall refuse to submit to any of the required controlled substance and/or alcohol tests, including post accident, random, reasonable suspicion, or follow-up tests. Refusal to submit to an alcohol or controlled substance test means that a driver:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirements for breath testing in accordance with this policy, or

(b) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement of urine testing in accordance with this policy, or

(c) Engages in conduct that clearly obstructs the testing process.

2. Prohibited Conduct Related to Controlled Substances

(a) No employee shall report for duty or remain on duty performing a safety-sensitive function when the employee uses a controlled substance or has tested positive for a controlled substance, except when the substance is prescribed by a licensed medical practitioner, and the same physician informs the employee that the substance does not adversely affect the employee's ability to safely perform the safety-sensitive function. The employee is encouraged to report all doctor prescribed drugs used to the District's administrator of the program. All drivers must inform their immediate supervisor of any controlled substance use which may impair the Driver's ability to safely operate a commercial vehicle.

(b) No employee shall report for duty or remain on duty performing a safety-sensitive function after testing positive for a controlled substance.

3. Prohibited Conduct Related to Alcohol

(a) No driver shall report to duty or remain on duty requiring the performance of a safety-sensitive function, or drive a commercial vehicle with a breath alcohol concentration level of (0.02) or greater.

(b) No employee shall use or possess alcohol while performing a safety-sensitive function.

(c) No employee shall perform a safety-sensitive function within four (4) hours after using alcohol.

(d) No employee shall use alcohol within eight (8) hours after an accident, or until after an alcohol test has been completed, whichever comes first

4. Prohibited Conduct - Post-Accident Testing

(a) No Driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

(b) No Driver shall refuse to submit to post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, or a follow-up alcohol or controlled substances test.

(c) No Driver shall make himself/herself unavailable for testing, or such Driver may be deemed to have refused to submit to testing.

S. Consequences of Prohibited Conduct

1. Immediate Step

Any employee who engages in prohibited conduct as set forth in paragraph R, shall, upon knowledge of the conduct by employee's supervisor, be immediately suspended from work with pay.

2. Followup Step

Management shall recommend to the Governing Board that disciplinary action up to and including termination of employment be taken with respect to any employee found to be in violation of prohibited conduct as set forth in paragraph R. The employee shall retain full rights to appeal management's recommended discipline pursuant to the District's policy pertaining to the discipline, demotion, suspension, and/or termination of

employees.

3. Any driver who has violated one or more of the foregoing directives and is returned to duty must comply with the requirements of the rehabilitation program prescribed by the substance abuse professional, submit to return to duty testing, and any and all follow up testing required in accordance with the provisions of Code of Federal Regulations section 382.605(c)(2)(11). Any Driver identified as needing assistance for alcohol misuse and/or controlled substance use shall also be evaluated by a substance abuse professional to determine that the Driver properly followed and rehabilitation program prescribed. The District assumes no liability for the costs of any rehabilitation plan.

T. A driver identified as needing help in resolving a drug or alcohol problem shall be evaluated by a Substance Abuse Professional (SAP) to determine whether he or she has properly followed the prescribed rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty. SAPs may be, but are not required to be, District employees. The District shall determine to which particular SAP a driver identified as needing help resolving a drug or alcohol problem shall be referred. .

U. Review of Drug Test Results - Medical Review Officer (MRO)

1. The MRO shall be a licensed physician with knowledge of substance abuse disorders. The function of the MRO is to review all negative and positive controlled substance test results. The MRO interviews employees who test positive before results are transmitted to the employer. A positive test result does not automatically identify an employee/applicant as having used controlled substances in violation of a DOT regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. The District has contracted with Greystone Health Services Corporation in accordance with the requirements of 49 CFR Part 40.33.

2. The MRO may report to the employer by a communication device, but in all instances a signed, written notification must be forwarded within three (3) business days of completion of the MRO's review.

3. The role of the MRO is to review and interpret confirmed positive test results obtained through the District testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

U. Release of Results to Other Employers

Information regarding the employee's test results will not be released to other employers without the employee's written consent. All records regarding the employee's controlled substance and alcohol test results are available to the employee.

V. Drug and Alcohol Testing Procedures

1. Laboratory Procedures

All specimen collections and testing procedures for controlled substances and alcohol testing shall be performed according to the specific guidelines designated in 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, by a laboratory.

2. Privacy

Procedures for collecting urine specimens shall allow for individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided because: (1) the specimen falls outside the normal temperature range; (2) the specific gravity of the last urine specimen provided by the employee was determined to have too low a specific gravity and creatinine concentration; (3) the collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample; (4) the employee is participating in follow up testing upon or after return to service following a previous determination that the employee used a controlled substance without medical authorization. In such cases, and upon the determination of the collection site supervisor or a designated employer representative, the specimen will be obtained under the direct observation of a same gender collection site person.

3. Confidentiality and Access to Records

Except as required or expressly authorized by law, driver information regarding records of use or alcohol or controlled substances shall not be released outside of the District. A driver, upon written request, is entitled to obtain copies of any records pertaining to the Driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.

4. The Medical Review Officer shall contact any driver whose positive test for controlled substances is confirmed or any Driver whose alcohol concentration is .02 or more. Supervisors are directed to contact the Medical Review Officer prior to dispatching the driver or within 24 hours of the test, whichever is earlier.

5. Drivers shall be notified of the results of random reasonable suspicion and post-accident tests for controlled substances if the test results are verified positive. The

employer shall also inform the Driver which controlled substance or substances were verified as positive.

6. Disclosure The District may disclose information required to be maintained by the FHWA pertaining to the Driver upon receipt of written consent, to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/or controlled substance test administered under this Policy, or from the District's determination that Driver engaged in conduct prohibited by this Policy, including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the Driver.

W. Reasonable Suspicion Testing and Procedures

1. Reasonable suspicion may be based upon observable phenomena, such as direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of drugs or alcohol. The factors listed below may demonstrate physical symptoms of being under the influence of drugs or alcohol. The following list is not intended to be an exhaustive list.

- (a) Equilibrium - Does the person stagger, sway side to side, or backward and forward when standing? Does the person stagger when walking?
- (b) Speech - Is the person's manner of speech slurred, rapid, or slow when compared to the person's normal manner of speech?
- (c) Mental Reaction - During conversations with the person or by observing the person in conversations with others, are the person's statements responsive or consistent with the topic or the sequence of the conversation? Does the person's attention appear to wander?
- (d) Odor - (of alcohol or controlled substance on breath, body or clothing) - Is there any suspicious odor, or is there a lack of such an odor? Any presence of such an odor or lack thereof should be noted.
- (e) Eyes - Are the person's eyes normal? Are the pupils constricted or dilated? Are the eyes extremely red or red rimmed? Does the person have difficulty focusing his or her eyes?
- (f) General appearance - Is the general appearance normal or abnormal? Is the person's clothing soiled, wrinkled, or torn? Is the person usually neat and well-groomed?
- (g) Physical Actions - Is a normally calm person hyperactive or nervous? Does he or she appear to act nervous or in a nervous way? Is a normally energetic, active, gregarious person lethargic, inattentive, or withdrawn?

- (h) Work Behavior - Is the person who normally produces work of high or sufficient quantity or quality producing less work or making more mistakes?
- (i) Mood - Is the person abnormally hostile, angry or short with others, or abnormally sad, or given to uncontrolled crying or depression when compared to the person's normal mood?
- (j) A pattern of abnormal conduct or erratic behavior.
- (k) Conviction for a drug-related or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or distribution.
- (l) Information provided either by reliable and credible sources or independently corroborated by other sources.
- (m) Newly discovered evidence that the employee tampered with a previous drug test.
- (n) The employee admits to using drugs or alcohol in violation of this Policy.

Mere hunches are not sufficient to constitute reasonable suspicion for purposes of this Policy. Additionally, no disciplinary action may be taken against an employee solely because the employee was arrested if the arrest did not lead to a conviction.

2. If a supervisor has a reasonable suspicion that an employee is under the influence of drugs or alcohol, the supervisor shall, if time and circumstances permit, follow these procedures:

- (a) Contact the Superintendent or Principal immediately.
- (b) Personally, observe the appearance, conduct, activity/inactivity, equilibrium, speech, attention span, behavior, mental and physical reactions, and note any odor of intoxicants on the breath or clothing of the employee. The supervisor shall make a written record of his or her observations within twenty-four (24) hours of the observed behavior. If the supervisor personally observes behavior giving him or her a reasonable suspicion of controlled substance use or being under the influence of alcohol, he or she shall report the observed behavior to the Superintendent or Principal immediately and make a written record of the observed behavior before the results of the drug test are released, or within twenty-four (24) hours of the behavior, whichever is earlier.
- (c) If reasonably possible under the circumstances, the Superintendent or Principal shall observe or have another supervisor or employee observe and note the above factors.

(d) If the other supervisor or employee agrees that the objective factors indicate a reasonable suspicion that the employee is under the influence of drugs or alcohol, the Superintendent or Principal shall:

(1) Have a conference with the employee immediately to allow the employee an opportunity to explain the facts concerning the employee's behavior or conduct (factors set forth in Paragraph M above). If the employee requests the presence of a representative, the Superintendent or Principal shall have the conference if a representative is available immediately. If no representative is available immediately, the Superintendent or Principal shall proceed to paragraph three (3) below.

(2) If, after the employee has had the opportunity to explain the facts, the Superintendent or Principal and the other supervisor or employee observer agree that there is reasonable suspicion that an employee is under the influence of alcohol or used illegal drugs, the employee may be directed to complete a drug or alcohol analysis testing procedure. Employees will only be tested for alcohol based upon a reasonable suspicion if the observations are made during, just before or just after the period of the work day in which the observations were made. If an alcohol test is not conducted within two (2) hours of a determination that reasonable suspicion exists, the District shall prepare and maintain a record explaining why no test was administered within the two hour period. No attempts to conduct alcohol tests shall be made after eight (8) hours following the determination of reasonable suspicion regarding alcohol, or after thirty-two (32) hours in the case of drugs.

(3) If the Superintendent or Principal determines that reasonable suspicion exists, he or she shall:

(a) Direct the employee to complete a drug or alcohol analysis testing procedure.

(b) Explain to the employee that he or she is directed to complete a drug or alcohol analysis testing procedure because his or her conduct and/or demeanor has raised reasonable suspicion of illegal drug or alcohol use.

(c) The employee may choose to refuse to be tested. However, the employee shall be informed that if he or she refuses to be tested, such action may constitute insubordination, and the employee may be subject to discipline up to and including termination of employment. If the employee is unconscious, or does not demonstrate the physical or mental capacity to consent or refuse, the appropriate medical and/or law enforcement officials shall be contacted.

2. If the employee refuses to complete a drug or alcohol testing procedure, as defined in this Policy, the Superintendent or Principal shall complete Form E and:
 - (a) Make arrangements to transport the employee home.
 - (b) If the employee declines transportation, the supervisor, with at least one other employee present, shall ask the employee to reconsider his or her decision.
 - (c) If the employee agrees to the testing process, the supervisor shall:
 - (1) Have the employee sign the required form attached hereto as Form D.
 - (2) Make arrangements to transport the employee to the drug or alcohol testing facility.
 - (3) After completion of the drug or alcohol analysis testing procedure, make arrangements to transport the employee home if supervisor thinks the employee is still incapable of driving his or her own vehicle.
3. The District will also require that an employee submit to drug or alcohol testing when the employee seeks to return to work after being absent for treatment or rehabilitation for alcohol or drug dependency.
4. An employee shall not be physically searched nor shall an employee's private property (purse, briefcase, car, etc.) be searched by a supervisor. However, if the Superintendent/Principal has a reasonable suspicion that an employee possesses an illegal drug, the employee may be asked for consent to search the employee's private property, and if the employee refuses, the Superintendent or Principal shall notify the appropriate law enforcement agency if there is reasonable suspicion to believe there has been a violation of this Policy.
5. A written report concerning the above activities shall be made by the Superintendent or Principal. This report shall be signed by the Superintendent or Principal and the observing supervisor and any other observing supervisor or employee.
6. If for any reason there is reasonable suspicion to believe that a Driver, as defined in this Policy, is under the influence of or impaired by alcohol or has used illegal drugs, and a drug or alcohol test is not performed within the requisite eight or twenty-four hour period, the Driver shall not be permitted to perform safety sensitive functions until an alcohol test is administered and the Driver's alcohol concentration measures less than .02 % or twenty four hours have elapsed following the determination that the Driver has violated the prohibitions of this Policy.

Date Policy Adopted By The Board: December 12, 1995
Date Policy Revised By The Board: October 9, 2003 (formerly B.P. 4021)

FORM A

APPLICANT'S VOLUNTARY CONSENT TO DRUG AND/OR ALCOHOL TESTING

I have applied for a position with the District. I acknowledge that the District is concerned about my fitness to perform the job for which I am being considered. Accordingly, the District has requested that I submit to a physical examination including drug and/or alcohol testing to be administered by a medical clinic and/or laboratory designated and chosen by the District, whose purpose and function is to determine whether I am fit to perform the job for which I am being considered.

I hereby consent to a physical examination including drug and/or alcohol testing as requested by the District.

I hereby authorize the medical clinic and/or laboratory to disclose all pertinent medical information and all results to the District. The release by the clinic and/or laboratory of the information and results, and the utilization of the information results by the District shall be for the limited purpose of providing the District with an opportunity to evaluate the information and results and thereby determine whether I am fit to perform the job for which I am being considered. The clinic and/or laboratory is only authorized to release the information and results for a period of up to and including 120 days from the date indicated below. This information shall include, but is not limited to, my medical information and reports; laboratory, scientific and other reports and/or tests; analyses of my condition and substances and/or chemicals which are causal factors for my condition; diagnoses and prognosis.

I acknowledge that executing this authorization is voluntary and that I have the right to receive a copy of this authorization if I request one.

Date: _____

APPLICANT'S SIGNATURE

Date: _____

FOR THE DISTRICT

JOB TITLE

Date: _____

WITNESS

FORM B

REFUSAL BY APPLICANT
TO SUBMIT TO DRUG AND/OR ALCOHOL TESTING

I have applied for a position with the District. I acknowledge that the District is concerned about my fitness to do the job for which I am being considered. One aspect of whether I am fit to do the job is whether I use drugs and/or alcohol. Accordingly, the District as part of a pre-employment physical examination has requested that I submit to drug and/or alcohol testing.

I understand that the testing is voluntary on my part, that I may refuse to submit to testing, and that such refusal may be considered by the District in determining whether to hire me.

I further understand that the test results may be released to the District, and that if the results are positive, I may not be considered for employment with the District.

With full knowledge of the foregoing, I hereby refuse to submit to drug and/or alcohol testing.

Date: _____

APPLICANT'S SIGNATURE

Date: _____

FOR THE DISTRICT

JOB TITLE

Date: _____

WITNESS

FORM C

DRUG AND/OR ALCOHOL TEST REQUEST FORM FOR APPLICANTS

For Responsible Manager to complete:

Applicant's Name: _____ Date: _____

Individual Making Request: _____

Applying for the Position of: _____

Substances to be Tested: _____

For laboratory and/or clinic to complete:

Applicant submitted sample: Yes: ___ No ___ Date: _____

Witness: _____

Sample received by: _____ Date: _____

Split specimens poured by: _____ Date: _____

Specimen No.1 Laboratory technician: _____

Test(s) run on: _____

Method used: _____

Results: _____

If results are positive:

Specimen No.2 Second Independent Laboratory and technician: _____

Test(s) run on: _____

Method used: _____

Results: _____

FORM D

EMPLOYEE'S CONSENT TO SUBMIT TO DRUG

AND/OR ALCOHOL TESTING

I acknowledge that the District is concerned about my ability to perform my job and that I have been requested to submit to drug and/or alcohol testing. I further acknowledge that I have been informed previously of the District's Alcohol and Drug Policy.

I understand that the testing is voluntary on my part, that I may refuse to submit, and that such refusal subjects me to discipline. I also understand that such discipline will not be based solely on such refusal, but shall be based on all the facts of the case.

I further understand that the test results maybe released to the District, and that the results may be used as grounds for discipline including termination.

With full knowledge of the foregoing, I hereby voluntarily agree to submit to drug and/or alcohol testing by the District-selected medical clinic and/or laboratory.

I hereby authorize the medical clinic and/or laboratory to disclose all pertinent medical information and all laboratory results to the District. The release by the clinic/and/or laboratory of the information and results, and the utilization of the information and results by the District shall be for the limited purpose of providing the District an opportunity to evaluate the information and results and thereby determine whether I am fit to perform my job. The clinic and/or laboratory is only authorized to release the information and results for a period of up to and including 120 days from the date indicated below.

This information shall include, but is not limited to: my medical information and reports; laboratory, scientific and other reports and/or tests; analyses of my condition and substances and/or chemicals which are causal factors for my condition; diagnoses and prognosis.

I acknowledge that executing this authorization is voluntary and that I have the right to receive a copy of this authorization if I request one.

Date: _____

EMPLOYEE'S SIGNATURE

Date: _____

FOR THE DISTRICT

FORM D (continued)

JOB TITLE

Date: _____

WITNESS

FORM E

**EMPLOYEE'S REFUSAL TO SUBMIT TO
DRUG AND/OR ALCOHOL TESTING**

I acknowledge that the District is concerned about my ability to perform my job and that I have been requested to submit to voluntary drug and/or alcohol testing.

I understand that the testing is voluntary on my part. I have been told the reasons for the requested drug and/or alcohol testing, and I have been advised that a refusal to consent to the drug and/or alcohol testing subjects me to discipline. However, I also have been told that such discipline will not be based solely on such refusal, but shall be based on all the facts of the case.

With full knowledge of the foregoing, I hereby refuse to submit to the requested drug and/or alcohol testing.

Date: _____

EMPLOYEE'S SIGNATURE

Date: _____

MANAGER/SUPERVISOR

Date: _____

JOB TITLE

Date: _____

WITNESS

On _____, I showed this form to employee. I attempted to/read it to the employee, but the employee refused to consent to the testing and refused to sign this form.

Date: _____

MANAGER

JOB TITLE

Date: _____

WITNESS

FORM F

DRUG AND/OR ALCOHOL TEST REQUEST FORM FOR EMPLOYEES

For Responsible Supervisor/Manager to Complete:

Employee's Name: _____ Date: _____

Individual Making Request: _____

Employee's Current Position: _____

Examples of facts giving rise to reasonable suspicion of drug and/or alcohol abuse or critical incident necessitating this test: _____

Substances to be Tested: _____

For laboratory and/or clinic to complete:

Employee submitted specimen: Yes: _____ No: _____ Date: _____

Witness: _____

Sample received by: _____ Date: _____

Split specimens poured by: _____ Date: _____

Specimen No.1 Laboratory technician: _____

Test(s) run or Method used: _____

Results: _____

If results are Positive:

Specimen No.2 Second Independent Laboratory and technician: _____

Test(s) run on: _____

Method used: _____

Results: _____

FORM F (contd.) DRUG AND/OR ALCOHOL TEST REQUEST FOR EMPLOYEES

Results received by: _____ Date: _____

Action(s) Taken: _____

FORM G

**[EMPLOYEE/ APPLICANT: TO BE COMPLETED
PRIOR TO DRUG OR ALCOHOL TESTING]**

I, _____, am currently taking the following prescription
or over- the-counter drugs:

<u>Substance</u>	<u>Prescribed By: (If Applicable)</u>	<u>Proof Submitted</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EMPLOYEE'S SIGNATURE

DATE

This form shall be placed in a sealed envelope prior to testing and be retained by the independent clinic and/or laboratory for verification of results.