

**ALCOHOL AND DRUG FREE WORKPLACE, DRUG TESTING,
SEARCHES FOR CONTRABAND**

Drug and Alcohol Testing: Drug and alcohol testing of employees and/or students may be conducted in accordance with applicable federal and/or state law as set forth in any Administrative Regulation or student handbook. The District shall comply with the Omnibus Transportation Testing Act of 1991, which helps to prevent accidents and injuries resulting from misuse of alcohol and controlled substances by employees whose duties require a commercial driver's license. For purposes of this policy, a "Driver" is defined as any employee, or casual, intermittent or occasional driver, or independent contractor who may be under contract with the District, who drives a District vehicle in circumstances which require the driver to be licensed with a commercial driver's license.

Alcohol and Drug Testing: The District requires employees to undergo testing for drugs and/or alcohol in accordance with District policy and administrative regulations. The District complies with all applicable state and federal laws and regulations.

Employee Questions: Any employee who has questions relating to the District's drug and/or alcohol testing policy, or about these regulations, or about other educational materials regarding drug and/or alcohol testing should contact District's Human Resource Director.

Employees Affected: All employees are subject to testing for drugs and/or alcohol upon application for employment, upon reasonable belief that the employee has violated these regulations, after an on-the-job accident that results in an injury or property or equipment damage, and after returning from participation in a treatment program.

Drug testing for safety-sensitive employees (generally bus drivers) is conducted using different procedures than those set forth in these regulations. Safety-sensitive employees should consult District Regulation DG-R1 for the procedures that apply to them.

Compliance: All employees are prohibited from using, possessing, or being under the influence of illegal drugs at all times. All employees are prohibited from using, possessing, or being under the influence of alcohol on school property or during a school-related activity.

Testing Situations:

A. Applicants and transfer/reassignment: Upon a conditional offer of employment, a job applicant will be required to undergo drug and/or alcohol testing. A refusal to undergo testing or a confirmed positive test result will serve as a basis for refusal to hire, provided that such testing does not violate the provisions of the Americans with Disabilities Act of 1990, 42 U.S.C., Section 12101 et seq., and provided that such testing is required for all applicants who have received a conditional offer of employment for a particular employment

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classification. Applicants may be placed in an assignment as a substitute employee until the results of such testing are received by the District. All positive results will be confirmed by an alternative test method.

B. Reasonable Belief: The District may require an employee to undergo drug and/or alcohol testing upon a reasonable belief that the employee has violated these regulations. Reasonable belief exists when: drugs or alcohol are on or about the employee's person or in the employee's vicinity, conduct on the employee's part suggests impairment or influence of drugs or alcohol, a report of drug or alcohol use while at work or on duty, information that an employee has tampered with drug or alcohol testing at any time, negative performance patterns, or excessive or unexplained absenteeism or tardiness. These observations or events must be documented. The documentation should include specific, observable facts and reasonable inferences that suggest the employee is experiencing personal problems and/or is using drugs or alcohol.

C. Post Accident: District employees may be tested for drugs and/or alcohol after an accident if the employee or another person has sustained a work-related injury or the District's property or equipment has been damaged while at work.

D. Post-Rehabilitation Testing: Any employee who is permitted to return to work after a positive test for drugs and/or alcohol, or participation in a treatment program for chemical dependency is subject to testing without notice for a period of two years, beginning with the day the employee returns to work.

Consent: Employees will not be required to sign any consent or waiver prior to drug and/or alcohol testing. All employees recognize that by continuing their employment with the District they have consented to the District's adoption of a drug and/or alcohol testing program.

Refusal: Under this regulation, an employee will be deemed to have refused to be screened if he or she:

1. Fails to appear for a test within a reasonable time after being directed to do so;
2. Fails to remain at the testing site until the test is complete (except in the case of a pre-employment applicant who leaves the testing site prior to the commencement of the test);
3. Fails to provide a urine specimen (except in the case of a pre-employment applicant who leaves the testing site prior to the commencement of the test);
4. In the case of a directly observed or monitored collection, fails to permit observation or monitoring;
5. Fails to provide an adequate amount of urine, despite the lack of a medical explanation for the failure;
6. Fails or declines to take an additional test upon request;
7. Fails to undergo a medical examination or evaluation as part of the verification

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process (except in the case of a pre-employment applicant, where the employee is deemed to have refused to test on this basis only if the test is conducted following a contingent offer of employment); or

8. Fails to cooperate with any part of the testing process.

Procedure for Alcohol Testing and Confirmation: Alcohol testing is generally performed using breath or saliva samples. Employees may be required to allow a blood sample under certain limited circumstances. Tests shall be conducted to afford the employee reasonable privacy, but may depend upon the circumstances of the situation. If an initial test demonstrates an alcohol concentration level of .02 or higher, then a confirmation test will be required. Confirmation tests for alcohol must be conducted at least 15 minutes after the initial test. No disciplinary action will be taken against an employee unless the confirmation test also results in an alcohol concentration of .02 or higher.

Procedure for Drug Testing: The District will use the following procedures to test for the presence of controlled substances, to protect the employee and the integrity of the testing processes, to safeguard the validity of the test results, and to ensure that those results are attributed to the correct employee:

1. With the exception of pre-employment applicants, an employee will not be given advance notice of a test.
2. Collection for testing may take place off-site or on campus.
3. If an employee shows overt signs of impairment or intoxication, the District will offer transportation to preclude the employee from driving home or to the collection site. The District may utilize a taxi service or transportation provided by another District employee, a family member of the employee, or law enforcement.
4. The collection of samples shall be performed under reasonable and sanitary conditions.
5. Samples shall be collected and tested with due regard to the privacy of the individual being tested. No employer or representative, agent or designee of the District shall directly observe an applicant in the process of producing a urine sample. However, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable sample.
6. A sample shall be collected in sufficient quantity for splitting into two separate specimens to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen.

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7. The cutoff levels to be applied in initially determining whether an employee has submitted a positive test are set forth by the State Board of Health regulations for Drug and Alcohol Testing.
8. The laboratory results of employees who are not in safety-sensitive positions will be reviewed by a review officer who has met the minimum criteria to qualify for that position in accordance with guidelines established by the State Board of Health.
9. Sample collection shall be documented, and the documentation procedures shall include:
 - a. labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
 - b. an opportunity for the employee/applicant to provide notification of any information which the employee/applicant considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information.
10. Sample collection storage and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration.
11. Sample testing procedures shall conform to scientifically accepted analytical methods and procedures, and shall include confirmation of any positive test result before the results of any test may be used as the basis for any action.
12. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

Results: If the laboratory makes a finding that the specimen is positive, adulterated, dilute, or refused, then the results will be reviewed by a qualified review officer. The review officer will give the employee an adequate opportunity to confidentially explain the positive result. The review officer will then use his or her expertise in determining whether the employee has presented a valid medical explanation for the positive result. If so, the positive result will not be verified, and no adverse action may be taken against the employee. If not, then the review officer will report the verified positive result to the District.

The review officer must make an effort to contact the employee so that he or she may confidentially explain a positive test result. However, the review officer may verify a result without speaking to an employee in certain instances, including but not limited to, when the employee has expressly declined to discuss the result, or has not responded to the medical review officer or review officer's invitation to discussion.

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Confirmation: If an employee believes his or her positive drug test result to be in error, then he or she may request a confirmation test which will be performed on the original specimen or a split-sample of the specimen. The confirmation test will utilize scientifically accepted methods of equal or greater accuracy than were required for the initial test. However, in the event that the confirmation test results in a negative finding, the employee will be reimbursed by the District.

The District will not initiate disciplinary action against any employee who has requested a confirmation test until the confirmation results have been returned as positive, adulterated, or diluted, or the employee has refused to provide a sample.

In any challenge to a positive drug or alcohol test, the applicant or employee has the burden to prove a breach in the chain of custody. The District must provide the chain of custody documentation at the request of any applicant or employee challenging his or her test result.

Record Retention: The District will maintain records as follows:

All drug and/or alcohol testing records will be stored separately from an employee's ordinary personnel file.

Records of all drug or alcohol test results and related information maintained by the District is the property of the District and, upon request of the applicant or employee tested, will be made available for inspection or copying to the applicant or employee.

Confidentiality: Records of all drug and alcohol test results and related information maintained by the District shall be the property of the District and, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. Except as provided below, District will not release such records to any person other than the applicant, employee or the District's review officer.

Records of all drug and alcohol test results and related information maintained by the employer may be released by the employer for any of the following purposes:

1. As admissible evidence by an employer or the individual tested in a case or proceeding before a court of record or administrative agency if either the employer or the individual tested are named parties in the case or proceeding;
2. In order to comply with a valid judicial or administrative order; or
3. To an employer's employees, agents and representatives who need access to such records in the administration of the Standards For Workplace Drug and Alcohol Testing Act.

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The testing facility will not release information regarding the employee's health, pregnancy status, or physical or mental condition to anyone except the employee. The testing facility will not release information regarding the presence of drugs for which the District does not test.

Consequences for Violation: Employees in violation of this policy may be subject to discipline, up to and including termination. All discipline will be determined on a case-by-case basis.

An employee who is tested post-accident and has a positive drug or alcohol test or who refuses to submit to a post-accident test will not be eligible for workers' compensation.

Remedies: Any person aggrieved by a willful violation of this policy may institute a civil action as provided by law.

Changes to this Policy: Employees will be provided at least ten (10) days' notice of any changes to the drug or alcohol testing policy. A copy of the policy will be provided to each applicant upon his or her acceptance of employment.

Searches for Contraband: The Board believes that in order to respond to the drug and alcohol abuse problems in our schools and to maintain a reasonably safe school environment, District will occasionally use trained dogs to search for drugs, alcohol, or contraband on District property. Searches of District property and grounds will be conducted during periodic unannounced visits either during school hours or non-school hours at the discretion of the Superintendent. All lockers, vehicles, school desks, and any area of concealment are subject to search. If a search dog indicates the possible presence of any material which the dog is trained to detect, that area or place or thing of concealment will be further searched by law enforcement officers or by designated school personnel. No student, employee, or other person will be the target of a search by a search dog. However, if the search dog indicates the possible presence of material which the dog is trained to detect on a person, a further search of that person's outer garments, purse, containers, or other items of concealment will be conducted by law enforcement officers or by designated school personnel. Searches which disclose the presence of any material which the dog is trained to detect, or any material or items which is forbidden by school policy may lead to further investigation by school officials or law enforcement officers, and/or disciplinary action by the school. Such disciplinary action may include suspension. No disciplinary action will be taken against a student without appropriate due process. Parental or legal guardian notification will be made in all cases where prohibited substances, materials, or items are discovered in the possession of a minor student. Strip searches or "body" searches are prohibited.