

# Policy 4251: Alcohol and Drug Testing for School Bus Drivers

It is the policy of Cozad Public Schools that its drivers should be free from drug and alcohol abuse. Consequently, the use of illegal drugs or improper use of alcohol by drivers is prohibited. The overall goal of drug and alcohol testing is to insure a drug-free and alcohol-free transportation environment and to reduce accidents, injuries and fatalities. The requirements established by this policy are in addition to other requirements established by Federal and State law and Board policy regarding the use of alcohol and drugs.

Cozad Public Schools are 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 the following:

1. Conducting pre-employment, reasonable suspicion, random, post-accident, returns to duty and follow-up testing for use of alcohol or drugs by such drivers.
2. Notifying drivers of the requirements and consequences of the program.
3. Maintaining appropriate records.

## Implementation Date

The testing program referred to in this policy shall be implemented on January 1, 1996.

## Definitions

For the purpose of this policy the following terms are defined:

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

*Driver:* Any employee that is required to hold a commercial driver's license in order to operate a vehicle owned by or on behalf of Cozad Public Schools.

*Drug:* Controlled substances: including marijuana, cocaine, opiates, amphetamines and phencyclidine.

*Medical Review Officer:* A licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who meets qualifications 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 or she is relieved from work and all responsibility for performing work including driving, waiting to be dispatched, inspecting and servicing equipment, supervising, performing or assisting 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 and clinical experience in the diagnosis and treatment of alcohol and drug related disorders.

### Program Coordinator

The Board shall designate the superintendent or 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

A driver shall not:

1. Report for duty or remain on duty requiring the performance of safety sensitive functions while having any alcohol concentration.
2. Report for duty or operate any vehicle owned by or on behalf of Cozad Public Schools while the operator possesses alcohol.
3. Perform safety sensitive functions within eight (8) hours after using alcohol.

A driver shall refrain from the use of alcohol subsequent to an accident:

1. A minimum of eight (8) hours following an accident; or
2. Until he/she undergoes a post-accident alcohol test; or
3. A determination has been made by the program coordinator or appropriate law enforcement official that a post-accident alcohol test will not be administered.

A driver shall not:

1. 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.
2. Report for duty, remain on 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 but before 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 on any driver as soon as possible after an accident:

1. Who was performing a safety sensitive function with respect to the vehicle, if the accident involved loss of human 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 accident scene
  - c. Disabling damage to one or more vehicles requiring the vehicle to be towed or transported away from the scene of the accident

A driver shall refrain from the use of alcohol subsequent to an accident:

1. A minimum of eight (8) hours following an accident; or
2. Until he/she undergoes a post-accident alcohol test; or
3. A determination has been made by the program coordinator or appropriate law enforcement official that a post-accident alcohol test will not be administered.

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

Drug testing shall be conducted on a random basis at unannounced times throughout the year in accordance with federal regulations. The tests 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, particularly observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of 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 must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines reasonable suspicion

exits to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the District must prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol test shall terminate after eight hours and the District will state in the record the reasons for not administering the test.

A qualified supervisor of District administrator who makes observations leading to a reasonable suspicion test shall make a written record of his/her observations within twenty-four (24) 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 safety sensitive function until the return-to-duty test produces a verified result that meets federal and school District standards and policies.

### Follow-Up Test

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 the 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 Tests

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 Procedures

The employer 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 the 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 Cozad Public Schools shall provide individual privacy in the collection of specimen samples to the maximum extent possible. The specimen security, proper identification and integrity are not compromised.

## Enforcement

Employees whose conduct involved alcohol or 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 any alcohol concentration shall not perform or continue to perform safety sensitive functions until Federal laws and school District standards and policies are met. Further employment actions up to and including termination may be instigated in accordance with the Drug Free Workplace Action of 1988 (PL 101-226), other state and federal laws and school District policies.

## Employee Records

Employees' alcohol and drug test results and records shall be maintained in strict confidentiality and released only in accordance of 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 this/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

Adopted 12/7/98

Reviewed 7.20.2009