



Pasco County Schools

Information for Employees Concerning Federal Drug and Alcohol Testing Program for Holders of Florida Class A or B Commercial Drivers' Licenses

Kurt Browning, Superintendent

OTETA Administrator:

**Paul M. Meeker, Esq.
Director of the Office for Employee Relations
7227 Land O' Lakes Blvd.
Land O' Lakes, FL 34638
813-794-2503**

July 2016

FOR HOLDERS OF FLORIDA CLASS A OR B COMMERCIAL DRIVER LICENSES

PURPOSE

The purpose of this policy is to deter the use of drugs and alcohol in the workplace by establishing standard procedures for drug and alcohol testing for all School Board employees who are required to hold a Florida Class A or B commercial driver license as a condition of employment and who, in the course of their employment, may be required to drive a vehicle for which a Florida Class A or B commercial drivers' license is required.

AUTHORIZATION

Employers of persons holding Florida Class A or B commercial driver licenses and performing safety-sensitive functions are required to implement a drug and alcohol testing program pursuant to the Omnibus Transportation Employee Testing Act of 1991 (OTETA), regulations of the Federal Highway Administration (FHWA) contained in 49 CFR Parts 40 and 382, et al, and Section 234.101, Florida Statutes.

QUESTIONS ABOUT THIS POLICY

Any covered employee who has a question about this policy should contact the Director of the Office for Employee Relations.

EFFECTS OF DRUG USE/ALCOHOL ABUSE

Chemical dependency is an illness which is preceded by the misuse and/or abuse of alcohol and other drugs. It is recognized that the problems associated with substance abuse are becoming increasingly commonplace in today's society. Individuals who suffer from chemical dependency often have one or more accompanying medical issues, including lung and cardiovascular disease, stroke, cancer, and mental disorders. Imaging scans, chest X-rays, and blood tests show the damaging effects of alcohol and drug abuse throughout the body.

Chemical dependency, either in the form of alcohol or illicit drugs, also has a negative impact on families. A national study from 2000 reports that more than eight million children are affected by parental substances abuse in the US, increasing their rate of accidental injuries, morbidity, being abused and neglected and future personal substance abuse.

According to the Center for Disease Control and Prevention, the abuse of tobacco, alcohol, and illicit drugs is costly to our Nation, exacting over \$600 billion annually in costs related to crime, lost work productivity and healthcare. In addition, the 2012 National Survey on Drug Use and Health (NSDUH), reports that an estimated 10.3

million people aged 12 or older (or 3.9 percent of adolescents and adults) reported driving under the influence of illicit drugs during the year prior to being surveyed.

In 1991 the Omnibus Transportation Employee Testing Act was enacted to promote and protect public safety by preventing illicit drug use and alcohol misuse by employees in public transportation occupations and other safety-sensitive professions.

NOTICE TO AFFECTED EMPLOYEES

This policy applies to: (1) all School Board employees who are required to hold a Florida Class A or B commercial drivers' license as a condition of employment and who, in the course of their employment, may be required to drive a vehicle for which a Florida Class A or B commercial drivers' license is required; (2) all School Board employees who may from time to time drive a district-owned or leased vehicle for which a Florida Class A or B commercial drivers' license is required.

The School Board will communicate to all covered employees prior to conducting drug and alcohol testing information about the program and provide the reasons for conducting said test(s). The School Board shall provide written notice of the required testing to covered employees and shall provide oral notice at the time of the actual testing.

EDUCATION AND TRAINING

The School Board shall provide educational materials that explain the requirements of the program and its policies and procedures with respect to meeting the requirements.

DEFINITIONS

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

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

Confirmation test: For alcohol testing, it is a second test, following a screening test with a result of 0.02 or greater, which provides quantitative data of alcohol concentration. For controlled substances testing, it is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screening test and which uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Commercial motor vehicle: A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle (1) has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross

weight rating of more than 10,000 pounds; or (2) has a gross vehicle weight rating of 26,001 pounds; or (3) is designed to transport 16 or more occupants , including the driver; or (4) is of any size and is used to transport of hazardous materials that requires the vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

Driver: Any person with a Florida Class A or B commercial driver license who operates a commercial motor vehicle. This includes but is not limited to full time, regularly employed drivers and casual, intermittent or occasional drivers. For the purposes of pre-employment/pre-duty testing only, the term “driver” includes a person applying to an employer to drive a commercial motor vehicle.

On-duty time: Means all time from the time a driver begins to work or is required to be in readiness for work until the time he/she is relieved from work and all responsibility for performing work.

Prohibited Substances or Drugs: Any illegal drug or substance as identified in Schedules I through V of Section 202 of the Controlled Substance Act and as further defined by 21 CFR §1300.11 through §1300.15. This includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine. Illegal use includes use of any illegal drug or misuse of legally prescribed or obtained prescription drugs.

Performing a safety-sensitive function: 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 function.

Refusal to submit to an alcohol or controlled substance test: Means that a driver (1) 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 the provisions of this law, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this law, or (3) engages in conduct that clearly obstructs the testing process, including adulterating or substituting a specimen

Safety-sensitive employee: Identified by the Federal Highway Administration as a driver of a vehicle which requires a Florida Class A or B commercial drivers’ license.

Safety-sensitive functions: Any of those on-duty functions set forth in 40 CFR §395.2 *On-Duty time*, paragraphs (1) through (7).

Screening test (also known as initial test): In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his/her system. In controlled substance testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

Drivers must not use or possess alcohol or any illicit drug while assigned to perform or actually performing safety-sensitive functions. Drivers must not report for service, or remain at work if under the influence or impaired by alcohol; have a breath concentration of 0.04 or greater; have used an illicit drug.

In addition, drivers may not use alcohol within four hours of reporting for service. Drivers with a breath alcohol concentration of 0.02 to 0.039 shall be removed from performing safety-sensitive duties for not less than 24 hours.

Drivers must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions for an authorized medical practitioner who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a vehicle.

If a driver's behavior or appearance suggests alcohol misuse or illicit drug use, a reasonable suspicion alcohol or drug test will be conducted. If a breath test cannot be administered to determine the presence of alcohol, the employee shall be removed from performing safety-sensitive duties for not less than 24 hours.

TESTING AND ANALYSIS

It is the intent of the School Board to comply with all alcohol and controlled substance testing procedures contained in 49 Code of Federal Regulations Parts 382.291, 192, and 395. The School Board recognizes the need to protect individual dignity, privacy and confidentiality in the program. Specimen analysis shall be conducted in a manner to assure a high degree of accuracy and reliability and using laboratory facilities which are certified by the U.S. Department of Health and Human Services and the Florida Agency for Health Care Administration. In order to comply with FDOT requirements, all alcohol and controlled substance testing must be requested/reported using OTETA forms. Tests shall be conducted to detect the presence of alcohol, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.

The following are conditions under which testing may be conducted as required by Federal regulations or when circumstances warrant.

1. Pre-Employment Testing

All applicants for employment for positions requiring a Florida Class A or B commercial driver license shall undergo testing prior to employment except as otherwise specified pursuant to 382.301(c). Written documentation must be provided by the candidate for employment to substantiate the exception.

2. Reasonable Suspicion Testing

A supervisor or designee outside the bargaining unit who has been trained in accordance with the requirements of FHWA Regulations shall require a driver to submit to an alcohol or drug test when the employer has reasonable suspicion to believe that a driver has violated the prohibitions contained in the FHWA Regulations.

Reasonable suspicion must be based on documented objective facts and circumstances which are consistent with the long- and short-term effects of alcohol or substance abuse including but not limited to physical signs and symptoms, appearance, behavior, speech, and/or body odor.

The required observations for alcohol and/or controlled substance reasonable suspicion testing shall be made by a supervisor or designee who has been trained for at least 60 minutes on alcohol misuse and an additional 60 minutes on controlled substance misuse.

3. Post-Accident Testing

Alcohol and drug testing will be administered following an accident when the driver was performing a safety-sensitive function. Accidents are defined to very limited circumstances by the FHWA which include loss of human life, driver received a citation from a law enforcement officer and either a driver or passenger received immediate medical treatment away from the scene of the accident or one of the vehicles involved was towed from the scene of the accident due to operational impairment. Such testing must be conducted within the time limits set forth in the FHWA Regulations (8 hours for alcohol testing and 32 hours for drug testing).

If a driver is required to take a post-accident alcohol test, he/she is prohibited from using alcohol within eight (8) hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.

4. Random Testing

All covered employees shall be subject to random, unannounced drug and alcohol testing. The annual random rate for alcohol testing shall be 10% of the covered employees. The annual random rate for controlled substance testing shall be 50% of the covered employees.

5. Return-to-Duty Testing

All employees who previously tested positive on a drug or alcohol test must submit to a return-to-duty test and test negative prior to returning to duty.

6. Follow-up Testing

Unannounced follow-up alcohol and/or controlled substance testing as directed by a substance abuse professional in accordance with FHWA Regulations shall occur when it is determined that a covered employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of drugs. The number and frequency of follow-up testing shall be determined by the substance abuse professional.

Any employee who questions the results of a required drug test set forth in this policy may request that a test of the split sample be conducted. This test must be conducted at a different testing laboratory.

Failure of the employee to submit to any required drug or alcohol test will be considered a positive test result in accordance with FHWA Regulations.

VIOLATION OF POLICY

An employee assigned safety-sensitive functions will be considered to be in violation of this policy when:

- he/she reports his/her use of prohibited substances or consumption of alcohol in violation of this policy; or
- when a drug test indicates the presence of alcohol in a concentration of 0.04 or higher; or
- when he/she refuses to take a required test
- when he/she refuses to submit to any test by adulterating or substituting a specimen.

DISCIPLINARY ACTION

Effective June 2, 1997, testing positive for either alcohol or drugs in violation of the Omnibus Transportation Employee Testing Act of 1991 (OTETA) regulations will result in the employment consequence of an automatic recommendation for termination, but every affected employee has options that he/she should pursue to avoid this consequence.

TREATMENT INFORMATION

It is generally accepted that alcoholism and other chemical dependencies are a form of illness that can be treated successfully if identified as early as possible, and if appropriate treatment programs are promptly instituted. Organizations offering such treatment programs are readily available in the community. Each covered employee who engages in prohibited conduct will be referred to a substance abuse professional for an evaluation to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance use.

PREEMPTION OF STATE AND LOCAL LAWS

The Omnibus Transportation Employee Testing Act and the regulations of the Federal Highway Administration contain express preemption of any State and Local requirements that are inconsistent with the federal drug and alcohol testing rules. The rules contemplate that many aspects of the employer/hip will be subject to collective bargaining. However, School Board policies and/or bargaining agreements cannot change or ignore the requirements for drug and alcohol testing documented in Florida Statutes or Federal Regulations.