

CLASSIFICATION: All Personnel

ADOPTED: 2/19/98

REVISED:

SUBJECT: Transportation, Workplace - Controlled
Substances and Alcohol Testing Program

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The County Superintendent of Schools has a long standing commitment to maintain the highest standards for driver safety and health. The use of controlled substances and/or the misuse of alcohol is contrary to these high standards.

The County Superintendent of Schools' Controlled Substances and Alcohol Testing Program shall apply to all employees who operate a commercial motor vehicle, including any vehicle designed to transport 16 or more passengers, hereinafter referred to as "drivers". This includes casual, intermittent, or occasional drivers as well as full-time, regularly employed drivers. Such drivers are called safety-sensitive drivers for purposes of this administrative regulation.

The County Superintendent of Schools or his/her designee shall contract for collection and testing services and shall ensure that testing procedures and facilities used for the tests conform with the requirements of the Code of Federal Regulations, Title 49, Part 40.

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Drivers using such a substance may continue to perform safety-sensitive functions only if a physician has advised the driver that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle.

Pre-Employment Tests

A pre-employment controlled substances test shall be required of an applicant only after he/she has been offered employment and shall be conducted in accordance with provisions of Administrative Regulation No. 4008, Medical Examinations.

Controlled substances tests shall be conducted before a driver performs any safety-sensitive function.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. They includes driving; waiting to be dispatched; inspecting

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and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the San Diego County Office of Education or paid work for any other entity.

Exceptions may be made for drivers who have participated in a controlled substance testing program required by law within the previous 30 days, provided that the County Superintendent of Schools has been able to make all verifications required by law.

Pre-employment testing shall be required of drivers returning to work after a layoff period if the employee was removed from the random testing pool. If the employee remains in the random testing pool, additional testing shall not be necessary.

Post-Accident Tests

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

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life, or
2. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved a serious medical injury, or
3. Who received a citation under state or local law for a moving traffic violation arising from the accident.

Drivers shall make themselves readily available for testing, absent the need for immediate medical attention.

A driver shall not use alcohol for eight hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first.

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If an alcohol test is not administered within two hours of the accident or if a controlled substances test is not administered within 32 hours, the County Superintendent of Schools shall prepare and maintain records explaining why the test was not conducted. Tests shall not be given if not administered within eight hours after the accident for alcohol or within 32 hours for controlled substances. Tests conducted by authorized federal state or local officials shall fulfill post-accident testing requirements. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

Random Tests

Alcohol tests and controlled substances tests shall be conducted on a random basis at unannounced times throughout the year. The number of random alcohol tests and controlled substances tests shall be at least equal to those required by federal regulations. 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. Alcohol tests shall be conducted just before, during, or just after the performance of safety-sensitive functions.

Reasonable Suspicion Tests

An alcohol test or controlled substances test shall be conducted if a supervisor or San Diego County Office of Education official trained in accordance with law has reasonable suspicion that a driver has violated the San Diego County Office of Education's alcohol or controlled substance prohibition. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before, 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 that reasonable suspicion exists to conduct such a test. If an alcohol test is not

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administered within two hours of determination of reasonable suspicion, the San Diego County Office of Education shall prepare and maintain a record explaining why the test was not conducted. Attempts to conduct alcohol tests shall terminate after eight hours. A supervisor or San Diego County Office of Education official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observations within 24 hours of the observed behavior or before the drug test results are released, whichever is earlier.

Enforcement

Any driver who refuses to submit to a post-accident, random, or reasonable suspicion test, or to a follow-up test as described below, shall not perform or continue to perform safety-sensitive functions. Therefore, any driver who so refuses shall be immediately suspended and subject to disciplinary action, up to and including dismissal.

A driver who is tested and found to have an alcohol concentration of 0.02 percent or greater but less than 0.04 percent may not perform or continue to perform safety-sensitive functions including driving a commercial motor vehicle until the start of the driver's next regularly scheduled duty period, but not less than 24 hours after the test was administered.

A driver who tests positive for a controlled substance or is found to have an alcohol concentration of 0.04 percent or greater shall be subject to disciplinary action up to and including dismissal.

A driver who violates the San Diego County Office of Education alcohol and/or controlled substances prohibition shall be provided with the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve controlled substance and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the driver needs in resolving such a problem. Any controlled substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person, or organization in which he/she has a financial interest, except under circumstances allowed by law.

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An employee identified as needing assistance in resolving a controlled substance or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation program. Any costs associated with the controlled substance professional are the responsibility of the employee.

Return-To-Duty Tests

If a driver who has violated the San Diego County Office of Education's controlled substance or alcohol prohibition is returned to performing safety-sensitive duties, a controlled substances or alcohol test shall be conducted.

Employees whose conduct involved a controlled substance shall not return to duty in a safety-sensitive function until the return-to-duty controlled substance test produces a verified negative result. Employees whose conduct involved alcohol shall not return to duty in a safety-sensitive function until the return-to-duty alcohol test indicates an alcohol concentration of less than 0.02 percent.

Follow-Up Tests

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

Follow-up testing shall consist of at least six tests in the first 12 months following the driver's return to duty. The substance abuse professional may terminate the follow-up testing at any time after the first six tests if he/she determines that testing is no longer needed. Testing shall not occur beyond 60 months from the date of the driver's return to duty.

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Maintenance of Records

Employee controlled substance and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of a controlled substance or alcohol, including any records pertaining to his/her controlled substances tests or alcohol tests. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the employee.

Notifications

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the San Diego County Office of Education's regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information.

Each driver shall sign a statement certifying that he/she has received a copy of the preceding materials.

Before any driver operates a commercial motor vehicle, the County Superintendent of Schools shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements.

Before controlled substances tests and alcohol tests are performed pursuant to the Code of Federal Regulations, Title 49; Part 382, the San Diego County Office of Education shall inform drivers that the tests are required by these regulations.

The San Diego County Office of Education shall notify a driver of the results of a pre-employment controlled substance test if the driver requests such results within 60 calendar days of being notified of the disposition of his/her employment application.

The district shall notify a driver of the results of random, reasonable suspicion, and post-accident controlled substances tests if the test results are verified positive. The San Diego County Office of Education shall also tell the driver which controlled substance(s) were verified as positive.

SAN DIEGO COUNTY OFFICE OF EDUCATION

ADMINISTRATIVE
REGULATION NO. 4008.1

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Policy No.: 4001

Administrative Regulation Nos.: 4001, 4008

Legal References: Education Code
35160.1
Vehicle Code
34500, 34501.12, 34520
United States Code, Title 49
2717
Code of Federal Regulations, Title 49
40, 382, 395