

CLARK COUNTY SCHOOL DISTRICT REGULATION

R-4231

ALCOHOL AND CONTROLLED SUBSTANCES (DRUG) TESTING

In compliance with the federal Omnibus Transportation Employee Testing Act of 1991, the Clark County School District requires applicants for safety-sensitive positions and employees in safety-sensitive positions to submit to testing for use of controlled substance(s) and misuse of alcohol. Additionally, the Clark County School District requires the same mandatory alcohol and drug testing of applicants and employees in positions which require the possession of a firearm or which may require an employee to discharge a firearm. This regulation does not limit or modify testing conducted pursuant to any other statute, regulation, procedure or contractual agreement.

A safety-sensitive employee is an individual who, according to the respective authorized District job description, must possess a commercial driver's license (CDL) or possess and/or discharge a firearm in the performance of his/her duties. Likewise a safety-sensitive position is that position wherein an incumbent employee or successful applicant must possess a commercial driver's license (CDL) or possess and/or discharge a firearm.

- I. Notwithstanding other established employment prerequisites, drug and alcohol testing requirements for employees/applicants who are required to possess a commercial driver's license will comply with the Omnibus Transportation Employee Testing Act of 1991. Testing by the Clark County School District of other employees/applicants, although not covered by federal regulation, may be handled in the same manner to those tested as a part of the federal regulation.

Testing for the use of drugs or misuse of alcohol for covered employees is required in the following circumstances:

- A. Pre-employment – conducted before an applicant or employee may perform a safety-sensitive function for the first time or when a District employee transfers to a covered safety-sensitive position. All applicants or employees applying for a safety-sensitive position will be expected to comply with this requirement before being placed on payroll as a safety-sensitive employee.
- B. Post-accident/incident – conducted as soon as practical following a vehicular accident where the employee in the safety-sensitive position was operating a vehicle within the scope of employment and the accident resulted in the loss of human life; the employee was issued a citation under state or local law for a moving traffic

violation as a result of the accident; when the vehicle operated by the safety-sensitive employee involved in the accident was disabled and could not be driven from the scene of the accident; or where the employee in the safety-sensitive position discharged a firearm.

A safety-sensitive employee subject to post-accident/incident testing shall remain readily available for testing or may be deemed by the District to have refused to submit to testing. An employee must submit to an alcohol and drug test immediately following a qualifying accident/incident.

- C. Reasonable suspicion – conducted when a trained supervisor observes specific, contemporaneous, articulable behavior, speech, or body odor that is characteristic of alcohol or substance misuse. The trained supervisor who makes the determination that reasonable suspicion exists to conduct an alcohol or drug test will not conduct the test.
- D. Random testing – conducted on a random unannounced basis. For purposes of random testing, safety-sensitive employees who are required to possess a CDL and employees who are required to possess/discharge a firearm will be considered as two distinct separate groups.
 - 1. A safety-sensitive employee required to possess a CDL will be tested according to the following:

The percentage of employees subject to random alcohol and drug testing each calendar year will equal at least the minimum rate established for that year by the appropriate agency of the United States Department of Transportation, Federal Highway Administration. In compliance with federal regulation, these limits may be adjusted annually.

Unannounced random alcohol (breath) testing will be conducted just before, during, or just after performing a safety-sensitive function. Unannounced random drug testing (urine, split-specimen) will be scheduled during a safety-sensitive employee's assigned work shift.
 - 2. All safety-sensitive employees who are required to possess a firearm or who may, in the course of their employment, be required to discharge a firearm will be subject to random drug and/or alcohol testing. A safety-sensitive employee

randomly selected in this manner may then be scheduled for testing at the District's sole discretion at any time.

An employee who submits to random drug and/or alcohol testing will do so at a district-approved laboratory within two (2) hours of the end of the employee's assigned work shift or at any time during the employee's assigned work shift. Employees who report for testing at an approved laboratory shall do so in civilian clothing. If available, employees may utilize official school district police department locker facilities to secure their duty equipment and change into civilian clothing prior to reporting for testing at the approved laboratory.

- II. Alcohol testing will be conducted by a certified Breath Alcohol Technician using an authorized breath-testing device.

Drug testing will be conducted by a laboratory certified and monitored by the U.S. Department of Health and Human Services.

- A. Drug testing will be by urine, split-specimen.
- B. All urine specimens will be analyzed for the illegal or misuse of drugs to include, but not limited to, the following:
 - 1. Marijuana (THC metabolite)
 - 2. Cocaine metabolites
 - 3. Amphetamines
 - 4. Methamphetamines
 - 5. Opiates (including heroin)
 - 6. Phencyclidine (PCP)

The expense of testing required by federal and/or District regulation will be borne by the District.

- C. A safety-sensitive employee who tests positive for alcohol misuse or illegal/illicit drugs, absent a legitimate medical reason for a positive result, will be subject to dismissal and immediately removed from duty, without pay, whether or not there is additional evidence that the employee's job performance has been negatively affected by alcohol misuse or illegal/illicit drug use.
- III. An employee discharged because of a positive test for alcohol misuse and/or illegal/illicit drugs may apply for consideration for reemployment

with the Clark County School District after successful completion of a rehabilitation program at the expense of the discharged employee, submission of the necessary employment screening documents for position(s) open to out-of-district applicants and, if subsequently employed by the District in any position, be subject to return-to-employment and follow-up testings.

Return-to-employment and follow-up testing – conducted prior to a former employee's return to employment after engaging in conduct prohibited (alcohol misuse or drug use) by federal regulation, District regulation, or District procedures. Required follow-up testing shall also occur as directed by a substance abuse professional of the District's choice not less than at least six (6) times within the twelve (12) months following the employee's return to duty. Required follow-up testing may be extended up to but not beyond sixty (60) months from the date of the former employee's reemployment.

IV. Unless required by federal law, District regulation(s), or District procedures, the Clark County School District is not required to provide rehabilitation, pay for treatment, or reinstate an employee who misuses alcohol or uses drugs. All costs for employee rehabilitation, return-to-employment testing and evaluation by a substance abuse professional will be borne by the employee wishing to be reemployed.

A. Unauthorized or illegal/illicit use of drugs is prohibited for all District employees, at all times, whether on or off duty and will subject the employee to dismissal.

For purposes of this subsection, the term "illegal/illicit use of drugs" shall not include the use of marijuana/THC, if the use of marijuana/THC is:

1. Done by a non-safety-sensitive employee;
2. Done in a manner that is lawful pursuant to Nevada law;
3. Is not done during working hours; and
4. Is not done on any District property, at any District-related activity or event, or while performing any District work.

Police officers and safety-sensitive employees are not allowed to possess, use, or be under the influence of marijuana/THC at any time.

B. No safety-sensitive employee will report for duty within four (4) hours of using alcohol or remain on duty while under the influence of or while having an alcohol concentration in excess of 0.02 grams

of alcohol per 210 liters of breath. No safety-sensitive employee will use alcohol while on duty.

- C. An employee will be subject to dismissal for possession, use or being under the influence of illicit drugs, use of or being under the

influence of medically prescribed drugs which may negatively affect the employee's ability to perform assigned duties; or for drinking, consumption, or being under the influence of alcohol during working hours.

For purposes of this subsection, the term "illicit drugs" shall not include marijuana/THC, if the possession, use, or state of being under the under influence of marijuana is:

1. Done by a non-safety-sensitive employee;
2. Done in a manner that is lawful pursuant to Nevada law;
3. Is not done during working hours; and
4. Is not done on any District property, at any District-related activity or event, or while performing any District work.

Police officers and safety-sensitive employees are not allowed to possess, use, or be under the influence of marijuana/THC at any time.

- V. An employee who misuses alcohol as prohibited in IV.B. above or uses drugs illegally/illicitly is subject to dismissal, and will be immediately removed without pay from performing a safety-sensitive function whether or not there is additional evidence that such prohibited behavior has adversely impacted the employee's job performance. A safety-sensitive employee who refuses or fails to take a required test as directed will be treated in the same manner as a safety-sensitive employee testing positive, and such refusal or failure will result in the employee's immediate removal from duty without pay and dismissal.

Employee misconduct is not excused by "self-identification" for any alcohol or drug problem.

A positive test for alcohol misuse or illegal/illicit use of drugs or an employee's refusal or failure to comply with the requirements of federal or District regulation, and corresponding procedures for implementation, will result in the employee's immediate removal from duty without pay and a recommendation for dismissal.

- VI. Supervisors (administrative and non-administrative) responsible for safety-sensitive employees and job functions will be trained, by approved trainers, in the identification of articulable behavior characteristics of the misuse of alcohol and illegal/illicit use of drugs. At a minimum, training will conform with those requirements established by the federal regulation.
- VII. The Clark County School District administration will develop specific procedures for implementation of this regulation and communicate the procedures for implementation and other requirements to safety-sensitive employees.
- VIII. The administration, Human Resources Division, will identify a professional vendor or vendors to: manage the components of this regulation; insure the integrity and confidentiality of employee identification, testing, and corresponding reporting of the results of each test; and manage and maintain all necessary records related to employee testing and the implementation of this regulation and the corresponding federal regulation.

Review Responsibility: Human Resources Division
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