

AUSTIN INDEPENDENT SCHOOL DISTRICT

As a requirement of the U.S. Department of Transportation, I, _____
_____, understand that it is my responsibility
to read, understand and abide by the Austin Independent School District
Transportation Department Procedures and Classified Personnel Policies.

As a further requirement, I, _____,
understand that I must carry only one valid drivers license (Texas Department
of Public Safety Class A or B) and will immediately report to my respective
Supervisor any citation which I receive or any accident in which I am involved
in either a School Bus or personal vehicle.

Signature

Date

Witness

Date

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LEGAL)

SEARCHES—
GENERAL RULE

Citizens, including District employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Amendment IV; Tex. Const. Art. I, Sec. 9*

The District may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

O'Connor v. Ortega, 480 U.S. 709 (1987); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

In addition, the District may search an employee's workplace for noninvestigatory, work-related purposes, if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. *O'Connor v. Ortega*, 480 U.S. 709 (1987)

DRUG / ALCOHOL
TESTING

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989)

RANDOM DRUG
TESTING

The District may conduct drug tests, without a warrant and without individualized suspicion, when the test serves special governmental needs that outweigh the individual's privacy expectation. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989); *National Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989)

SAFETY-
SENSITIVE
POSITIONS

Random alcohol and drug testing of employees in "safety-sensitive" positions may be permissible when the intrusiveness of the search is minimal and the Board is able to demonstrate that the drug-testing program furthers its interest in ensuring the physical safety of students. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment including a large number of children. *Aubrey v. Sch. Bd. of LaFayette Parish*, 148 F.3d 559 (5th Cir. 1998)

Note: The following testing requirements apply to every employee of the District who operates a commercial motor vehicle and is subject to commercial driver's license requirements in accordance with federal regulations.

EMPLOYEE STANDARDS OF CONDUCT
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(LEGAL)

TESTING OF DRIVERS	<p>The District shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates law or federal regulation. <i>49 U.S.C. 31.306; 49 CFR Part 382</i></p>
COMMERCIAL MOTOR VEHICLE DEFINED	<p>A commercial motor vehicle is defined as a motor vehicle used to transport passengers or property that:</p> <ol style="list-style-type: none">1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or2. Has a gross vehicle weight rating of 26,001 or more pounds; or3. Is designed to transport 16 or more passengers, including the driver. <p><i>49 CFR 382.107</i></p>
TESTING PROCEDURES	<p>The District shall ensure that all alcohol or controlled substances testing conducted under 49 CFR Part 382 complies with the procedures set forth in 49 CFR Part 40. <i>49 CFR 382.105</i></p>
TESTS REQUIRED	<p>Required testing includes pre-employment, postaccident, random, reasonable suspicion, return-to-duty, and follow-up testing. No driver shall refuse to submit to a postaccident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a return-to-duty or follow-up alcohol or controlled substances test. The District shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. <i>49 CFR 382.211, 382.309</i></p>
EDUCATIONAL MATERIALS	<p>The District shall provide educational materials that explain the federal requirements and the District's policies and procedures with respect to meeting these requirements and shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Written notice to representatives of employee organizations of the availability of this information shall also be provided. The materials shall include detailed discussion of at least the items listed at 49 CFR 382.601. <i>49 CFR 382.601</i></p>
REPORTS	<p>A district required by federal safety regulations to conduct alcohol and drug testing of an employee who holds a commercial driver's license shall report the following information to the Department of Public Safety:</p>

EMPLOYEE STANDARDS OF CONDUCT
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1. A valid positive result on an alcohol or drug test and whether the specimen producing the result was a dilute specimen.

“Valid positive result” means an alcohol concentration of 0.04 or greater on an alcohol confirmation test, or a result at or above the cutoff concentration levels listed in 49 CFR 40.87 on a confirmation drug test.

“Dilute specimen” means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

2. A refusal to provide a specimen for an alcohol or drug test.
3. An adulterated specimen or substituted specimen, as defined at 49 CFR 40.3, on an alcohol or drug test.

For purposes of this requirement, the term “employee” includes applicants for employment subject to preemployment testing.

Trans. Code 644.251–644.252; 29 CFR 40.3

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

REASONABLE
SUSPICION
SEARCHES

The District reserves the right to conduct searches when the District has reasonable cause to believe that a search will uncover evidence of work-related misconduct. The District may search the employee, the employee's personal items, work areas, lockers, and private vehicles parked on District premises or worksites or used in District business.

Note: The following provisions apply to employees who are covered by the federal Department of Transportation (DOT) rules.

DEPARTMENT OF
TRANSPORTATION
TESTING PROGRAM

The District shall establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by the drivers of commercial motor vehicles, including school buses. The primary purpose of the testing program is to prevent impaired employees from performing safety-sensitive functions.

DRUG-RELATED
VIOLATIONS

The following constitute drug-related violations:

1. Refusing to submit to a required test for alcohol or controlled substances.
2. Providing an adulterated, diluted, or a substituted specimen on an alcohol or drug test.
3. Testing positive for alcohol, at a concentration of 0.04 or above, in a postaccident test.
4. Testing positive for controlled substances in a postaccident test.
5. Testing positive for alcohol, at a concentration of 0.04 or above, in a random test.
6. Testing positive for controlled substances in a random test.
7. Testing positive for alcohol, at a concentration of 0.04 or above, in a reasonable suspicion test.
8. Testing positive for controlled substances in a reasonable suspicion test.

The Superintendent shall designate a District official who shall be responsible for ensuring that information is disseminated to employees regarding prohibited driver conduct, alcohol and controlled substances tests, and the consequences that follow positive test results.

CONSORTIUM

With specific Board approval, the Superintendent may contract on behalf of the District with outside consultants and contractors and

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DHE
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work with a consortium of other local governments to secure the testing services, educational materials, and other component elements needed for this program.

Under such contract, the consortium shall be responsible for implementing, directing, administering, and managing the alcohol and controlled substances program within the U.S. Department of Transportation guidelines. The consortium shall serve as the principal contact with the laboratory and for collection activities in assuring the effective operation of the testing portion of the program.

REASONABLE
SUSPICION
TESTING

Only supervisors specifically trained in accordance with federal regulations may, based upon reasonable suspicion, remove a driver from a safety-sensitive position and require testing for alcohol and/or controlled substances. The determination of reasonable suspicion shall be based on specific observations of the appearance, behavior, speech, or body odors of the driver whose motor ability, emotional equilibrium, or mental acuity seems to be impaired. Such observations must take place just preceding, during, or just after the period of the workday that the driver is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a controlled substance reasonable suspicion test.

CONSEQUENCES
OF POSITIVE TEST
RESULTS

In addition to the consequences established by federal law, a District employee confirmed to have violated the District's policy pertaining to alcohol or controlled substances shall be subject to District-imposed discipline, as determined by his or her supervisor(s) and the Superintendent. Such discipline may include any appropriate action from suspension without pay during the period of removal from safety-sensitive functions, up to and including termination of employment. [See DF series]

In cases where a driver is also employed in a nondriving capacity by the District, disciplinary action imposed for violation of alcohol and controlled substances policies shall apply to the employee's functions and duties that involve driving. Additionally, upon recommendation of the employee's supervisor, disciplinary measures up to and including termination of employment with the District may be considered.

ALCOHOL RESULTS
BETWEEN 0.02 AND
0.04

A driver tested under this policy and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall be suspended without pay from driving duties for 24 hours. A subsequent violation may subject the driver to termination in accordance with Board policy.

EMPLOYEE STANDARDS OF CONDUCT
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DHE
(EXHIBIT)

POSTACCIDENT TESTING

This table depicts the circumstances under which an employer is required to perform a postaccident alcohol or controlled substances test, in accordance with 49 CFR 382.303(a).

Types of accidents involved	Citation issued to the CMV driver	Test must be performed by the employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

RECEIPT OF AISD BOARD POLICY REGARDING ALCOHOL/DRUG TESTING

Please Print

Name: _____ Employee# _____

Job Title: _____

Campus/Department: _____

I acknowledge receipt of the Board Policy regarding alcohol and drug testing. I agree to read the policy regarding alcohol and drug testing and abide by it.

I accept responsibility for contacting my supervisor or the appropriate department if I have any questions or need further explanation regarding this policy.

Signature: _____

Date: _____

Note: Sign and date this form. Return the original to the Office of Human Resources for placement in your personnel file. Keep a copy for your file.

CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY

**Austin Independent School District
1111 W. 6th St. #A210
Austin, Texas 78703
PHONE: (512) 414-1714 FAX: (512) 414-5898**

This policy follows Department of Transportation and Federal Motor carrier Safety Administration regulations found in 49 CFR Parts 40 and 382 (attached).

If you have questions about this controlled substances and alcohol-testing program, contact, Human Resources Classified Office at 414-1714, our designated company official to answer questions.

All drivers who drive Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL) are subject to controlled substances and alcohol testing.

The definition of driver Safety Sensitive Function is found in 49 CFR Section 382.107 (attached). Safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety sensitive function shall include:

(1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

(2) All time inspecting equipment as required by '392.7 and '392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All time spent at the driving controls of a commercial motor vehicle in operation;

(4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of '393.76 of this subchapter);

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

Safety sensitive function shall include:

And

(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Driver Conduct that is prohibited is found in 49 CFR Part 382 Subpart B (attached).

'382.201 No driver shall report for duty requiring the performance of a safety sensitive function with an alcohol concentration of 0.04 or greater.

'382.205 No driver shall use alcohol while performing a safety sensitive function.

'382.207 No driver shall perform a safety sensitive function within 4 hours after using alcohol.

'382.211 No driver shall refuse to submit to any required alcohol or controlled substances test.

'382.213 No driver shall report for duty requiring the performance of a safety sensitive function when the driver uses controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 49 CFR '382.107. This must not interfere with the driver's ability to perform a safety sensitive function.

'382.215 No driver shall report for duty or remain on duty requiring the performance of a safety sensitive function, if the driver tests positive for controlled substances.

The circumstances in which the driver will be tested are incorporated and found in 49 CFR Part 382 Subpart C (attached)

'382.301 Pre-employment testing;	'382.307 Reasonable Suspicion testing
'382.303 Post Accident testing;	'382.309 Return to duty testing;
'382.305 Random testing, Per the prevailing rate as required by U.S. DOT;	'382.311 Follow up testing.

All definitions, regulations, and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard test validity, and insure results are attributed to correct driver are found in 49 CFR Part 40 and 382. They are incorporated into this policy and are attached.

All CDL drivers who drive CMVs are required to submit to alcohol and controlled substances testing.

Refusal to submit to an alcohol or controlled substances test is defined in 49CFR '382.107 (attached).

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

(1) Fails to provide adequate breath for alcohol testing as required by 49 CFR Part 40 of this title, 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 part,

(3) Engages in conduct that clearly obstructs the testing process.

The consequences for violators of Subpart B are incorporated and found in 49CFR Part 382 Subpart E (attached).

(1) All CDL drivers will be removed from any safety sensitive position.

(2) The driver must see a Substance Abuse Professional to ever drive again, anywhere.

(3) The driver must take a Return To Duty test with a Negative result and/or an Alcohol test with results below .02.

The consequences for CDL drivers tested for Alcohol with results at .02 but below .04 are that the driver will be removed from any safety sensitive position for 24 hours. 49 CFR Section 382.505 (a) (attached).

Information concerning the effects of drug and alcohol abuse is attached.

COMPANY POLICY

Any driver that violates 49 CFR Part 382 Subpart B shall be terminated for cause.

LIST OF SUBSTANCES ABUSE PROFESSIONALS

Contact: Austin Independent School District Employee Relations at 414-1721.

Austin Independent School District

1111 W. 6th St. #A210

Austin, Texas 78703

PHONE: (512) 414-1714

FAX: (512) 414-5898

This is to certify that I have received a copy of the company Alcohol and Controlled Substances policy.

CDL Driver Signature

Date

Printed Name

Employee ID Number

REQUEST/CONSENT FOR INFORMATION FROM PREVIOUS EMPLOYER ON ALCOHOL &
CONTROLLED SUBSTANCES TESTING

Strictly Confidential

Print Name of Applicant: _____ Social Security No.: _____

I authorize my Previous Employer, _____

at Address: _____ and Phone Number: _____

to release and forward information requested under 49 CFR section 382.405 (f) and (h) concerning my alcohol and controlled substances testing records to:

Mayra V. Lopez
Coordinator for Classified Human Resources
Austin Independent School District (A.I.S.D.)
1111 W. 6th Street, Suite #A-210
Austin, Texas 78703-5399

Applicant ' s Signature: _____ Date: _____

APPLICANT— DO NOT FILL IN BEYOND HERE

Request for information from the Previous Employer to the following questions are made under authority of 49 CFR382.413:

- (1) Has the above named individual had an alcohol test with a result of 0.04 alcohol concentration or greater within the past two years? Yes () or No ()
- (2) Has the above named individual had a controlled substances test with a verified positive controlled substances test result within the past two years? Yes () or No ()
- (3) Has the above named individual refused to be tested for alcohol or controlled substances within the past two years? Yes () or No ()

If " yes " is the answer to any of the questions, please give the name and address of the Substance Abuser

Professional: _____

Address: _____

City: _____ State _____ Zip _____ Phone #: _____

This section complete by (Signature): _____ Date: _____

Information verified by: _____ Title: _____

Date: _____

Method of receiving information: Personal Interview () Telephone Interview () Letter () _____

This information is being requested by prospective employer in compliance with the Department of Transportation Regulations 49 CFR Part 382 and must be forwarded as per this regulation within 14 days of receipt.