



40 **When an Employee Will be Tested**<sup>5</sup>

41 Employees will be tested as follows:

- 42 1. Pre-employment tests will be conducted before applicants are hired or after an offer  
43 to hire, but before actually performing safety-sensitive functions for the first time.  
44 Employees will also be tested when transferring from a non-safety-sensitive  
45 position to a safety-sensitive position.
- 46 2. Post-accident tests will be conducted after accidents (as defined by federal  
47 regulation) on employees whose performance could have contributed to the  
48 accident.
- 49 3. Reasonable suspicion tests will be conducted when a Principal/Tech Director/  
50 designee observes behavior or appearance that is characteristic of alcohol misuse or  
51 prohibited drug use.
- 52 4. Random tests will be conducted on an unannounced basis just before, during, or just  
53 after performance of safety-sensitive functions.
- 54 5. Return to duty and follow-up tests will be conducted when an individual who has  
55 violated prohibited alcohol or drug conduct standards returns to performing safety-  
56 sensitive duties. Follow-up tests will be unannounced and at least six (6) tests will  
57 be conducted in the first twelve (12) months after an employee returns to duty.  
58 Follow-up testing may be extended for up to sixty (60) months following return to  
59 duty.

60 **Over the Counter Medications**

61 Over the counter medications and other substances may result in a positive test result. A  
62 positive test result will subject an employee to the consequences of drug use as provided  
63 under the "Consequences of Drug Use" paragraph of this policy.<sup>6</sup>

64 **Refusal to Take Tests**

65 Refusal to submit to testing as required by this policy will constitute a verified drug or  
66 alcohol test result. An employee who refuses a required test will be subject to the same  
67 sanctions as an employee who tests positively for drug or alcohol misuse.

68 **Removal from Safety-Sensitive Functions Prior to Test Administration or Return of**  
69 **Test Results**

70 Employees will be immediately removed from safety-sensitive functions when a trained  
71 supervisor observes behavior or appearance that is characteristic of alcohol misuse or  
72 prohibited drug use, or after the occurrence of an accident that requires a post accident test.<sup>7</sup>

73 **Consequences of Alcohol Misuse**

74 Employees who engage in prohibited alcohol conduct will, at a minimum, be immediately  
75 removed from safety-sensitive functions. Employees who have engaged in alcohol misuse  
76 will not be returned to safety-sensitive duties until they have been evaluated by a substance  
77 abuse professional designated by the District and have complied with any treatment  
78 recommendations to assist them with an alcohol problem. In addition, employees who  
79 engage in prohibited alcohol conduct may be subject to further disciplinary action, up to and  
80 including dismissal.

81 **Consequences of Drug Use**

82 Employees who test positively for drug use will, at a minimum, be immediately removed  
83 from safety-sensitive duty when a physician designated as the District's MRO has  
84 interviewed the employee and determined that the positive drug test resulted from the  
85 unauthorized use of a controlled substance.

86 If the positive test result is determined by the MRO to be caused by the authorized use of a  
87 controlled substance or over-the-counter medication, the employee will not be removed  
88 from the safety-sensitive position unless the MRO determines that the substance impairs  
89 the employee's ability to safely carryout the safety-sensitive function. An employee will  
90 not be returned to safety-sensitive duties until he/she has been evaluated by a substance  
91 abuse professional designated by the District or the MRO, has complied with rehabilitation  
92 recommendations, and has a negative result on a return-to-duty test. Follow-up testing will  
93 be conducted to monitor the returned employee's continued abstinence from drug use. In  
94 addition, employees who engage in the unauthorized use of controlled substances may be  
95 subject to disciplinary action up to and including dismissal.

96 **Employee Education Programs**

97 The Superintendent or his/her designee will provide information and educational materials  
98 to safety-sensitive employees and supervisors of safety-sensitive employees on the  
99 consequences of drug and alcohol abuse and treatment resources in accord with the  
100 requirements of the Testing Act. At a minimum, supervisors of safety-sensitive employees  
101 will annually be required to attend at least one hour of training on the signs and symptoms  
102 of drug use and an additional hour on the signs and symptoms of alcohol abuse.

103 **Rehabilitation and Treatment Programs**

104 Unless otherwise agreed through collective bargaining with employees, the District will not  
105 pay for the rehabilitation and treatment of any employee who has tested positive for drug or  
106 alcohol use, whether or not such rehabilitation and treatment is made a precondition of that  
107 employee's continued employment or return to a safety-sensitive position.

108 **Cost of Testing**

109 Unless otherwise agreed through collective bargaining with employees, the District will not  
110 pay for tests required by the Testing Act or this policy.

111 **Dissemination of Policy Procedures**

112 Each employee covered by this policy and a representative of a recognized local employee  
113 organization designated by an employee will be provided with written notice of the  
114 District's anti-drug and anti-alcohol policies and procedures.

115 **D11 Transportation Employee Drug Testing Reference and Notes**

116 U.S. Dot web link to employee testing regulations and guidance:  
117 [http://www.dot.gov/ost/dapc/NEW\\_DOCS/part40.html](http://www.dot.gov/ost/dapc/NEW_DOCS/part40.html)

118  
119  
120  
121

122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157

**Legal Reference:**

<sup>1</sup> 21 V.S.A. 514(2) requires employers who intend to require drug test of employees to "...provide all persons tested with a written policy that identifies the circumstances under which persons may be required to submit to drug tests, the particular test procedures, the drugs that will be screened, a statement that over-the-counter medications and other substances may result in a positive test and the consequences of a positive test result. The employer's policy shall incorporate all provisions of this section."

The federal requirements for a policy are not as clear. 49 C.F.R. 382.601 is titled "(E)mmployer obligation to promulgate a policy on the misuse of alcohol and use of controlled substance..." The text of the regulation, however, refers only to "informational materials." It appears that the predominant belief is that the federal regulations do require an employee "policy," and models are included in many model policy manuals.

<sup>2</sup> See 49 C.F.R. 382.107 for definition of safety-sensitive functions.

<sup>3</sup> These are the drugs listed in the federal "Procedures for Transportation Workplace Drug and Alcohol Programs." 49 C.F.R. Part 40.3. Note that Vermont law allows testing for drugs listed in 21 V.S.A. 511(3).

<sup>4</sup> 49 C.F.R. 40.2 (c).

<sup>5</sup> 49 U.S.C. 31306(b)

<sup>6</sup> 21 V.S.A. 514(2).

<sup>7</sup> Federal Motor Carrier Safety Administration *Procedures for Transportation Workplace Drug and Alcohol Testing Programs*, <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/40.htm>.

Fairfield                      Town                      City                      FCSU                      BFA

1<sup>st</sup> Reading

2<sup>nd</sup> Reading

Date Warned:

Date Adopted: