



Book	Policy Manual
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#### **4162 - DRUG AND ALCOHOL TESTING OF CDL HOLDERS AND OTHER EMPLOYEES WHO PERFORM SAFETY-SENSITIVE FUNCTIONS**

The Board of ~~Trustees~~ ~~Managers~~ believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with School Cooperative-owned and/or operated ("Cooperative-owned") vehicles (collectively, "Covered Employees") must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' health and well-being.

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply:

- A. The term "alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. The term "illegal drug" means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- C. The term "controlled substance" includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- D. The term "controlled substance abuse" includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- E. The term "safety-sensitive functions" includes all tasks associated with the operation and maintenance of Cooperative-owned vehicles. This term further includes any period in which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- F. The term "Covered Employee" means all commercial driver license (CDL) holders and regular and substitute bus drivers as well as other staff who operate, inspect, service, and condition a commercial motor vehicle (CMV) while on duty, regardless of whether they are required to hold a CDL. The Board expects all CDL holders to comply with Board Policy 4122.01 on Drug-Free Workplace which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times. Further, the Board concurs with the Federal requirement that all Covered Employees should be free of any influence of alcohol or controlled substances while on duty.

The Board directs the Director to establish a drug and alcohol testing program whereby each Covered Employee is tested for the

presence of alcohol in his/her system as well as for the presence of the following controlled substances:

- A. Marijuana
- B. Cocaine
- C. Opioids
- D. Amphetamines
- E. Phencyclidine (PCP)

**[x ] OPTION #1**

The drug tests are to be conducted in accordance with Federal and State regulations (**x**) and Administrative Guideline 4162A - Alcohol Testing Program for CDL Holders and Employees who Perform Safety-Sensitive Functions **[END of OPTION]**: a) prior to employment ~~(-) (for controlled substances only) [end of option]~~, b) reasonable suspicion, c) upon return to duty after any alcohol or drug rehabilitation, d) post-accident: 1) resulting in human death, 2) where the driver is issued a citation and the accident results in an injury that requires immediate medical attention away from the scene, or 3) where there is disability damage to any motor vehicle that requires towing, e) on a random basis, and f) on a follow-up basis.

**[END OF OPTION 1]**

**[ ] OPTION #2**

~~The drug tests are to be conducted in accordance with Federal and State regulations (-) and Administrative Guideline 4162A - Alcohol Testing Program for CDL Holders and Employees who Perform Safety-Sensitive Functions **[END of OPTION]**: a) prior to employment (-) for controlled substances only [end of option], b) for reasonable suspicion, c) upon return to duty after any alcohol or drug rehabilitation, d) post-accident, e) on a random basis, and f) on a follow-up basis.~~

**[END OF OPTION 2]**

The Director shall require that the Cooperative query the FMCSA's Drug and Alcohol Clearinghouse for current and prospective CDL holders' drug and alcohol violations before allowing a driver to operate a Cooperative-owned and/or operated vehicle, consistent with Federal regulations, including consent requirements.

Any staff member who tests positive shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Cooperative-owned vehicle) immediately and be referred to the Cooperative's Employee Assistance Program. ( ) and subject to discipline, up to and including discharge, in accordance with Cooperative guidelines and the terms of any applicable collective bargaining agreements. **[end of option]** No staff member who has tested positive for alcohol or a controlled substance may be returned to a safety-sensitive position without having been evaluated by a qualified substance abuse professional (SAP), completing any required treatment program, and passing a retest. Return to a safety-sensitive position is solely at the Cooperative's discretion and the employee may be required to participate in ongoing services if recommended by the SAP. Any staff member who has tested positive for alcohol or a controlled substance will be provided with a list of SAPs available and acceptable to the Cooperative.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then (**x**) the test will be considered positive and the employee shall be prohibited from driving any Cooperative-owned vehicle and be referred to the Cooperative's Employee Assistance Program. (**x**) the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen. **[END OF OPTION]**

Any staff member who refuses to submit to a test shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Cooperative-owned vehicle) immediately.

Staff members who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Cooperative's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that s/he has an alcohol or drug addiction.

If a staff member admits to failing a previous drug or alcohol test, or has refused to test, the staff member will not be permitted to perform safety-sensitive functions until completing the return-to-duty process.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while consuming or possessing alcohol or drives a school bus or performs safety-sensitive functions within six (6) hours after consuming alcohol;
- B. reports for duty or performs work while consuming or possessing a controlled substance, or drives a school bus or performs safety-sensitive functions within six (6) hours after consuming a controlled substance, unless the controlled substance is consumed or possessed in accordance with a medical prescription issued by an Indiana physician to the staff member;
- C. refuses to disclose any therapeutic drug use or submit to drug and/or alcohol testing;
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results; or
- E. fails to remain readily available for post-accident testing (including refraining from the use of alcohol for eight (8) hours following the accident or until undergoing a post-accident alcohol test, whichever occurs first, and notifying his/her supervisor of his/her location, if the staff member leaves the scene of the accident prior to the submission of a post-accident test, unless the staff member's departure is to obtain necessary emergency medical care).

Prior to the beginning of the testing program, the Board shall provide a drug-free awareness program which will inform each Covered Employee about:

- A. the dangers of illegal drug use and controlled substance and alcohol abuse;
- B. indicators of probable alcohol misuse and controlled substance abuse;
- C. Board Policy 4122.01 - Drug-Free Workplace, Policy 4161 - Unrequested Leaves of Absence/Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;
- D. ( ) the topics identified in AG 4162A;
- E. the sanctions that may be imposed for violations of Policy 4122.01.

All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at his/her overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. Requests for a "split specimen" must be made within seventy-two (72) hours of receipt of the notification of a positive drug test. The Board will not pay for the employee's time while not on duty, if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under Federal law (i.e. test results shall be provided on a right to know basis - the employee, the employer, and the substance abuse professional - and the results shall not be presented until analyzed by a Medical Review Officer).

A tested individual, upon written request, will be provided copies of any records relating to his/her use of drugs and alcohol, including any records pertaining to his/her drug and alcohol tests, promptly. A tested individual must provide specific written consent before his/her test result can be provided to any other person except as required by law.

All tests shall be conducted in accordance with Federal testing guidelines and be performed by a laboratory that is Federally certified.

The alcohol and drug testing program shall be under the direction of the Director.

The Director shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse. The Director shall arrange for periodic retraining of supervisors and staff members as necessary. The Director shall provide a copy of this policy and testing guidelines to all Covered Employees and will include available resources to assist employees with problems related to the use of alcohol and controlled substances.

The Director shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples
- B. clear and consistent communication with the Cooperative's Medical Review Officer (MRO)
- C. methodology and procedures for conducting random tests for controlled substances and alcohol
- D. preparation and submission of all required reports to the Cooperative, the MRO, and to Federal and State governments

The Director also shall select the agency or persons who will conduct the alcohol breathalyzer tests, the Cooperative's MRO, and the drug collection site(s) in accordance with the requirements of the law.

### Notification

A tested candidate shall be notified of the results of a pre-employment controlled substances test conducted under this part if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application.

A tested individual shall be notified of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The tested individual also shall be informed which controlled substance or substances were verified as positive.

The Director shall make reasonable efforts to contact and request each driver who submitted a specimen under the employer's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

The Director shall notify the medical review officer immediately that the driver has been notified to contact the medical review officer within seventy-two (72) hours.

Individuals holding a CDL must notify all current employers of any DOT violations (such as testing positive for the presence of alcohol or a controlled substance in violation of this policy). The notification must be made (i) by the end of the business day following the day the individual first receives notice of the violation or (ii) prior to performing any safety-sensitive function, whichever comes first. Individuals are not required to notify the employer that administered the test or that documented the circumstances giving rise to the violation.

In the event that an individual is selected for testing, the Director will inform the individual that the test is required by applicable law.

### Reporting Test Results

The Director shall report all information required by Federal regulations to the Clearinghouse in a timely manner. The Director shall prepare and maintain a summary of the results of the Cooperative's alcohol and controlled substances testing programs performed under this policy during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers. Such summaries shall be submitted in a manner and timeline as required by law.

### Educational Materials Related to Certain Federal Regulations, Board Policies, and Procedures

CDL Holders and other employees who perform safety-sensitive functions will be provided educational materials that discuss the employer's policies and procedures with respect to post-accident information and positive test results, among other things, at the time of hire or at any time when required to operate a school vehicle. The educational materials shall explain the requirements of applicable Federal regulations and the Board's policies and Cooperative's procedures with respect to meeting these Federal regulations. The Board designates the Facilities Director ~~Facilities Director~~ **[Transportation Supervisor]** as the individual responsible for providing educational materials to CDL Holders and other employees who perform safety-sensitive functions. The educational materials will include, at a minimum, the following:

- A. the contact information for the Facilities Director ~~Facilities Director~~ **[Transportation Supervisor]**, who is the individual designated by the Board to answer questions about the educational materials
- B. a statement that all CDL Holders and other employees who perform safety-sensitive functions are subject to Federal law addressing the misuse of alcohol and other controlled substances
- C. information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations

- D. information concerning prohibited conduct
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee, including post-accident information, procedures, and instructions required under Federal regulations
- G. the requirement that staff members must submit to alcohol and controlled substance testing as required by the regulations
- H. an explanation of what constitutes a refusal to be tested for alcohol or controlled substances and the attendant consequences
- I. the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment
- J. the consequences for employees found to have an alcohol concentration of 0.02 or greater but less than 0.04
- K. information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol and/or controlled substances problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management), and
- L. information regarding the requirement that certain personal information collected and maintained under Federal law be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse
- M. information indicating that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including alcohol, is prohibited on all Cooperative property and at school-sponsored activities. Individuals are strictly prohibited from reporting to work or being on duty while under the influence of alcohol or a controlled substance.

These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member must sign a statement certifying receipt of such materials. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety-sensitive functions. Each employee (and a labor organization representing Cooperative employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering employee questions about the materials.

### **Return-to-Duty (Safety-Sensitive Positions)**

Employees who are removed from performing safety-sensitive functions as a result of this policy must take and pass a return-to-duty test before returning to performing safety-sensitive functions. The return-to-duty test will not occur until after a Substance Abuse Professional (SAP) has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties. The employee will not be permitted to perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the return-to-duty test.

Employees also must comply with the SAP's written follow-up testing plan, which will be administered by the Cooperative, or they will not be permitted to perform safety-sensitive duties.

Subject to any collective bargaining agreement or other legal requirements, employees who are eligible to return to performing safety-sensitive functions may not do so without the approval of the Director.

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Legal

I.C. 20-27-8-1

I.C. 20-27-8-3(b)

34 C.F.R. Part 84

49 C.F.R. Part 40

49 C.F.R. Part 382