

## **Educational Support Personnel**

### **Administrative Procedure – Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers**

The Cooperative's drug and alcohol testing program shall apply to all individuals in positions that require a commercial driver's license and those that require an Illinois school bus driver permit and/or drive a Cooperative-owned/operated vehicle. This includes casual, intermittent or occasional drivers. The Executive Director or designee will identify which positions are covered by various provisions of this procedure.

#### Pre-Employment Tests

A pre-employment drug test shall be required of an applicant only after he/she has been offered the position.

Drug tests shall be conducted before the first time a driver performs any safety-sensitive function for the Cooperative.

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.

Exceptions may be made for drivers who have participated in the drug-testing program required by law within the previous 30 days, provided that the Cooperative has been able to make all verifications required by law.

Pre-employment testing shall also be required of employees 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.

#### Controlled Substance Use

Drivers shall inform their supervisors if at any time they are using a drug that their physician has prescribed for therapeutic purposes. Drivers using a Schedule I controlled substance cannot perform safety-sensitive functions. Drivers using a non-Schedule I controlled substance may continue to perform safety-sensitive functions only if a licensed medical practitioner who is familiar with the driver's medical history has advised the driver that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle. If the Cooperative has actual knowledge that a driver has used a controlled substance, it shall not permit the driver to perform or continue to perform a safety-sensitive function.

#### Pre-Duty Use of Alcohol

No driver shall perform safety-sensitive functions within four hours after using alcohol. If the Cooperative has actual knowledge that a driver has used alcohol within four hours it shall not permit the driver to perform or continue to perform safety-sensitive functions.

### On-Duty Use of Alcohol

No driver shall use alcohol while performing safety-sensitive functions. If the Cooperative has actual knowledge that a driver is using alcohol while performing safety-sensitive functions it shall not permit the driver to perform or continue to perform safety-sensitive functions.

### Post-Accident Tests

Alcohol tests shall be conducted as soon after an accident as practicable on any surviving driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
2. Who receives a citation within eight hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Controlled substance tests shall be conducted as soon after an accident as practicable on any surviving driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life;
2. Who receives a citation within 32 hours of occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

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

No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

If an alcohol test is not administered within two hours following the accident or if a drug test is not administered within 32 hours following the accident, the Cooperative shall prepare and maintain records explaining why the test was not conducted. Tests will not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs.

Tests conducted by authorized federal, State or local officials shall fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the Cooperative. Breath and blood tests meet the requirements of alcohol testing. A urine test meets the requirements of controlled substances test.

### Random Tests

Alcohol and drug tests shall be conducted on a random basis at unannounced times throughout the year. The number of random alcohol and drug 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. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions.

Employees off work due to leaves, vacation, and layoffs shall be informed that they remain subject to random testing. Employees drawn for such testing shall be notified and tested as soon as practicable after they return to duty.

### Probable Cause Tests

A driver who has received a Uniform Traffic Ticket while in control of a NDSEC-owned and operated vehicle when the vehicle is being used over a regularly scheduled route for the transportation of persons enrolled as students in any NDSEC program, in connection with any activity of the Cooperative, may be tested for alcohol. To justify an alcohol test, a police officer must have probable cause to believe that the driver has consumed any amount of an alcoholic beverage based upon evidence of the driver's physical condition or other first hand knowledge of the police officer.

Upon receipt of a law enforcement officer's sworn report that the test result was positive or that the driver refused to be tested, the Secretary of State will notify both the driver and the Cooperative of the sanction (sanction is effective on the 46<sup>th</sup> day following the date notice was given).

### Reasonable Suspicion Tests

An alcohol or drug test shall be conducted if a supervisor or Cooperative official trained in accordance with law has reasonable suspicion that a driver has violated the Cooperative's alcohol or drug prohibitions. 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 supervisor or Cooperative official who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours following a determination of reasonable suspicion, the Cooperative shall prepare and maintain a record explaining why the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following a determination of reasonable suspicion, the Cooperative shall cease attempts to administer the alcohol test and shall state in the record the reasons for not administering the test. Notwithstanding the absence of a reasonable suspicion alcohol test, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while he or she is under the influence of or impaired by alcohol.

A supervisor or Cooperative 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 results of the drug test are released, whichever is earlier.

The Executive Director or designee shall ensure that an employee under reasonable suspicion is transported to the designated collection or testing site.

The Executive Director or designee shall notify the Secretary of State, in a manner and form prescribed by the Secretary, of the result of a reasonable suspicion test when: (i) the test indicates an alcohol concentration greater than 0.00; (ii) the test indicates a positive result on a National Institute on Drug Abuse five-drug panel utilizing the federal standards set forth in 49 C.F.R. 40.87; or (iii) when a driver refuses testing. The notification to the Secretary must be submitted within 48 hours of the refusal of testing or the employer's receipt of the test results.

#### Enforcement for Non-School Bus Driver Permit Holders

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If the Cooperative has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, it shall not permit the driver to perform or continue to perform safety-sensitive functions.

Federal laws require that any driver who refuses to submit to a post-accident random, reasonable suspicion test or follow-up test as described below, shall not perform or continue to perform safety-sensitive functions. The Cooperative shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

A driver who is tested and found to have an alcohol concentration of .02 or greater, but less than 0.04, may not perform or continue to perform safety-sensitive functions, including driving a NDSEC 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 drugs or an alcohol concentration of 0.04 or greater shall be subject to Cooperative disciplinary action up to and including dismissal.

A driver who violates Cooperative prohibitions related to drugs and alcohol shall receive from the Cooperative the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional (SAP) who shall determine what help the driver needs in resolving such a problem. Any SAP 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.

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a SAP to determine that he/she has properly followed the prescribed rehabilitation program.

#### Return-to-Duty Tests for Non-School Bus Driver Permit Holders

If a driver who has violated the Cooperative's drug or alcohol prohibition is returned to performing safety-sensitive duties, a drug or alcohol test shall be conducted.

The Cooperative shall not allow employees whose conduct involved drugs to return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result. The Cooperative shall not allow employees whose conduct involved alcohol to return to duty in a safety-sensitive function until the return-to-duty alcohol test indicates an alcohol concentration of 0.02 or less.

### Follow-up Tests for Non-School Bus Driver Permit Holders

A driver who violates the Cooperative's drug or alcohol prohibition and is subsequently identified by a SAP as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the SAP in accordance with the law.

The Cooperative must carry out the substance abuse professional's follow-up testing requirements.

Follow-up testing shall consist of at least six tests in the first 12 months following the driver's return to duty. Testing shall not occur beyond 60 months from the date of the driver's return to duty. The substance abuse professional may terminate the follow-up testing if he/she determines that the employee has successfully demonstrated compliance.

### Maintenance of Records

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

### Enforcement for School Bus Driver Permit Holders

In Illinois, a person whose privilege to possess a school bus driver permit has been canceled under 625 ILCS 6-106.1a is not eligible for restoration of the privilege until the expiration of three years from the effective date of the cancellation if the person has refused or failed to complete a test or tests to determine blood alcohol concentration, or has submitted to testing with a blood alcohol concentration of more than 0.00.

The Illinois Secretary of State must suspend a school bus driver permit for a period of three years upon receiving notice that the holder refused to submit to an alcohol or drug test as required by Section 6-106.1c or has submitted to a test required by that Section that disclosed an alcohol concentration of more than 0.00 or disclosed a positive result on a National Institute on Drug Abuse five-drug panel, utilizing federal standards set forth in 49 C.F.R. 40.87.

A driver who tests positive for drugs or is found to have an alcohol concentration of greater than 0.00 shall have their employment terminated.

### 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 Cooperative's policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of this information. The information shall identify all of the following:

1. The person designated by the Cooperative to answer drivers' questions about the materials;
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the work day the driver is required to comply with Part 382;
4. Specific information concerning driver conduct that is prohibited by Part 382;

5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382, including post-accident testing under §382.303(d);
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results, and ensure that test results are attributed to the correct driver, including post-accident information, procedures and instructions required by §382.303(d).
7. The requirement that a driver submit to drug and alcohol tests administered in accordance with Part 382;
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;
9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation, and treatment;
10. The consequences for drivers who do not hold a school bus driver permit found to have an alcohol concentration of 0.02 or greater but less than 0.04;
11. The effects of drugs and alcohol on an individual's health, work and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a coworker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management; and
12. Other legal requirements, Cooperative policies and disciplinary consequences related to the use of alcohol and drugs.

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

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

Before drug and alcohol tests are performed, pursuant to 49 C.F.R. §382, the Cooperative shall inform drivers that the tests are required by these regulations.

The Cooperative shall notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition for his/her employment application.

The Cooperative shall notify a driver of the results of random, reasonable suspicion, and post-accident drug tests if the test results are verified positive. The Cooperative shall also tell the driver which controlled substance(s) were verified s positive.

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