

1 **Browning Public Schools**

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3 Policy # 5228P

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4 Policy Name: *Transportation Drug Testing*

5 Regulation: -----

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7 **Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers**

8 School bus and commercial vehicle drivers shall be subject to a drug and alcohol testing program that  
9 fulfills the requirements of the Code of Federal Regulations, Title 49, Part 382.

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11 Other persons who drive vehicles designed to transport sixteen (16) or more passengers, including the driver,  
12 are likewise subject to the drug and alcohol testing program.

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14 Testing procedures and facilities used for the tests shall conform with the requirements of the Code of  
15 Federal Regulations, Title 49, §§ 40, et seq.

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17 **Pre-Employment Tests**

18 Tests shall be conducted before the first time a driver performs any safety-sensitive function for the District.  
19 Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is  
20 required to be ready to work, until he/she is relieved from work and all responsibility for performing work.  
21 It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing,  
22 or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle;  
23 performing driver requirements related to accidents; and performing any other work for the District or paid  
24 work for any entity.

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26 The tests shall be required of an applicant only after he/she has been offered the position.

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28 Exceptions may be made for drivers who have had the alcohol test required by law within the previous six  
29 (6) months and participated in the drug testing program required by law within the previous thirty (30) days,  
30 provided that the District has been able to make all verifications required by law.

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32 **Post-Accident Tests**

33 Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any  
34 driver:

- 35  
36 1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident  
37 involved loss of human life; or  
38 2. Who receives a citation under state or local law, for a moving traffic violation arising from the  
39 accident.

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

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43 No such driver shall use alcohol for eight (8) hours after the accident, or until after he/she undergoes a post-  
44 accident alcohol test, whichever occurs first.

45  
46 If an alcohol test is not administered within two (2) hours or if a drug test is not administered within thirty-  
47 two (32) hours, the District shall prepare and maintain records explaining why the test was not conducted.  
48 Tests will not be given if not administered within eight (8) hours after the accident for alcohol or within  
49 thirty-two (32) hours for drugs.

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51 Tests conducted by authorized federal, state, or local officials will fulfill post-accident testing requirements,

1 provided they conform to applicable legal requirements and are obtained by the District. Breath tests will  
2 validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

### 3 4 **Random Tests**

5 Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol  
6 shall be conducted just before, during, or just after the performance of safety-sensitive functions. The  
7 number of random alcohol tests annually must equal twenty-five percent (25%) of the average number of  
8 driver positions. The number of random drug tests annually must equal fifty percent (50%) of the average  
9 number of driver positions. Drivers shall be selected by a scientifically valid random process, and each  
10 driver shall have an equal chance of being tested each time selections are made.

### 11 12 **Reasonable Suspicion Tests**

13 Tests shall be conducted when a supervisor or District official trained in accordance with law has reasonable  
14 suspicion that the driver has violated the District's alcohol or drug prohibitions. This reasonable suspicion  
15 must be based on specific, contemporaneous, articulable observations concerning the driver's appearance,  
16 behavior, speech, or body odors. The observations may include indications of the chronic and withdrawal  
17 effects of controlled substances.

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19 Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just  
20 before, or just after the period of the work day when the driver must comply with alcohol prohibitions. An  
21 alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct  
22 such a test. If an alcohol test is not administered within two (2) hours of a determination of reasonable  
23 suspicion, the District shall prepare and maintain a record explaining why this was not done. Attempts to  
24 conduct alcohol tests shall terminate after eight (8) hours.

25  
26 A supervisor or District official who makes observations leading to a controlled substance reasonable  
27 suspicion test shall make a written record of his/her observations within twenty-four (24) hours of the  
28 observed behavior or before the results of the drug test are released, whichever is earlier.

### 29 30 **Enforcement**

31 Any driver who refuses to submit to a post-accident, random, reasonable suspicion, or follow-up test shall  
32 not perform or continue to perform safety-sensitive functions.

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34 Drivers who test positive for alcohol or drugs shall be subject to disciplinary action up to and including  
35 termination of employment.

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37 A driver who violates District prohibitions related to drugs and alcohol shall receive from the District the  
38 names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment  
39 programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be  
40 evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in  
41 resolving such a problem. Any substance abuse professional who determines that a driver needs assistance  
42 shall not refer the driver to a private practice, person, or organization in which he/she has a financial interest,  
43 except under circumstances allowed by law.

44  
45 An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a  
46 substance abuse professional to determine that he/she has properly followed the prescribed rehabilitation  
47 program and shall be subject to unannounced follow-up tests after returning to duty.

### 48 49 **Return-to-Duty Tests**

50 A drug or alcohol test shall be conducted when a driver who has violated the District's drug or alcohol  
51 prohibition returns to performing safety-sensitive duties.

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2 Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the  
3 return-to-duty drug test produces a verified negative result.  
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5 Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the  
6 return-to-duty alcohol test produces a verified result that meets federal and District standards.  
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### 8 **Follow-Up Tests**

9 A driver who violates the District's drug or alcohol prohibition and is subsequently identified by a substance  
10 abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to  
11 unannounced follow-up testing as directed by the substance abuse professional in accordance with law.  
12 Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is  
13 performing safety-sensitive functions.  
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### 15 **Records**

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

23 Each driver shall receive educational materials that explain the requirements of the Code of Federal  
24 Regulations, Title 49, Part 382, together with a copy of the District's policy and regulations for meeting  
25 these requirements. Representatives of employee organizations shall be notified of the availability of this  
26 information. The information shall identify:  
27

- 28 1. The person designated by the District to answer driver questions about the materials;
- 29 2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49, Part 382;
- 30 3. Sufficient information about the safety-sensitive functions performed by drivers to make clear  
31 what period of the work day the driver is required to comply with Part 382;
- 32 4. Specific information concerning driver conduct that is prohibited by Part 382;
- 33 5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382;
- 34 6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver  
35 and the integrity of the testing processes, safeguard the validity of test results, and ensure that test  
36 results are attributed to the correct driver;
- 37 7. The requirement that a driver submit to drug and alcohol tests administered in accordance with  
38 Part 382;
- 39 8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant  
40 consequences;
- 41 9. The consequences for drivers found to have violated the drug and alcohol prohibitions of Part  
42 382, including the requirement that the driver be removed immediately from safety- sensitive  
43 functions and the procedures for referral, evaluation, and treatment;
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2 10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less  
3 than 0.04;  
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5 11. Information concerning the effects of drugs and alcohol on an individual's health, work, and  
6 personal life; signs and symptoms of a drug or alcohol problem (the driver's or a  
7 coworker's); and available methods of intervening when a drug or alcohol problem is suspected,  
8 including confrontation, referral to an employee assistance program, and/or referral to  
9 management; and  
10  
11 12. The requirement that the following personal information collected and maintained under this part  
12 shall be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse:  
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14 a. A verified positive, adulterated, or substituted drug test result;  
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16 b. An alcohol confirmation test with a concentration of 0.04 or higher;  
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18 c. A refusal to submit to any test required by law;  
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20 d. An employer's report of actual knowledge, as defined in law:  
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22 e. On duty alcohol use;  
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24 f. Pre-duty alcohol use;  
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26 g. Alcohol use following an accident;  
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28 h. Controlled substance use;  
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30 i. A substance abuse professional report of the successful completion of the return-to-duty  
31 process;  
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33 j. A negative return-to-duty test; and  
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35 k. An employer's report of completion of follow-up testing.  
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37 Drivers shall also receive information about legal requirements, District policies, and disciplinary  
38 consequences related to the use of alcohol and drugs.  
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40 Each driver shall sign a statement certifying that he/she has received a copy of the above materials.  
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42 Before any driver operates a commercial motor vehicle, the District shall provide him/her with post-  
43 accident procedures that will make it possible to comply with post-accident testing  
44 requirements.  
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46 Before drug and alcohol tests are performed, the District shall inform drivers that the tests are given pursuant  
47 to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after the  
48 compliance date specified in law.  
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50 The District shall notify a driver of the results of a pre-employment drug test if the driver requests such  
51 results within sixty (60) calendar days of being notified of the disposition of his/ her employment

1 application.

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

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7 Drivers shall inform their supervisors if at any time they are using a controlled substance which their  
8 physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has  
9 advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor  
10 vehicle.

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12 **Clearinghouse**

13 The School District will comply with the requirements of the Commercial Driver's License Drug and  
14 Alcohol Clearinghouse. The School District and Transportation service providers are called upon to report  
15 DOT drug and alcohol testing program violations to the Clearinghouse. Drivers have been notified that any  
16 information subject to disclosure will be submitted to the Clearinghouse in accordance with this policy and  
17 applicable regulations.

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19 **Legal Reference:** 49 C.F.R. Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing  
20 49. C.F.R. Part 382 Controlled Substances and Alcohol Use and Testing

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22 **Policy History:**

23 Adopted on: 5/11/21

24 Revised on:

25 Reviewed on: 4/13/21, 4/28/21

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