

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
9 that 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
12 the driver, are likewise subject to the drug and alcohol testing program.

13
14 Testing procedures and facilities used for the tests shall conform with the requirements of the Code
15 of Federal Regulations, Title 49, §§ 40, et seq.

16
17 **Pre-Employment Tests**

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

25
26 The tests shall be required of an applicant only after he/she has been offered the position.

27
28 Exceptions may be made for drivers who have had the alcohol test required by law within the
29 previous six (6) months and participated in the drug testing program required by law within the
30 previous thirty (30) days, provided that the District has been able to make all verifications required
31 by law.

32
33 **Post-Accident Tests**

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

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

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

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

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

5
6 Tests conducted by authorized federal, state, or local officials will fulfill post-accident testing
7 requirements, provided they conform to applicable legal requirements and are obtained by the
8 District. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled
9 substance testing obligations.

10 11 **Random Tests**

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

19 20 **Reasonable Suspicion Tests**

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

26
27 Alcohol tests are authorized for reasonable suspicion only if the required observations are made
28 during, just before, or just after the period of the work day when the driver must comply with
29 alcohol prohibitions. An alcohol test may not be conducted by the person who determines that
30 reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two
31 (2) hours of a determination of reasonable suspicion, the District shall prepare and maintain a
32 record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after
33 eight (8) hours.

34
35 A supervisor or District official who makes observations leading to a controlled substance
36 reasonable suspicion test shall make a written record of his/her observations within twenty-four
37 (24) hours of the observed behavior or before the results of the drug test are released, whichever
38 is earlier.

39 40 **Enforcement**

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

43
44 Drivers who test positive for alcohol or drugs shall be subject to disciplinary action up to and
45 including termination of employment.

46
47 A driver who violates District prohibitions related to drugs and alcohol shall receive from the

1 District the names, addresses, and telephone numbers of substance abuse professionals and
2 counseling and treatment programs available to evaluate and resolve drug and alcohol-related
3 problems. The employee shall be evaluated by a substance abuse professional who shall determine
4 what help, if any, the driver needs in resolving such a problem. Any substance abuse professional
5 who determines that a driver needs assistance shall not refer the driver to a private practice, person,
6 or organization in which he/she has a financial interest, except under circumstances allowed by
7 law.

8
9 An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated
10 by a substance abuse professional to determine that he/she has properly followed the prescribed
11 rehabilitation program and shall be subject to unannounced follow-up tests after returning to duty.

12 13 **Return-to-Duty Tests**

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

16
17 Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until
18 the return-to-duty drug test produces a verified negative result.

19
20 Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function
21 until the return-to-duty alcohol test produces a verified result that meets federal and District
22 standards.

23 24 **Follow-Up Tests**

25 A driver who violates the District's drug or alcohol prohibition and is subsequently identified by
26 a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall
27 be subject to unannounced follow-up testing as directed by the substance abuse professional in
28 accordance with law. Follow-up alcohol testing shall be conducted just before, during, or just after
29 the time when the driver is performing safety-sensitive functions.

30 31 **Records**

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

37 38 **Notifications**

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

- 43
44 1. The person designated by the District to answer driver questions about the materials;
- 45
46 2. The categories of drivers who are subject to the Code of Federal Regulations, Title 49,
47 Part 382;

- 1
- 2 3. Sufficient information about the safety-sensitive functions performed by drivers to make
- 3 clear what period of the work day the driver is required to comply with Part 382;
- 4
- 5 4. Specific information concerning driver conduct that is prohibited by Part 382;
- 6
- 7 5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part
- 8 382;
- 9
- 10 6. The procedures that will be used to test for the presence of drugs and alcohol, protect the
- 11 driver and the integrity of the testing processes, safeguard the validity of test results, and
- 12 ensure that test results are attributed to the correct driver;
- 13
- 14 7. The requirement that a driver submit to drug and alcohol tests administered in accordance
- 15 with Part 382;
- 16
- 17 8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the
- 18 attendant consequences;
- 19
- 20 9. The consequences for drivers found to have violated the drug and alcohol prohibitions of
- 21 Part 382, including the requirement that the driver be removed immediately from safety-
- 22 sensitive functions and the procedures for referral, evaluation, and treatment;
- 23
- 24 10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater
- 25 but less than 0.04;
- 26
- 27 11. Information concerning the effects of drugs and alcohol on an individual's health, work,
- 28 and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a
- 29 coworker's); and available methods of intervening when a drug or alcohol problem is
- 30 suspected, including confrontation, referral to an employee assistance program, and/or
- 31 referral to management; and
- 32
- 33 12. The requirement that the following personal information collected and maintained under
- 34 this part shall be reported to the Commercial Driver's License Drug and Alcohol
- 35 Clearinghouse:
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- 37 a. A verified positive, adulterated, or substituted drug test result;
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- 39 b. An alcohol confirmation test with a concentration of 0.04 or higher;
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- 41 c. A refusal to submit to any test required by law;
- 42
- 43 d. An employer's report of actual knowledge, as defined in law:
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- 45 e. On duty alcohol use;
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- 47 f. Pre-duty alcohol use;

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- 2 g. Alcohol use following an accident;
- 3
- 4 h. Controlled substance use;
- 5
- 6 i. A substance abuse professional report of the successful completion of the return-to-
- 7 duty process;
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- 9 j. A negative return-to-duty test; and
- 10
- 11 k. An employer's report of completion of follow-up testing.
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13 Drivers shall also receive information about legal requirements, District policies, and disciplinary
14 consequences related to the use of alcohol and drugs.

15
16 Each driver shall sign a statement certifying that he/she has received a copy of the above materials.

17
18 Before any driver operates a commercial motor vehicle, the District shall provide him/her with
19 post-accident procedures that will make it possible to comply with post-accident testing
20 requirements.

21
22 Before drug and alcohol tests are performed, the District shall inform drivers that the tests are
23 given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided
24 only after the compliance date specified in law.

25
26 The District shall notify a driver of the results of a pre-employment drug test if the driver requests
27 such results within sixty (60) calendar days of being notified of the disposition of his/ her
28 employment application.

29
30 The District shall notify a driver of the results of random, reasonable suspicion, and post-accident
31 drug tests if the test results are verified positive. The District shall also tell the driver which
32 controlled substance(s) were verified as positive.

33
34 Drivers shall inform their supervisors if at any time they are using a controlled substance which
35 their physician has prescribed for therapeutic purposes. Such a substance may be used only if the
36 physician has advised the driver that it will not adversely affect his/her ability to safely operate a
37 commercial motor vehicle.

38
39 **Clearinghouse**

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

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46 Legal Reference: 49 C.F.R. Part 40 Procedures for Transportation Workplace Drug and Alcohol
47 Testing

49. C.F.R. Part 382 Controlled Substances and Alcohol Use and Testing

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Policy History:

Adopted on:

Reviewed on: 4/13/21

Revised on: