

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

**Reasonable
Suspicion Searches**

The District reserves the right to conduct searches when the District has reasonable suspicion to believe that a search will uncover evidence of work-related misconduct. The District may search the employee, the employee's personal items, work areas, lockers, and private vehicles parked on District premises or worksites or used in District business. Searches that reveal a violation of the District's standards of conduct may result in disciplinary action. [See DH]

**Reasonable
Suspicion Alcohol
and Drug Testing**

The District may remove an employee from duty and require testing if there is reasonable suspicion that the employee is under the influence of alcohol or drugs used in violation of District policy. The determination of reasonable suspicion may be based on specific observations of the appearance, behavior, speech, or body odors of the employee whose motor ability, emotional equilibrium, or mental acuity seems to be impaired while on duty or other relevant information. Any employee who is asked to submit to drug or alcohol testing shall be given the opportunity to provide relevant information about prescription or nonprescription medications that may affect the screening.

A District employee who refuses to comply with a directive to submit to testing based upon reasonable suspicion shall be subject to disciplinary action, up to and including termination.

A District employee confirmed to have violated the District's policy pertaining to alcohol or drugs may be subject to disciplinary action. [See DF series and DH]

Note: The following provisions apply to employees who are covered by the federal Department of Transportation (DOT) rules.

**Federally Required
DOT Testing
Program**

In accordance with DOT rules, the District shall establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by the drivers of commercial motor vehicles, including school buses. The primary purpose of the testing program is to prevent impaired employees from performing safety-sensitive functions.

The Superintendent shall designate a District official who shall be responsible for ensuring that information is disseminated to employees covered under this testing program regarding prohibited driver conduct, alcohol and controlled substances tests, and the consequences that follow positive test results.

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Drug-Related
Violations

The following constitute drug-related violations under the DOT rules:

1. Refusing to submit to a required test for alcohol or controlled substances.
2. Providing an adulterated, diluted, or a substituted specimen on an alcohol or controlled substances test.
3. Testing positive for alcohol, at a concentration of 0.04 or above, in a post-accident test.
4. Testing positive for controlled substances in a post-accident test.
5. Testing positive for alcohol, at a concentration of 0.04 or above, in a random test.
6. Testing positive for controlled substances in a random test.
7. **Testing positive for alcohol, at a concentration of 0.04 or above in a required follow-up test.**
8. **Testing positive for controlled substances in a required follow-up test.**
9. Testing positive for alcohol, at a concentration of 0.04 or above, in a reasonable suspicion test.
10. Testing positive for controlled substances in a reasonable suspicion test.

An employee who operates a commercial motor vehicle, including a bus, and commits a drug-related DOT violation as defined above shall not be eligible for reinstatement as a driver.

Alcohol Results
Between 0.02 and
0.04

In accordance with DOT rules, a driver tested under this policy and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall be suspended from driving duties for at least 24 hours.

[In the event of a subsequent positive test result for alcohol of 0.02 or greater but less than 0.04, see the disciplinary consequences at District-Imposed Consequences, below.]

Reasonable
Suspicion DOT
Testing

Only supervisors specifically trained in accordance with federal regulations may, based upon reasonable suspicion, remove a driver from a safety-sensitive position and require testing for alcohol and/or controlled substances. The determination of reasonable suspicion shall be based on specific observations of the appearance, behavior, speech, or body odors of the driver whose motor

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ability, emotional equilibrium, or mental acuity seems to be impaired. Such observations must take place just preceding, during, or just after the period of the workday that the driver is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a controlled substance reasonable suspicion test.

**District-Imposed
Consequences**

In addition to the consequences established by federal law, a District employee confirmed to have violated the District's policy pertaining to alcohol or controlled substances, including a second or subsequent positive test result for alcohol of 0.02 or greater but less than 0.04, shall be subject to District-imposed discipline, as determined by his or her supervisor and the Superintendent. Such discipline may include any appropriate action from suspension without pay during the period of removal from safety-sensitive functions, up to and including termination of employment. [See DF series]

In cases where a driver is also employed in a nondriving capacity by the District, disciplinary action imposed for violation of alcohol and controlled substances policies shall apply to the employee's functions and duties that involve driving. Additionally, upon recommendation of the employee's supervisor, disciplinary measures up to and including termination of employment with the District may be considered.

Note: The following provisions address the District's drug- and alcohol-testing program.

**All Other Drug and
Alcohol Testing**

In addition to drug testing requirements for persons in positions requiring a commercial driver's license (CDL), all other persons offered positions with the District shall be required to take an alcohol and/or urine test for detection of alcohol and/or drugs before **their first day of work** ~~they are placed on payroll as employees.~~

In addition to requirements for CDL drivers, all employees who have been involved in an accident while operating a District motor vehicle will be required to submit to a controlled substance, alcohol, and drug test if:

1. The Superintendent or designee or supervisor of the employee has reasonable suspicion that before or at the time of the accident the employee was under the influence of alcohol, drugs, or any controlled substance;

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2. The accident involved the loss of human life; or
3. The employee receives a citation under state or local law for a moving traffic violation arising from the accident.

Refusal to Test /
Positive Test
Results

In addition to requirements for CDL drivers, any employee or job applicant who is required to submit to controlled substance, drug, and alcohol testing under the provisions of this policy may refuse to provide a urine or breath sample for testing. A refusal to sign all forms associated with the testing process shall be considered to be a refusal to take a controlled substance, drug, and alcohol test. Such refusal to submit to controlled substance, drug, and alcohol testing when required by the District shall be grounds for termination of an employee from employment or rejection of the job applicant. In addition, any action that can reasonably be construed as an attempt to tamper with any part of the testing process shall be grounds for termination of an employee or rejection of a job applicant. Grounds for termination of an employee or rejection of a job applicant shall also occur if the employee or job applicant submits a urine or breath sample that tests positive for the presence of controlled substances, drugs, or alcohol at detectable levels.

An employee who tests positive for the presence of drugs or alcohol at detectable levels shall be able to assert an affirmative defense to any disciplinary action. The affirmative defense shall be that the employee has medical authorization from a licensed medical practitioner for the drug that has tested positive or has taken an over-the-counter medication in accordance with the manufacturer's instructions. The drug taken by prescription must be taken in the prescribed dosage by the employee and shall be prescribed only for the employee who tests positive. The burden of proving the affirmative defense shall rest on the employee.

Confidentiality

Strict confidentiality of the controlled substance, drug, and alcohol testing process shall be maintained to protect the privacy of employees and job applicants offered positions with the District. Information on test results and all forms completed by employees or persons offered positions shall be released to District departments only on a need-to-know basis, unless required by law or in defense of the District. An employee or person offered a position with the District may obtain his or her own test results upon written request to the risk management department. Test results and forms shall not be released to any other person not associated with the District without the written consent of the employee or the job applicant unless such release is required by law or is in defense of the District.

Definitions

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~~The following terms shall have the following definitions for purposes of this policy and the employee assistance program in DI(LOCAL):~~

- ~~1.— Controlled substance: A hallucinogenic, barbiturate, marijuana (including any form or species of the plant substance known as marijuana), any drug or substance defined by the Texas Controlled Substance Act, Vernon's Annotated Civil Statutes, Art. 4476-15, Sec. 1.02, et seq., including but not limited to heroin, LSD, hashish or hash oil, morphine or its derivatives, mescaline peyote, phencyclidine (Angel Dust), opium, opiates, methadone, cocaine, crack, quaaludes, amphetamines, "exotic/designer" drugs, seconal, codeine, phenobarbital, or Valium. This includes drugs that are legally obtainable but have been obtained illegally.~~
- ~~2.— Alcohol: Any beverage containing ethyl alcohol.~~
- ~~3.— Drug: Any substance that requires a prescription from a licensed physician/dentist for its use; depressant or stimulant substance, whether prescription or nonprescription; any other substance represented to or by the employee to be one of the prohibited substances; or any over the counter substance that impairs an employee's ability to work safely.~~
- ~~4.— Medical authorization: A prescription from a licensed physician/dentist for the use of a drug in the course of medical treatment.~~
- ~~5.— Tests positive: The presence of a controlled substance, drug, or alcohol found in the body fluids at levels of detection above the lowest cut-off level as established by the analytical methods used by the testing laboratory. The testing laboratory shall be named by the District.~~
- ~~6.— Drug paraphernalia: A product or material of any kind mentioned in Vernon's Texas Civil Statutes, Art. 4476-15 (Controlled Substances Act), Sec. 1.02(15).~~