

Browning Public Schools
Board Agenda Request
Meeting to Be Held: 1/30/2019



Recognition: Students Staff Parents
Information: Building Report Old Business Superintendent's Report
Action: Resignation Hiring Contract Service Agreements
 Travel Out-of-State Travel In State Approvals
 Termination Legal Matters Other:
This action request pertains to Elementary (only) High School/District Wide

Date: 1/30/2019

To: **Browning School Board**
 Members

From: Corrina Guardipee-Hall ED.S.
Title: Superintendent

Subject: **Drug testing legal opinion**

Description: Follow up to the question, "Can we purchase kits and do the tests ourselves?"

Financial Impact:

Funding Source (Budget/grant, etc.):

Attachment(s): laws attached

Approval: Superintendent's Office/Finance/Personnel as applicable (Initial) _____

Comments: _____

Board Action: N/A (Info) Approved Denied Tabled to: _____

"In the course of making decisions, ask yourself what is best for kids!"

----- Forwarded message -----

From: **Tony Koenig** <tkoenig@mtsba.org>

Date: Wed, Jan 23, 2019 at 3:00 PM

Subject: RE: drug testing

To: Corrina Guardipee-Hall <corrinag@bps.k12.mt.us>

Corrina:

My initial response to this question was that you must use an HHS certified lab to do the actual testing, but I did not really answer the part of the question about collection of urine samples. It looks to me like 49 CFR 40.31 would permit an employer to use employees as the "collector" of the urine sample, provided that the "collector" has received the required training, and provided that the "collector" is neither the immediate supervisor of the employee being tested nor an employee of the lab that could link the sample with the employee being tested.

Tony C. Koenig

Director of Legal and HR Services

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§ 40.31 Who may collect urine specimens for DOT drug testing?

(a) Collectors meeting the requirements of this subpart are the only persons authorized to collect urine specimens for DOT drug testing.

(b) A collector must meet training requirements of [§40.33](#).

(c) As the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations.

(d) You must not act as the collector for the employee being tested if you work for a HHS-certified laboratory (e.g., as a technician or accessioner) and could link the employee with a urine specimen, drug testing result, or laboratory report.
