

## **Drug and Alcohol Testing of School Bus and Van Driver Procedure**

### **Applicability and Implementation**

#### **Who Will Be Tested**

All persons employed by RSU 40 to operate a commercial motor vehicle ("CMV") and subject to the commercial driver's license ("CDL") requirements mandated under federal or state laws and those persons applying for such positions will be subject to controlled substance and alcohol testing as set forth in this procedure. In addition, RSU 40 will test all of its van and non-CDL drivers pursuant to this policy.

#### **Types of Testing**

RSU 40 will require the following types of controlled substance and alcohol testing:

##### **Pre-Employment Testing**

All driver applicants who have been offered a position of employment must submit to controlled substance and alcohol testing.

No driver will be hired or begin work until receipt of satisfactory test results, and may not be hired if pre-employment testing returns a confirmed positive test result. No driver will be hired or begin work unless their test results indicate an alcohol concentration of less than 0.04.

All drivers will be notified at the time of initial application that they will be tested for controlled substances and alcohol if they are offered a position of employment, and will be advised how they may review policy EEAEAA and this procedure.

##### **Random Testing**

RSU 40 will conduct random, unannounced controlled substance and alcohol testing of all drivers. All alcohol testing will be performed just prior to, during, or just after a safety-sensitive function.

For the purposes of selecting who will be randomly tested, there will be two "pools" of employees, CDL drivers and non-CDL drivers. There will be a random selection system for drivers where each pool of drivers will be submitted to a control group. The random selection system provides an equal chance for each driver to be selected each time random selection occurs.

Random selections will be reasonably spread throughout the year. Every calendar year, RSU 40 will select, at a minimum, 50% of the average number of employees in the control

group for random testing of controlled substances. Every calendar year, RSU 40 will also select, at a minimum, 10% of the average number of employees in the control group for random alcohol testing.

If an employee subject to random testing is selected, for either a controlled substance or alcohol test, a RSU 40 official will notify the employee and inform them of when and where they will be tested. Once notified, the employee must immediately proceed to the testing site. If the employee engages in conduct that does not lead to a collection as soon as possible after notification, such conduct will be considered a refusal to test.

### **Reasonable Suspicion Testing**

RSU 40 conducts reasonable suspicion controlled substance and alcohol testing with respect to all drivers. Reasonable suspicion for requiring an employee to submit to controlled substance or alcohol testing will be deemed to exist when such employee manifests physical symptoms or reactions commonly attributed to the use of a controlled substance(s) or alcohol just before, during, or directly after the period of the work day that the employee is required to be in compliance with this part. Such conduct must be witnessed by at least one supervisor trained in compliance with 49 C.F.R. Part 382.603 and Section 8 of this procedure.

If an alcohol test required by this section is not administered within two (2) hours following the determination of reasonable suspicion, RSU 40 will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight (8) hours following the determination of reasonable suspicion, RSU 40 will cease attempts to administer an alcohol test and will state in the record the reasons for not administering the test.

### **Post-Accident Testing**

RSU 40 will conduct post-accident controlled substance and alcohol testing on all drivers. Following an accident, the employees covered by this subsection will submit to post-accident controlled substance and alcohol testing if:

1. Involved in any accident that resulted in a human fatality. If two employees covered by this subsection were present or involved in an accident with a fatality, both must be tested.
2. Involved in a recordable accident for which the employee received a citation for a moving violation arising from the accident, and the accident resulted in:

- a. Bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or
- b. One or more motor vehicles incurring disabling damage, and requiring a motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Any time a post-accident controlled substance or alcohol test is required, it will be performed as soon as possible following the accident. If no alcohol test is administered within two (2) hours following the accident, RSU 40 will prepare and maintain on file a record stating the reasons the test was not promptly administered. If no alcohol test can be administered within eight (8) hours, attempts to collect a breath sample will cease and RSU 40 will prepare and maintain the same record. If no collection can be obtained for purposes of post-accident controlled substance testing within thirty-two (32) hours, attempts to make such collection will cease and RSU 40 will again prepare and maintain on file a record stating the reasons the test was not promptly administered.

In the event that Federal, State, or local officials conduct breath or blood tests for the use of alcohol, or urine test for the use of controlled substances, following an accident, these tests will be considered to meet the requirements of this section, provided the tests conform to applicable Federal, State, or local requirements. After being tested, the employee will sign a release allowing RSU 40 to obtain the test result from Federal, State, or local officials.

In the event an employee is so seriously injured that he or she cannot provide a urine or breath specimen at the time of the accident, the employee must provide necessary authorization for RSU 40 to obtain hospital records or other documents, including blood tests, that would indicate whether there were controlled substances or alcohol in the employee's system at the time of the accident.

### **Return to Duty Testing**

RSU 40 will ensure that, before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct concerning alcohol or controlled substances, they will:

1. Have undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02, or a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use; and
2. Have completed an alcohol/controlled substance assessment and be in compliance with any ongoing treatment recommendations.

Employees identified in this subsection that are prohibited from performing safety-sensitive functions as a result of testing positive for either alcohol or controlled substances may be assigned to non-safety-sensitive functions until such time as the employee complies with the requirements for returning to duty.

### **Follow-Up Testing**

All drivers who have been identified by a substance abuse professional from RSU 40's Employee Assistance Program ("EAP") as needing assistance in resolving problems with alcohol misuse or controlled substance use and who have returned to performing a safety-sensitive function, will be subject to a minimum of six (6) unannounced follow-up tests administered by RSU 40 over the 12 months following their return-to-duty. Follow-up testing may continue to occur for up to 60 months following return-to-duty. Follow-up alcohol testing will be conducted only when the employee is performing, just before, or just after ceasing to perform safety-sensitive functions.

### **Substances Tested**

#### **Controlled Substances**

Controlled substance testing will test for the following controlled substances or their metabolites:

1. Marijuana;
2. Cocaine;
3. Opiates;
4. Amphetamines; and
5. Phencyclidine ("PCP")

#### **Alcohol**

RSU 40 will also test for the presence of alcohol, which includes the intoxicating agent in beverage alcohol, ethyl alcohol, and other low molecular weight alcohols including methyl and isopropyl alcohol. All alcohol tests performed on employees subject to the requirements of this procedure will be performed just prior to, during, or just after a safety-sensitive function.

#### **Testing Procedures**

Once an employee subject to this procedure has been directed to submit to an alcohol or controlled substance test, they will proceed immediately to the testing area as directed by the contact person named in this policy or a trained supervisor. Employees subject to this procedure must comply with the lawful requests of the technician doing the alcohol or controlled substance test.

The selected employee will be required to provide a urine specimen for controlled substance testing or a breath or saliva sample for analysis of alcohol concentration.

The selected employee will be required to provide photo identification prior to testing. Privacy will be ensured at the facility by means of voiding in a private enclosure. A split sample will be procured and both samples will be sent to the testing lab.

Proper chain of custody procedures will be followed to ensure that the specimen submitted is indeed the specimen that belongs to the selected employee. The specimen will be sealed to prevent tampering during transport to the laboratory. Federal certified laboratories will be utilized for testing (drugs) and two separate methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to the medical review office ("MRO").

The MRO is a licensed physician that reviews all test results prior to reporting to RSU 40. Should the specimen test positive, the MRO will contact the employee to discuss the test findings and afford the employee an opportunity to discuss their test results and any factors that could have attributed to the positive test. Should the employee question the test findings the employee can request that the split sample be forwarded to another certified laboratory for re-analysis.

All test results are treated confidentially and no results will be released to outside parties without the employee's express consent or when required by law, rule or regulation, or expressly authorized.

All testing for alcohol use or misuse will be conducted only by devices which have been approved by the National Highway Traffic Safety Administration (NHTSA) and conducted by trained Breath Alcohol Technicians (BATs) or trained Screening Test Technicians.

More detailed information regarding testing procedures is available in 49 CFR Part 40, copies of which are available upon request and online at: <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

### **Employees Must Submit to Tests**

All drivers must submit to testing when so directed by the contract person named in this policy or a trained supervisor. Failure to comply with this policy or the applicable regulations will be grounds for disciplinary action up to and including dismissal from employment.

**Refusal to Submit to Testing**

Refusal to submit to the types of controlled substance and alcohol tests employed by RSU 40 will be grounds for refusal to hire driver applicants under Subsection 1.2.1. Drivers who refuse to submit to a test will be subject to immediate removal from the performance of safety-sensitive functions. The failure to comply with this procedure or federal regulations is grounds for disciplinary action up to and including termination from employment.

Refusal to test will mean either failure to provide an adequate breath or urine sample without valid medical explanation or engaging in any conduct that would obstruct the implementation of any test required under this policy. Any of the following actions constitutes a refusal to submit to a test:

1. Failure to appear for any test (except pre-employment) within a reasonable period of time (as determined by RSU 40) after being directed to do so by RSU 40;
2. Failure to remain at the testing site until the test is complete;
3. Failure to provide a urine specimen;
4. Failure to provide adequate specimens/samples of substance(s) undergoing testing, including but not limited to breath and urine, without a valid medical reason;
5. Failure in the case of a directly observed or monitored collection, to permit the observation or monitoring of the provision of a specimen;
6. Failure or declination to take a second test the school unit or the collector has directed the employee to take;
7. Failure to cooperate with any part of the testing process, including but not limited to refusal to empty pockets when directed to do so or behaving in a confrontational way that disrupts the collection process;
8. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative under 49 C.F.R. § 40.193(d); and
9. Verified adulteration or substitution of a test result (as reported by a MRO).

**Consequences of Policy Violation/Enforcement**

Any driver who engages in prohibited conduct as set forth herein will be immediately removed from positions involving safety-sensitive functions, and will be subject to discipline, up to and including termination from employment.

In the event that an employee, on the basis of a test, has a blood-alcohol content of more than 0.02 but less than .04, the employee will be removed from duty for 24 hours or until their next scheduled on-duty time, whichever is longer. Tests indicating a blood-alcohol concentration of .04 or over are considered prohibited conduct, which will result in termination.

**Prohibited Conduct**

During the time that drivers are performing safety-sensitive functions, they will not engage in the following conduct (all of which will be considered "prohibited conduct" for the purposes of this policy):

1. Reporting for duty or remaining on duty while having an alcohol concentration of .04 or greater;
2. Possessing or using any alcohol while on duty or within four (4) hours of performing safety-sensitive functions;
3. Reporting for duty or remaining on duty when using, having used, or having tested positive for any controlled substance, except when such use is pursuant to the instructions of a physician who has advised that the substance does not adversely affect the driver's ability to operate a CMV or other vehicle or perform the functions of their safety-sensitive position;
4. Using any alcohol for eight (8) hours after an accident which will require the Employee to be tested for alcohol (or until tested, whichever occurs first); and
5. Refusing to submit to a required controlled substance or alcohol test.

If RSU 40 has actual knowledge or has reason to believe that an employee subject to the requirements of this procedure has engaged in prohibited conduct, RSU 40 will not permit the employee to engage in safety-sensitive work, and may require them to submit to controlled substance or alcohol testing.

If a driver engages in prohibited conduct, the driver is not qualified to drive a CMV and will be immediately removed from service and terminated.

**Safety-Sensitive Functions for Drivers**

Drivers perform a number of safety-sensitive functions. A driver is deemed to be performing a safety-sensitive function from the time the driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include but are not limited to:

1. All time at RSU 40 or on any public property waiting to be dispatched, unless the driver has been relieved from duty by RSU 40;
2. All time inspecting equipment as required by federal regulation or otherwise inspecting, servicing, or conditioning any CMV or other vehicle at any time;
3. All time spent at the driving controls of a CMV or other vehicle in operation;
4. All time, other than driving time, in or upon any CMV or other vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR Section 393.76);
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Training for Supervisors**

RSU 40 will ensure that all supervisors designated to determine reasonable suspicion for testing under this procedure receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

**Records**

Controlled substance and alcohol tests and results will be maintained under strict confidentiality in a secure location with controlled access and released only in accordance with law. An employee, upon written request, will receive copies of any records pertaining to their use of controlled substances or alcohol, including any records pertaining to their controlled substance and alcohol tests. Records will be made available to subsequent

employers or other identified persons only when expressly requested in writing by the subject employee.

### **Notifications**

Each employee subject to the requirements of this policy will receive educational materials explaining the requirements of the Code of Federal Regulations, Title 49 Part 382, and containing a copy of this procedure for meeting those requirements. RSU 40 will also include in the package of educational material a statement to be signed certifying that the employee has received the material. RSU 40 will maintain the original signed copy of the statement on file.

In addition to the aforementioned items, RSU 40 will also make available to drivers information which will identify: the effects of alcohol and controlled substances on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substance(s) problem (the employee's or co-worker's); and available methods of intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to a substance abuse professional or rehabilitation program.

### **Prescribed Controlled Substances**

All drivers will inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such substance may be used in conjunction with duty only if the physician has advised the employee that it will not adversely affect the employee's ability to safely operate a CMV or other vehicle or otherwise perform the functions of the employee's job.

### **Referral, Evaluation, and Treatment**

#### **Referral**

An employee who has engaged in conduct prohibited by this policy will be advised by RSU 40 of resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances. The information the employee receives will include: names, addresses, and telephone numbers of substance abuse professionals, counseling and treatment programs. Employees are responsible for payment of such services to the extent they are not covered by insurance.

#### **Evaluation /Treatment**

An employee who engages in such prohibited conduct and continues in employment with RSU 40 will be evaluated by a substance abuse professional who will determine what assistance or treatment, if any, the employee needs in resolving controlled substance(s) use.

**Other Policies/Procedures**

Nothing contained in this procedure will prevent RSU 40 from establishing and enforcing independent policies relating to alcohol or controlled substances or any misconduct associated therewith and the penalties for violation of those policies/procedures, up to and including termination from employment.

This procedure is not intended nor should it be construed as a contract between RSU 40 and drivers or applicants. This procedure may be changed at any time at the sole discretion of RSU 40.

**Contact Person**

If you have any questions about this controlled substance and alcohol testing procedure please contact the RSU 40 Business Manager/designee.

Legal References: 49 C.F.R. Parts 40, 382, 390 and 395  
26 M.R.S.A. §681(8)(C)

Cross Reference: Policy EEAEAA - Drug and Alcohol Testing of School Bus and Van Drivers

*This is a required policy.*

Adopted:

Revised: January 2, 2001  
February 2, 2017  
March 18, 2021