



**AP 6950 Drug and Alcohol Testing
(U.S. Department of Transportation)**

References: Reference: 49 Code of Federal Regulations Part 40; BP 3550 & AP 3550

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- A. The District must comply with the United States Department of Transportation (DOT) regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the District must comply with the regulations of the Federal Highway Administration (FHWA) and, if applicable, the Federal Transit Administration (FTA). Adoption of a policy and/or procedure is one of the District's obligations under the regulations.

This procedure sets forth the rights and obligations of covered employees. Employees who are covered by these requirements should familiarize themselves with the provisions of this procedure. Employees shall refer any questions regarding their rights and obligations under this procedure to the Director of Facilities Planning and Management.

- B. Employees covered by this procedure should be aware that they are still required to comply with the provisions of the District's other policies and procedures regarding drugs and alcohol. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in the policy.
1. Employees in the following job classifications are "covered employees" and thus, are subject to all of the provisions of this procedure:
 - a) Bus Operator
 - b) Bus Operator/Mechanic
 - c) Bus Driver
 - d) Transportation Mechanic II/Senior
 - e) Supervisor of Transportation
 - f) A Industrial Technology Programs Mechanic II
 - g) Agricultural Farm Technician
 - h) Any Faculty or staff that utilize their Class A or B license in the course of their employment
 2. An employee may be given a written exemption from this procedure signed by the Vice President for Administration, if the employee's classification is listed above, but the employee does not fall within the definition of "covered employee" listed below.
 3. Individuals who operate the following commercial motor vehicles are covered employees:

- a) a vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
 - b) a vehicle with a gross vehicle weight of at least 26,001 pounds;
 - c) a vehicle designed to transport 16 or more passengers, including the driver; or
 - d) a vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.
4. Covered employees include regularly employed drivers, casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. A covered employee also includes all persons applying to drive a commercial motor vehicle.
5. The FHWA exempts those employees from mandatory drug and alcohol testing who are:
- a) also covered by the FTA and required to comply with FTA alcohol and/or controlled substances testing. e.g., municipal bus drivers.
 - b) granted a full waiver from the requirements of the commercial driver's license program; e.g., the State of California exempts non-civilian military personnel operating military vehicles and individuals operating farm equipment which incidentally moves over a highway from obtaining a commercial driver's license.
 - c) granted an optional State waiver from the federal commercial driver's license requirements (49 CFR Part 383), e.g., fire fighters holding noncommercial driver's licenses. The State of California issues noncommercial driver's licenses which permit a fire fighter or volunteer fire fighter to operate firefighting equipment, but not to transport passengers.
6. FTA Agencies – Employees who perform "safety sensitive functions" as described below are "covered employees." Regardless of the definition of "safety sensitive functions" below, volunteers are only covered if they operate vehicles designed to transport 16 or more passengers.

Covered employees may not be under the influence or in possession of controlled substances or alcohol during work hours. Further, certain conduct is prohibited while performing and prior to performing safety sensitive functions.

7. Safety Sensitive Function – The following are safety sensitive functions for FHWA Agencies:
- a) All time at a carrier or shipper, plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
 - b) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle.
 - c) All time spent at the driving controls of a commercial motor vehicle.
 - d) All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
 - e) All time loading or unloading a commercial motor 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.

- f) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

8. The following are safety sensitive functions for FTA Agencies:

- a) Operation of a revenue service vehicle. (*A vehicle is in revenue service when the vehicle is available to the general public and there is reasonable expectations of carrying passengers that directly pay fares, are subsidized by public policy, or provide payment through some contractual arrangement. This would include bus drivers, subway operators, drivers of van pools, etc. Drivers who operate federally funded van pools for commuting are currently covered by these regulations. Revenue service excludes school buses and charter buses which are not federally funded.*)
- b) Operation of a non-revenue service vehicle that meets the FHWA weight standards (See Section B above). (*This category includes drivers of snow plows, which are employed by or under contract to the transit entity and meet the designated weight requirements to require a commercial driver's license.*)
- c) Controlling dispatch or movement of a revenue service vehicle or equipment used in revenue service. (*This includes the dispatchers for the buses, subways, vans, etc.*)
- d) Maintaining a revenue service vehicle. (*This does include maintenance workers.*)

C. **Prohibitions** – The following conduct is prohibited and may result in discipline, up to and including termination:

1. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration level of 0.04 or greater;
2. Performing a safety sensitive function within four hours of using alcohol;
3. Being on duty or operating a vehicle described above, while possessing alcohol;
4. Using alcohol while performing a safety sensitive function;
5. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle;
6. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions if the employee tests positive for controlled substances;
7. Refusing to submit to any alcohol or controlled substances test required by this Procedure. A covered employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test;
8. A refusal to submit to an alcohol or controlled substances test required by this Procedure includes, but is not limited to:
 - a) A refusal to provide a urine sample for a drug test;
 - b) An inability to provide a urine sample without a valid medical explanation;

- c) A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
- d) An inability to provide breath or to provide an adequate amount of breath without valid medical explanation;
- e) Tampering with or attempting to adulterate the urine specimen or collection procedure;
- f) Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
- g) Leaving the scene of an accident without a valid reason as to why authorization from a supervisor or manager (who has the responsibility to make a determination as to whether to send the employee for a post-accident drug and/or alcohol test) was not obtained.

9. Consuming alcohol during the eight hours immediately following an accident, (the following clause only applies under the FTA - unless the covered employee has been informed that his or her actions have been completely discounted as a contributing factor to the accident), or until the employee undergoes a post-accident alcohol test, whichever occurs first.

10. In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by this Procedure will be provided with a copy of the Board Policy and Procedure 3550 Drug Free Environment and Drug Prevention, and must sign an acknowledgment that they have read the policy and procedure and agree to comply with it.

D. **Consequences for Employees** – An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from their safety sensitive position for at least 24 hours under FHWA and eight hours under FTA.

E. **Drug and Alcohol Testing** – Drug and alcohol testing will be imposed on covered employees in the following circumstances.

1. Pre-Employment Testing

- a. All applicants for classifications which are covered by the DOT regulations (See “covered employees” above) as well as all employees who transfer from classifications which are not covered to classifications which are covered will be required to submit to pre-employment/pre-duty drug testing. Applicants will not be assigned to a safety sensitive position if they do not pass the test. (Note: There is no pre-employment alcohol test.)
- b. The District will check with previous employers to obtain test results within the past six months. The District must also determine that the employee has had no records of any violations with previous employers for controlled substances or alcohol. This District reserves the right not to employ an applicant who has received a controlled-substance test indicating a verified positive test result.

2. Post-Accident Testing

- a. FHWA Agencies: Post-Accident drug and alcohol testing will be conducted on employees following an accident. Post-accident alcohol tests shall be administered within two hours following an accident and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident.

- i. An accident occurs when as a result of an occurrence involving the vehicle an individual dies or when a State or local law enforcement authority issues a citation to the covered employee driver for a moving violation arising from the accident.
 - ii. If no citation is issued, each surviving driver who was performing safety-sensitive functions with respect to the vehicle will be tested if the accident involved the loss of human life.
 - b. FTA Agencies: Post-Accident drug and alcohol testing will be conducted on employees following an accident unless the District determines, using the best information available at the time of the decision, that the covered employee's performance could be completely discounted as a contributing factor to the accident. Not only will the operator of the vehicle be tested, but so will any other covered employee whose performance may have contributed to the accident, such as a maintenance person.
 - c. Post-accident alcohol tests shall be administered within two hours following an accident and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident.
 - d. An *accident* occurs in the following circumstances: a) when an individual dies as a result of an occurrence involving the vehicle; b) when an individual suffers bodily injury as a result of an occurrence involving the vehicle; or c) when a vehicle suffers disabling damage.
 - e. Disabling damage means damage to the vehicle which precludes departure from the scene in its usual manner in daylight after simple repairs.
 - f. If a test does not occur, the District shall submit to the Federal Motor Carrier Safety Administration a report containing an explanation of the events that resulted in the failure to administer the test (upon request).
 - g. The employee will not drive themselves to the testing center. It is the responsibility of the supervisor or designee to provide transportation to the testing center. The employee must notify their supervisor, College Police, Human Resources, and Facilities Planning and Management immediately.
 - h. Employee shall not use alcohol for eight hours after the accident, or until after they have undergone a post-accident alcohol test, whichever occurs first.
3. Random Testing – Covered employees will be subject to random alcohol and drug testing as follows: A random alcohol test may be administered just prior to the employee performing a safety-sensitive function (e.g., driving), while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function.
 - a. The District will subject at least 10% of the total number of covered employees to random alcohol testing per year. A random drug test will be administered to at least 50% of the total number of covered employees per year. Some employees may be tested more than once in a year, while others are not tested at all depending on the random selection.

- b. On the date an employee is selected for random drug testing, their supervisor will ensure their duties are covered. The employee will receive a written notice indicating the time they are to report to the testing center. Every covered employee who is notified of selection for random testing shall cease to perform safety-sensitive functions and shall immediately proceed to the testing center.
4. Reasonable Suspicion Testing – Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances.
 - a. The reasonable suspicion alcohol test will be administered within two hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight hours following the observation.
 - b. To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances, unless there is a change in federal regulations then updated training is required. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.
 5. Return to Duty/Follow-up Testing – A covered employee who has violated any of the prohibitions of this procedure must submit to a return to duty test before they may be returned to their position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test. In addition, the employee will be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six (6) unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation.

F. Testing Procedures

1. **Alcohol Testing:** Alcohol testing will be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests.
 - a. A screening test will be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted.
 - b. The detailed procedures that will be utilized by the lab for collection and testing of the specimen are available upon request and will comply with the current regulations set forth at 49 Code of Federal Regulations Part 40.
2. **Drug Testing:** Drug testing is done through a urine test. The employee has two hours in which to provide an actual urine sample once they are at the testing center. If for some reason the employee is not able to provide a sample during this time frame, they will be reviewed by a medical doctor. If no medical problem exists, the employee has one hour to comply or the test will be considered positive. The detailed procedures that will be utilized by the lab for collection and testing of the specimen are available upon

request and will comply with the current regulations set forth at 49 Code of Federal Regulations Part 40

- a. Immediately after collection, the urine specimen will be split into two bottles labeled as "primary" and "split" specimen. If the primary specimen is negative, the laboratory shall dispose of the split sample.
- b. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours to request that the split specimen be analyzed by a different certified lab. This will be at the expense of the employee unless the specimen results are negative.
- c. If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis.
- d. All drug test results will be reviewed and interpreted by a federally approved medical review officer before they are reported to the employee and then to the District.
- e. With all positive drug tests, the physician (a.k.a. medical review officer) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the physician determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the District as "negative."

G. Consequences of Failing an Alcohol and/or Drug Test: A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination.

1. A covered employee who tests positive for alcohol or controlled substances shall be placed on paid leave subject to disciplinary action up to and including termination, pending Board approval. In cases where substance and/or alcohol do not imperil the safety of themselves and others, progressive discipline may be used.
2. If a covered employee is not terminated, the employee:
 - a. Must be removed from performing any safety-sensitive function;
 - b. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for their alcohol or drug abuse. The District is not required to pay for this treatment;
 - c. May not be returned to their former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration level of less than 0.02 or a negative result on a controlled substance test;
 - d. Will be required to submit to unannounced follow-up testing after they have been returned to their safety-sensitive position.

H. Records – The District is obligated to maintain records of the drug and alcohol misuse prevention programs, report the results in a management information system, and control access to the recorded information.

1. The District will maintain the following records for a period of five (5) years and will be kept separately from personnel records in Human Resources:
 - a. the results of an employee's alcohol test which indicates an alcohol concentration level of 0.02 or higher;
 - b. the results of an employee's controlled substances test which are positive;

- c. documentation of any employee who refused to submit to a required alcohol/drug test;
 - d. calibration documentation;
 - e. employee evaluations and referrals by substance abuse professionals;
 - f. records documenting the collection process for the alcohol and controlled substances tests and the training of supervisors for two (2) years;
 - g. records of any negative or canceled drug test or any alcohol test result which is less than 0.02 for one year; and
 - h. copies of the training certificates and employee procedure acknowledgment receipt
2. Facilities Planning and Management is designated as the point of contact for District files on the drug and alcohol testing program. Copies of all driver's license, medical certificates, and other required documents will be kept in the Facilities Planning and Management Office.
 3. By March 15 of each year, the District must make available to the public, a report summarizing the results of the alcohol misuse and controlled substances prevention program.
 4. The District may not release information concerning covered employees to third parties unless specifically authorized by statute. Employees, however, may request in writing to receive copies of any records pertaining to the employee's use of drugs or alcohol contained in the employee's file.

I. Employee Information/Training

1. The District shall distribute this policy and procedure to every covered employee prior to the start of alcohol and controlled substances testing under Part 382 of 49 Code of Federal Regulation. The District shall distribute this policy, procedure, and Transportation Testing Consortium Information Packet to every covered employee hired, and to every covered employee transferred into a position requiring driving a commercial vehicle. The employee will be required to sign a statement acknowledging receipt of the above documents. The District's Human Resources Department shall perform this function.
2. The District has established an Employee Assistance Program to help employees who need assistance with alcohol and controlled substance abuse. For information about EAP contact Human Resources at 530/895-2400 or on the website at:
<http://www.butte.edu/hr/benefits/eap.html>
3. Covered employees shall receive annual training and information concerning the effects of alcohol and controlled substances and available methods of intervention as required by the 49 Code of Federal Regulations Part 40.

J. Drug and Alcohol Clearinghouse

1. Pre-employment Query

- a. The District will not employ an employee subject to controlled substances and alcohol testing under this part to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the employee has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a

concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the employee used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of sections 382.213.

- b. The District will conduct a full query under this section, which releases information in the Clearinghouse to the District and requires that the employee give specific consent.

2. Annual Query

- a. The District will conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under this part to determine whether information exists in the Clearinghouse about those employees.
- b. In lieu of a full query, as described in paragraph J.1.b, the District may obtain general consent from the employee to conduct a limited query to satisfy the annual query requirement in paragraph J.2.a. The limited query will tell the District whether there is information such as violations about the employee in the Clearinghouse, but will not release the details of that information to the District without a full query having been conducted. The individual employee must give general consent to conduct limited queries that is effective for more than one year.
- c. If the limited query shows that information exists in the Clearinghouse about the covered employee, the District must conduct a full query, in accordance with paragraph J.1.b, within 24 hours of conducting the limited query. If the District fails to conduct a full query within 24 hours, the District must not allow the employee to continue to perform any safety-sensitive function until the District conducts the full query and the results confirm that the employee's Clearinghouse record contains no prohibitions as defined in paragraph J.4.a. For any full query the covered employee must give electronic consent through the Clearinghouse within 24 hours of notification.

3. Notification

- a. If any information described in paragraph J.1.a and J.1.b is entered into the Clearinghouse about an employee during the 30-day period immediately following the District conducting a query of an individual employee's records, Federal Motor Carrier Safety Administration (FMCSA) will notify the District.

4. Prohibition

- a. The District will not allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:
 - i. That the employee has successfully completed the substance abuse professional evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the substance abuse professional.

- ii. That, if the employee has not completed all follow-up tests as prescribed by the substance abuse professional in accordance with § 40.307 of this title and specified in the substance abuse professional report required by § 40.311 of this title, the employee has completed the substance abuse professional evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title and achieves a negative return-to-duty test result, and the District assumes the responsibility for managing the follow-up testing process associated with the testing violation.
- b. A covered employee who refuses to provide consent or violate any part of this procedure shall be removed from safety sensitive function, as required, and may be subject to disciplinary action up to and including termination.

5. Recordkeeping

- a. The District will retain for 3 years a record of each query and all information received in response to each query made under § 382.701.

Appendix A:

EMPLOYEE AGREEMENT

I, the undersigned, certify that I have read and understand the Butte-Glenn Community College District's (District) policy on alcohol and drug abuse, and will participate in any required trainings as required by 49 Code of Federal Regulations Part 40 and this policy and procedure.

I agree to submit to all required drug testing under the federal anti-drug program. I further agree to comply with all District, local, state, and federal regulations regarding drugs in the workplace.

Failure to comply with Board Policy and Administrative Procedure 3550 Drug Free Environment and Drug Prevention, having a positive test result on any required test, or refusal to take a required test will result in my removal from safety sensitive functions and may result in appropriate discipline up to and including termination of my employment or my application for employment.

Employee's Signature/Date

Print Name

Witness Signature Date

Print Name

Appendix B:

GENERAL CONSENT FOR LIMITED QUERIES OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) DRUG AND ALCOHOL CLEARINGHOUSE

I, the undersigned, hereby provide consent to the Butte-Glenn Community College District (District) to conduct multiple 'limited queries' of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) for the duration of my employment with the District, or until I am no longer subject to the drug and alcohol testing rules in 49 CFR Part 382 for the District, to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

I understand that if the 'limited query' conducted by the District indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the District without first obtaining additional specific consent from me.

I further understand that if I refuse to provide consent for the District to conduct a 'limited query' of the Clearinghouse, the District must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

Employee's Signature/Date

Print Name

Witness Signature Date

Print Name

Original: Human Resources
Copy: Facilities Planning and Management