

TRUMBULL COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

Policy

Section 3.19

ALCOHOL AND DRUG TESTING

A. General and Test Types

This policy is intended to promote and ensure a drug-free workplace and to comply with the Omnibus Transportation Act of 1991 (Act) and relevant US Department of Transportation Regulations. Its provisions shall be effective January 1, 1996 and are applicable to all safety sensitive employees (e.g. CDL drivers, Non-CDL drivers transporting enrolled individuals, and mechanics) of the Board. Such safety sensitive employees shall be subject to random, post-accident, reasonable suspicion, return to duty, and follow-up testing for alcohol and controlled substances as outlined below. Certain provisions of this policy (i.e. reasonable suspicion, post-accident, post offer, promotion, transfer, return to duty, and follow-up testing) shall apply to all employees.

1. Post Offer:

All candidates who have received a tentative offer of employment shall be required to successfully complete a urine drug test. Any candidate who fails the urine drug test or refuses to take the test will no longer be considered for employment.

2. Promotion or Transfer:

Any employee seeking a transfer or promotion will be required to submit to a urine drug test. Any employee who fails the drug test or refuses to take the test will be terminated.

3. Random Testing:

All safety sensitive employees shall be subject to random testing for drugs and alcohol on an unannounced and random basis. A scientifically valid method shall be used to randomly select such employees for testing. An employee selected for random testing must proceed or will be escorted immediately upon notification to the collection site. A refusal to submit to a random test, including any conduct which does not lead to a collection as soon as possible, shall subject the employee to termination. A percentage equal to at least 50 percent of the average number of safety-sensitive employees will be tested for drugs, and a percentage equal to at least 25 percent of the average number of safety-sensitive employees will be tested to alcohol annually. Each employee in the pool shall have an equal chance of selection and shall remain in the pool, even after the employee has been tested. This means that some employees may be selected more than once in a program year. The random drug and alcohol testing shall be reasonably spread through the program year.

4. Post-Accident Testing:

Any employee operating a Board vehicle during work hours who is involved in an accident shall be required to submit to post-accident drug and alcohol testing. Additionally, an employee who is cited for a violation of a traffic law as a result of an accident shall be required to submit to post-accident testing. Following any accident, the employee must contact a supervisor or Board official as soon as possible. A refusal to submit to a post-accident drug or alcohol test shall subject the employee to termination. In the case of post-accident testing and the inability of the employee to voluntarily submit to required testing, the Board may substitute tests for use of drugs or alcohol administered by police or other public safety officers under separate authority in lieu of conducting his own testing. The employee must sign a release allowing the Board to obtain results from such federal, state or local officials. A post-accident alcohol or drug test shall be collected within two (2) hours following the accident. However, if no alcohol collection can be made within eight (8) hours, attempts to collect a breath sample shall cease. If no urine sample can be obtained for purposes of a post-accident drug test within thirty-two (32) hours, attempts to make such collections shall cease. The supervisor or Board official shall direct or escort the employee to report to the collection site immediately.

Other employees may be tested if it is determined, based on the best information available at the time of the accident, that such employees' actions could have contributed to the accident.

5. Reasonable Suspicion Testing:

Employees who are personally observed, on duty, by at least one supervisor and/or management employee manifesting physical or behavior symptoms, appearances, reactions, speech, or odors commonly associated with alcohol or controlled substance use of impairment shall be subject to testing. The observing supervisor or management employee will contact the Director of Human Resources (or designee) and will document the grounds of his reasonable suspicion immediately. A reasonable suspicion alcohol test should be administered within two (2) hours, but no later than eight (8) hours. The employee shall be transported and accompanied by a supervisor or management employee of the Board to the test site.

B. Results

For purposes of this policy, a positive test result shall mean a result at or greater than 0.02 for alcohol or a level above those established by the Department of Transportation in the screening and confirmatory tests for marijuana, cocaine, amphetamines, opiates, and phencyclidine.

C. Cost

The cost of any testing required shall be paid by the Board except as otherwise provided herein.

D. Consequences of Positive Test Results

Any employee who is found pursuant to random, reasonable suspicion, post offer, promotional, transfer or post-accident testing to have an alcohol concentration level at or great than 0.02 or who tests positive for a controlled substance shall be terminated.

E. Refusal to Test

Employees who refuse to submit to required testing shall be terminated. A refusal to test for purposes of this policy shall include (1) failure to cooperate with any part of the testing process, (2) a failure to provide a sufficient sample, provided there does not exist a valid medical explanation as to why the employee was unable to do so, (3) any conduct which clearly obstructs the testing process such as unavailability, leaving the scene of an accident without proper authorization, or a delay in providing a sample, (4) a failure to execute forms required as part of the testing process.

F. Prohibition Against Use of Alcohol or Controlled Substances

The unlawful manufacture, distribution, being under the influence, sale possession, or use of a controlled substance or alcohol is strictly prohibited in the workplace. An employee is subject to discipline up to and including immediate termination from employment and/or referral to an appropriate law enforcement authority for violation of this policy. In specific regard to alcohol use, employees are prohibited from any use that could affect the performance of the employee and the use of alcohol during the (8) hours after an accident unless the employee has been tested.

G. Supervisor and Employee Training and Information:

The Board will ensure that persons authorized to determine reasonable suspicion are trained, in compliance with the Act, to recognize the symptoms of impairment and intoxication. Further, employees of the Board shall be provided a copy of this policy prior to the start of alcohol and controlled substances testing under the Act as well as other information required by law. Employees are required to sign a statement certifying that they have received a copy of these materials.

H. Medical Prescriptions

Employees who are taking prescription medication that could cause impairment or drowsiness must furnish the Board with a statement from a physician specifying the drug being taken and whether the drug will interfere with a safe performance of the employee's job.

I. Employee Status

Employees shall be on paid status while submitting to any random, post-accident, reasonable suspicion or follow-up testing performed during time when the employee is scheduled to work. An employee who is not permitted to return to work pending the outcome of a test result conducted pursuant to the provisions relating to reasonable suspicion testing and where the test result is ultimately negative, shall be paid for the time he was not permitted to work.

J. Confidentiality, Recordkeeping, and Reporting

The Board shall maintain records related to its alcohol misuse and controlled substances use program in a secure location with controlled access. Such records shall further be kept for the longer of the time periods mandated by federal or state law. Test results shall be confidential to the extent required by applicable law. An employee is entitled, upon written request, to obtain copies of any records pertaining to his use of alcohol or controlled substances.

K. Rehabilitation

Employees who recognize that they have an alcohol or substance abuse problem and who voluntarily request assistance from the Board may receive such assistance without fear of immediate and appropriate disciplinary action; provided, however, that they make such a request prior to notification that a test is being administered in accordance with this policy.

Any such request shall be made to the Human Resource Director and shall be treated as part of the employee's confidential medical records disclosure of information will be restricted. If the employee refuses to seek treatment following his/her request for assistance, the employee will be terminated for violation of this policy.

Employees who are entered into the rehabilitation program will be eligible to use sick, vacation, personal leave or leave without pay, if applicable.

Employees in the rehabilitation program will not be permitted to return to work until certification is presented to the Human Resource Director that the employee has completed the recommended rehabilitation and treatment program and has successfully passed a return to duty drug/alcohol test.

Employees in the rehabilitation program will participate in the follow-up testing for 36 months from the employee's return to work. The employee will be required to submit to a minimum of six (6) unannounced follow-up tests within the first twelve (12) months after returning to duty. Follow-up testing shall be conducted at the discretion of the Board and shall be separate from, and in addition to, reasonable suspicion, post-accident and random testing procedures. The Human Resource Director shall direct the schedule of unannounced and random follow-up testing. The cost of follow-up testing shall be borne by the Board.

Failure to successfully complete or participate in a prescribed rehabilitation program shall result in the employee's termination including a refusal test or a positive test result on a return to duty or follow-up test. No employee shall be provided more than one opportunity at rehabilitation. The cost for rehabilitation services shall be paid by the employee except that the employee may use the benefits provided, and if available, under the Board's health insurance plan.

An employee's decision to voluntarily seek professional treatment will not be used as a basis for disciplinary action nor will it be used against the employee in any disciplinary action. However, requesting and/or receiving assistance will not exempt an employee from the requirements of this policy or termination resulting

from violations of these requirements, and it may not be used to shield employees from appropriate disciplinary action due to other policy violations or unacceptable work performance. A request for assistance cannot be used as an “after-the-fact” action to counteract disciplinary action as a result of the violation of this policy or violation of other Board policies or unacceptable work performance.

Definitions

1. *Accident* means an occurrence involving a motor vehicle operating on a public road which results in:
 - a. A fatality;
 - b. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or one or more motor vehicles incurring damage as a result of the accident.
2. *Alcohol Use* means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
3. *Confirmation Test*. For alcohol testing means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. For controlled substances testing a second analytical procedure to identify the presence of a specific drug of metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)
4. *Medical Review Officer (MRO)*. A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.
5. *Substance Abuse Professional* means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, state licensed or certified marriage and family therapist or additional counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Adopted: 12/28/95
 Revised: 10/30/2000
 Revised: 1/23/2006
 Revised: 12/21/2009