

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.

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

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 reasonable suspicion test.
8. 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 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 ob-

served 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.

Employee Drug Use

The children of the District are the greatest natural resource the District provides, and their continued safety and health is of serious importance to the District. Therefore, the District has a compelling interest and commitment to eliminate illegal and unauthorized drug use (including alcohol), drug users, drug activities, and drug effects from all of its workplaces.

The District prohibits the unlawful distribution, possession, or use of illicit drugs and alcohol on school premises or as part of any of the District's activities. The District finds that employees occupying safety-sensitive positions who work in close proximity to children pose a potentially unsafe threat to students if they perform their duties under the influence of illegal drugs or alcohol. Compliance with these requirements and prohibitions is mandatory and is a condition of employment.

**Employee Alcohol /
Controlled
Substance Testing**

In its efforts to provide a safe and efficient operation of its schools and ensure the safety of its students and employees, all District employees in safety-sensitive positions shall be subject to drug testing.

"Safety-sensitive positions" shall include the following:

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

1. Maintenance employees operating machinery or handling combustible materials around students;
2. Custodial employees handling volatile, corrosive, or poisonous substances around students;
3. Cafeteria employees operating stoves, ovens, or other gas or electric cooking devices around students;
4. Contract food service employees or District cafeteria employees preparing, handling, or serving food to students;
5. Classroom teachers and instructional aides handling corrosive, volatile, or poisonous substances around students or supervising the use of such substances by students;
6. Classroom teachers and instructional aides operating gas, electrical, or propane heaters, ovens, stoves, and/or burners around students or supervising the use of such devices by students;
7. Vocational or career and technology teachers whose duties include handling corrosive, volatile, or poisonous substances around students or the operation of gas, propane, or electrical equipment around students or the supervision of the use of such equipment or substances by students;
8. Any District employees whose duties require the operation or maintenance of a District motor vehicle or the transportation of students for any reason and who are not otherwise subject to DOT drug/alcohol testing (see below), including employees required to check out vehicles for professional development training received off campus;
9. Any employees whose duties require the employees to check out a school-owned vehicle for use;
10. Any employee authorized by the Board to carry a weapon on school premises under Board policy CKC(LOCAL); and
11. Any contract employees or District employees whose duties provide for regular interaction with students and the use of hazardous substances, operation of potentially dangerous equipment, providing food to students, or whose duties otherwise pose any threat or danger to District students.

The Superintendent shall annually review the most current job descriptions of employees and shall determine which employees are employed in safety-sensitive positions. Employees identified by the Superintendent as occupying safety-sensitive positions shall be informed in writing of the requirements under this policy prior to the

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

beginning of each school year. Further, the Superintendent or designee shall inform an applicant for employment in a safety-sensitive position of the requirements of this policy.

An employee may contest the categorization of his or her position as "safety sensitive" by filing a complaint under District policy DGBA(LOCAL). Failure by an employee to contest the categorization of his or her position as a safety-sensitive position within 15 school business days of written notification shall constitute consent by the employee to the classification of the employee's position as safety sensitive.

Required testing shall include:

1. Testing for all employees in safety-sensitive positions at the beginning of each new school year;
2. Random testing of employees in safety-sensitive positions;
3. Reasonable suspicion testing (observations concerning appearance, behavior, speech, or body odor); and
4. Follow-up testing.

The District shall not permit any employee subject to testing who refuses the test to perform or to continue to perform his or her assigned duties. An employee required under this policy to submit to drug testing who refuses to do so shall be subject to the same consequences as an employee who has received a positive test result.

The selection of an employee for random testing shall be made by a computer-based random number generator, with all employees having an equal chance of being tested for each test selection process.

The District shall ensure that random tests are unannounced and dates are reasonably spread throughout the school year. Each employee selected shall proceed immediately to the test site. The collection of samples for testing shall be conducted in such a manner as to minimize the infringement on an employee's privacy. In no event shall a monitor observe an employee during the act of urination. Samples collected shall only be tested for the presence of specific illegal drugs, and disclosure of medical information by an employee shall only be required if a test result is positive.

CBD Use

In 2019, the Texas Legislature approved the use of hemp-derived products for sale over the counter. The definition of "hemp" includes cannabis-derived substances containing not more than 0.3 percent concentration (dry weight basis) of delta-9 tetrahydrocannabinol ("THC"). Some studies have determined that use of hemp-

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

derived products, such as CBD (i.e., cannabidiol), may result in a positive drug test result for marijuana use. Consequently, employees who occupy safety-sensitive positions and are, consequently, subject to random drug testing, are not permitted to use hemp-derived products during the time that they are employed in safety-sensitive positions subject to drug testing, unless prior to their use the employee receives written authorization of the employee's healthcare provider to use a hemp-derived product.

An employee who is using hemp-derived products and has not informed the employee's supervisor in writing in advance that he or she is doing so under the supervision of a healthcare provider shall be subject to the consequences set forth in this policy for a positive test result.

Consequences

No employee who has received a positive test result shall be permitted to perform his or her assigned duties unless the employee has been referred for evaluation and treatment. The employee shall be placed on administrative leave pending the District's investigation into the circumstances of the positive test result. An employee who provides, within 72 hours of being informed of a positive test result, a valid, legal medical reason for the positive test result, as determined by the Superintendent, shall be treated as if he or she received a negative test result.

Upon the expiration of the 72-hour period to provide a valid, legal reason for a positive test result, each employee who has received a positive test result shall be advised by the District of resources available to him or her in evaluating and resolving problems associated with the misuse of alcohol or the use of controlled substances.

Return to Duty

An employee shall not be permitted to return to duty until he or she:

1. Enrolls in a state certified drug awareness program; and
2. Provides a negative test result.

Failure by an employee to provide written confirmation that he or she has enrolled in a state-certified drug awareness program within seven calendar days of notification of a positive test result shall result in either the termination of the employee's employment with the District (in the case of at-will employees) or the commencement of termination or nonrenewal proceedings against the employee (in the case of contract employees).

Each employee identified as needing assistance in resolving problems associated with alcohol misuse or use of a controlled substance shall be:

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHE
(LOCAL)

1. Evaluated by a substance abuse professional to determine that a proper rehabilitation-prescribed program has been properly followed; and
2. Subject to unannounced follow-up testing at each random test administered by the District for the 12 months following the employee's return to duty.