

Wood County Board of Developmental Disabilities

PROCEDURE

Procedure #: 02-ALL-ALL-0499 (AD)
Effective Date: CDL Holders: 01-01-96; Other employees: 3-1-96
Person Responsible: Superintendent

Subject: Substance Abuse Testing
Last Revision: 04-10-2023

Approvals/Date: Brent E. Ben 4-13-23
Superintendent, WCBDD Date

Department Director Date

The following definitions will apply:

Commercial Motor Vehicle (CDL Holders Only) - Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: 1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or 2) Has a gross vehicle weight rating of 26,001 or more pounds; or 3) Is designed to transport 16 or more passengers, including the driver; or 4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Driver - Driver means any person who: 1) Operates a commercial motor vehicle; 2) Has driving as an essential function of his/her job; and 3) Management employee. This includes, but is not limited to: full time or part-time, regularly employed drivers; casual, intermittent, seasonal 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.

Employee - An individual employed by the Wood County Board of Developmental Disabilities.

Refusal to Test - Refuse to submit (to an alcohol or controlled substances test) means that an employee: 1) Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; 2) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or 3) Engages in conduct that clearly obstructs the testing process.

Reportable Accident - When a vehicle, during exact time of accident, was in motion, either the motor was propelling the vehicle or the vehicle was being moved through other means such as being pushed by another car or person, rolling while in neutral. This does not involve a vehicle that was parked in a stationary position in the "park" gear, as long as the vehicle was parked in a properly marked parking zone.

Safety Sensitive Function -

1. All time at any facility, owned or otherwise, waiting to be dispatched unless the driver has been relieved from duty by the Board. This includes any "on-call" time.
2. All time inspecting equipment as required by the regulations.
3. All driving time as defined by the regulations.
4. All time, other than driving, in any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising or assisting in this process.
6. All time spent performing the requirements specified in section 392.40 and 392.41 of the regulations as they relate to accidents.
7. All time repairing, obtaining assistance or remaining in attendance of a disabled vehicle.
8. All time spent providing a breath or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident or follow-up testing required by this policy when directed by the County.
9. Time spent performing any other work in the capacity of, or in the employ or service of, a common, contract or private carrier.
10. Time spent performing any compensated work for any non-motor carrier.

Illegally Used Controlled Substances or Drugs - Illegally used controlled substances or drugs are any illegal drugs or any substances identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and further defined by 21 CFR 1308.11 through 1308.15. This includes, but is not limited to marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine and ecstasy, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs and use of illegally obtained prescription drugs

Legal Drugs - Legal Drugs are legally prescribed drugs and non-prescription medications. A "legally prescribed drug" means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the physician's name, the name of the substance, quantity/amount to be taken and period of authorization.

Alcohol - Alcohol means the intoxicating agent in beverage-alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

PURPOSE

1. This procedure is to assure fitness for duty and to protect driver/employees, individuals served, and the general public from the risks posed by the use of alcohol and prohibited drugs on the job while:
 - A. Operating equipment requiring a Commercial Driver's License (hereinafter CDL);
 - B. Transporting individuals served while on duty;
 - C. Operating a Board owned or operated vehicle at any time;
 - D. Driving a personal vehicle while on duty.
2. This procedure is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs.
3. This procedure covers the following employees as shown:
 - A. This procedure applies to all positions requiring a CDL per 49 CFR part 382. All positions requiring a CDL will be subject to alcohol and controlled substances testing in the following circumstances:
 - 1) Pre-employment/pre-duty testing;
 - 2) Reasonable suspicion testing;
 - 3) Return-to-duty testing;
 - 4) Post-accident testing;
 - 5) Random testing (DOT).
 - B. All employees will be subject to controlled substances testing in the following circumstances:
 - 1) Pre-employment;
 - 2) Reasonable suspicion testing;
 - 3) Return-to-duty testing;
 - 4) Following a reportable accident while operating any vehicle (Board owned, leased or personal) or on Board paid time, or while on Board owned or leased property unless other driver receives a citation and determined at fault. If no citation is received by either driver, employee will report for drug testing; and
 - 5) Random testing.

PROHIBITED CONDUCT FOR ALL EMPLOYEES:

1. Perform a safety-sensitive or other driving function within four (4) hours after using alcohol. No supervisor having actual knowledge that an employee has used alcohol, within four (4) hours shall permit an employee to perform or continue to perform safety-sensitive or other driving functions.
2. Possess any quantity of alcohol while on duty unless the alcohol is manifested and transported as part of the load. This includes any medicines, both prescription and over-the-counter, that contains alcohol, unless the packaging seal is un-broken.
3. Use alcohol while on duty as well as lunch periods and breaks.
4. Report for or remain on duty when his/her ability to perform assigned functions is adversely affected or when his/her blood alcohol concentration is 0.02 or greater.
5. When involved in an accident that requires a post-accident alcohol test, use alcohol within eight (8) hours after the incident or prior to submitting for the post-accident test, whichever comes first.
6. Use any substance that indicates that mental functioning, motor skills or judgment may be adversely affected without reporting such to his/her supervisor, as per the Drug Free Workplace Procedure.
7. Perform a safety-sensitive function or other job duties when the employee uses controlled substances, except when prescribed by a physician who has determined that the substance will not adversely affect the employee's ability to safely perform his/her work duties.
8. Perform a safety-sensitive function or any other job duties, if the employee has tested positive for controlled substances or alcohol.

SUPERVISOR'S DUTY TO IMPLEMENT POLICY AND REPORT CRIMINAL DRUG CONVICTIONS

1. Supervisors of employees subject to this procedure shall apply this procedure in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this procedure, or who deliberately misuses the procedure shall be subject to disciplinary action, up to and including termination.
2. Supervisors shall report violations of this procedure to the respective department director.
3. All criminal drug convictions for employees covered by this procedure shall be placed within the employee's confidential personnel file.

TESTING FOR PROHIBITED SUBSTANCES

1. General Procedures:

- A. All employees required to hold a CDL endorsement who are subject to this procedure shall be subject to pre-employment, post-accident, reasonable suspicion, random (DOT) and return-to-duty testing.
- B. All employees as defined in this procedure shall be subject to pre-employment, post-accident, reasonable suspicion, random, & return-to-duty testing.
- C. Any employee who is reasonably suspected of being intoxicated impaired, under the influence or not fit for duty shall be placed on administrative leave with pay from his/her job duties pending an investigation and verification of his/her condition.
- D. The Board will utilize the services of the authorized testing facility to comply with the testing requirements of the DOT regulations and Board mandates. Procedures, instructions and training for all applicable supervisors and employees will be

provided by the authorized testing facility or other substance abuse professional. The Board will contract for drug and alcohol testing services to comply with DOT regulations.

- E. Testing will be conducted to assure a high degree of accuracy and reliability and will use techniques, equipment and laboratory facilities, which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, and as amended.
- F. Tests will be conducted for marijuana, cocaine, opiates, amphetamines and phencyclidine, ecstasy and 6-AM (a heroin element). Upon reasonable cause, the Board will test for other illegal drugs. In such event, the employee will provide a second urine sample.
- G. An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory gas Chromatography/Mass Spectrometry (GC/MC) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.
- H. Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) - approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test:
 - 1) An employee who has confirmed alcohol concentration of greater than 0.02 will result in Administrative Leave With Pay from his/her position pending an investigation, unless a re-test results in a concentration measure of less than 0.02.
 - 2) If the employee has a confirmed alcohol concentration of greater than 0.02 on any subsequent alcohol test, then he/she may be subject to termination.
- I. An alcohol concentration of 0.02 or greater will be considered a positive alcohol test and in violation of this procedure. Any employee who has a confirmed positive drug or alcohol (0.02 or greater) test will be placed on Administrative Leave with Pay from his/her position, pending an investigation, informed of educational and rehabilitation programs available and evaluated by a substance abuse professional (SAP). Employee assessment by a SAP is detailed in this procedure. (Refer to Progressive Corrective Action Procedure and Employee Assistance Program Policy).

2. **When Testing is Required**

A. Pre-Employment Testing (All Employees):

- 1) After the employee meets with the Human Resource representative for the conditional offer of employment, the applicant will be directed to go to the board's authorized testing facility to undergo testing for controlled substances. During the time the employee is at the authorized testing facility the employee must not leave the facility and should complete the test without interruption. No employee shall go through General Orientation or perform safety-sensitive functions unless they have been administered a controlled substances test and the results from the medical review officer indicating a verified negative test result have been received by the Human Resources Department. These results will be filed in the employee's confidential file.
- 2) Applicants who are being hired for a Vehicle Operator position who do not have a CDL at the conditional offer will go through the normal pre-employment testing. After completing the CDL training and receiving their CDL they will be required to receive Federal drug testing as required by FMCSA Drug and Alcohol 49 CFR Part 383. The Bus Transportation Supervisor will contact the HR Department to advise them that the employee has a CDL and arrange a time for the employee to go directly to the board's authorized testing facility.
- 3) Applicants who are being hired for a Vehicle Operator position who have a school bus endorsed CDL at the conditional offer will follow the same procedure as all new employees but the facility will be directed to have them complete Federal drug testing as required by FMCSA Drug and Alcohol 49 CFR Part 383. This testing will be done completely after the conditional offer. The Federal Drug Testing Custody and Control Form will be filed in the employee's confidential file.
- 4) Exceptions to pre-employment testing shall be granted in accordance with 49CFR section 382.301.

B. Post-Accident Testing (All Employees):

- 1) Any reportable accident will result in alcohol and controlled substance testing if the employee is driving any vehicle (Board owned, leased or personal) while on Board time or Board property unless the other driver receives a citation or is determined at fault.
- 2) Following any reportable accident, the driver must contact as soon as reasonably possible:
 - a) Local law enforcement;
 - b) Immediate supervisor;
- 3) Immediately following notification of the reportable accident, the immediate supervisor will contact:
 - a) Vehicle Maintenance on-call;
 - b) Authorized testing facility if post-accident testing is required;
- 4) Supervisor will drive employee to testing site.
- 5) If an accident occurs outside a sixty-mile radius, the driver shall go to the nearest hospital and submit an alcohol and controlled substance test. The employee must sign the release of information prior to continuing their current job duties. A copy of a release of information form will be kept in each vehicle in order for the hospital to release the results of the test to the authorized testing facility;
- 6) All driving duties will cease until the results of the alcohol and substance abuse tests are verified by the authorized testing facility if:

- a) A fatality occurs as a result of the accident;
 - b) If the driver is cited for a moving traffic violation and any individual involved in the accident requires medical treatment away from the scene;
 - c) If the driver was cited for a moving traffic violation and a vehicle involved in the accident was disabled to the extent that it must be towed.
- 7) All driving duties may continue if the following criteria are met:
- a) The driver did not meet any of the two (2) provisions as set forth in this procedure;
 - b) The alcohol test reveals negative results in accordance with this procedure;
 - c) The driver signs the Post Accident Fitness for Duty Statement (Form 03-ALL-ALL-0246) provided to employee by their supervisor indicating he/she has not taken any illicit drugs within the last 30 days; or, for CDL holders, until negative drug results are received by Department Director. The original shall be placed in the employee's personnel file.
- 8) All accidents will adhere to drug and alcohol tests in accordance with DOT rules and regulations. Unless otherwise indicated, drug and alcohol testing will occur through the authorized testing facility;
- 9) Local law enforcement, Vehicle Maintenance On-Call, the authorized testing facility daytime and after hours telephone numbers will be updated and posted in all County vehicles;
- 10) Employees who transport individuals served in their personal vehicle must have in their possession the telephone numbers identified above;
- 11) A driver will be tested for alcohol and controlled substance within two (2) hours of an accident. If an alcohol and controlled substance tests are not accomplished within two (2) hours of an accident, then a written record shall be made stating the reasons the alcohol and controlled substance tests were not promptly administered. If the alcohol test has not been accomplished within eight (8) hours following notification, the Board shall stop its attempt to administer the alcohol test and it shall make and retain in the file a record of the reasons the alcohol test was not properly administered. Please refer to Refusal To Test, within this procedure, if the employees does not follow the prescribed protocol;
- 12) A driver who is involved in an accident must refrain from alcohol use for eight (8) hours following an accident or until he/she undergoes a post-accident alcohol test. Drivers who leave the scene of an accident without a justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test, and they will be subject to discipline up to and including termination.
- 13) A driver who is seriously injured and cannot provide a specimen at the time of the accident, shall provide the necessary authorization for obtaining medical reports and other documents which would indicate whether there were any alcohol or controlled substances in his/her system at the time of the accident;
- 14) The Board can use, by permission from the Federal Highway Administration, post-accident tests conducted by federal, state and local officials as meeting the requirements of this section under the following conditions:
- a) The official must have independent authority to conduct the test;
 - b) The test must conform to federal, state or local requirements;
 - c) Alcohol tests require blood or breath samples;
 - d) Controlled substance tests require a urine sample;
- C. Random Testing:**
- 1) CDL Holders - Except as may be charged by the Federal Highway Administration, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of CDL driver positions. The minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of CDL driver positions. Selection of employees will be based on computer generated results and implemented monthly.
- 2) Employees - The minimum annual percentage rate for random controlled substances and/or alcohol shall be 25 percent of the average number of employees. Selection of employees will be based on computer generated results implemented **quarterly**. An employee will not be selected more than twice in a rolling calendar year.
- 3) After any employee has been randomly selected for a test, the employee must **immediately** proceed to the testing site upon notification of being selected.
- 4) If an employee, who has been randomly selected for a test is on vacation or other pre-approved form of leave, the Board may either select another employee, as an alternate, or keep the original selection confidential until the employee returns to duty.
- D. Reasonable Suspicion Testing (All Employees):**
- 1) Alcohol: A driver must submit to urine and/or breath testing when reasonable suspicion exists that the driver has an alcohol concentration of 0.02 or greater, or has consumed alcohol within four (4) hours of performing a safety-sensitive function. The Board's "reasonable suspicion" must be based on specific, contemporaneous articulable observations concerning the appearance, behavior, speech, or body odors of the driver;
- 2) Controlled substances: A driver must submit to a controlled substance test upon "reasonable suspicion" that a driver has used or is under the influence of controlled substances. The Board's "reasonable suspicion" must be based the following:
- a) First hand observations seen or heard by the supervisors or department heads,
 - b) Specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee;

- c) Observations made just before, during or just after the performance of job duties.
- 3) Alcohol testing is authorized by this section only if the observations required are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with this part. A driver may be directed by the employer to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions;
- 4) Once an employee has been notified that a reasonable suspicion test will be conducted it must take place within two (2) hours of the notification. If the test is not accomplished within two (2) hours, a written record shall be made stating the reasons the alcohol and/or controlled substance test were not promptly administered. If the test has not been accomplished within eight (8) hours following notification, the Board shall stop its attempt to administer the test and make and retain in file a record of the reasons the alcohol and/or controlled substance test were not properly administered;
- 5) A written record shall be made documenting the employee's conduct with respect to an alcohol and/or controlled substance reasonable suspicion test and must be signed by the supervisor or official at drug testing site who observed the behavior.

E. Reasonable Suspicion Testing for All Employees:

- 1) Alcohol: An employee must submit to urine and/or breath testing when reasonable suspicion exists that the employee has an alcohol concentration between 0.02 and 0.04 or greater. The Board's "reasonable suspicion" must be based on the following:
 - a) First hand observations seen or heard by the supervisors or department heads,
 - b) Specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee;
 - c) Observations made just before, during or just after the performance of job duties.
- 2) Controlled substances: An employee must submit to a controlled substance test when reasonable suspicion exists that an employee has used or is under the influence of controlled substances. The Board's "reasonable suspicion" must be based on the following:
 - a) First hand observations seen or heard by the supervisors or department heads,
 - b) Specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee;
 - c) Observations made just before, during or just after the performance of job duties.
- 3) Alcohol testing is authorized by this section only if the observations required are made during, just preceding, or just after the period of the work day;
- 4) A reasonable suspicion alcohol or controlled substance test must take place within 2 hours of the observed behaviors. If a test cannot be done within 2 hours, it should not be done. If a reasonable suspicion test cannot be conducted within the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Department Director
- 5) An employee who is asked to submit to reasonable suspicion testing will be driven to the testing site and after submitting to testing will be relieved of duty pending receipt of the test results.
- 6) Any employee who refuses to take either a reasonable suspicion alcohol or controlled substance test, tests positive for controlled substances, or has an alcohol concentration of 0.02 or higher will be disqualified from driving and will be subject to disciplinary action up to and including termination.
- 7) A written record shall be made documenting the employee's conduct with respect to an alcohol and/or controlled substance reasonable suspicion test and must be signed by the supervisor or official who observed the behavior.

F. Return-To-Duty Testing for All Applicable Employees:

- 1) Before an employee returns to duty requiring the performance of a safety-sensitive function or direct care duties after engaging in conduct prohibited concerning alcohol, as stated within this procedure, the employee shall undergo a return-to-duty test with a result indicating an alcohol concentration of less than 0.02;
- 2) Before an employee returns to duty requiring the performance of safety-sensitive function after engaging in conduct prohibited, as stated within this procedure, the employee shall undergo a return to duty controlled substances test with a result indicating a verified negative result for controlled substances use.

G. Follow-up Testing for All Employees:

- 1) Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, that employee is subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a substance abuse professional;
- 2) Follow-up alcohol testing for (CDL Holders) shall be conducted only when the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions. For non-CDL employees, follow-up testing shall be conducted when the employee is performing the essential functions of their job;
- 3) There will be a minimum of six follow-up controlled substance and/or alcohol tests in the first 12 months following re-entry to the job. Follow-up testing may be extended for up to 60 months following an employee's return to duty.

H. Employee Requested Split Sample Test:

- 1) Any employee who questions the result of a required drug test may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample

that was provided at the same time as the original sample. All costs for such testing are paid by the employee, unless the second test invalidates the original test;

2) The employee's request for a split sample test must be made within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documental facts that were beyond the control of the employee.

I. Low Creatinine:

1) If original drug screen indicates a urine creatinine value less than 20 mg/dl per Ohio Department of Transportation (ODOT) this constitutes an invalid drug screen. Employees will be subjected to an additional drug screen.

REFUSAL TO TEST

1. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify the test results through tampering, contamination, adulteration or substitution shall be subject to discipline up to and including termination.

EMPLOYEE ASSESSMENT AND TREATMENT

1. Any employee who tests positive for the presence of controlled substances or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be evaluated by a Substance Abuse Professional (SAP). The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse. SAP services will be provided by an appropriate certified professional who implements an employee assistance program for the Board.

2. The Board will consider employees who test positive to be medically unqualified and they shall be disqualified from working for the Board until they have been released to return to duty by the SAP. Employees may be allowed to elect rehabilitation through available sources in lieu of termination the first time that they have a positive result on an alcohol or controlled substance test. However, rehabilitation in lieu of termination may not be available where the offense-giving rise to the discipline is so severe as to make the employee ineligible for continued employment.

3. For those seeking treatment, whether voluntarily or by reason of mandatory rehabilitation in lieu of termination, the employee benefits that would otherwise be available to the employee shall continue - for example, sick leave, leave of absence, vacation leave, personal leave, compensatory leave, Family Medical Leave and group health insurance benefits.

4. If an employee is allowed to return to duty, he/she must follow the rehabilitation program prescribed by the SAP. The employee must pass return to duty drug and alcohol tests and unannounced follow-up tests for a period of one to five years. The costs associated with any treatment for rehabilitation services shall be paid directly by the employee or his/her insurance provider.

5. Assessment by SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the Board.

EMPLOYEE DISCIPLINE

1. An employee with alcohol concentration more than 0.02 or greater or a positive controlled substance test will be subject to discipline up to and including termination.

2. An employee who is eligible for assessment and treatment in lieu of termination will still be subject to discipline.

3. An employee who refuses to test for alcohol or controlled substances will be terminated.

4. An employee who refuses or fails to comply with Board requirements for treatment, after care, or return to duty shall be subject to termination.

5. If an employee is permitted to undergo treatment in lieu of termination and he/she subsequently tests positive on any alcohol or controlled substance test, he/she will be terminated.

RECORD RETENTION AND RELEASE

1. A Medical Review Officer (MRO) will serve as the sole custodian of individual test results and will retain individual test results for the time periods as shown:

A. Records maintained for a minimum of five (5) years:

1) Records of an employee's alcohol test results indicating an alcohol concentration of 0.02;

2) Records of an employee's verified controlled substance test results;

3) Documentation of refusals to take required alcohol and/or controlled substances tests;

4) Employee evaluations and referrals;

5) Annual calendar year summaries of the results of alcohol and controlled substances testing programs.

B. Records maintained for a minimum of two (2) years:

1) Records related to the alcohol and controlled substances collection process and training.

C. Records maintained for a minimum of one (1) year:

1) Records of negative and cancelled controlled substances test results.

2) Alcohol tests results with a concentration of less than 0.02.

2. The Board will retain personnel records of only the following information:

A. Circumstances prompting test (e.g., random testing, post-accident, reasonable suspicion).

B. The date of the test.

C. The location of the test.

D. The identity of the person or entity conducting the test.

- E. Whether the test finding was positive or negative.
3. The Board will notify an employee of the results of pre-employment alcohol and/or controlled substance tests, provided the employee requests said test results within 60 days of being notified of the Board's decision as to whether or not it will enter into employment or lease contract with him/her.
4. The Board will notify incumbent employees of the results of random, reasonable suspicion, and post-accident alcohol and/or controlled substance tests, provided that the results are positive and will also advise the employee what controlled substance was detected or the alcohol level that was discovered.
5. The Board will not release employee testing information retained in this section except upon the written consent of the employee and except:
- A. When requested by the Department of Transportation or any state or local officials with regulatory authority over the Board or its employees.
 - B. In the event an employee initiates a grievance, hearing, lawsuit or other action as a result of an alcohol and/or controlled substance test conducted pursuant to this policy.

INFORMATION FROM PREVIOUS EMPLOYERS

1. The Board may obtain, pursuant to a driver's written consent, any of the information concerning the driver, which is maintained under this part by the driver's previous employers.
2. The Board shall obtain, pursuant to a driver's consent, information on the driver's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, which are maintained by the driver's previous employers under Section 382.40 (b) (1) (i) through (iii).
3. The information in paragraph (B) of this section must be obtained and reviewed by the Board no later than 14 calendar days after the first time a driver performs safety-sensitive functions for the Board, if it is not feasible to obtain the information prior to the driver performing safety-sensitive functions. The Board will not permit a driver to perform safety-sensitive functions after 14 days without obtaining the information.
4. If the driver stops performing safety-sensitive functions for the employer before expiration of the 14-day period or before the Board has obtained the information in paragraph (B) of this section, the employer must still obtain the information.
5. The Board will provide to each of the driver's employers with the two preceding years the drivers specific, written authorization for release of the information in paragraph (B).
6. The release of any information under this part may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. The Board will maintain a written, confidential record with respect to each past employer contacted.
7. The Board will not use a driver to perform safety-sensitive functions or other driving functions if it obtains information on the driver's alcohol test with a concentration of 0.04 or greater, verified positive controlled substances test result, or refusal to be tested, by the driver, without obtaining information on a subsequent substance abuse professional evaluation and/or determination under Section 382.401 (c) (4) and compliance with Section 382.309.

References: 01-ALL-ALL-0047
01-ALL-ALL-0064
01-ALL-ALL-0082
02-ALL-ALL-0287
02-ALL-ALL-0337
02-ALL-ALL-0356
49 CFR Part 382.30; 382.301; 382.303; 382.305; 382.307; 382.603; 382.703

Forms: 03-ALL-ALL-0246
03-ALL-ALL-0591
03-ALL-ALL-0831

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