

BOARD POLICY

Policy No. 5202

Page 1 of 4

FEDERAL HIGHWAY ADMINISTRATION MANDATED DRUG AND ALCOHOL TESTING PROGRAM

The Board of Directors directs the superintendent to establish programs and procedures as mandated by and in accordance with Federal Highway Administration (FHWA) controlled substances and alcohol testing rules.

Prohibited alcohol and controlled substance-related conduct

The following alcohol and controlled substance-related activities are prohibited by the district for drivers required to possess a commercial driver's license (CDL) as part of their job responsibilities. Violations shall result in appropriate corrective action ranging from removal from the performance of safety-sensitive functions up to and including discharge.

1. Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration in excess of the standard set by the FHWA.
2. Being on duty or operating a vehicle while the driver possesses alcohol.
3. Using alcohol while performing safety-sensitive functions.
4. When required to take a post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.
5. Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing requirements.
6. Using alcohol, or being under the influence of alcohol within four hours of going on duty, operating or having physical control of a vehicle requiring a CDL to operate.
7. Reporting for duty or remaining on duty when using any controlled substance, except when instructed by a physician who has advised the driver and the district that the substance does not adversely affect the driver's ability to safely operate a vehicle. Drivers are required to inform the district of any therapeutic drug use.
8. Reporting for duty, remaining on duty or driving if the driver tests positive for controlled substances.

Walla Walla Public Schools

BOARD POLICY

Policy No. 5202

Page 2 of 4

Testing Requirements

The following identify the occasions on which a driver shall be subject to alcohol or controlled substances testing. The superintendent/designee is responsible for the development and implementation of procedures for conducting the tests and administering the exemptions consistent with the federal rules.

1. Pre-employment testing: Prior to the first time a driver performs a safety-sensitive function for the district, the driver shall undergo testing for controlled substances. This testing requirement may be waived under FHWA rules for CDL drivers recently employed elsewhere for whom testing records are available from their previous employers.
2. Post-accident testing: Each surviving driver of an accident, as defined by the FHWA and Procedure 5202, shall be tested for alcohol and controlled substances.
3. Random testing: Annually the district will arrange for the unannounced random alcohol and controlled substances testing of its drivers. Fifty percent (50%) of the district's drivers must be randomly selected for controlled substances testing each year, and 25% of its drivers for alcohol testing (or whatever level of testing is required in a given year by the FHWA). Alcohol testing under this program shall take place just prior to, during or immediately after the driver engages in a safety-sensitive function for the district.
4. Reasonable suspicion testing: A driver must submit to alcohol or controlled substance testing whenever a trained supervisor has a reasonable suspicion of alcohol misuse or controlled substance use based on specific, contemporaneous and articulable observations concerning the appearance, behavior, speech or bodily odors of the driver. Observations related to using alcohol must be made just prior to, during or immediately after the driver engages in a safety-sensitive function for the district, and the alcohol test must be given within eight hours following the determination of reasonable suspicion.
5. Return-to-duty testing: If a driver is to be returned to performing safety-sensitive functions for the district after violating this policy or the federal regulations, the driver shall be evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and use of controlled substances. The driver shall also be evaluated by a SAP to determine that the driver has properly followed any rehabilitation proscribed. The driver shall undergo a return-to-duty alcohol and/or controlled substances test at the driver's expense resulting in an alcohol concentration below the standard set by the FHWA or a negative controlled substances test.

BOARD POLICY

Policy No. 5202

Page 3 of 4

6. Follow-up testing: Any driver that continues performing safety-sensitive functions for the district, following a determination that the driver requires assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances, shall be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a SAP. Follow-up alcohol testing shall be conducted only just prior to, during or immediately after the driver performs safety-sensitive functions.

Record Retention and Reporting

The superintendent is responsible for developing procedures for securely retaining records collected under this policy with controlled access and for the time periods established by the federal regulations. The superintendent is also responsible for developing procedures for reporting data collected under this policy as required by the federal regulations.

Education, Training and Referral Services

The superintendent shall adopt educational materials that explain the requirements of this policy and the federal program. The educational materials shall be distributed to each driver prior to the start of the testing program and to each driver subsequently hired or transferred into a position covered by this policy. Each driver after receiving a copy of the materials, shall sign a certificate of receipt and the district shall maintain the original of the receipt. The collective bargaining representative of the drivers, if any, shall be notified of the availability of this information. The educational materials shall include:

1. A copy of this policy and subsequent procedures;
2. The name of the person designated to answer questions about the materials;
3. The categories of employees covered by the policy;
4. A description of safety-sensitive functions, so that drivers will know which part of their tasks will be covered by this policy;
5. A specific description of conduct prohibited by this policy and the federal program;
6. The circumstances under which a driver is subject to testing;
7. The procedures used in the testing program, especially those that protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver;

Walla Walla Public Schools

BOARD POLICY

Policy No. 5202

Page 4 of 4

8. The requirement that drivers must submit to testing required by this policy and the federal program, and a description of what constitutes refusal to submit to required testing and the consequences of refusal;
9. The consequences for drivers who violate this policy and the federal program, including immediate removal from conducting safety-sensitive functions;
10. The consequences for drivers found to have alcohol concentrations between 0.02 and 0.04; and
11. Information about the effects of alcohol and controlled substances on an individual's health, work and personal life and methods of intervening when a problem with alcohol or a controlled substance is suspected, including confrontation, referral to the staff assistance program and referral to management.

Supervisors designated to determine if reasonable suspicion exists that a driver is under the influence of alcohol or controlled substances must have at least sixty minutes of training on alcohol misuse and at least sixty minutes of training on use of controlled substances. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

The employed driver who violates this policy or the federal regulations shall be informed of resources available for evaluation and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. Costs incurred by the driver for evaluation and/or rehabilitation are the driver's responsibility (other policies may apply).

Cross References: Board Policy 5201 Drug-Free Schools, Community and
 Workplace
 Disciplinary Action and Discharge
 5281

Legal Reference: 49 CFR §§ 382.101 - 382.601
 49 CFR §§ 392.5

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