

# **Drugs and Alcohol and the Testing Rules**

Handbook for Supervisors

**May 2011**



MONTGOMERY COUNTY PUBLIC SCHOOLS

**Employee Assistance Program**



# Table of Contents

<b>Substance Abuse in the Work Place</b> .....	<b>1</b>
What are the rules? .....	1
Who is affected? .....	1
What are the prohibitions? .....	1
What about prescription drugs? .....	1
What drugs are tested for? .....	1
What is considered “on duty time”? .....	1
What tests are required? .....	1
What happens if an employee refuses to be tested? .....	2
How is testing done? .....	2
What are the consequences of a positive test for alcohol or drugs? .....	2
What if an employee needs help with a drug or alcohol problem now? .....	2
What if an employee has questions about the drug and alcohol testing program? .....	2
<b>Approximate Breath Alcohol Concentration</b> .....	<b>3</b>
<b>The Effects of Alcohol and Drugs</b> .....	<b>4</b>
<b>What You Might See: Checklist for Alcohol and Other Drugs</b> .....	<b>6</b>
<b>Constructive Confrontation</b> .....	<b>7</b>
Observe; Document/Confirm; Inform; Refer .....	7
<b>Approaches for Difficult Situations</b> .....	<b>7</b>
<b>Reasonable Suspicion Behavior/Incident Document form</b> .....	<b>8</b>
<b>Drugs/Alcohol Reasonable Suspicion Documentation Form for Physical Evidence</b> .....	<b>9</b>
<b>Alcohol and Drug Testing Program Commercial Motor Vehicle Drivers</b> .....	<b>10</b>
Program Overview; Program Coverage; Authority; Testing Procedures .....	10
Required Testing .....	11
Consequences of Positive Test Results .....	13
Employee Assistance Program (EAP); Program Statement Not a Waiver of Any Rights .....	14



# Substance Abuse in the Work Place

**A**nually, 20,000 to 40,000 Americans die of drug abuse. It is estimated that 100,000 to 125,000 Americans die of alcoholism. Substance abuse not only affects the users and their families, it affects their work places and society as well. A large part of the problem is that people have accepted the myths that drugs can help them do their jobs better, relax and relieve stress, or provide energy and a boost of self-confidence. In reality, alcohol and other drug use is both harmful and addictive. It reduces the safety and performance of everyone at all levels of an organization and can lead to dismissal.

In an effort to prevent the effects of substance abuse in the transportation industry, the Federal Highway Administration of the Department of Transportation (DOT) has expanded its drug and alcohol regulations for federal motor carriers. This

handbook provides information you need to know about the DOT drug use and alcohol misuse prevention rules as they relate to Montgomery County Public Schools (MCPS) drivers and specific information on the MCPS policy regarding drug and alcohol use and the testing program. Also included is information on the harmful effects of alcohol and other drugs and how their use can affect driving ability.

As a supervisor, you have an important role to play in preventing the harmful effects of drug abuse in the work place. The more educated you become on alcohol and other drugs—knowing how to constructively confront employee performance problems, and how to identify behavior at the work site that might indicate drug use—the greater the impact you will have on making MCPS a safe, drug-free workplace.

**What are the rules?** The United States DOT has issued regulations (the *Omnibus Act*) requiring drug and alcohol testing of drivers of commercial motor vehicles. This booklet provides information about those regulations and the effect they have on MCPS policy and on you as an MCPS employee.

**Who is affected?** The testing program applies to all employees who are required to hold a commercial driver's license (CDL) and who operate commercial vehicles for MCPS, even if they drive such vehicles only infrequently. A commercial motor vehicle is defined as a motor vehicle that—

- is designed to carry 16 or more passengers including the driver;
- has a gross vehicle weight of 26,001 pounds or greater;
- has a gross combination weight of 26,001 pounds or more, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- is of any size and is used in the transportation of hazardous materials requiring placards.

**What are the prohibitions?** Performance of safety-sensitive functions is prohibited—

- within four hours after using alcohol;
- while having a breath alcohol concentration of .02 or greater;
- if in possession of alcohol;
- if using alcohol; and/or
- if a driver has used or tested positive for drugs.

**What about prescription drugs?** Employees are required to inform their supervisor if their doctor has prescribed a controlled substance, even if the doctor has advised that it will not interfere with the ability to safely operate a motor vehicle.

**What drugs are tested for?**

- MARIJUANA
- COCAINE
- AMPHETAMINES
- OPIATES
- PHENCYCLIDINE (PCP)

**What is considered “on duty time”?** Anytime an employee is performing a safety-sensitive function, including—

- waiting to be dispatched;
- remaining in readiness to drive a commercial motor vehicle;
- at the driving controls of a commercial motor vehicle;
- while in or upon any commercial motor vehicle;
- inspecting or servicing the vehicle and/or its equipment;
- assisting or supervising in loading or unloading a vehicle;
- attending a vehicle being loaded or unloaded; and/or
- repairing, obtaining assistance, or remaining in attendance on a disabled vehicle.

**What tests are required?**

## 1. Preemployment

Applicants for jobs that require a CDL and the performance of safety-sensitive functions, including current MCPS employees who apply for transfer into such a job, will be tested for drugs.

## 2. Postaccident

Drug and alcohol testing will be administered following an accident that results in—

- personal injury to any occupants of the vehicle, another vehicle or pedestrian, or
- disabling damage to the commercial vehicle or another vehicle.

### 3. Random

Employees will be subject to random testing for alcohol and drug use.

Random testing for alcohol must occur just before, during, or just after performing safety-sensitive functions. Random testing for drugs may occur anytime one is at work. Once an employee has been notified of selection for testing, he/she must follow the supervisor's instructions on where and when to report for testing.

### 4. Reasonable Suspicion Testing

Employees may be required to submit to drug and alcohol testing if a supervisor has reason to believe that their appearance or behavior indicates alcohol and/or drug use. Testing must be based on the following:

- the observations of a supervisor trained in the detection of probable drug and alcohol use, and
- specific, clearly stated observations concerning appearance, behavior, speech, or body odor.

**What happens if an employee refuses to be tested?** An employee who refuses to be tested will be subject to dismissal with no opportunity for rehabilitation. In addition, any behavior that obstructs the testing process, such as not providing sufficient breath or urine for testing, will be treated as a refusal to be tested.

**How is testing done?** A driver who is required to be tested will be directed to an approved testing facility. Before testing is administered, drivers will be informed of the type of alcohol and/or drug test to be conducted.

#### 1. Alcohol Testing

- Drivers will be given a breath test using an evidentiary breath testing device, or EBT. They will be asked to blow forcefully into the mouthpiece.
- Drivers will be shown the result displayed on the EBT and are required to sign a testing form certifying the results.
- If the initial EBT screening test shows a breath alcohol concentration (BAC) of .02 or greater, a second confirmation test will be done after at least 15 minutes but not more than 30 minutes.
- A test result of .02 or greater is a positive test for alcohol.

#### 2. Drug Testing

- Drivers will be required to provide a urine sample for testing.
- Drivers will not be directly observed while providing the sample; however, if laboratory personnel have reason to believe a sample is adulterated, they will request a second sample and take precautions, including direct observation, that this sample is valid.
- Urine samples will be divided into two containers by the collection site person in the presence of the employee. These two samples are called "primary" and "split."
- A screening test is performed on the primary sample. If the result is positive for the presence of drugs, a confirmation test is required.

- All results will be reported to a medical review officer (MRO).
- Negative results will be reported to MCPS by the MRO.
- If the test is positive, the MRO will notify the employee to find out if there is a medical reason for the drug use. If the employee can document why the substance is being taken, and if the MRO finds out it is a legitimate medical use and does not interfere with the ability to perform safety-sensitive functions, the test may be reported to MCPS as negative.
- If the test is positive, the employee has 72 hours from notification by the MRO to request a test of the split sample. If so requested, the split sample will be sent to another certified lab for testing.
- If the split sample does not confirm the presence of drugs, the MRO will report the test as negative.

### What are the consequences of a positive test for alcohol or drugs?

#### 1. Preemployment testing

Any applicants testing positive for drugs will not be hired; any employee requesting transfer into a safety-sensitive position who tests positive for drugs will be denied the position.

#### 2. Postaccident testing

Drivers who test positive for drugs or alcohol following an accident will be subject to dismissal with no opportunity for rehabilitation.

#### 3. Random and reasonable cause testing

Drivers who test positive in random or reasonable cause testing will be given two options—

- dismissal or
- the opportunity to participate in and complete rehabilitation with potential assignment to a non driving position.

### What if an employee needs help with a drug or alcohol problem now?

Information and assistance on alcohol and drug issues are available—on a confidential basis—by calling the MCPS Employee Assistance Program at 240-314-1040. A counselor will meet with the employee and help assess the need for treatment, refer the employee to the most appropriate place, and help make any arrangements that need to be made about the job. Confidentiality will be protected to the greatest extent possible as long as the employee follows through with treatment and work place recommendations to ensure the safety of the children and the community.

### What if an employee has questions about the drug and alcohol testing program?

The associate superintendent of Human Resources and Development is responsible for the administration of the MCPS drug and alcohol testing program. Employees with questions may call the human resources investigative specialist at 301-279-3361.

# Approximate Breath Alcohol Concentration (in grams)<sup>1</sup>

Drinks in body <sup>2</sup>	Body weight (in pounds)							
	100	120	140	160	180	200	220	240
1	.04	.03	.03	.03	.02	.02	.02	.02
2	.08	.06	.05	.05	.04	.04	.03	.03
3	.11	.09	.08	.07	.06	.06	.05	.05
4	.15	.12	.11	.09	.08	.08	.07	.06
5	.19	.16	.13	.12	.11	.09	.09	.08
6	.23	.19	.16	.14	.13	.11	.10	.09
7	.26	.22	.19	.16	.15	.13	.12	.11
8	.30	.25	.21	.19	.17	.15	.14	.13
9	.34	.28	.24	.21	.19	.17	.15	.14
10	.38	.31	.27	.23	.21	.19	.17	.16
11		.40	.34	.30	.27	.24	.22	.20
12			.38	.33	.29	.26	.24	.22
13			.40	.36	.32	.29	.26	.24
14				.38	.34	.31	.28	.26
15					.37	.33	.30	.28

## Effects on feeling and behavior

- Absence of observable effects. Mild alteration of feelings. Slight intensification of existing moods.
- Feeling of relaxation. Mild sedation. Exaggeration of emotions and behavior. Slight impairment of motor skills. Increase in reaction time.
- Difficulty performing gross motor skills. Uncoordinated behavior. Definite impairment of mental abilities, judgment, and memory.
- Major impairment of all physical and mental functions. Irresponsible behavior. Euphoria. Some difficulty standing, walking, and talking.
- At .40, most people have passed out. Hospitalization is probable at BACs of .40 and above, and death is imminent.

## Effects on driving ability

- Most drivers seem a bit moody. Bad driving habits slightly pronounced.
- Driver takes too long to decide and act. Motor skills (such as braking) are impaired.
- Judgment seriously affected. Physical and mental coordination impaired. Physical difficulty in driving a vehicle.
- Distortion of all perception and judgment. Driving impaired. Driver is in a daze.
- It is hoped that the driver passes out before trying to get in a vehicle.

1. Alcohol concentration is expressed here as grams of alcohol per 210 liters of breath. A reading of “.10” on a breath-testing instrument indicates 10 one-hundredths (10:100) grams of alcohol per 210 liters of breath.
2. A drink is defined as 1½ ounces of 80 proof liquor, 12 ounces of beer, or 5 ounces of table wine.

*Distributed by Mothers Against Drunk Driving, Harris County Chapter, 713-589-MADD*

# The Effects of Alcohol and Drugs

## ALCOHOL

Alcohol is a central nervous system depressant. It first affects those areas of the brain that affect self-control. Low self-control may lead in turn to aggressive and risk-taking behavior. In large doses, alcohol dulls sensation and impairs muscle coordination, memory, and judgment. Over long periods of time, alcohol can damage the heart and liver and cause permanent brain damage. Digestive problems, diseases of the pancreas (diabetes) and kidney, birth defects in children of heavy-drinking women, and a higher likelihood of stroke and cancer are other physical problems associated with alcohol use.

**One 12-ounce beer, a 5-ounce glass of wine, and a 1½-ounce shot of hard liquor all contain the same amount of alcohol.**

**What effect does drinking have on driving?** A person operating a motor vehicle while under the influence of alcohol is likely to experience the following even under very small amounts of alcohol. These reactions increase in intensity with increased blood alcohol levels.

### Impaired Reaction Time

- Reaction time increased
- Braking time slowed
- Thinking and reflexes slowed
- Errors in steering

### Reduced Concentration

- Memory is impaired
- Remembering directions may be difficult
- Daydreaming may lead to accidents

### Risk Taking

- Impaired judgment makes it more likely that a driver will take risks

### Impaired Vision

- Blurred or double vision

### Possibility of Reacting With Anger Toward Children or Other Drivers

- Agitation may cause outbursts of anger, especially as blood alcohol levels drop

**Coffee, cold showers, and exercise do not quicken sobriety.**

**Each ounce of alcohol takes about one hour to process and eliminate.**

## MARIJUANA

Marijuana alters sense of time and reduces the ability to perform tasks requiring concentration, swift reactions, and coordination. The drug has a significant effect on judgment, caution, and sensory/motor abilities. The active ingredient in marijuana, THC, is stored in body fat and retained for days to weeks after use. It can cause a reduction in the efficiency of the cardiovascular, reproductive, and respiratory systems and create psychological dependence on the drug.

### How does marijuana affect driving ability?

#### Impaired Reaction Time

- Reaction time increased
- Braking time slowed
- Thinking and reflexes slowed

#### Impaired Memory

- Following series of directions difficult
- Remembering series of numbers difficult

#### Reduced Concentration

- Inability to display continuous attention
- Difficulty with complex decisions

**Marijuana stays in the body for up to 28 days.**

## COCAINE

Cocaine is the most powerful stimulant. It increases heart rate, blood pressure, respiration rate, and temperature. It can cause seizures and heart attacks, vomiting, tremors, and convulsions. Irritability, anxiety, and depression are frequently seen effects. Cocaine often results in psychological problems and dependence as well as addiction.

### How does cocaine affect driving?

#### Lapses in Attention, Concentration, and Aggressive Behavior

- Anger and hostility toward children or other drivers
- Impatience and risk-taking

#### Impaired Motor Coordination

- Decrease in hand steadiness and eye/hand coordination

#### Periods of Loss of Consciousness (Due to Lack of Sleep and Food), Impaired Judgment, and False Sense of Alertness

- Drivers become overly confident in driving judgment and skill; this affects their ability to perceive impending danger
- Convulsions, seizures, cardiac arrest or stroke, and distorted vision
- Pupils become so dilated that sunlight or headlights can cause pain; glare recovery also is affected

#### Hallucinations

- Driver becomes out of touch with reality and loses sight of where he/she is going
- Profound depression, anxiety, irritability, and restlessness



## OPIATES

Opiates, including heroin and codeine, are narcotics used to reduce pain and induce sleep. The use of opiates can cause restlessness, nausea, and vomiting, as well as severe drowsiness. Breathing is affected and may slow down enough to cause death. Addiction may occur even with occasional use.

### How does the use of opiates affect driving?

#### Difficulty in Focusing

- Pupils become so constricted that vision is impaired
- Blurred or double vision occurs

#### Loss of Consciousness and Effects of Intoxication

- These are similar to those produced by alcohol

#### Euphoric High Followed By “Nodding Out”

- Results in daydreaming and inattentiveness to driving activities

## AMPHETAMINES

Amphetamines, often referred to as “speed,” are central nervous system stimulants. They promote a feeling of alertness and an increase in speech and general physical activity. Increases in heart and breathing rates and blood pressure, dilated pupils, sweating, blurred vision, dizziness, tremors, depression, and addiction are effects of amphetamine use.

**How do amphetamines affect driving ability?** The effects of amphetamines are similar to those of cocaine. Drivers take more risks, are more accident prone, and suffer from sleep and food deprivation, which leads to fatigue, inability to concentrate, and becoming out of touch with reality. Drivers become less coordinated and suffer a decrease in eye/hand coordination.

**A driver who uses stimulants is four times more likely to be involved in a collision than a non user.**

## PHENCYCLIDINE (PCP)

PCP produces violent and bizarre behavior. Its effect on human behavior is erratic and unpredictable. It scrambles the brain’s internal stimuli and alters how users see and deal with their environment. Routine activities like driving and walking become very difficult. Low doses produce a rush, sometimes associated with a feeling of numbness. Increased doses produce an excited, confused state including any of the following: muscle rigidity, loss of concentration and memory, visual disturbances, delirium, and convulsions.

### How does PCP affect driving ability?

- A feeling of owning the road
- Sense of invulnerability and power
- Aggressive behavior
- Hallucinations
- Visual distortions
- Impaired coordination and dulled senses
- Convulsions, coma, or death

# What You Might See: Checklist for Alcohol and Other Drugs

## **SPEECH**

- Loud
- Incoherent
- Rapid
- Excessively talkative
- Thick, slurred
- Inappropriate laughter
- Disconnected speech patterns
- Exaggerated pronunciation

## **APPEARANCE**

- Flushed complexion
- Dirty or disheveled clothing
- Unkempt personal grooming
- Drowsiness
- Eye-hand coordination problems
- Fumbling
- Trembling hands
- Perspiring
- Body temperature complaints
- Sniffles or runny nose
- Body tremors

## **POOR BALANCE, STUMBLING, SWAYING WALK**

## **ODOR OF ALCOHOL ON BREATH OR BODY**

## **ODOR OF MARIJUANA**

## **EYES**

- Bloodshot
- Watery
- Dilated pupils
- Constricted pupils (pinpoints)
- Involuntary eye movement
- Blank stare
- Inability to focus
- Light sensitivity
- Use of eye drops
- Droopy eyelids

## **BEHAVIOR**

- Moody
- Sullen
- Depressed
- Hostile
- Irritable
- Inattentive
- Distracted by activity
- Agitated with interpersonal interaction
- Loss of inhibition: cursing, sexual advances, risk taking
- Suspicious
- Blaming
- Paranoid
- Complaints of flu or stomach ailments
- Frequent use of breath mints, mouthwash, breath sprays
- Confusion or loss of memory
- On-the-job accident or injury

# Constructive Confrontation

**OBSERVE**  
**DOCUMENT/CONFIRM**  
**INFORM**  
**REFER**

**Observe**

The supervisor identifies a pattern of deteriorating work performance or behavior. Deteriorating job performance is identified by the presence of progressive violations of policy. For example, chronic absenteeism would be identified as policy violation in the following way:

- Unauthorized leave
- Excessive sick leave
- Monday absences, Friday absences
- Repeated absences of 2–4 days

The supervisor’s responsibility is not to diagnose medical/behavioral problems, but to identify and document impaired performance as it relates to safety and job performance.

For example, a person staggering on the job would not be identified by the supervisor as a drug addict or alcoholic. This would constitute diagnosis and conjecture on the part of the supervisor. A more appropriate way to identify the behavior would be to describe it: “impaired walking, staggering.” The supervisor may only identify observed behavior, not assume what is wrong.

**Document/Confirm**

This step involves writing down the observed signs of change in an employee’s work pattern. Document only observed behavior, not reasons or opinions. For example, how would you document finding marijuana on a bus? You wouldn’t. You document what you saw: “six hand-rolled cigarette-looking items consisting of green leafy vegetable matter.” You document the days an employee missed and the lack of approved leave for those days, not “the employee is sick a lot.”

**Inform**

This step involves confronting the employee with documentation. Stick to the documentation. It is difficult to refute and limits excuse-making. Do not diagnose or assume what might be behind the performance deterioration. Include information on what constitutes acceptable performance. Give the employee a deadline on when you expect improvements to be made. Set a date for a meeting at that time to review progress. Clarify the consequences of a lack of improvement.

**Refer**

Refer the employee to the EAP so if personal issues are behind the job deterioration, he/she is provided with the resources to resolve them.

## Approaches for Difficult Situations

IF THE EMPLOYEE IS:	YOU CAN:
<b>DEFENSIVE OR DENIES YOUR OBSERVATIONS</b>	<ul style="list-style-type: none"> <li>• Listen respectfully.</li> <li>• Repeat what you have observed, emphasizing the rules and policy.</li> <li>• Point out that the situation requires action, in this case, testing.</li> </ul>
<b>RESISTANT: THIS COULD BE THE CASE IF THE DRIVER—</b>	
Talks nonstop	<ul style="list-style-type: none"> <li>• Interrupt by asking questions that require only a “yes” or “no” answer. This will help focus the event and place you in control of the situation.</li> </ul>
Cries	<ul style="list-style-type: none"> <li>• Listen and respond with kindness.</li> <li>• Allow a few minutes for the employee to regain control.</li> <li>• Make it clear that you are not blaming, rather you are following the established rules.</li> </ul>
Remains silent	<ul style="list-style-type: none"> <li>• State that you are not blaming, but following the rules.</li> <li>• Ask a nonthreatening question, such as, “Is there anything you’d like to tell me?” Then remain quiet until the person answers.</li> </ul>
Is aggressive or belligerent	<ul style="list-style-type: none"> <li>• Maintain your composure by using a calm tone of voice.</li> <li>• Avoid yelling because it sets up a win/lose situation and could escalate the aggressive behavior.</li> <li>• Ignore inflammatory remarks.</li> <li>• Stick to the facts, repeating them when needed.</li> </ul>
Is uncooperative	<ul style="list-style-type: none"> <li>• Repeat your observations and the need for testing in a calm, firm voice.</li> <li>• Stick to the facts.</li> </ul>



# Reasonable Suspicion Behavior/ Incident Documentation Form

MCPS Form 338-1  
November 2010

Office of Human Resources and Development  
MONTGOMERY COUNTY PUBLIC SCHOOLS  
7361 Calhoun Place, Suite 401 • Rockville, Maryland 20855

Department/work location \_\_\_\_\_

Location of incident \_\_\_\_\_

Employee name \_\_\_\_\_ Employee ID# \_\_\_\_\_  
*Last First MI*

Date of observation \_\_\_\_/\_\_\_\_/\_\_\_\_ Time \_\_\_\_:\_\_\_\_ Length of time observed\_\_\_\_:\_\_\_\_

Supervisor recording observations \_\_\_\_\_ Title \_\_\_\_\_

### Nature of Incident/Cause for Suspicion

- Observed/reported possession of or use of a prohibited substance
- Apparent drug/alcohol intoxication
- Observed abnormal or erratic behavior
- Arrest or conviction for drug-related offense
- Evidence of tampering on a previous drug test
- Other: please specify (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job)

### Unusual Behavior

- Verbal abusiveness
- Physical abusiveness
- Extreme aggressiveness or agitation
- Withdrawal, depression, mood changes, or unresponsiveness
- Inappropriate verbal response to questioning or instructions
- Other erratic or inappropriate behavior: please specify (e.g., hallucinations, disorientation, excessive euphoria, confusion)

### Physical Signs or Symptoms

- Possessing, dispensing, or using controlled substance
- Slurred or incoherent speech
- Unsteady gait or other loss of physical control; poor coordination
- Dilated or constricted pupils or unusual eye movement
- Bloodshot or watery eyes
- Extreme fatigue or sleeping on the job
- Excessive sweating or clamminess to the skin
- Flushed or very pale face
- Highly excited or nervous
- Nausea or vomiting
- Odor of alcohol
- Odor of marijuana
- Dry mouth (frequent swallowing/lip wetting)
- Dizziness or fainting
- Shaking hands or body tremors/twitching
- Irregular or difficult breathing
- Runny sores or sores around nostrils
- Inappropriate wearing of sunglasses
- Puncture marks or tracks
- Other: please specify: \_\_\_\_\_

Was employee taken for drug/alcohol test?  Yes  No

If no, why not? \_\_\_\_\_

Did the employee leave the work place on his/her own?  Yes  No

Circumstances of employee's departure \_\_\_\_\_

Time left \_\_\_\_:\_\_\_\_ Location \_\_\_\_\_ Vehicle (if any) \_\_\_\_\_

Vehicle license # \_\_\_\_\_ Were local authorities called?  Yes  No

Name of authority notified \_\_\_\_\_

Other person(s) observing departure \_\_\_\_\_

**Written Summary:** Please summarize any facts not previously noted and employee response

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
*Signature, Employee Date Signature, Supervisor Date*



# Drugs/Alcohol Reasonable Suspicion Documentation Form for Physical Evidence

Office of Human Resources and Development  
MONTGOMERY COUNTY PUBLIC SCHOOLS  
7361 Calhoun Place, Suite 401 • Rockville, Maryland 20855

**MCPS Form 338-2  
November 2010**

Department/work location \_\_\_\_\_

Employee name \_\_\_\_\_ Employee ID# \_\_\_\_\_  
*Last First MI*

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Time \_\_\_\_:\_\_\_\_

Investigated by \_\_\_\_\_ Position \_\_\_\_\_

Location of evidence or prohibited items  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List and describe physical evidence (items or substances)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Were local authorities called?  Yes  No If yes, enter name and title:

Name \_\_\_\_\_ Title \_\_\_\_\_ Time \_\_\_\_:\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Time \_\_\_\_:\_\_\_\_

\_\_\_\_\_  
*Signature, Employee*      \_\_\_\_/\_\_\_\_/\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature, Reporting Supervisor*      \_\_\_\_/\_\_\_\_/\_\_\_\_  
*Date*

# Alcohol and Drug Testing Program Commercial Motor Vehicle Drivers

## Montgomery County Public Schools Alcohol and Drug Program

### PROGRAM OVERVIEW

Montgomery County Public Schools (MCPS) prohibits the use, possession, purchase, sale, or distribution of alcohol or drugs on school property, during school hours, or while on school business. This program applies to all individuals who hold commercial driver's licenses (CDLs) and drive commercial motor vehicles as part of their duties with Montgomery County Public Schools.

Drivers are also specifically prohibited from reporting for duty or remaining on duty for the performance of safety-sensitive functions if they have used or tested positive for drugs. Drivers are not permitted to report for duty to perform safety-sensitive functions within four hours after using alcohol. In addition, no driver shall report for duty to perform safety-sensitive functions while having a breath alcohol concentration (BAC) of 0.02 or greater. Drivers should be aware that they may in fact need to abstain from drinking for a longer period than four hours in order to be below the 0.02 BAC. For the purposes of these prohibitions, safety-sensitive functions include driving, inspecting or servicing, loading or unloading, supervising loading or unloading, remaining in readiness to operate a commercial motor vehicle, or repairing a disabled commercial motor vehicle.

For purposes of this program, the term "drug" shall include any substance that is unlawful to possess under either the *Federal Controlled Substances Act* or state law, or any substance that could affect one's ability to function on the job.

Drivers are required to inform their supervisors of any therapeutic use of controlled substances. The mere possession of a valid prescription or over-the-counter drug for medical reasons does not constitute a program violation. In addition, the use of drugs will not constitute a program violation as long as a doctor has advised the driver, pursuant to a valid prescription, that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. By contrast, possession of any alcohol while on duty or operating a commercial motor vehicle will constitute a program violation. This prohibition includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.

### PROGRAM COVERAGE

The testing program applies to all employees who are required to hold a CDL and operate commercial motor vehicles for MCPS, even if they drive such vehicles only infrequently. A commercial motor vehicle is defined as a motor vehicle that (1) is designed to transport 16 or more passengers, including the driver; (2) has a gross combination weight of 26,001 pounds or more, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (3) has a gross vehicle weight

rating of 26,001 pounds or more; or (4) is of any size and used in the transportation of hazardous materials requiring placards.

### AUTHORITY

This program was adopted pursuant to, and is intended to comply with, federal regulations promulgated by the Department of Transportation (49 C.F.R. Parts 40 and 382), applicable state regulations, and the collective bargaining agreement between the Board of Education of Montgomery County and the Service Employees International Union (SEIU) Local 500. Some provisions of this program were adopted pursuant to the independent authority of the Board of Education of Montgomery County under state law. Unless otherwise indicated in this document, the testing provisions of the program are required by federal regulations.

### TESTING PROCEDURES

#### General Procedures

1. When this program requires that a driver be tested for alcohol and drugs, the driver will be taken or sent to an approved testing facility for the purpose of collecting urine and breath. Testing will be performed by a certified laboratory with trained technicians. When notified about an obligation to report for testing, drivers are required to proceed directly and immediately to a testing facility.
2. Before any alcohol or drug test is administered pursuant to federal regulations, drivers will be given notice of the alcohol and/or drug testing for which they are required to report.
3. Any refusal to submit to an alcohol or drug test required by this program will result in the driver being subject to dismissal with no opportunity for rehabilitation. Engaging in conduct that clearly obstructs the testing process, including failure to provide adequate breath or urine for testing without a valid medical explanation, will be treated as a refusal to submit to testing. In the absence of emergency circumstances, a failure to remain readily available for postaccident testing will be treated as a refusal to submit to testing.

#### Alcohol Testing

1. In all instances in which alcohol testing is required by this program, drivers will be required to submit to breath alcohol testing using an evidentiary breath testing (EBT) device, as required by federal regulations. If the initial EBT device indicates a breath alcohol concentration (BAC) of 0.02 or greater, a second confirmation test will be performed to validate the positive result. Employees will be shown the test results displayed on the EBT and will be required to sign a testing form certifying the results.

- For the purposes of this program, a test indicating a BAC of 0.02 or greater is a positive test for alcohol.

### Drug Testing

- In all instances in which drug testing is required by this program, drivers will be required to provide a urine sample for testing. The sample will be split by the testing laboratory into two separate specimens; in the event of a positive test result, drivers will be given the opportunity to request a test of the split specimen.
- Pursuant to federal law, drivers will be tested for the presence of marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). Presence of these drugs at or above the levels indicated below shall be deemed conclusive proof of a violation of this program:

Drug	Quantity: Screen Confirmation (ng/ml)
Amphetamines	500/250
Marijuana	50/15
Cocaine	150/100
Opiates	2000/2000
Phencyclidine	25/25

- Employees will not be directly observed while providing urine samples, but laboratory personnel will take appropriate steps to ensure that the sample remains unadulterated. If the technician determines that a first sample was adulterated, an inference of driver drug use may be adopted. The technician will request that the employee submit a second sample, and appropriate steps, including direct observation, may be taken to ensure that a proper sample has been submitted.
- After the employee has provided the sample, the laboratory will comply with the appropriate chain of custody procedures. Results will be reported to a physician designated by MCPS as a medical review officer (MRO).
- In the case of a negative dilute result, in all cases, the applicant or employee will be directed to immediately report to the collection site to submit another urine specimen. The results of this second test will serve as the result of record.
- In the case of negative test results, the MRO will contact MCPS to report the negative laboratory findings. In the case of positive tests, the MRO will contact the employee to determine whether the use of valid prescription drugs could explain the positive tests. All communications with the MRO will remain confidential. If the MRO's investigation reveals a valid reason for the test results, and the MRO determines that the driver is fit for duty, then the MRO shall report the test results as negative to MCPS. The MRO will report the test results to MCPS as positive if the MRO's investigation does not reveal a valid reason for the positive test results, or if the investigation reveals a valid reason for the results but the MRO does not cer-

tify the driver as fit for duty. The MRO will determine whether the driver is fit for duty based on the type and concentration of drugs in the driver's system.

- The MRO shall notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split specimen within this time, the specimen will be sent to another certified laboratory for analysis. The positive test result will be cancelled and considered a negative test if the analysis of the split specimen fails to reconfirm the presence of the drug(s) found in the primary specimen.

### REQUIRED TESTING

Commercial motor vehicle drivers will be subject to drug and alcohol testing in four circumstances: (1) all applicants for positions requiring operation of commercial motor vehicles will be tested for drugs prior to employment in such positions; (2) drivers will be subject to random testing for alcohol and drugs; (3) drivers will be tested for alcohol and drugs after specified types of accidents or incidents; and (4) drivers will be tested for alcohol and drugs whenever reasonable suspicion is present to suspect that a driver may be under the influence of alcohol or drugs.

### Pre-employment Testing

- Upon receiving a conditional offer of employment, each applicant for a position requiring operation of a commercial motor vehicle will be required to submit to pre-employment drug testing within 24 hours of notification of required drug test. Applicants who test positive for drugs will not be hired.
- Any employee of MCPS who wishes to apply for or be transferred to a position requiring operation of a commercial motor vehicle, but who was not subject to the driver alcohol and drug testing program prior to the transfer, will be required to submit to drug testing before the transfer may be effected. Employees seeking driving positions who test positive for drugs will be denied the position.

### Random Testing

- All drivers of commercial motor vehicles, including infrequent drivers of commercial vehicles for MCPS who are required to hold a commercial driver's license, will be subject to random alcohol and drug testing. Random drug tests will be administered to at least 50 percent of the driver population each year. Random alcohol tests will be administered to at least 10 percent of the driver population, as determined by federal law. These percentages are subject to change pursuant to changes in state and federal law. Approximately 20 percent of the required random tests will be administered in each of the following five periods: July–October; November–December; January–February; March–April; and May–June.
- Random alcohol and drug tests will be administered without advance notification. Because every driver's name must be included in each random selection pool, any one driver may be required to submit to random

alcohol and drug testing several times during one year if his/her name is selected multiple times through random selection.

3. A driver will be subject to random alcohol testing just before, just after, or while performing safety-sensitive functions. Drivers selected for random alcohol and drug testing will be required to proceed directly and immediately to the testing site upon notification of being selected. Safety-sensitive functions include driving, inspecting or servicing, loading or unloading, supervising loading or unloading, remaining in readiness to operate a commercial motor vehicle, or repairing a commercial motor vehicle.
4. A driver who has been randomly tested for alcohol and drugs will be returned to service upon receiving a negative result from the alcohol test. If a positive result for drugs is later reported, the driver will be removed from service at that time. Upon receiving a positive result, a driver may be placed in a nonpay status, consistent with MCPS disciplinary procedures and other provisions of this program.

### Reasonable Suspicion Testing

1. Drivers will be required to submit to alcohol and drug tests when MCPS has reasonable suspicion to believe the driver has violated any of the alcohol or drug prohibitions outlined in this program. The determination that reasonable suspicion exists to require a driver to undergo testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The required observations for reasonable suspicion testing will be made by a supervisor who has been trained to identify the physical, behavioral, speech, and performance indicators of probable alcohol misuse and the use of drugs. Although subject to disciplinary action through other MCPS policies (see Board of Education Policy IGN, *Combating Alcohol and Other Drug Abuse* and MCPS Exhibit COF-EA, *Drinking or Possessing Intoxicating Beverages on School Premises (State Law) and Substance Use or Distribution (State Regulation)*), the mere possession of alcohol alone may not provide a basis for reasonable suspicion testing, in the absence of other observations of a driver's appearance, behavior, speech, or body odor indicating alcohol misuse. However, under state law authority, MCPS will conduct alcohol and drug tests on drivers when it has reasonable suspicion, based on other factors not enumerated above, to suspect a driver has violated any of MCPS' alcohol or drug prohibitions. For example, reasonable suspicion to conduct testing might arise based on reports of a driver's drug use from other employees, students, parents, police, or the general public.
2. Drivers required to submit to reasonable suspicion testing will be escorted immediately to the testing site by a supervisor following notification that the test is required.

3. A driver who is required to report for alcohol and drug testing based on reasonable suspicion will be removed from all duty, but will continue to receive pay immediately after the determination is made that reasonable suspicion exists to require the driver to undergo testing. The driver will be returned to duty upon receiving a negative result from both the alcohol and drug tests. Upon receiving a positive result, a driver may be placed in a nonpay status consistent with MCPS disciplinary procedures and other provisions of this program.

### Postaccident Testing

1. Drivers will be required to submit to alcohol and drug testing following certain accidents or incidents involving a commercial motor vehicle.
2. Pursuant to federal regulations, a driver will be subject to postaccident alcohol and drug testing after any occurrence involving a commercial motor vehicle operating on a public road which results in a fatality, or when the driver has received a citation under state or local law for a moving traffic violation after an occurrence either that resulted in bodily injury to a person who immediately received medical treatment away from the scene or that resulted in disabling damage to the commercial motor vehicle such that it must be transported away from the scene by another vehicle.
3. Testing also will be required in certain additional types of accidents or incidents, pursuant to MCPS' independent testing authority. Postaccident testing under the authority of MCPS will be required after any occurrence in which a driver is behind the wheel of a commercial motor vehicle that results in either personal injury to any occupants of the vehicle, another vehicle, a pedestrian, or disabling damage to the commercial motor vehicle or another vehicle.
4. Following the accident or incident, the driver will be taken to, or be required to report to, a laboratory for the required alcohol and drug testing. If the driver requires hospital care, the department/division to which the driver reports will make arrangements to ensure that the appropriate tests are performed at the hospital. A driver who is subject to postaccident testing must remain readily available for such testing. In the absence of emergency circumstances, failure to remain readily available for postaccident testing will be treated as a refusal to submit to testing.
5. A driver who is required to report for alcohol and drug testing because of an accident or incident will be removed from driving service and be placed on other-than-driving duty, with pay, immediately after the accident/incident. The driver will be returned to service upon receiving a negative result from both the alcohol and drug tests. Upon receiving a positive result, a driver may be placed in a nonpay status, consistent with MCPS' disciplinary procedures and other provisions of this program.
6. Nothing in this program shall be construed to require the delay of necessary medical attention for injured people



following an accident, or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

7. A driver subject to postaccident testing must refrain from consuming alcohol for eight hours following the accident, or until he/she submits to an alcohol test, whichever comes first.
8. MCPS will cease attempts to administer a postaccident alcohol test if it has not been accomplished within eight hours following the accident. If a driver has not submitted to a postaccident drug test within 32 hours of the accident, MCPS will cease attempts to administer the test.
9. MCPS may rely on the results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by the police or any other federal, state, or local officials having independent authorities for the test, providing the tests conform to applicable federal, state, or local requirements.

## CONSEQUENCES OF POSITIVE TEST RESULTS

A drug test will be deemed positive if the presence of drugs over the cut-off levels designated in this program is detected. An alcohol test will be deemed positive if a breath or blood alcohol concentration of 0.02 or greater is reported. Any driver refusing to take a required test will be dismissed without any opportunity for rehabilitation.

Persons testing positive for drugs will be afforded the opportunity to request a retest of the split specimen. Drug tests will be reported as positive only if the MRO certifies that there is no valid reason for the test result. Persons testing positive for alcohol in a test utilizing an EBT will be retested automatically without the need to request a retest.

After testing positive for alcohol or drugs, drivers will be given a copy of this written policy on the use of alcohol or drugs. Written notice of MCPS' intent to take disciplinary action also will be provided.

### Pre-employment Testing

An applicant who tests positive for drugs during a pre-employment test will not be hired. An MCPS employee seeking a driving position for which alcohol and drug testing is required will be denied the position if he/she tests positive for drugs. If an MCPS employee seeking a driving position tests positive for drugs in pre-employment testing, the employee will be placed on administrative leave with pay and will be given an opportunity to meet with a human resources (HR) representative in order to explain the positive test results. At that time, the HR representative will explain that the employee has three days to choose one of two options: to undergo rehabilitation, with the potential of later returning to his/her non driving position with MCPS, or to be processed as dismissed. The employee will be given a written form describing these options. If the employee fails after three days to request rehabilitation, the employee automatically will be dismissed. If the employee chooses to undergo rehabilitation, the conditions and procedures outlined below in Section B, subsection 2, will apply.

## Random and Reasonable Suspicion Testing

1. Drivers who test positive for alcohol or drugs in random or reasonable suspicion testing will be placed on administrative leave with pay and will be given an opportunity to meet with an HR representative in order to explain the positive test results. At that time, the HR representative will explain that the driver has three days to choose one of two options: 1) to undergo rehabilitation, with the potential of later assignment to a non driving position with MCPS, or 2) to be dismissed. The driver will be given a written form describing these options. If the driver fails after three days to request rehabilitation, the driver automatically will be dismissed.
2. If the driver requests rehabilitation, he/she will be advised that alcohol or drug use in violation of the program is grounds for dismissal. However, dismissal will be held in abeyance and the employee will be referred to the Employee Assistance Program (EAP). The driver will be placed in a nonpay status, but sick leave can be used during rehabilitation and medical benefits shall be continued. After enrollment in a rehabilitation program, the employee may apply for conditional reinstatement to a non driving MCPS position. Before an employee will be considered for conditional reinstatement, the EAP must certify that the employee is fulfilling all the requirements of the rehabilitation program and that the employee is fit to return to duty. The employee's conditional reinstatement to a non driving position is subject to EAP monitoring of the rehabilitation and one year of periodic testing at MCPS' discretion. If any positive alcohol or drug test occurs during this one-year probationary period or during the EAP rehabilitation period, then the employee will be subject to immediate dismissal with no additional opportunity for rehabilitation. If the driver does not successfully complete the rehabilitation program, the driver will be dismissed without any additional rehabilitation opportunity.
3. Alternatively, a driver who tests positive for alcohol or drugs may elect to be dismissed from employment with MCPS, subject to the normal grievance procedures. If the driver files a grievance, he/she may challenge the accuracy of the test at that time.

### Postaccident Testing

Drivers who test positive for alcohol or drugs in postaccident testing will be placed on administrative leave with pay and will be given an opportunity to meet with an HR representative in order to explain the positive test results. At that time, the HR representative will explain MCPS' policy regarding alcohol and drug use in a postaccident context. Due to the serious nature of being involved in an accident or incident while the driver has alcohol or drugs in his/her system, it is the policy of MCPS that the driver will be subject to dismissal with no opportunity for rehabilitation. The driver will be given a written form describing this policy. If the driver files a grievance over the dismissal, he/she may challenge the accuracy of the test at that time.

## **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The EAP provides MCPS employees and their families with assessment, counseling, information, referrals, and follow-up services concerning drug and/or alcohol dependency as well as other personal and family problems. MCPS encourages drivers to take advantage of this resource. EAP staff will take precautions to protect both the confidentiality of the employee seeking help and the safety of the community.

## **PROGRAM STATEMENT NOT A WAIVER OF ANY RIGHTS**

The purpose of this program statement is to familiarize MCPS drivers with the alcohol and drug testing program. This program statement is not intended to, and shall not, constitute a waiver of any rights possessed by MCPS derived

from any source whatsoever. Nothing in this program shall be construed as limiting MCPS' right to take administrative or disciplinary action, up to and including dismissal, for involvement with alcohol or drugs that is not specifically addressed in this program.

Nothing in this program statement shall limit the rights of MCPS as derived from existing law, rules and regulations, manuals, handbooks, statements of program, bulletins, memoranda, directives, local customs and practices, labor contract provisions, and customs or practices under past or present labor contracts. MCPS expressly reserves all such rights and any other rights derived from any other source whatsoever. MCPS may modify this program from time to time, including when there are changes in applicable federal or state laws.



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