

STATE OF UTAH

PUPIL TRANSPORTATION DRUG AND ALCOHOL TESTING POLICIES AND PROCEDURES



EMPLOYEE HANDBOOK

UTAH STATE OFFICE OF EDUCATION
250 EAST 500 SOUTH
SALT LAKE CITY, UTAH 84114

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Pupil Transportation Supervisor.
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UTAH STATE OFFICE OF EDUCATION

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TABLE OF CONTENTS

| | |
|---|----|
| ACKNOWLEDGEMENTS..... | 4 |
| UTAH STATE BOARD OF EDUCATION..... | 5 |
| FOREWORD | 8 |
| PURPOSE | 9 |
| I. GENERAL STATEMENTS OF POLICY | 9 |
| II. DEFINITIONS | 10 |
| III. STATUTES | |
| A. Drug-Free Workplace Act of 1988 | 15 |
| B. Omnibus Transportation Employee Testing Act of 1991 | 15 |
| IV. AWARENESS PROGRAM | |
| A. Objectives | 15 |
| B. Self-Referral..... | 16 |
| C. DCP Actions..... | 16 |
| V. GENERAL PROHIBITIONS AND SANCTIONS, ALCOHOL..... | 16 |
| VI. GENERAL PROHIBITIONS AND SANCTIONS, DRUGS | |
| A. Controlled Substances..... | 17 |
| VII. GENERAL REGULATIONS | |
| A. DCP Program | 19 |
| B. Drug Program Coordinator | 19 |
| C. Site Coordinator | 19 |
| D. Safeguarding of Records Related to Drug Test Results..... | 19 |
| E. Transmission of Test Results | 19 |
| F. Release of Positive Test Results | 20 |
| G. Release of Negative Test Results..... | 20 |
| H. Records Maintenance and Retention | 20 |
| VIII. TESTING OPERATIONS | |
| A. Target Substances | 20 |
| B. Test Conditions | 20 |
| C. Common Procedures..... | 21 |
| D. Procedures for Unobserved Urine Collection..... | 21 |
| E. Procedures for Observed Urine Collection | 23 |
| F. Procedures for Alcohol Testing | 25 |
| G. Failure of Employee to Report to Collection Site..... | 25 |
| H. Failure of Employee to Provide Specimen | 26 |
| I. Refusal by Employee to Provide Specimen..... | 26 |
| J. Tampering With, Adulteration, or Substitution of Urine Specimens | 26 |
| K. Acceptable Identification..... | 27 |

| | |
|--|----|
| IX. PRE-EMPLOYMENT TESTING | |
| A. Exemptions | 27 |
| X. RANDOM TESTING | |
| A. Submission of Employee Lists | 28 |
| B. Testing Rates..... | 28 |
| C. Employee Notification | 28 |
| XI. REASONABLE SUSPICION TESTING | |
| A. Determination of Reasonable Suspicion..... | 29 |
| B. Collection Procedures | 29 |
| XII. POST ACCIDENT TESTING | |
| A. Covered Events | 29 |
| B. Determination That Drug/Alcohol Testing Will Be Conducted..... | 30 |
| XIII. RETURN-TO-DUTY-AND FOLLOW-UP TESTING | |
| A. Purpose..... | 31 |
| B. Test Scheduling..... | 31 |
| XIV. MEDICAL REVIEW OFFICER | |
| A. Duties | 32 |
| B. Organizational Relationships | 32 |
| C. Communications | 32 |
| D. Test Results..... | 32 |
| E. Distribution of Test Results | 33 |
| F. Reinstatement of Employee to Safety-Sensitive Duties | 33 |
| XV. SUBJECT TO FEDERAL REQUIREMENTS AND CHANGES IN FEDERAL REQUIREMENTS..... | 34 |
| XVI. DOCTOR/DRIVER PRESCRIPTION DRUG DISCLOSURE FORM..... | 35 |

FOREWORD

In the interest of providing safe and efficient transportation for Utah children to and from school-related activities, and to meet its statutory responsibility for maintaining a drug-free workplace, the Utah State Board of Education has adopted these policies and procedures.

Illegal drug use is contrary to state law, the federal Drug-Free Workplace Act of 1988, and Utah State Board of Education rules. Possession, use, distribution, or manufacture of alcohol or illegal drugs in the workplace is prohibited. Involvement of any type with alcohol or other drugs that interfere with an employee's ability to perform assigned duties, regardless of where the drugs or alcohol are consumed, is also a concern that must be addressed by the supervisor as well as the individual. Violation of drug-free rules and laws may result in termination from employment.

It is the policy of the Utah State Board of Education that the workplace be drug free. A drug testing program has been implemented statewide that covers every Utah school district, charter school or private carrier, which will hereafter be referred to as DCPs (i.e., "district/charter/private"). The policy will pertain to any employee or contract employee working for a DCP who is assigned to a safety-sensitive position as defined by this policy and required, by reason of that job assignment, to possess a Commercial Driver's License. DCPs shall use the drug testing procedures, contract testing company, medical review officer, laboratories, and testing sites established under this policy to test other employees, provided that such testing is authorized by separate local district or charter school policy written and adopted for that purpose. Testing will be conducted in strict accordance with the guidelines of the Substance Abuse Mental Health Services Administration, formerly the National Institute on Drug Abuse, and Part 40 of Title 49, Code of Federal Regulations.

Private, commercial carriers under contract to local school districts or charter schools to transport Utah school children to and from school or related activities are required to adhere to this policy. Responsibility for payment for testing and related services is a matter of contract negotiation between the commercial carrier and the school district or charter school.

Martell Menlove
State Superintendent of Public Instruction

PURPOSE

The purpose of this policy is to establish guidelines for alcohol and controlled substances testing that comply with the Omnibus Transportation Employee Testing Act of 1991 (the Omnibus Act) and to set forth the procedures for implementing this policy.

I. GENERAL STATEMENTS OF POLICY

It is the policy of the Utah State Board of Education that:

- A. Covered employees will adhere to the rules and regulations set forth in this policy.
- B. DCPs will strive to maintain a workplace free of the unlawful use, manufacture, distribution, dispensing, or possession of alcohol and illegal controlled substances.
- C. DCPs will take action against employees who use, distribute, or possess illegal controlled substances or alcohol on the job.
- D. Covered employees will report to work in a fit condition for duty. Being under the influence of alcohol or illegal controlled substances on duty is prohibited.
- E. If the employee seeks help prior to discovery or notification of random testing, then confidentiality, job security, and promotional opportunities will be protected.
- F. If the employee does not seek help and the problem in some way comes to the attention of the employer, then corrective or disciplinary action will result.
- G. As of the approval of this policy, the “Zero Tolerance Policy” will apply to all current DCP drivers and new applicants to drive.
- H. If an employee is arrested off the job for drug involvement, the DCP will consider various circumstances surrounding the arrest before taking action.
- I. A covered employee charged with the possession, use, sale, distribution, or manufacture of alcohol or illegal controlled substances on DCP property will be removed from safety-sensitive duties until the charges are adjudicated. If the charges result in termination from DCP employment, the DCP will not participate financially in any subsequent counseling, rehabilitation, or hospitalization.
- J. If an employee is under treatment with a medication that could alter his/her ability to perform a job, a recommendation will be sought from a physician. Upon recommendation by the physician, the employee could be subject to reassignment. This requires a note from the physician stating the possible impairment from prescribed drugs, such as drugs that may cause drowsiness, or the ability to operate equipment. The note should state how many days off are necessary and the approximate date of possible return to duty.
- K. Supervisors and other employees in jobs classified as “safety-sensitive” will receive annual substance abuse training in accordance with the Omnibus Act.
- L. As a condition of employment in a job with a Utah DCP having safety-sensitive duties, an employee or applicant must agree, in writing, to the release of the records of:
 - 1. Positive controlled substances test,
 - 2. Alcohol test that registered above, 0.02 BAC,
 - 3. When positive tests resulted in disciplinary action, or

4. Any refusal to be tested.

The signed release must stipulate that the employee agrees to the release of such records dating back three years from the date of hire for new hires and two years from any inquiry related to employment status in which the driving record or performance record of the individual is at issue, and that the records may be released to other Utah DCPs and other states via confidential transmittal through the Pupil Transportation Specialist.

- M. All Utah DCPs will implement the policy set forth in Paragraph K above, by including in the employment application for safety-sensitive positions, statements to the effect that:
1. An essential function of safety-sensitive jobs in the DCP is that the person performing such a job do so free of illegal controlled substances and with a BAC within the limits set forth in this policy, and,
 2. Application for employment in such a job in the DCP implies consent to the conditions stated in Paragraph K.

II. DEFINITIONS

Act, the The Drug-Free Workplace Act of 1988.

alcohol The intoxicating agent in beverage alcohol, ethyl alcohol, or other low-molecular-weight alcohols, including methyl and isopropyl alcohol.

blood-alcohol concentration (BAC)

A unit of measurement specifying the percentage of alcohol in a person’s bloodstream.

Chain of Custody

The documented control of an item of evidence from the time and place of its creation or identification as evidence to its final use or disposition. In drug and alcohol testing, the “Chain of Custody” is tracked and recorded on the “Custody and Control Form.” See definition below.

commerce Commerce means (1) any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of such state, including a place outside of the United States, and (2) trade, traffic, or transportation described in paragraph (1) of this definition. **School bus traffic, whether in the transportation of students to and from school or on activity and field trips, is commerce.**

commercial motor vehicle (CMV)

Commercial motor vehicle (CMV) means a motor vehicle or combination of motor vehicles that:

- A. 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
- B. Has a gross vehicle weight rating of 26,001 or more pounds, or
- C. Is designed to transport 16 or more passengers, including the driver; or
- D. 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 C.F.R. part 172, subpart F or
- E. Is any vehicle meeting the definition of “School Bus” as defined in the “Standards for Utah School Buses and Operations.”

confirmatory test

A confirmatory test is a chemically independent test conducted on a urine specimen to substantiate the results of a prior test. The confirmatory test must employ federally approved methods of analysis as described in this policy.

controlled substances

Medications prescribed under Utah law by licensed medical personnel or illegal drugs identified in the Omnibus Transportation Employee Testing Act of 1991, listed on page 9 of this handbook.

covered employee

A DCP employee assigned to a safety sensitive position, as defined by this policy and subject to the Omnibus Transportation Employee Testing Act of 1991. (Includes a school bus driver in the State of Utah.)

covered event

An accident or other incident where there is reasonable suspicion that prohibited use of controlled substances or alcohol occurred.

Custody and Control Form

The document completed by the donor prior to providing the urine specimen, which accompanies the specimen to document where it goes, how it is handled, and by whom. Copies of the Custody and Control Form are sent to the district Drug Program Coordinator or Site Coordinator for their use in billing and employee notification. The Custody and Control Form is a multi-page document with copies distributed according to the notification rules of this policy.

consortium/third party administrator (C/TPA)

A person and/or company that handles the random drug testing pool.

district/charter school/private carrier (DCP)

Utah public school district, charter school or private commercial carrier under contract to local school districts or charter schools to transport Utah school children to and from school or related activities.

DCP supervisor

The DCP employee with day-to-day responsibility for managing pupil transportation, whether holding the title Superintendent, Assistant Superintendent, Director, Supervisor, Coordinator, or other title.

donor

The individual being tested or scheduled to provide a urine or breath specimen for testing under this policy.

drug

May refer to legal medications prescribed according to Utah state law or to illegal controlled substances. When used in the context of “testing for illegal controlled substances,” the term “drugs” refers to the five controlled substances targeted by the Omnibus Transportation Employee Testing Act of 1991.

Drug Program Coordinator or designated employer representative (DER)

The individual designated at the local level to oversee implementation of the drug testing policy for the pupil transportation department. The Drug Program Coordinator is the designated employee representative (DER). This may be the transportation supervisor

(director), the superintendent or an assistant superintendent, or a senior transportation employee subordinate to the supervisor.

employee Used interchangeably with “donor” in this policy. Both terms refer to Utah public school district employees or contract employees assigned safety-sensitive duties and possessing a Commercial Driver’s License.

employee assistance program (EAP)

A program to provide district employees with counseling services, which includes services for employees with substance abuse problems. Referrals and recommendations are at the discretion of the district or the employer.

human resources management (HRM)

District-level human resource office.

medical review officer (MRO)

The medical review officer (physician or osteopath) under contract with the USOE to provide statewide technical assistance in implementing the drug testing program by performing duties specified on page 23 of this handbook.

National Institute on Drug Abuse (NIDA)

Renamed from Substance Abuse Mental Health Services Administration. An agency within the federal Department of Health and Human Services designated by presidential executive order as the national certification authority for forensic urine testing.

Omnibus Act

The Omnibus Transportation Employee Testing Act of 1991.

reasonable suspicion

A conclusion, as a result of examination of the pertinent facts, that prohibited drug or alcohol use *may be* present, or may have contributed to or caused a critical incident.

“refusal to test/submit”

Refusing to submit (to an alcohol or drug test) means that a driver:

- A. Fails to appear for any test (except a pre-employment test) as determined by the employer and consistent with DOT agency regulations, after being directed to do so by the employer;
- B. Fails to remain at the testing site until the testing is complete. Provided that a covered employee leaves the testing site before the testing process commences (see 49 CFR 40.63(c)) employer and DOT for pre-employment test is not determined to have refused to test;
- C. Fails to provide a urine specimen for any drug test required by the employer and DOT regulations;
- D. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen (see 49 CFR 40.67(I) and 40.69(g));
- E. Fails to provide a sufficient amount of urine when directed, unless it has been determined through a required medical evaluation, that there was an adequate medical explanation for the failure;
- F. Fails to undergo a medical evaluation as directed by the MRO as part of the verification process or as directed by the DER concerning the evaluation of the shy bladder procedures in 49 CFR part 40, subpart 1 of this title;

- G. Fails to cooperate with any part of the testing process;
- H. Fails or declines to take a second test the employer or collector has directed the covered employee to take; or
- I. Is reported by the MRO as having a verified adulterated or substituted test result.

safety-sensitive duties

In Utah public school districts, duties performed during “on-duty” time by all school bus drivers (full- and part-time or substitute); mechanics who hold the CDL license; state-level instructors, district-level instructors, and behind-the-wheel trainers who hold the CDL; and any other employee involved in the transport of public school students who holds a CDL license. This encompasses all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. “On-duty” time will include:

- A. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property spent waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
- B. All time inspecting, servicing or conditioning any motor vehicle at anytime.
- C. All driving time.
- D. All time, other than driving time, in or upon any motor vehicle.
- E. All time spent loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle loading or unloading, remaining in readiness to operate the vehicle, giving or receiving receipts for shipments loaded or unloaded, or checking manifests of students.
- F. All time spent performing required driver responsibilities upon an accident and/or collision.
- G. All time repairing, obtaining assistance, or remaining in attendance with a disabled vehicle.

site coordinator

The individual on site at the location where urine and breath specimens are collected and who is responsible for coordinating specimen collection. The Site Coordinator and Drug Program Coordinator may be the same person if assigned a dual role by the district. (See Drug Program Coordinator .)

split sampling

Under federal law, all urine testing is a “split sample testing,” meaning that the donor’s sample is collected in a single, disposable container and then poured into two specimen bottles. One bottle, containing 30 milliliters of urine, is tested immediately. The second bottle, called the split, contains 15 milliliters of urine. It is placed in storage for two years. The two bottles carry identical donor identifying information along with the date of collection.

Substance Abuse Mental Health Services Administration (SAMHSA)

An agency within the Federal Department of Health and Human Services, designated by presidential executive order, as the National Certification Authority for Forensic “Urine and Breathe Alcohol Testing.” (Replaces NIDA; see above.)

substance abuse professional (SAP)

A professional counselor employed by a public or private mental health or substance abuse treatment facility that is licensed by the Utah Department of Human Services as an agency authorized to conduct substance abuse treatment.

Utah State Office of Education (USOE)

The education agency for the State of Utah, as directed by the Utah State Board of Education.

zero tolerance drug and alcohol testing

Any failed DOT drug test or BAC 0.02 or above. This is the amount of alcohol that an instrument or device can legally detect with reportable accuracy. If you are a school bus driver at a school district or charter school, or with a private carrier on contract with either, and fail a drug or alcohol test, you cannot again drive a public school bus in Utah.

zero tolerance DUI convictions

1. No applicant for a school bus driver position may have a DUI conviction on his/her MVR for the past ten years.
2. Employed school bus drivers, while driving private vehicles, may not be convicted of a DUI. If convicted, a school bus driver is not eligible for consideration as a school bus driver in Utah for a period of ten years.

III. STATUTES

A. Drug-Free Workplace Act of 1988

1. The law requires federal contractors (with contracts of \$25,000 or more) and grantees to achieve and maintain a “drug-free workplace.”
2. The Act became effective on March 18, 1988.
3. 41 U.S.C. 701 specifically requires the covered contractor or grantee to certify that it is providing a drug-free workplace.

B. The Omnibus Transportation Employee Testing Act of 1991

1. The Omnibus Act became effective October 28, 1991.
2. The Omnibus Act requires employers to test certain employees for alcohol and controlled substances under various conditions. Employers must adopt policies and procedures covering prior notification, sanctions, types of tests, laboratory certification, medical review officer qualifications and duties, record keeping and training.

IV. AWARENESS PROGRAM

Since drug and alcohol abuse can result in injury or death to students, school bus drivers, or others, as well as lost productivity and misuse of public property, the Utah State Board of Education is obligated to establish policies that address these issues as they affect DCP employees. Therefore, policies are herewith established that not only set forth restrictions and penalties, but also provide for the dissemination of information concerning prevention, health effects, and rehabilitation programs.

Drivers:

All Utah school bus drivers are required to receive a minimum of 60 minutes of drug and alcohol awareness instruction each year. This shall include presentation and/or discussion time accompanied by a test within the minimum amount of time. Annual awareness instruction may be completed using an online course approved by the Utah State Office of Education.

A. Objectives

It is the policy of the Utah State Board of Education, as well as a requirement of the Omnibus Transportation Employee Testing Act of 1991, that all DCP pupil transportation personnel employed in “safety-sensitive” positions, as defined in this policy (see “covered employees” under Definitions, above), undergo annual training to accomplish the following objectives:

1. To ensure that each covered employee in the DCP receives educational materials that explain the requirements of the Omnibus Transportation Employee Testing Act of 1991 and local DCP policies concerning drugs and alcohol.
2. To ensure that the identity of the person designated in each DCP to answer questions about the policies is known to every person in the DCP holding a safety-sensitive position.
3. To ensure that every covered employee in the DCP knows that the duties being performed are considered safety-sensitive, and that, therefore, this written policy and the Omnibus Transportation employee Testing Act of 1991 must be followed.
4. To ensure that every covered employee in the DCP knows exactly what period of the workday he/she is subject to this policy or parts of this policy.

5. To ensure that each covered employee or prospective employee understands the “zero tolerance” policy. This means no illegal drug use or alcohol abuse. If this occurs, termination proceedings shall take place, and an employee shall not drive school bus again in Utah.
6. To ensure that the circumstances under which covered employees will be or may be tested under this policy are clearly understood.
7. To ensure that the procedures that will be used to test covered employees for the presence of alcohol and controlled substances protect covered employees and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.
8. To ensure that all covered employees in all DCPs understand that they are **required**, under federal law and Utah State Board of Education policy, to submit to alcohol and controlled substances testing as set forth in this policy.
9. To ensure that covered employees understand what constitutes “refusal” and “failure” to submit to testing, and that there are consequences for refusing or failing to submit to testing under this policy.
10. To ensure that all covered employees understand the consequences for violating any prohibition of this policy.
11. To ensure that all covered employees understand the possibility of impairment from the use of prescription drugs, and understand that they are subject to reasonable suspicion nine-panel testing at the discretion of their local DCP.
12. To ensure that all covered employees understand the possibility of impairment from the use of over-the-counter drugs, and understand that they are subject to reasonable suspicion nine-panel testing at the discretion of their local DCP.
13. To ensure that all covered employees understand that they are required to provide a Doctor/Driver Prescription Drug Disclosure Form each time they are required to supply a DOT physical, and that the form must be updated each time a doctor prescribes a medication that could impair the ability of a driver to safely operate a motor vehicle.

B. Self-Referral

Employees may refer themselves for treatment using the DCPs Employee Assistance Program, if any, or to a private physician or program, before discovery or before being notified of random test selection. This may not be construed in any attempt to circumvent the purposes of the “random,” “post-accident” or “reasonable suspicion” tests provided for in this policy. Financial responsibility for any such referral, treatment, counseling, rehabilitation or hospitalization will be as provided for in the DCPs policy. This does not apply to new applicants, because they automatically fall under the “zero tolerance policy.” See Section G under “General Statements of Policy.”

C. DCP Actions

The DCP may impose discipline up to and including termination of the employee for violations of this policy. Employees who are found to be drug users, and who meet the criteria for termination from employment may not be permitted to remain in or return to a safety-sensitive position. Such employees shall not drive a school bus again in the State of Utah.

V. GENERAL PROHIBITIONS AND SANCTIONS, ALCOHOL

- A. This policy prohibits any alcohol misuse that could affect the performance of a covered employee driving a commercial motor vehicle (CMV), including:
 1. The presence in the body, possession, use, distribution, dispensing, and/or unlawful manufacture of alcohol or alcohol products is not condoned while conducting DCP business, on or off employer premises. No covered employee will work under the influence of alcohol. It will be

against the employer policy for any supervisor/manager who has actual knowledge of a driver using a controlled substance or alcohol to permit the driver to perform or to continue to perform safety-sensitive functions.

2. No school bus driver shall perform safety-sensitive functions within eight hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within eight hours shall permit a driver to perform or continue to perform safety-sensitive functions. Use includes alcohol in any form, including medication.
 3. No driver shall use alcohol for eight hours after an accident, if required to take a post-accident alcohol test under Sec.382.303, or until he/she undergoes a post-accident test, or the employer directly tells the driver a post-accident test is not required, whichever occurs first.
- B. No DCP employee assigned safety-sensitive duties, or contract carrier employee serving a DCP and assigned safety-sensitive duties, will refuse to submit to post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances testing. No DCP supervisor will permit an employee who refuses to submit to such testing to perform or continue to perform safety-sensitive duties.
- C. Prohibited Breath/Saliva-Alcohol Concentrations (BAC)
1. **This rule establishes a ZERO TOLERANCE policy for covered employees under the Utah State Office of Education. *This policy is stricter than Federal limits.***
 2. A covered employee with a BAC of at least 0.02 is not permitted to perform safety-sensitive duties for a DCP.
 3. A covered employee with a BAC of 0.02 or greater is subject to the provisions of paragraph D below.

D. Sanctions

Following a determination that an employee has violated the alcohol prohibitions listed in this section, including having a test result of 0.02 BAC or greater, the following sanctions apply: If the violation occurs immediately prior to, or while the employee is engaged in safety-sensitive duties or immediately after the employee ceases to perform safety-sensitive duties, termination from employment is mandatory. Under the Utah State Office of Education policy, a driver is disqualified from again driving a school bus in the State of Utah.

VI. GENERAL PROHIBITIONS AND SANCTIONS, DRUGS

A. **Controlled Substances (Drugs)**

1. Prohibited Drugs: The presence in the body (including the presence as a metabolite), possession, use, distribution, dispensing, and/or, unlawful manufacture of prohibited drugs is not condoned while conducting employer business, or while in work areas or employer vehicles on or off employer premises. No covered employee will work under the influence of prohibited drugs. The following drugs are prohibited by FMCASA/DOT regulations:
 - a. Marijuana
 - b. Cocaine
 - c. Opiates
 - d. Amphetamines
 - e. Phencyclidine (PCP)

Employer policy prohibits the use of all other controlled substances (unless legally prescribed under conditions that do not cause impairment while driving a school bus), and all illegal drugs not listed above.

The Five Panel Test used by the Utah Office of Education is as follows:

- a. Marijuana

- b. Cocaine
 - d. Opiates
 - e. Amphetamines
 - f. Phencyclidine (PCP)
2. Except for medications validly prescribed to the employee, no employee will store, or bring into a DCP facility or vehicle, controlled substances except those held as evidence. (A vehicle is a school bus owned or on contract with a DCP.)
 3. Use of prescription drugs, where the prescribing physician advises that it could impair the ability of a driver to safely operate a commercial motor vehicle, or a warning label on a medication (prescription or over-the-counter medication) warns of possible impairment, must be reported to the employee's supervisor.
 4. All covered employees shall use the Utah State Office of Education-approved Driver/Doctor Prescription Drug Disclosure Form to disclose all prescribed medications that could impair the ability of a driver to safely operate a motor vehicle. For each drug that may impair a driver's ability to safely operate a vehicle, the prescribing physician shall list the amount of time that is needed after taking the drug before the employee is safe to operate a school bus again.
 5. Employees who find it necessary to bring a prescribed controlled substance into a DCP facility will be responsible for securing the medication in a manner that will prevent its theft or use by others.
 6. Termination from employment is mandatory if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall permit the driver to perform or to continue to perform safety-sensitive functions.
 7. Sanctions:
 - a. Following a determination that an employee has misused legal, prescribed controlled substances, he/she will be removed from safety-sensitive duties. The employee is subject to termination.
 - b. Termination from the DCP's employment is mandatory for an employee whose test for illegal controlled substances is confirmed to be positive under test guidelines set forth in this policy, provided the employee failed to report such use to the supervisor prior to being tested or prior to being notified of the test when such notice is given.
 1. The employer will commence termination proceedings immediately upon receipt of the laboratory report verifying the violation.
 2. Any employee to be terminated from employment under this policy will be notified immediately, in writing, of the employer's intent to terminate.
 3. The written notice of intent to terminate will include language that advises the employee of the right to a second test of the SAME urine sample under the conditions known as testing the split portion of "split test sampling."
 4. An individual whose employment is terminated due to use of prohibited drugs or abuse of alcohol may not apply for reinstatement to the safety-sensitive position previously held in the school district or with the contract carrier, and may not apply for a similar position again in another Utah DCP.

VII. GENERAL REGULATIONS

A. DCP Program

The Utah State Office of Education is responsible for ensuring that the procedures contained in this policy are uniformly implemented throughout the State. Each DCP will appoint the necessary drug program personnel to accomplish the objectives of this policy. At a minimum, all DCPs must appoint a Drug Program Coordinator and an alternate Drug Program Coordinator to perform the coordinator's duties in his/her absence. The responsibilities of the alternate are identical to those of the coordinator. In order to meet the requirement to have an Alternate Drug Program Coordinator, small DCPs with less than ten drivers may establish a reciprocating agreement with a neighboring DCP for coverage with an Alternate Drug Program Coordinator in the event of the need for an alternate in an emergency situation.

B. Drug Program Coordinator

1. The Drug Program Coordinator (designated employee representative or DER) referred to throughout this policy is the person designated as having primary responsibility for the coordination of drug testing program activities for the DCP's pupil transportation personnel.
2. The responsibilities of the Drug Program Coordinator may be delegated in those districts with large numbers of employees. In this case, the superintendent will ensure that all of the Drug Program Coordinator's responsibilities outlined in this guide are clearly understood.
3. The Alternate Drug Program Coordinator will be fully trained in and ready to assume all the Coordinator responsibilities in his/her absence.
4. The DCP's supervisor, Drug Program Coordinator, and the Site Coordinator may be the same person.

C. Site Coordinator

The size or location of some districts may dictate that the Drug Program Coordinator cannot be present for drug testing. In such cases, the DCP may appoint a Site Coordinator to assist the collector on the day of collection if it is deemed necessary. The responsibilities of the Site Coordinator will include, but not be limited to:

1. Coordinating the scheduling of employees selected for testing with the collector and the Drug Program Coordinator .
2. Ensuring that employees are selected from the test list in accordance with the procedures outlined in this policy.
3. Assisting the collector with logistical arrangements.

D. Safeguarding of Records Related to Drug Test Results

Test results are confidential. An employer or service agent (e.g., testing laboratory, MRO or SAP) is not permitted to disclose test results to outside parties without the employee's written consent. However, test information may be released (without consent) in certain situations, such as legal proceedings, grievances, or administrative proceedings brought by the employee or on his/her behalf, which resulted from a positive result or a refusal. When the information is released, the employer must notify the employee in writing of any information the employer released.

E. Transmission of Test Results

1. If you are a C/TPA (Consortium/Third Party Administrator) you may, acting as an intermediary, transmit the information in the following sections of this part to the DER for an employer, if the employer chooses to have you do so. These are the only items that you are permitted to transmit to

the employer as an intermediary. The use of C/TPA intermediaries is prohibited in all other cases, such as transmission of laboratory drug test results to MROs, the transmission of medical information from MROs to employers, the transmission of SAP reports to employers, the transmission of positive alcohol test results, and the transmission of medical information from MROs to employers.

2. In every case, you must ensure that, in transmitting the information, you meet all requirements (e.g., concerning confidentiality and timing) that would apply if the party originating the information (e.g., an MRO or collector) sent the information directly to the employer. For example, if you transmit MROs' drug testing results to DERs, you must transmit each drug test result to the DER in compliance with the requirements for MROs set forth in §40.167.

F. Release of Positive Test Results

A confirmed positive test result will not be distributed until a review has been conducted by the MRO and the positive result has been verified. At the conclusion of contact between the MRO and the tested employee, the signed, verified positive test report will be sent to the Pupil Transportation Specialist.

G. Release of Negative Test Results

Negative results will be sent to the Drug Program Coordinator, who will then provide employees with the results of their tests. For applicants, the Drug Program Coordinator will send results of the pre-employment tests to the district office.

H. Records Maintenance and Retention

1. All random test lists generated by the contractor for each district will be sent to the Drug Program Coordinator of each school district.
2. The report will be maintained in a secure filing system in such a manner as to limit access.
3. No other copies of the verified positive test report will be made or maintained.

VIII. TESTING OPERATIONS

A. Target Substances

The Omnibus Transportation Employee Testing Act of 1991 (the Omnibus Act) requires that employees performing safety-sensitive duties and holding the Commercial Driver's License (CDL) be tested for alcohol and five specific controlled substances:

1. Cannabinoids
2. Cocaine Metabolite
3. Opiates
4. Phencyclidine (PCP)
5. Amphetamines/Methamphetamine

B. Test Conditions

The Omnibus Act requires that employees performing safety-sensitive duties and holding a CDL be tested for controlled substances under **six** conditions:

1. Pre-employment
2. Random
3. Reasonable suspicion
4. Post-accident
5. Return to duty
6. Follow-up

The Omnibus Act requires that employees performing safety-sensitive duties and holding a CDL be tested for blood-alcohol concentrations under **five*** conditions:

1. Random
2. Reasonable suspicion
3. Post-accident
4. Return-to-duty
5. Follow-up

*** Note: Pre-employment testing includes the five-drug screen but does not include the alcohol test. Under this policy, Utah DCPS are specifically prohibited from administering the alcohol test for pre-employment purposes.**

C. Common Procedures:

Certain procedures will be common to all five testing conditions and will first be introduced prior to a discussion of each of the five testing conditions. They are:

1. Unobserved urine collection. This is the routine urine collection conducted in the privacy of a rest room stall or other such facility.
2. Direct observation urine collection. This procedure is followed when previous violations have occurred, or when tampering with specimens is suspected, prompting the employer to exert extra care in documenting the source and handling of a urine specimen.
3. Procedure following failure of employee to report to test site.
4. Procedure following failure of employee to provide specimen.
5. Procedure following refusal by employee to provide specimen.
6. Procedure following suspected tampering with, adulteration, or substitution of urine specimen.
7. Acceptable forms of identification.

D. Procedures for Unobserved Urine Collection

1. The collection contractor will provide detailed collection procedures that comply with Part 40 Title 49, Code of Federal Regulations.
2. Upon the donor's arrival at the collection site, the collector will request that the donor present acceptable photo identification.
 - a. Failure of the donor to have a proper identification will be noted on the Custody and Control Form.
 - b. The Drug Program Coordinator or Site Coordinator will contact the donor's immediate supervisor to confirm identification of the donor. The supervisor must be positively identified and will be required to positively identify the donor. The recommended method is for the supervisor to present photo identification and positively identify the donor in person.
3. The collector will have preprinted Custody and Control Forms or will complete such forms at the time of collection. These forms serve as identification documents for the urine sample. A different form is used for alcohol testing. These forms cannot require a list of prescription or over-the-counter medications the employee is using. If an employee tests positive, he/she may disclose any information regarding medication directly to the MRO.
4. If a person is taking any medication at the time of the test, the collector will offer him/her the opportunity to make a notation, as a "memory jogger," on the Custody and Control Form. This notation serves to facilitate discussion later on if the tested employee has a need to discuss the test with the MRO.
5. The collector will require the donor to remove any unnecessary outer garments (coat, jacket, etc.) that might conceal items or substances that could be used to tamper with or adulterate the urine specimen. Under no circumstances will any tested employee be requested to disrobe or to remove any clothing except a coat, jacket, sweater, vest, or other item classed as an "outer" garment.

6. All personal belongings (purse, briefcase, etc.) must remain with outer garments; the donor may retain a wallet.
7. The collector will notify the Drug Program Coordinator if the donor exhibits unusual behavior or appearance at the time of collection.
8. The donor will be instructed to wash and dry his/her hands prior to urination. After washing hands, the donor will remain in the presence of the collector and will not have access to water fountains, faucets, soap dispensers, cleaning agents, or any other materials that could be used to adulterate the specimen.
9. To deter the dilution of specimens at the collection site, toilet water bluing agents will be placed in the toilet bowl for each collection so the water in the toilet bowl always remains blue. There should not be any other source of water (shower, sink, etc.) in the enclosure where urination occurs.
10. The specimen will be provided in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
11. The donor will be asked to void into a disposable specimen container provided at the site and will not flush the toilet until the specimen has been handed over to the collector.
12. The donor may then flush the toilet and observe the collector complete the chain of custody procedure.
13. The specimen is then transferred by the collector to the specimen bottles. This transfer from the collection container to the specimen bottles will be observed by the donor.
14. After the specimen has been provided and submitted to the collector, the donor should be allowed to wash his/her hands.
15. Upon receiving the specimen from the donor, the collector will determine that it contains at least 45 milliliters of urine.
 - a. If there is not sufficient urine to fill the first bottle with 30 milliliters and the second bottle (the "split") with 15 milliliters, it will be discarded and another sample collected.
 - b. Should a second specimen be required, the donor will be allowed, if necessary, to drink up to 40 ounces of fluids to facilitate urination.
16. Immediately after collection, the collector will measure the temperature of the specimen using a "temperature strip," inspect the color, and look for signs of possible contaminants.
 - a. Any unusual findings resulting from the inspection will be noted on the Custody and Control Form.
 - b. The time from urination to delivery of the specimen for temperature measurement is critical and will in no case exceed four minutes.
 - c. The donor will be asked to observe the reading of the temperature and the recording of the reading on the Custody and Control Form, and then initial in the proper block on the form.
 - d. If the temperature of the specimen is outside the range of 90 to 100 degrees F, the collector has reason to believe that tampering, adulteration, or substitution has occurred.
 - e. After consultation with the Drug Program Coordinator, another specimen will be collected under direct observation and both specimens will be forwarded to the laboratory.
17. Any suspect specimen will be forwarded for testing.
18. Both the donor and the collector will keep the specimen in view at all times until it has been packaged and sealed for shipment. If the specimen is transferred from a collection container to specimen bottles, the collector will request that the donor observe the transfer of the specimen and the placement of the tamper-proof seals over the bottle caps and down the sides of the bottles.

19. The seals will contain the date of collection, name of collection official, and required donor identifying information. The donor will initial the seals on the specimen bottles using initials corresponding to the name on the Custody and Control Form.
20. The donor will be asked to read and sign a statement certifying that the urine in the bottles came from his or her body at the time of collection.
21. In the event the donor refuses to sign the statement, the collector will immediately notify the Drug Program Coordinator, who will consult with the donor as to the reason for the refusal. A final refusal by the donor to sign the form constitutes a refusal to be tested, and is grounds for termination for employment.
22. The collector will complete the Custody and Control Form for the collection process.
23. The specimens and Custody of Control Forms may now be shipped to the laboratory.
24. Copies of the Custody and Control Form will be distributed as marked on each copy.
25. All specimens will be shipped as soon as possible after collections for that day are completed.
26. While any part of the chain of custody procedures is being performed, it is essential that the urine specimen and Custody and Control Form be under the control of the person in charge of the collection site. The collector is responsible for keeping specimens and Custody and Control Forms in secure storage until shipment to the laboratory is completed.

E. Procedures for Observed Urine Collection

1. Collection of urine under direct observation will be made by the collector only with proper authorization from the Drug Program Coordinator.
2. Collections of urine specimens will be made under direct observation only as provided for in this policy. Direct observation collection may be ordered when facts and circumstances provide a reasonable basis to conclude that the person to be tested:
 - a. Is seen to have equipment or implements used to tamper with urine specimens.
 - b. Is known to have recently tampered with a specimen.
 - c. Has provided a specimen in the past hour and the condition or temperature of the specimen indicates possible adulteration or substitution.
 - d. Is undergoing follow-up testing following rehabilitation.
3. Upon the donor's arrival at the collection site, the collector will request that the donor present photo identification and will inform the donor that collection will be done under direct observation.
 - a. Failure of the donor to have proper identification will be noted on the Custody and Control Form.
 - b. The Drug Program Coordinator or Site Coordinator will contact the donor's immediate supervisor to confirm identification of the donor. The supervisor must be positively identified and will be required to positively identify the donor. The recommended method is for the supervisor to present photo identification and positively identify the donor in person.
4. The collector will have preprinted Custody and Control Forms or will complete one at the time of collection. This form serves as the identification document for the urine specimen collected. This form cannot require a list of prescription or over-the-counter medications the donor is using. If a donor tests positive, the donor may disclose any information regarding medication directly to the MRO.
5. The collector will require the donor to remove any unnecessary outer garments (coat, jacket, etc.), that might conceal items or substances that could be used to tamper with or adulterate the urine specimen. Under no circumstances will any tested employee be requested to disrobe to remove any clothing except a coat, jacket, sweater, vest, or other item classed as an "outer" garment.

6. All personal belongings (purse, briefcase, etc.) must remain with outer garments; the donor may retain a wallet.
7. The collector will note any unusual behavior or appearance of the donor on the Custody and Control Form.
8. The donor will be instructed to wash and dry his/her hands prior to urination. After washing hands, the donor will remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, cleaning agents or any other materials that could be used to adulterate the specimen.
9. Only the donor and collector will be in the toilet area when the collection is made.
 - a. The collector, who will be of the same gender as the donor, will serve as the observer.
 - b. The collector/observer will assume a position such that during collection it can be ascertained that the specimen, was in fact, provided by the donor.
10. The donor will be asked to void into a disposable specimen container and not flush the toilet until the specimen has been handed over to the collector.
14. The donor may then flush the toilet and observe the collector as he/she completes the chain of custody procedure.
15. The specimen is then transferred by the collector to the specimen bottles. This transfer from the collection container to the specimen bottles will be observed by the donor.
16. After the specimen has been provided and submitted to the collector, the donor should be allowed to wash his/her hands.
17. Upon receiving the specimen from the donor, the collector will determine that it contains at least 45 milliliters of urine.
 - a. If there is not sufficient urine in the container, the sample will be discarded and another specimen collected.
 - b. If necessary, the donor will be asked to drink up to 40 ounces of fluids to facilitate urination.
18. Immediately after collection, the collector will measure the temperature of the specimen using a "temperature strip," inspect the color, and look for signs of possible contaminants.
 - a. Any unusual findings resulting from the inspection will be noted on the Custody and Control Form.
 - b. The time from urination to delivery of the specimen for temperature measurement is critical and in no case will exceed four minutes.
 - c. The donor will be asked to observe the reading of the temperature and the recording of that reading on the Custody and Control Form, and then initial in the proper block on the form.
 - d. If the temperature of the specimen is outside the range of 90 to 100 degrees F, the specimen is suspect.
 - e. Another specimen will be collected, again under direct observation, and both specimens will be forwarded to the laboratory.
19. Any specimen suspected of being adulterated or substituted will be forwarded for testing.
20. Both the donor and the collector will keep the specimen in view at all times until it has been packaged and sealed for shipment. When the specimen is transferred from a collection container to specimen bottles, the collector will request that the donor observe the transfer of the specimen and the placement of tamper-proof seals over the bottle caps and down the sides of the bottles.
21. The seals will contain the date of collection, name of collector, and identifying information relating to the donor. The donor will initial the seals on the specimen bottles using initials corresponding with the name on the Custody and Control Form.
22. The donor will be asked to read and sign a statement certifying that the urine in the bottles came from his/her body at the time of collection. Refusal to sign this statement will be noted on the form by the collector.

23. In the event the donor refuses to sign the statement, the collector will immediately notify the Drug Program Coordinator, who will consult with the donor as to the reason for the refusal. A final refusal by the donor to sign the form constitutes a refusal to be tested and is grounds for termination from employment.
24. The direct observation of the collection of a urine specimen is highly confidential, and no information will be released concerning the observation other than the fact that it was performed. All procedures will be conducted in a detached, objective manner.
25. The collector will annotate the Custody and Control Form to indicate the specimen was collected under direct observation.
26. When testing under “reasonable suspicion” provisions, the collector will ensure that the Custody and Control Form is marked to indicate “reasonable suspicion” testing conducted under direct observation.
27. The specimens and Custody and Control Forms are now ready for shipment to the state’s contract laboratory. Copies of the Custody and Control Form are distributed as shown on each copy of the form.
28. The specimens will be immediately prepared for shipment.

F. Procedures for Alcohol Testing

Employers subject to this policy may choose either the breath test or the saliva test as the **initial screen** for alcohol.

1. The breath test may be used for the initial screen and for confirmatory testing. When the breath test is used, it must be performed by a certified Breath Alcohol Technician and must be performed under the conditions of the USOE Drug/Alcohol Testing Statewide Contract and in accordance with Part 40, Title 49, Code of Federal Regulations as amended.
2. The saliva test must be administered under the following conditions:
 - a. The saliva alcohol test may be used for **initial alcohol screening** under random, post-accident, return-to-duty, follow-up, and reasonable suspicion test conditions. It **may not** be used for confirmatory testing.
 - b. An initial positive test result (BAC greater than 0.02) **must be confirmed** by the administration of a breath-alcohol test. In such an event, the drug/alcohol testing contractor servicing the USOE statewide contract must be notified immediately and confirmatory breath test requested.
 - c. The confirmatory breath test must be administered no sooner than 20 minutes following the saliva test, and no later than 30 minutes.
 - d. The DCP employee providing the specimen shall be removed from safety-sensitive duties until the confirmatory test result is received by the supervisor.
 - e. The saliva alcohol test may be administered **ONLY** by persons certified in the use of this instrument.

G. Failure of Employee to Report to Collection Site

1. If an employee fails to appear for a scheduled collection, the collector will immediately notify the Drug Program Coordinator.
2. The Drug Program Coordinator will document the failure to appear in the employee’s personnel file to include date, time, and location of the missed appointment.
3. If the employee can document an acceptable reason failing to appear for the scheduled collection, the supervisor will reschedule the employee’s test.
4. Failure of the employee to appear for the second collection appointment will be considered as a refusal to be tested if an acceptable reason for the failure cannot be verified. Accordingly, termination from district employment is mandatory.

H. Failure of Employee to Provide Specimen

1. If the employee fails to provide a sufficient quantity of urine, at least 45 milliliters, the following procedures will apply:
 - a. The employee will remain at the collection site and will be given a reasonable period of time to provide a specimen. As a general rule, the employee will be allowed three hours or until the end of the shift, whichever is later.
 - b. The employee will be allowed to drink up to 40 ounces of fluid to facilitate urination.
 - c. If, at the end of the waiting period, the individual still cannot provide a specimen of sufficient quantity, this inability will be recorded by the Drug Program Coordinator in the form of memorandum for record.
 - d. At this time, the employee will cease to perform safety-sensitive duties.
 - e. The Drug Program Coordinator will then take action to schedule an appointment for the employee to consult with a physician to determine the reason for the failure.
 1. If the physician concludes that the employee's justification is medically acceptable, the employee will be advised that he/she may return to service upon providing a specimen.
 2. If, on the other hand, the physician finds no medical basis for the failure to provide a specimen, the Drug Program Coordinator or District Supervisor will be so notified.
 - f. Upon a report of "no medical basis," a refusal is assumed, and the District Supervisor will initiate termination action in accordance with the next section of this policy, "Refusal of Employee to Provide Specimen."

I. Refusal by Employee to Provide Specimen

1. An employee who refuses to submit to drug or alcohol testing under this policy is violating a state policy and will be immediately terminated from employment.
2. The employee will be advised by the collector to report back to the District Supervisor.
3. The collector will immediately notify the Drug Program Coordinator or District Supervisor and document the refusal in writing.
4. The DCP Supervisor or appropriate management official will initiate termination action.
5. Notice of termination will be sent to the Pupil Transportation Specialist, including employee's name, and CDL number. In addition, one copy of the collector's written record of the refusal will be sent to the Pupil Transportation Specialist.

J. Tampering With, Adulteration, or Substitution of Urine Specimens

1. Should the collector, as a matter of professional judgment, believe the donor has tampered with, adulterated, or substituted a urine specimen, the collector will:
 - a. Request that the donor remain at the collection site, preferably in the presence of a second collector.
 - b. Immediately contact the Drug Program Coordinator to detail the reasons for this suspicion.
 - c. Document these reasons in writing before proceeding further.
2. The Drug Program Coordinator or Supervisor will:
 - a. Authorize a second collection under direct observation if the circumstances establish reasonable suspicion. In questionable cases, the Pupil Transportation Specialist may be consulted.
 - b. Document the conversation with the collector, including the collector's specific reasons for requesting observation and final decision, and the rationale for this decision.
3. Both specimens—the first, suspect specimen and the second specimen—will be clearly distinguished from each other by annotations made on the Custody and Control Forms. One will be marked "FIRST COLLECTION—SUSPECT," and the other will be marked "SECOND COLLECTION—OBSERVED."

- a. Both specimens will be sent to the laboratory for testing.
 - b. The Drug Program Coordinator will notify the MRO that TWO SPECIMENS for the individual donor are being sent in for testing, and include the reasons for this action.
 - c. The MRO will report on both the SUSPECT and the OBSERVED specimens.
 - d. Should the MRO confirm that the SUSPECT specimen was adulterated, substituted, or otherwise modified and that the OBSERVED specimen tested **positive**, termination from the district employment is mandatory.
4. The DCP Supervisor will inform the Pupil Transportation Specialist of all actions taken under this section of the policy within 48 hours of the conclusion of the actions taken, to include the name, and CDL number of the employee disciplined or terminated.

K. Acceptable Identification

Acceptable identification includes a driver's license with photo, Utah State Identification Card with photo, a department employee identification with photo, or a student identification card with photo.

IX. PRE-EMPLOYMENT TESTING

A. General Procedure

All applicants for safety-sensitive positions will be tested for the five drugs prohibited under this policy prior to the first time they perform safety-sensitive duties. This includes current employees in non-covered positions who are applying for safety-sensitive positions and all external applicants for safety-sensitive positions. Pre-employment testing DOES NOT INCLUDE testing for alcohol. A negative test result must be verified prior to placing an applicant/student/employee behind the steering wheel of a school bus.

B. Exemptions

A school district may exempt an applicant from pre-employment controlled substances testing if:

1. The employee has participated in a drug testing program that meets the requirements of this policy within the previous 30 days, and
2. While participating in that program,
 - a. Was tested for controlled substances within the past six months (from the date of application), or
 - b. Participated in a random controlled substances testing program for the previous 12 months (from the date of application), and
 - c. The district ensures that no prior employer of the applicant of whom the district has knowledge has records of a violation of the controlled substances misuse rules of another agency within the previous six months.
3. In order to waive pre-employment testing for an applicant under this rule, a district must contact the previous employer(s) of the applicant and document:
 - a. Name and address of the previous employer.
 - b. Verification that the applicant participated in the program.
 - c. Verification that the program complies with Part 40 of Title 49, code of Federal Regulations.
 - d. Verification that the applicant is qualified under Part 382 of Title 49, Code of Federal Regulations, including that the driver has not refused to be tested for alcohol and controlled substances.
 - e. The date that the applicant was last tested for alcohol and controlled substances and the results of those tests.

X. RANDOM TESTING

A. Submission of Employee Lists

1. Each year in the months of October, January, and April, not later than the tenth working day of the month, the Drug Program Coordinator in each school district will submit an update to its list of covered employees, to the Pupil Transportation Specialist or designated USOE staff.
2. Each October, January, and April, not later than the twentieth working day, the Pupil Transportation Specialist or designated staff will forward the updated lists described in paragraph 1, above, to the state's testing contractor.

B. Testing Rates

1. Commencing with the 1994-95 school year, the minimum annual percentage rate for random alcohol testing is 10 percent of the average number of safety-sensitive positions of record in the state as of October 1 of each year.
2. Commencing February 1995, the minimum annual percentage rate for random controlled substances testing is 50 percent of the average number of safety-sensitive positions of record in the state as of October 1 of each year.
3. Testing rates may be modified upward or downward by the Administrator of the Federal Highway Administration depending upon the violation rate experienced in the school transportation industry and as approved by the Secretary of Transportation.
4. The testing rates established above apply to the statewide population of covered positions taken collectively and are not calculated for districts individually.

C. Employee Notification

1. Prior to the collection, the Supervisor will privately communicate with the employee that he/she has been randomly selected for drug testing by urinalysis, breath-alcohol measurement, or both.
 - a. The employee will be clearly informed of the time and location of the test and will be instructed to take appropriate photo identification.
 - b. Acceptable identification includes a driver's license with photo, or employee identification card with photo.
3. Every effort will be made by the Drug Program Coordinator to personally provide the above information to the employee to avoid any misunderstandings.
4. The Drug Program Coordinator will be knowledgeable about the drug testing program and will be able to provide information in response to employee questions that may extend beyond the information provided in written notices.
5. Intermediate supervisors will immediately report to the Drug Program Coordinator any problems encountered during employee notification. These problems will be recorded on the test list by the Drug Program Coordinator.
6. When an employee selected for random testing is unavailable for legitimate reasons (working different shift, travel, leave, etc.), the Drug Program Coordinator will annotate the list indicating the reason and the name of the supervisor who provided the information.
7. The official test list will be annotated, signed, dated, and securely filed by the District Supervisor.

XI. REASONABLE SUSPICION/CAUSE

A. Determination of Reasonable Suspicion

1. Reasonable suspicion testing is authorized when management believes an employee is using controlled substances or alcohol in violation of state law or district or state policies.
2. Reasonable suspicion does not require certainty, but neither are mere “hunches” sufficient to meet this standard. DCP Pupil Transportation Supervisors, other supervisory personnel, and contract carrier managers who are certified by the USOE Pupil Transportation Specialist as having met the training requirements of the Omnibus Transportation Employee Testing Act of 1991 may implement reasonable suspicion testing procedures. Other employees of the school district may recommend reasonable suspicion testing under authority of the Omnibus Act, but the order for testing may emanate only from individuals so certified.
3. Local DCP policy may require that additional members of the management team be consulted prior to the implementation of this authority. Nevertheless, ordering the test remains the sole responsibility of the person in the DCP specifically trained and certified to do so. Regardless of reporting procedures, any incident calling for use of this authority will be immediately reported to the USOE Pupil Transportation Specialist, citing the circumstances and course of action contemplated by the DCP.
4. For the purposes of this type of testing, reasonable suspicion that an employee uses illegal controlled substances or abuses alcohol may be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee observed during, just preceding, or immediately after the period of the work day in which the employee is required to perform safety-sensitive duties. These may include, but are not limited to:
 - a. Observable phenomena, such as direct observation of drug use or the physical symptoms of being under the influence of alcohol or controlled substances.
 - b. A pattern of abnormal conduct or erratic behavior.
 - c. The identification of an employee as the focus of a criminal investigation into use, possession, or trafficking in illegal controlled substances.
 - d. Evidence that the employee has tampered with, adulterated, or substituted a specimen. The supervisor or management official will provide the employee with specific, written notice that he/she is being tested under the “Reasonable Suspicion” standard and instruct the employee as to the test time and location.

B. Collection Procedures

Unobserved collection procedures will be used for all tests conducted under “reasonable suspicion” conditions unless the Drug Program Coordinator specifically orders observed collection. See “Procedures for Unobserved Urine Collection.”

XII. POST-ACCIDENT TESTING

A. Covered Events

Testing for the influence of controlled substances and alcohol will be conducted following an accident when:

1. The accident involves the loss of human life, or
2. The driver covered under this policy receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:

- a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
- b. One or more vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle, or
3. The accident involves accident-related circumstances that meet the “reasonable suspicion” criteria of this policy, or
4. In the absence of criteria listed above, and by mutual agreement between the driver involved in the accident and the supervisor of the driver, a test is considered advisable.

Table for Determining Need for Post-Accident Testing

| Type of Accident Involved | Citation issued to a covered driver | Tests must be performed |
|--|-------------------------------------|-------------------------|
| Human fatality | YES | YES |
| | NO | YES |
| Bodily injury with immediate medical treatment away from the scene | YES | YES |
| | NO | NO |
| Disabling damage to any motor vehicle requiring tow-away | YES | YES |
| | NO | NO |

B. Determination That Drug/Alcohol Testing Will Be Conducted

1. In some DCPs, the positions of DCP Supervisor and Drug Program Coordinator may be held by the same individual while in other DCPs they may be held by different individuals. This section of the policy requires that certain duties be performed by the DCP Supervisor following an accident. Therefore, if the two positions are held by different individuals, the duties assigned to the DCP Supervisor in this section may not be performed by the Drug Program Coordinator.
2. Following a determination that the accident qualified as a covered event, the DCP Supervisor will take all practical steps to identify each employee whose work performance or behavior may have contributed to the accident.
3. After identification of each employee as specified above, the DCP Supervisor will exclude any employee from testing when specific and objective information collected in the investigation of the accident shows that the employee’s work performance at or about the time of the accident could not have been a contributing factor.
4. Employees who management believes may have contributed to an accident or who were involved in an accident that meets the criteria established in paragraph A of this policy will be subject to drug and alcohol testing.
5. The decision to order testing will be made by the DCP Supervisor in consultation with the Drug Program Coordinator if these positions are held by different individuals. **In any event, the DCP Supervisor is charged with rendering this decision.**
6. An employee who is subject to post-accident testing will remain readily available for testing unless the employee must leave to seek medical assistance. If an employee does not remain readily available for such testing, and the cause of the employee’s absence is not related to the seeking of medical assistance, refusal to be tested may be inferred.
7. No employee required to undergo post-accident testing will consume alcohol for eight hours following the accident or until undergoing the test, whichever is first.
8. No employee will be subject to testing until the actions specified in paragraphs 2 and 3 above are satisfied.

9. The process of determination specified in paragraphs 1 and 2 above must be completed, the proper notification must be given the employee, and procedures for scheduling urine and breath sampling must be started as soon as possible after notice by the DCP Supervisor of an accident that qualifies as a covered event. The employee may be given verbal notification at the time of the accident with a follow-up letter of formal notification. If possible, the urine and breath samples will be collected not later than two hours after the employee has been released from the scene of the accident by law enforcement personnel.
10. The DCP Supervisor will document the reasons for failure to accomplish alcohol and drug testing of individuals within two hours of release from the scene if determination is made that testing is necessary. This documentation must remain on file in the district's confidential drug testing files for a period of five years.
11. The results of blood, breath, or urine tests conducted by federal, state, or local law enforcement agencies while conducting accident investigations may be used to meet the requirements of this section.
12. Alcohol testing **may not** be initiated later than eight hours after the time of the accident's occurrence as shown on the police agency accident report.
13. Drug testing **may not** be initiated later than 32 hours after the time of the accident's occurrence as shown on the police agency accident report.

XIII. RETURN-TO-DUTY AND FOLLOW-UP TESTING

A. Purpose

Return-to-duty and follow-up testing is conducted to discourage further violations by employees who have self-referred for treatment using a DCP Employee Assistance Program. An employee subject to this type of testing has been removed from safety-sensitive duties following self-referral, and has entered into a rehabilitation program. This testing is carried out over a 12-month period following completion of the rehabilitation program. In addition, return-to-duty testing may be required when an employee returns to duty following an extended absence not related to rehabilitation.

B. Test Scheduling

1. An employee may return to safety-sensitive duties following self-referral under three conditions:
 - a. The employee must undergo return-to-duty testing, the results of which must be 0.02 BAC or lower for alcohol and negative for controlled substances, and
 - b. The employee must undergo evaluation by a substance abuse professional to determine that he/she has properly followed any rehabilitation program.
 - c. The employee must undergo a series of at least six unannounced tests for alcohol or controlled substances, or both, during the following 12 months under the supervision of a substance abuse professional. The substance abuse professional will complete a Follow-up Testing Worksheet to be used by the district in developing an individualized follow-up testing plan for the following 12 months based on this information. The substance abuse professional originally evaluating the employee in connection with this policy **may not** also serve as the supervising substance abuse professional overseeing the rehabilitation program.
2. A positive controlled substances test or an alcohol test above 0.02 BAC resulting from the return-to-duty-test or from any of the six unannounced tests during the 12-month period following reinstatement requires mandatory termination from employment.
3. DCPs may require that certain covered positions require a return to duty medical examination for any employee identified as an alcohol or controlled substance abuser. This examination will, in all such instances, include alcohol and controlled substance testing. This test will serve as the "return-to-duty" test, but not as the first follow-up test of the six required tests.

XIV. MEDICAL REVIEW OFFICER

A. Duties

1. Provides the medical review of laboratory test results and determines whether the laboratory-confirmed positive test findings are consistent with illegal controlled substances use.
2. Monitors the specimen collection operation, laboratory testing and reporting operations to ensure that accurate and complete information is available for decision-making purposes.
3. Maintains the medical system of records for the testing program.
4. Provides the state Pupil Transportation Specialist with summary statistical data on the program test findings.
5. Determines when an employee who has entered a rehabilitation/abatement program is medically fit to return to safety-sensitive duties.

B. Organizational Relationships

1. The Medical Review Officer (MRO) receives and maintains records of all specimen collections and drug testing results. The MRO is an independent medical doctor under subcontractor to the state's drug testing contractor.
2. Notifications to the employee of positive test results will ordinarily be made directly by the state's Medical Review Officer. Notifications to appropriate management officials, Employee Assistance Program (EAP) coordinators, and the school districts (in the case of applicants) concerning positive test results will ordinarily be made by the USOE Pupil Transportation Specialist who receives a copy of the verified positive test report from the MRO.

C. Communications

1. Communications regarding sensitive medical information (positive drug test results, medical record reviews, medical interviews, consultations with treating physicians, etc.) will be conducted in a manner that provides the maximum protection of the employee's right to privacy. Medical details in individual cases will be restricted to communications between health care professionals and only as required to arrive at a decision regarding a positive drug test result or return to duty for employees who have entered an abatement or rehabilitation program.
2. Telephone communication is permitted for the purpose of acquiring medical or other information necessary to arrive at a medical determination in individual cases. Only those persons who have a need to know will participate in such conversations.
3. Transmittal of written medical information will be by sealed envelope labeled "Confidential." This includes test results, medical record and interview information, communications between an EAP coordinator and a MRO, and copies of the Custody and Control Form.

D. Test Results

- a. Test results from the contract laboratory will be received directly in the MRO's Office.
- b. The medical review of each positive test result must be performed by the MRO, a licensed physician or doctor of osteopathy with knowledge of substance abuse disorders. The purpose of the review is to determine whether the positive result is evidence of illegal drug use.
- c. The only person an employee will be required to disclose use of prescribed or over-the-counter medications is the MRO, except as previously outlined in Controlled Substances (Drugs) 1, 2 and 3.
- d. There may be circumstances in which formal verification cannot be made immediately because of the need to obtain additional information. For example, a positive result for opiates or amphetamines may be due to legitimate prescribed use of certain legal drugs. In such situations, the MRO will obtain documentation needed for a final decision in as expeditious a manner as possible.

- e. The MRO will undertake the evaluation of alternative explanations of positive test results.
 - 1. This may include the conduct of employee or applicant medical interviews, review of an individual's medical history, or the review of their biomedical factors.
 - 2. Any requests for medical information will be made by the MRO directly to the employee or applicant to ensure maximum confidentiality.
 - 3. The MRO will review all medical records made available by the donor when a positive test could have resulted from legally prescribed medications.
 - 4. In situations where individual consultations are considered necessary, the MRO will conduct such consultations, but not necessarily face to face.
 - 5. In situations where face-to-face consultations with an employee or applicant, is not considered to be necessary by the MRO, the employee or applicant may propose to submit additional information. The MRO will determine if this information is pertinent to a medical review or is information that should be considered by the appropriate management official.
- f. The MRO review to verify a positive test result will not address any issues of innocent ingestion. These are matters to be considered by the appropriate management official.
- g. The review of positive test results by the MRO will be initiated immediately upon receipt of the laboratory test report and will be completed as soon as possible after receipt of all information pertinent to the review
- h. Each positive test result received from the contract laboratory will be accompanied by a statement signed by the MRO to the effect that the positive test result has been verified as positive.

E. Distribution of Test Results

- 1. Negative results will be sent to the Drug Program Coordinator who will then provide employees with the results of their tests. For applicants, the Drug Program Coordinator will send results of the pre-employment tests to the district office.
- 2. A confirmed positive test result will not be distributed until a review has been conducted by the MRO and the positive test result has been verified. A copy of the verified positive test result will be provided by the MRO to the employee at his home address in an envelope clearly labeled "To be opened by addressee only." This notice will be mailed on the same day as verification of the positive test result by the MRO and will be signed by the MRO.
- 3. At the conclusion of contact between the MRO and the tested employee, the signed, verified positive test report will be sent to the Pupil Transportation Specialist.
- 4. The Pupil Transportation Specialist will notify the Drug Program Coordinator, who will in turn notify only the employee and the District Supervisor.
 - 1. Care should be taken to safeguard the confidentiality of the report.
 - 2. The report will be maintained in a secure filing system in such a manner as to limit access.
 - 3. No other copies of the verified positive test report will be made or maintained.

F. Reinstatement of Employee to Safety-Sensitive Duties

- 1. The MRO is responsible for determining when an employee may be medically cleared to return to safety-sensitive duties.
- 2. If an Employee Assistance Program (EAP) is available in the DCP and an EAP coordinator becomes involved in advising an employee, or if a substance abuse professional becomes involved, these individuals may assist the MRO in determining whether an employee is fit to return to safety-sensitive duties. If such individuals become involved, they may provide:
 - a. Evaluation reports that include a professional opinion regarding the type of substances used in the past, extent or frequency of use, results of any tests given, prognosis, follow-up

- recommendations, and a conclusion on whether the employee is attending and cooperating with treatment.
- b. Admission summary, interim progress reports, and discharge summary where inpatient treatment or evaluation is involved.
 - c. Where outpatient therapy or counseling is required beyond the initial evaluation, progress reports at reasonable intervals.
3. The EAP coordinator or substance abuse professional will be responsible to obtain release from an employee prior to releasing this information.

XV. SUBJECT TO FEDERAL REQUIREMENTS AND CHANGES IN FEDERAL REQUIREMENTS

These policies and procedures are subject to federal requirements and are subject to any changes in federal requirements that may take place. In the event these policies and procedures are found to be more restrictive than federal requirements, they shall apply in addition to federal requirements.

XVI. DOCTOR/DRIVER PRESCRIPTION DRUG DISCLOSURE FORM

Refer to page 35.

Utah State Office of Education
Doctor/Driver Prescription Drug Disclosure Form

For Use in Meeting the Requirements of State Pupil Transportation Drug and Alcohol Policies and Procedures

Name _____ **Date** _____

It is required that anyone holding a CDL driver's license as a certified school bus driver transporting public education students must report any prescribed medications that could impair the ability of a driver to safely operate a school bus. Your doctor must initial each prescription and sign at the bottom of this form. The information will be kept in your medical file and will be kept completely confidential. Only your local Drug Program Coordinator or coordinators and the state Medical Review Officer (MRO) have a need to know this information. This form should be returned to the care and custody of your local Drug Program Coordinator. If your medications change at any time, it is your responsibility to turn in a new form. We must have current medical information in your file at all times. **This form is to be used each time you renew your DOT physical and each time a new applicable medication is prescribed by a doctor.**

Medication #1

Prescribed Medication _____ Dosage _____ Date Prescribed _____

Time needed after taking the drug before they are safe to drive a school bus. _____

Date Stopped _____ Reason _____

Dr. Initial _____

Medication #2

Prescribed Medication _____ Dosage _____ Date Prescribed _____

Time needed after taking the drug before they are safe to drive a school bus. _____

Date Stopped _____ Reason _____

Dr. Initial _____

Medication #3

Prescribed Medication _____ Dosage _____ Date Prescribed _____

Time needed after taking the drug before they are safe to drive a school bus. _____

Date Stopped _____ Reason _____

Dr. Initial _____

For Prescribing Doctor:

I have reviewed this form with the driver listed and am aware that he/she is employed in a safety-sensitive position that requires him/her to be fit for duty, free of possible impairment from any prescribed drugs. I have advised the driver listed as to dosage amounts, minimum dosage times **and/or conditions** ahead of driving in order to avoid the possibility of impairment from the prescribed drug or drugs.

Doctor Signature

Date

For School Bus Drivers:

I have made my prescribing doctor aware that I am employed in a safety-sensitive duty position as a school bus driver. I have been advised by my prescribing doctor on how to avoid the possibility of impairment from the medications I have been prescribed while driving. I understand that I am subject to reasonable suspicion testing related to a possible misuse of the prescribed medications, and that a documented misuse may result in termination of my position as a school bus driver.

Driver Signature

Date