

Redwoods Community College District

Alcohol and Drug Abuse Plan for Controlled Substances Testing

SCOPE

This Administrative Regulation shall be applicable to those employees of the Redwoods Community College District who operate commercial motor vehicles and are subject to commercial driver's license requirements.

DEFINITIONS

1. *Alcohol* is the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
2. *Alcohol use* is the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
3. *Breath alcohol technician (BAT)* is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device.
4. *Commercial motor vehicle* is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 - a. has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.
 - b. has a gross vehicle weight rating of 26,001 or more pounds.
 - c. is designed to transport 16 or more passengers, including the driver.
 - d. is of any size and is used in the transportation of hazardous materials requiring placards.
5. *Confirmation test*, for alcohol testing (DOT confirming blood-alcohol test), is a second test that provides quantitative data of alcohol concentration following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath. For controlled substances testing (DOT 5-panel toxicology), is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy (see Appendix).
6. *Covered employee* is an employee subject to the requirements of applicable federal law

and this Administrative Regulation. The Redwoods Community College District is *the employer*.

7. *Driver* is any person who operates a commercial motor vehicle. For the purposes of pre-employment testing, the term "driver" includes a person applying to drive a commercial motor vehicle.
8. *Employer* is any person (including the United States, a state, District of Columbia, or a political subdivision of a state) who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle, including agents, officers, and representatives of the employer.
9. *Evidential breath-testing device (EBT)* is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).
10. *Medical Review Officer (MRO)* is a licensed physician (medical doctor or doctor osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substances abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.
11. *On-duty time*, as that phrase is defined by federal regulations and this Administrative Regulation, means all of the time from the time a covered employee begins to work or is required to be in readiness to work until the time s/he is relieved of work and all responsibility for performing work.
12. *Performing (a safety-sensitive function)* is any period in which the driver is actually performing, ready to perform, or immediately able to perform any *safety-sensitive functions*.
13. *Refusal to submit (to an alcohol or controlled-substance test)* is when a driver:
 - a. fails to provide adequate breath for testing without a valid medical explanation after s/he has received notice of the requirement of breath testing;
 - b. fails to provide adequate urine for controlled substances testing without a valid medical explanation after s/he has received notice of the requirement for urine testing; or
 - c. engages in conduct that clearly obstructs the testing process.
14. *Safety-sensitive function*, for the purposes of this Administrative Regulation, shall mean any of the functions defined in Title 49 of the Code of Federal Regulations. More specifically, safety-sensitive functions include all functions performed by a covered employee during on-duty time and include:

- a. all time at a carrier or shipper plant, terminal, facility, or other property waiting to be dispatched, unless the driver has been relieved of duty by the employee.
- b. all time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs) or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time.
- c. all time spent at the driving controls of a commercial motor vehicle.
- d. all time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
- e. all time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
- f. all time spent performing the driver requirements associated with an accident.
- g. all time repairing, or obtaining assistance, or remaining in attendance upon a disabled vehicle.

On-duty time also includes:

- h. all time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the testing requirements.
15. *Screening test (aka initial test)* in alcohol testing (breath-alcohol test), is an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his/her system. In controlled-substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration (see Appendix).
16. *Substance-abuse professional* is a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled-substances related disorders.

EMPLOYEE ASSISTANCE

Employees of the District are valued members of the educational team. The District has a sincere interest in helping employees who have a substance abuse problems to resolve their problems before job performance or employment are threatened. To that end, an employee assistance program will be offered to qualified employees who suspect or believe they have substance abuse problems. To qualify for the program, an employee must have permanent status and work in a safety-sensitive position. The employee assistant program will provide the services of a trained Substance Abuse Professional (SAP), at District expense, to evaluate the circumstances of any qualified employee who requests an evaluation. The SAP will also recommend to the

employee any professional assistance believed to be helpful to resolve the employee's substance abuse problems.

This assistance may be obtained by qualified employees with absolutely no risk of negative employment consequences. On the contrary, the District positively encourages employees in safety-sensitive positions to take advantage of this service in order to improve the quality of their lives and their value to the District.

Any qualified employee who wishes to be evaluated by the SAP should request a referral to the SAP from the Human Resources Office. This request will be held in strict confidence by the Human Resources Office. No information concerning the request will be given to any one else, and the request will not be noted in District records or the employee's personnel file.

If the SAP recommends a substance abuse treatment program which requires the employee to take time off work (the SAP will notify the District if this is the case), the time taken off will be treated as a legitimate medical absence. The employee is entitled to use any sick leave, vacation, compensatory time-off, or other appropriate paid leaves of absence during the time off work. If or when appropriate paid leaves of absence are exhausted, the employee is entitled to an unpaid leave of absence under the provisions of state and federal law. If the employee is covered under a group health plan, the plan may pay a portion of the treatment costs. Upon completion of the treatment program the employee will be reinstated to his/her position or to an equivalent position.

PROHIBITED CONDUCT

1. No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
2. No covered employee shall use alcohol during on-duty time.
3. No covered employee shall perform safety-sensitive functions within four hours after using alcohol.
4. No covered employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident and until s/he undergoes a post-accident alcohol test.
5. No covered employee shall refuse to submit to any test required by law or this Administrative Regulation.
6. No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the covered employee uses or possesses any controlled substances, except that when the use or possession is pursuant to the instructions of a physician who has advised the driver that the substances do not adversely affect the driver's ability to safely operate a commercial vehicle.

NOTE: The district may require a driver to inform the employer of any therapeutic drug use.

OTHER ALCOHOL-RELATED CONDUCT

An employee who produces a first confirmed positive test of 0.02 or greater, but less than 0.04, or who produces such a test two or more years or more following an earlier test within these parameters shall, in addition to be removed from all safety-sensitive functions for a period of twenty-four (24) hours and being subject to return-to-duty testing, receive a suspension from duty without pay for three working days. The employee shall be referred to a Substance Abuse Professional (SAP). If the employee successfully completes a program of rehabilitation recommended by the SAP, if any, as confirmed in writing by the SAP, no further action shall occur. If the SAP recommends a rehabilitation program and the employee fails to successfully complete the program, as confirmed in writing by the SAP, the employee shall be subject to discipline, up to and including dismissal.

An employee who produces a first confirmed positive test of 0.04 or greater, or a confirmed positive test of 0.02 or greater within two years of a previous test of 0.02 or greater, shall be dismissed from employment.

TRANSPORTATION AND COMPENSATION

1. If an applicant or covered employee produces a test result indicating an alcohol concentration equal to or greater than 0.02 or a positive result on a controlled substances test, that employee shall be transported to his/her residence by the employer.
2. A covered employee who fails a required test shall not receive his/her normal compensation for hours during which the employee is prohibited by federal law and this Administrative Regulation from performing a safety-sensitive function. Failure is defined as a verified positive result by an MRO for controlled substances and/or alcohol concentration greater than 0.02.

CONSEQUENCES OF PROHIBITED CONDUCT

1. No covered employee shall return to duty or remain on duty to perform safety-sensitive functions if the covered employee has engaged in conduct prohibited by this Administrative Regulation unless the covered employee successfully fulfills the conditions set forth in this Administrative Regulation.
2. Any covered employee tested under this Administrative Regulation who is found to have an alcohol concentration equal to or greater than 0.04 or who tests positive on a verified controlled substances shall be terminated.

3. Any covered employee discovered to have produced a positive test for alcohol between 0.02 and 0.04 shall be subject to an evaluation by a substance abuse professional (SAP) to determine what, if any, assistance the employee needs in resolving problems associated with alcohol misuse and controlled substances use. The SAP shall be a person who is qualified for that position in accordance with applicable federal requirements.
4. If, after an evaluation, an employee is diagnosed as needing assistance and directed to an assistance program, that employee will not return to duty unless the SAP determines that the employee has properly followed any rehabilitation program prescribed and shall be subject to follow-up testing.
5. Every covered employee who has engaged in prohibited conduct shall be advised of the resources available to that employee in evaluating and resolving problems associated with the misuse of alcohol and controlled substances.
6. These requirements relating to mandatory referral and evaluation do not apply to applicants who have a controlled substances test with a verified positive result. Such applicants are not eligible for employment under District policy.
7. The choice of substance abuse professional who shall conduct the evaluation is reserved to the employer.
8. The costs of any treatment and/or rehabilitation program prescribed by the SAP shall be borne by the employee. The employee may utilize the benefit component of the district provided employee assistance program (EAP) where applicable.

TESTING PROCEDURES

All tests conducted pursuant to this Administrative Regulation shall comply with the requirements of applicable federal law (see Appendix).

PRE-EMPLOYMENT TESTING

1. Prior to the first time a covered employee performs safety-sensitive functions for the employer, the employee shall undergo testing for controlled substances.
2. The employer shall not allow any covered employee to perform safety-sensitive functions unless the covered employee has produced a controlled substances test result from a medical review officer indicating a verified negative test result.
3. The employer reserves the right not to employ an individual who has received a controlled- substances test indicating a verified positive test result.

POST-ACCIDENT TESTING

1. As soon as practical following an accident involving a commercial motor vehicle, and not later than two (2) hours for alcohol testing and thirty-two (32) hours for controlled substances, the employer shall test the following individuals for alcohol and controlled substances:
 - a. any covered employee who was performing safety-sensitive functions with respect to the vehicle if the accident involved the loss of human life, and/or
 - b. any covered employee who receives a citation under state or local law for a moving violation arising from the accident.

For the purposes of this Administrative Regulation, an accident is defined as an incident involving a commercial motor vehicle.

RANDOM TESTING

1. The District shall randomly select covered employees for alcohol and controlled substances testing during each calendar year in accordance with applicable federal law. The minimum annual percentage rate for random alcohol testing shall be twenty-five percent (25%) of the average number of covered employees until further notification is received from the Federal Department of Transportation. The minimum annual percentage rate for controlled substances testing shall be fifty percent (50%) of the average number of covered employees until further notification is received from the Federal Department of Transportation.
2. The selection of covered employees for random alcohol and controlled substances testing shall be made by a scientifically valid method. Under the selection process used, every covered employee shall have an equal chance of being tested each time selections are made.
3. The employer shall ensure that the random tests are unannounced and that the dates for administering the random tests are spread reasonably throughout the calendar year. Every covered employee who is notified of selection for random testing shall cease to perform safety-sensitive functions and shall immediately proceed to the test site.
4. A covered employee shall be subject to random testing at the following times: while a covered employee is performing safety-sensitive functions, just before the covered employee is performing safety-sensitive functions, or just after the covered employee has ceased performing such functions.
5. Substitute employees, if they are also covered employees, are subject to random testing.

6. In the event a covered employee who is selected for a random test is off duty, the employer can either select another driver for testing or test the driver upon his/her return.

REASONABLE-SUSPICION TESTING

1. The employer shall require a covered employee to submit to an alcohol or controlled substances test, as appropriate, when the employer has reasonable suspicion to believe that the employee has engaged in prohibited conduct.
2. The employer's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.
3. Reasonable suspicion testing is permitted only if the required observations are made during, just preceding, or just after the period of the workday that the covered employee is performing a safety-sensitive function or required to be in compliance.
4. The observation and determination that a suspicion exists will be made by a supervisor trained in detecting the symptoms of alcohol misuse and the use of controlled substances as per the regulations. The training shall consist of at least sixty (60) minutes or training on alcohol misuse and at least an additional sixty (60) minutes of training on controlled substances use.
5. No test for alcohol shall be administered after eight (8) hours of the determination being made that there was a reasonable suspicion of being under the influence of alcohol.

RETURN-TO-DUTY AND FOLLOW-UP TESTS

1. Before an employee returns to duty requiring the performance of a safety-sensitive function after producing a positive test for alcohol between 0.02 and 0.04, s/he shall undergo a return-to-duty alcohol test with a result less than 0.02. In addition to a return-to-duty test, the employee is also subject to follow-up testing.
2. In the event a return-to-duty test is required, the employee must also be evaluated by a substance abuse professional and participate in any assistance program prescribed.
3. Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver shall be subject to unannounced follow-up alcohol testing. The testing shall consist of a minimum of six (6) follow-up tests within the first twelve (12) months. The SAP may determine after twelve (12) months that additional test is necessary. Follow-up testing shall not exceed sixty (60) months following the employee's return to duty.

DISCIPLINARY ACTION

1. The employer reserves the right to impose disciplinary action under other policies, rules, and regulations of the District if and when an employee produces a test result indicating an alcohol concentration equal to or greater than 0.02 or if that employee produces a controlled substances test with a verified positive result or if the employee refuses to submit to a test required by this Administrative Regulation.
2. The employer reserves the right to not employ any applicant who produces a test result indicating a controlled substances test with a verified positive result or who refuses to submit to a pre-employment test.
3. In the event an employee produces a test for alcohol of 0.04 or greater or produces a controlled substances test with a verified positive result, the employee shall be terminated.

EFFECTS OF A POSITIVE TEST

1. Employees who test positive under this Administrative regulation will be relieved of duty under the conditions set forth in this Administrative Regulation. During such time, the employee will not receive his/her normal compensation until the employee meets the requirements of this Administrative Regulation and returns to duty. A positive test is defined as an alcohol concentration greater than 0.02 and/or a verified positive controlled substances result.
2. Also, if the California Highway Patrol (CHP) makes a determination that a driver must be taken out of service, the driver shall not receive his/her normal pay until they are allowed to return to duty. With respect to alcohol, the CHP may take a driver out of service if the driver's blood content is found to be 0.01% by weight or greater. The driver shall not operate a commercial motor vehicle for a period of twenty-four (24) hours.

EMPLOYEE INFORMATION

1. The employer shall distribute this Administrative Regulation to every covered employee on an individual basis prior to the start of alcohol and controlled substances testing. The employer shall also distribute this Administrative Regulation to every covered employee hired after the adoption of this Administrative Regulation and to every covered employee transferred into a position requiring driving a commercial vehicle.
2. Employees will be required to sign a statement acknowledging receipt of this Administrative Regulation.
3. The persons responsible for answering employee questions concerning this Administrative Regulation shall be the Coordinator, Environmental Health & Safety, and

the Director, Human Resources.

RECORDS RETENTION

The employer shall prepare and retain all records in accordance with applicable federal law.

APPENDIX A

ALCOHOL AND CONTROLLED-SUBSTANCES TESTING PROCEDURES

The Redwoods Community College District shall implement and enforce the procedures for transportation workplace testing as set forth in 49 CFR Part 40. These procedures include, but are not limited to, the following information. In all cases the requirements of 49 CFR Part 40 shall be followed.

CONTROLLED-SUBSTANCES TESTING

Applicable Drugs

1. Employees subject to controlled-substances testing shall be tested for the following substances:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP)

2. Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected. The lab is permitted to check for adulterants as per Federal Department of Transportation (DOT) guidelines.

Specimen Collection Procedures

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees shall have individual privacy when providing a specimen except when:
 - a. the employee presents a specimen that is outside the accepted temperature range and s/he refuses to have an oral body temperature measurement or the body temperature measurement varies more than 1EC or 1.8EF from the specimen temperature;
 - b. the collector observes the employee attempting to adulterate or substitute the specimen;

- c. the employee's last provided specimen was determined to be diluted; or
- d. the employee has previously had a verified positive test.

In a. and b. above, the employee must provide a specimen under direct observation. In c. and d. above the employer **may** require a direct observation collection.

4. The following specific procedures will be followed during the collection process.
 - a. The employee must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b. The employee will not be required to undress or to change into an examination gown. Only outer garments should be removed, i.e., jackets, etc.
 - c. The donor shall be required to wash his/her hands prior to urination and shall not have access to any water sources until the specimen has been collected.
 - d. A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector.
 - e. The specimen must be at least 45 ml to be acceptable.
 - f. The collector must measure the specimen temperature within four (4) minutes of urination to determine sample acceptability.
5. If the donor cannot provide a sufficient volume of urine, s/he shall remain at the collection site and be provided not more than twenty-four (24) ounces of fluids to drink. The donor shall have a period of up to two (2) hours to produce an acceptable sample. If the donor is unable to produce a sample without a valid medical reason, the District may consider the circumstance to be a refusal to test.
6. The specimen shall be divided into two (2) parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the split sample.
7. Both samples shall be shipped in a single shipping container with the appropriate chain-of-custody forms.
8. The collector and donor must be present together to complete the following process.
 - a. Seal and label the specimen bottles.
 - b. Donor initials the bottle label or seal.
 - c. The chain-of-custody forms must be signed and dated.
9. If an employee refuses to cooperate with the collection process, the collector shall notify employer representative and note the non-cooperation on the custody and control forms.

Split Sample

1. If the test result of the primary specimen is positive, the employee may request that the MRO direct that the split specimen be analyzed.
2. The split-sample analysis will be conducted by a DHHS-certified forensic laboratory who will perform a GC/MS analysis of the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
3. If the result of the test sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report a negative result to the District.
4. After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two (72) hours to request analysis of the split sample.
5. All costs associated with the analysis of the split sample shall be the responsibility of the District.

ALCOHOL TESTING

Testing Procedures

1. The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
2. When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
3. An individually sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
4. The employee shall be required to blow forcefully into the mouthpiece for at least six (6) seconds or until an adequate amount of breath has been obtained.
5. The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
6. If the result of the screening test is less than 0.02 breath-alcohol concentration, no other testing will be conducted.

7. If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
8. Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee shall not belch during the waiting period. The confirmation test shall be conducted no less than fifteen (15) minutes and not more than twenty (20) minutes from the screening test.

The fifteen minute waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.

9. In the event the screening and confirmation test results do not match, the confirmation results will be considered the final results.
10. If the employee refuses to sign the breath-alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the District may determine the circumstance to be a refusal to test.

Inability to Provide Adequate Breath

1. If the employee fails to provide an adequate amount of breath, s/he shall provide the District with an evaluation from a licensed physician who is acceptable to the District concerning the employee's medical ability to provide adequate breath.
2. If the physician determines there is a valid medical reason precluding the employee from providing adequate breath, then the employee's failure shall not be deemed a refusal to test.
3. If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

**REDWOODS COMMUNITY COLLEGE DISTRICT
ALCOHOL AND CONTROLLED-SUBSTANCES TRAINING**

On _____, 20____, you received training and information regarding the department of Transportation's (Federal Highway Administration) alcohol and controlled substances testing regulations.

The training session included a discussion and/or explanation of the following:

1. The identity of the person(s) designated by the employer to answer driver questions about the materials.
2. The categories of drivers who are subject to the provisions of this part.
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this part.
4. Specific information concerning driver conduct that is prohibited by this part.
5. The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part.
6. The procedures that will be used to test for the presence of alcohol and controlled substances, to protect the driver and the integrity of the testing process, to safeguard the validity of the test results, and to ensure that those results are attributed to the correct driver.
7. The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this part.
8. An explanation of what constitutes a refusal to submit to an alcohol or controlled-substances test and the attendant consequences.
9. The consequences for drivers found to have violated Subpart B of this part, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedure under Section 382-605.
10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater, but less than 0.04.

In addition to the above training, you also received information regarding the following:

11. The effects of alcohol and controlled-substances use on an individual's health, work, and personal life; signs and symptoms of a alcohol or controlled-substances problem (the driver's or a coworker's); and available methods of intervening when an alcohol or a controlled-substances problem is suspected including confrontation, referral to an employee assistance program, and/or referral to management.

Certification of Receipt:

I hereby certify that I have received the training/information as listed above as well as a copy of the District's alcohol and controlled-substances testing policy.

Signature

Date