

**BOARD OF TRUSTEES
CARSON CITY SCHOOL DISTRICT**

**REGULATION No. 455
CLASSIFIED STAFF**

**ALCOHOL AND DRUG TESTING FOR EMPLOYEES WHO ARE REQUIRED TO
POSSESS A COMMERCIAL DRIVER'S LICENSE
AS A CONDITION OF EMPLOYMENT**

A. DRIVERS SUBJECT TO ALCOHOL AND DRUG TESTING

The Alcohol and Drug Testing Program applies to all Carson City School District drivers who are licensed to operate a commercial motor vehicle that:

1. Has a gross combination weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds.
2. Has a gross vehicle weight rating of 26,001 or more pounds.
3. Is designed to transport 16 or more passengers.
4. Is of any size that is used to transport hazardous material, which requires the vehicle to be placarded under the hazardous materials regulations.

This includes, but is not limited to: full time drivers, casual, intermittent or occasional drivers. Independent owner-operator contractors who operate a commercial motor vehicle under contract with Carson City School District are required to comply with Department of Transportation (DOT) Regulations. This program shall not apply to drivers who are granted a federal or state waiver (i.e. emergency response vehicles) as outlined in 49 CFR, §382.103.

B. SAFETY-SENSITIVE FUNCTIONS

Drivers shall not use alcohol when performing safety-sensitive functions nor perform safety-sensitive functions within four (4) hours of using alcohol. Drivers shall not report for duty or remain on-duty when their job requires performing safety-sensitive functions if they have been using drugs or have tested positive for drug use, except in those instances where they have become medically re-qualified as outlined in the DOT Regulations.

A driver is performing a safety-sensitive function when:

1. Waiting at a terminal, facility or other property to be dispatched, unless the driver has been relieved from duty by the District;
2. Performing pre-trip inspections or servicing the motor vehicle;

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3. Driving the motor vehicle;
4. In the vehicle or on the vehicle, except when resting in a sleeper berth;
5. Loading or unloading the vehicle, supervising the loading or unloading, giving receipts for the load, or determining in readiness to operate the motor vehicle;
6. Performing duties and services at an accident scene; or
7. Repairing, obtaining assistance, or in attendance of a disabled vehicle.

C. PROHIBITED CONDUCT

The following shall be considered “Prohibited Conduct” for the purposes of this program. No driver:

1. Shall report for duty or remain on duty while having an alcohol concentration of .02 or greater;
2. Shall perform safety-sensitive functions within four (4) hours after using alcohol;
3. Shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol (including medication containing alcohol);
4. Shall use alcohol while performing safety-sensitive functions;
5. Required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first;
6. Shall refuse to submit to a post-accident alcohol or drug test, a random alcohol or drug test, a reasonable suspicion alcohol or drug test, or a follow-up alcohol or drug test;
7. Shall report for duty or remain on duty when the driver uses any controlled substance, except when use is pursuant to the instructions of a physician or dentist who has advised the driver that the substance does not adversely affect the driver’s ability to operate a commercial motor vehicle;
8. Shall use illicit drugs on or off duty.

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D. ALCOHOL AND DRUG TESTING

Pursuant to DOT Regulations promulgated by the DOT, drivers will be subject to the following types of alcohol and drug testing:

- Pre-Employment Testing
- Reasonable Cause Testing
- Post-Accident Testing
- Random Testing
- Return to Duty Testing
- Follow-up Testing

1. Pre-Employment Testing

All applicants for driving positions, as a condition of employment, must submit to a urine drug test. Carson City School District may choose not to require a driver applicant to submit to a pre-employment test if Carson City School District can verify that the driver has participated in a valid drug and alcohol testing program within the preceding thirty (30) days and while participation in that program was either tested within the past six (6) months or participated in a random selection program for the previous twelve (12) months. Carson City School District may also choose not to perform a pre-employment test if the driver applicant has undergone, and passed, testing required by the DOT rule within the previous six (6) months. Carson City School District will verify that no prior employer of the driver has knowledge or records or violation of the DOT testing rules with the previous three (3) years.

2. Reasonable Suspicion Testing

- a). A driver shall be required to submit to an alcohol and/or drug test when Carson City School District has reasonable suspicion to believe that the driver has violated the prohibitions of the alcohol and drug program. Carson City School District determination that reasonable suspicion exists to require the driver to undergo testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The required observations for alcohol and/or drug testing shall be made by a supervisor, who is trained in accordance with DOT Regulations 49 CFR, § 382.603.
- b). A driver may be directed by Carson City School District to undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. A driver may be directed by Carson City School District to undergo reasonable suspicion drug testing at any time during work hours.

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- c). If a reasonable suspicion alcohol test is not administered within two (2) hours of such a determination, Carson City School District shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours, Carson City School District shall cease attempts to administer the test. The supervisor who makes the determination that reasonable suspicion exists will not conduct the driver's breath alcohol test.
- d). A written record shall be made of the observations leading to a reasonable suspicion drug and alcohol test and signed by the supervisor(s) who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier. While DOT does not require written documentation for reasonable suspicion alcohol testing, it is the policy of Carson City School District to require such documentation as outlined above.

3. Post-Accident Testing

- a). Each driver will be tested for prohibited alcohol and drug use as soon as practicable after an accident in which the driver's performance may be a contributing factor to the accident. A reportable accident is an occurrence involving a commercial motor vehicle engaged in interstate, foreign or intrastate operation of a motor carrier, or carrying sixteen (16) or more passengers (including the driver) who is subject to the DOT Regulations resulting in the death of a human being, bodily injury to a person who as a result of the injury, immediately received medical treatment away from the scene of the accident, or damage to one or more vehicles requiring the vehicle(s) to be towed away. Accidents, which require a mandatory alcohol and drug test, include those in which there is indication that the commercial motor vehicle was issued a citation for a moving traffic violation arising from the accident or any person involved in the accident has been fatally injured.
- b). Carson City School District will require each driver to complete a post-accident report form that provides instructions to follow in completing any required alcohol and drug testing. Drivers are then obligated to follow the instructions and see that the tests are conducted. Any driver subject to post-accident testing, who leaves the scene of an accident before a test is administered or fails to remain readily available for testing, may be deemed by Carson City School District to have refused to submit to testing.
- c). In the event that federal, state or local officials conduct a breath or blood testing for the use of alcohol and/or urine tests for the use of drugs following an accident, these tests shall be considered to meet the DOT requirements, provided the tests conform to applicable federal, state or local requirements. The employee will be required to sign a release allowing Carson City School District to obtain the test results from such officials.

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- d). In the event a driver is so seriously injured that the driver cannot provide a urine or breath specimen at the time of the accident, the driver must provide necessary authorizations as soon as the driver's physical condition allows, to enable Carson City School District to obtain hospital records or other documents that would indicate whether there were drugs or alcohol in the driver's system at the time of the accident.
- e). If an alcohol test is not administered within two (2) hours following the accident, Carson City School District shall prepare, and maintain on file, a record stating the reasons the test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the accident, Carson City School District shall cease attempts to administer an alcohol test and shall prepare and maintain the same records. Records shall be submitted to the Federal Highway Administration (FHWA) upon request of the operations administrator or the designee.
- f). For safety reasons, a driver required to submit to post-accident testing will be placed on leave of absence with pay pending receipt of the post-accident testing result.
- g). If a drug test is not administered within thirty-two (32) hours following the accident, Carson City School District shall cease attempts to administer a drug test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FHWA upon request of the operations administrator or the designee.

4. Random Testing

- a). All drivers will be subject to random alcohol and drug testing. The selection of drivers for random alcohol and drug testing shall be made from a computer-based random number generator that is matched with the driver's social security number. The random selection system provides an equal chance for each driver to be selected each time random selection occurs. Random selections will be unannounced and spread reasonably throughout the year. Random selection, by its very nature, may result in drivers being selected in successive selections or more than once in a calendar year. Carson City School District will drug test, at a minimum of 50% of the average number of driver positions in each calendar year. Random drug testing may be performed at any time while the driver is at work for the employer. Carson City School District will select, at a minimum, 10% of the average number of driver positions for random alcohol testing. Random alcohol testing will be limited to the time period surrounding the performance of safety-related functions. A driver will only be tested immediately before, during or just after the driver has ceased performing such functions.

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- b). If a driver is selected at random, the alcohol and drug program manager will notify the employer (the employee's representative). Once the employer has notified the driver, the driver must take action intended to lead to an immediate collection. If the driver engages in conduct which does not lead to a collection as soon as possible after notification, such conduct may be considered a refusal to test.

5. Return-to-Duty Testing

- a). As per District policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive drug test or refusing to test, will be subject to termination. As a result, the District will not provide an opportunity for a driver engaged in prohibited conduct to participate in return-to-duty testing. However, the District is required by the DOT Regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements, including return-to-duty testing is found in Appendix A.

6. Follow-up Testing

- a). As per District Policy, any driver testing positive for alcohol at a concentration of .02 or greater, having a positive drug test or refusing to test, will be subject to termination. As a result, the District will not provide an opportunity for a driver engaged in prohibited conduct to participate in follow-up testing. However, the District is required by the DOT Regulations to provide information to all drivers on the requirements necessary to become medically re-qualified after engaging in prohibited conduct. A description of these requirements, including follow-up testing is found in Appendix A.

E. TESTING GUIDELINES

1. Alcohol Testing

Alcohol testing is done by testing saliva and/or breath. The saliva test is conducted by a trained technician (supervisor) and is performed on the Quantitative Ethanol Detector (QED) testing device that appears on the confirmed list in the Federal Register. The breath testing device is called an Evidential Breath Testing Device (EBT). The EBT is a scientific instrument which determines the concentration of alcohol expressed as a "percent by weight." The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A Blood Alcohol Concentration (BAC) of .10 means one tenth of a gram of alcohol per 210 liters of breath. The EBT will print three copies of each test result and the test results are numbered. When the initial test results show a reading of .02 BAC or greater, a confirmation test is conducted. Before the confirmation test, a fifteen (15) minute waiting period will occur for the purpose of ensuring that the presence of mouth alcohol from recent use of food, tobacco or hygiene products does not artificially raise the test result.

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The confirmation test is different from the initial test. The confirmation test result will always be used to determine driver consequences. The driver will be given a copy of the breath alcohol testing form.

2. Drug Testing

- a). The drug testing program required by the DOT is limited to eight (8) drug types: 1) marijuana, 2) cocaine, 3) opiates, 4) amphetamines, 5) phencyclidine (PCP) 6) Codeine/Morphine, 7) 6-Acetylmorphine, and 8) MDMA.
- b). All drug testing is done from urine specimens collected under highly controlled conditions. The driver provides a urine specimen in a location that affords privacy. The “collector” seals and labels the specimen, completes a chain of custody document, and prepares the specimen, and prepares the specimen and paperwork for shipment to a drug testing laboratory. The specimen collection procedures and chain of custody ensure the specimen’s security; proper identification and integrity are not compromised.
- c). Employee protection is also built into the testing procedures. In order to meet the federal requirements, the only laboratories that can be used for testing are those certified by the federal government. The initial test of any specimen will be an immunoassay, which meets the requirement of the food and drug administration for commercial distribution. All specimens identified as positive will be further confirmed by using gas chromatography/mass spectrometry techniques. Before a laboratory is certified to conduct drug testing, it is subject to rigorous inspections by the Department of Human and Health Services (DHHS).
- d). The laboratory must report test results to the Carson City School District’s designated medical review officer within an average of five (5) working days after receipt of the specimen by the laboratory. Test results must be certified accurate. The report must identify the drugs, metabolites tested for, whether the results are positive or negative, the specimen number signed by the employee, and the drug testing laboratory specimen number. The laboratory must also provide to Carson City School District a monthly statistical summary of urinalysis testing of drivers, which shall not include any personal identity information. The laboratory will retain samples that yield confirmed positive test results for one (1) year in secured frozen storage. Because it is possible that some analyses may deteriorate during storage, the results of the re-test are to be reported as confirmation of the original test results if the detected level of the drug is below the DOT established limits and equal to or greater than the sensitivity of the test.
- e). Per DOT requirements, an approved U.S. Department of Health and Human Services Laboratory will be used by the District to perform drug testing.

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F. COLLECTION SITES

1. The sample collection site will be an official contracted lab.
2. The employee will not be allowed to transport themselves to or from the collection site in the event of a reasonable cause test or post-accident test result. The employee's supervisor/manager or Carson City School District designee will arrange transportation for the driver at all times. The employee shall report immediately to the collection site once properly notified.
3. The District will bear the cost for reasonable suspicion testing, post-accident testing, and random testing. The District will pay the initial cost of pre-employment testing with the understanding that if the driver fails to complete a twelve-month probationary period, the cost of the pre-employment test will be deducted from the driver's final paycheck.

G. MEDICAL REVIEW OFFICERS

1. The Medical Review Officer (MRO) will be a qualified/licensed physician who meets the requirements as defined in 49 CFR Part 40 and knowledgeable in the medical use of prescription drugs and the pharmacology and toxicology of illicit drugs. The primary responsibility of the MRO will be to review and interpret positive urine drug test results. The MRO will not be the person to evaluate the employee who fails the alcohol test. The review of a positive drug test result is initiated immediately upon receipt and is ordinarily completed within two (2) working days after receipt of all information pertinent to the review of the medical officer. No information about the test results shall be given to the Carson City School District during this time.
2. In addition to information provided by the employee, this review will include considerations of chain of custody documents prepared at the time of collection and, in connection with the laboratory, processing of the specimen. In the case of a positive test result for cocaine, marijuana, PCP, opiates, amphetamines, codeine/morphine, 6-acetylmorphine or MDMA for which an acceptable medical explanation for the results is unlikely, the review should be completed on the day of the receipt of the report. This review must also include review of the chain of custody documentation. The MRO will contact the Carson City School District's designated person who shall in turn contact the employee's supervisor/manager.
3. The supervisor/manager will contact the driver and direct the driver to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately or if the MRO is unavailable, at the start of the next business day. During the review of the laboratory results, the MRO will conduct a medical interview with the employee, review the employee medical history, or review other biomedical factors. The MRO must review all medical records that the tested driver submits when a confirmed positive urine drug test could have resulted from legally prescribed medication.

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4. If any questions arise about the accuracy of validity of a positive test result, the MRO should review the laboratory records to determine whether the required procedures were followed. This will require collaborations with the laboratory director, the analysts and expert consultants. If necessary, the MRO may request the sample be reanalyzed to determine the accuracy of the test results.
5. The MRO shall not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process with the following exceptions: The MRO may disclose such information to the Carson City School District, DOT or any other federal safety agency, or a physician responsible for determining the medical qualifications of the driver when an applicable DOT Regulation permits or requires such disclosure; in the MRO's reasonable medical judgment, the information could result in the driver being determined to be medically unqualified; or in the MRO's reasonable medical judgment, the information indicates that continued performance by the driver of his covered function could pose a significant safety risk. At this point, the MRO makes a determination as to whether the result is scientifically sufficient to take further action. However, if the records from the collection site or laboratory arise doubts about the handling of the sample; the MRO may decide the urinary evidence is sufficient and no further actions would be taken. In these cases, the MRO shall note the possible errors in laboratory analysis or chain of custody procedures and shall notify the proper officials.
6. If it is determined with reasonable certainty that there is legitimate medical or other reason to account for a positive laboratory test result, the report will be re-classified as a negative test result. The notice to the Carson City School District will indicate that the test result was negative. Any medical information obtained by the MRO will be treated as confidential. If there is not medical or other reason to account for a positive result, the verified positive test result will be disclosed to the Carson City School District. Any medical information acquired that is not specifically related to illegal drug use will be treated as confidential and not disclosed. No later than seventy-two (72) hours after receipt of a confirmed positive test result, a driver may submit a written request to the MRO for re-testing of the specimen producing the positive test result. The MRO must honor the request.
7. Each employee may have one written request that the sample of the specimen be provided to the original or another DHHS-certified laboratory for re-testing. The employee shall pay the cost for this testing. If the test is negative, the Carson City School District will bear the cost.
8. In summary, the MRO determines whether there is some reason other than illegal drug use to explain a positive urine test. If illegal drug use is verified, the MRO will inform the Carson City School District's representative of the identification of the drug found in a positive urine test. The employee will also be informed as to which drug(s) were verified as positive.

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9. The Carson City School District shall notify the employee applicant of the results of a pre-employment urine drug test if the driver requests such information within sixty (60) days of being notified of the disposition of their employment application.

H. EMPLOYEE CONSENT

Any employee who refuses to be tested under the DOT Regulations shall not be permitted to perform in a safety-sensitive position. Refusal shall be treated as a failed test for the purposes of the regulations. Therefore, an employee's consent to a medical examination and alcohol and drug testing is required as a condition of continued employment.

I. REFUSAL TO SUBMIT A TEST

1. DOT Regulations provide that an employee shall not refuse to submit to a required alcohol and/or drug test. Refusal to submit to an alcohol or drug test means that an employee:
 - a. Fails to provide adequate breath or saliva for testing without a valid medical explanation after they have received notice of requirement for breath or saliva testing.
 - b. Fails to provide adequate urine for drug testing without a valid medical explanation after they have received notice of the requirement for urine testing.
 - c. Engages in conduct that clearly obstructs the testing process.
 - d. A refusal to test is a failed test.

J. CONSEQUENCES OF A POSITIVE TEST

1. No employee who is found to have a BAC of .02 or greater but less than .04 shall perform safety-sensitive functions until the start of the employee's next scheduled duty period, but not less than twenty-four (24) hours following the test. An employee testing positive for a prohibited drug, or found to have alcohol concentration of .04 or greater, will be subject to termination.
2. At the sole discretion of the Carson City School District, an employee may be offered an opportunity to return to duty once they have become medically re-qualified and followed all the requirements as outlined in 49 CFR, §382.605.
3. Any driver who refuses to participate in a substance abuse professional assessment of rehabilitation program when given the opportunity to do so or who has failed to successfully complete such a program will be terminated.

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4. A driver who fails to follow-up or return to duty test will be terminated. In those situations where an employee is offered an opportunity to return to work after a violation of the alcohol or drug testing policy, and at any time tests positive again, the employee will be terminated.
5. All employees who voluntarily seek assistance for an alcohol or drug problem prior to a violation of such severity that it results in immediate termination will be given the opportunity to participate in an approved rehabilitation program at the employee's expense. Carson City School District will hold the employee's position open, or similar one, until successful completion of the program.
6. A request for assistance to enter an alcohol or drug rehabilitation program made by an employee after they have been required to submit to alcohol and/or drug testing shall not prevent the Carson City School District from proceeding with appropriate disciplinary action including termination.

K. ALCOHOL AND DRUG TESTING INFORMATION

1. The release of individual alcohol and/or drug test records is permitted only with the specific written consent of the employee with the following exceptions:
 - a. Carson City School District shall make available copies of all results for alcohol and/or drug testing when requested by the Department of Transportation or the designee of the Office of Administration of the DOT, or any state or local officials with regulatory authority over the Carson City School District or any of the Carson City School District's employees that fall under the DOT Regulations.
 - b. When requested by the National Transportation Safety Board as part of an accident investigation, Carson City School District will disclose information related to the administration of a post-accident alcohol and/or drug test administered following the accident under investigation.
 - c. The employee's records shall be made available to subsequent employers upon receipt of a written request from the employee. This is per DOT Regulations.
 - d. Carson City School District may disclose information required to be maintained under this part pertaining to an employee, to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee, arising from the results of an alcohol and/or drug test administered under Part 382.
2. Upon written request, an employee shall receive copies of any records pertaining to their alcohol or drug test results.

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M. RELEASE OF ALCOHOL/DRUG TEST INFORMATION BY PREVIOUS EMPLOYERS

1. The District shall obtain, pursuant to an employee's written consent, information on the employee's alcohol tests with a concentration result of .04 or greater, positive controlled substances test results, and refusals to be tested (including adulterated and substituted test results) and any other violations of the Federal Motor Carrier Safety Administration (FMCSA) alcohol and controlled substance testing regulations within the preceding three (3) years, which are maintained by the prospective previous employers. This information must be obtained and received by Carson City School District no later than thirty (30) calendar days after the first time an employee performs a safety-sensitive function. If it is not feasible to obtain the information prior to the employee performing safety-sensitive functions, Carson City School District will not permit the employee to perform safety-sensitive functions after thirty (30) days without obtaining the information. If the employee stops performing safety-sensitive functions for Carson City School District before expiration of the thirty (30) day period or before Carson City School District has obtained information, the Carson City School District must still obtain this information. Carson City School District will provide to each of the employee's employers within the three (3) preceding years the employee's specific written authorization for release of the information, and further will maintain a written confidential record with respect to each past employer contacted.
2. The Carson City School District will ask each applicant whether they have tested positive, or refused to test on any pre-employment controlled substance test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by a DOT agency controlled substance and alcohol testing rules during the past three (3) years. If the applicant admits to a positive test or refusal to test, or if the Carson City School District obtains information that the employee has had a positive alcohol or drug test, or a refusal to test, the Carson City School District will not use the applicant until the applicant provides documented proof that they have successfully completed or is complying to the DOT return-to-duty alcohol and controlled substances testing rules and are medically qualified to perform safety-sensitive functions.

N. TRAINING AND EDUCATION

1. Pursuant to the DOT Regulations, Carson City School District will require all supervisors designated to determine whether reasonable suspicion exists to require an employee to undergo testing to receive at least sixty (60) minutes of training on alcohol misuse and receive at least an additional sixty (60) minutes of training on drug misuse.

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2. Carson City School District will ensure that all DOT regulated employees receive information concerning the effects of alcohol and controlled substance use on an individual's health, work and personal life; signs and symptoms of an alcohol or a controlled substance problem, and available methods to intervene when an alcohol or drug problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management. Carson City School District representatives will maintain a list of community treatment resources for drivers in need of assistance.

O. SEVERABILITY

1. If any part of provision of this Administrative Regulation, or the application thereof to any person or circumstance, should be held invalid by operation of the law or by any tribunal or competent jurisdiction, or if compliance with or enforcement of any part of this provision is restrained by such tribunal pending a final determination as to its validity, the remainder of this Administrative Regulation or the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect.

P. REFERENCE DOCUMENT

The District will develop a reference document detailing specific sections of the Regulation, including chain of custody procedures, drug testing levels, maintenance procedures on EBT equipment, and definitions outlined in the DOT Regulations. Employees will be provided a copy upon request.

Adopted: December 13, 1994

Revised: August 27, 2004

August 23, 2011