

RESOLUTION NO. 2024-22

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN MIGUEL COMMUNITY SERVICES DISTRICT ADOPTING REVISIONS TO THE DISTRICT DRUG
& ALCOHOL FREE WORKPLACE GUIDELINES AND PROCEDURES AND RESCINDING ANY AND
ALL PREVIOUS RELATED POLICIES AND PROCEDURES REGARDING DRUGS & ALCOHOL**

WHEREAS, California Government Code section 54202 provides that every local agency may adopt policies and procedures to establish and maintain a workplace that is free of illegal drugs and alcohol and to discourage said drug and alcohol abuse; and

WHEREAS, the District Board of Directors ("Board") has determined that these guidelines and procedures are in conformance with all provisions of state law governing the establishment and maintenance of a drug and alcohol free workplace and shall be in effect as of the date of adoption of this Resolution.


NOW THEREFORE, BE IT RESOLVED, by the Board of Directors of the San Miguel Community Services District hereby determine the need to adopt drug and alcohol-free workplace guidelines and procedures that are duly established for the purpose of governing and maintaining a drug and alcohol free workplace, as set forth in the attached Exhibit "A" entitled District Drug & Alcohol Free Workplace Guidelines and Procedures.

BE IT FURTHER RESOLVED, this Resolution shall remain in full force and effect until rescinded or replaced by Board resolution or ordinance.

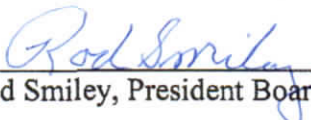
PASSED AND ADOPTED by the Board of Directors on a motion of Smiley, seconded by Gregory by the following roll call vote:

AYES: Baker, Gregory, Kalvans, Davis, Smiley
NOES: 0
ABSENT: 0
ABSTAINING: 0

the foregoing Resolution is hereby passed and adopted this 23RD of May 2024.



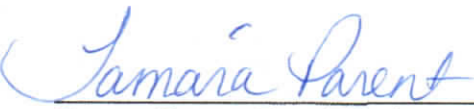
Kelly Dodds, General Manager




Rod Smiley, President Board of Directors

ATTEST:

APPROVED AS TO FORM:



Tamara Parent, Board Clerk



Douglas L. White, District General Counsel

FINAL

**SAN MIGUEL COMMUNITY
SERVICES DISTRICT**



**DRUG AND ALCOHOL FREE WORKPLACE
GUIDELINES AND POLICIES**

Adopted: 5-23-2024

Resolution: 2024-22

SECTION 3.0

DRUG AND ALCOHOL FREE WORKPLACE GUIDELINES AND POLICIES

SECTION 3.1 PURPOSE

It is the intent and purpose of the San Miguel Community Services District (“District”) to establish and maintain a workplace that is free of illegal drugs and alcohol, and to discourage drug and alcohol abuse by its Employees, interns, and volunteers.

The District has a vital interest in maintaining a safe and efficient working environment and working conditions for all Employees, interns, and volunteers. Substance abuse is incompatible with health, safety, efficiency, and success at the District.

Employees, interns, or volunteers who are under the influence of a drug or alcohol on the job compromise the District’s interests and endanger their own health and safety as well as the health and safety of their co-workers and the public. Substance abuse in the workplace can also cause many other work-related problems, including but not limited to absenteeism and tardiness, disruptive behavior, increased workloads for co-workers, reduced productivity, diminished public trust, delays, behavioral issues, and substandard job performance.

SECTION 3.2 DEFINITIONS

3.2.1 Abuse of any legal drug—means the use of any legal drug (a) for any purpose other than the purpose for which it was prescribed or manufactured, or (b) in a quantity, frequency, or in a manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.

3.2.2 Employee—for the purposes of this Policy means any individual who works for the benefit of the District including, but not limited to, regular full-time and part-time employees, independent contractors, interns, volunteers, temporary employees, and seasonal Employees.

3.2.3 Illegal Drugs or Other Controlled Substances—means (a) any drug or substance that is not legally obtainable or obtained, or (b) is legally obtainable but has not been legally obtained, or (c) has been legally obtained but is being sold, distributed, or possessed unlawfully.**3.2.4 Impaired**—means an Employee’s faculty, function, or ability to perform work tasks or other activities has deteriorated due to his or her use of alcohol or drugs.

3.2.5 Legal Drugs—means any drug, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.

3.2.6 Policy—means: the entirety of this “Drug and Alcohol Free Workplace Guidelines and Policies.”

3.2.7 Possession—means that an Employee has the substance on his or her person or otherwise under his or her control.

3.2.8 Refusal to Submit to Testing -- means an employee:

A. Engages in any conduct that obstructs or does not allow for the successful completion of the testing process, including verbal refusal, refusal to sign any consent form, failure to appear for any test within a reasonable amount of time, failure to remain at the testing site until the testing process is complete, failure to comply with the testing instructions, or failing to provide a specimen in accordance with any testing procedure, or

B. Fails to provide adequate breath for alcohol testing without a valid medical explanation, or

C. Fails to provide an adequate urine sample for controlled substances testing without a genuine medical inability to provide a specimen.

3.2.9 Substance Abuse—means overindulgence or dependence on any addictive substance, particularly alcohol or drugs, or continued use of an addictive substance despite negative effects.

2.9.10 Under the Influence—means impairment, to any degree, of an Employee's ability to safely perform work activities due to their use of alcohol and/or drugs.

SECTION 3.3 EARLY DETECTION

The District and its Employees benefit from the early detection of substance-abuse problems. Early detection allows employees dealing with substance-abuse to take corrective action before the behavior leads to disciplinary action, or worse, serious physical harm to the Employee or another person. The substance abuser's co-workers, who risk serious injury by working around a substance abuser, or who must perform additional work due to an abuser's decreased efficiency, avoid these issues if the problem is detected early. The District benefits from early detection because it prevents accidents and injuries and avoids inefficiencies associated with substance abuse. Accordingly, any Employees who believes he or she may have a substance abuse problem is encouraged to seek assistance from the Employee Assistance Program (EAP). All Employees are encouraged to refer other employees to the program who may benefit from it (see Section 6.0 of these Guidelines). Employees are required to report any safety risks, including impaired coworkers, to supervisors or management.

SECTION 3.4 PROHIBITED CONDUCT

The prohibitions of this section apply whenever the interests of the District may be adversely affected, including any time the Employee is:

- 1) On District-owned or controlled premises, property, or facilities, or
- 2) Conducting or performing District business, regardless of location (this includes while an Employee is scheduled for on-call or standby duty), or
- 3) Operating, or is responsible for the operation, custody, or care of District equipment,
- 4) motorized vehicles, or other property, or
- 5) Responsible for or engaging in activities that could impact the safety of other District Employees or the public.

3.4.1 Alcohol

The following acts are prohibited and will subject an Employee to discipline, up to and including discharge:

- 1) The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of alcohol.
- 2) Being under the influence of alcohol.
- 3) Refusal to submit to alcohol testing as required herein.

3.4.2 Illegal Drugs

The following acts are prohibited and will subject an Employee to discipline, up to and including discharge:

- 1) The use, possession, purchase, sale, manufacture, distribution, transportation or dispensation of any illegal drug or other controlled substance.
- 2) Being under the influence of any illegal drug or other controlled substance.
- 3) Refusal to submit to drug testing as required herein.

3.4.3 Legal Drugs

The following acts are prohibited and will subject an Employee to discipline, up to and including discharge:

- 1) The abuse of any legal drug(s).
- 2) The purchase, sale, manufacture, distribution, transportation, or dispensation of any prescription drug in a manner inconsistent with law.
- 3) Working or driving while impaired by the use of a legal drug.
- 4) Whenever use of a legal drug (whether prescribed or over the counter) might:
 - (a) Endanger the safety of the Employee or some other person,
 - (b) Pose a risk of significant damage to District property or equipment, or
 - (c) Substantially interfere with the Employee's job performance or the efficient operation of the District's business or equipment.

SECTION 3.5 DISCIPLINARY ACTION FOR POLICY VIOLATIONS

3.5.1 Violation of Guidelines and Policies

Any violation of this Policy will result in the imposition of disciplinary proceedings, up to and including discharge, in accordance with the District's Personnel Rules and any applicable MOU. Depending on the circumstances, and at the District's discretion, it may rehire an Employee who has violated these policies after thirty (30) days if the Employee can provide written proof, or a medical professional's written statement the Employee has completed an approved, certified rehabilitation program. The Employee shall be responsible for the expense of such program.

3.5.2 Last Chance Agreements

In lieu of discipline being imposed for a violation of this Policy, the District, the Employee, and the Employee's exclusive representative may mutually agree to a "last chance" employment agreement, whereby the District will not terminate the employee in exchange for the employee's agreement to participate in and complete a substance abuse treatment program at the Employee's expense and, if appropriate, the Employee's agreement to

participate in periodic or random drug testing. The "last chance" agreement will be imposed for a period not exceeding (sixty (60) days from the completion of the program during which the Employee could be periodically or randomly drug tested, if applicable. The goal of such agreement is to ensure the Employee's full compliance with this Policy. The specific terms of the agreement will be decided by mutual agreement of the parties. A violation of the terms of any "last chance" employment agreement will result in the immediate termination and permanent separation of employment. Interns and volunteers are not eligible for last chance agreements.

3.5.3 Volunteers and Interns are Subject to Immediate Dismissal

Any volunteer or intern found to be in possession of, or under the influence of, any prohibited substance, or if there is reasonable suspicion he or she violated this Policy, he or she shall be removed from volunteer or intern status. If the volunteer's or intern's actions represent a potential violation of county, state and/or federal law, the District shall refer the volunteer's or intern's name and address to law enforcement. The volunteer or intern shall be immediately barred from participating as a District volunteer or intern.

3.5.4 Effect of Criminal Conviction

An Employee who is convicted under a criminal drug or alcohol-related statute for a violation occurring in the workplace, during work hours, while using District equipment or during any District-related activity or event, is subject to disciplinary action, including dismissal.

3.5.5 Eligibility for Rehire Upon Discharge

An Employee who is discharged for a violation of this Policy will not be eligible for rehire or renewal except as specified in Sections 3.5.1 and 3.5.2 of this Policy.

SECTION 3.6 DRUG-FREE AWARENESS PROGRAM

3.6.1 Employee Awareness

The District hereby establishes a Drug-Free Awareness Program that is designed to inform Employees about the dangers of drug abuse in the workplace and to help ensure that Employees are familiar with these Policies. From time to time, The District may request Employees' attendance at one of the Program's sessions. During such session(s), the District may give Employees current information about available programs offering counseling and rehabilitation.

3.6.2 Management Awareness

Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an Employee to work in an impaired condition or to be otherwise engaged in conduct that violates these Policies. Management must take prompt action when it has reasonable suspicion to believe that an Employee is working in violation of these Policies. Such action may include drug testing in accordance with these Policies. Management awareness shall include training for reasonable suspicion and certification. District managers, supervisors, and the District Board of Directors must complete reasonable suspicion training.

SECTION 3.7 LEGAL DRUGS

3.7.1 Prescription Drugs

The District recognizes that Employees may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's or a licensed medical professional's instructions, may result in impairment. Employees may not engage in safety-sensitive functions while impaired nor may any employee perform any work function while impaired if the impairment might endanger the Employee or any other person(s), pose a risk of significant damage to District property, or substantially interfere with the Employee's job performance. It shall be the Employee's sole responsibility to notify the General Manager, in advance of reporting to a workplace or for a work shift, of any required prescription drugs that may impair the Employee's abilities to perform his or her job or which could endanger himself or herself or any other person.

SECTION 4.0 UNREGULATED OR AUTHORIZED CONDUCT

SECTION 4.1 OVER THE COUNTER DRUGS

Nothing in this Policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate state or federal laws, Regulations, or result in an Employee's impairment from the use of such drugs in violation of this Policy, while on duty, while on District property, or while conducting District business. If the use of the over-the-counter drug results in impairment, the Employee is required to notify the General Manager as set forth in Section 3.7.1 above.

SECTION 4.2 OFF-DUTY CONDUCT

Unless an Employee is in a designated safety-sensitive position, such as fire protection, utility worker personnel, or a commercial driver's license-holder, these Policies are not intended to regulate off-the-job conduct, so long as the Employee's off-the-job use of alcohol or drugs does not result in the Employee's impairment while on duty, while on District property, while on-call, or while conducting District business.

SECTION 4.3 ON-CALL CONDUCT

Any Employee who is subject to on-call status is required to follow this Policy. Although Employees are permitted to utilize their time as desired while on-call, they shall remain unimpaired during on-call duty time so that they may perform all duties if called. Employees shall not report to duty while impaired.

SECTION 5.0 CONFIDENTIALITY

Disclosures made by Employees to the District General Manager concerning their use of legal drugs, or other private medical information, will be treated confidentially and will not be revealed to the Board of Directors or other persons or entities unless there is a legally authorized reason to do so, such as to determine whether it is advisable for the Employee to continue their work duties or job. Disclosures made by Employees to the District General Manager concerning their

participation in any drug or alcohol rehabilitation program will be treated confidentially unless the program is by mutual agreement pursuant to Section 3.5.1.

SECTION 6.0 COUNSELING/EMPLOYEE ASSISTANCE

Employees who suspect they may have an alcohol or drug problem(s), even in the early stages, are encouraged to voluntarily seek diagnosis and follow through with prescribed treatment(s) by qualified professionals. Employees, who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program, are encouraged to contact the District General Manager, who will determine whether the District can accommodate the Employee by providing unpaid leave needed for the time to completion program participation. Employees should be aware that participation in a rehabilitation program will not necessarily shield them from disciplinary action for a violation of this Policy.

SECTION 7.0 DRUG AND ALCOHOL TESTING

SECTION 7.1 APPLICANT TESTING

As a part of the District's employment screening process, any applicant to whom a conditional offer of employment is made must pass a test for controlled substances, pursuant to the procedures described below. The offer of employment is conditioned upon a negative drug test result. Applicants will be informed of the District's drug testing policy in the employment application. Pursuant to Government Code Section 12954, the District will not test job applicants for non-psychoactive cannabis metabolites unless required to do so by other state or federal laws, regulations, licensing, or contracts. Commercial driver's license holders are subject to the provisions of Section 8.0.

SECTION 7.2 RANDOM TESTING FOR SAFETY-SENSITIVE POSITIONS

Employees in health and safety sensitive positions, including firefighters, commercial driver's license holders, operators, and utility crew members, may be required to submit to random drug testing, depending on their job duties. Such testing shall occur at random and at unannounced times throughout the year. It will be conducted by an independent, third-party drug testing company specializing in such testing. Commercial driver's license holders are subject to the random testing requirements set forth in Section 8.0.

SECTION 7.3 REASONABLE SUSPICION TESTING

Reasonable Suspicion is a subjective assessment based on specific, contemporaneous, and articulable facts, and reasonable inferences drawn from those facts, that an Employee is under the influence of, or impaired by, alcohol, illegal drugs, or other controlled substances, or has otherwise violated the terms of this Policy. Reasonable suspicion may be based upon specific personal observations, such as direct observation of drug or alcohol use, an Employee's appearance, manner, disposition, muscular movement, behavior, speech, body odor, breath odor, or information provided to management by an Employee, by law enforcement officials, by a security device or service, or by another person or persons. The observations may include indications of the chronic and withdrawal effects of controlled substances.

If an Employee's supervisor or manager has a reasonable suspicion that an Employee has violated the District's alcohol or drug prohibitions, and the reasonable suspicion is confirmed by any person having reasonable suspicion training, the Employee will be subject to drug and/or alcohol testing. The Employee shall be informed of the reason(s) he or she is being asked to submit to a drug and/or alcohol test. The Employee shall be informed that a refusal to submit to the testing will subject the Employee to discharge. The Employee will have an opportunity to give a reasonable explanation for the behavior, odor, speech, disposition, or other factors giving rise to the reasonable suspicion. If the Employee is unable to explain the observed behavior and/or other factors to the satisfaction of management, he or she must submit to a drug and/or alcohol test in accordance with the procedures described herein. If the Employee refuses to submit to reasonable suspicion testing, such refusal shall be considered grounds for termination.

SECTION 7.4 POST-ACCIDENT TESTING

An employee who is involved in an accident while working may be subject to drug and/or alcohol testing based on reasonable suspicion, as set forth in Section 7.3. If the Employee refuses to submit to testing, such refusal shall be considered grounds for termination. Employees holding a commercial drivers' license are subject to the post-accident testing procedures set forth in Section 8.0.

SECTION 7.5 POST-INJURY TESTING

Should an injury occur while working, a drug or alcohol test may be administered if the injured Employee's supervisor has a reasonable suspicion that an Employee was injured due to drug or alcohol use.

SECTION 7.6 RETURN TO DUTY TESTING

If the District permits an employee to return to work after the Employee has submitted a positive test result, it may require the Employee to undergo a separate drug and/or alcohol test before returning to work. Commercial driver's license holders are subject to the return-to-duty testing requirements set forth in Section 8.0.

SECTION 7.7 TESTING FOR CANNABIS

Pursuant to Government Code Section 12954, the District will not take adverse action against an Employee or an applicant for the presence of non-psychoactive cannabis metabolites nor will it take adverse action against an Employee if drug testing reveals that psychoactive cannabis metabolites are present at a level that does not indicate on-the-job impairment unless required to do so by other state or federal law, regulations, licensing, or contracts. Employees holding commercial driver's licenses are subject to DOT mandated testing as set forth in Section 8.0, which may include testing for cannabis. All employees are prohibited from possessing, being impaired by, or using cannabis while working or while on District property.

SECTION 7.8 TESTING PROCEDURES

When testing is required pursuant to this Policy, the District will refer the applicant or Employee to an independent, National Institute on Drug Abuse ("NIDA") certified medical clinic or laboratory, which will administer the test. The District shall require drug testing for: A) Pre-employment testing, B) random testing, if applicable, and C) reasonable suspicion testing. The District will pay the cost of the test. If the Employee is impaired or otherwise unable to drive, as

determined by the Employee or District representative, a District supervisor or General Manager will transport the individual to a medical facility for immediate testing or treatment.

The Employee will have the opportunity to alert the clinic or laboratory personnel to any prescription or non-prescription drugs that he or she has taken that may affect the outcome of the test. The clinic or laboratory will determine the testing method and analysis. The District will have no control over the clinic or laboratory's testing methods or procedures. The clinic or laboratory will inform the District as to whether the applicant or Employee passed or failed the test. If an Employee fails the test, he or she will be subject to disciplinary action, including dismissal.

SECTION 7.9 ACKNOWLEDGEMENT AND CONSENT OF TEST

Any Employee subject to testing under this Policy will be directed to sign a form acknowledging the procedures governing testing and authorizing the (1) the collection of a urine sample for the purpose of determining the presence of alcohol and/or drugs, and (2) release of the test results to the District. Refusal to sign the authorization form, or to otherwise submit to the drug test, will result in the revocation of an applicant's job offer, or will be considered a refusal to submit to testing, subjecting the Employee to disciplinary action.

SECTION 7.10 CONFIDENTIALITY

All drug testing records will be treated confidentially unless otherwise required by law.

**SECTION 8.0
REQUIREMENTS FOR EMPLOYEES HOLDING A COMMERCIAL
DRIVERS LICENSE**

SECTION 8.1 APPLICABILITY

The District complies with the drug and alcohol testing requirements set forth by federal law and the Department of Transportation (DOT) for commercial driver's license (CDL) holders who perform safety-sensitive functions relative to commercial motor vehicles, as set forth herein. CDL holders who perform safety-sensitive functions are subject to heightened standards that are not applicable to other Employees. CDL holders are subject to the following provisions and prohibitions, which are in addition to the prohibitions found elsewhere in this Policy and they will be subject to disciplinary action, including dismissal, for non-compliance.

8.1.2 COMMERCIAL MOTOR VEHICLES

For purposes of this Policy, a commercial motor vehicle (CMV) is a vehicle with a gross vehicle weight of 26,001 or more pounds, any size vehicle carrying placatable hazardous materials, or a vehicle designed to transport 16 or more passengers, including the driver.

8.1.3 SAFETY-SENSITIVE FUNCTIONS

Employees holding a commercial driver's license (CDL) are deemed to be performing a safety-sensitive function when they perform any task related to a commercial motor vehicle (CMV), from the time a driver is required to be ready for work until the time he or she is relieved from all responsibility for performing work. Safety-sensitive functions include driving a CMV, waiting to be dispatched, inspecting and servicing a CMV, supervising, performing, or assisting in loading or unloading a CMV, all time repairing,

obtaining assistance, or remaining in attendance upon a disabled CMV, and all time in or upon any CMV, other than driving.

SECTION 8.2 ALCOHOL AND SAFETY-SENSITIVE FUNCTIONS

No Employee holding a commercial driver's license (CDL) shall possess or use alcohol on duty. No Employee holding a CDL shall report for duty or remain on duty requiring the performance of a safety-sensitive function while having any measurable alcohol concentration. No Employee holding a CDL shall consume alcohol in the four hours prior to reporting for duty requiring the performance of a safety-sensitive function nor use alcohol during the eight hours following an accident, or until he/she undergoes a post-accident alcohol test, as set forth below, whichever occurs first.

SECTION 8.3 DRUGS AND SAFETY-SENSITIVE FUNCTIONS

The District prohibits drug use that could affect a commercial driver's license (CDL) holder's performance of a safety-sensitive function, as described in Section 8.1.3. No Employee shall report for duty requiring the performance of a safety-sensitive function or remain on duty requiring the performance of a safety sensitive function, when the Employee uses or has used any illegal drug or controlled substance or is under the influence of any illegal drug or controlled substance.

Employees holding CDLs and performing safety-sensitive functions may use prescription drugs if their doctor has advised the CDL holder that the drug will not adversely affect the CDL holder's ability to safely perform safety-sensitive functions, as set forth in Section 8.1.3. Any prescription drug that could affect performance of a safety-sensitive function should be reported to management.

SECTION 8.4 ALCOHOL AND DRUG TESTING FOR COMMERCIAL DRIVER'S LICENSE HOLDERS

8.4.1 Random Testing for Commercial Driver's License Holders

Pursuant to Federal Regulations, holders of Commercial Drivers' Licenses (CDL) shall only be tested for alcohol just before, during, or after the performance of safety-sensitive functions, as set forth in Section 8.1.3. The number of random alcohol tests annually for CDL holders must equal 10% of the average number of driver positions. The number of random drug tests annually for CDL holders must equal 50% of the average number of driver positions. These testing percentages may change by operation of Federal Regulations and the District will adjust its random testing percentages accordingly.

The District will select Employees subject to DOT-mandated random testing based on a scientifically valid random process, matched with social security numbers or other unique identification number. The selected Employee shall be notified of his or her selection and proceed immediately to an independent third-party testing site designated by the District. If the selected employee is off duty, on vacation, or otherwise unavailable, the random selection may be maintained in confidence until the Employee returns, provided the current window for random testing is still open. If an Employee is selected for random testing and

refuses to test, such refusal shall be considered grounds for disciplinary action, including dismissal.

8.4.2 Return to Duty Testing for Commercial Driver's License Holders

If an Employee holding a commercial driver's license and fails a drug or alcohol test required by Federal Regulations, and the District permits the Employee to return to work, the Employee must undergo a return-to-duty-process including the successful completion of an alcohol and drug education treatment program to the satisfaction of a DOT approved substance abuse professional pursuant to Section 8.4.5.

8.4.3 Post-Accident Testing for Commercial Driver's License Holders

In addition to reasonable suspicion testing, an employee holding a commercial driver's license (CDL) who is involved in an accident while performing safety-sensitive functions, as defined in Section 8.3 above, will be required to undergo a post-accident alcohol and/or controlled substance test as soon as practicable pursuant to 49. C.F.R. 382.303, under the following circumstances:

1. The Employee was performing a safety-sensitive function with respect to the commercial vehicle, as defined by Section 8.1.3 above, and the accident involved a loss of human life; or
2. The Employee received a citation under State or local law for a moving violation while operating the commercial motor vehicle arising from the accident, if the accident involved either:
 - i. Bodily injury to any person who immediately received medical treatment away from the scene of the accident for the injury; or
 - ii. One or more motor vehicles involved in the accident incurred disabling damage from the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The Employee to be tested post-accident must be tested for controlled substances use within thirty-two hours after the accident and for alcohol use within eight (8) hours after the accident. An Employee who leaves the scene of an accident without justification before being tested, or is not readily available for testing, shall be deemed to have refused a test and be subject to disciplinary action, however, the Employee may leave the scene for safety reasons, to get help, or to summon or receive emergency medical care. In the event of an accident, the Employee must contact the Employee's supervisor or manager as soon as possible.

A test for alcohol or controlled substances conducted by an authorized federal, state, or local law enforcement or public safety official having independent authority to administer the test will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the District. Breath tests will validate only the alcohol test requirement and cannot be used to fulfill the controlled substance testing obligation.

8.4.4 Pre-Safety Sensitive Function Testing for Commercial Driver's License Holders

A drug test shall be conducted before the first time any driver holding a commercial driver's license (CDL) performs any safety-sensitive function for the District, as described in Section 8.1.3. This testing applies to new employees and any current employees transferring into driving positions that include the performance of safety-sensitive functions, as described in Section 8.1.3.

8.4.5 Return to Work Testing for Commercial Driver's License Holders

When an Employee holding a commercial driver's license has violated Department of Transportation drug and alcohol Regulations, and the District is amenable to having the Employee return to work, the Employee must complete the following steps before returning to work performing safety-sensitive functions pursuant to 49 C.F.R. Sections 382.605; Part 40, Subpart O, which requires the Employee to:

- 1) Receive an initial assessment by a qualified Substance Abuse Professional (SAP),
- 2) Complete any treatment/ rehabilitation program prescribed by the SAP,
- 3) Be evaluated by the SAP to determine that he or she has properly followed the prescribed rehabilitation program,
- 4) Be subject to unannounced follow-up tests as determined by the SAP following a negative return to duty test.

8.4.6 Reasonable Suspicion Testing

Commercial driver's license (CDL) holders are subject to reasonable suspicion testing as set forth in Section 7 and 49 C.F.R 382.307. CDL holders performing safety-sensitive functions, as described in Section 8.1.3 must submit to the testing procedures set forth in Section 8.5.

8.4.7 Effect of a Commercial Driver's License Holder's Refusal to Submit to Testing

Any Employee holding a commercial driver's license (CDL) who refuses to submit to any drug and/or alcohol testing required by this Policy shall be subject to disciplinary action, including dismissal. CDL holders who are required to submit to drug and/or alcohol testing pursuant to Department of Transportation (DOT) Regulations, and who refuse such testing, will also incur the consequences specified by DOT Regulations. Such consequences cannot be overturned or set aside by an arbitration, grievance, a court, or any other non-Federal forum that adjudicates the personnel decisions employers take against employees.

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SECTION 8.5 PROCEDURES FOR TESTING EMPLOYEES WITH COMMERCIAL DRIVER'S LICENSES PERFORMING SAFETY SENSITIVE FUNCTIONS

8.5.1 Drug Testing Procedures for Commercial Driver's License Holders

Employees who hold a commercial driver's license (CDL) and are subject to drug testing pursuant to Federal Regulations shall submit a urine specimen which will be collected and handled pursuant to the procedures set forth in the Department of Transportation's (DOT) Procedures for Transportation Workplace Drug and Alcohol Testing Programs at Part 40. The DOT drug testing program requires employers to test for marijuana, cocaine, opiates, amphetamines/methamphetamines, and phencyclidine (PCP). Testing shall be performed by a laboratory certified by the Department of Health and Human Services under the National Laboratory Certification Program. The laboratory test results will be forwarded to a Medical Review Officer, who will then communicate the results to the District.

8.5.2 Alcohol Testing Procedures for Commercial Driver's License Holders

Alcohol tests will be performed by a certified breath alcohol technician (BAT) in accordance with the procedures established by DOT Procedures for Transportation Workplace Drug and Alcohol Testing Programs at Part 40. The BAT will use an evidential breath testing device (EBT) approved by the Office of Drug and Alcohol Policy and Compliance in the administration of the breath alcohol test.

SECTION 8.6 EMPLOYEE REPORTING

Employees holding a commercial driver's license must report to the District whenever he or she has been convicted, in any type of motor vehicle, a state or local law relating to motor vehicle traffic control (not parking violations) within 30 days pursuant to C.F.R. Section 383.31.

SECTION 9.0 EMPLOYEE ACKNOWLEDGEMENT AND RECEIPT

By signing below, I acknowledge the following:

- 1) I have received a copy of the Drug and Alcohol-Free Workplace Guidelines and Policy, I have reviewed and understand its contents, and I will comply with its terms.
- 2) I understand the use of drugs and alcohol in the workplace increases the risk of injuries and fatalities and reduces job efficiency, among other adverse consequences. I understand the District's policy is to maintain a drug and alcohol-free workplace for the health and safety of its employees.
- 3) The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs or controlled substances during work hours or on District property is prohibited.
- 4) I understand that I may seek information about available drug and alcohol counseling, rehabilitation, and employee assistance by contacting management.
- 5) I further understand my compliance with this Policy is a condition of my employment and that any violations will lead to disciplinary action up to and including discharge as set forth in Section 3.5.

Date:

FINAL

Signature: 

Print: Kelly Todd's General Manager