

Basic CDL Drug & Alcohol Information for School Districts

Employer Responsibilities

- The school district, as an employer, is responsible for meeting all applicable requirements and procedures of the Federal DOT (Department of Transportation) agency regulations regarding alcohol and drug testing of any employee required to have a CDL (Commercial Drivers License).
- You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the Federal DOT agency regulations.
- All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provisions is a material term of all such agreements and arrangements.
- **Given the complexity of the DOT's drug and alcohol testing requirements, it is strongly suggested and recommended school districts hire a C/TPA (Consortium/Third-Party Administrator) to help manage their federally mandated CDL alcohol and drug testing program.**

Recommendations for choosing a Consortium

School districts should look for a Consortium/Third-Party Administrator that includes and provides the following services:

- Random Selections
- Consulting
- Assisting the school with a written policy on drug and alcohol use
- Assisting the school with educational materials that explain the requirements of the FMCSRs (Federal Motor Carrier Safety Regulations) relating to drug and alcohol testing
- 24/7 Emergency Support
- Reasonable Suspicion Training for Supervisors
- Testing at Certified Labs
- Collection Site Management
- Record keeping and Reporting Assistance
- MRO (Medical Review Officer) Services

Definitions:

Consortium/Third-party administrator (C/TPA). A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for purposes of this part.

Medical Review Officer (MRO). A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Service agent. Any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Substance Abuse Professional (SAP). A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Limited Query Allows an employer to determine if an individual driver's Clearinghouse record has any information about resolved or unresolved drug and alcohol program violations, but does not release any specific violation information contained in the driver's Clearinghouse record. This query is required annually for all CDL employees.

Full Query Provides an employer detailed information about any resolved or unresolved violations in a driver's Clearinghouse record. The driver's electronic consent is required in the Clearinghouse. This query is to be used as part of the pre-employment process when hiring a CDL driver.

Applicability:

- Federally mandated CDL alcohol and drug testing apply to all bus drivers, teachers, mechanics, coaches, custodians, administrators or any other district employees, if they have a CDL and drive a school bus or activity bus.
- Non-CDL holders who drive school vehicles are not required by law to be in a random drug testing pool. It is permissible for the school/contractor to have a district policy requiring the same testing. However, under federal law, you cannot place non-CDL holders in the same pool as your CDL holders.

Federal Law requires:

- School Districts/Contractors must designate an employer representative to be responsible for the testing program
- All supervisors must complete reasonable suspicion training
- School Districts/Contractors must have a written policy on drug and alcohol use and shall provide educational materials that explain the requirements of the FMCSRs relating to drug and alcohol testing
- School Districts/Contractors must maintain a statement signed by each employee certifying receipt of the policy and educational materials
- Record retention varies from 1 year to indefinite
- All records shall be maintained in a secure location with controlled access
- All school district employees requiring a CDL must be enrolled in a company random controlled substance and alcohol testing program

Six types of drug and alcohol testing required by federal law:

- Pre-employment - Drivers are required to have a negative pre-employment drug test result before performing any safety-sensitive functions for the company, like driving a commercial vehicle.
- Random - Random tests are unannounced and occur throughout the year. The actual selection of Drivers for random testing is to be made by a scientifically valid method by the entity doing the selections.
- Post-accident - A post-accident test must be conducted when a Driver is involved in an accident that meets specific requirements (see flow chart on website)
- Reasonable suspicion - When a Driver shows signs of possibly being impaired by drugs or alcohol, a supervisor who is trained to make a reasonable-suspicion determination is to require the employee to submit to a reasonable-suspicion drug and/or alcohol test.
- Return to duty - When a Driver shows signs of possibly being impaired by drugs or alcohol, a supervisor who is trained to make a reasonable-suspicion determination is to require the employee to submit to a reasonable-suspicion drug and/or alcohol test.
- Follow-up - A Driver in a follow-up testing program is required to take at least six unannounced follow-up tests during the first 12-months after resuming safety-sensitive duties and may be in a follow-up testing program for up to five years.

Consent for Drug & Alcohol testing from previous CDL employers:

- When accepting job applications for prospective school bus drivers your job application should include a 10-year prior history and you must check the person's CDL drug and alcohol testing history with any previous employer (required to do testing) who employed the person during the previous three years.
- The school/contractor must get the prospective employee's written consent to seek the information from these employers.
- The person must list all previous and current employers within the last three years. If the person does not list previous employers or refuses to sign the consent form, you cannot allow the person drive for you.
- The consent must be a specific release authorizing the new employer to receive testing information from a specific former or current employer about a specific employee.
- A separate release form for each past employer in the previous three years is required
- A sample consent form can be found on our website
- If the prospective employee has failed an alcohol and/or drug test AT ANY TIME in the past, the prospective employee is not eligible to drive a school bus until this individual completes SAP (Substance Abuse Program) return-to-duty requirements in 49 CFR Part 40
- Effective January 6, 2020, employers must also query the FMCSA (Federal Motor Carrier Safety Administration) Drug and Alcohol Clearinghouse

Note: The clearing house will not contain any information prior to January 6, 2020. The consent for information from previous CDL employers will need to be conducted until January 6, 2023 at which time there will be a 3-year history in the clearinghouse.

Drug & Alcohol Clearinghouse Information

- Any school district who employs CDL drivers, with the CDL being a condition of their employment, will need to register and set up an account with the clearinghouse
- You need to consult your C/TPA (Consortium/ Third Party Administrator) to find out which services they are going to provide for you and which ones you will be responsible for
- Annual mandated limited queries of all your CDL drivers will need to be made through the clearinghouse starting in 2020. (It is recommended you wait until at least March or later the first year) Even if your C/TPA does this for you, you will need to purchase the queries for the C/TPA. Queries cost \$1.25 each
- Queries can only be purchased through the clearing house which accepts credit/debit cards, Amazon Pay, PayPal and EFT from a bank account (similar to a check, requires the routing number and bank account number)
- Queries can be purchased in bundles which never expire.

- A limited and a full query cost the same.
- You will need written consent from your current CDL employees to run limited queries (Sample consent can be found on our website)
- The school district as an employer will have a legal responsibility to report alcohol and drug violations to the clearinghouse
- New CDL employees after January 6th will need to be checked with a full query through the clearinghouse for alcohol and drug violations in addition to the Consent for Drug & Alcohol testing from previous CDL employers

Note: The clearing house will not contain any information prior to January 6, 2020. The consent for information from previous CDL employers will need to be conducted until January 6, 2023 at which time there will be a 3-year history in the clearinghouse.

- New CDL employees after January 6th will need to also register with the clearinghouse and provide the employer with digital consent to run a full query
- Digital consent only applies to a full query.
- Your existing CDL employees, who were hired prior to January 6, 2020, do not need to register with the clearinghouse unless they were to change jobs or have an issue arise during a limited query.
- All CDL employees hired prior to or after January 6, 2020, will need to give written consent for you to run the mandated annual limited queries
- You can find a list of Frequently Asked Questions on the FMCSA website <https://clearinghouse.fmcsa.dot.gov/>
- FMCSA advises to use caution regarding solicitations from vendors offering to register employers with the clearinghouse. Federal law requires employers (school district) to do their own registering. The law does not allow someone else to do this for you
- Step by step registering instructions for the clearinghouse, for both school districts and drivers, can be found on our website
- The Clearinghouse will allow for the batch uploading of driver queries by preparing a tab-delimited file and uploading that file into the Clearinghouse for processing follow this link <https://clearinghouse.fmcsa.dot.gov/Resource/Index/Bulk-Upload-Template>