

**LEARN
SUBSTANCE ABUSE REGULATION
APPLICABLE TO:
OPERATORS OF COMMERCIAL VEHICLES (CDL DRIVERS)
OPERATORS OF STUDENT TRANSPORTATION VEHICLES
EMPLOYEES PERFORMING SAFETY SENSITIVE FUNCTIONS.**

I. INTRODUCTION

LEARN is committed to maintaining a work environment free from the adverse impact of employee drug and alcohol abuse. Employee drug and alcohol abuse can create serious risks of physical harm to employees, compromise safety in the workplace, and negatively affect the quality of services provided by LEARN. It is especially important that individuals employed by LEARN in safety sensitive positions, including operators of commercial and student transportation vehicles, remain free from drug and alcohol abuse.

This document contains the detailed policies and procedures implementing LEARN's *Substance Abuse Policy Applicable to Operators of Commercial Vehicles, Operators of Student Transportation Vehicles, and Employees Performing Safety Sensitive Functions* (the Policy) and should be read in conjunction with that policy.

It is LEARN's intent to comply with all applicable Federal, State and local laws, regulations, and ordinances to maintain a drug and alcohol free workplace for individuals employed by LEARN. In addition, it is the responsibility of each employee to ensure that he or she is drug free in compliance with the requirements outlined in this document.

Any person having questions about the Policy or LEARN's drug testing procedures should contact LEARN's Transportation Coordinator.

II. RELATED INFORMATION

In order to help motivate its employees to understand the effects of drug and alcohol use on an individual's health, work and personal life, LEARN will provide information on drug and alcohol abuse. Employees who would like information on understanding the signs and symptoms of an alcohol or drug problem, available methods of intervening when an alcohol or drug problem is suspected, or have any questions or concerns about the subject should contact LEARN's Transportation Coordinator.

III. GENERAL PROHIBITIONS

Alcohol

No employee may possess or distribute alcoholic beverages at LEARN, while in any LEARN vehicle, while performing safety sensitive functions, or while on duty regardless of location. On duty time includes time when the employee is subject to duty, such as on-call time. Employees are prohibited from coming on duty if they have used alcohol within four (4) hours before beginning duty. Employees are never allowed to report to work, or remain at work, under the influence of alcohol.

Drugs

According to Federal and State law, employees are not allowed to possess, distribute, or use controlled substances. This is true regardless of whether they are on or off duty. The only exception to this rule is in the situation where an employee possesses or is using a prescription drug(s) according to the instructions of a physician. This topic is discussed in more detail below.

Testing

A refusal to submit to a test will have the same effect as having a test result come back positive for alcohol or controlled substances use. A refusal to submit to testing can take several forms, which are as follows:

- The employee fails to provide adequate breath for testing without a valid medical explanation;
- The employee fails to provide adequate urine for controlled substances test without a valid medical explanation;
- The employee engages in conduct that clearly obstructs the testing process. Obstructing the testing process includes, but is not limited to, tampering with or substituting specimens provided for alcohol or controlled substances testing.

IV. DISCIPLINARY ACTION

Removal from Duty and Termination

Any employee who tests positive for alcohol with a Blood Alcohol Content (BAC) of greater than .02 but less than .04 will be removed from their safety-sensitive duty for a minimum of 24 hours. Such employees will be provided transportation to their residences. Unrelated to DOT authority, such an employee may also be subject to disciplinary action up to and including termination.

Any employee testing positive for alcohol (BAC of .04 or greater) or controlled substances will be suspended from work, typically without pay, pending a complete investigation and disciplinary determination, which may include termination. This suspension will not be delayed by an employee's request for testing of a split urine specimen by a second laboratory.

Any employee undergoing reasonable suspicion testing will be suspended from work pending the test results. If the test results are negative, the employee will be returned to work with full back pay unless the suspension was imposed for additional reasons unrelated to the Policy and for which back pay is not to be paid.

Leave of Absence Prior to Testing

An employee who voluntarily comes forward and asks for assistance to deal with an alcohol or controlled substance dependency problem shall not be disciplined. The exceptions to this rule are when the employee otherwise violates the alcohol/controlled substance rules of conduct, the employee engages in additional misconduct unrelated to the Policy or these procedures, or the employee has previously been reinstated for violation of the Policy and is still subject to a one strike rule. LEARN's one strike rules are described in more detail below, in the section entitled "Reinstatement and 'One Strike' Rules."

A disclosure of a controlled substance or alcohol dependency problem by an employee upon his or her learning, or receiving notice, from LEARN that he or she is to be scheduled or sent for alcohol or controlled substances testing is not a voluntary disclosure.

At its sole discretion, LEARN may grant an unpaid leave of absence for a maximum of sixty (60) days to allow the employee to undergo treatment pursuant to a rehabilitation program recommended by a Substance Abuse Professional (SAP). LEARN may grant this leave only once during an employee's one time violation rule. LEARN may require the employee to substitute any accrued paid leave available to him or her in lieu of the unpaid leave.

An employee requesting reinstatement from such leave of absence must demonstrate a successful completion of the rehabilitation program and continuation of any follow up program and must submit to a return-to-duty test and follow-up testing.

Reinstatement and "One Strike" Rules

Any employee found in violation of the Policy as it relates to *alcohol* may, at the sole discretion of the Executive Director or designee, may be considered for reinstatement. Any employee who is reinstated under this provision will be subject to a ten-year, "one-strike," reinstatement policy. That is, the employee may request reinstatement but any violation of the Policy in the ten-year period following reinstatement will subject the employee to discharge. After the ten-year period, the employee will stand in the same position he or she did prior to the initial violation of the Policy.

Any employee found in violation of the Policy as it relates to *controlled substances* may, at the sole discretion of the Executive Director or designee, may be considered for reinstatement. Any employee who is reinstated under this provision will be subject to reinstatement on a one-time lifetime basis. That is, any future violation of the Policy will subject the employee to discharge.

V. TYPES OF TESTING

Drug and alcohol testing will be of the following types:

1. Pre-employment (drug testing only)
2. Random
3. Reasonable Cause
4. Post Accident
5. Return-to-Duty
6. Unannounced Follow Up

1. Pre-Employment

Final applicants, including transferees, internal applicants, and other employees who will begin performing safety sensitive duties for LEARN, are required to submit to a drug test. Internal applicants who are already performing safety sensitive functions for LEARN and are currently subject to the Policy will not be required to submit to another pre-employment test.

Any applicant who decides not to cooperate in the pre-employment drug test may withdraw their application. No record will be maintained of the declination.

Final applicants who test positive for drugs will be rejected for employment. It is important to note that employee applicants who test positive will not only be rejected for the position in question but may also be subject to discipline, up to and including termination.

2. Random Testing

All employees will be subject to random drug and alcohol testing at the annualized rate determined by the Department of Transportation (DOT) Federal Highway Administration (FHWA) regulations and as annually determined by the FHWA administrator.

Selection of employees to be tested will be administered by a third party using a validated random selection method. This selection process ensures that every employee has an equal opportunity of being selected at any given time.

Notification of an employee's selection will not be provided until the employee reports for duty on the day on which the drug and alcohol test is to be conducted. Immediately upon notification of being randomly selected the employee is to proceed to the collection facility.

3. Reasonable Cause Testing

LEARN will require an employee to be tested whenever it has a reasonable suspicion that an employee has violated the Policy through the use of alcohol or a controlled substance. LEARN's determination that reasonable suspicion exists to require an employee to undergo testing will be based on specific and concurrent observations of the employee. These observations may include the appearance, behavior, speech, or body odors of the employee. In addition, with respect to controlled substances, they may include indications of the chronic or withdrawal effects of controlled substances.

An employee who is subject to reasonable suspicion testing shall remain readily available for such testing. A failure to do so may be deemed as having refused to submit to the testing.

4. Post Accident Testing

Under this type of testing, employees will be removed from service, typically without pay, pending the outcome of the test(s). Post-accident drug testing is required of any employee involved in an accident under the following circumstances:

- There is a fatality.
- A vehicle is towed from the scene of the accident and a citation is issued to the employee.
- Medical treatment is administered away from the scene of the accident and a citation is issued to the employee.

(Except in cases involving fatalities, a test is not required if a citation is not issued to the employee).

A post accident test will take place as soon as practicable following the accident. If required to take such a test, an employee shall not use alcohol for eight (8) hours following the accident or until he or she undergoes the post-accident test, whichever occurs first.

The employee must remain readily available for such testing or may be deemed to have refused to submit to testing. This does not mean, however, that the employee or anyone else should delay in obtaining necessary medical attention for any injury resulting from the accident. Nor, should the employee, or any other employee, not leave the scene of an accident for the period necessary to obtain assistance, to respond to the accident, or to obtain necessary medical care.

5. Return-to Duty Testing

An employee who has violated the Policy may not return to duty until an alcohol test result indicates blood concentration of less than .02 and a controlled substances test result is verified as negative.

6. Unannounced Follow-up Testing

Some employees may be subject to follow-up testing after having been found in violation of the Policy. These employees are those who had been found to have violated the Policy, who were then referred to a SAP who identified them as needing assistance in resolving the alcohol or drug problem, and then, at the option of LEARN, have been reinstated to their positions. These individuals are subject to unannounced follow-up testing for up to sixty (60) months following their reinstatements.

The number and frequency of these follow-up tests shall be as directed by the SAP and will consist of at least six tests in the first twelve months following the employee's return to duty.

VI USE OF PRESCRIBED AND OVER-THE-COUNTER MEDICATION

Under certain circumstances, LEARN will permit prescribed and over-the-counter medication and/or the use of medication on LEARN premises. These are as follows:

- The medication is specifically prescribed for the employee by his or her physician;
- The medication is clearly labeled with the employee's name, the name of the medication and the physician's Federal Drug Enforcement Administration license number;
- The substance is used at the dosage prescribed or authorized; and
- The substance does not impair the employee's ability to perform in the job or endanger the employee's safety or the safety of others.

An employee may report for duty, or remain on duty, while using or possessing a controlled substance only when the employee possesses or is using a prescription drug(s) according to the instructions of a physician and that physician has advised the employee that the drug(s) will not adversely affect his or her ability to safely perform his or her duties. If the employee has been advised by a physician that the prescription drug(s) being taken by the employee could adversely affect the employee's performance, the employee must immediately notify the Medical Review Officer (MRO).

VII. HOW TESTING IS PERFORMED

Location of Testing

Testing will be performed by an outside firm.

Alcohol Testing

In general, alcohol testing will be by using an evidential breath testing device (EBTD). This testing will be administered by a trained tester. Two breath tests are required to determine if an employee has a prohibited alcohol concentration. The first test is a screening test, and any result less than 0.02 alcohol concentrate is considered a negative result. If the alcohol concentration is 0.02 or greater, a confirmation test will be conducted. The confirmation test, if required, will be conducted using an EBTD that prints out the test results, date and time, a sequential test number, and the name and serial number of the EBTD to insure the reliability of the results. The confirmation test results determine any actions taken.

Blood alcohol tests may be used when the employee attempts and fails to provide an adequate amount of breath or when an EBTD is not readily available for post-accident or reasonable suspicion testing.

Controlled Substances Testing

Drug testing will be conducted by analyzing the employee's urine specimen. The employee will be required to provide a urine specimen in a location that affords privacy. The collection site person seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory. The specimen collection procedures and the chain of custody documentation help ensure that the specimen security, proper identification, and integrity of the test are not compromised. This helps protect an individual from any inaccurate reporting of test results.

All urine specimens are analyzed for the following drugs:

- Marijuana (THC metabolite);
- Cocaine;
- Amphetamines;
- Opiates (including heroin);
- Phencyclidine (PCP); and
- Steroids.

The testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. If the confirmation test is negative for controlled substances, LEARN shall disregard the initial screening test.

All drug test results are reviewed and interpreted by the MRO before they are reported to LEARN. If the laboratory reports a positive result to the MRO, the MRO will contact the employee, typically either in person or by telephone, and will conduct an interview to determine if there is an alternative

medical explanation for the drugs found in the employee's specimen. If the employee provides appropriate documentation and the MRO determines that it is a legitimate use of the prohibited drug, the drug result is reported as negative to LEARN.

When the employee provides a urine specimen, it is subdivided into two bottles labeled as a primary and split specimen. Both bottles are sent to the laboratory but only the primary specimen is opened and used for the analysis described above. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the employee may, within seventy-two (72) hours of being notified of a verified positive test result, request that the MRO direct the split specimen be forwarded by the first laboratory to a DHHS certified laboratory. The second laboratory will analyze the split specimen for the presence of the drug(s) for which a positive result was obtained in the first test of the primary specimen. If the result of the test of the split specimen fails to reconfirm the presence of the illegal drug(s) found in the primary specimen, the MRO shall cancel the test and the first positive result shall be disregarded by LEARN.

VIII. REPORTING OF VIOLATIONS OF THE POLICY OR THESE PROCEDURES

Employees are encouraged to make good faith reports of a violation or suspected violation of the Policy or these procedures. Employees are prohibited from knowingly making a false report of a violation. They are also required to cooperate with any LEARN investigation into possible violations of the Policy.

IX. STANDARDS & AUTHORITY

The policy and this document is intended to be consistent with the rules and regulations laid out in the Department of Transportation, Federal Highway Administration's regulations, found at 49 CFR Parts 40, 382, 391, and 394. These regulations apply to anyone in, transferring into, or applying to be in, the position of a commercial motor vehicle operator.

To the extent the Policy covers employees not covered by the DOT regulations, parallel methodologies and procedures will be utilized by LEARN under authority to ensure that its employees performing safety sensitive functions remain drug and alcohol free. Such employees include anyone in, transferring into, or applying to be in, the position of a student transportation vehicle operator, or a position performing safety sensitive functions.

Since the Policy and these procedures cover a variety of safety sensitive positions, to the extent that provisions are outside the scope of the DOT FHWA regulations, they are to be considered as based upon LEARN's employer authority and authority under other Federal and State statutes, regulations and ordinances that allow and require it to maintain a safe and substance-free workplace and educational environment.

EMPLOYEE ACKNOWLEDGEMENT

I, _____, hereby acknowledge that I have received a copy of LEARN's Substance Abuse Policy and Procedures applicable to Operators of Commercial Vehicles (CDL Drivers), Operators of Student Transportation Vehicles, and Employees Performing Safety Sensitive Functions.

I understand that I am responsible for reading and keeping a copy of both documents. I understand that LEARN may make changes in these documents without prior notice and that I am responsible for reading and keeping a copy of any such written changes that are provided to me.

I understand that these documents create no express or implied contract.

Date _____

Employee's Signature

Received by: _____

**NOTICE TO APPLICANTS, TRANSFEREES,
AND
OTHER EMPLOYEES APPLYING FOR DRIVING OR
SAFETY SENSITIVE JOBS**

Drug Testing for Applicants.

LEARN requires successful completion of a urinalysis drug testing as part of its pre-employment screening process. Any applicant who decides not to cooperate in the pre-employment drug test may withdraw their application. No record will be maintained of the declination.

Applicants who test positive for drugs will be rejected for employment. It is important to note that employee-applicants who test positive will not only be rejected for the position in question but may also be subject to discipline, up to and including termination.

Drug and Alcohol Testing for Employees

If accepted for employment, you will be required successfully complete a urinalysis drug test and or breath alcohol test if LEARN has reasonable suspicion that you are under the influence of drugs and or alcohol. LEARN also requires employees to undergo random urinalysis drug and alcohol tests.

Drug alcohol tests are conducted for LEARN by an outside, professional laboratory. Further details will be provided to applicants who successfully meet LEARN's other criteria for employment.

Because we are required to notify applicants of our intent to conduct this testing, we ask that you sign and date this notice.

Date _____

Signature