

**SAN BERNARDINO COUNTY
FIRE/SPECIAL DISTRICTS DEPARTMENT**

DRUG AND ALCOHOL TESTING POLICY

**FOR POSITIONS REQUIRING COMMERCIAL
OR NON-COMMERCIAL DRIVER'S LICENSE
AND FOR ALL NEW EMPLOYEES**



**Effective: January 1, 1996
Revised: August 1, 2001**

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POLICY STATEMENT

The San Bernardino County Fire/Special Districts Department is committed to providing a safe and drug-free work environment. This commitment is placed in jeopardy when any employee participates in the illegal use of drugs or the abuse of alcohol on or off the job. Employees who abuse illegal drugs/alcohol, on or off duty, tend to be less productive, less reliable and prove to have greater absenteeism, accidents, and injury to themselves and others, resulting in the potential for increased loss, delay, risk, and liability.

The San Bernardino County Fire/Special Districts Department has adopted rules and procedures to implement the requirements of the Drug-Free Workplace Act of 1988 that apply to all District employees. The purpose of this Policy is to implement pre-employment drug testing for all new employees and the requirements of the United States Omnibus Transportation Employee Testing Act of 1991 that mandates drug and alcohol testing of all employees required to possess a commercial or non-commercial (firefighter exemption) driver's license, and incorporate Federal Rule revisions effective August 1, 2001. Employees covered by this Policy include those individuals who are required to:

Possess a commercial or non-commercial (firefighter exemption) driver's license, Class A or Class B, and drive one of the vehicles described below:

1. A vehicle of over 26,001 gross vehicle weight rating (GVWR).
2. A vehicle with a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a GVWR of more than 10,000 pounds.
3. A vehicle designed to transport more than sixteen (16) passengers, including the driver.
4. A vehicle of any size transporting hazardous materials requiring placards.

Employees required to possess a commercial or non-commercial (firefighter exemption) driver's license will be subject to drug and alcohol testing under the following conditions:

1. Pre-employment/transfers into such a position.

2. Random testing.
3. Reasonable suspicion that you are impaired by the use of drugs or alcohol.
4. Post-accident.
5. Upon return to duty after a violation of the rules on drugs or alcohol.
6. Follow-up testing after it has been determined an employee has a problem related to alcohol or drug use.

This Policy prohibits covered employees reporting to work under the influence of alcohol, illegal drugs and/or other mind-altering chemicals. Employees who have traceable amounts of alcohol or illicit drugs in their system when they report to work or during working hours are in violation of this Policy, regardless of when or where the substance entered the employee's system (this includes during off-duty hours).

If a drug or alcohol test shows that an employee is under the influence, the employee may be disciplined or terminated from his/her position. The employee may also be eligible for treatment or rehabilitation.

DEFINITIONS

1. **Alcohol** – Any beverage containing alcohol. Although the purchase and consumption of alcohol is legal, reporting to work under the influence, consuming alcoholic beverages on District premises or at the worksite is in direct violation of this Policy.
2. **Drugs** – Any controlled or illegal substance (subject to regulation by the state or federal government) capable of altering the mood, perception, or judgment of the individual consuming it.
3. **Drug & Alcohol Testing Coordinator** – The Drug & Alcohol Testing Coordinator for the Districts is Diana Leibrich, Human Resources Division Manager. This function includes overseeing the program; maintaining all necessary records regarding testing required by the DOT Rules and Regulations; implementing and administering the random testing portion of the program; and acting as a consultant to all Districts in the implementation of the program.
4. **Panel 5 Drug Test** – The test that evaluates the presence of five (5) categories of drugs established by the federal government which fall under “controlled substances.” They are cocaine, amphetamines, opiates, marijuana and phencyclidine (PCP). Use, sale, distribution and/or manufacture of these substances are against the law and a direct violation of this Policy.

5. **Panel 10 Drug Test** – The test that evaluates the following ten (10) drug categories: the five (5) panel drugs named in No. 4, plus barbiturates, benzodiazepines, methadqualone, methadone, and propoxyphene.
6. **Medical Review Officer (MRO)** – A licensed physician certified to review and interpret all drug tests before they are reported to the employer.
7. **Performing a Safety-Sensitive Function** – A driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
8. **Premises** – Buildings, property, work areas, vehicles, parking lots and any place the employee happens to be during the course and scope of District employment during regular working hours or pay status.
9. **Pre-placement/Transfer** – A drug test conducted after an offer to hire, but before actually performing safety-sensitive functions for the first time. Also required when employees transfer, promote, demote, or reassign to a safety-sensitive position.
10. **Prescription Drugs** – Any drug or medication prescribed by a licensed physician for a medical condition. Use of prescribed drugs are not in direct violation of this Policy, however, inappropriate use or prescribed use that may cause significant impairment, thus creating a safety hazard on the job, is in direct violation of this Policy.
11. **Random Selection** – An unannounced selection of covered employees. All covered employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
12. **Reasonable Suspicion** – A belief based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech and/or body odors of the employee and reasonable inferences drawn from those facts related specifically to job performance, a threat to themselves or the safety of others.
13. **Post-Accident** – Covered employees that have been involved in any accident/incident where alcohol, drugs or other substances cannot be discounted as a contributing factor to the accident/incident, regardless of the amount of damage, extent of injuries or whether the employee received a citation or not.
14. **Safety-Sensitive Personnel** – Employees holding a commercial or non-commercial (firefighter exemption) driver's license and may operate a vehicle covered under the Act on a full-time, part-time or intermittent basis.
15. **Substance Abuse Professional (SAP)** – A licensed physician, licensed or certified psychologist, social worker, employee assistance professional or an alcohol and drug abuse counselor certified by the National Association of Alcohol and Drug Abuse Counselors (NAADAC) Certification Commission. All persons listed in the definition

must have specific knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders to qualify.

16. **Under the Influence** – For the purpose of this Policy, “under the influence” shall be interpreted as (a) having a controlled or illegal substance(s) in one’s system; or (b) due to reasonable cause or suspicion of drug use, being required to take a drug test and having a verified positive result; or (c) being impaired physically and/or mentally as a result of drug, alcohol and/or prescription drug ingestion.

DRUG TESTING

When drug screening is required under the provisions of this Policy, a urinalysis test will be given to detect the presence of the following drugs:

	Screening Cutoff	Confirmation Cutoff
Cannabinoids as Carboxy (THC)	100 ng/ml	15 ng/ml
Cocaine Metabolites as Benzoylecgonine	300 ng/ml	150 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml
Opiates (codeine/morphine)	300 ng/ml	300 ng/ml
Amphetamines (amphetamine, methamphetamine)	1000 ng/ml	1000 ng/ml
Barbiturates	300 ng/ml	300 ng/ml
Benzodiazepines	300 ng/ml	300 ng/ml
Methadone	300 ng/ml	300 ng/ml
Methaqualone	300 ng/ml	300 ng/ml
Propoxyphene	300 ng/ml	300 ng/ml

The threshold levels that are used to determine when a 5 or 10 panel drug screen is positive (screening cutoff and confirmation cutoff) are shown above, and have been established as levels above which a person is considered under the influence. The procedures are immunoassay (EMIT) screens with gas chromatography/mass spectrometry (GC/MS) confirmation, the industry standard of the Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratories (formerly NIDA). Panel 5 drug screen will be used for all testing except for reasonable suspicion testing for which Panel 10 will be used in keeping with past practice.

When an employee or applicant is providing a sample, individual privacy will be allowed unless there is a reason to believe that the individual giving the sample may alter or substitute the specimen to be provided. The following circumstances constitute reasons to immediately collect a urine specimen under direct observation:

1. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports that there is not an adequate medical explanation for the result.

2. The MRO reports that the original positive, adulterated or substituted test results had to be cancelled because the test of split specimen could not be performed.
3. The collector observes action indicating an attempt to tamper, or specimen appears to have been tampered with.
4. The temperature on the original specimen is out of the normal range (normal range is 32-38 degrees centigrade or 90-100 degrees Fahrenheit). Direct observation will be initiated immediately at time of determination that specimen is out of range.
5. The District may direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.
6. A monitored collection may be initiated if sounds or observations indicating an attempt to tamper results are present.

When an employee presents to the collection site, the procedures outlined in Attachment A will be followed. If a second test is required, employee must remain at the collection site to provide the second sample. Failure to attempt to provide the second sample and/or failure to provide a second sample before the three (3) hour time limit constitutes a refusal to test.

Dilute Test: If the MRO reports that a positive drug test was diluted, the test will be considered a verified positive test. If a negative test is diluted, the district may direct the employee to take another test immediately. If another test is considered, the employee must be given the minimum advance notice to go to the collection site. The result of the second test, rather than the original test, becomes the test of record. If the employee is directed to take a second test but declines or fails to do so, the employee is considered to have refused to test.

Cancelled Test: If the District receives notification of a cancelled test when a negative result is required, the District shall direct the employee to provide another specimen immediately.

Invalid Test: If the District receives notification that the result of the employee's test was invalid, requiring a second collection under direct observation. The employee must not be given advance notice. The result of the second test, rather than the original test, becomes the test of record.

ALCOHOL TESTING

This Policy requires breath testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA).

Prior to conducting the breath test, the Breath Alcohol Technician (BAT) must complete Step 1 of the breath Alcohol Testing Form (ATF). The employee must then complete Step 2 of the

form and sign the certification. Refusal by the employee to sign the certification or complete Step 2 of the form constitutes a refusal to take the test (see section “Refusal to Consent or Test”).

The BAT will administer the test. The BAT will show the employee the displayed test results.

Note: If the EBT device prints the test number, testing device name and serial number, time, and result directly onto the ATF, the BAT must check to ensure that the information has been printed correctly.

If the EBT device is one that prints the test number, testing device name and serial number, time and results, but on a separate printout rather than directly onto the ATF, the BAT must affix the printout of the information to the designated space on the ATF with tamper-evident tape or use a self-adhesive label that is tamper-evident.

If the EBT device does not print the test number, testing device name and serial number, time and result, or is not being used with a printer, the BAT must record this information in Step 3 of the ATF.

Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than .02 alcohol concentration is considered a “negative” test.

If the alcohol concentration is .02 or greater, a second or confirmation test must be conducted. The employee and the BAT complete the alcohol testing form to ensure that the results are properly recorded. The employee must be instructed not to eat, drink, put any object or substance into his/her mouth and, to the extent possible, not to belch during the 15 minute waiting period between the completion of the screening test and the beginning of the confirmation test.

The confirmation test must be performed within 30 minutes of the completion of the screening test. However, even if more than 30 minutes have passed since screening test results were obtained, the BAT must begin the confirmation test procedures, not another screening test. The BAT must note on the ATF the time elapsed and why the confirmation test did not occur within 30 minutes of the screening test.

The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. The BAT must show the employee the result displayed on the EBT.

If the District receives information from the BAT that the employee has not provided a sufficient amount of breath, the District must direct the employee to obtain, within five (5) days, an evaluation from a licensed physician who is recommended by Addiction Medicine Consultants and has expertise in the medical issues raised by the employee’s failure to provide a sufficient specimen.

The physician must then provide the County's Center for Employee Health and Wellness directly with a signed statement of his/her conclusions. If the physician believes that a medical condition could have precluded a sufficient amount of breath, the test is cancelled. However, if the physician finds no adequate basis for determining that a medical condition, with a high degree of probability, precluded a sufficient amount of breath, the conclusion will be that the employee refused to test.

If the screening and confirmation test results are not identical, the confirmation result is deemed to be final. The confirmation test results determine any actions taken.

PROHIBITED ACTS

The following conditions constitute violation of this Policy and will result in the driver being moved from performing safety-sensitive duties for a minimum of twenty-four (24) hours. The driver will not be permitted to return back to duty until they have been assessed and cleared by either the Medical Review Officer or the Substance Abuse Professional and have tested negative for drugs or alcohol in a return to duty screen:

1. Having an alcohol concentration greater than .02 as indicated by an alcohol breath test.
2. Testing positive for the presence of drugs from a Panel 5 or Panel 10 drug screen.
3. Refusing to submit to an alcohol or drug test as required by this Policy may result in administrative or disciplinary action, up to and including termination.
4. If the information from previous employers has not been received within 30 days after the first time an employee performs a safety-sensitive function. (See specific information in Pre-Placement/Transfer section.)

In addition to the above conditions, California Department of Motor Vehicles' regulations prohibit a commercial or non-commercial (firefighter exemption) driver from possessing or consuming alcohol while on the job or consuming alcohol four (4) hours before going on duty.

PRE-PLACEMENT/TRANSFER

1. All pre-placement health screens will include a urine drug screen, consistent with all new hires to the Districts.
2. All job announcements for covered positions shall specify that drug/alcohol screening shall be part of the physical examination.
3. Only applicants who have been given a job offer conditioned upon passing a physical examination shall be given a drug/alcohol screening test.

4. As a prerequisite to employment, applicants must sign a consent form and submit to pre-employment alcohol/controlled substance testing. Any applicant who does not consent to such testing will not be considered for employment. If the consent form is signed, the pre-employment health screen is conducted and the urine specimen collected.
5. If the test results are positive, the Districts will inform the individual that he/she has not passed the pre-placement physical and that they are disqualified from District employment for a period of twelve (12) months.
6. No prospective employee may begin work prior to approval from the Center for Employee Health and Wellness and will not be allowed to begin work at all if illicit drugs/alcohol are identified during the drug screening process.
7. The 5 Panel drug testing is required when employees transfer, promote, demote, or reassign to a safety-sensitive position.
8. Each District must check on the drug and alcohol testing record of applicants or employees it is intending to use to perform safety-sensitive duties for the first time if the applicant or employee has worked for a DOT regulated employer within the past two (2) years prior to date of application or effective date of transfer, promotion, demotion, or reassignment. The Districts must request the written consent of the applicant or employee for the release of such information, and provide it to each employer for whom the employee worked during the previous two (2) year period. If the employee refuses to sign the written consent, the Districts must not permit the employee to perform safety-sensitive functions.

The District must request the following information from the previous employer:

- a. Alcohol tests with a result of .04 or higher concentration.
- b. Verified positive drug tests.
- c. Refusals to be tested, including verified adulterated or substituted drug test results.
- d. Other violations of DOT agency drug and alcohol regulations.
- e. Documentation of the employee's successful completion of DOT return-to-duty requirements if employee violated a DOT drug or alcohol regulation. This includes information regarding follow-up testing. If the former employer does not have this information, the information must be obtained from the employee. If the employee has not completed or complied with the return-to-duty requirement, he/she must be removed from performing safety-sensitive duties until they show evidence of complying with the requirements.

When the Districts receive the requested information, the information must be reviewed before the employee first performs safety-sensitive duties, if feasible, or as soon as possible. The Districts must not permit the employee to perform safety-sensitive functions after 30 days from the date the employee first performed safety-sensitive duties unless the Districts obtained or made and documented a good faith effort to obtain the information.

9. The Districts must maintain a written, confidential record of the information obtained, or of the good faith efforts to obtain the information. The information must be retained for three (3) years from the date of the employee's first performance of safety-sensitive duties for the District.
10. The Districts must also ask the employee whether he/she tested positive, or refused to test on any pre-employment drug or alcohol test administered by an employer for which the employee applied for, but did not obtain the safety-sensitive position covered by the DOT drug and alcohol testing requirements during the past two (2) years. If the employee admits that he/she had a positive test or a refusal to test, the Districts must not use the employee for the safety-sensitive work until and unless the employee documents successful completion of the return-to-duty process.
11. If the Districts receive a request for drug and alcohol testing information pertaining to a former employee who was subject to DOT regulations, the Districts must first verify the former employee's written consent, then immediately release the requested information to the employer making the request. The Districts must maintain a written record of the information released, including the date, the employer it was released to, and a copy of the information provided.

RANDOM SELECTION

Random Testing Requirements:

Employees subject to random selection for the purpose of alcohol and drug testing of controlled substances will include all covered employees.

The following items regarding the random selection and testing procedure will apply:

1. The number of drug tests conducted annually shall equal or exceed 50% of the average number of employees for which testing is required. Random alcohol tests shall equal or exceed 25% of employees.
2. The District shall use a random selection process to select and request an employee to be tested for use of alcohol or controlled substances.
3. An employee shall submit to alcohol or controlled substance testing when selected by a random selection process used by the District.

To assure that the process is in fact random, all covered employees, whether or not they have been chosen for testing in the past, will remain in the pool of employees for each subsequent period. This procedure assures that the probability of any individual being selected each period is always the same, whether or not the individual was selected in a previous period.

Selecting Employees for Drug Testing:

Covered employees shall be assigned numbers. Under a computerized system, a random number generating program is loaded into a computer along with the names or identification numbers for the covered parties. A third party, who is not a District employee, will check this list regularly for additions or deletions. The computer then generates a list of employees to be tested during the current testing period.

The selection process is repeated until the required number of employees is selected. Once the list of test subjects is generated, employees should not be informed that they have been selected until they must report for testing. **Advance notice of testing shall not be given.** As in all types of tests, accurate records of the details of testing must be kept and confidentially maintained at all times.

REASONABLE SUSPICION

The Department shall require an employee to be tested, upon reasonable suspicion, for the use of drugs or alcohol.

An employee shall submit to testing, upon reasonable suspicion, for the use of drugs or alcohol when requested to do so by their supervisor.

A supervisor or District official must witness the conduct. At least one of the witnesses must have received training in the identification of actions, appearance or conduct of an employee, which are indicative of the use of drugs or alcohol.

“Reasonable Suspicion” is a belief based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech and/or body odors of the employee and reasonable inferences drawn from those facts related specifically to job performance, a threat to themselves or the safety of others. The witness(es) must directly observe the behavior. Hearsay or second-hand information is not sufficient cause to require an employee to submit to a drug test. The determination that a reasonable suspicion exists to require an employee to undergo an alcohol test must be based on specific, objective, contemporaneous, articulable facts concerning the behavior, appearance, speech or body odors of the employee. It must be based upon observations of the supervisor making the determination, and may not be based upon hearsay. The supervisors witnessing the impairment must document the specific observations upon which the reasonable suspicion is based.

The attached Observed Behavior/Reasonable Suspicion Record should be used to document reasonable suspicion (see Attachment B).

Alcohol testing may be performed only if the observations upon which reasonable suspicion are based are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance. An employee may be directed to undergo a reasonable suspicion alcohol test just before, during or just after performing safety-sensitive functions. The employee shall not be permitted to transport him/herself.

Once a reasonable suspicion determination is made, it is the responsibility of the employer/supervisor to assure that the employee under suspicion is evaluated, and when necessary, transported to a specimen collection site to provide a urine/breath sample.

If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination, the supervisor shall document the reasons for the delay. If an alcohol test is not administered within eight (8) hours, the test shall not be administered, and the supervisor shall document the reasons.

If an alcohol test indicates a concentration of .02 or greater, the employee may not be permitted to perform any safety-sensitive functions until no less than 24 hours have elapsed following the determination of reasonable suspicion. The District shall see that the employee is transported home, and does not drive him/herself home.

It is recommended the driver tested for reasonable suspicion be denied Commercial Motor Vehicle (CMV) driving privileges until the test results are received from the Medical Review Officer (MRO).

POST-ACCIDENT TESTING

For purposes of this Policy, an “accident” is defined as any accident/incident where alcohol, drugs or other substances cannot be discounted as a contributing factor to the accident/incident, regardless of the amount of damage, extent of injuries or whether the employee received a citation or not.

As soon as practicable after an accident, alcohol and drug tests shall be administered to every surviving employee:

1. Where a human fatality occurs (all surviving drivers will be tested).
2. Any driver who receives a citation for the operation of the CMV under the following circumstances:
 - a. Disabling damage to any motor vehicle requiring a tow away.
 - b. Bodily injury with immediate medical treatment away from the scene.
3. Whose operation of the vehicle cannot be ruled out by the supervisor as a contributing factor.

The following criteria will be applied in conducting a drug/alcohol test due to accidents, incidents or related occurrences:

1. The post-accident test must be given as soon as practicable during the eight (8) hours following an accident/incident.
2. The test for alcohol should be administered as soon as possible. If not completed within two (2) hours, the employer/supervisor must prepare and maintain records stating why. If eight (8) hours have passed, the attempts should be discontinued. Again, the employer/supervisor must record why they were unable to administer the test.
3. If a drug test is not administered within thirty-two (32) hours following the accident, the test may not be administered, and the supervisor shall document the reasons.
4. Following an accident, the employee shall remain available for such testing, or may be deemed to have refused to submit to testing. This rule does not require the delay of necessary medical attention for injured people following an accident, nor prohibit the employee from leaving the scene to obtain assistance or necessary emergency medical care.
5. An employee subject to post-accident testing may not use alcohol within eight (8) hours following the accident or before an alcohol test , whichever comes first.
6. The employee shall not perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

RETURN-TO-DUTY TESTING

Employees who violate the San Bernardino County Fire/Special Districts Department Drug/Alcohol Policy standards and are accepted into return-to-duty and follow-up status will comply with the following guidelines:

1. Employees who violate the Districts drug/alcohol policies must have a return-to-duty test that would require the employee to test negative for drugs and/or alcohol.
2. Such employees will be referred to the Substance Abuse Professional (SAP) for further assessment. The SAP may require, as a condition of return-to-duty, that the employee successfully complete a rehabilitation program.

FOLLOW-UP TESTING

All employees identified by the Substance Abuse Professional (SAP) as needing assistance will be subject to follow-up testing upon returning to duty. They will be subject to a minimum of six (6) unannounced tests over the following twelve (12) months. The SAP can direct additional testing during this period or for an additional period up to a maximum of sixty (60) months from the date the employee returns to duty. The SAP can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the SAP determines that the testing is no longer necessary and is supported by the employer.

Follow-up testing may include tests for other substances beyond the employee's initial positive test of alcohol and/or drugs when the SAP has reason to suspect other drugs or alcohol during the follow-up period.

The Districts may not impose additional testing requirements beyond the SAP's follow-up testing plan. The Districts may not substitute other tests, such as tests conducted under the random testing program, for tests required under the follow-up testing plan.

CONSENT

Before a drug test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those Department representatives with a need to know. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the Department's drug testing policy.

REFUSAL TO CONSENT

A job applicant who refuses to consent to a drug test will be denied employment with the San Bernardino County Fire/Special Districts Department.

An employee's failure to submit to drug testing required by the Department for any reason may result in administrative action, up to and including termination.

Any supervisor or manager encountering an employee who refuses an order to submit to a drug and/or alcohol screening shall remind the employee of the Policy requirements and disciplinary consequences of such action.

Any of the following constitutes a refusal to test:

1. Failure to appear at testing site within a reasonable amount of time, as determined by the Districts, after being directed to go to the collection site.
2. Failure to remain at the testing site until testing is completed.
3. Failure to provide a urine specimen when required or failure to provide sufficient amount of urine without medical explanation.

4. Failure to provide sufficient saliva or breath, without medical explanation.
5. Failure to sign the appropriate forms when asked to do so at the testing site.
6. Declining to take a second test as directed.
7. Failure to undergo medical evaluation as directed by the Districts as part of the insufficient breath procedures.
8. Failure to cooperate with testing process.

Where there is a reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor shall arrange for the employee to be safely transported home. (The employee shall not be permitted to transport him/herself.)

DISCIPLINE FOR WORK-RELATED PROBLEMS

The San Bernardino County Fire/Special Districts Department may, in its sole discretion, impose administrative/disciplinary measures, up to and including termination, upon employees for violations of this Policy, any Department rule, and/or work-related problems on a case-by-case basis.

CONFIDENTIALITY

Confidentiality is an essential element of this Substance Abuse Policy. The results of any testing done pursuant to this Policy shall be used for employment purposes only and shall not be released for use in the criminal justice system.

All records pertaining to drug and alcohol testing of an employee shall be contained in a separate confidential medical file that will be securely kept under the control of the Chief of the Human Resources Division, separate from the employee's other personnel records.

Except as permitted below, absent the employee's consent, test results may be disclosed only to District management and only on a strictly need-to-know basis, and to the employee upon request.

The Department may disclose test results without the employee's consent only when:

1. The information is compelled by law or by judicial or administrative process;
2. Information has been placed at issue by the employee in a formal dispute between the employee and the Department;
3. The information is necessary to administer an employee benefit plan; or,

4. Medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure need the information.

The Districts or their service agent may disclose information as follows:

1. Written consent from an employee authorizing the release of information about that employee's drug or alcohol tests to an identified person.
2. If requested by a DOT agency representative as part of the regulations governing this Policy.
3. If requested by a Federal, State, or local safety agency with regulatory authority.

Any positive test results, which are later determined to be invalid, shall be removed from the employee's file, and not used for any purpose.

RECORD-KEEPING

The Human Resources Division of the Special Districts Department will keep the following records for the periods specified. These records will be under the control of Diana Liebrich, Human Resources Manager or a designee:

1. Results of an employee's alcohol test which indicates an alcohol concentration level of .02 or higher; results of an employee's controlled substance test which is positive; documentation of an employee who refused to submit to a required alcohol/drug test; calibration documentation; employee assessments and referrals by substance abuse professionals. Retention Period: Five (5) years.
2. Records documenting the collection process for the alcohol and controlled substances test and training of supervisors. Retention Period: Two (2) years.
3. Results of any alcohol test which is less than .02, documentation of any negative or cancelled drug test. Retention Period: One (1) year.
4. Results from pre-placement examination process will be maintained at the Center for Employee Health and Wellness per their policy.

MEDICAL REVIEW OFFICER (MRO)

The role of the Medical Review Officer (MRO) is to review and interpret drug test results obtained through the testing program and his/her duties are purely administrative. The MRO must determine whether there is legitimate medical explanation for any positive, adulterated, substituted, and invalid drug test results. The MRO must review all medical records made

available by the tested individual when confirmed positive test findings could result from legally prescribed medication. The MRO must not consider the results of urine samples that are not obtained in accordance with DOT regulations.

Before verifying positive results, the MRO will review the chain of custody forms and give the individual the opportunity to discuss the test results. The conversation must be directly with the individual that gave the specimen. If the MRO cannot reach the individual after making reasonable attempts to do so, the Districts will be contacted and instructed to contact the employee.

The Districts will then document attempts to contact the employee. The MRO may verify a test as positive or as a refusal to test because of adulteration or substitution without interviewing the employee in any of the following circumstances:

1. The employee expressly declines the opportunity to discuss the test.
2. More than 72 hours have passed since the Districts contacted and advised the employee to contact the MRO, and documented the advertisement.**
3. Reasonable efforts by the Districts or MRO to contact the employee within ten (10) days of receiving test results have been unsuccessful.

** If a test is verified positive under this circumstance, the employee may present information to the MRO within 60 days of the verification documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from timely contacting the MRO and/or Districts. If the MRO concludes that there is legitimate explanation, the MRO declares the test to be negative. This does not apply to pre-placement examination.

The MRO must notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen to be tested at another certified laboratory. This does not apply to pre-placement examination.

SUBSTANCE ABUSE PROFESSIONAL (SAP)

All covered employees who engage in conduct prohibited under this Policy shall be evaluated by a Substance Abuse Professional (SAP). The Districts will provide for the SAP evaluation to assess employees with drug and/or alcohol misuse problems. The Districts will only provide for an assessment by a SAP. All further treatment or rehabilitation, including costs, is the responsibility of the employee. Where care is provided under the employee's health care plan, employees may avail themselves of that option. An employee wishing to use their health plan benefit should contact Debra Taylor, Employee Assistance Program, at (909) 387-5529 for assistance in accessing their benefits.

In those cases when the SAP determines the employee needs further assistance, before returning to duty, the employee must (1) be evaluated again by the SAP to determine whether the employee has successfully complied with the treatment program prescribed following the initial evaluation; (2) undergo a drug and/or alcohol test to satisfy established acceptable results for return to duty; and (3) be subject to a minimum of six (6) unannounced, follow-up drug and/or alcohol tests over the following twelve (12) months. It should be noted that employees who engage in conduct prohibited under this Policy are disqualified from performing safety-sensitive duties until they have complied with any problem prescribed by the SAP and have obtained the results from a return to duty drug and/or alcohol test which results in a “negative” reading for the presence of the drugs or alcohol. Since employees have been disqualified through their own conduct, they will not be entitled to use paid leave benefits during this period of time. The only exception is that accrued sick leave with pay will be allowed to be used when the employee is participating in a rehabilitation treatment program and provides proof of attendance.

EMPLOYEE ASSISTANCE PROGRAM

Rehabilitation is the personal responsibility of the employee. Covered employees with drug or alcohol misuse problems are encouraged to seek help now to avoid engaging in conduct that would be in violation of this Policy. Employees seeking treatment would be entitled to use accrued sick leave while enrolled in a rehabilitation program.

The Employee Assistance Program provides initial counseling services free of charge for employees and their immediate family members. If additional professional help is warranted, the employee or family member may be referred to a community agency or other professionals for further assistance. Counselors are knowledgeable of the services available to employees in the area. There are also many excellent services in the community which are free of charge or that charge a low fee. Attachment C provides a listing of drug and alcohol resources in the County of San Bernardino.

The following County of San Bernardino employee health plans provide coverage for either detoxification benefits or a combination of detoxification/rehabilitation benefits and alcohol and drug abuse services, depending upon the benefits offered by the plan.

Contact Debra Taylor, Employee Assistance Program at (909) 387-5529 for assistance in accessing the benefits of these health plans.

1. Kaiser
2. Blue Cross
3. Health Net

ATTACHMENT A

**DRUG TESTING SPECIMEN COLLECTION
PROCEDURES FOR THE EMPLOYEE**

1. Report to the specimen collection site as soon as possible after notification to report. Refusal to report for collection or refusal to cooperate with the collection process will result in a determination of a refusal to provide a specimen. You must remain at the collection site until the collection process is completed.
2. Show the collection site personnel an official photo identification card.
3. Check your outer garments with the collection site personnel for safekeeping. You have the right to retain your wallet and to ask for a receipt for your belongings.
4. Rinse and dry your hands.
5. Obtain a wrapped specimen container from the specimen collection personnel.
6. Proceed to the privacy enclosure and provide a specimen in the collection container. At least 45 milliliters of urine are required for analysis. If an insufficient amount of urine is provided, the original specimen will be discarded and you will be required to consume not more than 40 ounces of fluids in three (3) hours to provide another specimen. Do not tamper with the specimen or make substitutions. The specimen will be visually inspected for unusual color and sediment.
7. The temperature of the specimen will be measured and must fall within an acceptable range. If the temperature falls outside of the acceptable range, you will be required to provide an observed collection to complete the collection process.
8. Give the specimen to the specimen collection personnel and watch the sealing and labeling of your bottles. Initial the labels verifying that the specimen is yours.
9. You may wish to indicate on the back of your copy of the chain of custody and control form any medications you are currently using. This may serve as a memory jogger in the event a MRO calls you to discuss the results of your test.
10. The results of the laboratory analysis will be forwarded to the program's MRO. If the results are negative (no drugs detected), the MRO will notify the employee. If the laboratory confirms a positive results (drugs detected), the MRO will contact you at the telephone number you provided to give you the opportunity to discuss the test results and to submit information demonstrating authorized use of the drugs in question.

ATTACHMENT B

OBSERVED BEHAVIOR – REASONABLE SUSPICION RECORD

Employee Name: _____ Employee ID No. _____

Observation Date: _____ Time: (from _____ a.m./p.m. to _____ a.m./p.m.)

Location: _____
Street City State Zip

QUESTIONS:

Do you have any medical problems for which you are currently being treated? _____

If yes, what are you being treated for? _____

What is your doctor’s name, address, and telephone number? _____

Are you using any medications? _____ If yes, what medications and for what reason?

Do you have any medical problems for which you are not currently being treated? _____ If yes, please describe: _____

Are you using any type of drug? _____ If yes, what? _____
When? _____ Where? _____ With whom? _____

Have you had alcohol, an alcoholic beverage, or another substance with alcohol in it? _____
If yes, what? _____ When? _____
Where? _____ With whom? _____

Cause for Suspicion

Presence of drugs and/or drug paraphernalia (specify): _____

Appearance

<input type="checkbox"/> Normal	<input type="checkbox"/> Puncture Marks	<input type="checkbox"/> Dilated/Constricted Pupils
<input type="checkbox"/> Tremors	<input type="checkbox"/> Bloodshot Eyes	<input type="checkbox"/> Inappropriate or Profuse Sweating
<input type="checkbox"/> Flushed	<input type="checkbox"/> Runny Nose/Sores	<input type="checkbox"/> Inappropriate Wearing of Sunglasses
<input type="checkbox"/> Disheveled	<input type="checkbox"/> Dry-Mouth Symptoms	<input type="checkbox"/> Other _____

Behavior/Speech

<input type="checkbox"/> Normal	<input type="checkbox"/> Incoherent	<input type="checkbox"/> Slurred
<input type="checkbox"/> Silent	<input type="checkbox"/> Confused	<input type="checkbox"/> Slowed
<input type="checkbox"/> Whispering	<input type="checkbox"/> Other _____	

Awareness

<input type="checkbox"/> Normal	<input type="checkbox"/> Paranoid	<input type="checkbox"/> Mood Swings
<input type="checkbox"/> Lethargic	<input type="checkbox"/> Confused	<input type="checkbox"/> Lack of Coordination
<input type="checkbox"/> Disoriented	<input type="checkbox"/> Other _____	

Motor Skills/Balance

<input type="checkbox"/> Normal	<input type="checkbox"/> Swaying	<input type="checkbox"/> Falling
<input type="checkbox"/> Staggering	<input type="checkbox"/> Other _____	

Walking & Turning

<input type="checkbox"/> Normal	<input type="checkbox"/> Swaying	<input type="checkbox"/> Arms Raised for Balance
<input type="checkbox"/> Stumbling	<input type="checkbox"/> Falling	<input type="checkbox"/> Reaching for Support
<input type="checkbox"/> Other _____		

Other Observed Actions or Behaviors (please specify): _____

WITNESSED BY:

_____ Signature	_____ Print Name	_____ Title	_____ Date	_____ Time
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_____ Signature	_____ Print Name	_____ Title	_____ Date	_____ Time
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This document must be prepared and signed by the witness(es) within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

Work Performance

Date: _____ Time: _____ Location: _____

Cause for Suspicion

- | | |
|--|---|
| _____ Unusual or distinct pattern of absenteeism and/or tardiness | _____ Frequent accidents/mistakes |
| _____ Frequent complaints of illness negatively affecting work performance | _____ Frequently missed deadlines or takes more time to complete a job than necessary |
| _____ Increased high/low periods of productivity | _____ Takes needless risks |
| _____ Frequent lapses in concentration and/or judgment | _____ Disregard for safety of others |
| | _____ Frequent complaint of co-workers |
| | _____ Frequently borrowing money from co-workers |

Other: _____

Incident(s) Observed: _____

Date: _____ Time: _____ a.m./p.m. Location: _____

Comments: _____

Name: _____ Signature: _____ Date: _____
Please Print

Employee's Response: _____

Name: _____ Signature: _____ Date: _____
Please Print

ATTACHMENT C

**ALCOHOL AND DRUG RESOURCE DIRECTORY
COUNTY OF SAN BERNARDINO**

Resource	Cost	Phone Number
California Department of Rehabilitation Drug and Alcohol Resource Information	Free	909-383-4401
Care Unit Drug and Alcohol concerns	Variable Fees	909-887-6330
Casa De San Bernardino Drug concerns	No/Low Fees	909-381-5507
Cedar House Rehabilitation Center Drug and Alcohol concerns	No/Low Fees	909-421-7120
Center for Community Counseling	No/Low Fees	909-882-1706
Clearview Outpatient Recovery Drug and Alcohol concerns	Variable Fees	909-842-2885
CPC Rancho Lindo Hospital Drug and Alcohol concerns	Variable Fees	909-235-5570
Department of Public Health Drug and Alcohol information	No/Low Fees	909-387-6280
Gibson House for Women Alcohol concerns	No/Low Fees	909-884-0840
Gibson House for Men Alcohol concerns	No/Low Fees	909-888-6738
Harris House Alcohol concerns, Veterans Only	VA covers cost	909-885-8804
Hase and Associates Project intervention, alcohol information and prevention	No/Low Fees	909-888-0149
Hiram Rivera-Toro & Associates Drug and Alcohol concerns	No/Low Fees	909-824-1260
Inland Behavioral Services Drug and Alcohol concerns	Variable Fees	909-881-6146
Loma Linda BMC Recovery Center	Variable Fees	909-793-6066
Office of Alcohol and Drug Programs	No/Low Fees	909-387-7677
San Bernardino Community Hospital	Variable Fees	909-887-6333
San Bernardino Community Against Drugs	Free	909-381-5888
Substance Abuse Mobile II/PAL Center	Free	909-887-1002
Alcoholics Anonymous	Free	909-825-4700
Cocaine Anonymous	Free	909-359-3895
Families Anonymous Drug Use Concerns	Free	909-736-9805
Narcotics Anonymous (Hotline)	Free	909-622-4272