
Kern Community College District
Administrative Procedures
Chapter 3 – General Institution

AP 3550 DRUG-FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM

References:

Drug Free Schools and Communities Act Amendment of 1989;
20 U.S. Code Section 1145g;
34 Code of Federal Regulations 86.1 et seq.;
Federal Drug-Free Workplace Act of 1988;
41 U.S. Code Section 702

Note: This procedure is **legally required**.

The District is committed to providing its employees and students with a drug-free workplace and campus environment. It emphasizes prevention and intervention through education.

Drug-Free Environment and Prevention Education

In accordance with the District's focus on wellness, the District expects employees to cooperate with supervisors in remedying performance problems associated with drug and alcohol use and to encourage other employees and students to seek help with drug and alcohol problems.

Employees with a substance abuse problem may receive assistance through the District Employee Assistance Program. This service is part of the health care program provided by the Kern Community College District.

In addition, a description of the health risks associated with the use of these controlled substances shall be posted on all bulletin boards at the three Colleges and the District Office.

Prohibition of Drugs

The unlawful manufacture, distribution, dispensing, possession, or use of alcohol or any controlled substance is prohibited on District property, during District-sponsored field trips, activities or workshops, and in any facility or vehicle operated by the District.

The District will not tolerate any unlawful activity such as the possession, use, manufacture, distribution and/or dispensation of a controlled substance on District owned or controlled property.

- Language form Section 7 – General Personnel BP 7H “Drug Free Workplace.”

Substances as referred to include any and/or all of the following:

- Illegal Drugs.
- Legal drugs (either by prescription or over-the-counter) if illegally possessed or misused or overused to such an extent as to cause the impairment of job performance.
- Other mind-altering chemicals, materials or substances.
- Intoxicating beverages.

Violation of this prohibition will result in appropriate action up to and including termination of employment, expulsion, and referral for prosecution, or as permitted by law, may require satisfactory participation in an alcohol or drug abuse assistance or rehabilitation program.

As a condition of employment, employees must notify the District within five days of any conviction for violating a criminal drug statute while in the workplace. The District is required to inform any agencies that require this drug-free policy within ten days after receiving notice of a workplace drug conviction.

Pre-Employment Health Examinations

In order to encourage a drug-free work force, the Kern Community College District requires that, as a condition of employment, all individuals to fill positions in the following areas take a drug screen test as part of their pre-employment physical examination.

- Child Care
- Custodial
- Maintenance
- Grounds
- Security
- Mechanical Skilled Workers
- Bus Drivers
- Allied Health Instructors

The drug screen will be provided at District expense. Any employee candidate testing positive for drugs will not be hired by the Kern Community College District.

If the Kern Community College District has a contractual arrangement with an outside organization and the outside organization requires drug screening of the Kern Community College District employees in that contractual program, these employees must submit to and pass a drug screen.

Drug and Alcohol Testing

Pursuant to U.S Department of Transportation requirements, the District has established an administrative procedure (see AP 6950 titled Drug and Alcohol Testing (U.S. Department of Transportation)) to help prevent accidents and injuries resulting from misuse of alcohol or use of controlled substances by District employees who drive commercial motor vehicles. The District requires the following alcohol and controlled substance testing for drivers and applicants:

- Pre-employment
- Random
- Reasonable suspicion

No driver found to have an alcohol concentration of .02 or higher or who tests positive for controlled substances shall be allowed to perform safety sensitive functions and may not be allowed to continue employment with the Kern Community College District.

Pre-Placement Drug Testing

The Kern Community College District Human Resources Office will coordinate all arrangements for pre-placement drug testing with a provider, including communication on any follow-up resulting from an employee candidate's pre- placement drug screen.

Following is the procedure for arranging pre-placement drug testing:

- 1) The Human Resources Office from a District college will contact the District Human Resources Office to initiate a request for pre- placement drug test.
- 2) The District Human Resources Office will contact a provider to arrange an appointment for the employee candidate.
- 3) The District Human Resources Office will receive verbal results of the pre-placement drug test and convey the results to the College Personnel Office.

If the candidate tests positive for any of the drugs screened, that candidate will not be hired by the Kern Community College District.

Candidates for the following positions will undergo pre-placement drug testing:

Allied Health Instructors

- Nursing-ADN
- Nursing-VN
- Radiological Technology
- Psychiatric Technician

Bus Driver

- Bus Driver

Child Development

- Child Day Care Center Assistant
- Child Development Center Teacher

Custodial

- Athletic Complex Manager
- Facility Custodial Coordinator
- Custodian I
- Custodian II

Grounds

- Grounds Maintenance Supervisor
- Groundswoker I
- Groundswoker II
- Horticulture Laboratory Technician

Maintenance

- Facilities Electrician
- Facilities and Grounds Maintenance Supervisor
- Maintenance Worker
- Painter
- Plant Engineer I
- Skilled Craftsworker

Mechanic

- Automotive Technician
- Automotive/Plant Equipment Technician

Miscellaneous Certificated Position(s)

- College Nurse

Miscellaneous Classified Positions

- Aerobics Facilitator
- College Nurse
- Delivery Clerk

Security

- Campus Guard
- Security Officer I
- Security Officer II
- Security, Sergeant of

Alcohol and Controlled Substances Testing

This procedure shall be applicable only to employees who hold a commercial driver's license which is necessary to perform job related duties such, as but not limited to, operating a commercial motor vehicle for the Kern Community College District.

Definitions pursuant to this procedure are as follow:

- 1) **Alcohol** is the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.
- 2) **Alcohol use** is the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
- 3) **Breath alcohol technician (BAT)** is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).
- 4) **Commercial motor vehicle** is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a) Has a gross combination weight of twenty-six thousand, one (26,001) or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand (10,000) pounds,
 - b) Has a gross vehicle weight rating of twenty-six thousand, one (26,001) or more pounds,
 - c) Is designed to transport sixteen (16) or more passengers, including the driver, or
 - d) Is of any size and is used in the transportation of hazardous materials requiring placards.
- 5) **Screening test** (aka initial test) in alcohol testing, is an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration.
- 6) **Confirmation test**, for alcohol testing, is a second test that provides quantitative data of alcohol concentration following a screening test with a result of 0.02 grams or greater of alcohol per two hundred, ten (210) liters of breath. For controlled substances testing, it is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy.
- 7) **Covered employee** is an employee subject to the requirements of applicable Federal law and policy. Covered employee is an employee who holds a commercial driver's license which is necessary to perform job related duties such as, but not limited to, operating a commercial motor vehicle.
- 8) **Driver** is any person who operates a commercial motor vehicle. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.
- 9) **Evidential breath testing** (EBT) device is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices (CPL).
- 10) **Medical review officer** (MRO) is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
- 11) **On-duty time**, as that phrase is defined by Federal regulations and this procedure, means all of the time from the time a covered employee begins to work, is required

to be in readiness to work, until the time he or she is relieved for work and all responsibility for performing work.

- 12) **Performing** (a safety-sensitive function) is any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.
- 13) **Refusal to submit** (to an alcohol or controlled substance test) is when a driver (a) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement of breath testing; (b) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or (c) engages in conduct that clearly obstructs the testing process.
- 14) **Safety-sensitive function**, for purposes of this procedure, shall mean any of the functions defined in Title 49 of the Code of Federal Regulations. More specifically, safety-sensitive functions include all functions performed by a covered employee during on-duty time and include:
 - a) All time at a carrier or shipper plant, terminal, facility, or other property waiting to be dispatched, unless the driver has been relieved from duty by the employer,
 - b) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs) or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time,
 - c) All time spent at the driving controls of a commercial motor vehicle,
 - d) All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth),
 - e) All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded,
 - f) All time spent performing the driver requirements associated with an accident, or
 - g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

On-duty time also includes:

 - h) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the testing requirements.
- 15) **Screening test** (aka initial test) in alcohol testing is an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or

her system. In controlled substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration.

- 16) **Substance abuse professional** is a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Prohibited Conduct

- 1) No covered employee shall report for duty, or remain on duty requiring the performance of safety-sensitive functions, while having an alcohol concentration of 0.02 or greater.
- 2) No covered employee shall remain on duty, or operate a commercial motor vehicle, while that employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
- 3) No covered employee shall use alcohol during on-duty time while performing safety-sensitive functions.
- 4) No covered employee shall perform safety-sensitive functions within four (4) hours after using alcohol.
- 5) No covered employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test.
- 6) No covered employee shall refuse to submit to any test required by law or this procedure.
- 7) No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions, when the covered employee uses any controlled substances, except when the use is pursuant to the instructions of a physician who has advised the driver that the substances does not adversely affect the driver's ability to safely operate a commercial vehicle. Covered employees are required to report any therapeutic drug use to their department supervisor. Drivers may also be required to provide the District with a written statement from a physician stating that the medication does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

Transportation

- 1) If an applicant or covered employee produces a test result indicating an alcohol concentration equal to or greater than 0.04, that employee shall be transported to his or her residence by the Employer.

Compensation

- 1) A covered employee who fails a required test shall not receive his or her normal compensation for hours during which the employee is prohibited by Federal law, and this procedure, from performing a safety-sensitive function. Failure is defined as a verified positive result by an MRO for controlled substances and/or an alcohol concentration of .02 or greater. The employee may not utilize sick time, vacation or compensatory time during the period the prohibition is in place.

Consequences of Prohibited Conduct

- 1) No covered employee shall return to duty or remain on duty to perform safety-sensitive functions if the covered employee has engaged in conduct prohibited by this procedure.
- 2) Every covered employee who is subject to the requirements of this procedure conduct shall be advised of the resources available to that employee in evaluating and resolving problems associated with the misuse of alcohol and controlled substances.

Testing Procedures

All tests conducted pursuant to this procedure shall comply with the requirements of applicable Federal law.

Pre-employment Testing

- 1) Prior to employment in a position, which requires performance of safety-sensitive functions for the Kern Community College District, the employee shall undergo testing for controlled substances.
- 2) The Kern Community College District shall not allow any covered employee to perform safety-sensitive functions unless the covered employee has produced a controlled substance test result indicating a verified negative test result.
- 3) The District shall pay for the costs associated with pre-employment testing.
- 4) The Kern Community College District reserves the right not to employ an applicant who has received an alcohol and controlled substances test indicating a verified positive test result.

Previous Employment Information

- 1) Upon application to a covered position, applicants will be required to sign a release authorizing the Kern Community College District to obtain testing information from the applicant's previous employers. The applicant's signature on the release shall be a condition of employment.
- 2) The information shall include: any alcohol test results with a concentration greater than .04, any positive controlled substances test results, and any refusals to be tested.
- 3) The information shall be obtained from the applicants' previous employers from the past two (2) years.
- 4) Upon offering an applicant a position, the Employer shall obtain the required information. The Kern Community College District shall endeavor to obtain the information within fourteen (14) days.
- 5) Should the information reveal that the applicant is not eligible to perform safety-sensitive functions (pursuant to 49 CFR pt. 382.413 (g)), the Employer shall withdraw the employment offer.

Post-Accident Testing

- 1) As soon as practicable following an accident involving a commercial motor vehicle, the Kern Community College District shall test the following individuals for alcohol and controlled substances: (1) any covered employee who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; and/or (2) any covered employee who receives a citation under state or local law for a moving violation arising from the accident.

For the purposes of this procedure, an accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle is required to be towed from the scene.

- 2) If the alcohol test is not administered within two (2) hours following the accident, the Kern Community College District shall document the reasons the test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the accident, the Employer shall cease attempts to administer the test and shall document the reasons the test was not administered.
- 3) If the controlled substances test is not administered within thirty-two (32) hours following the accident, the Kern Community College District shall cease attempts to administer the test and document the reasons the test was not administered.
- 4) Drivers who are subject to post-accident testing shall remain readily available for such testing or may be deemed by the Kern Community College District to have refused testing.

Random Testing

- 1) The Kern Community College District shall randomly select covered employees for alcohol and controlled substances testing during each calendar year, in accordance with applicable Federal law. The minimum annual percentage rate for random alcohol testing shall be twenty-five percent (25%) of the average number of covered employees, until further notification is received from the Federal Department of Transportation. The minimum annual percentage rate for controlled substances testing shall be fifty percent (50%) of the average number of covered employees, until further notification is received from the Federal Department of Transportation.
- 2) The selection of covered employees for random alcohol and controlled substances testing shall be made by a scientifically valid method. Under the selection process used, every covered employee shall have an equal chance of being tested each time selections are made.
- 3) The Kern Community College District shall ensure that the random tests are unannounced and that the dates for administering the random tests are spread reasonably throughout the calendar year.
- 4) A covered employee shall be subject to random testing at the following times: while the covered employee is performing safety-sensitive functions, just before the covered employee is performing safety-sensitive functions, or just after the covered employee has ceased performing such functions. Every covered employee who is notified of selection for random testing shall cease to perform safety-sensitive functions and shall immediately proceed to the test site according to established procedures for notifying appropriate supervisory personnel.
- 5) Substitute employees, if they are also covered employees, are subject to random testing.

Substitute drivers will be required to sign a release authorizing the District to release testing information/results to other school districts for which the driver is employed. Substitute drivers will be required to sign the release as a condition of being placed on the District's substitute driver list.

- 6) In the event a covered employee who is selected for a random test is on vacation or off-duty, the Kern Community College District will keep the original selection confidential until the driver returns. Testing of the selected employee will commence according to the procedure outlined in number four.

Reasonable Suspicion Testing

- 1) The Kern Community College District shall require a covered employee to submit to an alcohol or controlled substances test, as appropriate, when the Kern Community College District has reasonable suspicion to believe that the employee has engaged in prohibited conduct.
- 2) The Kern Community College District's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations

concerning the appearance, behavior, speech, and/or body odors of the covered employee.

- 3) Reasonable suspicion testing is permitted only if the required observations are made during, just preceding, or just after the period of the workday that the covered employee is performing a safety-sensitive function or required to be in compliance.
- 4) The observation and determination that a reasonable suspicion exists will be made by a supervisor trained in detecting the symptoms of alcohol misuse and use of controlled substances as per the regulations. The training shall consist of at least sixty (60) minutes of training on alcohol misuse and at least an additional sixty (60) minutes of training on controlled substances use. The observations shall be documented and signed by the official who made the observations within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.
- 5) If the alcohol test is not administered within two (2) hours following the determination that a test is required, the Kern Community College District shall document the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours, the Kern Community College District shall cease attempts to test and document the reasons the test was not administered.
- 6) Notwithstanding the absence of a reasonable suspicion alcohol test, no employee shall remain on duty requiring the performance of safety sensitive functions if the Kern Community College District has reasonable suspicion to believe that the employee is impaired by alcohol, until:
 - a) An alcohol test is administered and the driver's alcohol concentration measures less than .02; or
 - b) Twenty-four (24) hours have elapsed following the determination that reasonable suspicion exists.

Discipline and Term

- 1) Any employee who engages in prohibited conduct shall be subject to disciplinary action up to and including termination.

Employee Information

- 1) The Kern Community College District shall distribute this procedure to every covered employee, on an individual basis, prior to the start of alcohol and controlled substances testing. The Kern Community College District shall also distribute this procedure to every covered employee hired after the adoption of the procedure, and to every covered employee transferred into a position requiring possession of a commercial driver's license.

- 2) Employees will be required to sign a statement acknowledging receipt of the procedure.
- 3) The person responsible for answering employee questions concerning this procedure shall be the Assistant Chancellor, Personnel Services.

Records Retention

The Kern Community College District shall retain all records in accordance with applicable Federal law.

Effect

This policy and procedure shall take effect January 1, 1996.

The Kern Community College District shall implement and enforce the procedures for transportation workplace testing as set forth in 49 CFR Part 40. These procedures include, but are not limited to, the following information. In all cases, the requirements of 49 CFR Part 40 shall be followed. Comprehensive Drug Testing (CDT) shall administer the testing on behalf of the District.

Controlled Substances Testing

Applicable Drugs

- 1) Employees subject to controlled substances testing shall be tested for the following substances:
 - Marijuana
 - Cocaine
 - Opiates
 - Amphetamines
 - Phencyclidine (PCP)
- 2) Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The lab is permitted to check for adulterants as per Federal Department of Transportation (DOT) guidelines.

Specimen Collection Procedures

- 1) The collection shall take place in a secure location to prevent unauthorized access during the collection process.

- 2) The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
- 3) Employees shall have individual privacy when providing a specimen except when:
 - a) The employee presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1.0 C OR 1.8o F from the specimen temperature,
 - b) The collector observes the employee attempting to adulterate or substitute the specimen, or
 - c) The employee's last provided specimen was determined to be diluted.
 - d) The employee has previously had a verified positive test.
 - e) In (a) and (b) above, the employee must provide a specimen under direct observation. In (c) and (d) above, the employer may require a direct observation collection.
- 4) The following specific procedures will be followed during the collection process:
 - a) The employee must submit identification to the collector. The collection shall not proceed until a positive identification is made.
 - b) The employee will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets, etc.
 - c) The donor shall be required to wash his/her hands prior to urination and shall not have access to any water sources until the specimen has been collected.
 - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector.
 - e) The specimen must be at least forty-five (45) ml to be acceptable.
 - f) The collector must measure the specimen temperature within four (4) minutes of urination to determine sample acceptability
- 5) If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four (24) ounces of fluids to drink. The donor shall have a period of up to two (2) hours to produce an acceptable sample.
- 6) The specimen shall be divided into two (2) parts. The collector shall pour thirty (30) ml of urine from the specimen bottle into a second specimen bottle, to be used as

the primary specimen. The remainder of the urine, at least fifteen (15) ml, shall be poured into another container to be used as the split sample.

- 7) Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
- 8) The collector and donor must be present together to complete the following process:
 - a) Seal and label the specimen bottle,
 - b) Donor initials the bottle label or seal, and
 - c) The chain of custody forms must be signed and dated.
- 9) If an employee refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

Split Sample

- 1) If the test result of the primary specimen is positive, the employee may request that the Medical Review Officer (MRO) direct that the split specimen be analyzed.
- 2) The split sample analysis will be conducted by a DHHS-certified laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
- 3) If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolites(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to the District.
- 4) After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two (72) hours to request analysis of the split sample.
- 5) All costs associated with the analysis of the split sample shall be the responsibility of the employee. If the analysis of the split sample results in a cancellation of the test, the District shall reimburse the employee for the cost of the split sample analysis.
- 6) In the event the outcome of a test is cancellation, the driver shall be returned to duty and no further action against the employee shall be taken. Any lost time and/or compensation shall be returned to the employee.

Inability to Provide Adequate Urine

- 1) If the employee fails to provide an adequate sample, he/she shall provide the District with an evaluation from a licensed physician designated by the District, who is acceptable to the District, concerning the employee's ability to provide a sample.
- 2) If the physician determines there is a valid medical reason precluding the employee from providing adequate urine, then the employee's failure shall not be deemed a refusal to test.
- 3) If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate urine shall be considered a refusal to test.

Alcohol Testing

Testing Procedures

- 1) The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
- 2) When an employee enters the testing location, the Breath Alcohol Technician (BAT) will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
- 3) An individually sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
- 4) The employee shall be required to blow forcefully into the mouthpiece for at least six (6) seconds or until an adequate amount of breath has been obtained.
- 5) The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
- 6) If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
- 7) If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
- 8) Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen (15) minutes and no more than twenty (20) minutes from the screening test.

The fifteen (15) minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.

- 9) In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
- 10) If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the District may determine the circumstance to be a refusal to test.

Inability to Provide Adequate Breath

- 1) If the employee fails to provide an adequate amount of breath he/she shall provide the District with an evaluation from a licensed physician, who is acceptable to the District, concerning the employee’s medical ability to provide adequate breath.
- 2) If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee’s failure shall not be deemed a refusal to test.
- 3) If the physician is unable to determine a valid medical reason, the employee’s failure to provide adequate breath shall be considered a refusal to test.

Retention of Records

This section explains which controlled substance and alcohol test records must be completed and maintained, where they must be maintained and for how long. All records shall be maintained in a secure location with controlled access.

Document To Be Maintained	Period Required To Be Maintained
Alcohol test results indicating a breath alcohol concentration of 0.02 or greater Verified positive controlled substance test results Refusal to submit to required alcohol or controlled substance tests Required calibration of Evidential Breath Testing Devices (EBT’s) Substance Abuse Professional’s (SAP’s) evaluations and referrals Annual Calendar year summary	5 years
Records related to the collection process (except calibration) and required training	2 years

<p>Negative and cancelled controlled substance test results</p> <p>Alcohol test results indicating a breath alcohol concentration less than 0.02</p>	<p>1 year</p>
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Types of records required to be maintained

- 1) Records related to the collection process:
 - Collection logbooks (if used)
 - Documents related to the random selection process
 - Calibration documentation for EBT's
 - Documentation of Breath Alcohol Technician (BAT) training
 - Documentation of reasoning for reasonable suspicion testing
 - Documentation of reasoning for post-accident testing
 - Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing
 - Consolidated annual calendar year summaries

- 2) Records related to the driver's test results:
 - Employer's copy of the alcohol test form, including results
 - Employer's copy of the drug test chain of custody and control form
 - Documents sent to the employer by the Medical Review Officer
 - Documentation of any driver's refusal to submit to a required alcohol or controlled substance test
 - Documents provided by a driver to dispute results of test

- 3) Documentation of any other violation or controlled substance use or alcohol misuse rules

- 4) Records related to evaluations and training:
 - Records pertaining to substance abuse professional's (SAP's) determination of driver's need for assistance
 - Records concerning a driver's compliance with SAP's recommendations

- 5) Records related to education and training:

- Materials on drug and alcohol awareness, including a copy of the employer's policy on drug use and alcohol misuse
- Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials
- Documentation of supervisor training
- Certification that training conducted under this rule complies with all requirements of the rule

6) Records related to drug testing:

- Agreements with collection site facilities, laboratories, MROs, and consortia
- Names and positions of officials and their role in the employer's alcohol and controlled substance testing program
- Monthly statistical summaries of urinalysis (40.29(g)(6))
- The employer's drug testing policy and procedures

Location of records:

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the employer's principal place of business within two (2) business days after a request has been made by an authorized representative of the Federal Highway Administration.

For example: Specific records may be maintained on computer or at a regional or terminal office, provided the records can be made available upon request from FHWA within two (2) working days.