

# Policies

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## Westerly Public Schools Drug and Alcohol Free Work Place

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In accordance with the federal regulations implementing the Drug/Alcohol Free Work Place Act of 1988, 34 C.F.R. Part 85, Subpart F, and pursuant to the goal of the Westerly School Committee to maintain a drug/alcohol-free work place, the following policy is established:

1. The Westerly School Committee will publish a statement notifying employees that the unlawful manufacture, distribution dispensing, possession or use of a controlled substance is prohibited in the work place. All employees will be given a copy of this statement and any employee who violates its provisions will be subject to disciplinary action up to and including termination.
2. The Westerly School Committee will establish a drug/alcohol-free awareness program to inform employees about:
  - a) the dangers of drug/alcohol abuse in the work place;
  - b) the Westerly School Committee's policy of maintaining a drug/alcohol free work place;
  - c) the availability of drug/alcohol counseling and rehabilitation programs and;
  - d) the penalties that may be imposed upon employees for drug/alcohol abuse violations occurring in the work place.
3. It will be a condition of employment for all employees employed under a federal grant to abide by the terms of the statement referred to in #1 above and to notify the Westerly School Committee of any criminal drug/alcohol statute conviction or violation occurring in the work place no later than five (5) days after such a conviction.
4. Within thirty (30) days of receiving notice under #3, the Westerly School Committee will take disciplinary action against such employee upon receiving actual notice of any such conviction.
5. Detailed information for all District employees required to have a Commercial Driver's License including Bus Drivers, Mechanics, and Transportation Administrative staff can review their special requirements at the Website for the Federal Motor Carrier Safety Administration website: <http://www.fmcsa.dot.gov/>.
6. The Westerly School Committee will notify the federal granting agency within ten (10) days after receiving notice from an employee or otherwise receiving actual notice of any such conviction.
7. The Westerly School Committee will make a good faith effort to continue to maintain a drug/alcohol-free work place through implementation of this policy.

Legal Reference: Federal Regulations 34 C.F.R. Part 85 Subpart F.

Adopted: October 25, 1989  
Revised: October 11, 2002  
Revised: January 3, 2007  
Revised: December 21, 2011

## ADDENDUM A

### **REQUIREMENTS FOR WESTERLY PUBLIC SCHOOLS' CDL BUS DRIVERS/APPLICANTS**

Westerly Public Schools is required by federal law to comply with the specific drug and alcohol testing requirements of the Department of Transportation ("DOT") and, in accordance with DOT Regulations, testing requirements and responsibilities are required of both Drivers and Driver Applicants with Commercial Driver's Licenses (CDL). DOT drug and alcohol testing rules are supplemental to (but do not replace) the provisions in Westerly Public Schools Drug & Alcohol-Free Workplace Policy (the "Policy"). If there are any inconsistencies between the Policy and the DOT provisions, the Policy provisions should be followed.

The DOT drug and testing rules apply to all transportation employees and applicants who are required to obtain and maintain a CDL as a pre-qualification for their position (to be termed "Driver" for the purposes of the Policy), and defined in section 382.107 of the FMCSA safety regulation (See Addendum B), designated "safety sensitive" work include the operation, supervision, maintenance and dispatch of the Westerly Public Schools' Transportation Department and any fleet personnel who maintain an active CDL license. A driver is also considered to be performing a safety sensitive function at all times while inspecting, servicing, or conditioning any commercial motor vehicle at any time. As defined in section 49 CFR 655.4 of the FTA safety regulations, Maintenance technicians are also to be considered to be performing a safety sensitive function at all time while performing inspections, service or conditioning of any commercial motor vehicle at any time. In addition, dispatcher is considered to be performing safety sensitive function at all times dispatching the fleet. These rules and the Policy are effective upon receipt. Unless prohibited by a Collective Bargaining Agreement or State Law, a driver must submit to a drug and alcohol test administered in accordance with C.F.R. § 382.

### **TYPES OF TESTING**

The DOT Regulations require the following testing, (Westerly Public Schools reserves the right to perform non-DOT testing under its own authority):

Pre-Employment: Applicants for employment will be required to take and pass a drug test prior to being employed. This includes an employee who has transferred from a non-safety sensitive position to a safety sensitive position prior to the individual assuming his or her new position. Applicants who receive a positive confirmed test will be rejected for employment.

Reasonable Suspicion: A driver shall be tested for drugs and/or alcohol whenever a supervisor(s) has reasonable suspicion to believe that the driver has

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violated the prohibitions of the DOT drug and alcohol testing regulations, or the drivers' behavior and appearance indicate drug use and/or alcohol misuse.

Return to Duty: Employees may be required to undergo such testing as part of a routinely scheduled fitness-for-duty medical examination, for a test that is scheduled routinely for all members of an employment classification or group and/or for a return to duty following certain medical leaves or rehabilitation.

Follow Up Testing: When a driver is allowed to return to duty after being recommended for and/or entering into a rehabilitation program, as a follow-up to the program, the driver must undergo follow-up testing, without advance notice. The driver will be subject to a minimum of six (6) unannounced follow-up drug and alcohol tests for at least twelve (12) months, but not to exceed sixty (60) months.

Random Testing: Westerly Public Schools requests testing based on random selection of drivers. The mandatory annual random drug testing rates of 50% and 10% are for drug testing and alcohol testing, respectively. The random list will be generated by a third party.

Post Accident/Injury: Drivers who are involved in an accident while operating a commercial motor vehicle on a public road will be subject to a DOT drug and alcohol test whenever:

- (i). The accident involves a fatality while driver is performing safety sensitive functions;
- (ii). The driver receives a citation for a moving traffic violation arising from the accident (testing to occur within 8 hours for alcohol and within 32 hours for drugs), when an individual suffered a bodily injury that required immediate medical treatment away from the scene of the accident or one of the vehicles involved in the accident incurred disabling damages and was towed away from the scene.

**PLEASE NOTE:Westerly Public Schools may conduct a DOT drug test under the provisions of the Company's Drug and Alcohol-free Workplace Policy for all incidents or accidents resulting in injury, lost time, or damage to property either on-the-job or in a work area (that do not require a DOT drug test).**

### TEST RESULTS

The driver must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 and a verified negative test result for controlled substances before resuming performance of safety-sensitive duties. A driver who has voluntarily self-identified alcohol misuse or controlled substances use will be permitted to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert and must have a negative drug test result and/or an alcohol test with an alcohol

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concentration of less than 0.02 and a verified negative test result for controlled substances before resuming performance of safety-sensitive duties.

As stated in the DOT regulation 40.197, if the MRO informs Westerly Public Schools that a positive drug test was diluted, the test will be treated as a verified positive test. Further, a diluted negative result will require a retest (under direct observation). A second negative diluted test result is a valid negative test for DOT's purposes.

### **DRIVER RESPONSIBILITIES**

Drivers are expected to be in compliance with the Policy and the DOT rules whenever performing any safety sensitive job functions (including driving for school district business). Using any alcohol while performing safety-sensitive functions and/or performing a safety-sensitive function within four (4) hours after using alcohol (pre-duty use) or using alcohol for eight (8) hours following an accident or until tested when required to be tested, whichever comes first, is strictly prohibited. Any alcohol misuse that could affect the safe performance of driving a commercial motor vehicle is also strictly prohibited.

- A driver is prohibited from reporting to duty or performing a safety sensitive function with an alcohol concentration of .04 or greater. The DOT mandates that in the event a driver receives an alcohol test result of 0.04 or higher, the driver will be immediately removed from safety sensitive functions and if the alcohol test result is 0.02-0.039, the Driver will be temporarily removed from performing safety sensitive functions for a minimum of 24 hours. Westerly Public Schools will take disciplinary action, under its own authority, against a driver who has a test result of .02 or greater or has a verified positive controlled substance test.
- A driver shall not report for duty or remain on duty that requires performing safety sensitive functions when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the ability to safely operate a commercial motor vehicle.
- In addition to the prohibited activities in the Policy:
  - A driver who has violated any of the DOT drug and alcohol rules will be subject to discipline, up to and including termination of employment or refusal to hire.
  - A driver who has violated DOT drug and alcohol regulations cannot again perform any DOT safety sensitive duties for any employer until and unless he or she has completed the return to duty process which requires completion of a qualified program through a SAP (Substance Abuse Professional).
  - A driver that tests positive for drugs or alcohol will be referred to a SAP (regulation 40.287) for evaluation, referral, and education/treatment

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process. They must then pass the return to duty test and subsequent “follow up testing” as prescribed by the SAP. This test cannot occur until after the SAP has determined that the driver has successfully complied with prescribed education and/or treatment. The DOT mandates that, in the event of a positive test, the consequences may include referral, evaluation, and treatment, in addition to immediate removal from safety sensitive positions. In the event of a verified adulterated or substituted drug test result, it will be considered a refusal to test and the driver will be immediately removed from safety sensitive functions and terminated.

Please refer to Westerly Public School Drug & Alcohol-Free Workplace Policy for details on the Employee Assistance Program for employees who voluntarily disclose drug and/or alcohol abuse before the employee has been identified to take a drug/alcohol test.

Refusal to a drug and/or alcohol test when required under the DOT rules or the Policy is considered a violation, for which a driver may be subject to discipline, up to and including termination and refusal to hire an Applicant. This includes:

- (i) the failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by Westerly Public Schools, consistent with applicable DOT agency regulations, after being directed to do so by a supervisor;
- (ii) the failure to remain at the testing site until the testing process is complete;
- (iii) the failure to provide a urine specimen for any drug test required by DOT regulations;
- (iv) in the case of a directly observed or monitored collection in a drug test, the failure to permit the observation or monitoring of your provision of a specimen;
- (v) the failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- (vi) the failure to or to decline to take an additional drug test the employer or collector has directed you to take;
- (vii) ) the failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Designated Employee Representative (“DER”) (in the case of a pre-employment drug test, the Applicant is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment); or,
- (viii) the failure to cooperate with any part of the testing process (e.g., refuse to follow simple commands and / or behave in a confrontational way that disrupts the collection process, etc).

Testing to comply with DOT requirements will be done on DOT specimens only for marijuana metabolites cocaine metabolites, amphetamines and methamphetamines, opiate metabolites and phencyclidine – (PCP).

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DOT testing procedures include urine sample collection, laboratory procedures and reporting and recordkeeping of the final results. For DOT test purposes, alcohol testing will only be performed on saliva or breath. Controlled substances tests will be performed in accordance with DOT requirements, including split specimen collection and analysis procedures. Only certified laboratories will be used for DOT testing, which are required to have specific procedures in place to ensure the integrity of the testing, safeguard the validity of the results (such as conducting validity testing of a specimen) and ensure that those results are attributable to the correct driver. Each specimen is inspected for “fatal flaws” and specific documentation is made regarding same. The Company will strictly adhere to the requirements of the DOT for confidentiality. There are procedures in place to safeguard the accuracy and to protect the privacy of drivers (a written consent of the driver is required before individual test results or medical information is released to a third party). A driver who has tested positive will be notified and may discuss the positive test results with a qualified Medical Review Officer (“MRO”) before the result is reported to the Company. The driver will have an opportunity to explain any special circumstances to the MRO. The MRO has the authority and responsibility for reporting the results to the Company.

In accordance with DOT requirements, Westerly Public Schools intends to provide referral assistance for any employee or Applicant who voluntarily seeks the Company’s help in overcoming any addiction to (not resulting from a test request or positive drug test), dependence upon or problems with alcohol or drugs. Westerly Public Schools provides drivers with information and referral resources regarding substance abuse and available methods of intervening. Supervisors receive training in the identification of actions, appearance, and conduct of a driver which may indicate drug use and or alcohol misuse.

In accordance with the DOT drug and alcohol regulations, questions regarding the Policy and/or DOT rules should be directed to the Westerly Public Schools, Human Relations Department which can be contacted at 401- 315-1500.

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## ADDENDUM B

### UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION APPLICABLE LAWS

#### **§ 382.101 Purpose.**

The purpose of this part is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

#### **§ 382.103 Applicability.**

(a) This part applies to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State, and is subject to:

(1) The commercial driver's license requirements of part 383 of this subchapter;

#### **§ 382.105 Testing procedures.**

Each employer shall ensure that all alcohol or controlled substances testing conducted under this part complies with the procedures set forth in part 40 of this title. The provisions of part 40 of this title that address alcohol or controlled substances testing are made applicable to employers by this part.

#### **§ 382.107 Definitions.**

*Safety-sensitive function* means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

(1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

(2) All time inspecting equipment as required by §§392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All time spent at the driving controls of a commercial motor vehicle in operation;

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**ADDENDUM C**

**DRUG & ALCOHOL--FREE WORKPLACE POLICY:  
APPLICANT/EMPLOYEE ACKNOWLEDGMENT  
OF RECEIPT AND UNDERSTANDING**

I, the undersigned, hereby acknowledge that I have received Westerly Public Schools' Drug and Alcohol-Free Workplace Policy and Addendums including a summary of the drugs that may alter or affect a drug test. I have had an opportunity to have all aspects of this material fully explained. I also understand that I must abide by this policy as a condition of my employment and/or continued employment, and any violation may result in disciplinary action, up to and including termination of employment or non-employment.

I understand that submission to testing for the presence of drugs and alcohol is a condition of my employment and/or continued employment with Westerly Public Schools. I further understand that if:

1. I refuse to take a test(s),
2. The test(s) establish(es) a violation of Westerly Public Schools' policies concerning drug and alcohol use,
3. I otherwise violate the policy;

termination of employment or non-employment may result. I understand that my current use of illegal drugs may prohibit me from being employed at Westerly Public Schools.

I ALSO UNDERSTAND THAT THE POLICY, ADDENDUMS, AND RELATED DOCUMENTS ARE NOT INTENDED TO CONSTITUTE A CONTRACT BETWEEN WESTERLY PUBLIC SCHOOLS AND ME. NOTHING HEREIN SHALL ALTER UNLESS PROHIBITED BY A COLLECTIVE BARGAINING AGREEMENT OR STATE LAW.

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Applicant/Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant/Employee Print Name

\_\_\_\_\_  
Witness/Supervisor Signature

\_\_\_\_\_  
Date