

600.040. DRUG-FREE WORKPLACE

A. Federal Grant Recipients Must:

1. Agree to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Establish a drug-free awareness program to inform employees about:
 - a. The dangers of drug-abuse in the workplace;
 - b. The employer's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations.
3. Require each employee engaged in the performance of the grant be given a copy of the statement required by subsection (1) above.
4. Notify each employee in the statement required by subsection (1), that as a condition of employment in such grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
5. Notify the granting agency within 10 days after receiving notice under subsection (4)(b) from an employee or otherwise receiving notice of such a conviction.
6. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program, by an employee that receives such a conviction.
7. Within 30 days after receiving notice under subsection (4)(b), the grantee must take appropriate personnel action against such employee up to and including termination or require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
8. Make a good faith effort to continue to maintain a drug-free workplace.

[41 U.S.C. §702 – 703.](#)

B. Omnibus Transportation Employee Testing Act

The following applies to every employee of the charter school who operates a commercial motor vehicle and is subject to commercial driver's license requirements in accordance with federal regulations.

49 C.F.R §382.103

1. Drug & Alcohol Testing of Safety-Sensitive Positions

The charter school shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates the law.

49 C.F.R Part 382; §382.105

2. Definition of Commercial Motor Vehicle

A commercial motor vehicle means a motor vehicle used to transport passengers or property if the vehicle:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b. Has a gross vehicle weight rating of 26,001 or more pounds; or
- c. Is designed to transport 16 or more passengers, including the driver.

49 CFR 382.107

3. Required Testing

- a. Required testing includes pre-employment, postaccident, random, reasonable suspicion, return-to-duty, and follow-up testing.
- b. No driver shall refuse to submit to a postaccident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a return-to-duty or follow-up alcohol or controlled substances test.
- c. The District shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

49 C.F.R 382.211; 49 C.F.R. 382.309

4. Employer Obligation to Promulgate a Policy

The charter school shall provide educational materials that explain the federal requirements and the charter school's policies and procedures with respect to meeting these requirements and shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under this

policy and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Charter schools shall also provide

a. Content of Education Materials:

The content of the educational materials shall include detailed discussion of at least the following:

- i. The identity of the person designated by the charter school to answer driver questions about the materials;
- ii. The categories of drivers who are subject to the provisions;
- iii. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance;
- iv. Specific information concerning driver conduct that is prohibited by federal regulations;
- v. The circumstances under which a driver will be tested for alcohol and/or controlled substances according to federal regulations, including post-accident testing under applicable federal regulations;
- vi. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by federal regulations;
- vii. The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with federal regulations;
- viii. An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;
- ix. The consequences for drivers found to have violated federal regulations, including the requirement that the driver be removed immediately from safety-sensitive functions, and the applicable federal procedures;
- x. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;
- xi. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances

problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.

49 C.F.R. §382.601