

# LA Association of School Transportation Officials

DOT Drug Testing Requirements  
Mandated Record Keeping

March 9, 2017

Kathy Gonzales, Ph.D.  
Master Instructor

# DOT Testing

Federal Motor Carrier Safety  
Administration (FMCSA)  
regulations require drug and  
alcohol testing

49 CFR Part 382

49 CFR Part 40

(Brochure)

# WRITTEN POLICIES

The FMCSA requires employers to have a written policy that covers use of controlled substances and misuse of alcohol in the workplace.

Employees must sign acknowledging receipt of the written policy. Employers must keep written verification that employees have received the policy. Section 382.601 includes the mandated content which must be included in the policy.

# TYPES OF TESTING

- Pre-Employment-required prior to employment, and for employees that have been out of the random pool for more than 30 days. A negative result is required prior to operating a commercial motor vehicle.
- Random-routine, randomly selected CDL holders, fulfilling the required percentage of drivers that must be tested annually.
- Post-Accident-drivers who meet the criteria requiring testing after an accident has taken place.

# Post Accident Testing

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed By Employer
Human Fatality	Yes	Yes
Human Fatality	No	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	Yes	Yes
Bodily Injury With Immediate Medical Treatment Away From The Scene	No	No
Disabling Damage to Any Motor Vehicle Requiring Tow Away	Yes	Yes
Disabling Damage to Any Motor Vehicle Requiring Tow Away	No	No

# RANDOM TESTING

- Employees should be sent for random testing just before or after operating a commercial motor vehicle.
- Vary the days and times employees are sent for testing.
- Employees must report timely to the testing site after being notified to go for testing.
- Document how and when employee was notified.

# TYPES OF TESTING

- Reasonable Suspicion-trained employer observes suspicious behavior, believing an employee is under the influence of drugs or alcohol.
- Return-to-Duty-an employee has successfully completed an approved substance abuse program, and must test negative prior to operating a commercial motor vehicle.
- Follow-Up-testing is additional testing for five years after a negative Return-to-Duty test.

# REASONABLE SUSPICION

- Supervisors must receive training prior to requiring a reasonable suspicion drug test. This is required by Federal Motor Carrier Safety Administration regulations. Training must include a minimum of 60 minutes on alcohol misuse and 60 minutes on use of controlled substances. Contact your testing company for training.
- Check school district or company policies for reasonable suspicion protocol.



# DOT DRUG TESTING

## (49 CFR Part 40 Subpart F)

**DOT testing is for five classes of drugs**

- **Marijuana**
- **Cocaine**
- **Opiates** – opium and codeine derivatives
- (Beginning October 2017, the opiate panel will include synthetic opiates. This will include drugs such as Oxycodone, Hydrocodone Demerol, Dilaudid, Lortab, Fentanyl, Morphine, etc.)
- **Amphetamines and methamphetamines**
- **Phencyclidine** – PCP

# 49CFR 382.305

The percentage of CDL holders for DOT drug testing changed from 50 percent to 25 percent of the average number of CDL holders. Because the positive rate for DOT drug test results fell below the 1.0 percent threshold for two consecutive years, the percentage changed from 50 to 25. If the percentage threshold changes to 1.0 or greater for any year, the percentage for testing will go back up to 50.

# Additional Drug Testing Panels

- Employees may be subject to additional drug testing with panels that go beyond the DOT panel. Testing companies offer optional panels.
- Check district and company policy requirements before requiring more than the DOT testing panel.

# DRUG TESTING COSTS

Approximate

- DOT Panel - \$35-\$50
- Additional Panels - \$40-\$60
- Breath Alcohol \$25-\$30

- Employees or applicants who are in violation of a drug or alcohol regulation must be given a list of qualified DOT Substance Abuse Professionals, including addresses and phone numbers. The list can be provided by the employer or a service agent.
- Employers may face sanctions for failing to give out the list.

- Your testing company can guide you on drug/alcohol testing protocol.
- Personnel decisions are left up to employers. FMCSA dictates what to do if an employee tests positive on a drug or alcohol test, but the employer determines whether to terminate.

## “Release of Information Form—49 CFR Part 40 Drug and Alcohol Testing”

This form must be completed by the new employer, signed by the employee, and transmitted to the previous employer.

(Handout)

Failure to complete these forms could result in a fine of \$1,000 per day per employee for not having it.

## RELEASE OF INFORMATION

II. A. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher? **YES** \_\_\_\_\_ **NO** \_\_\_\_\_
2. Did the employee have verified positive drug tests? **YES** \_\_\_\_\_ **NO** \_\_\_\_\_
3. Did the employee refuse to be tested?  
**YES** \_\_\_\_\_ **NO** \_\_\_\_\_



4. Did the employee have other violations of DOT agency drug and alcohol testing regulations?

**YES** \_\_\_\_\_ **NO** \_\_\_\_\_

5. Did a previous employer report a drug and alcohol rule violation to you? **YES** \_\_\_\_\_ **NO** \_\_\_\_\_

6. If you answered “yes” to any of the above items, did the employee complete the return-to-duty process?

**N/A** \_\_\_\_\_ **YES** \_\_\_\_\_ **NO** \_\_\_\_\_

Note: If you answered “yes” to item 5, you must provide the previous employer’s report. If you answered “yes” to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

# FMCSA CLEARINGHOUSE

- The new Clearinghouse went into effect January 4, 2017.
- The compliance date is January 6, 2020.
- The purpose of the Clearinghouse is to prevent drivers who have positive tests from moving to other states for employment.
- The Clearinghouse will be nation wide.

# FMCSA CLEARINGHOUSE

- **Once the Clearinghouse is implemented, will prospective employers still need to conduct drug and alcohol three-year background checks with previous employers?**
- Employers will be required to query the Clearinghouse and request drug and alcohol-testing histories from previous employers until the Clearinghouse has been in operation for 3 years. After 3 years, employers subject to [part 382](#) will satisfy the drug and alcohol background check requirement by querying the Clearinghouse. However, motor carrier employers are still subject to all other background requirements of section [391.23](#) (e.g., motor vehicle record, safety performance history). In addition, if a prospective employee was subject to drug and alcohol testing by a DOT mode other than FMCSA, employers must continue to request background information from those DOT-regulated employers, since that information will not be reported to the Clearinghouse.
- Last Updated : December 2, 2016
- Information above is from the FMCSA website
- <https://www.fmcsa.dot.gov/faq/dac-faq-26>

# DOT RETENTION OF RECORDS

## MINIMUM OF FIVE YEARS

- Records of alcohol concentration of 0.02 or greater.
- Positive drug test results.
- Refusals to test for alcohol or drugs.
- Driver evaluation and referrals.
- Testing program records, such as driver violations.

# DOT RETENTION OF RECORDS

## MINIMUM OF ONE YEAR

- Alcohol tests with a concentration less than 0.02.
- Negative drug test results.

# DOT RETENTION OF RECORDS

## INDEFINITE

Education and training records of supervisors and drivers for which training was required. Once an employee leaves, records must be kept for two years.

# LOUISIANA RECORD KEEPING REQUIREMENTS

- Louisiana Revised Statutes 44:411 and 44:36 address record retention schedules and disposal approval, and the length of time to keep records. (Handout)
- Bulletin 119 does not address length of time to keep records.
- Follow FMCSA record keeping requirements.
- Let “circumstances” factor into the decision on how long to keep records.

- Anyone in control of public records in Louisiana is required to have a “Records Retention Schedule.” This record must be submitted to the Louisiana Secretary of State, Division of Archives, Records and Management and History. Until a retention schedule is approved, records must be kept three years from the date of origination.



Some types of records that should be kept are:

- T-7-Safe Riding Practices Classroom Instruction
- T-8-School Bus Emergency Evacuation Drill Verification Form
- T-10-Purchase of New and Used School Buses
- Uniform School Bus Accident Report Form

- Meeting agendas, sign in sheets, signed forms, signatures for handouts received, bus driver handbooks, signed policy handouts, etc.
- If possible, microfilm your records.
- Lawsuits may require going back several years.

- Good record keeping will help with lawsuits.
- Good record keeping will help with personnel issues.
- The tomorrows of “I was never given that,” “You never told me,” can be countered with the records of yesterday.
- Determine when records will be destroyed.

# Louisiana State Archives and Records Services

For assistance in setting up a Records Retention  
Schedule, contact:

[recmgt@sos.la.gov](mailto:recmgt@sos.la.gov) or

Carrie Fager Martin, CRM, CA

Records Management Officer Statewide

Louisiana State Archives and Records Services

Secretary of State Tom Schedler

225-925-7552

Kathy Gonzales, Ph. D.  
kgonza4703@aol.com



TODAY I WILL DO WHAT  
OTHERS **WON'T**

SO TOMORROW I CAN DO  
WHAT OTHERS **CAN'T**