

EUREKA COUNTY SCHOOL DISTRICT

MOTOR CARRIER PART 382

ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROGRAM

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TABLE OF CONTENTS

| | | |
|--------------|---|-------------------|
| I. | Introduction – Purpose | Page 1 |
| II. | Drivers Subject to Alcohol and Controlled Substances Testing | Page 1-2 |
| III. | Safety-Sensitive Functions | Page 2 |
| IV. | Prohibited Conduct | Page 3 |
| V. | Driver Voluntary Self-Identification Program | Page 4 |
| VI. | Alcohol and Controlled Substances Testing | Page 4-7 |
| VII. | Testing Guidelines | Page 7-8 |
| VIII. | Collection Sites | Page 8 |
| IX. | Role of the Medical Review Officer | Page 8-10 |
| X. | Driver Consent | Page 10 |
| XI. | Refusal to Submit to a Test | Page 10-11 |
| XII. | Consequences of a Positive Test | Page 11 |
| XIII. | Designated Employer Representative (DER) | Page 11-12 |
| XIV. | Confidentiality of Records | Page 12 |
| XV. | Release of Alcohol and Controlled Substances Testing Information | |
| | Previous Employers | Page 12-13 |
| XVI. | Driver Assistance Training Program | Page 13 |
| XVII. | Severability | Page 13 |

EUREKA COUNTY SCHOOL DISTRICT

MOTOR CARRIER PART 382

ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY

I. INTRODUCTION – PURPOSE

Eureka County School District maintains a strong commitment to provide a safe, efficient and productive work environment. Driver involvement with alcohol and/or controlled substances can be extremely disruptive and harmful to the workplace. It can adversely affect the quality of work and the performance of drivers, pose serious safety and health risks to the user, co-workers and the public, and have a negative impact on work efficiency and productivity.

Eureka County School District is concerned that drivers are in a condition to perform their duties safely and efficiently, in the interest of our fellow workers, the public as well as themselves. It is the purpose of this policy to eliminate substance abuse and its effects in the workplace.

Eureka County School District is also required to comply with Federal regulations pertaining to the attainment and maintenance of an Alcohol and Controlled Substances-Free Workplace. These requirements are outlined by the U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA), under Title 49 CFR Part 382 and Part 40. The purpose of this program is to reduce accidents that result from the use of alcohol and/or controlled substances, thereby reducing fatalities, injuries and property damage.

II. DRIVERS SUBJECT TO ALCOHOL AND CONTROLLED SUBSTANCES TESTING

The alcohol and controlled substances testing program applies to all Eureka County School District drivers who are licensed to operate a commercial vehicle that:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight of more than 10,000 pounds;
- Has a gross vehicle weight rating of 26,001 or more pounds;
- Is designed to transport 16 or more passengers; or
- Is of any size that is used to transport hazardous material which requires the vehicle to be placarded under the hazardous materials regulations.

This includes, but is not limited to: full-time drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to Eureka County School District or who operate a commercial motor vehicle at the direction of or with the consent of Eureka County School District. This program shall not apply to drivers who are granted a Federal or State waiver (i.e. emergency response vehicles) as outlined in Part 382.103.

III. SAFETY-SENSITIVE FUNCTIONS

A driver shall not use alcohol when performing safety-sensitive functions or perform safety-sensitive functions within four hours of using alcohol. A driver shall not report for duty or remain on-duty when his or her job requires performing safety-sensitive functions if he or she has been using controlled substances or has tested positive for controlled substances use.

A driver is performing a safety-sensitive function when:

- All times at an employer 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;
- All time performing pre-trip inspections, general inspections, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation
- All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a qualified sleeper berth;
- All time loading or unloading the vehicle, supervising, or assisting the loading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the motor vehicle , or in giving or receiving receipts for shipments loaded and unloaded;
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

IV. PROHIBITED CONDUCT

The following shall be considered “prohibited conduct” for purposes of this program:

- No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of .04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.
- No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.
- No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.
- No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- No driver shall refuse to submit to a post accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a follow-up alcohol or controlled substances test. No employer shall permit a driver who refuses to submit to such tests to perform or to continue to perform safety-sensitive functions.
- No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when use is pursuant to the instructions of a licensed medical practitioner (382.107) who has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a commercial motor vehicle. No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.
- No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

V. DRIVER VOLUNTARY SELF-IDENTIFICATION PROGRAM

Eureka County School District is supportive of drivers who come forward voluntarily to seek assistance for alcohol misuse or controlled substance use. Drivers who admit to alcohol misuse or controlled substance use will not be subject to the referral, evaluation and treatment requirements as outlined in 49 CFR Part 382 and Part 40 provided that: the driver does not self-identify in order to avoid testing under the requirements; the driver makes the admission of alcohol misuse or controlled substance use before performing safety-sensitive functions; and the driver does not perform a safety-sensitive function until Eureka County School District is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements as determined by a qualified Substance Abuse Professional (SAP). No adverse action will be taken against a driver making a voluntary admission of alcohol misuse or controlled substance use as long as he/she complies fully with the requirements of the self-identification program.

VI. ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Pursuant to regulations promulgated by the Department of Transportation, drivers will be subject to the following types of controlled substances testing: **1)** pre-employment testing, **2)** reasonable cause testing, **3)** post-accident testing, **4)** random testing, **5)** return to duty testing and **6)** follow-up testing.

1. Pre-employment

Prior to the first time a driver performs safety-sensitive functions, the driver shall undergo testing for controlled substances as a condition of employment. The driver will not be allowed to perform safety-sensitive functions until Eureka County School District has received a verified negative drug test from the Medical Review Officer (MRO). Eureka County School District may choose not to require a driver applicant to submit to a pre-employment test if Eureka County School District can verify that the driver has participated in a valid controlled substances testing program within the preceding 30 days and while participating in that program was either tested within the past 6 months (from the date of application) with their previous employer or participated in a random controlled substances selection program for the previous 12 months (from the date of application) with their previous employer. Eureka County School District will verify that no prior employer of the driver has records indicating a violation of any DOT rule pertaining to controlled substances use.

2. Reasonable Suspicion Testing

A driver shall be required to submit to an alcohol and/or controlled substances test when Eureka County School District has reasonable suspicion to believe that the driver has violated the prohibitions of the alcohol and controlled substances program. Eureka County School District's determination that reasonable suspicion exists to require the driver to undergo testing will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the driver. The observations may include the indications of the chronic and withdrawal effects of alcohol/controlled substances. The required observations for alcohol and/or controlled substances testing shall be made by a supervisor who is trained in accordance with 382.603. A driver may be directed by Eureka County School District to only undergo reasonable suspicion alcohol test is not administered

within two hours Eureka County School District shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight hours Eureka County School District shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. The supervisor who makes the determination that reasonable suspicion exists will not conduct the driver's breath alcohol test.

A written record shall be made of the observations leading to a reasonable suspicion controlled substances test, and signed by the supervisor who made the observations, within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier. While DOT does not require written documentation for reasonable suspicion alcohol testing, it is the policy of Eureka County School District to require such documentation as outlined above. A driver who has been requested to submit to reasonable suspicion testing will be placed on administrative leave (with or without pay) pending receipt of the test results.

3. Post-Accident Testing

Federal regulations require that, as soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, a driver shall submit to controlled substances and alcohol testing under the following circumstances: anytime a fatality occurs as a result of the accident; anytime a driver receives a citation under State or local law for a moving violation as a result of the accident and the accident involves an injury to anyone which requires immediate medical treatment away from the scene; or anytime a driver receives a citation for a moving violation as a result of the accident and the accident involves disabling damage to any of the vehicles. Disabling damage means one or more vehicles had to be towed away or cannot be driver from the scene.

Eureka County School District will require each driver to complete a post-accident report form that provides instructions to following completing any required alcohol and controlled substances testing. Drivers are then obligated to follow the instructions and see that the tests are conducted. Any driver subject to post-accident testing who leaves the scene of an accident before a test is administered other than for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care or who fails to remain readily available for testing may be deemed by Eureka County School District to have refused to submit to testing.

In the event that Federal, State or local officials conduct a breath or blood test for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests shall be considered to meet the DOT requirements, provided the tests conform to applicable Federal, State or local requirements. The employee will be required to sign a release allowing Eureka County School District to obtain the test results from such officials.

In an alcohol test is not administered within two hours following the accident, Eureka County School District shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If an alcohol test is not administered within eight hours following the accident, Eureka County School District shall cease attempts to administer an alcohol test and shall

prepare and maintain the same record. Records shall be submitted to the FMCSA upon request of the Associate Administrator.

If a controlled substance test is not administered within 32 hours following the accident, Eureka County School District shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request of the Associate Administrator.

4. Random Testing

All drivers will be subject to random alcohol and controlled substances testing. The selection of drivers for random alcohol and controlled substances testing shall be made from a computer-based random number generator that is matched with the driver's computer-based code number. The random selection system provides an equal chance for each driver to be selected each time random selection occurs. Random selections will be unannounced and spread reasonably throughout the year. Random selection, by its very nature, may result in drivers being selected in successive selections or more than once in a calendar year. Random controlled substances testing may be performed at any time while the driver is a work for the employer. Eureka County School District will select, at a minimum, 10 percent of the average number of driver positions for random alcohol testing. Random alcohol testing will be limited to the time period surrounding the performance of safety-related functions. A driver will only be tested immediately before, during, or just after the driver has ceased performing such functions. If a driver is selected at random, the DER will notify the driver. Once notified, the driver must take action intended to lead to an immediate collection. If the driver engages in conduct which does not lead to a collection as soon as possible after notification, such conduct may be considered a refusal to test.

5. Return-to-Duty Testing

Each driver who has engaged in prohibited conduct shall be advised by Eureka County School District of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and treatment programs. Eureka County School District's responsibility is limited only to making a driver referral for assistance.

Per D.O.T. requirements, each driver who engages in prohibited conduct shall be evaluated by a substance abuse professional who shall determine what assistance the driver needs in resolving problems associated with alcohol misuse and controlled substances use. Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct, the driver shall undergo a return-to-duty alcohol test with an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance and be subject to follow-up testing.

6. Follow-Up Testing

Per D.O.T. requirements, each driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use

shall be evaluated by a Substance Abuse Professional (SAP) to determine that the driver has properly followed any rehabilitation program, and shall be subject to unannounced follow-up alcohol and controlled substances tests administered by Eureka County School District following the driver's return to duty. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional, and consist of at least six tests in the first 12 months following the driver's return to duty. Any such testing shall be performed in accordance with the requirements of 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the driver's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

VII. TESTING GUIDELINES

Alcohol Testing

Alcohol testing is done by testing breath, because breath is the most easily obtained bodily substance and the results are known within minutes of testing. The testing device is called an Evidential Breath Testing Device (EBT). The EBT is a scientific instrument which determines the concentration of alcohol expressed as "percent by weight". The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood. A blood alcohol concentration (BAC) of .04 means one twenty-fifth of a gram of alcohol per 210 liters of breath. The EBT will print three copies of each test result and the test results are numbered. When the initial test results show a reading of .02 BAC or greater, a confirmation test is conducted. Before the confirmation test, a 15 minute waiting period will occur for the purpose of ensuring that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products does not artificially raise the test result. The confirmation test is done on the same EBT as the first test. When the confirmation result is different from the initial test, the confirmation test result will always be used to determine driver consequences. The driver will be given a copy of the breath alcohol testing form.

Controlled Substances Testing

The controlled substances testing program required by the regulations is limited to five controlled substances types: (1) Marijuana, (2) Cocaine, (3) Opiates (4) Amphetamines and (5) Phencyclidine (PCP).

As set forth in 49 CFR Part 40, all controlled substances testing is done from urine specimens collected under highly controlled conditions. The driver provides a urine specimen in a location that affords document and prepares the specimen and accompanying paper work for shipment to a controlled substances testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification and integrity are not compromised.

Driver protection is also built in to the testing procedures. In order to meet the Federal requirements, the only laboratories that can be used for testing are those certified by the Federal Department of Health and Human Services. The initial test of any specimen will be an immunoassay which meets the requirement of the Food and Controlled Substances Administration for commercial distribution. All specimens identified as positive will be further confirmed using gas chromatography/mass

spectrometry techniques. Before a laboratory is certified to conduct controlled substances testing, it is subject to a rigorous testing and inspection by the Department of Health and Human Services (DHHS). This testing and inspection includes the submission of test samples to the laboratory for analysis during three test cycles over a period of three months. If these test samples are correctly analyzed a team of qualified inspectors conduct an on-site inspection prior to certification of the lab. Continuing evaluation of the performance of certified laboratories by the Department of Health and Human Services includes the submission of performance test specimens every other month and an on-site inspection at last twice a year.

The laboratory must report test results to Eureka County School District's designated Medical Review Officer within an average of five working days after the receipt of the specimen by the laboratory. Test results must be certified accurate. The report must identify the controlled substances, metabolites tested for, whether the results are positive, adulterated, substituted or negative, the specimen identification number assigned to the driver, and the controlled substances testing laboratory specimen identification number. The laboratory must also provide to Eureka County School District a bi-annual statistical summary of urinalysis testing of drivers, which shall not include any personal identity information. The laboratory will retain samples that yield confirmed positive test results for one year in secured frozen storage. Because it is possible that some analytes may deteriorate during storage, the results of the re-test are to be reported as confirmation of the original test results if the detected level of the controlled substance is below the D.O.T. established limits and equal to or greater than the sensitivity of the test.

VIII. COLLECTION SITES

The DER will maintain a list of sites for sample collection. The driver will not be allowed to transport him or herself to or from the collection site in the event of a reasonable cause test or post-accident test request. The DER will arrange transportation for the driver at all times. The driver shall report immediately to the collection site once properly notified.

IX. THE ROLE OF THE MEDICAL REVIEW OFFICER

The Medical Review Officer (MRO) is a licensed, nationally certified physician who is knowledgeable in the medical use of prescription controlled substances and the pharmacology and toxicology of illicit controlled substances. The primary responsibility of the MRO is to review and interpret positive, adulterated, substituted or invalid test results obtained through Eureka County School District's controlled substances testing program. Alcohol testing is not subject to medical review given the evidentiary nature of its results.

In terms of controlled substances testing, it is important to understand that a positive, adulterated, substituted or invalid test result does not automatically identify an individual as an illegal controlled substances user. The MRO must evaluate the alternative medical explanations that could account for a positive, adulterated, substituted or invalid test results.

The review of a positive, adulterated, substituted or invalid test result is initiated immediately upon receipt and is ordinarily completed within two working days after receipt of all information pertinent to the review. No information about the test result shall be given to Eureka County School District during this period. In addition to information provided by the driver, this review will include considerations of chain of

custody documents prepared at the time of collection and, in connection with the laboratory, processing of the specimen. This review must also include review of the chain of custody process. If the MRO is unable to contact the driver directly, the MRO will contact Eureka County School District's DER, who shall in turn contact the driver and direct the driver to contact the MRO immediately, but no later than seventy-two hours as required by the regulations. The DER will inform the driver of the consequences of failing to do so as outlined in the regulations. During this time, Eureka County School District will not stand-down the driver from performing safety-sensitive functions based only on a request by the MRO to talk with the driver regarding the pending test result. However, Eureka County School District reserves the right to petition the Department of Transportation for a waiver of the stand-down provision if Eureka County School District determines that standing-down a driver is necessary for safety and Eureka County School District can provide data on safety problems or incidents that could have been prevented if a stand-down procedure were in place.

During the review of the laboratory results, the MRO will conduct a medical interview with the driver, review the driver's medical history, or review other biomedical factors. This interview may be conducted by telephone. The MRO must review all medical records that the tested driver submits when a confirmed positive, adulterated, substituted or invalid test result could have resulted from legally prescribed medication.

If any questions arise about the accuracy or validity of a positive, adulterated, substituted or invalid test result, the MRO should review the laboratory records to determine whether the required procedures were followed. This will require collaboration with the laboratory director, the analysts, and expert consultants. If necessary, the MRO may request the sample be reanalyzed to determine the accuracy of the test result.

The MRO shall not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process with the following exceptions: the MRO may disclose such information to Eureka County School District, D.O.T. or any other Federal safety agency, or a physician responsible for determining the medical qualification of the driver when an applicable D.O.T. regulation permits or requires such disclosure; in the MRO's reasonable medical judgment, the information could result in the driver being determined to be medically unqualified under an applicable DOT agency rule; or in the MRO's reasonable medical judgment, the information indicates that continued performance by the driver of his or her covered function could pose a significant safety risk.

At this point, the MRO makes a determination as to whether the result is scientifically sufficient to take further action. However, if the records from the collection site or laboratory raise doubts about the handling of the sample, the MRO may decide the urinary evidence is insufficient and no further actions would be taken. In these cases, the MRO shall note the possible errors in laboratory analysis or chain of custody procedures and shall notify the proper officials.

If it is determined with reasonable certainty that there is a legitimate medical or other reason to account for a positive, adulterated, substituted or invalid laboratory test result will be disclosed to Eureka county School District as required by the program. Any medical information acquired that is not specifically related to illegal controlled substances use will be treated as confidential and not disclosed.

No later than 72 hours after receipt of a confirmed positive, adulterated or substituted test result, a driver may submit a written request to the MRO for retesting of the specimen producing the positive, adulterated or substituted test result. The MRO must honor the request. Each driver may have one written request that the sample of the specimen be provided to the original or another DHHS-certified laboratory for testing. Per D.O.T. requirements, Eureka County School District must ensure that the test takes place and that the employee is not required to pay for the test from his/her own funds before the test takes place. Eureka County School District reserves the right to seek reimbursement from the driver for the cost of the test once the test is completed.

In summary, the MRO determines whether there is some reason other than illegal controlled substances use to explain a positive, adulterated, substituted or invalid urine controlled substances test. If illegal controlled substances use is verified, the MRO will inform the DER of the identification of the controlled substances found in a positive test. The driver shall then be notified of the results of the random, reasonable suspicion and post-accident controlled substances test if the test results are verified as positive, adulterated or substituted. The driver will also be informed as to which controlled substance(s) were verified as positive.

Eureka County School District shall notify a driver applicant of the results of a pre-employment controlled substances test if the driver requests such information within 60 days of being notified of the disposition of his/her employment application.

X. DRIVER CONSENT

Per Eureka County School District policy, a driver's consent to a medical examination and alcohol and controlled substances testing is required as a condition of employment and a driver's refusal to consent may result in disciplinary action, up to and including termination. A driver who refuses to test under D.O.T. regulations shall not be permitted to perform in a safety-sensitive position. Refusal shall be treated as a positive test for purposes of the regulations and will result in disciplinary action up to and including termination, per Eureka County School District policy.

Consent to a medical examination and testing includes a driver's obligation to fully cooperate. Upon request, a driver must promptly complete any required forms and releases and promptly provide a sample for alcohol and controlled substances testing.

XI. REFUSAL TO SUBMIT TO A TEST

DOT regulations provide that a driver shall not refuse to submit to a required alcohol and/or controlled substances test. Refusal to submit to an alcohol or controlled substances test means that a driver:

- Fails to appear for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete. This includes the failure of an employee/owner – operator to appear for a test when called by their testing consortium. An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- Fails to provide a urine/saliva/breath specimen for alcohol and/or controlled substances testing after he or she has received notice of the requirement for testing. An employee who does not provide an adequate

amount of urine/saliva/breath because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;

- In the case of a directly observed or monitored collection of a controlled substances test, the driver fails to permit the observation or monitoring of the provision of a specimen;
- Fails to provide a sufficient amount of urine when directed and a physician has determined, through a required medical evaluation, that there was not adequate medical explanation for the failure;
- Fails to provide a sufficient breath specimen and a physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test, following a negative dilute result, when required by the employer;
- Fails to undergo an additional medical examination or evaluation, as directed by the Medical Review Officer (MRO) as part of the verification process, or as directed by the DER concerning the evaluation as part of the 'shy bladder' or 'insufficient breath' procedures in Part 40. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- Fails to cooperate with any part of the testing process;
- Is reported by the MRO as having a verified adulterated or substituted test result.

Per Eureka County School District policy a driver refusing to submit to a required test will be subject to termination.

XII. CONSEQUENCES OF A POSITIVE TEST

Per D.O.T. requirements no driver who is found to have a BAC of .02 or greater but less than .04 shall perform safety sensitive functions until the start of the driver's next scheduled duty period, but not less than 24 hours following the test. Per Eureka County School District's policy the driver may also be subject to disciplinary action up to and including termination. A driver testing positive for a prohibited controlled substances or found to have an alcohol concentration of .04 or greater will be subject to disciplinary action up to and including termination (attach Eureka County School District, a driver may be offered an opportunity to return to duty once they become medically requalified and follow all requirements as outlined in Part 382.605.

XIII. DESIGNATED EMPLOYER REPRESENTATIVE (DER)

The Designated Employer Representative (DER) is an employee authorized by Eureka County School District to take immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for Eureka County School District consistent with the requirements outlined in the regulations.

The DER is also responsible for answering any questions a driver may have regarding the alcohol and controlled substances testing program. The DER for Eureka County School District is as follows:

Robin Hicks or Robert Aumaugher
P.O. Box 249
Eureka, NV 89316
(775) 237-5373

XIV. CONFIDENTIALITY OF RECORDS

The release of individual alcohol and/or controlled substances test records is permitted only with the specific written consent of the driver with the following exceptions:

- When requested by the Department of Transportation, Eureka County School District shall make available copies of all alcohol and/or controlled substances program name-specific records and reports, files, materials, data, documentation, agreements, contracts, policies and statements that are required under 49 CFR Part 382 and Part 40.
- When requested by Federal, state or local safety agency with regulatory authority, Eureka County School District shall disclose information related to the administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.
- Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
- The company may disclose information required to be maintained under this part pertaining to a driver, to the decision maker in a lawsuit, grievance, or other administrative proceedings brought by or on behalf of the driver, and resulting from a positive alcohol and/or controlled substances test or a refusal to test (including, but not limited to, adulterated or substituted test results). These proceedings also include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the controlled substance or alcohol test information sought is relevant to the case and issues an order directing the company to produce the information. The company may release the information only with a binding stipulation that the decision maker to whom it is released will make it available only to parties in the proceeding. Upon written request, a driver shall receive copies of any records pertaining to his/her alcohol or controlled substances test results.

XV. RELEASE OF ALCOHOL AND CONTROLLED SUBSTANCES TEST INFORMATION BY PREVIOUS EMPLOYERS

The company shall obtain, pursuant to a driver's written consent, information on the driver's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, refusals to be tested (including adulterated and substituted test results), and any other violations of the FMCSA alcohol and controlled substance testing regulations within the preceding three years, which are maintained by the driver's previous employers. This information must be obtained and received as soon

as possible, but no later than thirty calendar days after the first time a driver performs safety-sensitive functions. If it is not feasible to obtain the information prior to the driver performing safety-sensitive functions, the company will not permit a driver to perform safety-sensitive functions after thirty days without obtaining the information. If the driver stops performing safety-sensitive functions before expiration of the thirty day period or before the company has obtained this information, these records must still be obtained. The company will provide to each of the driver's employers within the three preceding years the driver's specific, written authorization for release of the information. The release of any information under this part may take the form of personal interviews, telephone interview, letters, or any other method of obtaining information that ensures confidentiality. The company will maintain a written, confidential record with respect to each past employer contacted.

The company must ask an applicant whether he or she has tested positive, or refused to test on any pre-employment controlled substance test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency controlled substance and alcohol testing rules during the past three years. If the applicant admits to a positive test or refusal to test, the company will not use the applicant documents successful completion of the DOT return-to-duty alcohol and controlled substances testing rules.

XVI. DRIVER ASSISTANCE TRAINING PROGRAM

Eureka County School District shall require supervisors designated to determine whether reasonable suspicion exists to require a driver to undergo testing, to receive at least sixty minutes of training on alcohol misuse and receive at least an additional sixty minutes of training on controlled substances use. The training shall cover the physical, behavioral, speech, and performance of probable alcohol and controlled substances misuse.

Eureka County School District will ensure all drivers receive 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 coworker'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. The Designated Employer Representative will maintain a list of community treatment resources for drivers in need of assistance.

XVII. SEVERABILITY

If any part or provision of this policy, or the application thereof to any person or circumstance, should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any part of this provision is restrained by such tribunal pending a final determination as to its validity, the remainder of this policy, or the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect.

APPENDICES

**D.O.T. Motor Carrier Part 382
Alcohol and Controlled Substances Testing Program**

APPENDICES

| | |
|---|------------|
| A. Verification of Driver's Involvement | Page 16 |
| B. Driver Pre-Employment Controlled Substances Statement | Page 17 |
| C. Consent Form to Release Alcohol/Controlled Substances Test Results To Prospective Employers | Page 18 |
| D. Notice to Drivers | Page 19 |
| E. Reasonable Suspicion Report | Page 21-22 |
| F. Driver Response Form | Page 23 |
| G. Notice To Driver Applicants | Page 24 |
| H. Training Outlines | Page 24-25 |
| I. Random Testing Documentation Form | Page 26 |
| J. Driver Post-Accident Report | Page 27-28 |
| K. Post-Accident Review | Page 29 |
| L. Record Keeping Requirements | Page 30-32 |
| M. Driver Authorization For Release of Test Results Performed by Law Enforcement | Page 33 |
| N. Post Accident Test Documentation Form | Page 34 |
| O. Missed Alcohol Test Documentation Report | Page 35 |
| P. Release of Testing Information by Previous Employer | Page 36 |
| Q. Documentation of Confirmation From Previous Employer | Page 37 |
| R. Driver Due Process Rights and Responsibilities-Investigative History File | Page 38-39 |

Appendix A

EUREKA COUNTY SCHOOL DISTRICT

Verification of Driver's Involvement

I, _____, certify _____ participated in an alcohol and controlled substances testing program that met all the requirements of D.O.T. Regulation 49 CFR, Part 382 and Part 40.

The driver's last date of active employment as on _____.

The driver's was last tested on _____.

Please check the following:

___ Yes ___ No The driver was tested for controlled substances within six months of his/her termination date. If yes, with the driver's written permission, please attach a copy of the controlled substances test result.

___ Yes ___ No The driver was actively enrolled in the company's random controlled substances testing program for the last twelve months of his/her employment.

___ Yes ___ No To my knowledge, the driver has not violated any other regulation outlined in 49 CFR Part 382.

___ Yes ___ No The driver is qualified under the requirements of D.O.T. Regulation 49 CFR, Part 382 and Part 40 and has not refused to be tested for controlled substances.

Testing Program Information:

Organizational Name: _____
Address: _____
Phone Number: _____
Contact Person: _____

I certify that to my knowledge, the foregoing information is correct and true.

Dated: _____
Signature of Authorized Representative

Appendix B

EUREKA COUNTY SCHOOL DISTRICT

Driver Pre-employment Controlled Substances Statement

I, _____, certify that I have not tested positive or refused to test on any pre-employment controlled substances test administered by a past employer in which I applied for but did not obtain safety-sensitive transportation work covered by the Department of Transportation’s Alcohol and Controlled Substances Testing Rules during the past two years from the date of my employment application with Eureka County School District.

Signature of Driver: _____ Date: _____

Witness: _____ Date: _____

The authorization is valid until revoked in writing by the above stated driver.

- DRIVER NOTICE -

IF THE DRIVER APPLICANT HAS HAD A POSITIVE PRE-EMPLOYMENT CONTROLLED SUBSTANCES TEST OR REFUSAL TO TEST DURING THE PAST TWO YEARS FROM THE DATE OF THIS EMPLOYMENT APPLICATION WITH EUREKA COUNTY SCHOOL DISTRICT, DO NOT SIGN THIS FORM.

EUREKA COUNTY SCHOOL DISTRICT WILL NOT EMPLOY A DRIVER TO PERFORM SAFETY-SENSITIVE FUNCTIONS UNTIL AND UNLESS THE DRIVER DOCUMENTS SUCCESSFUL COMPLETION OF THE RETURN TO DUTY PROCESS AS OUTLINED IN THE D.O.T. REGULATIONS. DRIVER VERIFICATION OF THE COMPLETION OF THE RETURN TO DUTY PROCESS MUST BE SUBMITTED TO THE EUREKA COUNTY SCHOOL DISTRICT DESIGNATED EMPLOYER REPRESENTATIVE TO BE CONSIDERED ELEGIBLE FOR EMPLOYMENT.

Appendix C

**EUREKA COUNTY SCHOOL DISTRICT
CONSENT FORM**

**RELEASE OF ALCOHOL AND CONTROLLED SUBSTANCES TEST RESULTS
TO PROSPECTIVE EMPLOYERS**

Upon request, I, _____, authorize Eureka County School District to release to _____ all alcohol and controlled substances testing records obtained for the last two years of my employment.

The purpose of this release is to assist me in complying with my new employer, _____, DOT Alcohol and Controlled Substances Testing Program.

This consent is valid until revoked in writing by the above driver.

Date

Signature of Driver Applicant

Witness

Appendix D

**EUREKA COUNTY SCHOOL DISTRICT
NOTICE TO DRIVERS**

I acknowledge that I have received a copy of Eureka County School District's revised CFR 49 Part 382 Alcohol and Controlled Substances Testing Policy, effective August 1, 2001. I have read the Policy in its entirety and understand its requirements.

Date

Driver Name (Please Print)

Driver Signature

Appendix E

**EUREKA COUNTY SCHOOL DISTRICT
REASONABLE SUSPICION REPORT**

When requesting an alcohol and/or controlled substances test, Eureka County School District’s representative must complete this form.

1. Name of Driver: _____
2. Position: _____
3. Date of Incident: _____
4. Time of Incident: _____
5. State objective evidence of reasonable suspicion to believe the driver is in possession of, using, or under the influence of alcohol and/or controlled substances (physical evidence should be retained and stored)

6. Protocol for requesting alcohol and/or controlled substances testing:
 - a. Attempt to have another Supervisor corroborate your observation.
 - b. Contact the DER (or designee) for a second review of the evidence and approve testing if appropriate.
7. Call driver into office and present driver with evidence.
8. Driver’s response (investigate, where appropriate):

9. Inform driver of Eureka County School District’s alcohol and controlled substances testing requirements.
10. Request driver to submit to alcohol and/or controlled substances testing:
 - a. If driver agrees, have driver sign testing release and follow procedure for collecting sample.
 - b. If driver refuses to submit to testing:
 - 1) Ask driver for reason(s) why he/she refuses to submit to alcohol and/or controlled substances testing.
 - 2) Inform driver that Eureka County School District’s policy requires drivers to consent to testing and that refusal is

10. (continued)

grounds for disciplinary action up to and including termination.

- 3) Again request driver to consent to testing.
 - a) If driver agrees, have he/she sign testing release and follow procedure for collecting sample.
 - b) A Eureka County School District representative will arrange transportation and accompany the driver to the collection site, stay in the waiting room until notified that the collection has been completed and then arrange transportation home for the driver.
 - c) If driver still refuses, inform driver that he/she is suspended pending Eureka County School District's decision. Request driver to sign refusal to test form.

- 11. After testing sample is collected, inform driver that he/she is on investigative suspension pending the results of the test and Eureka County School District's decision on the matter.
- 12. In cases where the driver is suspected of being under the influence of alcohol and/or controlled substances, arrange transportation (i.e. taxi) home for the driver. If the driver refuses transportation, attempt to persuade the driver to change his/her mind. Do not restrain the driver. In cases where the driver refuses transportation and his/her condition suggests that the driver presents a potential or actual safety risk to themselves or other drivers notify the police. Inform the driver that you intend to call the police unless he/she accepts transportation. Have a witness verify the driver's refusal of transportation.
- 13. To the best of my knowledge, this report represents the physical, behavioral, speech or performance indicators of the above-named driver observed by me and upon which I based the decision to request the driver to submit to reasonable suspicion testing.

Supervisor Signature: _____

Date: _____

Appendix F

**EUREKA COUNTY SCHOOL DISTRICT
DRIVER RESPONSE FORM**

8. Driver's response to alcohol and/or controlled substances testing request: (must be handwritten by driver)

10. Driver's reason for refusing to submit to alcohol and/or controlled substances testing: (must be handwritten by driver)

Appendix G

EUREKA COUNTY SCHOOL DISTRICT

**NOTICE TO DRIVER APPLICANTS
CONTROLLED SUBSTANCES TESTING REQUIREMENTS**

Eureka county School District has a vital interest in maintaining safe, healthful and efficient working conditions for our customers, the public, and our drivers. Using or being under the influence of alcohol and/or controlled substances on the job may pose serious safety and health risks not only for the user, but to all those who work with the user. The possession, use or sale of alcohol or an illegal controlled substance poses unacceptable risks to safe, healthful and efficient operations.

To meet this compelling interest, and in compliance with the Department of Transportation’s Alcohol and Controlled Substances Testing Requirements (49 CFR Part 382) drivers who wish to be considered for employment must agree to SUBMIT TO PRE-EMPLOYMENT CONTROLLED SUBSTANCES TESTING.

By completing and signing this Notice and the attached Application of Employment, the driver applicant understands and agrees to submit a pre-employment controlled substances testing as provided for in Eureka County School District’s Alcohol and Controlled Substances Policy.

ANY DRIVER APPLICANT WHO IS UNWILING TO AGREE TO THESE CONDITIONS SHOULD NOT APPLY FOR EMPLOYMENT WITH EUREKA COUNTY SCHOOL DISTRICT. Refusal of a driver applicant to agree to controlled substances testing at this time does not preclude applying for employment with Eureka County School District at some future date.

Date: _____

SIGNATURE OF DRIVER APPLICANT

Appendix H

**EUREKA COUNTY SCHOOL DISTRICT
ALCOHOL AND CONTROLLED SUBSTANCES AWARENESS PROGRAM OUTLINE**

In the alcohol and controlled substances awareness program I received information on:

- The dangers of substance abuse in the workplace.
- The effects and consequences of alcohol and controlled substances use on personal health, safety and the work environment.
- Physiological and psychological aspects of chemical dependency.
- Recognition of the warning signs that indicate alcohol or controlled substances use or abuse.
- Education on how not to support, cover up or make excuses for a fellow driver abusing alcohol or controlled substances.
- Available treatment resources and recovery options.

Driver Name (Please Print)

Date

Driver Signature

Appendix H

Page 2

**EUREKA COUNTY SCHOOL DISTRICT
SUPERVISORY TRAINING OUTLINE**

I, _____, acknowledge that I have attended a supervisory training program as required by Eureka County School District.

The supervisory training program provided information on:

- Recognition of signs and symptoms of employee alcohol and controlled substances abuse.
- How to document performance problems associated with alcohol and controlled substances abuse.
- How to conduct the corrective interview--practical and legal concerns.
- Making effective supervisory referrals for the troubled driver.
- Reintegration issues—working with the driver after treatment.

Signed

Date

I certify that the training conducted complies with the training requirements as outlined in 832.603.

Trainer Name: Bob Sinnett, M.A.

Organization: Saint Mary’s Regional Medical Center

Address: 745 West Moana Lane, Suite 100, Reno, Nevada 89509

Phone: (775) 770-3940

Signature: _____

Appendix I

RANDOM TESTING DOCUMENTATION FORM

PREPARE THIS FORM EACH TIME TEST SELECTION IS PERFORMED

Employer: _____

Location: _____

Testing Periods Per Year: _____

This Test Period Number: _____

Numbers of Drivers To Be Tested This Period: _____

Selection Date: _____

| Eligible Driver's Names (list alphabetically) | Random Selection # | Collection Date | Alcohol Test Results | Drug Test Results |
|--|-------------------------------|----------------------------|---------------------------------|------------------------------|
|--|-------------------------------|----------------------------|---------------------------------|------------------------------|

Appendix J

EUREKA COUNTY SCHOOL DISTRICT

DRIVER POST-ACCIDENT REPORT

Date of Accident: _____

Time of Accident: _____

Location of Accident: _____

Driver: _____

Driver's Social Security #: _____

Description of Accident: _____

Involved Parties:

Name: _____

Address: _____

Phone: _____

Witnesses:

Name: _____

Address: _____

Phone: _____

Name: _____

Address: _____

Phone: _____

Driver Post-Accident Report

Page 2

Investigating Officer:

Name: _____

Address: _____

Phone: _____

Were any tests administered by the law enforcement officer? _____

Were you issued a moving vehicle citation? _____

Did any vehicle sustain disabling damage to the extent the vehicle was undrivable and required towing? _____

Did you sustain an injury that required immediate treatment away from the scene? (please describe)

Treatment Facility:

Name: _____

Address: _____

Phone: _____

Contact Person: _____

Were there any fatalities? _____

Contact Eureka County School District's DER (Robin Hicks or Butch Melka 775-237-5373) to review the report form and receive instructions on providing a sample for alcohol and controlled substances testing (if required).

Appendix K

EUREKA COUNTY SCHOOL DISTRICT

POST – ACCIDENT REVIEW

1. Review Driver’s Post-Accident Report Form.
2. Attempt to contact investigating officer to discuss circumstances of the accident and determine if there is reason to believe the driver was under the influence of alcohol or controlled substances.
3. Notify driver of the closest collection site to proceed to provide a sample for alcohol and controlled substances testing (if required).

Collection Site: _____

Address: _____

Phone: _____

Contact Person: _____

Appointment Time: _____

4. Inform the driver that they will be placed on leave of absence with pay pending receipt of the post-accident test result.

Appendix L

EUREKA COUNTY SCHOOL DISTRICT

RECORD KEEPING REQUIREMENTS

General Requirements – Eureka County School District shall maintain records of its alcohol misuse and controlled substances use prevention program as provided in the regulation. The records shall be maintained in a secure location with controlled access.

Period of Retention – Eureka County School District shall maintain the records in accordance with the following schedule:

- 1) **Five years.** The following records shall be maintained for a minimum of five years:
 - a. Records of driver alcohol test results with results indicating an alcohol concentration 0.02 or greater.
 - b. Records of driver verified positive controlled substances test results.
 - c. Documentation of refusals to take required alcohol and/or controlled substances tests.
 - d. Calibration documentation.
 - e. Driver evaluation and referrals.
 - f. Records related to the administration of the alcohol and controlled substances testing program.
 - g. A copy of each annual calendar year summary required by § 382.403.

Two years – Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

One year – Records of negative and canceled controlled substances test results (as defined in part 40 of this title) and alcohol test results with a concentration of less than 0.02.

Indefinite Period – Records related to the education and training of breath alcohol technicians, screening test technicians, SAP’s, MRO’s, supervisors, and drivers shall be maintained by Eureka County School District while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

Types of Records – The following specific records shall be maintained.

1. Records related to the collection process:
 - a. Documents relating to the random selection process.
 - b. Calibration documentation for evidential breath testing devices.
 - c. Documents of breath alcohol technician training.
 - d. Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests.
 - e. Documents generated in connection with decisions on post-accident tests.
 - f. Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing.
 - g. Consolidated annual calendar year summaries as required by §382.403.
2. Records related to a driver's test results:
 - a. Copy of the alcohol test form, including the results of the test.
 - b. Copy of the chain of custody and control form.
 - c. Documents sent by the medical review officer to the employer.
 - d. Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part.
 - e. Documents present by a driver to dispute the result of an alcohol or controlled substances test administered under this part.
 - f. Documents generated in connection with verifications of prior employer's alcohol or controlled substances test results that must be obtained in connection with the exception contained in §382.301 and §382.413.
3. Records related to other violations of this part.
4. Records related to evaluation:
 - a. Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance.

- b. Records concerning a driver's compliance with recommendations of the substance abuse professional.
5. Records related to education and training:
- a. Materials on alcohol misuse and controlled substances use awareness, including a copy of the employer's policy on alcohol misuse and controlled substances use.
 - b. Documentation of compliance with the requirements of §382.601, including the driver's signed receipt of education materials.
 - c. Semi-annual laboratory statistical summaries of urinalysis required by §40.111(a);
 - d. Eureka County School District's alcohol and controlled substances testing policy and procedures.
 - e. Location of records – All records required by this part shall be maintained as required by §390.31 of this subchapter and shall be made available for inspection at the employer's principal place of business within two business days after a request has been made by an authorized representative of the Federal Motor Carrier Safety Administration (FMCSA).

Appendix M

**EUREKA COUNTY SCHOOL DISTRICT
DRIVER AUTHORIZAITON FOR RELEASE OF TEST RESULTS
PERFORMED BY LAW ENFORCEMENT AGENCY**

I, _____, hereby authorize _____,
driver's name **name of law enforcement agency**

having independent authority to perform either breath or blood tests for the use of alcohol or a urine test for the use of controlled substances following an accident,

to release to _____ at _____ any such test results.

I affirm that the test or tests were conducted in connection with a

DOT – recordable accident on _____
month, day, year
conducted by _____ in or near _____.
name of law enforcement agency **city, state**

Driver's social security number of CDL license number: _____

Signature of driver

Date

Witness

Date

This authorization is valid until withdrawn in writing by driver.

Appendix N

**EUREKA COUNTY SCHOOL DISTRICT
POST-ACCIDENT ALCOHOL AND CONTROLLED SUBSTANCES TEST
DOCUMENTATION FORM**

_____ was involved in a commercial motor vehicle accident
name of driver

on _____ requiring the administration of a post-accident
month, day, year

alcohol and drug test pursuant to Part 382, Eureka County School District was notified of the accident at _____ on _____ by
time month, day, year
_____. The accident occurred at or near _____

The following efforts were undertaken to have the driver tested as required by the regulations: _____

- A. An alcohol test was administered within two hours which demonstrated a blood alcohol concentration of _____.
- B. An alcohol test could not be administered to the driver within two hours of the accident because: _____

- C. An alcohol test was administered after _____ hours (but not more than eight), which demonstrated a blood alcohol concentration of _____.
- D. An alcohol test was not administered within eight hours of the accident because: _____

- E. A controlled substances test (circle one) **was/was not** administered within 32 hours.
- F. A controlled substances test was not administered within 32 hours because: _____

Eureka County School District Representative

Date

Appendix O

**EUREKA COUNTY SCHOOL DISTRICT
MISSED ALCOHOL TEST DOCUMENTATION REPORT**

Type of Test Requested:

___ Post-Accident

___ Reasonable Suspicion

Date: _____

Location: _____

Time: _____

Type of safety sensitive function the driver was performing at the time of the test request:

An alcohol test was not administered within eight hours because:

A blood alcohol test would have been available within eight hours at the following facility:

Name of facility: _____

Address of facility: _____

Phone number of facility: _____

Eureka County School District Representative

Date

Submit to: Attn. Alcohol Testing Program
 Office of Motor Carrier Standards (HCS-1)
 FMCSA
 400 Seventh Street S.W.
 Washington, D.C. 20590

Appendix P

EUREKA COUNTY SCHOOL DISTRICT

RELEASE OF TESTING INFORMATION BY PREVIOUS EMPLOYER

I, _____, hereby authorize _____
driver/applicant's name previous employer/company name

To release to _____
company contact new employer/company name

_____ address city/state/zip

() phone () fax

results of any positive controlled substance tests, alcohol tests with a result of .04 or greater, evidence of refusal to be tested (including adulterated or substituted test results); other violations of the FMCSA alcohol and drug testing rules and information on any required substance abuse professional (SAP) evaluation and compliance with SAP recommendations for the preceding two years.

This authorization is valid until withdrawn by me in writing.

Dated this _____ day of _____

Name of driver _____

Signature of driver _____

SS Number _____ Witness _____
signature

Appendix Q

EUREKA COUNTY SCHOOL DISTRICT

DOCUMENTATION OF CONFIRMATION FROM PREVIOUS EMPLOYER

This document certifies that _____ reports that
prior employer

_____ Had:
driver

- 1. Positive controlled substances test(s) Yes No
- 2. Alcohol test result(s) of .04 or greater Yes No
- 3. Refusals to be tested for the preceding two years Yes No
- 4. Other violations of FMCSA alcohol & drug testing regulations Yes No

If **YES** to any of the above, below is the name and address of the substance abuse professional (SAP) that evaluated this individual. Please attach documentation of the employee's successful completion of the DOT return to duty requirements including follow-up tests.

SAP _____

SAP address _____

SAP city/state/ZIP _____

Date: _____
month, day, year

Prior Employer
Representative: _____
Signature

Appendix R**DRIVER DUE PROCESS RIGHTS AND RESPONSIBILITIES –
INVESTIGATION OF PERONSALE HISTORY FILE**

- 49CFR Part 391 requires all employers to inform drivers, in writing, of the following due process rights regarding the alcohol and controlled substances testing information that will be provided to the prospective employer; the right to review information provided by previous employers; the right to have errors in the information corrected by the previous employer and for that previous employer to re-send the corrected information to the prospective employer and the right to have a rebuttal statement attached to the alleged erroneous information, if the previous employer and the driver cannot agree on the accuracy of the information.
- Drivers who have previous Department of Transportation regulated employment history in the preceding three years, and wish to review previous employer-provided investigative information must submit a written request to the prospective employer, which may be done at any time, including when applying, or as late as 30 days after being employed or being notified of denial of employment.
- The prospective employer must provide this information to the applicant within five (5) business days of receiving the written request. If the prospective employer has not yet received the requested information from the previous employer(s), then the five-business day's deadline will begin when the prospective employer receives the requested safety performance history information. If the driver has not arranged to pick up or receive the requested records within thirty (30) days of the prospective employer making them available, the prospective motor carrier may consider the driver to have waived his/her request to review the records.
- Drivers wishing to request correction of erroneous information in records received must send the request for the correction to the previous employer that provided the records to the prospective employer. The previous employer must either correct and forward the information to the prospective motor carrier employer, or notify the driver within 15 days of receiving a driver's request to correct the data that it does not agree to correct the data. If the previous employer corrects and forwards the data as requested, that employer must also retain the corrected information as part of the driver's record and provide it to subsequent prospective employers when requests for this information are received. If the previous employer corrects the data and forwards it to the prospective motor carrier employer, there is no need to notify the driver. Drivers wishing to rebut information in records received must send the rebuttal to the previous employer with instructions to include the rebuttal in that driver's record. Within five business days of receiving a rebuttal from a driver, the previous employer must forward a copy of the rebuttal to the prospective motor carrier employer and append the rebuttal to the driver's information in the carrier's appropriate file, to be included as part of the response for any subsequent investigating prospective employers for the duration of the three-year data retention requirement. The driver

Appendix R

Page 2

may submit a rebuttal initially without a request for correction, or subsequent to a request for correction.

- The driver may also report failures of previous employers to correct information or include the driver’s rebuttal as part of information, to the FMCSA. The prospective motor carrier employer must use the information only as part of deciding whether to hire the driver. The prospective motor carrier employer may not provide any alcohol or controlled substances information to the prospective motor carrier employer’s insurer.

I have read the driver due process rights and responsibilities – investigation of personal history file statement in its entirety and understand its requirements.

Date

Driver Name (Please Print)

Driver Signature