

# Drug & Alcohol Testing: Regulatory Violations to Avoid!



IOWA PUPIL TRANSPORTATION ASSOCIATION



## IPTA Spring 2016 Regional Meetings

### Chris Darling, IPTA Executive Director

*Special “Thank You” to Terry Voy with the Iowa Association of School Boards  
for providing updated information for this presentation.*

## *Who is subject to drug & Alcohol Testing?*



## Employees who operate a commercial motor vehicle including:

1. Vehicle designed for more than 15 passengers
2. Carries a manufacturer's GVWR of 26,001 pounds or greater

## Operators Must Possess a Commercial Driver's License

**IOWA DRUG & ALCOHOL TESTING PROGRAM (IDAPT)**  
*(Sponsored by: Iowa Association of School Boards)*

# Part 382, Subpart C

## Types of Testing Required:



- Pre-Employment (Drug only)
- Post-accident
- Random
- Reasonable Suspicion
- Return-to-duty
- Follow-up

# *Employee Education & Training*



- You must provide information including:
  - ✓ Name of district contact for program information
  - ✓ Prohibited conduct
  - ✓ Requirement that employees must be tested for drugs and alcohol
  - ✓ When & under what circumstances that employees will be tested
  - ✓ Testing procedures
  - ✓ Explanation of what constitutes a refusal to test
  - ✓ Consequences of refusing a test
  - ✓ Effects of drugs and alcohol on a person's health, work and personal life.
  - ✓ How to access individuals or organizations that provide counseling and access to treatment programs

# §382.107 - Do You Know Your DER?

*Designated Employer Representative*



- The DER - an individual selected by the employer to administer the employer's drug and alcohol testing program.
- The DER - must be an employee of the company (school district).
- The DER - must have knowledge of Federal regulations related to drug and alcohol testing.
- The DER - receives communications from service agents including the list of drivers selected for random testing.
- The DER - sees that drivers selected for random testing are notified in accordance with the regulations.
- The DER - is authorized to take immediate actions to remove employees from safety-sensitive duties resulting from testing violations and to make required decisions in the testing and evaluation processes

# §382.301, Pre-employment



- Must have an initial, negative drug-only test result before allowing a new employee to operate a commercial motor vehicle.

NOTE: Includes new-hires and existing employees that are changing positions to include operating a commercial motor vehicle.



# §382.303 - Post-Accident Test



- Any fatality involved – must test your driver for drugs & alcohol.
- No fatality and your driver is not issued a citation – No drug or alcohol test required.
- Driver issued citation and one of the following occurred – drug & alcohol test required.
  - *INJURY with Immediate Treatment Away from the Scene*
  - *TOWED VEHICLE due to Disabling Damage*

## **IMPORTANT: Required testing must be completed**

- (Alcohol) - within 2 hours of the accident or a maximum of 8 hours after which attempts to test stop.
- (Drug Test) – within 32 hours of the accident after which attempts to test stop.

**Note: If unable to test within required time periods, you must document why it was not possible to test within the required time.**

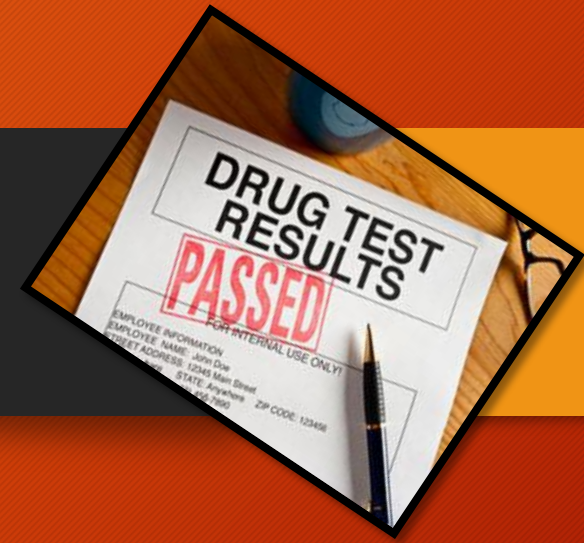
# §382.305 Random



- \* Drugs = 50% of driving positions (Pool)  
Alcohol = 10% of driving positions (Pool)  
In addition:
  - Testing is unannounced
  - Spread reasonably throughout the calendar year
  - Each driver has an equal chance of being tested at time of selection
- \* ***NOTE: On January 1, 2016, the USDOT set the minimum drug test rate to 25% of driver pool. IDATP will continue drug testing at the 50% rate for 2016.***

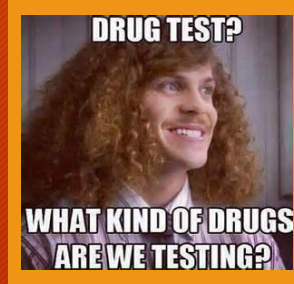


# §382.305, Random



- Each driver selected - must be tested during the selection period (*IDATP Quarterly*)
- Must proceed immediately to test site  
*(Note: Immediately means that after notification, all employee actions must lead to an immediate specimen collection.)*
- Alcohol - Just before, just after, or while performing safety- sensitive function

# §382.307, Reasonable Suspicion



- Supervisors must be trained to recognize signs  
*(Iowa Association of School Boards, IASB online training available)*
- Observations must be specific, timely and articulable
- Based on driver's appearance, behavior, speech or body odor
- A written record of observations made is required to be maintained on file.

## Document, Document, Document

(Recommendation - a second trained observer should be consulted to confirm suspected violation.)

# §382.309, Return-to-duty Testing



- Only after evaluation by a Substance Abuse Professional (SAP) and treatment
- Must be authorized by the SAP
- Must have negative test result before resuming safety-sensitive functions

*(Important note: Returning driver to duty is based on district policy or bargaining agreement.)*

# §382.311, Follow-up



- Follow-up testing **MUST** be performed in accordance with 49 CFR part 40, Subpart O
- Number of tests are specified by the Substance Abuse Professional (SAP)
- A minimum of 6 in first 12 months
- Scheduled and unannounced by employer
- Testing is in addition to regular random testing

*NOTE: Cost of additional testing is the responsibility of driver or school policy.*

# Prohibitions



1. May not use or possess alcohol or prohibited drugs prior to or during the performance of safety sensitive function  
*(medications may be authorized by medical practitioner)*
2. May not report for service or remain on duty if you:
  - consume alcohol 4-hrs prior to reporting for duty
  - BAC test result of .02-.039 (24 hours out of serv.)
  - .04 or greater = positive test
3. May not refuse a required drug or alcohol test
4. Adulteration or substitution of specimen = refusal
5. Positive drug or alcohol test - referred to certified SAP  
*(Substance Abuse Professional)*

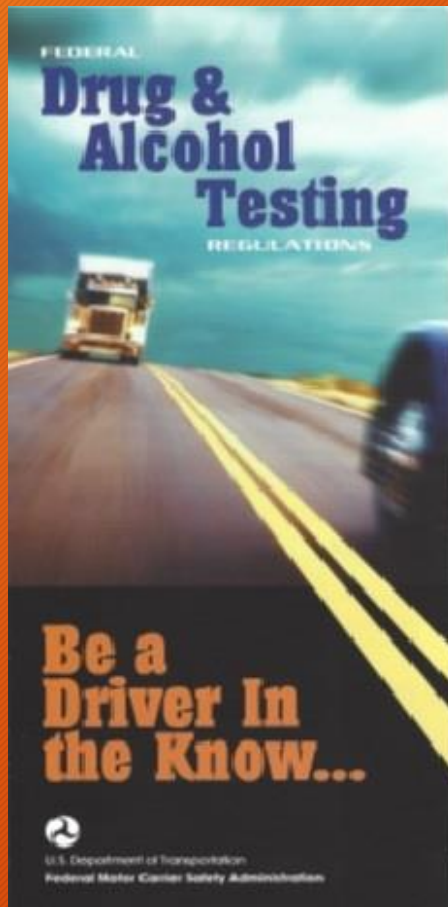


# Critical Program Procedures



- ✓ Post accident test determination (when/when not to test)
- ✓ Non-DOT Testing (*not allowed by DOT & not covered by IDATP*)
- ✓ Driver notification procedure
- ✓ Non-prescribed meds is a DOT violation treated same as a “positive” test (*using family member meds*)
- ✓ Refusal/failure to test
- ✓ Leaving collection site w/o testing = refusal/failure to test
- ✓ Driver information & supervisor training - required
- ✓ Alternate List Use

# Drug and Alcohol Testing Brochure for Drivers



**FMCSA**

Federal Motor Carrier Safety Administration

[www.fmcsa.dot.gov/  
rules-regulations/topics/drug/drug.htm](http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm)

Stay Clean.  Stay Sober.  Stay Safe.

# Questions?



IOWA PUPIL TRANSPORTATION ASSOCIATION





# Thank you!



Iowa Pupil Transportation Association



The IPTA provides school administrators, drivers and technicians with safe transportation solutions.

What can we do for your District?

Keep the focus clearly on the safety of all children riding on your communities School Buses!

- ✓ Stay Clean
- ✓ Stay Sober
- ✓ Stay Safe