

Book	Policy Manual
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4162 - **CONTROLLED SUBSTANCE AND ALCOHOL POLICY FOR COMMERCIAL MOTOR VEHICLE (CMV) DRIVERS AND OTHER EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS**

Purpose

The Board of Education believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the school vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety-sensitive functions with District vehicles, (collectively "Covered Employees") must be mentally and physically alert at all times while on duty.

To that end, the Board has established this policy, which includes an alcohol and controlled substances testing program. The Board also expects all Covered Employees to comply with Board Policy 4122.01 on Drug Free Workplace which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times.

Further, the Board concurs with the Federal requirement that all Covered Employees should be free of any influence of alcohol or controlled substance while on duty. Therefore, participation in the alcohol and controlled substances testing program is a condition of employment for all Covered Employees.

Definitions

For purposes of this policy and the guidelines associated with the policy, the following definitions shall apply.

- A. The term *alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- B. The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and/or local laws and regulations.
- C. The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- D. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- E. The term *safety-sensitive functions* includes all tasks associated with the operation and maintenance of District owned and/or operated vehicles. This term further includes any period in which an individual is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
- F. The term *Covered Employee* means all commercial driver license (CDL) holders and regular and substitute bus drivers as well as other staff who operate, inspect, service and condition a commercial motor vehicle (CMV) while on duty, regardless of whether they are required to hold a CDL.

[x] This policy also covers other staff members who drive students in or inspect, service, and condition non-CMV District vehicles.

- G. The term *while on duty* means all time from the time the Covered Employee begins to work or is required to be in readiness for work until the time s/he is relieved from work and all responsibility for performing work.

Procedures

The Superintendent shall establish a drug and alcohol testing program whereby each Covered Employee is tested for the presence of alcohol in his/ her system as well as for the presence of the following controlled substances:

- A. Marijuana
- B. Cocaine
- C. Opioid
- D. Amphetamines
- E. Phencyclidine (PCP)

The alcohol and controlled substances tests are to be conducted in accordance with Federal and State regulations a.) prior to employment (**Controlled Substances Only**), b.) reasonable suspicion, c.) upon return to duty after any alcohol or drug rehabilitation,

~~**[] [OPTION #1]**~~

~~d.) after any accident 1) resulting in human death, 2) where the driver is issued a citation and the accident results in an injury that requires immediate medical attention away from the scene, or 3) where there is disability damage to any motor vehicle that requires towing~~ ~~**[END OF OPTION]**~~

~~**[] [OPTION #2]**~~

d.) after any accident,

[NOTE: must select one option. Option #1 mirrors the DOT regulations; Option #2 provides a more affirmative approach to drivers who are primarily involved with transporting children.]

e.) on a random basis, and f.) on a follow-up basis.

~~**[] Candidates shall also be tested for the presence of alcohol in their system prior to employment.**~~

Any staff member who tests positive as defined in the guidelines shall be immediately prohibited from driving any District owned and/or operated vehicle or conducting a safety sensitive function:

- A. ☒ and evaluated by a substance abuse professional;
- B. ☒ and provided information regarding drug/alcohol counseling; or referred to the District's Employee Assistance Program;
- C. ☒ and subject to discipline, up to and including discharge, in accordance with District guidelines and the terms of any applicable collective bargaining agreements.

No staff member who has tested positive for alcohol or a controlled substance may be returned to a safety sensitive position without having been evaluated by a qualified substance abuse professional (SAP), completing any required treatment program, and passing a retest. Return to a safety sensitive position is solely at the District's discretion and the employee may be required to participate in ongoing services if recommended by the SAP. Any staff member who has tested positive for alcohol or a controlled substance will be provided with a list of SAPs available and acceptable to the District.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then:

☒ the test will be considered positive and the employee shall be prohibited from ~~driving any school vehicle performing any safety sensitive functions~~ and be referred to the District's Employee Assistance Program.

~~**(-) the employee will be re-tested with an observed collection to prevent the addition of an adulterant to the specimen.**~~

Any staff member who refuses to submit to a test shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Board-owned vehicle).

Prior to the beginning of the testing program, the District shall provide a drug-free awareness program which will inform Covered Employees and their supervisors, about:

- A. the dangers of illegal drug use and controlled substance and alcohol abuse;

- B. indicators of probable alcohol misuse and controlled substance abuse;
- C. Board Policy 4122.01 - Drug-Free Workplace, Policy 4161 - Unrequested Leaves of Absence/Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;
- D. the sanctions that may be imposed for violations of Policy 4122.01.

The Superintendent shall arrange for periodic retraining of supervisors and staff members as necessary. The Superintendent shall provide a copy of this policy and testing guidelines to all Covered Employees and will include available resources to assist employees with problems related to the use of alcohol and controlled substances.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples
- B. clear and consistent communication with the District's Medical Review Officer (MRO)
- C. methodology and procedures for conducting random tests for controlled substances and alcohol
- D. preparation and submission of all required reports to the District, the MRO, and to Federal and State governments

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the District's MRO, and the drug collection site(s) in accordance with the requirements of the law.

Educational Materials Related to Certain Federal Regulations, Board Policies, and Procedures

CDL License Holders and other employees who perform safety-sensitive functions will be provided educational materials at the time of hire or at any time when required to operate a school vehicle. The educational materials shall explain the requirements of applicable Federal regulations and the Board's policies and District's procedures with respect to meeting these Federal regulations. The Board designates (x) Transportation Director as the individual responsible for providing educational materials to CDL License Holders and other employees who perform safety-sensitive functions. The educational materials will include, at a minimum, the following: ~~Educational materials explaining the requirements of the Federal regulations and of the Board's policies and procedures to meet the Federal regulations shall be provided to all Covered Employees, including the following:~~

- A. the contact information for (x) Transportation Director, who is the individual designated by the Board to answer questions about the educational materials ~~the name of the person designated by the Board to answer questions about the materials~~
- B. a statement that all CDL License Holders and other employees who perform safety-sensitive functions are subject to 49 C.F.R. 382, which is a Federal regulation that addresses the misuse of alcohol and other controlled substances
- C. information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations
- D. information concerning ~~what conduct is~~ prohibited conduct
- E. the circumstances under which employees are subject to testing for alcohol and/or controlled substances
- F. the procedures for testing for the presence of alcohol and controlled substances in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee, including post-accident information, procedures, and instructions required under Federal regulations
- G. the requirement that staff members must submit to alcohol and controlled substance testing as required by the regulations
- H. an explanation of what constitutes a refusal to be tested or alcohol or controlled substances and the attendant consequences
- I. the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment
- J. the consequences ~~for a test indicating~~ for employees found to have an alcohol concentration ~~greater than~~ of 0.02 ~~or greater but less than 0.04, and~~

- K. information concerning the effects of alcohol and ~~drug misuse~~controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol and/or controlled substances problem (the employee's or a co-worker's); and available methods of intervening when a ~~drug~~controlled substances and/or alcohol problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management); ~~and~~and
- L. information regarding the requirement that certain personal information collected and maintained under 49 C.F.R. Part 382 be reported to the Commercial Driver's License Drug and Alcohol Clearinghouse

These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member must sign a statement certifying receipt of these materials. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety sensitive functions. Each employee (and labor organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering employee questions about the materials.

-Return-to-Duty (Safety-Sensitive Positions)

Employees who are removed from performing safety-sensitive functions as a result of this policy must take and pass return-to-duty test before returning to performing safety-sensitive functions. The return-to-duty test will not occur until after a Substance Abuse Professional (SAP) has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

Employees must also comply with the SAP's written follow-up testing plan, which will be administered by the District, or they will not be permitted to perform safety-sensitive duties.

Subject to any collective bargaining agreement or other legal requirements, employees who are eligible to return to performing safety-sensitive functions may not do so without the approval of the Superintendent.

49 C.F.R. 382-~~101 et seq.~~

34 C.F.R. Part 40

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49 C.F.R. 382

34 C.F.R. Part 40