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4162 - **DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS AND OTHER EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS**

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 Board-owned and/or operated ("Board-owned") vehicles must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' health and well-being.

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

A. The term illegal drug means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.

B. 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.

C. 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.

D. The term safety-sensitive functions includes all tasks associated with the operation and maintenance of Board-owned 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.

E. The term CDL license holder means all regular and substitute bus drivers, other staff members who may drive students in Board-owned vehicles or inspect, repair, and maintain Board-owned vehicles.

F. The term while on duty means all time from the time the CDL license holder 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.

The Board expects all CDL license holders to comply with Board Policy 4122.01 on Drug Free Schools 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 CDL license holders should be free of any influence of alcohol or controlled substance while on duty.

The Board directs the Superintendent to establish a drug and alcohol testing program whereby each regular and substitute bus driver, as well as any other staff member who holds a CDL license, 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. Opioids

D. Amphetamines

E. Phencyclidine (PCP)

[X] OPTION #1

The drug tests are to be conducted in accordance with Federal and State regulations a.) prior to employment, **(Controlled Substances Only),** b.) for reasonable cause, c.) upon return to duty after any alcohol or drug rehabilitation, d.) after any accident, e.) on a random basis, and f.) on a follow-up basis.

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

~~The drug tests are to be conducted in accordance with Federal and State regulations a.) prior to employment, b.) for reasonable cause, c.) upon return to duty after any alcohol or drug rehabilitation, d.) after any accident, 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.~~

[END OF OPTIONS]

Any staff member who tests positive shall be prohibited from performing or continuing to perform his/her safety-sensitive functions (e.g., driving any Board-owned vehicle) and be referred to the District's Employee Assistance Program.

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 and be referred to the District's Employee Assistance Program.~~

(X) 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).

Staff member who voluntarily disclose that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program, and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that s/he has an alcohol or drug addiction.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

A. reports for duty or performs work while having an alcohol concentration of 0.04 or greater

B. reports for duty or performs work while testing positive for using a prohibited drug, or while being under the influence of a prohibited drug

C. refuses to submit to drug and/or alcohol testing

D. alters or attempts to alter or unduly influence alcohol and/or drug testing results

E. fails to remain readily available for post-accident testing (including notifying his/her supervisor of his/her location, if the staff member leaves the scene of the accident prior to the submission of a post-accident test, unless the staff member's departure is to obtain necessary emergency medical care)

Prior to the beginning of the testing program, the Board shall provide a drug-free awareness program which will inform each CDL license holder about:

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

B. 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;

C. the topics identified in AG 4162A;

D. the sanctions that may be imposed for violations of Policy 4122.01.

All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at his/her overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. The Board will not pay for the employee's time while not on duty, if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under the Americans With Disabilities Act (i.e. test results shall be provided on a right to know basis - the employee, the employer, and the substance abuse professional - and the results shall not be presented until analyzed by a Medical Review Officer).

A tested individual, upon written request, will have access to any records relating to his/her use of drugs and alcohol, including any records pertaining to his/her drug and alcohol tests. A tested individual must provide written authorization before his/her test result can be provided to any other person except a government agency specified in the applicable Federal regulations.

All tests shall be conducted in accordance with Federal testing guidelines and be performed by a laboratory that is Federally certified (i.e. testing procedures and devices used will be as set forth in 49 C.F.R. Part 40).

The alcohol and drug testing program shall be under the direction of the Superintendent.

The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

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 **)** Director of Business Affairs 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 staff members, including the following:~~

A. the contact information for (X) Director of Business Affairs, who is the individual ~~name of the person~~ designated by the Board to answer questions about the educational 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 prohibited ~~what~~ conduct ~~is prohibited~~

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 for 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 employees found to have ~~for a test indicating~~ an alcohol concentration of ~~greater than~~ 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 alcoholand/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

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. A staff member who refuses to sign the requisite statement shall be prohibited from performing any safety sensitive functions. Each staff member must sign a statement certifying receipt of these materials. 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.

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. Part 382~~.101 et seq.~~
34 C.F.R. Part 40

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Legal 49 C.F.R. Part 382
34 C.F.R. Part 40

Last Modified by Becki Kimmel on October 22, 2018