

The Board of Education recognizes the dangers inherent in alcohol and controlled substance use by employees, especially those in safety-sensitive positions. To ensure the safety of its students and to comply with federal regulations, the Board requires alcohol and controlled substance testing of certain district employees, mainly “drivers,” operators of "other school buses," and any other employee who is subject to such testing, in accordance with and as set forth in the applicable federal and state requirements.

Definitions

1. “Driver” is defined as includes any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.
2. "Other school buses" include those covered by applicable federal regulations (see list below) and any other motor vehicle either owned by the district or by a private company, operated to transport students, children of students, teachers, and other supervisory persons to or from school or school activities.

Testing Responsibilities

Consistent with federal regulations, the district shall directly, by contract, or through a consortium, implement and conduct a program to provide alcohol and controlled substance testing of employees/drivers who operate a commercial motor vehicle, perform in a safety-sensitive position, and are required to hold a commercial driver’s license. Employees holding such positions include:

- drivers of vehicles designed to transport 16 or more passengers, including the driver;
- drivers of commercial motor vehicles whose manufacturer’s rating is 26,001 lbs. or more; or any other employee who may drive or service a listed vehicle (e.g. a mechanic who performs test drives, repairs, inspects, or loads or unloads a listed vehicle listed in 1 or 2 above). Controlled substance and alcohol tests will be conducted for operators of all "other school buses" consistent with the procedures applicable to the implementation of federal regulations. Volunteers who drive a bus with passengers fewer than 30 days per year are not subject to such testing.

Generally, the required testing will be conducted at or prior to the time of employment and randomly throughout the school year. In addition, drivers are subject to additional testing under federal regulations testing will be conducted when a supervisor has a reasonable suspicion that an employee a driver has engaged in prohibited alcohol or controlled substance use; after certain accidents; prior to return to duty when the employee driver has been found to violate district policy and federal regulations; and after the employee’s driver's return to duty.

Driving Prohibition

In accordance with federal and state law, a driver will not be permitted to may not drive if he or she:

- possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance, while on duty;
- uses or is under the influence of alcohol or a controlled substance that is not lawfully prescribed within six hours or less before duty;
- has an alcohol concentration of 0.02 or higher, or tests positive for a controlled substance; or refuses to take a required alcohol or controlled substance test.

Also, no driver shall use alcohol after being involved in an accident in which there was a fatality or in which the driver was cited for a moving violation and a vehicle was towed from the scene or an injury was treated away from the scene until he/she has been tested or 8 hours have passed, whichever occurs first.

Enforcement of Driving Prohibitions

The school district will not require or permit drivers of vehicles listed above, as well as operators of all "other school buses" defined above, to be on duty or operate a listed vehicle or other school bus, if it appears that they have consumed a drug/controlled substance (except those lawfully prescribed) or alcohol within the preceding eight hours. This shall be based on the person's general appearance, conduct, or other substantiating evidence. Those who maintain, repair, or garage listed vehicles or school buses that involves incidental driving without passengers, are exempt from this requirement, but are still prohibited from consuming controlled substances and alcohol within six hours of going on duty.

Response to Positive Testing Results

Any employee driver who is tested and found to have an alcohol concentration of at least 0.02, but less than 0.04, shall be removed from the position until his or her next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any employee driver found to have violated this requirement may be disciplined in accordance with the provisions of the applicable collective bargaining agreement, district policy, and/or law. Operators of "other school buses" subject to random testing pursuant to New York Law will be subject to the same consequences based upon an alcohol concentration of at least 0.02 but less than 0.04 as drivers listed above.

If a driver has an alcohol concentration of 0.04 or greater, or has engaged in prohibited alcohol or controlled substance use, he or she will be removed from driving duties, and referred to a substance abuse professional. The employee driver may be required to complete a treatment program and/or be disciplined pursuant to district policy and/or collective bargaining agreement. No driver who has abused controlled substances and/or alcohol may return to duty unless he/she has successfully passed a required return to duty test. Thereafter, the driver will be subject to follow-up testing. Operators of "other school buses" subject to random testing pursuant to New York Law will be subject to the same consequences based upon an alcohol concentration of 0.04 or greater or a positive drug test as drivers listed above.

Re-Testing

Should the district receive a dilute test result in which the creatinine concentration is greater than 5mg/dL in the case of any pre-employment, return-to-duty, follow-up, reasonable suspicion, or random test, it is the policy of the district that the individual shall be re-tested and that re-test will become the test of record.

Policy Distribution

The Superintendent of Schools shall ensure that a copy of this policy, the district's policy on misuse of alcohol and use of controlled substances, information on alcohol and drug abuse and treatment resources and any other information prescribed by federal regulations is provided to all drivers and operators of "other school buses" prior to the initiation of the testing program and to each driver or operator of "other school buses" subsequently hired or transferred to a position subject to testing.

Cross-ref: 9320-Drug-Free Workplace, 9610-Staff Substance Abuse

Ref: Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§31136; 31306 49 U.S.C. §521(b) 49 CFR Part 391 (Qualifications/Disqualifications) 49 CFR Part 382 (Drug and Alcohol Testing Requirements) 49 CFR Part 40 (Testing Procedures) 49 CFR §395.2 (On-duty time defined) Vehicle and Traffic Law §§509-g; 509-l; 1192; 1193 *Will v. Frontier CSD Bd. of Educ.*, 97 N.Y.2d 690 (2002)

Adopted: September 2019