

416 TRANSPORTATION EMPLOYEE DRUG AND ALCOHOL TESTING

I. PURPOSE

A. The school board recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. The school board further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.

B. The school board believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. Therefore, to provide such an environment, the purpose of this policy is to provide authority so that the school board may require all transportation employees and/or job applicants to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in federal law and Minn. Stat. §§ 181.950-181.957.

C. The possession, sale, transfer, use or being under the influence of controlled substances while working or performing job duties or while operating School District vehicles, machinery or equipment is prohibited. No employee shall perform safety sensitive functions within four hours after using alcohol.

II. GENERAL STATEMENT OF POLICY

A. All school district employees and job applicants whose positions require a commercial driver's license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. The school district also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.

B. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are not medically prescribed is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically prescribed are prohibited from entering or remaining on school district property.

- C. The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.
- D. Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

II. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

A. General Statement of Policy

All persons subject to commercial driver's license requirements shall be tested for alcohol, marijuana, cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

B. Definitions

1. "Actual Knowledge" means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee's use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee's admission, except when made in connection with a qualified employee self-admission program.
2. "Alcohol Screening Device" (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.
3. "Breath Alcohol Technician" (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.
4. "Commercial Motor Vehicle" (CMV) includes a vehicle which is designed to transport 16 or more passengers, including the driver.
5. "Designated Employer Representative" (DER) means a designated school district representative authorized to take immediate action to remove employees from safety-sensitive duties, to make required decisions in the testing and evaluation process, and to receive test results and other communications for the school district.
6. "Department of Transportation" (DOT) means United States Department of Transportation.

7. “Driver” is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers, and independent owner-operator contractors.

8. “Evidential Breath Testing Device” (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.

9. “Medical Review Officer” (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district’s drug testing program and for evaluating medical explanations for certain drug tests.

10. “Refusal to Submit” (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver’s provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer’s instructions, in an observed collection, to raise the driver’s clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test result. An applicant who fails to appear for a pre-employment test, who leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.

11. “Safety-sensitive functions” are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.

12. “Screening Test Technician” (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.

13. “Stand Down” means to temporarily remove an employee from performing safety-sensitive functions after a laboratory reports a confirmed positive, an adulterated, or a substituted test result but before the MRO completes the verification process.

14. “Substance Abuse Professional” (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

III. PROHIBITED DRUG AND ALCOHOL RELATED CONDUCT

The following alcohol and controlled substance-related activities are prohibited by the Federal Highway Administration’s (FHWA) drug and alcohol regulations for drivers of commercial motor vehicles:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .02 or greater;
2. Alcohol possession while on duty or operating a commercial motor vehicle (CMV);
3. Using alcohol while performing safety-sensitive functions
4. Performing safety-sensitive functions within four hours after using alcohol.
5. Using alcohol for eight hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first;
6. Refusing to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, or follow up testing requirements;
7. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while using any controlled substance, except when the use is pursuant to a physician’s instructions and the physician has advised the driver that the substance does not adversely affect his or her ability to safely operate a CMV.
8. Reporting for duty or performing any safety-sensitive function if the driver tests positive for controlled substances.

IV. PRESCRIPTION DRUGS

Employees who, under a physician’s care and prescription, use a controlled substance, shall carry substance in the original container, with the prescriber’s

and pharmacist's identification thereon, and may be required to provide documentation from the said physician. Employees using a prescription drug which may impair mental or motor function shall inform their supervisor of such drug use. For the safety of the students and the employee, Albany Area School reserves the right to have its medical review officer determine if a prescription drug produces hazardous effects, and to take the appropriate action based upon the report of the medical review officer regarding the effects of the prescription medication or controlled substance.

V. **DRUG & ALCOHOL PROCEDURE**

In compliance with the Federal Regulations and Albany Area Schools policy, employee bus drivers will be subjected to drug and alcohol screening. Drug and Alcohol screening will be for the purpose of determining use. The

Superintendent or designee shall implement this program beginning January 1, 1996.

A. PRE-EMPLOYMENT TESTING

All applicants, including persons currently employed by the School District, that apply for a position where job duties include operating commercial motor vehicles will be required to take a drug test if a job offer is made. The test will screen for the presence of the following drugs or drug classes: Amphetamines, Cannabinoids, Cocaine, Metabolite, Opiates and Phencyclidine. A verified positive test will result in a withdrawal of a conditional offer of employment.

B. REASONABLE SUSPICION TESTING

A drug test shall be required if the School District has a reasonable suspicion that an employee has violated this policy with regard to alcohol or controlled substances. Reasonable suspicion exists when the School District believes the employee's observable action, appearance, body odor, speech or conduct are indicative of the use of a controlled substance or alcohol. Reasonable suspicion alcohol tests should be administered as soon as practicable. If the test is not administered within two hours of a determination of reasonable suspicion, the District shall prepare and maintain a record explaining why this was not done. If the reasonable suspicion alcohol test is not administered within eight hours, all attempts to conduct the test shall cease and the reasons shall be documented. Notwithstanding the absence of a reasonable suspicion alcohol test, the employee shall not be permitted to perform safety sensitive functions until 24 hours have elapsed following the determination of a reasonable suspicion. If the driver is requested to be tested and refuses to submit to this testing, his/her test results will be considered positive. Disciplinary action based on a positive drug and alcohol result will be in compliance with the Federal/State Regulations and Albany Area Schools Drug and Alcohol Policy.

C. RANDOM TESTING

1. Drivers will be subject to drug and alcohol testing at any time while on the job. Drivers will be selected for testing on a random basis. Such drivers will report immediately to the testing site. This is a condition of employment as a driver and a refusal to be tested will result in the driver not being medically qualified to drive. Disciplinary action based on a positive drug or alcohol result will be in compliance with Federal/State Regulations and Albany Area Schools Drug and Alcohol policy.

2. Federal rules require that the Albany Area Schools conduct random controlled substances testing on 50% of the average number of employees and random alcohol testing on 25% of the average number of employees during the first year of the program. Employees may be selected for more than one test per year. Tests shall be spread reasonably through the year.

D. POST ACCIDENT TESTING

1. Drug and alcohol testing shall be conducted as soon after a reportable accident as practicable when the accident involves: loss of life; bodily injury requiring immediate hospital attention; either vehicle suffering disabling damages requiring of a tow; or the driver receives a citation under state or local law for a moving violation arising from the accident.

2. Drivers shall make themselves readily available for testing, except when immediate medical attention is needed. Tests conducted by authorized federal, state, and local officials will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the district. A driver shall not use alcohol for eight (8) hours after the accident, or until after he/she undergoes a post-accident alcohol test, whichever occurs first. If an alcohol test is not administered within two hours, the reasons shall be documented. The test will not be given if not administered within thirty-two (32) hours after the accident for drug testing or within eight (8) hours for alcohol testing. In such situations the District shall prepare and maintain records explaining why the test was not conducted.

E. RETURN TO DUTY TESTING

A drug or alcohol test shall be conducted when a driver who has violated the Albany Area School's drug and alcohol testing policy wishes to return to performing safety-sensitive duties. Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty drug test produces a verified negative result. Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and district standards. A driver who violates the District's drug or alcohol policy and is subsequently identified by a substance abuse professional (MRO) as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional. This will be administered over a period not to exceed 60 months from the date of the employee's return to duty.

VI. SPECIMEN COLLECTION FACILITY(S)

The Albany Medical Center will be designated by Albany Area Schools to collect urine specimens for drug tests from applicants and employees and evidential breath test for alcohol tests from employees.

VII. MEDICAL REVIEW OFFICER

A qualified licensed physician (MRO) who has knowledge of substance abuse will be utilized to interpret and evaluate a donor's positive test results together with his or her medical history and other relevant biomedical information and to avail himself/herself to the donor for a face to face interview if necessary. The

MRO will report all drug testing results to authorized District officials.

VIII. TESTING PROCEDURES

A. ALCOHOL TESTING

Federal alcohol testing rules require alcohol testing to be administered by a breath alcohol technician (BAT), defined as an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Two breath tests are required to determine if a person has a prohibited alcohol concentration. Any result less than .02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. If an employee attempts and fails to provide an adequate amount of breath, the School District will direct the employee to obtain written evaluation form a licensed physician to determine if the employee’s inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the designated School District contact person.

B. DRUG TESTING

Testing will be done for the presence of the following drugs or drug classes: Amphetamines, Cannabinoids, Cocaine, Metabolite, Opiates and Phencyclidine.

Controlled substances testing is conducted by analyzing an employee’s urine specimen. The employee shall provide a urine sample at a designated collection site, which will be collected and transported to the laboratory in accordance with federal regulations. Split urine samples will be collected according to federal regulation. The employee will provide a urine specimen at the designated collection site. The collection site person shall pour the urine specimen into two bottles labeled “primary “ and “split”, seal the specimens, complete a chain of custody document and prepare bottles for shipment to the testing laboratory for analysis.

If the employee is unable to provide the appropriate quantity of urine, the collection site person shall instruct the employee to drink not more than 24 ounces of fluids and, after a reasonable period of time, not to exceed two hours, again attempt to provide a complete sample. If the employee is still unable to provide a complete sample, the testing shall be discontinued and the School District notified. The MRO shall refer the employee for a medical evaluation to determine if the employee’s inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the School District may elect to not have the referral made and revoke the employment offer.

The Albany Area Schools shall use an independent toxicology laboratory certified in accordance with the Department of Health and Human

Services Guidelines. The District will work with the laboratory to develop and maintain a clear and well-documented procedure for collection, shipment, chain of custody, confirmatory testing and accessing of urine specimens in compliance with federal regulations.

Drug test results are reported directly to the medical review officer by the testing laboratory. The medical review officer reports the results to the School District's designated contact person. If the results are negative, the School District is informed and no further action is necessary.

When an employee drug tests result is positive, the medical review officer shall give the employee an opportunity to discuss the test result. The employee shall be informed of which substance he or she tested positive for. The medical review officer must review any medical records supplied by an employee to determine if a confirmed positive test is the result of the employee having taken legally prescribed medication. The medical review officer shall contact the employee directly, on a confidential basis, to determine whether the person wishes to discuss the positive result. The medical review officer will review the confirmed positive test result to determine whether there is an acceptable medical reason for the positive result. The medical review officer shall verify and report a positive test result to the School District when there is no legitimate medical reason for a positive test result as received from the testing laboratory. If after making reasonable efforts and documenting these efforts, the medical review officer is unable to reach the employee directly, the medical review officer must contact the designated School District contact person, who shall direct the employee to contact the medical review officer. If the Albany Area Schools contact person is unable to contact the employee, the employee will be placed on suspension.

The medical review officer may verify a test positive without having communicated directly with the employee about the test results under the following circumstances:

1. The employee expressly declines the opportunity to discuss the test results;
2. The employee has not contacted the medical review officer within five days of being instructed to do so by the School District.

An employee may, at his/her own expense, have a confirmatory drug retest of the original sample performed. Employees must notify the School District in writing within 72 hours of receiving notice of a confirmed positive test result that they wish to have a retest. If the confirmatory retest is negative, no adverse action will be taken against an employee or applicant.

IX. RECORDKEEPING REQUIREMENTS AND RETENTION

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

2. The required records shall be retained for the following minimum periods:

Basic records	5 years
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“Basic records” includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow-up tests and schedules for follow-up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

Information obtained from previous employers	3 years
Collection records	2 years
Negative and cancelled drug tests	1 year
Alcohol tests with less than 0.02 concentration	1 year
Education and training records	indefinite

“Education and training records” must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

Employee drug and alcohol test results and records shall be maintained under strict confidentiality and released only in accordance with the law. Upon written request, a driver shall receive copies of any records pertaining to his/her alcohol or drugs tests.

X. NOTIFICATION

Each driver shall receive educational materials that explain the requirements of Federal Regulations and a copy of the district’s policy/procedures. Before drug and alcohol tests are performed, the district shall inform drivers that tests are given in accordance to Federal Regulations. This notice will be given prior to the compliance date specified in law (January 1, 1996).

XI. DISCIPLINARY ACTION

Employees may be subject to discipline up to and including discharge if they test positive for drugs/alcohol or refuse testing.

A. Refusal To Be Tested:

Applicant refusing to be tested: equals a positive test and renders him/her medically unqualified. The contingent offer of employment will be withdrawn.

Employee refusing to be tested equals a positive test and is grounds for termination of employment. The employee will not be given a second chance to test at a later date.

B. Verified positive Drug Test:

Applicant job offer will be withdrawn.

Employee will be subject to termination. As an alternative to termination, the employee may be given the option to enter a district approved rehabilitation program. He/she must successfully complete the program and will be monitored by random testing for up to five years after completion of the program.* (The employee would be allowed to be reinstated only pending completion of the rehabilitation program and approval by the MRO. District # 745 is not responsible to provide or pay for alcohol or drug treatment or hold an employee's job open while he or she receives treatment.) If at any time during this rehabilitation and monitoring program the employee tests positive, he/she will be terminated immediately.

C. Verified Positive Alcohol Test

Tests are given using an evidential breath test. An alcohol concentrate of less than .02 does not need to be reconfirmed. An alcohol concentrate of .02 or greater must be confirmed. If confirmation test shows an alcohol concentration between .02 but less than .04, the driver cannot perform safety sensitive duties for 8 - 24 hours or until a retest shows his/her alcohol level is below .02. If confirmation test shows alcohol concentration at .04 or greater, the driver cannot return to the safety sensitive position.

As an alternative to termination, the employee may be given the option to enter a district approved rehabilitation program. He/she must successfully complete the program and will be monitored by random testing for up to five years after completion of the program. (The employee would be allowed to be reinstated only pending completion of the rehabilitation program and approval by the MRO. District #745 is not responsible to provide or pay for alcohol or drug treatment or hold an employee's job open while he or she receives treatment.) If at any time during this rehabilitation and monitoring program the employee tests positive, he/she will be terminated immediately.

D. Possession of drugs or drug paraphernalia: Employees found in possession of drugs or drug paraphernalia will be terminated.

E. Selling or Distributing Drugs: Employees found selling or distributing drugs will be terminated.

XII. EMPLOYEE ASSISTANCE PROGRAM (EAP)

Employees who believe they have a drug or alcohol problem are encouraged to seek counseling immediately through District 745 approved EAP. Supervisors or Human Resources personnel may also refer employees to EAP.

XIII. POLICY MODIFICATION

The Albany Area Schools retains the right to modify this policy to conform to changes in regulation or law.

XIV. CONTACT PERSON

The School Nurse of District #745 is the designated contact person for this policy. Employee questions concerning this policy should be directed to: Director of Transportation and Grounds. Both can be reached at 30 Forest Avenue - (320) 845-2171.

DRUG AND ALCOHOL TESTING POLICY STATEMENT

STATEMENT of understanding:

I, _____ have read in its entirety,
Printed name

and fully understand Albany Area Schools Drug and Alcohol Policy.

Signed: _____ Date:

Witnessed by: _____ Date:

**POST ACCIDENT TESTING
PROCEDURE ACKNOWLEDGMENT**

I understand the Federal Motor Carrier Safety Regulations (FMCSR), part 391.113 requires to provide a urine sample to be tested for use of controlled substances as soon as possible, but not later than 32 hours, after a reportable accident in which the driver of the commercial motor vehicle receives a citation for a moving violation arising from the accident.

DEFINITION OF "REPORTABLE ACCIDENT"

- (a) Except as provided in paragraph (b) of this section, the term "reportable accident" means an occurrence involving a commercial motor vehicle engaged in the interstate, foreign, or intrastate operations of a motor carrier who is subject to the Department of Transportation Act resulting in:
- (1) The death of a human being
 - (2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
 - (3) The vehicles involved in the accident are required to be towed from the scene.

I understand that in order for me to locate the nearest collection site where a urine sample can be taken, I can contact MEDTOX Laboratories at 320-636-7466 or 1-800-823-3244, 24 hours a day, 7 days a week.

Driver's Signature: _____ Date: _____

Original of this form must be kept in the Driver Qualification File, copy to driver.