

EMPLOYEE DRUG AND ALCOHOL TESTING

Beginning January 1, 1995, any Board employee holding a commercial driver's license who also operates or has reason to move a school bus or other commercial motor vehicle in connection with their employment, as well as any applicant or current employee seeking a position covered by this policy, shall be subject to testing for evidence of the use of alcohol and illegal drugs in accordance with state and federal law.

Positions covered by this policy include school bus drivers, substitute school bus drivers, mechanics, maintenance workers and warehouse workers, as well as coaches, teachers and administrators who perform or will perform driver duties. Persons employed in a covered position are covered regardless of whether they are employed on a full-time, part-time, temporary, casual or intermittent basis.

Drivers and prospective drivers covered by this policy shall be provided with a copy of this policy, the administrative procedure implementing this policy, and other educational materials explaining the requirements of the drug and alcohol testing program. A signed statement acknowledging receipt of these materials shall be obtained from each current driver prior to implementing the testing program and from prospective drivers before employing them in a position covered by this policy.

Compliance with this policy does not excuse compliance with any other Board policy, procedure, statute or regulation dealing with drugs and alcohol.

A. DEFINITIONS

As used in Board policy and in this administrative procedure, the term

1. "Driver" means any Board employee holding a commercial driver's license who also operates or has reason to move a school bus or other commercial motor vehicle in connection with their employment. The term "driver" includes but is not limited to the following: school bus drivers, substitute school bus drivers, mechanics, connection with their employment. The term "driver" includes but is not limited to the following: school bus drivers, substitute school bus drivers, mechanics, maintenance workrs and warehouse workers, as well as coaches, teachers and administrators who perform driver duties, and includes such employees regardless of whether they are employed on a full-time, part-time, temporary, casual or intermittent basis.
2. "Prospective Driver" means an applicant or a current employee seeking a position as a driver or a position involving driver duties.
3. "Illegal Drugs" means marijuana, cocaine, opiates, phencyclidine (PCP), amphetamines (including methamphetamine) or any other controlled substance or drug that persons are prohibited by state or federal law from using, but does ot include any drug being pursuant to a valid medical prescription or as otherwise authorized by state or federal law.

4. "Alcohol" means beer, wine, spirits, ethyl alcohol, and other low molecular weight alcohols from whatever source or by whatever means produced.
5. "Under the Influence" means a detectable level of alcohol or an illegal drug that remains in the individual's system or that the individual manifests signs of impairment or intoxication, such as slurred speech, unsteady gait, the smell of alcohol or drugs, tardiness, erratic attendance or similar signs.
6. "Positive Test Result" means the result obtained after an initial positive result is confirmed by a further confirmatory test conducted in accordance with federal requirements.
7. "Safety Sensitive Function" shall mean all on-duty functions to be performed by drivers including driving, waiting to be dispatched, inspecting and servicing equipment, supervising, performing or assisting in the loading and unloading, repairing or obtaining and waiting for help with a disabled vehicle and performing driver requirements related to accidents.
8. "Safety Sensitive Positions" shall mean positions held by persons performing safety sensitive functions.

B. PROHIBITED CONDUCT

1. Drivers shall not use, sell, manufacture or be under the influence of alcohol or any illegal drug at any time during their work hours or while on Board property or attending Board events.
2. Drivers shall not ingest any alcohol within eight (8) hours prior to reporting for duty or while on duty, and shall not ingest any illegal drug at any time.
3. Drivers and prospective drivers shall not refuse to submit to any drug or alcohol test required under this administrative procedure.
4. Drivers that are taking prescribed medication that could impair their ability to safely operate a vehicle must report this to their immediate supervisor as directed by this policy.

C. SANCTIONS

1. Prospective drivers may be rejected for employment if
 - a. they test positive for alcohol or any illegal drug on a test required under this administrative procedure; refuse to submit to such a test;
 - b. are reasonably suspected by a physician, medical official or laboratory personnel to have tampered with a test specimen.

2. A driver who tests positive for any illegal drug on a test required under this administrative procedure may be terminated from employment.
3. A driver who tests positive for alcohol on a test required under this administrative procedure may be subject to disciplinary action up to and including termination of employment.
4. A driver or prospective driver who refuses to submit to a drug or alcohol test required under this administrative procedure may be terminated from employment and shall not perform or continue to perform safety sensitive functions.

D. TESTING OF DRIVERS AND PROSPECTIVE DRIVERS

1. Pre-employment Testing

- a. All applicants for part-time or full-time safety sensitive positions, and all persons transferring from non-safety sensitive positions at New Hanover County Schools (NHCS) will be directed to submit to an Alcohol and Controlled Substance test.
- b. An alcohol test result must indicate an alcohol concentration of less than 0.04; if the alcohol content is 0.02 or greater but less than 0.04, the applicant will be denied employment for at least 24 hours. Alcohol testing will be conducted just prior to performing a safety sensitive function.
- c. A drug test will be conducted during the pre-employment process and a negative drug test result must be received before a final offer of employment is made.

2. Post-accident Testing

- a. Drivers will be required to undergo tests for the presence of alcohol and illegal drugs following an accident in which
 - (1) there occurs a fatality, or
 - (2) the driver receives a citation under state or local law for a moving violation.
- b. Drivers may also be required to submit to drug and alcohol tests following an accident in which there occurs
 - (1) serious physical injury to the driver or any other person, or
 - (2) substantial property damage to Board or other property in excess of \$500.
- c. The alcohol test must be administered within two (2) hours following the accident and in no case shall more than eight (8) hours elapse before the test is administered. It is the employee's responsibility to notify their supervisor immediately to insure actions are taken to meet the testing requirements.
- d. The driver must refrain from using alcohol for eight (8) hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

- e. The drug test must be administered within 32 hours following the accident. The driver must remain available for testing, or the New Hanover County Schools will consider the driver to have refused to submit to testing.

NOTE: Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident.

3. Random Testing

- a. Each calendar year, 50 percent of drivers, or such other percent as prescribed by state or federal law, shall be randomly selected and tested for illegal drugs, and 25 percent of drivers, or such other percent as prescribed by state or federal law shall be randomly selected and tested for alcohol. The percentage of drivers tested may be adjusted in accordance with applicable federal or state regulation.
- b. Selection of employees for random testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security number, payroll identification numbers, or other comparable identifying numbers.
- c. Each time a random selection is made, every employee will have an equal chance of being selected. Random tests will be unannounced and spread reasonably throughout the year. Employees when notified that they have been selected for random testing will proceed immediately to the collection site.
- d. Random testing for alcohol will be conducted during, just before, or just after a work period in which the driver performs safety sensitive functions.

4. Reasonable Suspicion Testing

- a. A driver or any other employee reasonably suspected of using or being under the influence of alcohol or any illegal drug will be tested for their use.
- b. A determination that reasonable suspicion exists shall be based on specific observations of the driver's appearance, behavior, speech or body odor. The following circumstance could cause reasonable suspicion:
 - (1) Direct observation of alcohol or illegal drug use or of the physical symptoms or manifestations of alcohol or illegal drug use;
 - (2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
 - (3) Evidence that a driver has used, possessed, sold, manufactured, solicited, or transferred alcohol or illegal drugs while on duty or while operating or moving a commercial vehicle, or while on Board premises.
- c. Such observations of alcohol use shall be made by a trained supervisor or Board representative during, just before, or just after a work period in which the driver performs safety sensitive functions.

- d. All personnel designated to determine whether reasonable suspicion exists to require an alcohol or drug test shall be required to participate in at least two (2) hours of training. The training shall cover the physical, behavioral, speech and performance indicators of probable use of alcohol or illegal drugs.
- e. A written record of the observations leading to the reasonable suspicion test shall be prepared and signed by the trained supervisor or Board representative who made the observation. A copy of this written record shall be provided to the driver upon request.
- f. An alcohol test conducted for reasonable suspicion must be administered within two (2) hours of the determination of reasonable suspicion and may not be administered by the person who determines that such reasonable suspicion exists.

5. Follow-up and Return-to-Duty Testing

- a. Drivers who are terminated due to the use of alcohol or illegal drugs shall be advised of the resources available for evaluating and resolving problems associated with the use or abuse of alcohol and illegal drugs, including names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.
- b. Any driver allowed to return to duty after testing positive for alcohol shall
 - (1) Be evaluated by a substance abuse professional at the cost of the driver to determine whether the driver needs assistance in resolving problems associated with alcohol abuse and whether the driver has properly followed any rehabilitation program that was prescribed;
 - (2) Undergo an alcohol test before returning to duty;
 - (3) Undergo unannounced follow-up testing at least six (6) times during the first twelve (12) months following the driver's return to duty, which testing shall be conducted immediately before, during or immediately after a work period in which the driver performs safety sensitive functions.

E. ALCOHOL TESTING METHODOLOGY

- 1. Breath Alcohol Technician (BAT) Alcohol testing will only be performed by a certified Breath Alcohol Technician (BAT) trained and certified in the principles of Evidential Breath Testing Devices (EBT) methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for containing a breath sample, and interpreting and recording EBT results.
- 2. Evidential Breath Testing Devices (EBT) Alcohol testing will only be performed using evidential breath testing devices (EBTs) approved by the National Highway Traffic Safety Administration (NHTSA).
 - a. Alcohol testing will be performed by a certified BAT. All alcohol testing will be conducted in a location that affords visual and aural privacy to the individual being tested.

- b. Unauthorized persons will not be permitted access to the testing location when a test is in progress.
3. Alcohol testing will be performed using only the US Department of Transportation Breath Alcohol Testing Form.

F. ALCOHOL TESTING PROCEDURES

1. Using the Evidential Breath Testing Device, the certified Breath Alcohol Technician will open an individually sealed mouthpiece and attach it to the EBT. The employee will be instructed to blow into the mouthpiece forcefully until an adequate amount of breath has been obtained.
2. The EBT will record the result and display it on the device and print the result immediately. The result will be recorded on the Breath Testing Form and attached to the form with tamper proof tape.
3. When the result is less than 0.02, no further testing is authorized and the result will be transmitted to New Hanover County Schools in a confidential manner and will be stored to insure confidentiality is maintained.
4. When the result is 0.02 or greater, a confirmation test will be performed to verify the initial test. The confirmation test will be conducted no less than 15 minutes and no more than 20 minutes after the original test. In the event the initial and confirmation test results are different, the confirmation test result is deemed to be the final result upon which any action under the terms of this policy shall be based.
5. Following the completion of the test, the BAT will date the form and sign the certification on the form. The employee will sign the certification and fill in the date on the form. This insures that each employee is attesting to the fact that the reported result is specific to the employee.
6. Refusal to test will be treated the same as if the result is 0.04 or greater.
7. New Hanover County Schools will maintain alcohol and drug test results in a secure and confidential manner so that disclosure of information to unauthorized persons does not occur. Employee information shall only be released as required by law or as expressly authorized.
 - a. An employee shall have access to any of his/her alcohol and drug testing records upon written request.
 - b. New Hanover County Schools must allow any DOT authorized agency access to facilities and records in connection with New Hanover County School's alcohol misuse and drug abuse prevention program.

- c. When requested, New Hanover County Schools shall disclose post-accident testing information to the National Transportation Safety Board as part of an accident investigation.
 - d. New Hanover County Schools will make records available to a subsequent employer upon receipt of a written request from the employee.
 - e. New Hanover County Schools may disclose information to the employee or to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual. This may include worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.
8. If an employee attempts but fails to provide an adequate amount of breath, New Hanover County Schools will be immediately notified and will direct the employee to obtain, as soon as practical, an evaluation from a licensed physician who is acceptable to New Hanover County Schools concerning the employee's medical ability to provide an adequate amount of breath. If the physician determines that there is a medical reason that prevents the employee from providing an adequate amount of breath, he/she will provide New Hanover County Schools with a written statement of the basis of his/her conclusion. If the physician determines there is no medical reason to prevent the employee from providing an adequate amount of breath, he/she will provide New Hanover County Schools with a written statement of the basis of his/her conclusion and it will be regarded as a refusal to take the test. The terms of this policy will then be administered.

G. SPECIMEN COLLECTION PROCEDURES

1. Specific guidelines will be followed in urine specimen collections for the purpose of drug testing. In accordance with the Department of Health and Human Services (DHHS) guidelines, a clear and well documented procedure for collection, shipment and accession of urine specimens from New Hanover County Schools to the laboratory. Procedures will account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.
2. New Hanover County Schools will use a site that is certified under the DHHS. The collections site will be a secure location to allow for maximum privacy, which includes a toilet for completion of urination, a source of water for washing hands and, where practicable, excluded from the area provided for urination.
3. No other person will be present or gain access to the collection area during the collection process. All specimens must remain in direct control of the collection site person. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.
4. When reporting to a collection site for specimen collection each employee will be required to provide a photo ID. Employees will be asked to remove all unnecessary outer garments (i.e., coat or jacket), and secure all personal belongings (individual may retain his/her wallet).

5. Employee will be allowed to provide his/her specimen in the privacy of a stall.
6. A split sample method of collection will be used. At least 45 ml of urine must be collected, 30 ml to be used as the preliminary specimen and 15 ml to be used as the split specimen. Both bottles will be shipped in a single container.
7. If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under the direct observation of a same gender collection site person. Both samples will be sent to the lab.
8. Refusal to test will be handled the same as a verified positive result.
9. In all cases, the employee and the collection site person shall keep the specimen in view at all times prior to being sealed and labeled. The specimen will be labeled with tamperproof seals and the employee will sign appropriate places on the Chain of Custody and initial the seal on the bottle attesting to the that the specimen is specific to the individual providing the sample.

H. TESTING METHODOLOGY

1. Only laboratories certified by the DHHS will be used for drug urinalysis.
2. Every specimen is required to undergo an initial screen followed by confirmation of all positive screen results. This screen confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine.
3. Report of Results
 - a. The laboratory is required to report the test results directly to New Hanover County School's Medical Review Officer (MRO) within five (5) working days.
 - b. The report shall indicate the drug/metabolites tested for, whether the results are positive or negative, the specimen number assigned by New Hanover County Schools and the drug testing laboratory identification number.
4. Review Results/MRO
 - a. The Medical Review Officer (MRO) is a licensed physician and possesses a knowledge of drug abuse disorders.
 - b. The MRO may be an employee of New Hanover County Schools or one contracted to provide the services required.
 - c. The MRO will review and interpret positive results obtained from the laboratory.
 - d. The MRO, through a verification process, will assess and determine whether alternative medical explanations could account for the positive test results.

- e. The MRO may conduct medical interviews with the employee, review the employee's medical history and review any other relevant biomedical factors. Additionally, the MRO will examine all medical records and data made available by the tested individual such as evidence of prescribed medications.
- f. The MRO will give the individual testing positive an opportunity to discuss the test results prior to making a final decision. After the final decision is made, the MRO will notify New Hanover County Schools as prescribed below.
- g. If during the course of an interview with an employee who has tested positive, the MRO learns of a medical condition which could, in the MRO's reasonable medical judgment, pose a risk to safety, the MRO may report that information to the DOT or to New Hanover County Schools.
- h. The MRO will notify each employee who has a confirmed positive test. The employee has 72 hours in which to request a test of the split specimen. If the employee makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to another certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the preliminary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will then cancel the test and report cancellation and the reason for it to the DOT, New Hanover County Schools and the employee. A request for testing of the split sample and associated costs are the responsibility of the employee.
- i. If the MRO, after examining and documenting all reasonable efforts, is unable to contact the tested person, the MRO will contact a designated management official of New Hanover County Schools to arrange for the employee to contact the MRO prior to going on duty.
- j. If the employee has not contacted the MRO within five (5) days after a documented contact by the designated management official of New Hanover County Schools instructing the employee to contact the MRO, the MRO will verify the test positive and report it to New Hanover County Schools.

I. CONFIDENTIAL HANDLING OF TEST RESULTS

The Board shall treat as confidential all information received through its drug and alcohol testing program. Such information will be released only to appropriate substance abuse professionals and those Board employees who are authorized to have access to such information for legitimate work-related reasons. Release of this information to any other person shall require the written consent of the driver or prospective driver.

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New Hanover County Schools, Wilmington, North Carolina