

PERSONNEL

Drug and Alcohol Testing of ~~Employees Holding a Commercial Driver's License~~ ~~Motor Vehicle Operators~~

~~This policy is required by the Omnibus Transportation Employee Testing Act of 1991 and the regulations promulgated thereto. (49 C.F.R. Part 382) (the "federal regulations"). The division superintendent or designee shall implement this program beginning January 1, 1995.~~

The Superintendent or designee shall promulgate regulations setting forth the procedures of complying with this Policy and applicable the federal or state law and regulations and shall ensure that provide copies of this Policy and applicable the regulations are provided to each employee subject to this Policy.

A. Applicability

~~This policy shall apply to every employee who operates a commercial motor vehicle and who is required by federal law to have a commercial driver's license. In compliance with the Omnibus Transportation Employee Testing Act of 1991, and Regulations of the Federal Highway Administration, contained in 49 CFR Parts 40 and 382, et. al., as amended, all VBCPS employees and applicants who hold or are required to hold a commercial driver's license (CDL) as a condition of employment, shall comply with this Policy.~~

B. Definitions

- ~~1. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol, including methyl and isopropyl alcohol.~~
- ~~2. "Alcohol use" means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.~~
- ~~3. "Commercial motor vehicle" means a motor vehicle that has a gross vehicle weight rating of 26,001 or more pounds or is designed to transport 16 or more passengers, including the driver.~~
- ~~4. "Driver" means any person who operates a commercial motor vehicle including, but not limited to, full-time, part-time, casual, intermittent and occasional drivers and, for purposes of pre-employment/pre-duty testing, persons applying to be drivers.~~
- ~~5. "Performing a safety sensitive function": means a driver is considered to be performing a safety sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to per form any safety sensitive function.~~
- ~~6. "Safety sensitive function" means any of those on-duty functions set forth in 49 C.F.R. §39.5.2 On-Duty Time, paragraphs 1-7, including, but not~~

limited to, waiting to be dispatched; inspecting, servicing or conditioning a commercial motor vehicle; all driving time; all time in or upon any commercial motor vehicle; all time loading and unloading a vehicle; and all time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

B C. Prohibitions

The manufacture, distribution, dispensation, possession, consumption, use, or sale of alcohol or illegal drugs or the unauthorized use of prescription drugs is strictly prohibited on School Board property.

No employee shall report to work, perform assigned duties, engage in School Division business in the school community, or participate in an activity involving students while the employee has detectable amounts of alcohol, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in his or her system.

Whether the employee has alcohol, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in his or her system shall be determined in accordance with medically established standards for measuring detectable amounts of these substances.

1. Alcohol concentration: No driver shall report for duty or remain on duty ~~requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater~~ while having a detectable amount of alcohol of 0.02 breath alcohol concentration (BAC) or higher in his or her system or while under the influence of or impaired by alcohol.
2. Alcohol possession: No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.
3. On-duty and pre-duty use: No driver shall use alcohol while performing safety-sensitive functions, or perform safety-sensitive functions within four (4) hours after using alcohol.
4. Refusal to submit to tests: No driver shall refuse to submit to an alcohol or controlled substance test. An employee's refusal to submit to a drug or alcohol test immediately when requested will be considered the same as a positive test result. An employee's refusal includes, but is not limited to, failure to appear for testing for any reason, leaving the testing site without prior permission from VBCPS, or failure to complete and sign an authorization and consent form.
5. Controlled substances use: No driver shall report for duty or remain on duty ~~requiring the performance of safety-sensitive functions~~ when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.

C D. Pre-Employment Testing for safety-sensitive position

Testing for safety –sensitive positions shall include:

1. Pre-Employment
2. Post-Accident
3. Random
4. Reasonable Suspicion – Note: reasonable suspicion testing applies to all VBCPS employees (see Regulation 4-27.1 and Regulation 4-27.2)
5. Return-to-Duty

1. Prior to the first time a driver performs safety-sensitive functions for the School Board, he/she shall undergo testing for alcohol and controlled substances. No driver will be permitted to perform a safety-sensitive function unless the alcohol test results are 0.04 or less and the controlled substances test is negative. A driver whose alcohol test results are between 0.02 and 0.04 cannot perform safety-sensitive functions until the next regularly scheduled duty period, but in no event less than 24 hours after the test.

2. Alcohol and controlled substances tests may be waived by the School Board for employees who have previously undergone testing as provided in the federal regulations.

E. Post-Accident Testing

1. As soon as practical after an accident, the School Board will test for alcohol and controlled substances any driver (i) who receives a ticket arising from the accident or (ii) who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of life.

2. A driver who is subject to post-accident testing shall remain readily available for such testing and shall not use alcohol for eight (8) hours after the accident or until he/she undergoes the alcohol test, whichever occurs first.

F. Random Testing

All drivers shall be subject to unannounced random alcohol and controlled substances tests. A driver who is notified of selection for random testing must proceed to the test site immediately, unless the driver is performing a safety-sensitive function, in which case the driver shall proceed to the site as soon as possible after ceasing to perform the function.

G. Reasonable Suspicion Testing

A driver shall be subject to alcohol or controlled substances testing when there is reasonable suspicion to believe the driver has violated the prohibitions in paragraphs C (1), (3), and (5) of this policy.

H. Return-to-Duty Testing

Before a driver returns to duty requiring the performance of a safety-sensitive function after violating paragraph C of this policy, the driver shall undergo an alcohol test with a result indicating an alcohol concentration of less than 0.02 or a controlled substances test with a negative result.

I. Follow-up Testing

~~A driver who violates paragraph C of this policy and who is determined pursuant to this policy to be in need of assistance in resolving problems associated with alcohol misuse and for use of controlled substances shall be subject to unannounced follow-up alcohol and controlled substances testing as directed by a substance abuse professional.~~

~~J. Referral, Evaluation and Treatment~~

~~1. A driver who violates paragraph C of this policy shall be advised of the resources available to him/her in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. A driver identified as needing assistance in resolving such problems shall be evaluated by a substance abuse professional to determine that the driver has properly followed any prescribed rehabilitation program. The evaluation and rehabilitation shall be provided by substance abuse professionals approved by the School Board and paid for by the driver.~~

~~2. The provisions of this paragraph shall not apply to applicants for driver positions who violate paragraph C of this policy. Such persons shall not be employed.~~

D K. Miscellaneous Consent

~~1. The Superintendent shall promulgate regulations setting forth the procedures of complying with this policy and the federal regulations and shall provide copies of this policy and the regulations to each employee subject to this policy.~~

~~2. Each employee subject to this P policy will sign a certificate of acceptance and consent to disclosure form acknowledging receipt of the policy and regulations and consenting to the disclosure by his/her former employer of information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years.~~

~~3. Nothing in this policy shall prohibit the dismissal or other disciplinary action against an employee pursuant to any other policy, regulation, ordinance or law. This policy is intended to supplement, and not supplant, any such other policy, regulation, ordinance or law.~~

~~4. This policy is being adopted pursuant to the requirements of the Act. It is not intended to permit, nor shall it be construed as permitting, any employee to come to work under the influence of drugs or alcohol, regardless of the level. Such employees will be subject to disciplinary action, including dismissal, pursuant to [regulation 4-3.2](#), [4-27.1](#) and [4-27.2](#).~~

Legal Reference:

~~Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations 49 C.F.R. Part 382.~~

U.S. Department of Transportation, Title 49, Part 40-Procedures for Transportation Workplace Drug and Alcohol Testing Programs: 49 CFR Part 40 in its entirety; Federal Motor Carrier Safety

Administration_DOT, regulation, 49 CFR, Subpart A: Controlled Substances and Alcohol Use and Testing; section 382.101-382.605, as amended.

Code of Virginia §§ 54.1-3400, *et seq.*, as amended.

Editor's Notes

See School Board **Regulation 4-22.1** for Drug and Alcohol Testing of Employees Holding a Commercial Driver's License.

See School Board **Regulation 4-27.1** for Use of Alcohol and Drugs/Tobacco Products.

See School Board **Regulation 4-27.2** for Drug-free Workplace.

Adopted by School Board: December 6, 1994

Amended by School Board: