

This district has an interest in establishing a work environment free from the influence of drugs and alcohol for the benefit of its drivers, students and the public. This policy is adopted to ensure that the district's transportation drivers are free from the effects of drugs and alcohol while at work or on district business. Questions pertaining to this policy will be directed to the superintendent or his or her designee.

## **DEFINITIONS**

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

Alcohol concentration (or content): The alcohol in a volume of breath expressed in terms of grams per alcohol per 210 liters of breath as indicated by an evidential breath test (EBT).

Alcohol use: The drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

Confirmation alcohol test: A second test using an EBT, following a screening test with a result of point zero two (0.02) or greater, that provides quantitative data of alcohol concentration.

Confirmation drug test: A second analytical procedure to identify and quantify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principal from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Controlled substance: The substances identified in federal regulations (49 CFR Part 40) which must be tested for, including: marijuana, cocaine, opioids, phencyclidine (PCP) and amphetamines.

Covered employee: Any employee that is subject to the alcohol and drug testing requirements of 49 CFR 382 or this policy.

Covered position: One that is subject to the alcohol and drug testing requirements of 49 CFR 382 or this policy.

Designated employer representative (DER): An individual identified by the district as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required

decisions in the testing and evaluation process. For purposes of this policy, the DER is the superintendent or designee(s).

**Driver:** Any person operating a school bus or other commercial motor vehicle owned or operated by the district. This includes full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

**Medical review officer (MRO):** A licensed physician responsible for receiving laboratory results generated by the district’s drug testing program who has knowledge of substance abuse disorders, possesses a certificate of completion or certification from an approved MRO program and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**Performing (a safety sensitive function):** 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 perform any safety-sensitive functions.

**Positive drug test:** A drug test that is confirmed by G.C./M.S. technology at or above the cut-off levels established by the U.S. Department of Health and Human Services (DHHS). These cut-off levels may change from time to time depending upon DHHS rules. The district will always test at the currently required DHHS levels. The district will attempt to notify covered employees if these levels change. Currently, the cut-off levels, expressed in nanograms per milliliters (ng/mL), are:

<b>Drug</b>	<b>Screening Level</b>	<b>Confirmation Level</b>
Marijuana	50	15
Cocaine	150	100
Opioids		
Codeine and Morphine	2000	2000
6-acetylmorphine (6-AM)	10	10
Hydrocodone/Hydromorphone	300	100
Oxycodone/Oxymorphone	100	100
Phencyclidine (PCP)	25	25
Amphetamines		
Methamphetamines	500	250
MDMA, MDA, MDEA	500	250

**Refusal to submit (to an alcohol or controlled substances test):** Means that a driver:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the district, consistent with applicable federal motor carrier safety regulations, after being directed to do so by the district;

2. Fails to remain at the testing site until the testing process is complete, provided that an employee who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any required drug test, provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test the district/contractor or collector has directed the driver to take;
7. Fails to undergo a medical examination of evaluation, as directed by the MRO as part of the verification process. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
8. Fails to cooperate with any part of the testing process (e.g. refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process; or
9. Is reported by the MRO as having a verified adulterated or substituted test result.

Safety-sensitive function (also known as "on-duty time"): All time from the time a bus driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at a district/contractor facility or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the district/contractor;
2. All time inspecting equipment as required by federal motor carrier safety regulations or otherwise inspecting, servicing, or conditioning any school bus or other commercial motor vehicle at any time;
3. All time spent at the driving controls of a school bus or other commercial motor vehicle in operation;

4. All time repairing, obtaining assistance, or remaining in attendance upon a disabled school bus or other commercial motor vehicle;
5. All time, other than driving time, in or upon any school bus or other commercial motor vehicle;
6. All time loading or unloading a school bus or other commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle; or
7. All time spent performing the requirements relating to accidents.

Screening (or initial) test: In drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs. In alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath or saliva specimen.

## **PROHIBITED CONDUCT**

A bus driver for this district will not:

1. Report to duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of point zero four (0.04) or greater.
2. Be on duty or operate a school bus while in possession of alcohol.
3. Use alcohol while performing safety-sensitive functions.
4. Perform safety-sensitive functions within four (4) hours after using alcohol.
5. For drivers required to take a post-accident alcohol test pursuant to 49 CFR 382 or this policy, use alcohol for eight (8) hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
6. Refuse to submit to a pre-employment controlled substances test, post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, a return-to-duty alcohol or controlled substances test, or a follow-up alcohol or controlled substances test.
7. Report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances identified in 21 CFR 1308.11 Schedule I. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance, except when the use is pursuant to the instructions of a licensed medical practitioner who is

familiar with the driver's medical history and has advised the driver that the substance does not adversely affect the driver's ability to safely operate a school bus.

8. Report for duty, remain on duty, or perform a safety-sensitive function if he/she tests positive for controlled substances or has adulterated or substituted a test specimen for controlled substances.

### **DISTRICT RESPONSIBILITIES**

The district will not allow, require, permit or authorize a driver to operate a school bus or other commercial motor vehicle during any period in which the district determines that a driver is not in compliance with any return-to-duty requirements as may be set forth in this policy or federal motor carrier safety regulations after the occurrence of any of the following events:

1. The driver receives a positive, adulterated, or substitute drug test result;
2. The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration;
3. The driver refused to submit to a test for drugs or alcohol as required herein;
4. The driver used alcohol prior to a post-accident alcohol test in violation of the prohibitions set forth herein; or
5. The district has actual knowledge that a driver has (i) used alcohol while performing safety-sensitive functions; (ii) used alcohol within four (4) hours of performing safety-sensitive functions; or (iii) used a controlled substance.

### **REQUIREMENT TO SUBMIT TO ALCOHOL AND CONTROLLED SUBSTANCE TESTING**

Any covered employee subject to testing under the requirements of 49 CFR 382 or this policy and procedures must submit to being tested for alcohol and/or controlled substances immediately, or as soon as possible, upon notification to do so by his or her supervisor or other designated employer representative. Failure to immediately report for a test will, in most cases, result in the driver being deemed as refusing to submit which carries the same consequences as a positive controlled substances test or an alcohol test with a concentration of 0.04 or greater. In most cases, refusals to be tested will result in immediate termination.

### **REQUIRED TESTING**

#### **Pre-employment Testing**

1. All applicants for employment in a covered position, or promotion into a covered position, will be informed that their employment into a covered position is contingent upon passing a test for controlled substances. Successfully passing the test requires a verified negative

controlled substances test. Applicants and transfers into covered positions will not be permitted to operate district school buses or other commercial vehicles until the district has received the verified negative test results.

2. *All applicants and transfers into covered positions will also be required to undergo pre-employment alcohol testing before the first performance of safety-sensitive functions. Pre-employment alcohol tests will be conducted according to the procedures set forth herein after the district has made a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test. Applicants and transfers will not be permitted to begin performing safety-sensitive functions unless the result of the employee’s test indicates an alcohol concentration of less than 0.04.*

3. Refusal to test by any applicant and/or employee for a covered position will result in the individual not being hired into that position. An applicant or employee who leaves for any reason after the collection has commenced will be deemed to have refused to test, which results in the same consequences as a positive test. A refusal will be reported to the FMCSA Clearinghouse and negatively affect the applicant’s or employee’s license for up to five (5) years.

**Post-accident Testing**

As soon as practicable following an accident involving a school bus or other commercial motor vehicle, the bus driver operating the vehicle involved in the accident will be tested for alcohol and controlled substances if:

1. The accident involved the loss of human life;
2. The driver receives a citation within eight (8) hours of the occurrence of the accident under state or local law for a moving traffic violation arising from the accident, if the accident involved:
  - (i) bodily injury to another person who, as a result of the injury, immediately required medical treatment away from the scene of the accident; or
  - (ii) one or more vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The following table summarizes when post-accident testing is required:

<b>Type of accident involved</b>	<b>Citation issued to bus driver</b>	<b>Test must be performed by district</b>
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from scene	YES	YES
	NO	NO

Disabling damage to any motor vehicle requiring tow away	YES NO	YES NO
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A bus driver involved in a work-related accident requiring medical attention will inform his or her supervisor as soon as possible after the accident. Any needed alcohol or controlled substances tests may be promptly conducted in conjunction with his or her medical treatment. A bus driver who is injured in a work-related accident and is unable to provide a specimen for testing will authorize the release of relevant hospital reports or other documentation indicating the presence, or lack of, alcohol or controlled substances at the time of the accident. A driver who is subject to post-accident testing who does not remain readily available for such testing may be deemed by the district to have refused to submit to testing.

If a post-accident test for alcohol is not administered within two (2) hours following the accident, the district will prepare and maintain on file a record stating the reasons the test was not promptly administered. No test for alcohol will be administered after eight (8) hours following the accident. If a post-accident test for alcohol is not administered within eight (8) hours following the accident, the district will cease attempts to administer an alcohol test and will prepare and maintain the same records.

If a post-accident controlled substance test is not administered within thirty-two (32) hours following the accident, the district will cease attempts to administer the test, and prepare and maintain on file a record stating the reasons the test was not promptly administered.

If it is determined by the district’s administration that a bus driver’s accident was caused solely by unsafe conditions or by the actions of a third party, the school district reserves the right to waive post-accident testing unless the accident involved the loss of human life or the bus driver received a citation for a moving traffic violation arising from the accident. Post-accident testing will not be required where (i) the occurrence involves only boarding or alighting from a stationary school bus; or (ii) the occurrence involves only the loading or unloading of cargo from the school bus.

The district will provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a school bus or other commercial motor vehicle, so that drivers will be able to comply with the requirements of this policy.

**Random Testing**

A random test is a test that is unannounced and results in every bus driver having an equal chance of being selected for testing at any given time. The selection of drivers for random alcohol and controlled substances testing shall 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 numbers, payroll identification numbers, or other comparable identifying numbers. .

The minimum annual percentage rates for random alcohol and controlled substances testing are set, and can be modified, by the Federal Motor Carrier Safety Administration (FMCSA). The required testing rates are based on the average number of driver positions in the whole random pool. The random selection and testing dates will be unannounced and spread reasonably throughout the year, with each employee having an equal chance of being tested each time the random selections are made.

Each bus driver notified that he/she has been selected for random alcohol and/or controlled substances testing will immediately go to the testing site; provided, however, that if the bus driver is performing a safety-sensitive function, other than driving a school bus, at the time of the notification, the driver will cease performing the safety-sensitive function and proceed to the testing site as soon as possible.

A bus driver will only be tested for alcohol while the driver is performing safety-sensitive functions, just before the bus driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

### **Reasonable Suspicion Testing**

A bus driver will be required to submit to an alcohol test and/or a controlled substances test when the district has reasonable suspicion to believe that the bus driver has violated the prohibitions in this policy. The district's determination that reasonable suspicion exists to require the bus driver to undergo an alcohol and/or controlled substances test will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the bus driver. For reasonable suspicion controlled substances testing purposes, such observations may include indications of the chronic and withdrawal effects of controlled substances.

Such observations will be made by a supervisor or district official having received a minimum of sixty (60) minutes of training on alcohol misuse and a minimum of sixty (60) minutes of training on controlled substance use. Said training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The individual making the determination that reasonable suspicion exists will not conduct such tests.

A reasonable suspicion alcohol test is authorized only if the observations are made during, just preceding, or just after the period of the workday that the bus driver is required to be in compliance with this policy. A driver may be directed by the district to only undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

If an alcohol test required by this section is not administered within two (2) hours following the district's determination that reasonable suspicion exists, the district will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight (8) hours following the determination

that reasonable suspicion exists for testing, the district will cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

Notwithstanding the absence of a reasonable suspicion alcohol test, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor will the district permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) an alcohol test is administered and the driver's alcohol concentration is less than 0.02; or

(ii) twenty-four (24) hours have elapsed following the determination by the district that there is reasonable suspicion to believe the driver has violated the prohibitions in this policy concerning the use of alcohol.

Except as set forth in this section, no adverse employment action will be taken against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.

The district will make and maintain written records of the observations leading to an alcohol or controlled substances reasonable suspicion test which must be signed by the supervisor of official who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

### **Return-to-Duty Testing**

Prior to permitting an employee who has violated this policy to return to performing safety-sensitive duties, the district may require testing as recommended by a qualified substance abuse professional in accordance with federal motor carrier safety regulations and this policy (see Notification of Test Results and Return to Duty, below) for any driver who has violated this policy.

### **Follow-Up Testing**

Prior to permitting an employee who has violated this policy to return to performing safety-sensitive duties, the district may require follow-up testing as recommended by a qualified substance abuse professional in accordance with federal motor carrier safety regulations and this policy (see Notification of Test Results and Return to Duty, below) for any driver who has violated this policy. In accordance with federal motor carrier safety regulations, the minimum number of follow-up tests is six (6) unannounced tests in the first twelve (12) months of safety-sensitive duty following the driver's return to safety-sensitive functions. Although the district will not impose additional follow-up testing requirements beyond those recommended by the substance abuse professional, the district will determine the dates of any such required testing. The driver will not receive prior notice of any such required follow-up testing. The district will not substitute any other tests (e.g. those carried out under the random drug testing program) conducted on the driver for follow-up testing requirements.

**TESTING PROCEDURES AND RESULTS**

The entity or person(s) designated by this district to perform alcohol or controlled substances testing procedures and/or the specimen collection and analysis will strictly follow the U.S. Department of Transportation's rules, provide the necessary qualified personnel, protect the integrity of the testing processes, safeguard the validity of the test results, maintain the strict confidentiality of the testing and test results with disclosure only to the employer and the employee, and ensure that those results are attributed to the correct driver.

**Alcohol Testing Procedures**

The instrument that will be used to determine the presence of alcohol is the EBT device. Only qualified breath alcohol technicians will be used to conduct breath alcohol testing according to 49 CFR Part 40. If test results are negative, the breath alcohol technician will inform the district and the employee, and no further action is needed. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test shall be performed. If the result of the confirmation test is 0.02 or greater but less than 0.04, the driver will be immediately removed from performing safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours. The employee will be placed on unpaid leave during this period. If the result of the confirmation test is 0.04 or greater the employee will be subject to the same consequences as testing positive for a controlled substance.

**Controlled Substances Testing Procedures**

The district is required to use the "split sample" method of collection when conducting the test for controlled substances. The collection of samples for controlled substances testing will be conducted by qualified technicians following the guidelines as published in 49 CFR Part 40. Urine samples collected under this policy will not be used to conduct any other analysis or test.

The collection site technician is responsible for maintaining the integrity of the specimen collection and transfer process, and will carefully ensure the modesty and privacy of the driver, and will avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

The urine sample will be placed into two (2) separate bottles for shipment to the DHSS certified laboratory. If the screening test indicates a negative result the district will inform the employee and no further action is needed. If the test result of the primary specimen is positive for drugs, adulterated or substituted, the MRO will notify the employee of the verified test result. The employee will be offered the opportunity to request that the MRO direct the split specimen be tested in a different DHSS-certified laboratory to re-confirm the presence of the controlled substance(s), adulterant, or substitution for which a non-negative result was obtained. The MRO will honor this request if it is made within 72 hours of the employee having been notified of a verified non-negative test result. The result on the split specimen will be transmitted back to the MRO. While waiting for the test result to be completed on the split specimen the employee will not be permitted to perform safety-sensitive functions and shall be placed on unpaid leave. If the

test results of the split specimen fail to reconfirm the non-negative result of the primary specimen, the MRO will cancel the test and report the reasons as required by 49 CFR 382. A canceled test is considered neither positive nor negative. If a split sample test fails to reconfirm the non-negative test result, the employee will be paid for the time that he/she normally would have worked during the waiting process. In certain cases of a cancelled pre-employment, post-accident, return-to-duty or follow-up test a recollection may be necessary. If a test is cancelled due to the split sample not being available for testing, the district is required to have an immediate direct observation sample conducted. The MRO may also require a direct observation collection on cancelled tests in which the employee has not provided an adequate explanation for an invalid test result. Employees who request a split sample to be tested at a second DHHS laboratory will bear all costs associated with the split testing unless the test fails to confirm the non-negative test result.

If, during the specimen collection process, the collection site technician detects an effort by the driver to adulterate or substitute a specimen, requested direct observation will be immediately conducted in accordance with federal protocols. If, at any time, the employee refuses to submit to an observed collection when it is required under any of the circumstances outlined in 49 CFR Part 40, it will be deemed a refusal to submit.

### **Shy Bladder or Shy Breath Syndrome**

If an employee has a medical condition that prevents an acceptable sample from being collected in accordance with 49 CFR Part 40, the employee will be required to have a medical examination conducted by a physician acceptable to the employee and the MRO. The employee will have five (5) business days to obtain a physician's statement verifying that a qualifying medical condition exists that would have prevented the employee from providing an acceptable sample. If the employee has failed to keep the appointment with the physician, the employee may be disciplined up to and including termination. If the employee is unable to get an appointment with a physician in the five-day period, the employee is required to notify the district immediately of the situation. If, after the examination is completed and the physician has determined that the employee does not have a qualified medical condition that would prevent an acceptable urine/breath sample from being obtained, the test result will be reported as a refusal to submit, which results in the same consequences as a positive test.

### **Requirement to Submit to Observed or Monitored Urine Specimen Collection**

Under certain circumstances, a covered employee may be required to submit to an observed specimen collection. Some situations that will require the specimen collector to conduct an immediate direct observation are:

1. Providing a sample that is not within the acceptable temperature range;
2. Providing an obviously adulterated specimen;
3. Conduct that clearly indicates an attempt to adulterate or substitute a specimen;
4. All return-to-duty and follow-up testing.

In other cases, the MRO has the right to require a direct observation in other circumstances such as an invalid or cancelled test result.

The covered employee is required to submit to the observed specimen collection when requested. Failure to permit an observed or monitored collection when requested will be deemed a refusal to submit.

### **Negative Dilute Result**

In the case of a reported negative dilute result, the district will accept this result as a verified negative. A second specimen will be collected. If the second specimen is also reported as a negative dilute, the negative result must be accepted.

Negative dilute results with a creatinine level greater than or equal to 2 mg/dl but less than or equal to 5 mg/dl require an immediate recollection under direct observation.

### **RETENTION AND CONFIDENTIALITY OF RECORDS**

The following records will be retained for five (5) years:

1. Records of driver alcohol test results indicating an alcohol concentration of point zero two (0.02) or greater;
2. Records of driver verified positive controlled substances test results;
3. Documentation of refusals to take required alcohol and/or controlled substances tests;
4. Calibration documentation;
5. Driver evaluation and referrals;
6. Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations; and
7. A copy of each annual calendar year summary.

The following records will be retained for three (3) years from the date of a driver's first performance of safety-sensitive functions:

1. Records of information obtained or of the good faith efforts made by the district to obtain alcohol and controlled substances information from a driver's previous employer(s).
2. Records of each query, including driver consents, and all information received in response to each query made to the Commercial Driver's License Drug and Alcohol Clearinghouse.

The following records will be retained for two (2) years:

Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

The following records will be retained for one (1) year:

Records of negative and canceled controlled substances test results; and  
Alcohol test results with a concentration of less than point zero two (0.02).

The following records will be retained for an indefinite period:

1. Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers will be maintained by the district while the individual performs the functions which require the training and for two (2) years after ceasing to perform those functions.

**Confidentiality and Access to Records**

This district will not release bus driver information compiled pursuant to this policy except in the following circumstances:

1. A bus driver, upon written request, is entitled to receive copies of any records pertaining to the driver's use of alcohol or controlled substances, including records of test results. The district will promptly provide any such records to the driver. Access to a driver's record will not be contingent upon payment for records other than those specifically requested.
2. Results of all bus driver alcohol and/or controlled substances testing and any other information pertaining to the district's alcohol misuse and/or controlled substances use prevention program will be provided at the request of the Secretary of Transportation (DOT), any DOT agency, or any State or local officials with regulatory authority over the district or any of its bus drivers.
3. Records may be used in a lawsuit, grievance, worker's compensation claim, unemployment compensation, or other proceeding initiated by or on behalf of a bus driver, and arising from the results of a positive alcohol and/or controlled substance test administered under this policy or a refusal to test (including, but not limited to, adulterated or substituted test results). The district may also disclose information in criminal or civil actions brought by or on behalf of a driver and resulting from a positive drug or alcohol test (including, but not limited to, adulterated or substituted test results).
4. Records will be made available to a subsequent employer or other identified person upon receipt of a written request from a bus driver. The release of information is permitted only in accordance with the terms of an employee's consent.

5. The district will release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's written consent.
6. Except as required by law or expressly authorized or required, the district will not release driver information to third parties that is contained in records required to be maintained by the district under 49 CFR 382.

## **PRE-EMPLOYMENT AND ONGOING REQUESTS FOR INFORMATION**

### **Pre-Employment Inquiry From Previous Employers**

The district is required to request alcohol and controlled substances testing information from previous employers regarding the applicant, including any refusals to be tested, for the three (3) years preceding the date of application for employment prior to any driver performing safety-sensitive functions for the district for the first time (i.e. new hires or employees who transfer into a safety-sensitive position). Such requests will be made after obtaining the driver's written consent. Drivers who refuse to provide such written consent will not be permitted to perform any safety-sensitive functions. The information that will be requested from previous employers includes the following:

1. Alcohol tests with a result of 0.04 or higher alcohol concentration;
2. Verified positive drug tests;
3. Refusals to be tested (including verified adulterated or substituted drug test results);
4. Other violations of Department of Transportation agency drug and alcohol testing regulations; and
5. With respect to any driver who violated a DOT drug and alcohol regulation, documentation of the driver's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g. an employer who did not hire an employee who tested positive on a pre-employment test), the district will seek to obtain this information from the driver.

### **Consent**

Prior to conducting any query of the Clearinghouse to determine whether a record exists for that driver, the district will obtain a driver's written or electronic consent. . The consent must give the district access to the following specific records:

1. A verified positive, adulterated, or substituted controlled substances test result;

2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to a test in violation of this policy;
4. An employer's report of actual knowledge of (i) on duty alcohol use; (ii) pre-duty alcohol use; (iii) alcohol use following an accident; and (iv) controlled substances use;
5. A substance abuse professional's report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. An employer's report of completion of follow-up testing.

Prior to employment with the district, all drivers must create a Clearinghouse account and log in to permit the district consent to acquire a full report. Drivers must sign a separate consent for limited queries.

### **FMCSA Clearinghouse Queries**

The district is required by 49 CFR 382 to conduct an annual query of the Clearinghouse for information for all drivers subject to controlled substance and alcohol testing under this policy to determine whether information exists in the Clearinghouse about those drivers.

In lieu of a full query, the district may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement. The limited query will tell the district whether there is information about the individual driver in the Clearinghouse, but will not release that information to the district. Drivers may give consent to the district to conduct limited queries that is effective for more than one (1) year, although the district recommends drivers make consent valid for the duration of employment.

If the limited query shows that information exists in the Clearinghouse about the individual driver, the district will conduct a full query within twenty-four (24) hours of conducting the limited query. If the district fails to conduct the query within twenty-four (24) hours, it will not allow the driver to continue to perform safety-sensitive functions until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions. For purposes of this paragraph, prohibitions means that a driver is not permitted to perform any safety-sensitive function because the results of the Clearinghouse query demonstrate that the driver has a verified positive, adulterated or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of this policy; or that an employer has reported actual knowledge that the driver used alcohol while on duty, before duty or following an accident, or used a controlled substance, in violation of this policy, except where a query of the Clearinghouse demonstrates:

1. That the driver has successfully completed the substance abuse professional evaluation, referral, and education/treatment process as set forth in this policy; achieves a negative

return-to-duty test result; and completes the follow-up testing plan prescribed by the substance abuse professional; or

2. That, if the driver has not completed all follow-up tests as prescribed by the substance abuse professional in accordance with this policy and specified in the report of the substance abuse professional, the driver has completed the substance abuse professional evaluation, referral and education/treatment process and achieves a negative return-to-duty test result, and the district assumes the responsibility for managing the follow-up testing process associated with the testing violation.

Drivers are responsible to ensure the district has the following information to conduct required queries:

- The driver's name;
- Date of birth;
- Commercial driver's license number and state of issuance;
- Violation and/or testing data.

#### **NOTIFICATION OF TEST RESULTS AND RETURN TO DUTY**

This district will notify a bus driver of the results of a pre-employment controlled substances test if the bus driver requests the results within sixty (60) calendar days of being notified of the disposition of the employment application.

This district will notify a bus driver of the results of random, reasonable suspicion, and post-accident tests for controlled substances if the test results are verified positive. The employee will also be informed which controlled substance or substances were verified as positive.

In those instances where the MRO has been unable to contact the driver to discuss the results of a controlled substances test, the superintendent or designee will make reasonable efforts to contact and discuss the test results with the individual, regardless of employment status. The superintendent or designee will request that the individual contact the MRO within twenty-four (24) hours, and will also inform the MRO of such notification.

Each driver who has engaged in conduct which violates this policy will be advised of the resources available to the driver in evaluating and resolving the problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

Prior to performing any safety-sensitive functions following a violation of this policy, each driver who engages in conduct which violates this policy will be evaluated by a qualified substance abuse professional, at the driver's own expense, who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use. The driver must successfully comply with the substance abuse professional's

evaluation recommendations, including regular follow-up testing, counseling or other services, before the district will permit such driver to return to duty. As part of the driver's return-to-duty process, the driver must agree to allow the district to monitor and document the driver's participation in any recommended services. Any driver who fails or refuses to comply with the recommendations of the substance abuse professional is subject to disciplinary action by the district, including termination of employment.

### ***SELF-REFERRAL***

*All bus drivers employed by this district who may consider themselves alcohol or controlled substances dependent will be encouraged to obtain an evaluation by a licensed substance abuse professional and seek treatment, if so recommended. This district will provide informational assistance in locating professional substance abuse counseling to any driver requesting such assistance.*

*Bus drivers who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, or treatment requirements of 49 CFR Part 40, provided that:*

- 1. The driver does not self-identify in order to avoid testing under such federal regulations;*
- 2. The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and*
- 3. The driver does not perform a safety sensitive function until the district is satisfied that the employee has been evaluated and has successfully demonstrated compliance with any education or treatment requirements in accordance with the recommended treatment plan as established by the evaluator.*

*The district will take no adverse action against a driver making a voluntary admission within the parameters of this policy. The district will allow the driver up to fourteen (14) days to complete the evaluation process. If the employee has failed to complete the evaluation within fourteen (14) days from the date of referral, it will be considered misconduct and the district will take disciplinary action up to and including termination. Drivers who have voluntarily admitted to use are not qualified to perform safety-sensitive functions and will be placed on unpaid leave or assigned non-safety sensitive work duties if available and appropriate.*

*A driver will be allowed to return to safety-sensitive duty when the evaluating counselor determines that the employee is in full compliance with the recommended education or treatment and has an established follow-up program in place. The driver will be required to take and pass a non-DOT return-to-duty drug and/or alcohol test prior to return to safety-sensitive duty.*

*Any driver returned to duty following a voluntary admission may be required to consent to follow-up, non-DOT random testing at an interval and number established by the evaluating counselor. Drivers who are returned to duty following a voluntary admission shall be required to sign a "last chance agreement" with the district. If, during the follow-up period, the driver fails to comply with the recommended treatment or fails a follow-up drug and/or alcohol test, it will be considered prohibited conduct under 49 CFR Part 40 and this policy. The driver who has engaged in prohibited conduct will be required to comply with all applicable requirements*

*under 49 CFR Part 40 and this policy. Drivers who have engaged in prohibited conduct are subject to immediate disciplinary action by the district, up to and including termination.*

*Bus drivers undergoing alcohol or controlled substances rehabilitation will do so at their own expense (other than those expenses covered by the district's insurance program), on their own time, or during an unpaid leave of absence approved by the district prior to taking the leave.*

## **POLICY VIOLATION CONSEQUENCES**

Any individual who tests positive in the pre-employment test for alcohol (point zero four (0.04) or higher) or controlled substances will not be offered employment with this district. Any bus driver who tests positive for alcohol (point zero four (0.04) or higher) or controlled substances will have his or her employment with this district terminated.

No driver tested under this policy who is found to have an alcohol concentration of point zero two (0.02) or greater, but less than point zero four (0.04), will perform or continue to perform safety-sensitive functions for this district, until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test. No action will be taken under this policy against a driver based solely on test results showing an alcohol concentration less than point zero four (0.04). Any employee that has an alcohol concentration of 0.04 or greater on the confirmation test will be terminated. A positive breath alcohol will be reported to the FMCSA Clearinghouse and the employee will be provided with a list of substance abuse professionals upon termination.

The possession, use, purchase, or distribution of alcohol or controlled substances by a bus driver in a district vehicle, on district property, or during work hours is prohibited. Any bus driver who violates this prohibition will have his or her employment with this district terminated.

A bus driver's off-the-job illegal use, manufacture, purchases, possession, or distribution of controlled substances, drug paraphernalia, or illegal use of alcohol resulting in criminal charges against the driver will result in the driver being requested to submit to alcohol and/or controlled substances testing. If the tests are positive, the driver will fall within the provisions of this policy. If a bus driver is convicted of the above-stated offense, the driver will have his or her employment with this district terminated.

Any driver who refuses to be tested, or fails to release or provide information as required by this policy, will have his or her employment with this district terminated.

## **REPORTING REQUIREMENTS**

The district is prohibited from allowing any driver that has committed a testing violation and has not completed the return-to-duty process as outlined in this policy to perform safety-sensitive functions. Drivers will be notified by FMCSA when the district obtains information from the Clearinghouse regarding their violation, or when information concerning the driver is added, revised or removed.

The district, its service providers, MRO(s), and/or its substance abuse professionals are required by federal motor carrier safety regulations to report the following information about a driver to the Commercial Driver's License Drug and Alcohol Clearinghouse by the close of the third business day following the date on which it obtains such information:

1. An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
2. A negative return-to-duty test result;
3. A refusal to take an alcohol test as defined in this policy;
4. A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) – (4), (a)(6), (a)(8) – (a)(11), or (d)(1), but in the case of a refusal to test where the driver admits to the collector or MRO that he/she adulterated or substituted the specimen, the district may report only those admissions made to the specimen collector; and
5. A report of actual knowledge by the district that the driver used alcohol on duty, including any citation for driving under the influence of alcohol (DUI/DWI) while driving a school bus or other commercial motor vehicle; within 4 hours before duty; or within 8 hours following an accident or before a post-accident test is complete (whichever occurs first); or used controlled substances while on duty, in violation of this policy.
6. A report that the driver has successfully completed all follow-up tests as prescribed in the substance abuse professional report (only reported if the primary violation occurred on or after January 6, 2020).
7. A verified positive, adulterated, or substituted DOT drug test.

The information required to be reported must include, as applicable: (i) the reason for the test; (ii) driver's name, date of birth and CDL number and state of issuance; (iii) employer name, address and USDOT number; (iv) date of the test; (v) date the result was reported; and (vi) test result, which must be one of the following: (a) negative (only required for return-to-duty tests); (b) positive; or (c) refusal to take a test.

For each report of a violation, the district must report the following information:

1. Documentation, including but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the driver was directed to appear, or an affidavit providing evidence of such notification;
2. Documentation, including but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the driver was terminated or resigned (if applicable);

3. Documentation, including a certificate of service or other evidence, showing that the district provided the driver with all documentation reported as set forth in this policy.
4. For reports of violation consisting of actual knowledge of alcohol use or controlled substance use, the district will also provide (i) the date the district obtained actual knowledge of the violation; (ii) witnesses to the violation, if any, including contact information; (iii) a description of the violation; (iv) evidence supporting each fact alleged in the description of the violation, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements, correspondence, or other documentation; and (v) a certificate of service or other evidence showing that the district provided the driver with all information reported under this paragraph.

Drivers are required to notify the district in writing if they have violated the drug and/or alcohol prohibitions of 49 CFR Parts 40 and 382 while employed with the district. The statement must be received before the end of the business day the day after the driver received notification of the violation or prior to performing any safety-sensitive duties, whichever comes first.

The district will only use information obtained from the Clearinghouse to determine if the driver is prohibited from performing safety-sensitive duties. The district will not divulge, nor permit any other person or entity to divulge, any driver-specific information from the Clearinghouse to any person or entity not directly involved in making such determination.

### **MEDICAL MARIJUANA**

The district, as well as the U.S. Department of Transportation, views marijuana as a Schedule I controlled substance and prohibits employees from having any detectable level in their system while working for the district, despite the employee's possession of a medical marijuana card or living in a state that has legalized marijuana. Operation of a school bus or other district commercial motor vehicle is prohibited while using marijuana. In addition, although the U.S. Department of Transportation does not require testing for CBD, use of CBD by employees is not a legitimate medical explanation for a laboratory confirmed marijuana positive result. Therefore, the district's MRO will verify a drug test confirmed at the appropriate cutoffs as positive, even if an employee claims they only used a CBD product.

### **PRESCRIPTION MEDICATIONS AND OVER THE COUNTER DRUGS**

Employees are responsible to report to duty free from the effects of any controlled substances or alcohol. Covered employees must report the use of prescriptions and over-the-counter medications that could have a disabling effect, bears a prescription warning label or otherwise adversely affects the covered employee's fitness for duty or job performance to their immediate supervisor (without giving the name of the prescription or over-the-counter medication).

It is the covered employee's responsibility to determine from the physician, pharmacist, or other health care professional whether or not the prescribed or over-the-counter medications could affect the covered employee's fitness for duty or impair job performance or if the medication is listed on the prohibited controlled substance listing as published by the U.S. Department of

Transportation. Covered employees may be required to provide a written medical authorization to work from a physician upon reporting the use of prescription or over-the-counter medications. Failure to report the use of prescription or over-the-counter medications that have disabling effects or otherwise affect the covered employee’s fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including suspension and/or termination.

**EDUCATIONAL INFORMATION ON EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES**

The terms of this Transportation Workplace Alcohol and Drug Testing Program are intended to achieve a work environment where bus drivers are free from the effects of alcohol and/or controlled substances. The provisions of this policy may be revised as necessary. This district anticipates that by implementing the provisions of this policy, its drivers will enjoy the benefits of working in a safer and more productive environment.

Further information is available from the superintendent or designee concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem of a driver or a coworker; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

**CERTIFICATE OF RECEIPT**

Each covered employee will be required to sign a certificate of receipt certifying that he or she has received a copy of this policy, which is the basis for implementing the requirements of the U.S. Department of Transportation Federal Motor Carrier Safety Administration rules and regulations pertaining to alcohol and controlled substances testing of covered employees.

**QUESTIONS REGARDING POLICY**

Questions regarding this policy may be directed to the driver’s immediate supervisor or the following:

Shannon Widmer  
Transportation Supervisor  
[swidmer@parmaschools.org](mailto:swidmer@parmaschools.org)



**LEGAL REFERENCE:**

PL 102-43 (The Omnibus Transportation Employee Testing Act of 1991)  
49 C.F.R. Parts 40 and 382 (DOT and Federal Motor Carrier Safety Regulations)  
Idaho Code §72-1701 *et seq.* (Idaho Private Employer Alcohol and Drug-Free Workplace Act)

**ADOPTED: February 15, 2005**

**AMENDED: March 10, 2008**

**AMENDED: May 13, 2019**

**AMENDED: May 9, 2022**

**POLICY TITLE: BUS DRIVER DRUG AND ALCOHOL TESTING PROGRAM – CERTIFICATE OF RECEIPT**

**POLICY NO: 744F1  
PAGE 1 of 2**

**ACKNOWLEDGMENT AND RECEIPT OF  
BUS DRIVER DRUG AND ALCOHOL TESTING POLICY**

I, \_\_\_\_\_ have received a copy of the Parma School District’s Bus Driver Drug and Alcohol Testing Policy. I understand that the Policy is effective on May 9, 2022 and will remain in effect until amended or withdrawn. I understand that I will be provided notice of any amendments to the Policy. I further understand and acknowledge that I am subject to the Policy during the term of my employment with the School District and that any violation may be grounds for discipline, including immediate termination.

I acknowledge that I have read or will read the Policy received this day, and that I will direct any questions to the person identified in the Policy or my immediate supervisor.

\_\_\_\_\_  
Signature of employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name



**LEGAL REFERENCE:**

**ADOPTED: May 9, 2022**

**AMENDED:**

