LENAPE TECHNICAL SCHOOL

SECTION: OPERATIONS

TITLE: SCHOOL BUS DRIVERS AND SCHOOL COMMERCIAL MOTOR VEHICLE DRIVERS

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810.1. SCHOOL BUS DRIVERS AND SCHOOL COMMERCIAL MOTOR VEHICLE DRIVERS

1. Purpose

The Joint Operating Committee recognizes that any driver must be fit to operate a school bus and commercial motor vehicle to ensure the health and safety of student being transported. The Joint Operating Committee also recognizes that a person impaired by drugs or alcohol, who operates a vehicle transporting students, poses significant risks to the safety of students and others.

2. Definitions

The following words and phrases, when used in this policy, shall have the meaning given to them in this section:

Contracted transportation provider – a third party vendor that provides transportation services to the School.

A **covered driver** shall include any person who drives, operates or is in the actual physical control or movement of a school bus or a commercial motor vehicle used for providing services to the School. The term includes drivers and mechanics who operate such vehicles, including full-time, regularly employed individuals; leased drivers; and independent owner-operator contractors who are directly employed by or under lease to the school or who operate a bus or commercial motor vehicle owned or leased by the school.[1]

Commercial motor vehicle – a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:[1]

a. Has a gross combination weight rating or gross combination weight of 26,001 or more pounds, whichever is greater, inclusive of towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater;
b. Has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; or
c. Is designed to transport sixteen (16) or more passengers, including the driver;

Driving – operating a commercial vehicle or motor carrier vehicle on a highway, with the motor running, including while the commercial motor vehicle or motor carrier vehicle is temporarily stationary because of traffic, a traffic control device or

other momentary delay. The term does not include operating a commercial motor vehicle or motor carrier vehicle with or without the motor running if the driver moved the vehicle to the side of or off of a highway and halted in a location where the vehicle can safely remain stationary.[2][3][4]

Electronic device – an electronic device includes, but is not limited to, a cellular telephone, personal digital assistant, pager, computer or any other device used to input, write, send receive or read text.[3]

Mobile telephone – a mobile communication device which uses commercial mobile radio service.[4]

Safety-sensitive functions include all on-duty functions performed from the time a driver begins work or is required to be ready to work until ~~s/he~~ the driver is relieved from work and all responsibility for performing work. It includes driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; and performing other requirements related to accidents.[1]

School bus means a motor vehicle that is designed to carry eleven (11) passengers or more, including the driver, and is used for the transportation of school students to or from public, private or parochial schools or events related to such schools or school-related activities.[5]

Texting – manually entering alphanumeric text into or reading text from an electronic device. The following shall apply: [3]

1. The term "texting" includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access an Internet web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication.

2. The term "texting" does <u>not</u> include:
   a. Inputting, selecting or reading information on a global positioning system or navigation system;
   b. Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
   c. Using a device capable or performing multiple functions, including, but not limited to, fleet management systems, dispatching devices, citizens band radios and music players, for a purpose that is not prohibited by law.

Use a handheld mobile telephone or other electronic device –[4]

1. Using at least one (1) hand to hold a mobile telephone to conduct a voice communication;
2. Dialing or answering a mobile telephone by pressing more than a single button; or

	3. Reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seat belt.
3. Authority SC 510 49 CFR Sec. 382.305	Should the School hire employees who are required to hold a commercial driver's license and who perform safety-sensitive functions in accordance with federal and state laws and regulations, the Joint Operating Committee shall implement a drug use and alcohol misuse prevention program. [6][7][8][9] All contracted transportation providers shall implement a drug use and alcohol misuse prevention program in accordance with federal law and regulations.[10] Covered drivers shall observe all state and federal laws and Pennsylvania Department of Transportation regulations governing traffic safety and school bus and commercial motor vehicle operation. The Joint Operating Committee prohibits covered drivers from texting and from using a handheld mobile telephone or other electronic device while driving a school bus or commercial motor vehicle except when it is necessary to communicate with law enforcement officials or other emergency services. [2][3][11][12] <u>Delegation of Responsibility</u> The Administrative Director or appropriate personnel designated by the Administrative Director shall develop administrative regulations to implement this policy and the requirements of law, which include the following components: 1. Establishment of procedures for monitoring contracted transportation providers compliance with this policy.[14] 2. Designation of an employee responsible for receiving and handling results of drug and alcohol tests. [16] 3. Implementation of procedures for the query, preparation, maintenance, reporting, retention and disclosure of records, as required by law. [15][17] Contracted transportation providers shall provide each driver, upon hire or transfer, with: 1. This policy and its accompanying administrative regulations; and [18] 2. Educational materials that explain the state and federal requirements related to misuse of alcohol and use of controlled substances. [18]
4. Guidelines	<u>Employment Requirements</u> All covered drivers shall comply with the requirements for background checks/certifications and employment history reviews in accordance with applicable law, Joint Operating Committee policy and administrative regulations. These requirements are addressed separately in Joint Operating Committee policy 818 for drivers employed by an independent contractor.[10][19][20][21][22][23]

Reporting Requirements -

Covered drivers shall report misconduct in accordance with Joint Operating Committee policy 818 for drivers employed by an independent contractor.[10][20][21][34]

Covered drivers using controlled substances prescribed for therapeutic purposes by a licensed medical practitioner shall submit the practitioner's written statement that the prescribed substance will not adversely affect the employee's ability to safely operate a school bus or commercial motor vehicle. [35]

Covered drivers shall also inform their supervisors of any use of drug(s) or medication(s) for which the packaging includes warnings that, "marked drowsiness may occur and/or be careful when driving a motor vehicle or operating machinery." [35]

A covered driver arrested, charged with or issued a citation for violating a federal or state law or local ordinance relating to motor vehicle traffic control in this or any other state or any federal, provincial, territorial or municipal law relating to motor vehicle traffic control in Canada, other than parking violations, shall notify the Administrative Director or appropriate personnel designated by the Administrative Director and the contract carrier in writing before the end of the business day following the day the covered driver is charged or cited. Notice is required no matter what type of vehicle the driver was driving, including a personal vehicle.

A covered driver who has provided timely notification of an arrest, citation or charge shall not be terminated or otherwise disciplined by the school or the contract carrier based solely on the allegations underlying the arrest, citation or charge reported by the driver. Termination or other disciplinary action based on the underlying misconduct may be taken only where there has been a conviction of the violation, or where there is independent evidence of the underlying misconduct warranting termination or other discipline. This shall not preclude suspension, reassignment or other action pending resolution of the charges reported by the employee, nor disciplinary action up to and including termination for failure to provide timely notice of an arrest, citation or charge. [10] [28] [34]

A covered driver who is convicted of violating a federal or state law or local ordinance relating to motor vehicle traffic control in this or any other state or any federal, provincial, territorial or municipal law relating to motor vehicle traffic control in Canada, other than parking violations, shall notify the Administrative Director or appropriate personnel designated by the Administrative Director and the contract carrier in writing of the conviction within ~~thirty (30)~~ fifteen (15) days of the

date of conviction. Notice is required no matter what type of vehicle the driver was driving. [27][28]

Any covered driver whose operating privilege is suspended, revoked or canceled by any state, who loses the privilege to drive a school bus or commercial motor vehicle in any state for any period, or who is disqualified from driving a school bus or commercial motor vehicle for any period, shall notify the Administrative Director or appropriate personnel designated by the Administrative Director and the contract carrier immediately upon reporting to work for the next scheduled shift following the notice of the suspension, revocation, cancellation, loss or disqualification. [27][28]

Controlled Substances and Alcohol

Drug and Alcohol Testing -

All contracted transportation providers shall require covered drivers to submit to the following drug and alcohol tests in accordance with state and federal laws and regulations: pre-employment, random, post-accident, reasonable suspicion, return-to-work and follow-up. [6][7][8][14][36][37]

Prohibited Conduct -

Covered drivers shall not use medical marijuana products.

Covered drivers shall not ingest hemp products or otherwise use hemp products in a way that may result in absorption of hemp or hemp residue into the body.

A covered driver shall not report for duty, drive, operate or be in the actual physical control of the movement of a school bus or commercial motor vehicle under the following circumstances:

1. While using or while having any amount of alcohol present in the body, including medications containing alcohol. [30][38][39]
2. While under the influence of a controlled substance or combination of controlled substances, or the combined influence of alcohol and a controlled substance or substances. [35][40][41]
3. After consuming alcohol or a controlled substance within the previous eight (8) hours for school bus drivers and within the previous four (4) hours for commercial motor vehicle drivers.[30][42]

An exception shall be made for therapeutic use of prescribed controlled substances used by a covered driver when the driver has submitted in advance a licensed medical practitioner's written statement that the prescribed substance will not adversely affect the driver's ability to safely operate a school bus or commercial motor vehicle. [35]

A covered driver required to take a post-accident test shall not use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident test, whichever occurs first. [43]

A covered driver shall not refuse to submit to a required test for drugs or alcohol. [1][36][44][45]

Consequences/Discipline -

A covered driver employed by an independent contractor shall be removed from performing safety-sensitive functions for the School under the following circumstances:

1. A verified positive drug test result;[46][47]
2. A verified adulterated or substituted drug test result; [46][47]
3. An alcohol test result of 0.04 or higher; or [47][48]
4. A refusal to submit to a post-accident, random, reasonable suspicion, return-to-duty or follow-up test.[44]

A commercial motor vehicle driver who is tested and is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed from assignment to the School until the start of the driver's next regularly scheduled duty period that is at least twenty-four (24) hours following administration of the test.

If contracted transportation providers permits a covered driver who has been removed from performing safety-sensitive functions to return to a safety-sensitive function for the School, the covered driver must have been evaluated by a qualified substance abuse professional and has successfully completed the return-to-duty process before returning to a safety-sensitive function.

Maintenance of Records

The School shall maintain records of its drug use and alcohol misuse prevention program in compliance with any federal regulations. [15][17][51][52][53]

Drug and alcohol records shall be confidential, and shall only be released in accordance with applicable law. [54][55][56]

Statistical records and reports shall be maintained and made available to the Federal Highway Administration for inspection or audit in accordance with federal regulations. [54][57]

Acknowledgment of Receipt

Each covered driver shall sign a statement certifying that ~~the driver has~~ they have received a copy of this policy and its accompanying administrative regulations. [18]

The School shall keep the original signed statement and provide a copy to the contracted transportation provider.[18]

Training

Covered drivers shall attend orientation and training sessions, as appropriate to the nature of their service. When training is provided for other center (school) employees relating to the legal obligations of employers and educational institutions, consideration shall be given to whether covered drivers should also receive that training. [58]

Contracted transportation provider shall ensure that employees who supervise covered drivers receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. Such training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use. [59]

NOTES:

The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e) – does not authorize "medical marijuana" under a state law to be a valid medical explanation for a transportation employee's positive drug test result.

Qualifications of bus drivers – 1361, 1365, Title 67 Sec. 71.1 et seq.

Legal References:

1. 49 CFR 382.107
2. 49 CFR 392.80
3. 75 Pa. C.S.A. 1621
4. 75 Pa. C.S.A. 1622
5. 75 Pa. C.S.A. 102
6. 49 CFR Part 382
7. 49 CFR Part 40
8. 49 U.S.C. 31306
9. 67 PA Code 229.14
10. Pol. 818
11. 49 CFR 392.82
12. 75 Pa. C.S.A. 3316
13. 49 CFR 40.15
14. 49 CFR 382.105
15. 49 CFR 382.701
16. 49 CFR 40.3
17. 49 CFR 382.401

	18. 49 CFR 382.601 19. 23 Pa. C.S.A. 6344 20. 23 Pa. C.S.A. 6344.3 21. 24 P.S. 111 22. 24 P.S. 111.1 24. 49 CFR 382.413 25. 49 CFR 382.703 26. 49 CFR 40.25 27. 49 U.S.C. 31303 28. 75 Pa. C.S.A. 1604 29. 75 Pa. C.S.A. 1606 30. 67 PA Code 71.3 31. 49 CFR 391.25 32. 49 U.S.C. 31304 33. 49 CFR 391.41 34. Pol. 317 35. 49 CFR 382.213 36. 75 Pa. C.S.A. 1613 37. 75 Pa. C.S.A. 3756 38. 49 CFR 382.205 39. 75 Pa. C.S.A. 1612 40. 75 Pa. C.S.A. 1603 41. 75 Pa. C.S.A. 3802 42. 49 CFR 382.207 43. 49 CFR 382.209 44. 49 CFR 382.211 45. 49 CFR 40.191 46. 49 CFR 382.215 47. 49 CFR 40.23 48. 49 CFR 382.201 49. 49 CFR 382.505 50. 49 CFR 40.289 51. 49 CFR 382.705 52. 49 CFR 40.333 53. Pol. 800 54. 49 CFR 382.405 55. 49 CFR 382.723 56. 49 CFR 40.321 57. 49 CFR 382.403 58. 24 P.S. 1517 59. 49 CFR 382.603 24 P.S. 1850.1 75 Pa. C.S.A. 1601 et seq Pol. 351
