

## **SUBJECT: DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS AND OTHER SAFETY-SENSITIVE EMPLOYEES**

In order to help prevent accidents and injuries resulting from the misuse of drugs and/or alcohol by school bus drivers, the Board adopts this policy in compliance with federal and state law and regulation. The District has designated the Director of Transportation to answer driver questions about this policy and related materials.

### **Drug and Alcohol Testing Program**

School bus drivers and Safety-Sensitive employees (SSEs) are subject to drug and/or alcohol testing in a variety of circumstances. The District will comply with all federal and state law and regulation regarding the implementation of a drug and alcohol testing program for school bus drivers.

The District will either establish and manage its own program, or by contract have a consortium/third-party administrator manage all, or part of, its alcohol and drug testing for school bus drivers and safety-sensitive employees. In addition, the District will ensure that school bus drivers from vendors or contract bus companies are managed by a drug and alcohol testing program.

Under federal law and regulations, individuals who operate a Commercial Motor Vehicle (CMV) designed to transport 16 or more occupants (including the driver) and are subject to commercial driver's license (CDL) requirements established by the United States Department of Transportation, are safety-sensitive employees and are subject to the following drug and/or alcohol testing:

- a) **Pre-employment drug testing** which will be conducted after a conditional offer to hire has been extended, but before the actual performance of safety-sensitive functions for the first time. This pre-employment testing will also be required when employees transfer to a safety-sensitive position.
- b) **Random drug and/or alcohol testing** which will be conducted on an unannounced basis.
- c) **Reasonable suspicion drug and/or alcohol testing** which will be conducted when reasonable suspicion exists that a driver or SSE has engaged in prohibited use of drugs and/or alcohol. The required observation for reasonable suspicion drug and/or alcohol testing must be made by a supervisor or official who has been trained in accordance with federal law and regulation.
- d) **Post-accident drug and/or alcohol testing** which will be conducted as soon as practicable following certain occurrences involving a CMV operating on a public road.
- e) **Return-to-duty drug and/or alcohol testing** which will be conducted on a driver or SSE who has engaged in prohibited drug and/or alcohol conduct before-performing any safety-sensitive functions.

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## **SUBJECT: DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS AND OTHER SAFETY-SENSITIVE EMPLOYEES (CONT'D.)**

### **Drug and Alcohol Testing Program (Cont'd.)**

- f) **Follow-up drug and/or alcohol testing** which will be conducted on a driver or SSE who has engaged in prohibited drug and/or alcohol conduct and has returned to performing a safety-sensitive function. This testing will be conducted on an unannounced basis in accordance with a written follow-up testing plan developed by a substance abuse professional (SAP).

All procedures used to test for the presence of drugs and/or alcohol will conform to the requirements outlined in federal law and regulation for protecting the driver or safety-sensitive employee, and the integrity of the testing process, safeguarding the validity of the test results, and ensuring that all test results are attributed to the correct individual.

Under New York State law and regulation, all school bus drivers and safety-sensitive employees are subject to pre-employment and random drug and alcohol testing in accordance with the provisions and requirements of federal regulations, regardless of CDL endorsement. Every school bus driver and safety-sensitive employee will be included in the random testing pool and must submit to testing when selected.

### **Prohibitions and Consequences for School Bus Drivers**

Under federal law and regulation, individuals who operate a CMV designed to transport 16 or more occupants (including the driver) and are subject to CDL requirements established by the United States Department of Transportation are prohibited from:

- a) Reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If testing shows an alcohol concentration of 0.02 or greater but less than 0.04, the employee must be removed from performing safety-sensitive functions for not less than 24 hours, but no punitive action will be taken by the employer;
- b) Using alcohol while performing safety-sensitive functions;
- c) Performing safety-sensitive functions within four hours after using alcohol;
- d) When required to take a post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first;
- e) Refusing to submit to drug or alcohol test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements;

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## **SUBJECT: DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS AND OTHER SAFETY-SENSITIVE EMPLOYEES (CONT'D.)**

### **Prohibitions and Consequences for School Bus Drivers (Cont'd.)**

- f) Refusing to submit to a pre-employment drug test;
- g) Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses any drugs, as defined by federal law and regulation. This prohibition does not apply 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 CMV; or
- h) Reporting for duty, remaining on duty or performing a safety-sensitive function, if the driver tests positive for drugs.

Additionally, under New York State law, all school bus drivers are prohibited from:

- a) Consuming a drug or intoxicating liquor, regardless of its alcoholic content, or be under the influence of a drug or intoxicating liquor, within six hours before going on duty or operating, or having physical control of a bus;
- b) Consuming a drug or intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a bus; or
- c) Possessing a drug or intoxicating liquor, regardless of its alcoholic content while on duty, operating or in physical control of a bus. However, this paragraph does not apply to the possession of a drug or intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers.

It is the employer's responsibility to ensure that no school bus driver:

- a) Violates any of the above listed provisions of New York State law; or
- b) Be on duty or operate a school bus if, by a person's general appearance or by a person's conduct or by other substantiating evidence, a person appears to have consumed a drug or intoxicating liquor within the preceding eight hours.

Any violation of this policy, District procedures, and/or applicable federal and state law and regulation by a school bus driver will be grounds for disciplinary action and penalties including, but not limited to, fines, suspension, and/or discharge in accordance with the District's and/or the vendors' or contract bus companies' policies, collective bargaining agreements, and applicable law.

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## **SUBJECT: DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS AND OTHER SAFETY-SENSITIVE EMPLOYEES (CONT'D.)**

### **Prohibitions and Consequences for School Bus Drivers (Cont'd.)**

Drivers and other SSEs who are found to have engaged in prohibited conduct under federal law and regulation will be removed immediately from safety-sensitive functions and will not be allowed to return to perform safety-sensitive functions until they:

- a) Are evaluated by a substance abuse professional (SAP);
- b) Complete any requirements for rehabilitation as set by the District and the SAP;
- c) Pass a return-to-duty test with the result below 0.02 if the conduct involved alcohol, or a drug test with a verified negative result if the conduct involved drug use.

### **The Drug and Alcohol Clearinghouse**

The Drug and Alcohol Clearinghouse (“Clearinghouse”) is a secure online database that provides real-time information about CDL and commercial learner’s permit holder’s drug and alcohol program violations. The District will comply with all federal law and regulation regarding the Clearinghouse.

In accordance with 49 CFR Part 382, the following personal information will be collected, maintained, and reported to the Clearinghouse:

- a) a verified positive, adulterated, or substituted drug test result;
- b) an alcohol confirmation test with a concentration of 0.04 or higher;
- c) a refusal to submit to any required test;
- d) an employer’s report of actual knowledge of:
  1. on duty alcohol use;
  2. pre-duty alcohol use;
  3. alcohol use following an accident; and
  4. drug use;
- e) a SAP’s report of the successful completion of the return-to-duty process;

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### **The Drug and Alcohol Clearinghouse (Cont'd.)**

- f) a negative return-to-duty test; and
- g) an employer's report of completion of follow-up testing.

### **Employee Notification**

The Superintendent or designee will ensure that each SSE and school bus driver (whether a district employee or a contract driver) receives a copy of educational materials that explain the requirements of drug and alcohol testing law and regulation, and any policies, regulations and/or procedures developed by the District with respect to meeting those requirements. The Superintendent or designee will ensure that a copy of these materials is distributed to each SSE and school bus driver, who will sign for receipt of all of the above documents, as well as other appropriate personnel, prior to the start of any drug and/or alcohol testing as well as at the beginning of each school year or at the time of hire for any safety-sensitive employees including bus drivers. Representatives of applicable collective bargaining units will be notified of the availability of this information.

The Superintendent or designee will further ensure that each school bus driver and SSE receives educational materials concerning: the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

The Superintendent or designee shall arrange for training of all supervisors who may be utilized to determine whether reasonable suspicion exists to test a driver or SSE for prohibited conduct involving drugs and/or alcohol.

### **Records Management and Retention**

Employee records relating to drug and/or alcohol testing, as well as to substance abuse and/or alcohol prevention programs, will be maintained in accordance with law and regulation. All employee drug and/or alcohol testing will be kept confidential and will only be revealed as required or authorized by law or regulation.

49 USC §31136 and 31306  
49 CFR Parts 40, 382, and 383  
Vehicle and Traffic Law §§ 142, 509-g, 509-l

Adopted: 7/10/2001

Revised: 8/27/2019, 3/10/2020

Reviewed 10/24/2023 by Superintendent, Assistant Superintendent for Business Services and Director of Transportation with no recommended changes. Approved by BOE 11/7/2023.