

No. 313

SECTION: Employees

TITLE: Drug/Alcohol Testing

ADOPTED: November 13, 1995

REVISED: November 10, 2005

REVIEWED: November 10, 2005

RENUMBRD: September 10, 2024

CATASAUQUA AREA SCHOOL DISTRICT

	313 – DRUG/ALCOHOL TESTING <i>{Previously numbered policy 503.}</i>	1 2 3
Purpose	This policy is adopted to comply with federal regulatory mandates regarding the misuse of alcohol or controlled substances by certain school district employees as defined under Article V, Section 5.1 (herein referred to as “drivers” or “covered drivers”).	4 5 6 7 8 9
Authority	This policy is adopted in accordance with the authority granted to school boards under section 510 of the Public School Code of 1949, as amended, permitting school boards to adopt reasonable rules and regulations regarding the management of school district affairs and the conduct and department of employees during the time they are engaged in the performance of their duties. This policy is mandated by the Omnibus Transportation Employee Testing Act of 1991 (the “Act”) and the regulations adopted by the Federal Highway Administration (the “regulations”).	10 11 12 13 14 15 16 17 18
Article I. Employee Prohibitions	<p>1.1 No covered driver shall report for duty or remain on duty:</p> <ul style="list-style-type: none"> (i) while having an alcohol concentration of 0.02 or greater; (ii) while possessing alcohol; (iii) while using alcohol; or (iv) within four (4) hours after using alcohol. <p>1.2 No covered driver shall report for duty or remain on duty when the driver uses any controlled substance (except when the use is pursuant to the written instructions or prescriptions of a physician who has advised the driver that the substance does not adversely affect the driver’s ability to drive or tests positive for controlled substances).</p> <p>1.3 No covered driver required to take a post-accident alcohol test under this policy shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever comes first.</p> <p>1.4 No covered driver shall refused to submit to a post-accident alcohol or controlled substances test required under this policy, a random alcohol or controlled substances test required under this policy, or a follow-up alcohol or controlled substances test required under this policy.</p>	19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38

1.5 No Individual shall be hired by the school district as a coverage driver or transferred into a coverage driver position after December 31, 1995 unless and until:

- (i) he or she has undergone and passed pre-employment testing for alcohol and controlled substances in accordance with this policy;
- (ii) he or she has either certified that he or she has not been employed for the previous two (2) years or has given written consent and authorization for the school district to obtain information from the individual’s employers during the preceding two (2) years pertaining to the driver’s alcohol tests showing concentration results of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two (2) years, which are maintained by the driver’s previous employers; and
- (iii) the school district has received the required information from the driver’s previous employer, if any.

A covered driver candidate shall not be recommended to hire if the Director of Transportation obtains information on the candidate’s alcohol test with a concentration of 0.04 or greater, verified positive controlled substances tests result, or refusal to be tested, without obtaining records of a subsequent substances tests abuse professional’s evaluation and/or determination under 49 CFR § 382.401(c)(4)¹ and compliance with 49 CFR § 382.309².

¹ Pursuant to 49 CFR § 382.401(c)(4), employers are required to maintain records pertaining to a determination by a substance abuse professional concerning a drivers need for assistance; and records concerning a drivers compliance with recommendation of the substance abuse professional. Under 49 CFR § 332.401(b)(v), such records are to be maintained for a period of five years.

² Pursuant to 49 CFR § 382.309, a driver may not return to work driving a school bus unless he or she has had a return-to-work alcohol test with result of less than 0.02 or a negative controlled substances return-to-work test.

**Article II.
Duties of
Covered
Drivers**

- 2.1 Covered drivers shall comply with all mandates and prohibitions contained in this policy.
- 2.2 Covered drivers shall cooperate fully with all required testing, and shall promptly report to all required testing as directed. “Refusal to submit to an alcohol or controlled substances test” includes by way of example and not limitation:

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- (1) a driver’s failure to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance to this policy;
- (2) a driver’s failure to provide adequate urine for controlled substances testing without a valid medical explanation after he or she received notice of the requirement for urine testing in accordance with this policy; or
- (3) a driver’s conduct that clearly obstructs the testing process.

2.3 Any covered driver shall be deemed to have consented to such testing as is required of him or her by this policy. Consent is implied by agreeing to continue to drive a covered vehicle after notification of this policy.³

2.4 Covered drivers are required to notify the Director of Transportation if they are taking any therapeutic drugs and shall supply a written certification on a form provided by the school district from the physician, prescribing the drug(s) that the substance(s) will not adversely affect the driver’s ability to safely operate a covered vehicle.

³ 49 CFR § 383.72 imposes implied consent to certain testing as a result of driving a commercial motor vehicle.

**Article III.
Consequences of
Covered
Drivers
Engaging in
Substance
Use-Related
Conduct**

3.1 Consistent with contractual, legal, and constitutional requirements, a determination by the Board of School Directors shall be made as to the appropriate disciplinary action, if any, to be imposed upon any covered driver who violates any of the prohibitions or mandates set forth in this policy. Nothing in this policy shall be construed to limit the authority of the school district to impose discipline, including discharge, as it shall determine so long as the minimum set forth in this policy are satisfied.

3.2 Any covered driver tested under this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be suspended without pay at least 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.

3.3 Any covered driver:

- (i) who reports or remains on duty while having an alcohol concentration of 0.04 or greater; possessing alcohol; using alcohol or having used alcohol within four (4) hours of reporting to work; or

(ii) who reports or remains on duty when the driver uses or has used any controlled substance (except when the use is pursuant to the written instructions or prescription of a physician who has advised the driver that the substance does not adversely affect the driver’s ability to safely drive and the driver has so advised the Director of Transportation in accordance with this policy) or test positive for controlled substances; or

(iii) who consumes alcohol in contravention of a post-accident alcohol test requirement or refuses to submit to any drug or alcohol test required under the policy,

shall appear at a hearing convened by the Board of School Directors to determine if the employee shall be suspended without pay and shall not be reinstated until after the following requirements have been met:.

(a) the driver has been advised of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol or the use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs; and

(b) the driver has been evaluated by a substance abuse professional (S.A.P.) who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance; and

(c) the driver has undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance; and

(d) if the driver has been identified as needing assistance in resolving problems associated with alcohol misuse or controlled substance use, the driver shall be evaluated by a substance abuse professional to determine that the driver has properly followed any rehabilitation program prescribed; and

(e) the driver serves the length of the suspension and meets any other conditions of reinstatement that may have been imposed by the school district.

3.4 Where alcohol testing shows a concentration of 0.1 or greater after a driver has been driving or controlled substances testing shows a positive result and the driver has not advised the school district of therapeutic drug use prescribed by a physician in accordance with this policy, the matter shall be turned over to the police.

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**Article IV.
Duties of
Director of
Transporta-
tion**

4.1 The Director of Transportation shall be the school district’s representative who shall administer and oversee this policy and shall be available for answering questions regarding the policy.

4.2 The Director of Transportation shall take action to ensure that covered drivers do not violate the prohibitions and mandates set forth in this policy. If the Director of Transportation or his designee has reasonable suspicion that a driver has violated any prohibition or mandate, the following actions should be taken:

- (a) The employee shall be promptly contacted and an informal hearing shall be conducted. The driver shall be advised of the allegations and be given an opportunity to tell his side of the story.
- (b) If the suspicion relates to the driver’s alcohol concentration levels or use of alcohol during or prior to reporting to work, the driver shall be required to submit to an alcohol test in accordance with paragraph 4.3(d) of this policy.
- (c) If the suspicion relates to the driver’s use of controlled substances during or prior to reporting to work, the driver shall be required to submit to a controlled substances test in accordance with paragraph 4.3(d) of this policy.
- (d) If after investigation, testing as may be required, and consideration of the driver’s input, it is determined by the Director of Transportation that the driver violated any of his or her obligations, the matter shall be referred to the Superintendent of Schools for appropriate action.

4.3 The Director of Transportation shall ensure that the following tests are performed:

- (a) Pre-employment testing. Prior to recommending to the school board that any individual be hired as a covered driver, the candidate shall undergo testing for alcohol and controlled substances. No individual shall be recommended to the school board to be hired as a covered driver who has not undergone such testing or who has not been administered such tests with results indicating an alcohol concentration less than 0.04 and the negative controlled substances result.
- (b) Post-accident testing. As soon as practical following a covered vehicle accident involving loss of a human life or where the driver receives a citation under state or local law for a moving traffic violation arising from the accident, the covered driver shall be tested for alcohol and controlled substances.

- A driver who is subject to post-accident testing under this policy shall remain readily available for such testing or maybe deemed by the school district to have refused to submit to testing.
- If a post-accident test is not administered within two (2) hours following the accident, the Director of Transportation or his designee shall prepare and maintain a record stating the reasons the test was not promptly administered. If the test is not administered within eight (8) hours following the accident, attempts to administer the alcohol test shall cease and the Director of Transportation or his designee shall prepare and maintain the same record.
- If a post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, attempts to administer the test shall cease, and the Director of Transportation or his designee shall prepare and maintain the same record.
- If a breath or blood test for the use of alcohol or a urine test for the use of controlled substances is conducted by federal, state, or local officials or police having authority to conduct such testing, such testing shall be considered to meet the requirements of this policy if the results of the test will be turned over to the school district

(c) Random testing. Random alcohol and controlled substances testing shall be conducted on that percentage of drivers mandated from time to time by the federal government. The selection of drivers for random testing shall be by a scientifically valid method so that each driver shall have an equal chance of being tested each time selections are made. These tests shall be unannounced, and the test shall be spread reasonably throughout the year.

- Each driver who is notified of selection for random testing shall proceed to the test site immediately.
- Random alcohol testing may be conducted only just before the driver is to begin driving a covered vehicle or just after the driver has finished driving a covered vehicle.

(d) Reasonable suspicion testing. A driver shall be required to submit to an alcohol and/or controlled substances test when the Director of Transportation or his designee has reasonable suspicion that the driver is using or has used alcohol or controlled substances in violation of the prohibition or mandates of this policy.

- The determination that reasonable suspicion exists which requires a driver to undergo testing must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The observations may include

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indications of chronic and withdrawal effects of controlled substances. Reasonable suspicion as to alcohol use may be based only on observations made while the driver is driving, just before the driver begins driving, or just after the driver has ceased driving

- The Director of Transportation or his designee shall obtain necessary training that covers the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Only those so trained are permitted to make the determination that can lead to reasonable suspicion testing.
- Reasonable suspicion testing may not be performed by the individual who made the determination that there was reasonable suspicion for the testing.
- A written record shall be prepared and maintained setting forth the basis and observations for the reasonable suspicion leading to the testing. With respect to suspicion related to controlled substances, such records shall be made and signed by the supervisor who made the observations within twenty-four (24) hours of the observed behavior or before the results of the controlled substances tests are released, whichever is earlier.
- Reasonable suspicion alcohol testing shall be required while the driver is driving, just before the driver is to drive, or just after the driver has ceased driving. If an alcohol test is not administered within two (2) hours following the determination that reasonable suspicion exists, the Director of Transportation shall prepare and maintain a record stating the reasons the test was not promptly administered. If the test is not administered within eight hours following the determination that reasonable suspicion exists, attempts to administer the alcohol test shall cease, and the Director of Transportation shall prepare and maintain the same record. Notwithstanding the absence of a reasonable suspicion, alcohol test, where there was reasonable suspicion of alcohol use, the drivers shall not be permitted to drive until:
 - an alcohol test is administered and the driver’s alcohol concentration measures less than 0.02; or
 - twenty-four (24) hours have elapsed following the determination of reasonable suspicion.

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(e) Return-to-duty testing. No covered driver may return to work after engaging in conduct prohibited by this policy until after he or she has, as appropriate, undergone an alcohol test with the result indicating an alcohol concentration of less than 0.02 or controlled substances test with a result indicating a verified negative result for controlled substance use.

(f) Follow-up testing. Any driver who is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances shall be subject to unannounced follow-up testing as directed by a substance-abuse professional. Follow-up alcohol testing shall be conducted only when the driver is driving, just before the driver is to drive, or just after the driver has stopped driving.

4.4 The Director of Transportation shall be the school district’s representative for purposes of receiving and handling alcohol and drug test results. Those results shall be handled in a confidential manner in accordance with applicable, federal, state, and local law and regulations.

4.5 The Director of Transportation shall advise a driver of the results of random, reasonable suspicion, and post-accident tests if the test results show an alcohol concentration in excess of 0.02 or are verified as positive in the case of controlled substances. The driver shall be advised which controlled substance or substances were verified as positive. The Director of transportation shall:

(i) make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver’s employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver, and

(ii) within twenty-four (24) hours notify the medical review officer that the driver has been directed to contact the medical review officer.

4.6 The Director of Transportation shall develop and implement procedures for the preparation, maintenance, retention, and disclosure of records as required by law.

4.7 The Director of Transportation shall recommend the actions necessary to ensure that the school district can perform the testing described in this policy and has the services of a qualified medical review officer, a qualified substance, abuse, professional, and a certified laboratory.

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4.8 The Director of Transportation shall develop and provide educational materials that explain the requirements of this policy and the school district’s policies and procedures with respect to meeting said requirements. Materials in compliance with 49 CFR § 382.601 shall be distributed to each driver prior to the start of the school district’s testing under this policy and to each driver subsequently hired or transferred into a covered driver’s position. Each driver shall be required to sign a statement certifying that he or she has received a copy of the material and the Director of Transportation shall maintain the original of the signed certification.

4.9 The Director of Transportation shall ensure that access is provided to all school district facilities utilized in complying with the requirements of the Act and the regulations of the Federal Highway Administration, the Secretary of Transportation, any Department of Transportation agency, or any state or local official with regulatory authority over the school district or authority over any of its drivers.

**Article V.
Miscellaneous**

5.1 A “covered vehicle” under this policy shall mean a motor vehicle:
(a) with a gross vehicle weight rating of 26,001 or more pounds; or.
(b) designed to transport sixteen (16) or more passengers, including the driver.

5.2 A “covered driver” under this policy shall mean any person who is an employee of the school district and who drives or operates for the school district a covered vehicle. The phrase includes any person who operates such vehicles, including full-time, regularly employed individuals; casual, intermittent, or occasional individuals; and leased drivers and independent owner-operator contractors who were either directly employed by or under lease to the school district or who operate a bus owned or leased by the school district.

5.3 This policy was adopted, in part, because of the requirements imposed under 49 CFR § 382.101 *et seq.* Should those regulations be repealed or declared invalid, in whole or in part, this policy shall become wholly void and a new policy will be adopted if and as necessary to comply with the law.

5.4 it is not intended that this policy create any practices and the school district expressly adopts his policy by virtue of the mandates of the act and the regulations. The school board directs the administration of the school district to evaluate the effects of this policy every two years, beginning with an evaluation to be reported in June, 1998. As part of the report, the board shall be advised about the effects with respect to.

(a) employee, compliance rates;.

(b) cost;

(c) incidents of disciplines; and

(d) improvements of driver performance.

5.5 This policy shall not be construed to limit the authority of the school district to conduct drug or alcohol testing on individuals not covered by this policy or to conduct such testing on individuals covered by this policy at times other than stated herein.

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