

Board of Education Policy

ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR DRIVERS

To ensure the safety of its students, the Board requires alcohol and controlled substance testing of “drivers,” operators of “school transportation vehicles”, and any other employee who is subject to such testing, in accordance with and as set forth in the applicable federal and state laws and regulations.

Definitions

“Driver” includes any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operated contractors.

“School transportation vehicles” include those covered by applicable federal regulations (see list below) and every motor vehicle owned by the District and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities, or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

Testing Responsibilities

Consistent with federal regulations the District shall either directly, by contract, or through a consortium, implement and conduct a program to provide alcohol and controlled substance testing of drivers who operate a commercial motor vehicle, perform in a safety sensitive position, and are required to hold a commercial driver’s license. Employees holding such positions include:

1. drivers of vehicles designed to transport 16 or more passengers, including the driver;
2. drivers of commercial motor vehicles whose manufacturer’s rating is 26,001 lbs. or more, or
3. any other employee who may drive or service a listed vehicle (e.g. a mechanic who performs test drives, repairs, inspects or loads or unloads a vehicle listed in 1 or 2 above).

Controlled substance and alcohol tests will be conducted for operators of all “school transportation vehicles” consistent with the procedures applicable to the implementation of federal regulations. Volunteers who drive a bus with passengers fewer than 30 days per year are not subject to such testing.

Generally, the required testing will be conducted at or prior to the time of employment and randomly throughout the school year. However, drivers are subject to additional testing under federal regulations when a supervisor has a reasonable suspicion that a driver has engaged in prohibited alcohol or controlled substance use; after certain accidents; prior to return to duty when the driver has been found to violate District policy and/or regulation and/or federal law and/or regulations; and after the driver’s return to duty.

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Driving Prohibition

In accordance with federal and state law, a driver may not drive if he/she:

1. Possesses, consumes or is reasonably believed to possess or have consumed alcohol or a controlled substance while on duty;
2. Uses or is under the influence of alcohol or controlled substance that is not lawfully prescribed within six hours or less before duty;
3. Has an alcohol concentration of .02 or higher, or tests positive for a controlled substance; or
4. Refuses to take a required alcohol or controlled substance test.

Also, no driver shall use alcohol after being involved in an accident in which there was a fatality or in which the driver was cited for a moving violation and a vehicle was towed from the scene or an injury was treated away from the scene until he/she has been tested or eight hours have passed, whichever occurs first.

Enforcement of Driving Prohibitions

The District will not require or permit drivers of vehicles listed above, as well as operators of all "school transportation vehicles" defined above, to be on duty or operate a listed vehicle or "school transportation vehicle," if it appears that they have consumed a controlled substance (except those lawfully prescribed) or alcohol within the preceding eight hours. This shall be based on the person's general appearance, conduct, or other substantiating evidence. Those who maintain, repair, or garage listed vehicles or "school transportation vehicles" that involves incidental driving without passengers, are exempt from this requirement, but are still prohibited from consuming controlled substances and alcohol within six hours of going on duty.

Response to Positive Testing Results

Any driver who is tested and found to have an alcohol concentration of at least 0.02, but less than 0.04, shall be removed from duty until his or her next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any driver found to have violated this requirement may be disciplined in accordance with the provisions of the applicable collective bargaining agreement, District policy and/or regulation, and/or law. Operators of "school transportation vehicles" subject to random testing pursuant to New York State law will be subject to the same consequences based upon an alcohol concentration of at least 0.02 but less than 0.04 as drivers listed above.

If a driver has an alcohol concentration of 0.04 or greater or has engaged in prohibited alcohol or controlled substance use, he or she will be removed from driving duties, and referred to a substance abuse professional. The driver may be required to complete a treatment program and/or be disciplined pursuant to District policy and/or regulation, the collective bargaining agreement and/or the law. No driver who has abused controlled substances and/or alcohol may return to duty unless he/she has successfully passed a required return to duty test. Thereafter, the driver will be subject to follow-up testing. Operators of "school transportation vehicles" subject to random testing pursuant to New York Law will be subject to the same consequences based upon an alcohol concentration of 0.04 or greater or a positive controlled substance test as drivers listed above.

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Federal Drug and Alcohol Clearinghouse Queries and Reporting

In addition to the required testing, for employees covered under federal law, the District will also conduct required pre-employment and annual queries of the Department of Transportation's Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse for drug and alcohol violations. The District shall conduct full queries when limited query results show a record of violations. The District shall also report the required information to the Clearinghouse regarding test results and drug and alcohol abuse.

Policy Distribution

The Superintendent of Schools shall ensure that a copy of this policy, the District's policy on misuse of alcohol and use of controlled substances, information on alcohol and controlled substance abuse and treatment resources and any other information prescribed by federal regulations is provided to all drivers and operators of "school transportation vehicles" prior to the initiation of the testing program and to each driver or operator of "school transportation vehicles" subsequently hired or transferred to a position subject to testing.

Reference: 49 U.S.C. §§ 31136; 31306; 49 U.S.C. § 521(b); 49 CFR Part 382
49 CFR Part 40; 49 CFR § 395.2
Vehicle and Traffic Law §§ 509-l; 509-g; 1192; 1193
Will v. Frontier CSD Bd. of Educ., 97 N.Y.2d 690 (2002)

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