WORKPLACE DRUG AND ALCOHOL TESTING (REGULATIONS)

The board of education may require drug and alcohol testing of all new applicants upon a conditional offer of employment. The refusal of a job applicant who has been offered conditional employment to take the test will be considered as a basis for not employing the applicant. Each case will be reviewed to assure compliance with current regulations of the Americans with Disabilities Act.

The school district may request or require an employee to undergo drug and/or alcohol testing as set forth below and when the superintendent is satisfied that there exists a reasonable suspicion that the employee has violated these regulations or any other school policy concerning the use of drugs and/or alcohol.

This school district may request or require a school district employee to undergo drug and/or alcohol testing as set forth below and when the superintendent is satisfied that there exists a reasonable suspicion that the employee or some other person has sustained a work-related injury or the school district's property has been damaged as a direct result of the employee's use of drugs or alcohol.

This school district will require school bus drivers, mechanics, maintenance employees, and any employee who is required to obtain a commercial driver's license (CDL) to undergo drug or alcohol testing prior to employment and on a random selection basis. The superintendent shall ensure that employees who are selected for random testing are selected on a basis that is entirely random and on a basis which results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected and does not give the district discretion to waive the selection of any employee selected. (See also policy DCCB and DCCB-R.)

This school district will require bus drivers, mechanics, maintenance personnel, and any district employee who is required to obtain a commercial driver's license (CDL) to undergo drug or alcohol testing during routine employee fitness-for-duty medical examinations. (See also policy DCCB and DCCB-R.)

This school district will require periodic drug and alcohol testing without prior notice of any employee who has tested positively under this policy, who has participated in a drug or alcohol dependency treatment program as a result of this policy, or an employee who is required to obtain a commercial driver's license (CDL).

All employees subject to this drug and alcohol testing policy will be tested for alcohol, marijuana, cocaine, opiates, amphetamines, phencyclidine and their metabolites and any other drug or combination of drugs currently included in the provisions promulgated by the Oklahoma State Board of Health or as required by federal law.

Drug Testing Procedures

Drug and alcohol testing standards and procedures of this school district shall conform fully to the provisions of the State Board of Health. Testing facilities used by this district shall provide evidence of having met all licensing and/or certification requirements of the State Board of Health including the following:

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1. Samples shall be collected and tested only by individuals deemed qualified by the State Board of Health. Such samples may be collected on the premises of the school district or at a testing facility.

2. Only samples deemed appropriate by the State Board of Health for drug and alcohol testing shall be collected.

3. The collection of samples shall be performed under reasonable and sanitary conditions.

4. Samples shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen.

5. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no representative, agent, or designee of the school district shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.

6. Sample collection shall be documented, and the documentation procedures shall include: A. Labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and B. An opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information.

7. Sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration.

8. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by State Board of Health rule, at the cutoff levels as determined by State Board of Health rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by an employer pursuant to Section 12 of 40 O.S. 551, et seq.

9. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

Testing Results

The following steps will be taken when an employee's medical exam is positive for the presence of drugs or alcohol:

1. The employee will be notified of the results of the test. The applicant or employee has a right to obtain all information and records relating to that individual's testing.

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2. The employee will be advised of the outcome of the drug screening and will be immediately removed from the current job assignment.

3. The employee will be given a reasonable opportunity for confidential rebuttal of the results.

4. To continue employment with the district, the employee must develop a written plan for improvement with the employee's supervisor. As an element of every plan for improvement, the employee will be encouraged to voluntarily seek professional assistance and/or participate in an appropriate rehabilitation program. Drug and alcohol dependency evaluation and referral services for substance abuse counseling, treatment, or rehabilitation shall be provided to the employee.

5. The employee will be suspended until the employee has tested negative on a follow-up drug screening. The follow-up drug screening will be administered no earlier than seven nor more than forty-five (45) calendar days following the initial positive drug screening. The physician who administered and interpreted the initial drug screening will make a recommendation to the district as to the amount of time that is appropriate before administering the follow-up drug screening, depending on the type and amount of chemical substance initially detected in the employee's system. The employee may use existing accrued leave during this suspension. If the employee does not have sufficient accrued leave to cover the absence, the leave will be without pay unless prohibited by applicable law. All employees hereby affected by this policy and regulation will be provided appropriate due process procedures.

6. If the follow-up drug screening is negative, the employee may be returned to regular assignment. If the drug screening is positive, procedures for the employee's termination will be implemented in accordance with this policy and the district's employment termination policies.

7. Any employee whose drug screening is positive a second time, regardless of the length of time which has passed since the first positive test, will be recommended to the board for dismissal. Any employee who has once tested positive may be subject to random drug screening sampling for a period of two years, commencing with the employee's return to work, and/or may be recommended for dismissal.

<u>Reasonable Suspicion</u>

To ensure that reasonable suspicion does exist that an employee is under the influence of an illegal chemical substance, or any chemical substance (including alcohol), which impacts the ability of the employee to safely perform the required functions of the position, the following inquiry procedures will be followed:

1. The supervisor will investigate and compile the facts. If the supervisor is not a director, the supervisor will verbally report the facts to the director.

2. The director will determine whether or not the facts warrant continued investigation. If it is believed that reasonable suspicion does exist, the director will verbally present the facts to the

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superintendent or medical review officer.

3. The superintendent or medical review officer will review the facts. If the superintendent or medical review officer believes that reasonable suspicion does exist, the superintendent will notify the employee in writing of the allegations of reasonable suspicion and issue the directive to require the employee to take the drug screening, if appropriate.

Confidentiality

The school district shall maintain the results of any drug/alcohol test in confidentiality to the extent possible. The employee who participates in a drug/alcohol test will be provided an opportunity to review and to obtain copies of any information and records pertaining to the drug/alcohol test.

1. The school district will maintain all drug and alcohol test results and related information, including, but not limited to, interviews, reports, statements and memoranda, as confidential records, separate from other personnel records. Such records, including the records of the testing facility, shall not be used in any criminal proceeding, or any civil or administrative proceeding, except in those actions taken by the district or in any action involving the individual tests and the district or unless such records are ordered released pursuant to a valid subpoena or other court order.

2. The records described above and maintained by the district shall be the property of this school district and, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. The district will not release such records to any person other than the applicant, employee, or the district's review officer, unless the applicant or employee has expressly granted permission in writing, following receipt of the test results, for the district to release such records or pursuant to a valid court order.

3. A testing facility, or any agent, representative or designee of the facility, or any review officer, shall not dis close to the district, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of drugs or alcohol, any information relating to:

    a. The general health, pregnancy or other physical or mental condition of the applicant or employee; or

    b. The presence of any drug other than the drugs or their metabolites that the district requested be identified and for which a medically acceptable explanation of the positive result, other than the use of drugs, has not been forthcoming from the applicant or employee.

    Provided, however, a testing facility shall release the results of the drug or alcohol test, and any analysis and information related thereto, to the individual tested upon his/her request.

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Other Provisions

Drug/alcohol tests required pursuant to this policy will be conducted during, prior to, or immediately after the regular work period for current employees and shall be deemed work time for purposes of compensation and benefits for current employees.

The school district shall pay all costs of testing for drugs or alcohol including any school requested confirmation tests and the costs of transportation to the drug/alcohol test site. Any individual who requests a retest of a sample in order to challenge the results of a positive test shall pay all costs of the retest, unless the retest reverses the findings of the challenged positive test in which case the school district shall reimburse the individual for the costs of the retest.

A copy of this policy shall be posted in a prominent employee access area and shall be provided to each job applicant upon the applicant's receipt of a conditional offer of employment.

Any employee or applicant for employment who refuses to undergo drug or alcohol testing conducted in accordance with board policy and these regulations may be disciplined up to and including termination of employment. An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for unemployment compensation.

Drug and alcohol testing of employees may be conducted in accordance with applicable federal and/or state law as set forth in Administrative Regulations. District shall comply with the Omnibus Transportation Testing
Act of 1991, which helps to prevent accidents and injuries resulting from misuse of alcohol and controlled substances by employees who serve in safety-sensitive positions.

A safety-sensitive position is any position in which the employee performs one or more of the following duties, including, but not limited to:

a. The handling, packaging, processing, storage, disposal or transport of hazardous materials;

b. The operation of a motor vehicle, other vehicle, equipment, machinery or power tools;

c. Repairing, maintaining or monitoring the performance or operation of any equipment, machinery or manufacturing process, the malfunction or disruption of which could result in injury or property damage;

d. Performing firefighting duties;

e. The operation, maintenance or oversight of critical services and infrastructure including, but not limited to, electric, gas, and water utilities, power generation or distribution;

f. The extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment or transport of potentially volatile, flammable, combustible materials, elements, chemicals or any other highly regulated component;

g. Dispensing pharmaceuticals;

h. Carrying a firearm; or

i. Direct patient care or direct child care.

During hours of employment, on school grounds, in school vehicles or buses, or at school-related activities, employees are not permitted to be under the influence of marijuana, including medical marijuana. Medical marijuana is not permitted upon school grounds, in school vehicles or buses or at school-related activities except as stated in policy FFACD. An employee who possesses a medical marijuana license is not subject to discipline solely upon the results of a drug test showing positive for marijuana or its components. This policy may not apply to a non- safety-sensitive employee or applicant who meets the requirements under state law and policy FFACD. However, an applicant for employment in or employee employed in a safety sensitive position shall be subject to a zero-tolerance drug and alcohol standard. A positive test for marijuana components or metabolites is a result that is at or above the cutoff concentration level established by the DOT or Oklahoma law, whichever is lower.

REFERENCE: 40 O.S. §2-406A
40 O.S. §551, et seq.